RESOLVED
Japan Has More to Gain Than to Lose from Its Export Controls on South Korea

From the Editor

On July 1, 2019, the Ministry of Economy, Trade, and Industry of Japan, citing national security concerns, announced new export licensing policies and procedures on the export and transfer of controlled items and their relevant technologies to the Republic of Korea (ROK). On August 28, Japan formally removed the ROK from its so-called “white list” of countries that benefit from abbreviated export screening procedures, a decision denounced by Seoul as a retaliatory trade measure against rulings by the ROK supreme court ordering Japanese companies to compensate victims of forced labor during Japan’s occupation of the Korean Peninsula. Japan’s export control measures were one of several issues that have increased tensions between the two countries and complicated political, diplomatic, and military ties—including the ROK’s decision not to renew the General Security of Military Information Agreement (GSOMIA) between the two countries.

In this tenth issue of the Debating Japan newsletter series, the CSIS Japan Chair invited Dr. Katsuhisa Furukawa, a former member of the UN DPRK Panel of Experts, and Mr. Daniel Sneider, a lecturer at Stanford University, to share their perspectives on Japan’s decision to strengthen export controls to South Korea.
Yes. That is because existing challenges in South Korea’s export control system have substantive national security concerns for Japan.

South Korea’s industrial capabilities have progressed remarkably over the past few decades. Accordingly, the country’s authorities strengthened its export control system to prevent the unintended diversion of its products for military use abroad.

However, the enforcement of export controls still faces challenges. It takes time to disseminate the new regulations to the private sector, especially to small- and medium-sized companies. According to the 2019 official document of South Korea’s Ministry of Trade, Industry and Energy (MOTIE) obtained by Fuji Television, a total of 156 incidents of illegal exports of strategic goods were detected by the South Korean authorities between 2015 and March 2019 (see the appendix below for key takeaways). According to these documents, these strategic goods were destined for various countries including China, Southeast Asian countries, Taiwan, Middle Eastern countries, etc., involving a variety of goods that are controlled under multilateral export control regimes. In response to Fuji Television’s reporting, MOTIE explained that most of these incidents were the consequence of carelessness or procedural mistakes on the part of the exporters who were small- or medium-sized companies. Even if so, the following sentence from MOTIE’s 2011 annual report is noteworthy. “Even if the strategic material was exported in ignorance, if the strategic material is devoted to the development of WMD, it will be a serious blow not only to the company but also to Korea’s credibility.”

In addition, the Ministry of Economy, Trade and Industry (METI) of Japan noted that multiple “improper incidents” took place in connection with the exports to a specific South Korean company (or companies) of dual-use chemical products that are controlled under multilateral export control regimes. The “improper incidents” normally refer to incidents of possible noncompliance with Japanese export control regulations.

The decision of the South Korean government not to extend the General Security of Military Information Agreement (GSOMIA) with Japan is the latest, and for some the most troubling move in the ongoing crisis in Japan-South Korea relations. The decision was somewhat surprising given the signals from both governments in recent days. And it was taken in direct defiance of U.S. expressions of concern that this would undermine vital areas of trilateral security cooperation, affecting the national security of the United States.

The Moon administration presented this as a direct consequence of the Japanese imposition of more stringent controls on strategic exports to South Korea and its removal of South Korea from the “white list” of those countries receiving preferred clearance of exports. Since Japan has challenged South Korea’s status as a security partner through those measures, Moon officials said, there is no basis for continuing security cooperation in other realms.

This latest breakdown in relations illustrates the inherent dangers in Japan’s export control moves. The Japanese government had wrongly calculated that this would provide them with leverage by mobilizing South Korean firms to put pressure in turn on their own government. And Japanese officials hoped this would deter the ROK from taking further steps, including going ahead with a seizure of assets of Japanese firms held liable for paying compensation to Korean workers used as forced laborers during the wartime era.

In reality, that move by Japan was both a tactical and strategic misjudgment, and ultimately, it has lost much more than it might have gained by such steps.

From the standpoint of public perception, the decision to impose export controls was a disaster. The Japanese government contends that these measures were taken independent of the disputes over wartime historical justice issues—compensation for forced laborers and for women drawn into sexual servitude during the wartime years, so-called “comfort women.” They point to allegations of misuse of exports through
regulations, which could be subjected to criminal proceedings in Japan if an offense and its significance were confirmed.

The objective of an export control is to dispel concerns of the exporting country for possible diversion of dual-use goods for unintended purposes abroad. To achieve this objective, until around 2015, METI used to have regular policy dialogues with MOTIE, which served as an indispensable venue for the two sides to consult on matters relating to export controls, including sensitive information on specific transactions or companies of concern. METI explains that the policy dialogues were essential in addressing the insufficiencies in the South Korean export control system. METI deems the policy dialogue as an indispensable foundation for “realizing effective export control between trusted trade partners,” including South Korea.

From the Japanese perspective, if some suspicions were raised after dual-use goods were exported from Japan to South Korea, Japan would have to rely upon South Korea for further investigation as Japan does not have any jurisdiction within South Korea’s territories. A simple explanation by South Korea that “there was no problem” would not suffice at all as the matter could possibly relate to law enforcement actions. Previously, the bilateral policy dialogues served as a vehicle for addressing these issues.

Since 2016, however, the overall bilateral relationship between Japan and South Korea deteriorated significantly, and the export control dialogues were effectively discontinued. According to METI, “the ROK [South Korea] repeatedly postponed the dialogue, in some cases even after the date had been fixed. Japan has expressed concern of not having held the dialogue over a significant period to the ROK and has made repeated requests to hold the dialogue.” MOTIE claimed that there was an agreement with METI to hold a policy dialogue earlier this year (after almost three years absence), but this claim was flatly denied by METI as being not true. The MOTIE-METI interactions demonstrate that trust between the two governments collapsed some time ago.

In Japan’s export control system, the stringent screening procedures are normally abbreviated for exports to certain countries with which Japan has trustful relationships. Countries in this category are listed as “Group A”—formally called the "White List" transfer to third countries and weak export security systems.

Japanese senior officials, however, made clear at the initial stage that this was linked to the South Korean refusal to accept proposals to deal with the forced labor issue through the arbitration procedure set out in the 1965 bilateral agreement establishing postwar relations. That undermined the legitimacy of the Japanese action and allowed the Moon administration to deflect attention from their own actions to trigger this crisis—specifically the decision to abandon the 2015 compromise agreement on compensation for comfort women.

Rather than mobilizing Korean firms, the export controls gave the Blue House a club to force potential internal opposition to line up on “patriotic” grounds. The Moon administration eagerly portrayed South Korea now as a victim of a Japanese trade war, linking Japan’s actions to other threats to the global supply chain, and questioning Japan’s stature as a leader of the global free trade system.

From the standpoint of public diplomacy, particularly for U.S. and European audiences, the Japanese export control measures created a clear sense that both governments were more interested in catering to forces of domestic politics than in finding a diplomatic solution. The GSOMIA dissolution that has followed gives ammunition to those who argue in the United States that if our allies are not willing to take national security seriously, why should the United States?

For Japan, the strategic logic of this rise in tensions is even more questionable, despite the ample provocations from Seoul. It negates important progress that has been made, quietly, in deepening defense cooperation between Japan, South Korea, and the United States. While neither government likes to publicize it, the South Korean military has been directly transmitting air defense tracking data and other defense intelligence to the Japanese Air Defense Command Headquarters at Yokota Airbase, which closely coordinates with the U.S. Forces, Japan. Even if South Korea reverses the decision on the GSOMIA, significant damage has already been done over the past year.

The U.S. military commands in Korea, Japan, and...
Countries”—which includes 26 countries. Even if some problems may arise in the post-shipment phase, the Japanese authorities can expect full cooperation from these countries to trace the cargo and ensure that any concern about the possible diversion of the goods could be dispelled. Multilateral cooperation is essential in ensuring the effectiveness of the export control system.

If Japan cannot expect sufficient cooperation from South Korea in the post-shipment phase, the only option left for Japan would be to screen each application for exports to South Korea more carefully. This could be done by checking the background of the South Korean importers and the end use of the goods. To do so, Japan can no longer list South Korea under “Group A” and abbreviate such screening procedures.

The Moon administration is confident that Japan’s measures on export controls are politically motivated economic sanctions and export restrictions, and therefore these measures must be politically negotiable and can be undone through a bilateral summit meeting. For South Korea, export control issues appear to be politically maneuverable. For Japan, however, they are strictly a law enforcement matter.

For sure, the two countries would need to improve their bilateral relationship dramatically and restore mutual trust as a first step. This could require finding a way to resolve the historical problems related to the war-time laborers.

However, improvements in the political relationship alone are not sufficient for Japan to abbreviate the screening procedures for exports to South Korea. It would be essential for the two governments to genuinely redress the export control-related problems and to restore mutual trust and close cooperation in enforcing the export control system effectively.

The Indo-Pacific have been alarmed by these developments, particularly after the fire control radar incident last year. There are serious worries that the breakdown in communication could lead to a military incident in the air or sea space between the two countries, one that is actively patrolled by U.S. forces. While earlier the perception was that the burden of responsibility largely lay with South Korea, recent Japanese actions have left the U.S. officials to see both sides as equally responsible.

Trilateral coordination on policy toward North Korea was already mostly an empty exercise, given the clear differences between Tokyo and Seoul. But the escalating tensions serve the strategic interests of China and of North Korea, both of which are eager to drive a wedge between South Korea and Japan and between the United States and its two principal allies in the region.

Japanese government officials may feel that there is little to lose in this confrontation so long as the Moon administration remains in power—they either view Seoul as a de facto partner of Beijing, or they are simply waiting for a return to conservative rule. In the former case, however, Japanese actions have only pushed South Korea further in the direction of partnership with China. As for a return to conservative rule, Japanese actions have actually served to force the conservatives to yield to the anti-Japanese rhetoric and posture of the Moon government.

On balance, the export control decision worked against, not for, Japan’s stated interests. A patient demonstration of Japan’s diplomatic approach to settling wartime historical issues, and its readiness to compromise, would have served those interests much better.
Appendix on MOTIE’s 2019 document reported by Fuji TV

In Fuji TV’s story, the reporter examines MOTIE’s documents obtained by Fuji TV. The summary of the key findings are as follows:

156 incidents of illegal exports of Strategic Goods by category

The Nuclear Supplier Group’s control lists (29)
The Australia Group’s control list (70)
The Missile Technology Control Regime’s control list (2)
The Wassenaar Arrangement’s control list (53)
The Chemical Weapons Convention (1)

The number of incidents of illegal export of the Strategic Goods by year

2015 (14); 2016 (22); 2017 (48); 2018 (41); 2019 January-March (31)

() = Numbers of incidents
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From October 2011 to April 2016, Dr. Furukawa was a member of the panel of experts established pursuant to resolution 1874 (2009) of the UN Security Council, where he investigated incidents of violations of UN sanctions globally and made recommendations for the UN Security Council and UN member states. From October 2004 through August 2011, he was a fellow of the Research Institute of Science and Technology for Society (RISTEX) in the Japan Science and Technology Agency, where he was in charge of a project on science, diplomacy, and security, especially on matters related to crisis management and counter-terrorism. Dr. Furukawa previously worked at U.S. think tanks including the Center for Nonproliferation Studies (CNS) of the Monterey Institute of International Studies and the Council on Foreign Relations.

Dr. Furukawa holds a B.A. in economics from Keio University in Tokyo, an M.P.A from the John F. Kennedy School of Government at Harvard University in Boston, and Ph.D. from National Graduate Institute for Policy Studies, in Tokyo.

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