

Ministerial Order on Invisible Trade Connected with Visible Trade

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

With the Act Partially Amending the Foreign Exchange and Foreign Trade Control Act (Act No. 59 of 1997) and the Cabinet Order Partially Amending the Foreign Exchange Control Order (Cabinet Order No. 383 of 1997) coming into effect, and for the purpose of implementing the provisions of that Order, the Ministerial Order on Invisible Trade Connected with Visible Trade is hereby amended 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 Articles 6, 6-2, 15 through 18, 18-3, 18-4, 18-6, and 18-8 of the Foreign Exchange Order (Cabinet Order No. 260 of 1980).

(Procedures for Applying for Permission)

Article 1 (1) A person, as stated in one of the following items, that seeks the permission of the Minister of Economy, Trade and Industry must submit two copies of a written application for permission in the format prescribed in each of those items to the Minister of Economy, Trade and Industry:

- (i) a person applying for permission to make or receive a payment, etc. as stated in (a) through (c) below: a written application for permission to make or receive a payment, etc. using Appended Form 1:
 - (a) a resident or non-resident seeking the permission of the Minister of Economy, Trade and Industry under Article 6, paragraph (2) of the Foreign Exchange Order (referred to as the "Order" below);
 - (b) a resident or non-resident seeking to file a combined application for permissions under two or more of the provisions pursuant to Article 6, paragraph (3) of the Order on the occasion of receiving the permission of the Minister of Economy, Trade and Industry under paragraph (2) of that Article; or
 - (c) a person who, pursuant to the provisions of Article 6-2, paragraph (3) of the Order, has been placed under the obligation to receive permission to make or receive a payment, etc., and that is seeking the permission of the Minister of Economy, Trade and Industry under paragraph (4) of that Article;
- (ii) a person applying for permission to conduct a specified capital transaction as stated in (a) through (c) below: a written application for permission for the specified capital transaction using Appended Form 2:

- (a) a resident seeking the permission of the Minister of Economy, Trade and Industry under Article 15, paragraph (2) of the Order;
 - (b) a resident seeking to file a combined application for the permission under Article 24, paragraph (1) and (2) of the Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949; referred to as "the Act" below) pursuant to the provisions of Article 15, paragraph (3) of the Order, on the occasion of receiving the permission of the Minister of Economy, Trade and Industry under paragraph (2) of that Article; or
 - (c) a person who, pursuant to the provisions of Article 16, paragraph (1) of the Order, has been placed under the obligation to receive permission for a specified capital transaction, and that is seeking the permission of the Minister of Economy, Trade and Industry under the provisions of paragraph (2) of that Article;
- (iii)-1 a person applying for permission to conduct a service transaction as stated in (a) or (b) below: a written application for permission for a service transaction using Appended Form 3:
- (a) a resident or non-resident seeking the permission of the Minister of Economy, Trade and Industry under the provisions of Article 25, paragraph (1) or (5) of the Act, or Article 18, paragraph (4) of the Order (limited to the parts that pertain to service transactions); or
 - (b) a person who, pursuant to the provisions of Article 18-3, paragraph (1) of the Order, has been placed under the obligation to receive permission for a service transaction, and that is seeking the permission of the Minister of Economy, Trade and Industry under paragraph (2) of that Article;
- (iii)-2 a person applying for permission to take an act 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 an export or similar transaction involving a specified data storage medium or other means using Appended Form 3-2;
- (iv) a person applying for permission to conduct a transaction that is connected with the buying and selling, leasing, or donation of goods, and that involves the transfer of goods between foreign states (referred to as a "brokerage transaction" in this item) as stated in (a) and (b) below: a written application for permission for brokerage transaction using Appended Form 4:
- (a) a resident seeking the permission of the Minister of Economy, Trade and Industry under Article 25, paragraph (4) of the Act or Article 18, paragraph (4) of the Order (limited to the part that pertains to brokerage transactions); or
 - (b) a person who, pursuant to the provisions of Article 18-3, paragraph (1) of the Order, has been placed under the obligation to receive permission for a brokerage transaction, and that is seeking the permission of the Minister

- of Economy, Trade and Industry under paragraph (2) of that Article.
- (2) The applicant must attach one copy of a document stating the reason for the application and one copy of a document proving the relevant facts to the written application as referred to in the preceding paragraph.
 - (3) If a person who has applied for permission referred to in paragraph (1) (unless the person has applied through the procedures referred to in Article 3) is granted permission, the Minister of Economy, Trade and Industry is to indicate this on the copies of the written application and deliver one copy to the applicant as a permit.

(Procedures for Applying for Permission Using an Electronic Data Processing System)

- Article 1-2 (1) Notwithstanding the provisions of paragraph (1) of the preceding Article, a person seeking to apply for the permission of 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 as prescribed in Article 6, paragraph (1) of the Act on the Advancement of Government Administration Processes That Use Information and Communications Technology (Act No. 151 of 2002) (meaning an electronic data processing system as prescribed in Article 2, item (i) of the Act on the Utilization of Electronic Data Processing Systems for Processing of Import and Export Business (Act No. 54 of 1977), which, pursuant to the provisions of Article 3, paragraph (1) of that Act, is deemed to be the electronic data processing system as prescribed in Article 6, paragraph (1) of the Act on the Advancement of Government Administration Processes That Use Information and Communications Technology; the same applies below), must enter the particulars that are required to be included in an application form for permission for service transactions that can be accessed through a file stored on a computer meant for the use of the Nippon Automated Cargo and Port Consolidated System, Inc. (including its input and output devices; referred to as a "special-purpose computer" below), through an input and output device meant for the use of the person filing that application (limited to one that conforms to the standards specified by the Minister of Economy, Trade and Industry by public notice; referred to as a "specified input and output device" below).
- (2) If filing an application as referred to in the preceding paragraph, a person must enter information that allows the relevant facts to be confirmed through a specified input and output device and record it in a file stored on a special-purpose computer, or must submit a document proving the relevant facts to the Minister of Economy, Trade and Industry.
 - (3) If a person applying as prescribed in paragraph (1) has entered information

as referred to in the preceding paragraph, the Minister of Economy, Trade and Industry may have the person submit documents proving the information which the person has entered as necessary, during the period from the date on which the applicant has filed the application to the date on which the applicant is notified of whether their application has been accepted or denied.

- (4) Having granted the permission referred to in paragraph (1), the Minister of Economy, Trade and Industry is to record the particulars required to be specified in the service transaction permit using Appended Form 6-2 into a file stored on a special-purpose computer.
- (5) Notwithstanding the provisions of the preceding paragraph, if the Minister of Economy, Trade and Industry grants permission as referred to in paragraph (1) and the applicant so requests, the Minister is to indicate that on the service transaction permit using Appended Form 6-2 and deliver it to the applicant.

(Applicant's Notification)

- Article 1-3 (1) A person who has filed advance notification, by submitting a written applicant notification using Appended Form 6-3 and a document proving the relevant facts to the Minister of Economy, Trade and Industry, must be the one to enter the information prescribed in paragraph (1) of the preceding Article.
- (2) If there has been a change to the particulars of which a person has made a notification as referred to the preceding paragraph, or if that person seeks to stop using an electronic data processing system (meaning an electronic data processing system connecting a special-purpose computer and a specified input/output device over a telecommunications line; the same applies in the following paragraph), the person must indicate that in a written applicant notification using Appended Form 6-3 and promptly file it with the Minister of Economy, Trade and Industry.
 - (3) On finding that it is not appropriate for a person who has filed a notification as referred to in paragraph (1) to continue to use an electronic data processing system, the Minister of Economy, Trade and Industry may suspend that person's use of electronic data processing systems.
 - (4) A notification submitted pursuant to the provisions of Article 1-3, paragraph (1) of the Regulations for Export Trade Control (Order 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 Regulations for Import Trade Control (Order of the Ministry of International, Trade and Industry No. 77 of 1949) is deemed to be a notification submitted pursuant to the provisions of paragraph (1).

(Procedures for Extending the Validity Period)

Article 2 (1) The permission of the Minister of Economy, Trade and Industry under Article 25, paragraph (1), (4), or (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 is valid for six months from the date on which the Minister granted that permission.

(2) On finding that it is particularly necessary to do so with respect to the permission prescribed in the preceding paragraph, the Minister of Economy, Trade and Industry may set a validity period that differs from the period referred to in that paragraph or may extend that period.

(3) A person in one of the following items must submit two copies of a written application using Appended Form 5 to the Minister of Economy, Trade and Industry when it is stated in that item:

(i) if a person who received permission as prescribed in paragraph (1) seeks to apply for an extension of the validity period under the preceding paragraph; or

(ii) if a person who received permission as prescribed in paragraph (1) seeks to file an application for a change to the content of the permitted transaction or payment, etc. (limited to the particulars specified in the permit).

(4) A person must attach one copy of the permit issued pursuant to the provisions of Article 1, paragraph (3) or (4), Article 1-2, paragraph (5), or paragraph (4) of the following Article; one copy of a document presenting the reason for the application; and one copy of a document proving the relevant facts to the written application referred to in the preceding paragraph.

(5) Having granted the permission referred to in paragraph (3) (unless the applicant has applied through the procedures referred to in the following Article), the Minister of Economy, Trade and Industry is to indicate that on the copies of the written application and deliver one copy to the applicant, accompanied by the permit submitted pursuant to the provisions of the preceding paragraph, as the extended permit or the revised permit.

(Procedures for Extending the Validity Period Using an Electronic Data Processing System)

Article 2-2 (1) When a person who has received permission from the Minister of Economy, Trade and Industry pursuant to the provisions of Article 1-2, paragraph (4) (including permission under paragraph (3)) (excluding a person who has received a service transaction permit pursuant to the provisions of Article 1-2, paragraph (5) in connection with that permission) falls under any of the following items, that person must enter, via a specified input and output device, into a file stored on a special-purpose computer, the particulars related to that permission which the person seeks to extend or change:

- (i) if the person seeks to file an application for an extension of the validity period under paragraph (2) of the preceding Article; or
 - (ii) if the person seeks to file an application for a change to the content of the permitted transaction or payment, etc. (limited to particulars recorded in a file stored on a special-purpose computer with respect to the permission).
- (2) When filing an application as referred to in the preceding paragraph, the applicant must either enter information proving the relevant facts through a specified input and output device and record it in a file stored on a special-purpose computer, or submit a document proving the relevant facts to the Minister of Economy, Trade and Industry.
- (3) Having granted the permission referred to in paragraph (1), the Minister of Economy, Trade and Industry is to record, in a file stored on a special-purpose computer, the particulars to be specified in the service transaction permit using Appended Form 6-2.
- (4) Notwithstanding the provisions of the preceding paragraph, if the Minister of Economy, Trade and Industry grants the permission referred to in paragraph (1) and the applicant so requests, the Minister is to indicate that in a service transaction permit using Appended Form 6-2 and deliver it to the applicant.

Articles 3 through 6 Deleted

(Procedures for Applying for Special Permission)

Article 7 Notwithstanding the provisions of this Ministerial Order, the Minister of Economy, Trade and Industry may provide special procedures for those stated in the following items, if necessary:

- (i) a procedure for obtaining permission from the Minister of Economy, Trade and Industry pursuant to Article 25, paragraph (1), (4), or (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;
- (ii) a procedure for making a notification to the Minister of Economy, Trade and Industry pursuant to Article 1-3;
- (iii) a procedure for obtaining permission from the Minister of Economy, Trade and Industry pursuant to Article 2.

(Procedures for the Implementation of Confirmation Duties by Banks, Funds Transfer Service Providers, or Electronic Payment Instruments Service Providers)

Article 8 (1) If it is recognized that a payment, etc. made or received by a customer of a bank, etc. (meaning a bank, etc. as prescribed in Article 16-2 of the Act; the same applies below), a funds transfer service provider (meaning a

funds transfer service provider as prescribed in Article 2, paragraph (3) of the Payment Services Act (Act No. 59 of 2009); the same applies below), or an electronic payment instruments service provider (meaning an electronic payment instruments service provider, etc. as prescribed in Article 16-2 of the Act; the same applies below) constitutes a payment, etc. listed in Article 17, item (i) of the Act or a payment, etc. related to a transaction prescribed in Article 7, item (i) or (ii) of the Order based on item (iii) of the same Article, the bank, etc., funds transfer service provider, or electronic payment instruments service provider is to request the customer to present a permit, an extended permit, or a revised permit related to the relevant transaction or payment, etc. (referred to as "permit, etc." in paragraph (3)). They are then to confirm that the customer has received permission from the Minister of Economy, Trade and Industry before conducting an exchange transaction with the customer involving that payment, etc., or the transfer of electronic payment instruments, etc. (meaning a transfer of electronic payment instruments, etc. as prescribed in Article 16-2 of the Act; the same applies below).

- (2) If it is recognized that a payment, etc. made by a customer constitutes a payment, etc. related to the import of goods prescribed in Article 7, item (iv) of the Order based on Article 17, item (iii) of the Act, a bank, etc., a funds transfer service provider, or an electronic payment instruments service provider, etc. is to request the customer to present a certificate of import approval for the import of those goods, and, after confirming that the customer has received import approval from the Minister of Economy, Trade and Industry, is to conduct the exchange transaction involving that payment, etc., or the transfer, etc. of electronic payment instruments, etc. related to that payment, etc. with the customer.
- (3) When, following the confirmation under the preceding two paragraphs, a bank, etc., a funds transfer service provider, or an electronic payment instruments service provider, etc. has conducted an exchange transaction with its customer involving the payment, etc. or the transfer, etc. of electronic payment instruments, etc. related to the payment, etc., that entity is to enter the date and amount of the exchange transaction or the transfer of electronic payment instruments, etc., and the name of the person who carried out the confirmation, in the section marked "Bank, etc., Funds Transfer Service Provider, or Electronic Payment Instruments, etc." on the reverse side of the permit or the certificate of import approval presented by the customer, and return the permit or certificate to the customer.

(Service Transactions Not Requiring Permission)

Article 9 (1) The acts designated by the Minister of Economy, Trade and Industry provided for in Article 17, paragraph (2) of the Order are to be acts

falling under any of the following items:

- (i) an act connected with a transaction as stated in the items of the following paragraph; or
 - (ii) an act by a person who has been provided with the technology through a transaction based on the permission from a resident who has received that permission referred to in Article 25, paragraph (1) of the Act.
- (2) The transactions designated by the Minister of Economy, Trade and Industry provided for in Article 17, paragraph (5) of the Order are to be transactions falling under any of the following items:
- (i) a transaction conducted by the Minister of Economy, Trade and Industry;
 - (ii) a transaction conducted by the Minister of Defense for the purpose of providing the technology stated in the middle column of the Appended Table of the Order (excluding technology which has been transferred to Japan based on the exchange of notes concerning cooperation in space exploration between Japan and the United States) to a resident or to a non-resident of a foreign state (meaning a foreign state that falls under the regions stated in Appended Table 3 of the Cabinet Order on Export Trade Control (Cabinet Order No. 378 of 1949; referred to as the "Export Order" below) the same applies in this item) in Japan or in a foreign state;
 - (ii)-2 a transaction conducted by a resident for the purpose of providing the technology stated in the middle column of the Appended Table of the Order to the Minister of Defense in a foreign state;
 - (iii) a service transaction conducted by a resident or a non-resident based on an agreement concerning compensation or uncompensated economic cooperation or technical cooperation to be granted by the Japanese Government to a foreign government;
 - (iii)-2 a transaction conducted for the purpose of providing technology to the International Atomic Energy Agency in order to implement 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 a transaction conducted for the purpose of providing technology to a person designated by an international organization as prescribed in Article 30 of the Act on the Prohibition of Chemical Weapons and the Regulation of Specified Chemicals (Act No. 65 of 1995), when that person enters a place where toxic substances or substances with equivalent levels of toxicity, or raw materials for those substances are handled, or other places designated by an international organization, within the scope specified by the

- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, and that person inspects or photographs account books, documents, and other articles, asks the person concerned questions, or removes chemical substance samples in the smallest quantities necessary for testing, without compensation;
- (iv) a transaction that takes place after a person seeking to conduct that transaction as prescribed in Article 25, paragraph (1) of the Act has clarified in advance, when filing the application associated with the transaction, that the person to be provided with the technology through the transaction to which the application pertains would conduct a transaction for the purpose of providing the technology to a person who would use that technology; and that is conducted by the person who has been provided with the technology through the permitted transaction, for the purpose of providing the technology to that person who will use that technology;
 - (v) a transaction involving the technology stated in the middle column of row 1 of the Appended Table of the Order with which a person has been provided in a foreign state (excluding technology provided through the export of documents, pictures, or media in which information containing that technology has been stated or recorded; through the use of telecommunications to transmit information containing that technology from a telecommunications facility in Japan; or through the departure from Japan of a person who has the technology), and which does not involve, at the time of the transaction, the export of documents, pictures, or media in which information containing that technology has been stated or recorded; the use of telecommunications to transmit information containing that technology from a telecommunications facility in Japan; or the departure from Japan, for the purpose of that transaction, of a person who has that technology (that transaction is referred to as a "transaction involving technology conducted between persons in foreign states" below). However, this excludes transactions conducted by a resident that involves the movement between foreign states of documents, pictures, or media in which information containing that technology has been stated or recorded, or that involves the transmission of information containing that technology and that is meant to be received in a foreign state but that is sent from a telecommunications facility in another foreign state;
 - (vi) a transaction involving technology conducted between persons in foreign states in connection with the technology stated in the middle column of rows 2 through 16 of the Appended Table of the Order that has been provided in foreign states (excluding the technology provided through the exporting of documents, pictures, or media in which information containing that technology has been stated or recorded; through the use of

- telecommunications to transmit information containing that technology from a telecommunications facility in Japan; or through the departure from Japan of a person who has that technology). However, this excludes a transaction conducted by a resident and falling under either (a) or (b) below, that involves the movement between foreign states (meaning foreign states other than the regions stated in Appended Table 3 of the Export Order; the same applies in this item, below) of documents, pictures, or media in which information containing that technology has been stated or recorded, or that involves the transmission of information containing that technology that is meant to be received in a foreign state but that is sent from a telecommunications facility in another foreign state:
- (a) if it has been specified by public notice of the Minister of Economy, Trade and Industry as a case in which the technology poses a risk of being used for the development, manufacture, use, or storage (referred to as "development, manufacture, use, or storage" below) of a nuclear weapon; a military chemical or biological agent; a device for dispersing such an agent; or a rocket or unmanned aerial vehicle capable of transporting any of these and having a range or flight distance of at least 300 kilometers (referred to as an "NBC or associated device" below); or
 - (b) if the person has been notified by the Minister of Economy, Trade and Industry that the person is to file an application for permission on the grounds that the technology poses a risk of being used for the development, manufacture, use, or storage of an NBC or associated device;
- (vii) a transaction, beyond what is stated in the preceding item, that is conducted for the purpose of providing a person with the technology stated in row 16 of the Appended Table of the Order, that does not involve the provisions of documents, pictures, or media in which information containing that technology has been stated or recorded or the use of telecommunications to transmit information containing that technology; or that does not fall under any of (a) to (d) below (or either (a), (b), or (d), for a transaction conducted for the purpose of providing the technology to a resident or to a non-resident of a foreign state (meaning a foreign state other than the regions stated in Appended Table 3-2 of the Export Order; the same applies in this item) in Japan or a foreign state):
- (a) if it has been specified by public notice of the Minister of Economy, Trade and Industry as a case in which the technology poses a risk of being used for the development, manufacture, use, or storage of an NBC or associated device;
 - (b) if the person has been notified by the Minister of Economy, Trade and Industry that the person is to file an application for permission on the grounds that the technology poses a risk of being used for the development,

- manufacture, use, or storage of an NBC or associated device;
- (c) if it has been specified by public notice of the Minister of Economy, Trade and Industry as a case in which the technology poses a risk of being 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 (excluding those falling under the category of an NBC or associated device; the same applies in (d)); and
 - (d) if the person has been notified by the Minister of Economy, Trade and Industry that an application for permission should be filed because the technology is likely to be used for the development, manufacture, or use of the goods stated in the middle column of row 1 of Appended Table 1 of the Export Order;
- (viii) deleted;
- (ix) a transaction through which a person provides technology that is in the public domain, or through which a person provides technology in order to put it in the public domain (excluding a transaction through which the person puts the technology into the public domain for the purpose of providing it to any specific person); and that falls under any of (a) to (e) below:
 - (a) a transaction through which a person provides technology that has already been disclosed to a large number of unspecified persons through, for example, newspapers, books, magazines, catalogues, or files on a telecommunications network;
 - (b) a transaction through which a person provides technology that is available to a large number of unspecified persons, contained, for example, in an academic journal, public patent information, or the minutes of a public symposium;
 - (c) a transaction through which a person provides technology that is available to or can be audited by a large number of unspecified persons through, for example, factory tour courses, lectures, or exhibitions;
 - (d) a transaction through which a person provides a program whose source code is open to the public; or
 - (e) a transaction that a person conducts for the purpose of making the technology available, or available for inspection, to a large number of unspecified persons, by, for example, sending copies of a presentation at an academic conference or of material handed out at an exhibition or on another such occasion, or by contributing an article to a magazine;
 - (x) a transaction through which a person provides technology for basic scientific research;
 - (xi) a transaction that a person conducts for the purpose of filing an application for or registering an industrial property right, through which the person provides the minimum technology necessary for that application or

- registration;
- (xii) a transaction through which, incidental to the export of goods, a person provides the buyer, consignee, or user with technology for use with those goods (excluding programs or other technology that the Minister of Economy, Trade and Industry specifies by public notice) within the scope of what is minimally necessary for their installation, operation, maintenance, or repair (limited to transactions through which the person provides that technology on or after either the date on which the permission for export was granted or the date on which the contract for the export of the goods came into effect, whichever date comes later). However, the provisions of any such technology for maintenance or repair is excluded if the technology falls under any of (a) to (c) below:
- (a) technology that improves the operational performance or characteristics of the goods to exceed those they had when they were initially provided;
 - (b) technology that is for the repair of goods but whose content is equivalent to technology for the design or production of those goods; or
 - (c) technology as stated in the middle column of the Appended Table of the Order that includes the technology necessary for the design or production of goods;
- (xiii) a transaction through which, incidental to the provisions of a program, a person provides the other party to the transaction involving that program or the persons using that program with technology for use with that program (excluding programs or other technology that the Minister of Economy, Trade and Industry specifies by public notice) within the scope of what is minimally necessary for the installation, operation, maintenance, or repair of the program (limited to a transaction through which the person provides that technology on or after either the date on which the permission for service transactions was granted or the date on which the contract for the provisions of the program came into effect, whichever date comes later). However, the provisions of any such technology for maintenance or repair is excluded if the technology falls under any of (a) to (c) below:
- (a) technology that improves the functions or characteristics of the program to exceed those it had when it was provided initially;
 - (b) technology that is for the repair of the program but whose content is equivalent to the technology for the design or production of the program; or
 - (c) technology as stated in the middle column of the Appended Table of the Order that includes the technology necessary for the design or production of a program;
- (xiv) a transaction through which a person provides a program that falls under any of (a) to (d) below:
- (a) a transaction through which a person provides a program that is stated in

the middle column of the Appended Table of the Order (excluding programs that the Minister of Economy, Trade and Industry specifies by public notice) and that falls under 1. and 2. below. However, this excludes a transaction falling under any of (a), (b), or (d) of item (vii) through which the person provides a program in a foreign state (meaning a foreign state other than a region stated in Appended Table 3 of the Export Order; the same applies in this item below) (limited to a transaction in which the program is sold) or through which the person provides a program to a non-resident of a foreign state (this also excludes a transaction falling under any of (a) through (d) of item (vii) through which the person provides a program in a foreign state falling under a region stated in Appended Table 3-2 of the Export Order (limited to a transaction in which the program is sold) or through which the person provides the program to a non-resident of a foreign state falling under such a region):

1. a program that, without any restrictions on purchase, is sold from stock at a retail outlet and ordered in-store, by postal mail, through a correspondence delivery service as prescribed in Article 2, paragraph (2) of the Act on Correspondence Delivery by Private Business Operators (Act No. 99 of 2002; referred to as the "Correspondence Delivery Act" below) by a correspondence delivery company (meaning a general correspondence delivery company as prescribed in paragraph (6) of that Article or a specified correspondence delivery company as prescribed in paragraph (9) of that Article; the same applies below) (referred to as "correspondence delivery" below), or through telecommunications transmissions; or a program provided free of charge to users without any restrictions; and
2. a program that is designed to be used without requiring any further technical support from the supplier or retailer;

(b) deleted;

(c) a transaction through which a person provides a program that has been specially designed for use with goods stated in the middle column of Appended Table 1 of the Export Order (excluding goods that the Minister of Economy, Trade and Industry specifies by public notice), at the same time as those goods are provided, if the source code is not provided in any form;

(d) a transaction through which, after having received permission for a service transaction and provided a program, a person provides a program falling under either of 1. or 2. below to the other party to the permitted transaction or to a person using that program:

1. a program whose functions have been modified or which is designed for the purpose of modifying its functions, within the scope of the permission; or

2. a program being provided at the same time as goods that have been exported from Japan and that will be exported again after having been repaired in Japan, which is the same as a program that the person has provided after receiving permission for a service transaction; or
- (e) a transaction through which a person, incidental to the export of goods, provides the buyer, consignee, or user of those goods with a program stated in the middle columns of rows 2 or 4 through 15 of the Appended Table of the Order (limited to those of object codes and excluding those that the Minister of Economy, Trade and Industry specifies by public notice) that represents what is minimally necessary for their installation, operation, maintenance, or repair (limited to those stated in the middle columns of rows 2 or 4 to 15 of Appended Table 1 of the Export Order) (limited to transactions through which the person provides that program on and after either the date on which the permission for export was granted or the date on which the contract of export of the goods came into effect, whichever date comes later; and excluding transactions involving a program which improves the operational performance or characteristics of the goods to exceed those they had when they were provided initially or transactions concerning a program which provides new functions or characteristics to the goods); and
- (f) a transaction through which a person, incidental to the provisions of a program (limited to one stated in the middle column of rows 2 or 4 through 15 of the Appended Table of the Order), provides the other party to the transaction involving that program or the persons using it with a program as stated in the middle column of rows 2 or 4 through 15 of the Appended Table of the Order (limited to those of object code and excluding those that the Minister of Economy, Trade and Industry specifies by public notice) that represents what is minimally necessary for the installation, operation, maintenance, or repair of the previously provided program (limited to transactions through which the person provides the program in question on or after either the date on which the permission for service transactions was granted or the date on which the contract for the provisions of that previously provided program came into effect, whichever date comes later; and excluding transactions that increase the operational performance or characteristics of the previously provided program to exceed those it had when it was provided initially or transactions that provide a previously provided program with new functions or characteristics);
- (xv) a transaction through which a person provides, incidental to an export of the goods in order to return them upon completion of the assistance in question, technology that is for use with, and has been provided incidental to, goods that have been imported from a foreign government, an international

organization, or the like, for the purpose of providing assistance if there is a nuclear emergency in Japan 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 that Article; and

(xvi) a transaction through which a person provides a cryptographic mechanism, cryptographic algorithm, or reference code for one of these, which is necessary in order for a person to attend, make a proposal at, or present an opinion at an international conference that is aimed at developing international standards.

(3) The service transactions specified by Order of the Ministry of Economy, Trade and Industry that are provided for in Article 18, paragraph (1) of the Order mean transactions as stated in Article 1, item (1), (a) of the Cabinet Order Establishing the Competent Ministers in the Foreign Exchange and Foreign Trade Act (Cabinet Order No. 259 of 1980; referred to as the "Cabinet Order Establishing the Competent Ministers" in paragraph (1) of the following Article) or a service transaction constituting a transaction stated in (b) of the same item, which falls under any of the following items:

(i) a service transaction as stated in Article 18, paragraph (1) of the Order that involves the processing or storage of minerals (excluding nuclear source materials and nuclear fuel materials), if the consideration of the service transaction is less than an amount equivalent to 10,000,000 yen; or

(ii) a transaction as stated in items (i) through (iii) of the preceding paragraph.

(Reports)

Article 10 (1) The payment, etc. specified by Order of the Ministry of Economy, Trade and Industry that is provided for in Article 18-4, paragraph (1), item (iii) of the Order means the payment, etc. directly incidental to a transaction as stated in Article 1, item (i) of the Cabinet Order Establishing the Competent Ministers or the payment, etc. directly incidental to an act as stated in item (iii), (b) and (c) of that Article.

(2) The specified capital transactions specified by Order of the Ministry of Economy, Trade and Industry that are provided for in Article 18-6, paragraph (1) of the Order mean transactions under a contract as stated in the items of Article 14, paragraph (1) of the Order and the items of Article 14, paragraph (1) of the Order as applied pursuant to Article 14, paragraph (2) of the Order following the deemed replacement of terms.

(3) When requesting a report pursuant to the provisions of Article 18-8, paragraph (1) of the Order, the Minister of Economy, Trade and Industry, by way of notifying a person as prescribed in that paragraph or any related person, is to clarify the particulars that the person is being requested to report and

order the person to submit the necessary written report.

- (4) If unable to determine the domicile, residence, or location of the business office or office of a person to be notified under the preceding paragraph, the Minister of Economy, Trade and Industry, instead of notifying that person as under the preceding paragraph, may identify the person being requested to make the report, clarify the particulars that the person is being requested to report, and order the person to submit the necessary written report, by way of public notice.
- (5) A person who has been issued an order as prescribed in the preceding two paragraphs must submit a written report without delay.

(Service of Notifications)

- Article 11 (1) Notification, under 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, is provided to the relevant person through service of documents that include information to be included in that notification at the domicile, residence, business office, or office of that person, by way of mail, correspondence delivery, or personal service.
- (2) If a document as prescribed in the preceding paragraph has been sent by ordinary mail or correspondence delivery, the postal item or the correspondence item as prescribed in Article 2, paragraph (3) of the Correspondence Delivery Act that the correspondence delivery company delivers is presumed to have been served at the time it would normally reach the person in question.
 - (3) When sending a document as prescribed in paragraph (1) by ordinary mail or correspondence delivery, the Minister of Economy, Trade and Industry must prepare sufficient records to allow the verification of the first and last name of the person (or, for a corporation, its name) to be served with the document, that person's address, and the date on which the document was sent.
 - (4) Personal service as referred to in paragraph (1) will be made by an official of the relevant administrative organ, through the delivery of a document as prescribed in that paragraph to the relevant person at the place where that document is to be served. However, the document may be delivered at another place if that person has no objection to this.
 - (5) When, as stated in one of the following items, personal service as referred to in paragraph (1) may be made through the act prescribed in each of those items, instead of the delivery under the provisions of the preceding paragraph:
 - (i) if the person to be served with a document as prescribed in paragraph (1) cannot be found at the place where the document is to be served: delivery of that document to an employee, other worker, or a person living with that person, who has reasonable discretion concerning the receipt of the document

- (referred to as "employee or cohabitant" in the following item); or
- (ii) if the person to be served with a document as prescribed in paragraph (1) or the employee or cohabitant is not present in the place where the document is to be served, or if any of these persons refuses to receive the document, without a legitimate reason: leaving the document at the place where the document is to be served.
- (6) The provisions of paragraphs (1) through (5) apply *mutatis mutandis* if the Minister of Economy, Trade and Industry seeks to notify a person under Article 6-2, paragraph (5), Article 16, paragraph (3) or Article 18-3, paragraph (3) of the Order.

(Notification from the Director- General of Customs to the Minister of Economy, Trade and Industry)

Article 12 Pursuant to the provisions of Article 18-2, paragraph (2) of the Order, the Director- General of Customs is to promptly notify the Minister of Economy, Trade and Industry of the particulars stated in the following items with respect to goods that require the permission of the Minister of Economy, Trade and Industry under Article 17, paragraph (2) of the Order. However, if the Minister of Economy, Trade and Industry finds that it is not necessary to notify the Minister of any particulars stated in those items, the Minister may allow the Director-General not to notify the Minister of the particulars that the Minister finds unnecessary for notification:

- (i) the name and address of the exporter of a specified data storage medium or other means;
- (ii) the destination of a specified data storage medium or other means;
- (iii) the name or registration number of the ship or aircraft on which a specified data storage medium or other means is to be loaded; and
- (iv) beyond the particulars stated in the preceding items, the customs declaration number, permission number for the permission pursuant to Article 17, paragraph (2) of the Order, and other particulars of the export declaration to the Director-General of Customs.

(Conversion Method)

Article 13 (1) In cases where payments, etc. made by means of electronic payment instruments, etc. (meaning electronic payment instruments, etc. as prescribed in Article 6, paragraph (1), item (ix) of the Act; the same applies below) fall under the provisions of Article 6, paragraph (1), Article 6-2, paragraph (3), or Article 7-2 of the Order; or where payments, etc. related to specified capital transactions as prescribed in Article 16, paragraph (1) of the Order, or service transactions as prescribed in Article 18, paragraph (1) of the Order, are made by means of electronic payment instruments, etc., the

conversion between Japanese currency and electronic payment instruments, etc., or between different types of electronic payment instruments, etc., is to be conducted by a method that is deemed reasonable, such as a method using the market rate of the relevant electronic payment instruments, etc. on the last day of the month preceding the month to which the date of the payment, etc. or transaction to be converted belongs, in accordance with the relevant provision.

- (2) In cases where payments, etc. made by means of electronic payment instruments, etc. fall under the provisions of Article 6-2, paragraph (2) of the Order, the conversion between Japanese currency and electronic payment instruments, etc., or between different types of electronic payment instruments, etc., is to be conducted by a method that is deemed reasonable, such as a method using the market rate of the relevant electronic payment instruments, etc. on the date on which the payment, etc. to be converted is made, in accordance with the relevant provision.

Article 14 (1) In cases where payments, etc., as prescribed in Article 6, paragraph (1) of the Order, or service transactions as prescribed in Article 18, paragraph (1) of the Order, are made by means of foreign currency or property value other than electronic payment instruments, etc. (including movable property and immovable property; referred to as "other property value" below), the conversion between Japanese currency and the other property value is to be conducted by using the market value, etc. of the relevant other property value on the last day of the month preceding the month to which the date of the payment, etc. or transaction to be converted belongs, in accordance with the relevant provision.

In cases where payments, etc., as prescribed in Article 6-2, paragraph (2) of the Order are made by means of other property value, the conversion between Japanese currency and the other property value is to be conducted by using the market value, etc. of the relevant other property value on the date on which the payment, etc. to be converted is made, in accordance with the relevant provision.

Supplementary Provisions

(Effective Date)

- (1) This Ministerial Order comes into effect as of April 1, 1998.

(Transitional Measures for Penal Provisions)

- (2) Previous laws continue to govern the application of penal provisions to acts in which a person has engaged before this Ministerial Order comes into effect.

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 4 (re: Article 1)

Appended Form 5 (re: Article 2)

Appended Form 6 Deleted

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

Appended Form 6-3