

# Ministerial Ordinance on Trade Related Invisible Trade, etc.

((Ordinance of the Ministry of International Trade and Industry No. 8 of March 4, 1998))

With the enforcement of the Act for Partial Revision of the Foreign Exchange and Foreign Trade Control Act (Act No. 59 of 1997) and the Cabinet Order for Partial Revision of the Foreign Exchange Control Order (Cabinet Order No. 383 of 1997), and for the purpose of implementing the provisions of the same Order, the Ministerial Ordinance on Trade Related Invisible Trade, etc. shall be revised, in its entirety, as follows, pursuant to the provisions of Article 69-5 of the Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949) and the provisions of Article 6, Article 6-2, Article 15 to Article 18, Article 18-3, Article 18-4, Article 18-6 and Article 18-8 of the Foreign Exchange Order (Cabinet Order No. 260 of 1980).

(Procedures for Applying for Permission, etc.)

Article 1 (1) A person who intends to obtain permission from the Minister of Economy, Trade and Industry as listed in the following items must submit two copies of a written application for permission in the form prescribed in said respective items to the Minister of Economy, Trade and Industry:

- (i) a person who files an application for permission for payment, etc. (which means a payment or receipt of payment; the same shall apply hereinafter) as listed in (a) to (c) below: a written application for permission for payment, etc. in the form prescribed in Appended Form 1:
  - (a) a resident or a non-resident who intends to obtain permission from the Minister of Economy, Trade and Industry pursuant to the provisions of Article 6, paragraph (2) of the Foreign Exchange Order (hereinafter referred to as the "Order");
  - (b) a resident or a non-resident who intends to file an application for permission pursuant to two or more provisions under the provisions of Article 6, paragraph (3) of the Order en bloc when applying for permission to the Minister of Economy, Trade and Industry pursuant to the provisions of paragraph (2) of the same Article; or
  - (c) a person who has been obliged to obtain permission for payment, etc. pursuant to the provisions of Article 6-2, paragraph (3) of the Order and who intends to obtain permission from the Minister of Economy, Trade and Industry pursuant to the provisions of paragraph (4) of the same Article.
- (ii) a person who files an application for permission for conducting the specified

capital transactions as listed in (a) to (c) below: a written application for permission for the specified capital transactions in the form prescribed in Appended Form 2:

- (a) a resident who intends to obtain permission from the Minister of Economy, Trade and Industry pursuant to the provisions of Article 15, paragraph (2) of the Order;
  - (b) a resident who intends to file an application for permission pursuant to the provisions of Article 24, paragraph (1) and paragraph (2) of the Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949; hereinafter referred to as the "Act") en block as prescribed in the provisions of Article 15, paragraph (3) of the Order when applying for permission to the Minister of Economy, Trade and Industry pursuant to the provisions of paragraph (2) of the same Article; or
  - (c) a person who has been obliged to obtain permission for conducting the specified capital transactions pursuant to the provisions of Article 16, paragraph (1) of the Order and who intends to obtain permission from the Minister of Economy, Trade and Industry pursuant to the provisions of paragraph (2) of the same Article;
- (iii)-1 a person who files an application for permission for conducting service transactions as listed in (a) and (b) below: a written application for permission for service transactions in the form prescribed in Appended Form 3:
- (a) a resident or a non-resident who intends to obtain permission from the Minister of Economy, Trade and Industry pursuant to the provisions of Article 25, paragraph (1) or paragraph (5) of the Act, or Article 18, paragraph (4) of the Order (limited to those which pertain to service transactions); or
  - (b) a person who has been obliged to obtain permission for conducting service transactions pursuant to the provisions of Article 18-3, paragraph (1) of the Order and who intends to obtain permission from the Minister of Economy, Trade and Industry pursuant to the provisions of paragraph (2) of the same Article;
- (iii)-2 a person who files an application for permission for conducting acts prescribed in Article 25, paragraph (3), item (i) of the Act pursuant to the provisions of Article 17, paragraph (2) of the Order: a written application for permission for exporting designated recording mediums, etc. in the form prescribed in Appended Form 3-2;
- (iv) a person who files an application for permission for conducting transactions related to the buying and selling, leasing and lending, or gifting of goods involving the movement of goods between foreign states (herein referred to as "Brokerage Transactions" in this item) as listed in (a) and (b)

below: a written application for permission for the Brokerage Transactions in the form prescribed in Appended Form 4:

- (a) a resident who intends to obtain permission from the Minister of Economy, Trade and Industry pursuant to the provisions of Article 25, paragraph (4) of the Act or Article 18, paragraph (4) of the Order (limited to those which pertain to the Brokerage Transactions); or
  - (b) a person who has been obliged to obtain permission for the Brokerage Transactions pursuant to the provisions of Article 18-3, paragraph (1) of the Order and who intends to obtain permission from the Minister of Economy, Trade and Industry pursuant to the provisions of paragraph (2) of the same Article.
- (2) In submitting a written application set forth in the preceding paragraph, one copy of a document stating the reason for the application and one copy of a document supporting the relevant facts must be attached thereto.
- (3) The Minister of Economy, Trade and Industry shall, in granting permission for an application filed in accordance with paragraph (1) (except for that which was filed through the procedures prescribed in Article 3), indicate to that effect in said written applications and deliver one set thereof to the applicant as a certificate of permission.
- (4) The Minister of Economy, Trade and Industry shall, in granting permission for an application filed in accordance with paragraph (1) of this Article through the procedures prescribed in Article 3, indicate to that effect in a certificate of permission in the form prescribed in Appended Form 6, and deliver it to the applicant, with a document stating the particulars recorded on a floppy disk submitted pursuant to the provisions of Article 3 attached thereto.

(Procedures for Applying for Permission, etc. by Using an Electronic Data Processing System)

Article 1-2 (1) Notwithstanding the provisions of paragraph (1) of the preceding Article, a person who intends to file an application for permission with the Minister of Economy, Trade and Industry pursuant to the provisions of Article 25, paragraph (1) of the Act using an electronic data processing system (meaning the electronic data processing system prescribed in Article 2, item (i) of the Act on Processing, etc. of Business Related to Import and Export by Means of Electronic Data Processing System (Act No. 54 of 1977) that is deemed to be said electronic data processing system pursuant to the provisions of Article 3, paragraph (1) of the same Act; the same shall apply hereinafter) as prescribed in Article 3, paragraph (1) of the Act on the Use of Information and Communications Technologies for Administrative Procedures, etc. (Act No. 151 of 2002), enter the particulars to be specified in an application form for permission for service transactions available from a file stored on a computer

used by the Nippon Automated Cargo and Port Consolidated System, Inc. (including an input and output device; hereinafter referred to as the "Special-Purpose Computer") through the input-output device used by said applicant (limited to that which conforms to the standards, as publicly notified by the Minister of Economy, Trade and Industry; hereinafter referred to as the "Specified Input-Output Device").

- (2) In filing an application set forth in the preceding paragraph, information supporting the relevant facts shall be input through the Specified Input-Output Device and recorded in a file stored on the Special-Purpose Computer, or a document supporting the relevant facts must be submitted to the Minister of Economy, Trade and Industry.
- (3) When a person who files an application as prescribed in paragraph (1) has input information in accordance with the preceding paragraph, the Minister of Economy, Trade and Industry may, to the extent necessary, request said person to submit a document supporting the facts related to said information, during the period from the date on which said applicant filed said application to the date on which said applicant is notified either in the affirmative or negative of the result of said application.
- (4) The Minister of Economy, Trade and Industry shall, in granting permission for an application filed in accordance with paragraph (1), record the particulars to be specified in a certificate of permission for service transactions in the form prescribed in Appended Form 6-2 into a file stored on the Special-Purpose Computer.
- (5) Notwithstanding the provisions of the preceding paragraph, the Minister of Economy, Trade and Industry shall, in granting permission for an application filed in accordance with paragraph (1), indicate, upon an applicant's request, to that effect in a certificate of permission for service transactions in the form prescribed in Appended Form 6-2, and deliver it to the applicant.

(Applicant's Notification)

Article 1-3 (1) An applicant who enters information in accordance with paragraph (1) of the preceding Article must be a person who has made a prior notification by submitting a written applicant notification in the form prescribed in Appended Form 6-3 and a document supporting the relevant facts to the Minister of Economy, Trade and Industry.

- (2) A person who has made a notification in accordance with the preceding paragraph must, when there are any changes to the particulars notified or when that person has stopped using an electronic data processing system (which means an electronic data processing system connecting the Special-Purpose Computer and the Specified Input-Output Device through a telecommunication line; the same shall apply in the following paragraph), add

a note to that effect in a written applicant notification in the form prescribed in Appended Form 6-3 and notify the Minister of Economy, Trade and Industry promptly.

- (3) The Minister of Economy, Trade and Industry may, when deeming it inappropriate for a person who has made a notification in accordance with paragraph (1) to continue to use an electronic data processing system, suspend that person's use of said electronic data processing system.
- (4) A notification submitted pursuant to the provisions of Article 1-3, paragraph (1) of the Export Trade Control Ordinance (Ordinance of the Ministry of International, Trade and Industry No. 64 of 1949) or a notification submitted pursuant to the provisions of Article 2-3, paragraph (1) of the Import Trade Control Ordinance (Ordinance of the Ministry of International, Trade and Industry No. 77 of 1949) shall be deemed to be a notification submitted pursuant to the provisions of paragraph (1).

(Procedures for Extension of the Valid Period, etc.)

- Article 2 (1) Permission granted from the Minister of Economy, Trade and Industry pursuant to the provisions of Article 25, paragraph (1), paragraph (4), or paragraph (5) of the Act, or Article 6, paragraph (2), Article 6-2, paragraph (4), Article 15, paragraph (2), Article 16, paragraph (2), Article 17, paragraph (2), Article 18, paragraph (4) or Article 18-3, paragraph (2) of the Order shall be valid for six months from the date on which such permission was granted.
- (2) With respect to the granting of permission prescribed in the preceding paragraph, the Minister of Economy, Trade and Industry may, when deeming it particularly necessary, set the valid period of permission to be different from the period prescribed in the same paragraph or extend such valid period.
  - (3) A person listed in the following items must, when falling under any of the cases listed in said respective items, submit two copies of the written application in the form prescribed in Appended Form 5 to the Minister of Economy, Trade and Industry:
    - (i) when a person who has obtained permission as prescribed in paragraph (1) intends to apply for an extension of the valid period pursuant to the provisions of the preceding paragraph; or
    - (ii) when a person who has obtained permission as prescribed in paragraph (1) intends to apply for changes to the contents of a transaction or a payment, etc. which pertains to said permission (limited to the particulars specified in said certificate of permission).
  - (4) In submitting a written application prescribed in the preceding paragraph, one copy of a certificate of permission issued pursuant to the provisions of Article 1, paragraph (3) or paragraph (4), or Article 1-2, paragraph (5), or paragraph (4) of the following Article, one copy of a document stating the

reason for the application and one copy of a document supporting the relevant facts must be attached thereto.

- (5) The Minister of Economy, Trade and Industry shall, in granting permission for an application filed in accordance with paragraph (3) (except for that which was filed through the procedures prescribed in the following Article), indicate to that effect in said written applications and deliver one copy thereof to the applicant, with a certificate of permission submitted pursuant to the provisions of the preceding paragraph attached thereof, as a certificate of extension of permission or a certificate of change of permission.
- (6) The Minister of Economy, Trade Industry shall, in granting permission for an application filed in accordance with paragraph (3) of this Article through the procedures prescribed in the following Article, indicate to that effect in a certificate of permission in the form prescribed in Appended Form 6 and deliver it to the applicant, with a document stating the particulars recorded onto a floppy disk submitted pursuant to the provisions of the following Article and a certificate of permission submitted pursuant to paragraph (4) of this Article attached thereto, as a certificate of extension of permission or a certificate of change of permission.

(Procedures for Applying for Extension of the Valid Period, etc. by Using an Electronic Data Processing System)

Article 2-2 (1) A person who has obtained permission (including permission pursuant to the provisions of paragraph (3)) from the Minister of Economy, Trade and Industry pursuant to the provisions of Article 1-2, paragraph (4) (except for a person who has received a certificate of permission for service transactions pursuant to the provisions of Article 1-2 paragraph (5) with respect to said permission) must, when falling under any of the cases listed in the following items, enter the particulars which said person intends to extend or change, among those recorded with respect to said permission, in a file stored on the Special-Purpose Computer through the Specified Input-Output Device:

- (i) when said person intends to file an application for an extension of the valid period pursuant to the provisions of paragraph (2) of the preceding Article; or
  - (ii) when said person intends to file an application for a change to the contents of a transaction or a payment, etc. which pertains to said permission (limited to matters recorded with respect to said permission in a file stored on the Special-Purpose Computer).
- (2) In filing an application set forth in the preceding paragraph, information supporting the relevant facts shall be input through the Specified Input-Output Device and recorded in a file stored on the Special-Purpose Computer or a document supporting the relevant facts must be submitted to the Minister

of Economy, Trade and Industry.

- (3) The Minister of Economy, Trade and Industry shall, in granting permission for an application filed in accordance with paragraph (1), record the particulars to be specified in a certificate of permission for service transactions in the form prescribed in Appended Form 6-2 in a file stored on the Special-Purpose Computer.
- (4) Notwithstanding the provisions of the preceding paragraph, the Minister of Economy, Trade and Industry shall, in granting permission for an application filed in accordance with paragraph (1), indicate, upon an applicant's request, to that effect in a certificate of permission for service transactions in the form prescribed in Appended Form 6-2, and deliver it to the applicant.

(Procedures for Recording onto Floppy Disks)

Article 3 An applicant may submit the documents listed in the left-hand column of the following table (except for in cases where an applicant intends to obtain permission from the Minister of Economy, Trade and Industry pursuant to the provisions of Article 25, paragraph (1) or paragraph (4) of the Act, or Article 17, paragraph (2) of the Order) by using a floppy disk onto which the particulars to be specified in said documents are recorded according to the classifications of said documents listed in the left-hand column of the same table in the form listed in the right-hand column of the same table, as well as a floppy disk submission slip prepared in the form prescribed in Appended Form 7.

a written application for permission for payment, etc. as prescribed in Article 1, paragraph (1), item (i) and an attachment stating the reason for the application as prescribed in paragraph (2) of the same Article:	Appended Form 8
a written application for permission for the specified capital transactions prescribed in Article 1, paragraph (1), item (ii) and an attachment stating the reason for the application as prescribed in paragraph (2) of the same Article:	Appended Form 9
a written application for permission for the service transactions prescribed in Article 1, paragraph (1), item (iii) and an attachment stating the reason for the application as prescribed in paragraph (2) of the same Article:	Appended Form 10
a written application for permission for the brokerage transactions prescribed in Article 1, paragraph (1), item (iv) and an attachment stating the reason for the application as prescribed in paragraph (2) of the same Article:	Appended Form 11
a written application as prescribed in paragraph (3) of the preceding Article and an attachment stating the reason for the application under paragraph (4) of the same Article:	Appended Form 12

(Structure of Floppy Disks)

Article 4 A floppy disk prescribed in the preceding paragraph must be that which falls under any of the following items:

- (i) a 90-mm floppy disk cartridge that conforms to the Japanese Industrial Standards under the Industrial Standardization Act (Act No. 185 of 1949) (hereinafter referred to as "Japanese Industrial Standards") X6221; or
- (ii) a 90-mm floppy disk cartridge that conforms to Japanese Industrial Standards X6223.

(Floppy Disk Recording Methods)

Article 5 (1) Recording onto a floppy disk as prescribed in Article 3 must be carried out by the following methods:

- (i) for a track format, the method specified in Japanese Industrial Standards X6222 when recording onto a floppy disk as prescribed in item (i) of the preceding Article, or the method specified in Japanese Industrial Standards X6225 when recording onto a floppy disk as prescribed in item (ii) of the same Article;
  - (ii) for a volume and file configuration, the method specified in Japanese Industrial Standards X0605; and
  - (iii) for character coded representation, the method specified in Annex 1 to Japanese Industrial Standards X0208.
- (2) Recording onto a floppy disk as prescribed in Article 3 must be carried out by using those graphic characters specified in Japanese Industrial Standards X0201 and X0208 and the "carriage return (CR)" and the "line feed (LF)" from among those control characters specified in Japanese Industrial Standards X0211.

(Document to be Pasted onto Floppy Disk)

Article 6 A label stating the following particulars must be attached to the labeling area specified in Japanese Industrial Standards X6221 or X6223 of a floppy disk as prescribed in Article 3:

- (i) the name of the person (or, for a corporation, its name) who has made the submission; and
- (ii) the date of submission.

(Special Procedures for Applying for Permission)

Article 7 Notwithstanding the provisions of this Ministerial Ordinance, the Minister of Economy, Trade and Industry may, when deeming it necessary, provide special procedures through which a resident or a non-resident may obtain permission from the Minister of Economy, Trade and Industry pursuant to Article 25, paragraph (1), paragraph (4), or paragraph (5) of the Act, or Article 6, paragraph (2), Article 6-2, paragraph (4), Article 15, paragraph (2),



Article 16, paragraph (2), Article 17, paragraph (2), Article 18, paragraph (4) or Article 18-3, paragraph (2) of the Order.

(Procedures for Conducting Checks by Banks, etc. or Funds Transfer Companies)

Article 8 (1) Banks, etc. (which means the banks, etc. prescribed in Article 16-2 of the Act; the same shall apply hereinafter) or funds transfer companies (which means the funds transfer companies prescribed in Article 2, paragraph (3) of the Act on Financial Settlements (Act No. 59 of 1999); the same shall apply hereinafter) shall, when finding that the customer's payment, etc. falls under any of the payments, etc. prescribed in Article 17, paragraph (1), item (i) of the Act or is a payment which pertains to transactions prescribed in Article 7, item (i) or item (ii) of the Order pursuant to Article 17, paragraph (1), item (iii) of the Act, request said customer to present a certificate of permission, a certificate of permission for extension or a certificate of permission for change, which pertains to said transactions or said payment, etc. (hereinafter referred to as the "Certificate of Permission, etc." in paragraph (3)) and confirm that said customer has obtained permission from the Minister of Economy, Trade and Industry before entering into exchange transactions which pertain to said payment, etc. with said customer.

(2) Banks, etc. or funds transfer companies shall, when finding that the customer's payment, etc. falls under any of the payments, etc. which pertain to the import of goods prescribed in Article 7, item (iv) of the Order pursuant to Article 17, paragraph (1), item (iii) of the Act, require said customer to present a certificate of import approval which pertains to said import of goods, and confirm that said customer has obtained an approval of import from the Minister of Economy, Trade and Industry before entering into exchange transactions which pertain to said payment, etc. with said customer.

(3) Banks, etc. or fund transfer specialists shall, when entering into exchange transactions which pertain to a payment, etc. with the customer upon confirmation as prescribed in the preceding two paragraphs, indicate the date and the amount of the exchange transactions which pertain to said payment, etc. in the space "For Bank, etc. or Fund Transfer Specialist Use Only" on the reverse side of the Certificate of Permission, etc. or the certificate of approval of import presented from said customer, affix a seal of confirmation, and return said Certificate of Permission, etc. or certificate of approval of import to said customer.

(Transactions, etc. which Do Not Require Permission)

Article 9 (1) The acts designated by the Minister of Economy, Trade and Industry as prescribed in Article 17, paragraph (4) of the Order shall be those

which fall under any of the following items:

- (i) acts related to transactions listed in the items of the following paragraph; or
  - (ii) acts related to transactions which are conducted by a person who has received the provision of technology from a resident who has obtained the permission set forth in Article 25, paragraph (1) of the Act through the permitted transactions and which pertain to said permission.
- (2) Transactions designated by the Minister of Economy, Trade and Industry as prescribed in Article 17, paragraph (5) of the Order shall be those which fall under any of the following items:
- (i) transactions which are conducted by the Minister of Economy, Trade and Industry;
  - (ii) transactions which are conducted by the Minister of Defense, and which are designed for the purpose of providing the technology listed in the middle column of the Appended Table of the Order (except for technology which has been transferred to Japan based on the exchange of official documents concerning the cooperation in space exploration between Japan and the United States) to a resident or a non-resident of foreign states (which means the foreign states that fall under the regions listed in Appended Table 3 of the Export Trade Control Order (Cabinet Order No. 378 of 1949; hereinafter referred to as the "Export Order;" hereinafter the same shall apply in this item) in Japan or foreign states;
  - (ii)-2 transactions which are conducted by a resident for the purpose of providing the technology listed in the middle column of the Appended Table of the Order to the Minister of Defense in foreign states;
  - (iii) service transactions which are conducted by a resident or a non-resident based on an agreement concerning compensation or free economic cooperation or technical cooperation to be granted by the Japanese Government to a foreign government;
  - (iii)-2 transactions which are designed for the purpose of providing technology to the International Atomic Energy Agency for implementing the Agreements between the Government of Japan and the International Atomic Energy Agency in Implementation of Paragraphs 1 and 4 of Article III of the Treaty on the Non-Proliferation of Nuclear Weapons and the Protocol Additional to the Agreements between the Government of Japan and the International Atomic Energy Agency in Implementation of Paragraphs 1 and 4 of Article III of the Treaty on the Non-Proliferation of Nuclear Weapons;
  - (iii)-3 transactions which are designed for the purpose of providing technology to a person designated by an international organization as prescribed in Article 30 of the Act on Prohibition of Chemical Weapons and Control, etc. of Specific Chemicals, etc. (Act No. 65 of 1995), when said person designated by an international organization enters a place where toxic substances or

substances with equivalent levels of toxicity, or raw materials therefor are treated within the scope specified by the Convention on the Prohibition of the Development, Manufacture, Stockpiling and Use of Chemical Weapons or other places designated by an international organization, and inspects account books, documents, and any other articles, asks the relevant persons questions, or samples the smallest quantity of chemical substances necessary for testing, without charge;

- (iv) when a person who intends to conduct the transactions prescribed in Article 25, paragraph (1) of the Act has obtained permission by clarifying, in advance upon filing an application for said transactions, that a person who has received the provision of technology through transactions pertaining to said application will conduct transactions which are designed for the purpose of providing said technology to a person using said technology; transactions which are conducted by the person who has received the provision of technology through the permitted transactions for the purpose of providing said technology to the person using said technology;
- (v) transactions pertaining to the technology listed in the middle column of row 1 of the Appended Table of the Order that has been provided in foreign states (except for the technology provided through the export of documents, pictures, or media on which information on said technology is stated or recorded, the transmission of information on said technology via telecommunications from a telecommunications facility in Japan, or the departure of a person existing in Japan who has said technology), and which do not involve the export of documents, pictures, or media on which information on said technology is stated or recorded, the transmission of information on said technology via telecommunications from a telecommunications facility in Japan, or the departure of a person existing in Japan who has said technology, upon said transactions (hereinafter such transactions shall be referred to as "Technology Transactions Involving Foreign States"); provided, however, that transactions conducted by a resident, which involve the movement between foreign states of documents, pictures, or media on which information on said technology is stated or recorded, or the transmission of information on said technology to be received in foreign states from a telecommunications facility in a foreign state other than said foreign states shall be excluded;
- (vi) Technology Transactions Involving Foreign States pertaining to the technology listed in the middle column of rows 2 to 16 of the Appended Table of the Order that has been provided in foreign states (except for the technology provided through the export of documents, pictures, or media on which information on said technology is stated or recorded, the transmission of information on said technology via telecommunications from a telecommunications facility in Japan, or the departure of a person existing in

- Japan who has said technology); provided, however, that transactions conducted by a resident, which involve the movement between foreign states (which means foreign states other than the regions listed in Appended Table 3 of the Export Order; hereinafter the same shall apply in this item) of documents, pictures, or media on which information on said technology is stated or recorded, or the transmission of information on said technology to be received in foreign states from a telecommunications facility in a foreign state other than said foreign states, and those which fall under either (a) or (b) below shall be excluded:
- (a) when falling under the cases specified by the Minister of Economy, Trade and Industry in a public notice, wherein said technology is likely to be used for the development, manufacture, use or storage (hereinafter referred to as "Development, etc.") of nuclear weapons, chemical weapon agents or military bacterial agents or devices for spraying said agents, or rockets or unmanned aerial vehicles capable of transporting these with a range or flight range of 300km or longer (hereinafter referred to as "Nuclear Weapons, etc."); or
  - (b) when a notice has been made by the Minister of Economy, Trade and Industry that an application for permission should be filed because said technology is likely to be used for the Development, etc. of Nuclear Weapons, etc.;
- (vii) in addition to what is listed in the preceding item, transactions which are designed for the purpose of providing the technology listed in row 16 (i) of the Appended Table of the Order, and which do not involve the provision of documents, pictures, or media on which information on said technology is stated or recorded, or the transmission of information on said technology via telecommunication, or which do not fall under any of (a) to (d) below (or either (a), (b), or (d), for transactions which are designed for the purpose of providing said technology to a resident or a non-resident of foreign states (which means foreign states other than the regions listed in Appended Table 3-2 of the Export Order; hereinafter the same shall apply in this item and in the following item) in Japan or foreign states:
- (a) when falling under the cases specified by the Minister of Economy, Trade and Industry in a public notice, wherein said technology is likely to be used for the Development, etc. of Nuclear Weapons, etc.;
  - (b) when a notice has been made by the Minister of Economy, Trade and Industry that an application for permission should be filed because said technology is likely to be used for the Development, etc. of Nuclear Weapons, etc.;
  - (c) when falling under the cases specified by the Minister of Economy, Trade and Industry in a public notice, wherein said technology is likely to be used

- for the development, manufacture, or use of the goods listed in the middle column of row 1 of Appended Table 1 of the Export Order (except for goods falling under the category of Nuclear Weapons, etc.; the same shall apply in (d) and in the following item); and
- (d) when a notice has been made by the Minister of Economy, Trade and Industry that an application for permission should be filed because said technology is likely to be used for the development, manufacture, or use of the goods listed in the middle column of row 1 of Appended Table 1 of the Export Order;
  - (viii) in addition to what is listed in item (vi), transactions which are designed for the purpose of providing the technology listed in row 16 (ii) of the Appended Table of the Order, and which do not involve the provision of documents, pictures, or media on which information on said technology is stated or recorded, or the transmission of information on said technology via telecommunications, or which do not fall under any of (a) to (d) below (or either (a) or (b)), for transactions which are designed for the purpose of providing said technology to a resident or a non-resident of foreign states in Japan or foreign states:
    - (a) when falling under the cases specified by the Minister of Economy, Trade and Industry in a public notice, wherein said technology is likely to be used for the Development, etc. of Nuclear Weapons, etc.;
    - (b) when a notice has been made by the Minister of Economy, Trade and Industry that an application for permission should be filed because said technology is likely to be used for the Development, etc. of the Nuclear Weapons, etc.;
    - (c) when falling under the cases specified by the Minister of Economy, Trade and Industry in a public notice, wherein said technology is likely to be used for the development, manufacture, or use of the goods listed in the middle column of row 1 of Appended Table 1 of the Export Order; and
    - (d) when a notice has been made by the Minister of Economy, Trade and Industry that an application for permission should be filed because said technology is likely to be used for the development, manufacture, or use of the goods listed in the middle column of row 1 of Appended Table 1 of the Export Order;
  - (ix) transactions to provide technology which is in the public domain or to provide technology so as to make said technology known to the public (excluding transactions to make said technology known to the public for the purpose of providing it to a specified person), and which fall under any of (a) to (e) below:
    - (a) transactions to provide technology which is already open to a large number of unspecified people through, for example, newspapers, account

- books, magazines, catalogues, or files on a telecommunication network;
- (b) transactions to provide technology available to a large number of unspecified people, contained, for example, in academic journals, public patent information, or minutes of public symposiums;
  - (c) transactions to provide technology available to or which can be audited by a large number of unspecified people through, for example, factory tour courses, lectures or exhibitions;
  - (d) transactions to provide a program whose source code is open to the public;  
or
  - (e) transactions which are designed for the purpose of making said technology available, or available for inspection, to a large number of unspecified people, through, for example, sending copies of presentations at academic conferences or copies of handouts at exhibitions or on other occasions, or by contributing articles to magazines;
- (x) transactions to provide technology for basic scientific research;
  - (xi) transactions, for the purpose of filing an application or a registration for industrial property rights, to provide the minimum technology necessary for such application or registration;
  - (xii) transactions to provide technology designed to be used with certain goods with which technology is provided simultaneously when such goods are exported (except for programs and other technology specified by the Minister of Economy, Trade and Industry in a public notice), through which the minimum technology necessary for the installation, operation, maintenance and repair of said goods is provided to the buyers, the receivers or the users of said goods (limited to transactions through which such technology is provided on and after the date on which the permission for export was granted or the date on which the contract of export of the goods was effected, whichever date comes later); provided, however, that among said technology, the provision of technology for maintenance or repair shall be excluded when it falls under any of (a) to (c) below:
    - (a) technology which enhances the operational performance or characteristics of said goods over those they had when they were provided initially;
    - (b) technology which is designed for repair and of which the substance is equivalent to the technology for the design or production of said goods; or
    - (c) technology which is listed in the middle column of the Appended Table of the Order and which includes the technology required for the design or production of the goods;
  - (xiii) transactions to provide technology designed to be used with a certain program that is provided simultaneously when such program is provided (except for programs and other technology specified by the Minister of Economy, Trade and Industry in a public notice), through which the

minimum technology necessary for the installation, operation, maintenance and repair of said program is provided to the other party to the transactions concerning said program or the persons using it (limited to transactions through which such technology is provided on and after the date on which the permission for service transactions was granted or the date on which the contract for the provision of the program was effected, whichever date comes later); provided, however, that among said technology, the provision of technology for maintenance or repair shall be excluded when it falls under any of (a) to (c) below:

- (a) technology which enhances the functions or characteristics of the program over those it had when it was provided initially;
  - (b) technology which is designed for repair and of which the substance is equivalent to the technology for the design or production of the program; or
  - (c) technology which is listed in the middle column of the Appended Table of the Order and which includes the technology required for the design or production of the program;
- (xiv) transactions to provide a program which falls under any of (a) to (d) below:

(a) transactions to provide a program listed in the middle column of the Appended Table of the Order (except for programs specified by the Minister of Economy, Trade and Industry in a public notice) and falling under 1. and 2. below; provided, however, excepting transactions falling under any of (a), (b), or (d) of item (vii) for transactions through which a program is provided in foreign states (which means foreign states other than the regions listed in Appended Table 3 of the Export Order; hereinafter the same shall apply in this item) (limited to transactions through which such program is sold), or for transactions through which a program is provided to a non-resident of foreign states (or excepting transactions falling under any of (a) to (d) of item (vii) for transactions through which a program is provided in the foreign states falling under the regions listed in Appended Table 3-2 of the Export Order (limited to transactions through which such program is sold) or for transactions through which a program is provided to a non-resident of the foreign states falling under said regions)::

1. a program which is sold, without a restriction on purchase, from stock at retail selling points or provided free, without such restriction, to the users, through over-the-counter orders, orders by postal mail or other correspondence delivery services as prescribed in Article 2, paragraph (2) of the Act on Correspondence Delivery by Private Businesses Operators (Act No. 99 of 2002; hereinafter referred to as the "Correspondence Delivery Act") conducted by the correspondence delivery enterprises (meaning general correspondence delivery

- enterprises as prescribed in paragraph (6) of the same Article or specified correspondence delivery enterprises as prescribed in paragraph (9) of the same Article; the same shall apply hereinafter) (hereinafter referred to as "Correspondence Delivery"), or orders through the transmission of telecommunications; and
2. a program which is designed to be used without requiring any further technical support from the supplier or retail selling points of said program;
- (b) Deleted
- (c) transactions to provide a program which is especially designed to be used in the goods listed in the middle column of Appended Table 1 of the Export Order (except for goods specified by the Minister of Economy, Trade and Industry in a public notice) and is provided simultaneously with said goods and where no source code thereof is provided in any form:
- (d) transactions to provide a program falling under either of 1. or 2. below, with respect to a program initially provided under the permission for service transactions, to the other party of the transactions or the persons using the program for which said permission has been granted:
1. a program whose functions have been modified or which is designed for the purpose of modifying its functions, within the extent of the permission; or
  2. a program which is provided simultaneously with goods exported from Japan and then re-exported after having been repaired in Japan, and which is the same as that initially provided under the permission for service transactions; or
- (xv) transactions to provide technology designed to be used with certain goods that are provided simultaneously when such goods are imported from a foreign government or an international organization, etc. for the purpose of providing assistance in the event of the occurrence in Japan of a nuclear emergency situation as prescribed in Article 2, item (ii) of the Act on Special Measures Concerning Nuclear Emergency Preparedness (Act No. 156 of 1999) or a disaster such as the nuclear disaster prescribed in item (i) of the same Article, simultaneously when such goods are exported back after the completion of said assistance.
- (3) Service transactions specified by an Ordinance of the Ministry of Economy, Trade and Industry as prescribed in Article 18, paragraph (1) of the Order shall be transactions listed in Article 1, item (1), (a) of the Cabinet Order to Determine Competent Ministers in the Foreign Exchange and Foreign Trade Control Act (Cabinet Order No. 259 of 1980; hereinafter referred to as the "Cabinet Order Determining Competent Ministers" in paragraph (1) of the following Article) or service transactions falling under the transactions listed



in (b) of the same item, which fall under any of the following items:

- (i) among service transactions listed in Article 18, paragraph (1) of the Order, those pertaining to the processing or storage of minerals (except for nuclear source materials and nuclear fuel materials), and where the consideration of said service transactions is less than an amount equivalent to 10,000,000 yen; or
- (ii) transactions listed in item (i) to item (iii) of the preceding paragraph.

(Reports)

- Article 10 (1) A payment, etc. specified by an Ordinance of the Ministry of Economy, Trade and Industry as prescribed in Article 18-4, paragraph (1), item (iii) of the Order shall be the payment, etc. which is made directly incidental to the transactions listed in Article 1, item (i) of the Cabinet Order Determining Competent Ministers and a payment, etc. directly incidental to the acts listed in item (iii), (b) and (c) of the same Article.
- (2) The specified capital transactions specified by an Ordinance of the Ministry of Economy, Trade and Industry as prescribed in Article 18-6, paragraph (1) of the Order shall be the transactions based on contracts listed in the items of Article 14 of the Order.
  - (3) The Minister of Economy, Trade and Industry shall, when requesting a report pursuant to the provisions of Article 18-8, paragraph (1) of the Order, clarify the particulars to be requested, and order the submission of a necessary report, by a notice to a person or a relevant person as prescribed in the same paragraph.
  - (4) The Minister of Economy, Trade and Industry may, when unable to ascertain the domicile or residence, or the location of the business office or office, of a person to whom a notice prescribed in the preceding paragraph should be given, clarify the identity of the person who has been requested to report and clarify the particulars to be requested, and order the submission of a necessary report, by a public notice instead of a notice as prescribed in the same paragraph.
  - (5) A person who has received the order prescribed in the preceding two paragraphs must submit a written report without delay.

(Delivery of Notice, etc.)

- Article 11 (1) A notice prescribed in the provisions of Article 6-2, paragraph (3), Article 16, paragraph (1) or Article 18-3, paragraph (1) of the Order or paragraph (3) of the preceding Article shall be given by service of a document, in which the contents of said notice are described, to the domicile or residence, or business office or office, of a person upon whom the notice should be served, by way of postal mail, Correspondence Delivery or personal service.
- (2) When a document prescribed in the preceding paragraph has been sent by

ordinary postal mail or Correspondence Delivery, the postal item or the correspondence item prescribed in Article 2, paragraph (3) of the Correspondence Delivery Act delivered by Correspondence Delivery businesses shall be presumed to have been served at the time when it should normally have arrived.

- (3) The Minister of Economy, Trade and Industry must, when sending a document prescribed in paragraph (1) by ordinary postal mail or Correspondence Delivery, prepare a record sufficient to ascertain the name of the person (or, for a corporation, its name) who should receive the service of said document, and the address and date on which said document was sent.
- (4) Personal service as prescribed in paragraph (1) shall be made by an official of said administrative organ through the delivery of a document as prescribed in the same paragraph to a person who should receive said service at the place where said document should be served; provided, however, that said document may be delivered to other places when the person who should receive said service has no objection.
- (5) In the cases listed in the following items, personal service as prescribed in paragraph (1) may be made through the acts prescribed in said respective items, instead of the delivery pursuant to the preceding paragraph:
  - (i) in cases of being unable to meet a person who should receive the service of a document as prescribed in paragraph (1) at the place where said document should be served: said document shall be delivered to said person's employee or another worker, or a person living with said person, who has reasonable discretion concerning the receipt of said document (hereinafter referred to as "Employees, etc." in the following item); or
  - (ii) in cases where a person who should receive the service of a document prescribed in paragraph (1) or the Employees, etc. are not in the place where said document should be served or where such persons refuse to receive said document without justifiable grounds: said document shall be left at the place where said document should be served.
- (6) The provisions of paragraph (1) to paragraph (5) shall be apply mutatis mutandis to the case where the Minister of Economy, Trade and Industry intends to notify pursuant to Article 6-2, paragraph (5), Article 16, paragraph (3) or Article 18-3, paragraph (3) of the Order.

(Notification by the Directors-General of Customs-Houses to the Minister of Economy, Trade and Industry)

Article 12 Pursuant to the provisions of Article 18-2, paragraph (2) of the Order, the Directors-General of Customs-Houses shall promptly notify the Minister of Economy, Trade and Industry of the particulars listed in the following items with respect to goods which require permission from the Minister of Economy,

Trade and Industry under Article 17, paragraph (2) of the Order; provided, however, that when the Minister of Economy, Trade and Industry finds it unnecessary to notify of any particulars listed in said respective items, notification of such particulars as found unnecessary may be omitted:

- (i) the name and address of the exporter of the designated recording medium, etc.;
- (ii) the destination of the designated recording medium, etc.;
- (iii) the name or registration number of the ship or aircraft on which the designated recording medium, etc., is to be loaded; and
- (iv) in addition to the particulars listed in the preceding items, the customs declaration number, permission number for the permission under Article 17, paragraph (2) of the Order, and other matters pertaining to export declaration to the Director-General of a Customs-House.

### **Supplementary Provisions**

(Effective Date)

- (1) This Ministerial Ordinance shall come into effect as of April 1, 1998.

(Transitional Measures concerning Penal Provisions)

- (2) With regard to the application of penal provisions to acts committed prior to the enforcement of this Ministerial Ordinance, the provisions then in force shall continue to apply.

### **Supplementary Provisions**

- (1) This Ministerial Ordinance shall come into effect as of the date of promulgation.
- (2) Notifications already submitted, at the time of the enforcement of this Ministerial Ordinance, in accordance with the provisions of Article 1-2, paragraph (1) of the Export Trade Control Ordinance prior to the revision by this Ministerial Ordinance pursuant to Article 13, paragraph (2) of the Export Trade Control Order (Cabinet Order No. 378 of 1949) shall be deemed to be notifications submitted in accordance with the provisions of Article 1-3, paragraph (1) of the Export Trade Control Ordinance revised by this Ministerial Ordinance pursuant to Article 13, paragraph (2) of the Export Trade Control Order (Cabinet Order No. 378 of 1949), notifications submitted in accordance with the provisions of Article 2-3, paragraph (1) of the Import Trade Control Ordinance revised by this Ministerial Ordinance pursuant to Article 20, paragraph (2) of the Import Trade Control Order (Cabinet Order No. 414 of 1949), and notifications submitted in accordance with Article 1-3,

paragraph (1) of the Ministerial Ordinance on Trade Relation Invisible Trade, etc. revised by this Ministerial Ordinance pursuant to Article 28, paragraph (2) of the Foreign Exchange Order (Cabinet Order No. 260 of 1980), and the provisions of the respective Ministerial Ordinance revised by this Ministerial Ordinance shall apply thereto.

#### **Supplementary Provisions**

This Ministerial Ordinance shall come into effect as of January 6, 2001.

#### **Supplementary Provisions**

(Effective Date)

(1) This Ministerial Ordinance shall come into effect as of April 1, 2002.

(Transitional Measures concerning Penal Provisions)

(2) With regard to the application of penal provisions to acts committed prior to the enforcement of this Ministerial Ordinance, the provisions then in force shall continue to apply.

#### **Supplementary Provisions**

This Ministerial Ordinance shall come into effect as of the date of the enforcement of the Act on the Utilization of Information and Communications Technology in Administrative Procedure, etc. (February 3, 2003).

#### **Supplementary Provisions**

This Ministerial Ordinance shall come into effect as of April 1, 2003.

#### **Supplementary Provisions**

This Ministerial Ordinance shall come into effect as of April 1, 2003.

#### **Supplementary Provisions**

(Effective Date)

(1) This Ministerial Ordinance shall come into effect as of January 20, 2004.

(Transitional Measures concerning Penal Provisions)

(2) With regard to the application of penal provisions to acts committed prior to

the enforcement of this Ministerial Ordinance, the provisions then in force shall continue to apply.

### **Supplementary Provisions**

This Ministerial Ordinance shall come into effect as of March 1, 2005.

### **Supplementary Provisions**

(Effective Date)

(1) This Ministerial Ordinance shall come into effect as of June 1, 2005.

(Effective Date)

(2) Forms prescribed in Appended Table 1, Appended Table 1-2 and Appended Table 2 of the Export Trade Control Ordinance, and forms prescribed in Appended Form 3 of the Ministerial Ordinance on Trade Relation Invisible Trade, etc., prior to the revision by this Ministerial Ordinance, may be, for the time being, used in lieu of the forms prescribed in Appended Table 1 to Appended Table 1-3, Appended Table 1-4 and Appended Table 2 of the Export Trade Control Ordinance, and the forms prescribed in Appended Form 3 of the Ministerial Ordinance on Trade Relation Invisible Trade, etc. revised by this Ministerial Ordinance, respectively.

### **Supplementary Provisions**

This Ministerial Ordinance shall come into effect as of June 1, 2007.

### **Supplementary Provisions**

This Ministerial Ordinance shall come into effect as of the date of the enforcement of the Act for Partial Revision of the Defense Agency Establishment Act, etc. (Act No. 118 of 2006).

### **Supplementary Provisions [Extract]**

(Effective Date)

(1) This Ministerial Ordinance shall come into effect as of October 1, 2007.

### **Supplementary Provisions**

This Ministerial Ordinance shall come into effect as of November 1, 2008.

## **Supplementary Provisions**

This Ministerial Ordinance shall come into effect as of the date of the enforcement of the Act for Partial Revision of the Act on Special Measures for Customs Procedures Using Electronic Data Processing Systems (October 1, 2008).

### **Supplementary Provisions [Extract]**

(Effective Date)

Article 1 This Ministerial Ordinance shall come into effect as of November 1, 2009.

(Transitional Measures concerning Penal Provisions)

Article 2 With regard to the application of penal provisions to acts committed prior to the enforcement of this Ministerial Ordinance, the provisions then in force shall continue to apply.

## **Supplementary Provisions**

(Effective Date)

Article 1 This Ministerial Ordinance shall come into effect as of February 21, 2010; provided, however, that the provisions in Article 3 that revise Article 2, paragraph (1) of the Ministerial Ordinance on Trade Relation Invisible Trade, etc. and Appended Form 3-2 shall come into effect as of the date of promulgation.

(Transitional Measures)

Article 2 (1) Forms prior to revision by this Ministerial Ordinance (except for those listed in Appended Table 6 of the Export Trade Control Ordinance, Appended Table 3 of the Import Trade Control Ordinance, and Appended Form 6-3 of the Ministerial Ordinance on Trade Relation Invisible Trade, etc.) shall be deemed to be those in the forms after the revision by this Ministerial Ordinance, for the time being.

(2) Notifications already submitted at the time of the enforcement of this Ministerial Ordinance, in accordance with the provisions of Article 1-3, paragraph (3) of the Export Trade Control Ordinance, Article 2-3, paragraph (3) of the Import Trade Control Ordinance, and Article 1-3, paragraph (3) of the Ministerial Ordinance on Trade Relation Invisible Trade, etc., prior to revision by this Ministerial Ordinance, shall be deemed to be notifications submitted in accordance with the provisions of Article 1-3, paragraph (2) of the Export Trade

Control Ordinance, Article 2-3, paragraph (2) of the Import Trade Control Ordinance, and Article 1-3, paragraph (2) of the Ministerial Ordinance on Trade Relation Invisible Trade, etc., after the revision by this Ministerial Ordinance, respectively.

### **Supplementary Provisions**

(Effective Date)

Article 1 This Ministerial Ordinance shall come into effect as of April 1, 2010.

(Transitional Measures)

Article 2 With regard to the application of penal provisions to acts committed prior to the enforcement of this Ministerial Ordinance, the provisions then in force shall continue to apply.

Article 3 (1) Forms prior to the revision by this Ministerial Ordinance (except for forms set forth in the Ministerial Ordinance Providing Forms of Identification Cards as prescribed in Article 68, paragraph (2) of the Foreign Exchange and Foreign Trade Act) shall be deemed to be those in the forms after the revision by this Ministerial Ordinance, for the time being.

(2) Documents already being used, at the time of the enforcement of this Ministerial Ordinance, following forms set forth in the Ministerial Ordinance Providing Forms of Identification Cards as prescribed in Article 68, paragraph (2) of the Foreign Exchange and Foreign Trade Act prior to the revision by this Ministerial Ordinance shall be deemed to be those in the forms set forth in Ministerial Ordinance Providing Forms of Identification Cards as prescribed in Article 68, paragraph (2) of the Foreign Exchange and Foreign Trade Act after the revision by this Ministerial Ordinance.

### **Supplementary Provisions**

This Ministerial Ordinance shall come into effect as of the date of promulgation.

### **Supplementary Provisions**

(Effective Date)

Article 1 This Ministerial Ordinance shall come into effect as of July 1, 2011.

(Transitional Measures concerning Penal Provisions)

Article 2 With regard to the application of penal provisions to acts committed

prior to the enforcement of this Ministerial Ordinance, the provisions then in force shall continue to apply.

### **Supplementary Provisions**

This Ministerial Ordinance shall come into effect as of the date of promulgation.

### **Supplementary Provisions**

(Effective Date)

(1) 1. This Ministerial Ordinance shall come into effect as of August 1, 2012.

(Transitional Measures concerning Penal Provisions)

2. With regard to the application of penal provisions to acts committed prior to the enforcement of this Ministerial Ordinance, the provisions then in force shall continue to apply. 2. With regard to the application of penal provisions to acts committed prior to the enforcement of this Ministerial Ordinance, the provisions then in force shall continue to apply.

Appended Form 1 (re. Article 1)

Appended Form 2 (re. Article 1)

Appended Form 3 (re. Article 1)

Appended Form 3-2 (re. Article 1) Appended Form 3-2 (re. Article 1)

Appended Form 4 (re. Article 1)

Appended Form 5 (re. Article 2)

Appended Form 6 (re. Article 1 and Article 2)

Appended Form 6-2 (re. Article 1-2) Appended Form 6-2 (re. Article 1-2)

Appended Form 6-3

Appended Form 7 (re. Article 3)

Appended Form 8 (re. Article 3)



Appended Form 9 (re. Article 3)

Appended Form 10 (re. Article 3)

Appended Form 11 (re. Article 3)

Appended Form 12 (re. Article 3)