

Guidelines for Transfers of Sensitive Chemical or Biological Items

機微化学品目又は生物品目の移転に関するガイドライン

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The Government of xxx has, after careful consideration and consistent with its obligations under the BTWC and the CWC, decided that, when considering the transfer of equipment, materials, technology and software that could contribute to chemical and biological weapons activities, it will act in accordance with the following Guidelines.

xxx 国政府は、慎重な検討をし、また生物兵器禁止条約 (BTWC) 及び化学兵器禁止条約 (CWC) に基づく義務に従った上で、生物・化学兵器活動の一因となるおそれのある装置、材料、技術、及びソフトウェアの移転については、以下のガイドラインに則って行動することを決定した。

1. The purpose of these Guidelines is to limit the risks of proliferation and terrorism involving chemical and biological weapons (CBW) by controlling tangible and intangible transfers that could contribute to CBW activities by states or non-state actors, consistent with Article III of the Biological Weapons Convention, Article I of the Chemical Weapons Convention, and all relevant United Nations Security Council Resolutions. In accordance with Article X of the Biological Weapons Convention and Article XI of the Chemical Weapons Convention, these Guidelines are not intended to impede chemical or biological trade or international cooperation that could not contribute to CBW activities or terrorism.

These Guidelines, including the attached Australia Group (AG) control lists and subsequent amendments thereto, form the basis for controlling transfers to any destination beyond the Government's national jurisdiction or control of materials, equipment, technology and software that could contribute to CBW activities. The Government will implement these Guidelines in accordance with its national legislation.

1. これらのガイドラインの目的は、生物兵器禁止条約第3条、化学兵器禁止条約第1条、及び国連安全保障理事会の関連する全ての決議に従い、国家又は非国家主体による生物・化学兵器活動の一因となるおそれのある有形無形の移転を管理することにより、生物・化学兵器の拡散とテロリズムのリスクを制限することである。生物兵器禁止条約第10条及び化学兵器禁止条約第11条に従い、これらのガイドラインは、生物・化学兵器活動やテロリズムの一因となることのない生物・化学（関係）の取引又は国際協力を妨げることを意図していない。これらのガイドラインは、添付のオーストラリア・グループ (AG) 規制リスト及びその後の改訂リストも含め、生物・化学兵器活動の一因となるおそれのある材料、装置、技術、及びソフトウェアの加盟国政府の司法権が及ばない仕向地への移転の管理の基礎となる。加盟国政府は、その国内法令に従ってこれらのガイドラインを実施する。

2. These Guidelines will be applied to each transfer of any item in the AG control lists. However, it is a matter for the Government's discretion to determine whether and to what extent to apply expedited licensing measures in the case of transfers to destinations it judges possess consistently excellent non proliferation credentials. Vigilance will be exercised in the consideration of all transfers of items on the AG control lists. Transfers will be denied if the Government judges, on the basis of all available, persuasive information, evaluated according to factors including those in paragraph 3, that the controlled items are intended to be used in a chemical weapons or biological weapons program, or for CBW terrorism, or that a significant risk of diversion exists. It is understood that the decision to transfer remains the sole and sovereign judgment of the Government.

2. これらのガイドラインは、AG 規制リスト内の品目の個々の移転に適用される。ただし、一貫して卓越した不拡散の実績があると加盟国政府が判断する仕向地への移転の場合、簡易的な輸出許可手続きを適用するかどうか、及びどの程度適用するか意思決定は加盟国政府の裁量の問題である。AG 規制リストに記載された品目の全ての移転は、警戒をもって検討される。加盟国政府が第3段落（ママ。※経産省注；AGガイドラインの内容から、正しくは「第4段落」と思われる。）に記載されている内容を含む要素に基づいて評価された全ての入手可能な説得力のある情報に基づき、その規制された品目が生物・化学兵器プログラム、若しくは生物・化学兵器テロリズムで使用されることを意図している、又は転用される重大なリスクが存在すると判断する場合、移転は拒否される。移転の決定は、加盟国政府の唯一かつ主権的な判断に委ねられると認識される。

3. In fulfilling the purposes of these Guidelines, national export control legislation, including enforcement and sanctions for violations, plays an important role.

3. これらのガイドラインの目的を達成するにあたり、国内輸出管理法令は、法執行及び違反した場合の制裁も含めて、重要な役割を果たす。

4. To fulfil the purposes of these Guidelines, the evaluation of export applications will take into account the following non-exhaustive list of factors:

4. これらのガイドラインの目的を達成するために、輸出許可申請の評価において、以下の非網羅的リストを考慮に入れる。

a. Information about proliferation and terrorism involving CBW, including any proliferation or terrorism-related activity, or about involvement in clandestine or illegal procurement activities, of the parties to the transaction;

b. The capabilities and objectives of the chemical and biological activities of the recipient

state;

c. The significance of the transfer in terms of (1) the appropriateness of the stated end-use, including any relevant assurances submitted by the recipient state or end-user, and (2) the potential development of CBW;

d. The role of distributors, brokers or other intermediaries in the transfer, including, where appropriate, their ability to provide an authenticated end-user certificate specifying both the importer and ultimate end-user of the item to be transferred, as well as the credibility of assurances that the item will reach the stated end-user;

e. The assessment of the end-use of the transfer, including whether a transfer has been previously denied to the end-user, whether the end-user has diverted for unauthorized purposes any transfer previously authorized, and, to the extent possible, whether the end-user is capable of securely handling and storing the item transferred;

f. The extent and effectiveness of the export control system in the recipient state as well as any intermediary states;

g. The applicability of relevant multilateral agreements, including the BTWC and CWC.

h. The risk of controlled items falling into the hands of terrorist groups and individuals.

5. In a manner consistent with its national legislation and practices, the Government should, before authorizing a transfer of an AG-controlled item, either (a) satisfy itself that goods are not intended for reexport; (b) satisfy itself that, if reexported, the goods would be controlled by the recipient government pursuant to these guidelines; or (c) obtain satisfactory assurances that its consent will be secured prior to any retransfer to a third country.

5. 加盟国政府は、国内法令と運用に従い、AG規制品目の移転を許可する前に、(a) 品目が再輸出を意図していないことを確認し、(b) 再輸出する場合、その品目がこれらのガイドラインに従って、受領国政府により管理されることを確認し、又は(c) 第三国への再移転の前に、その同意が確保されるという十分な確証を得なければならない。

6. The objective of these Guidelines should not be defeated by the transfer of any non-controlled item containing one or more controlled components where the controlled component(s) are the principal element of the item and can feasibly be removed or used for other purposes. (In judging whether the controlled component(s) are to be considered the principal element, the Government will weigh the factors of quantity, value, and technological know-how involved and other special circumstances that might establish the controlled component or components

as the principal element of the item being procured.) The objective of these Guidelines also should not be defeated by the transfer of a whole plant, on any scale, that has been designed to produce any CBW agent or AG-controlled precursor chemical.

6. これらのガイドラインの目的は、1つ以上の規制対象部品が組み込まれた非規制品目であって、当該規制対象部品がこれを組み込んだ非規制品目の主要な要素をなし、かつ取り外しができ、または他の目的のために使用できる場合、当該非規制品の移転によって覆されるべきではない。(規制対象となる部品が主要要素であるとみなされるかどうかを判断する上で、加盟国政府は、数量、価額、及び関連する技術的ノウハウ、さらに規制対象部品が調達された品目の主要要素であると確証できるその他の特別な状況を勘案する。) またこれらのガイドラインの目的は、施設の規模に関係なく、生物・化学剤又はAGの規制対象である前駆体化学物質を製造するために設計された施設全体の移転により覆されるべきではない。

7. The Government will ensure that its regulations require the following:

7. 加盟国政府は、自国の法令において以下の事項が担保されるべきことを確認する。

a. an authorisation for the transfer of non-listed items where the exporter is informed by the competent authorities of the Government in which it is established that the items in question may be intended, in their entirety or part, for use in connection with chemical or biological weapons activities;

b. that if the exporter is aware that non-listed items are intended to contribute to such activities it must notify the authorities referred to above, which will decide whether or not it is expedient to make the export concerned subject to authorisation.

8. The Government reserves the discretion to: (a) apply additional conditions for transfer that it may consider necessary; (b) apply these guidelines to items not on the AG control lists; and (c) apply measure to restrict exports for other reasons of public policy consistent with its treaty obligations.

8. 加盟国政府は、以下の裁量権を留保する：

(a) 移転に際して必要とされる追加の条件を適用する。

(b) これらのガイドラインを AG 規制リストに記載されていない品目に適用する。

(c) 条約義務と整合した公共政策による他の理由のために輸出を制限する措置を適用する。

9. In furtherance of the effective operation of the Guidelines, the Government will, as necessary and appropriate, exchange relevant information with other governments applying the

same Guidelines.

9. ガイドラインの効果的な運用を促進するにあたり、加盟国政府は、当該ガイドラインを適用している他加盟国政府と必要かつ適切な関連情報を交換する。

10. The Government encourages the adherence of all states to these Guidelines in the interest of international peace and security.

10. 加盟国政府は、国際的な平和と安全の維持のために、すべての国に対してこれらのガイドラインの順守を奨励する。

(Latest versions of Control Lists to be attached)

Further provisions applicable to Australia Group Participants

In addition, participants in the Australia Group, consistent with their obligations under the BTWC and CWC and in accordance with their national legislation have, after careful consideration, decided also to give equal respect to the following provisions.

Catch-All

Participant states are encouraged to share information on these measures on a regular basis, and to exchange information on catch-all denials relevant for the purpose of the AG.

No Undercut Policy

In accordance with the Group's agreed procedures, a license for an export that is essentially identical to one denied by another AG participant will only be granted after consultations with that participant, provided it has not expired or been rescinded. Essentially identical is defined as being the same biological agent or chemical or, in the case of dual-use equipment, equipment which has the same or similar specifications and performance being sold to the same consignee. The terms of the Group's 'no undercut policy' do not apply to denials of items under national catch-all provisions.

Common Approaches

AG participants implement these Guidelines in accordance with the Group's agreed common approaches on end-user undertakings and chemical mixtures.

Intra EU Trade

So far as trade within the European Union is concerned, each member State of the European Union will implement the Guidelines in the light of its commitments as a member of the Union.

Brokering Services

AG members should have in place or establish measures against illicit activities that allow them to act upon brokering services related to items mentioned in the AG control lists which could contribute to CBW activities. AG members will make every effort to implement those measures in accordance with their domestic legal framework and practices.