

A Study on the Revision of Nuclear Safety Act to Build the Foundation of Nuclear Export and Import Control System in Korea

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1. Introduction

Nuclear-related items require export and import control beyond the multilateral export control system according to Safeguard Agreement, Additional Protocol and bilateral agreements. Besides Korea as a nuclear supplier is needed to actively cope with its export control system, which is being reinforced internationally [1]. In regard to this trend, this study drew the revision plan of present Nuclear Safety Act [2] to found the nuclear export and import control system in Korea by examining the related legislations and analyzing the implementation status of nuclear export and import control.

2. Investigation into legislations related to the nuclear export and import in Korea

For the export control of strategic items, Korea has established an American-type enforcement system which has three different organizations (Ministry of Knowledge and Economy (MKE), Nuclear Safety and Security Commission (NSSC) and Defense Acquisition Program Administration) take on licenses for each field. All the details related to the export control of strategic items are provided in Foreign Trade Act (FTA) [3]. However, each licensing organization has enacted and enforced its own laws to separately regulate the export and import of goods for its own purpose.

To revise provisions related to the export and import control for nuclear-related items, this study investigated Defense Acquisition Program Act [4], which is for military industry in Korea, and Law for Mutual Trade and Cooperation between South and North Korea [5] as well as Nuclear Safety Act.

2.1 Nuclear Safety Act

Nuclear export and import control Items according to Nuclear Safety Act are defined as Internationally Regulated Goods. The objects of the goods are classified into Nuclear Material and NSG Trigger List items according to the Nuclear Supplier Group (NSG). In regard to this, Nuclear Safety Act specifies a single article that all the procedures related to the export and import of those items must be determined through consultations with the Minister of MKE.

Thus, all the particulars regarding the license to export and import nuclear-related items comply with FTA, which is administered by the Minister of MKE.

Even there is no clear applicable provision for the license to export and import Nuclear Material.

Table I: Nuclear Export and Import Control Items

Items	Procedure Regulation	Related Law
Nuclear Material	Integrated Public Notice [6]	Article 12 in Foreign Trade Act
NSG Trigger List item	Notice on Trade of Strategic Items [7]	Article 19 in Foreign Trade Act

2.2 Defense Acquisition Program Act

Defense Acquisition Program Act (DAPA) designated Defense Article as export control objects. The export of Defense Article is controlled to secure stable supply sources for the weapon system and to assure strict quality in accordance with additional export control provisions.

Moreover, Foreign Trade Act designates the Wassenaar Control List items as the military-strategic goods defined like NSG Trigger List items. The export licensing authority of the military-strategic goods is granted to Defense Acquisition Program Association.

In such a case, a problem takes place that some export goods are doubly regulated by FTA and DAPA. Therefore, the *lex speciali* rule is applied to DAPA with some provisions enacted in relation to other laws to achieve the objective of its enactment. Accordingly, another export license in accordance with FTA is not necessary when an export license is granted according to DAPA.

2.3 Law for Mutual Trade and Cooperation between South and North Korea

Since the relation between South and North Korea is a special relation provisionally formed during the unification-oriented process, not a common relation between countries, the control over trade between South and North Korea is administered by Law for Mutual Trade and Cooperation between South and North Korea.

The law separately defines carry-in and carry-out approved items in addition to strategic goods as control list items. This law features in specifying that FTA must be complied for particulars that are not provided by this law in regard to the export and import control [8].

Besides, this law has applicable provisions for the establishment and management of the South and North Exchange Cooperation System [9] so that civil petitions

for trade between South and North Korea can be handled.

3. A Revision Plan of Nuclear Safety Act

Based on the results of investigating laws related to export and import control in Korea, this study attempted to seek a revision plan of Nuclear Safety Act for building the foundation of the nuclear export and import control system.

3.1 Clarification of Export and Import Control Items and License Particulars

With special law-related provisions specified, the export license according to DAPA is put above those according to FTA. Therefore, it is needed to enact new provisions in relation to other laws so that control items provided in Nuclear Safety Act should be put before strategic goods provided in FTA. But there should be provisos added to keep necessary clauses applied in FTA as they are.

It is required to include NSG Trigger List items as well as Nuclear Material in the list of the Internationally Regulated Goods. Moreover, it is needed to divide export and import licenses into 'Export and Import Approval of Nuclear Material' and 'Export License of NSG Trigger List item' in order to clarify licensing organizations and procedures.

3.2 Establishment of Provisions for On-line Nuclear Export and Import Control Management System

As for 'Yestrade' of the Ministry of Knowledge and Economy and 'South and North Exchange Cooperation System' of the Ministry of Unification, the provisions for all the establishment and management particulars of on-line civil petition system for dealing with export and import control tasks is defined by relevant laws. This provision has become the base for management, maintenance and repair and securing of budgets.

Thus it is needed to establish a foundation to smoothly and effectively deal with export and import licensing tasks for the transfer of a great many strategic goods for the export of nuclear power plants by enacting management applicable provisions of on-line nuclear export and import control management system (NEPS) [10] for the handling civil petitions for nuclear export and import license.

3.3 Establishment of Provisions for Sharing Information with Other Government Agencies

In accordance with Article 15 in FTA, NSSC could not make a direct request for export and import transaction information such as customs records from Korea Customs Service. NSSC could ask for related information through the Minister of MKE.

However, it is inevitable to actively share information with other government agencies especially for nuclear non-proliferation activities, such as establishing NEPS system and operating Procurement Outreach Program (POP) by IAEA. Therefore, it is needed to provide additional provisions to directly share information with other government agencies.

4. Conclusions

In addition to the distinctiveness of nuclear export and import control, the Nuclear Non-proliferation Regime is recently more reinforced. Namely, it requires export and import control beyond the multilateral export control systems for Nuclear Non-proliferation. To cope with such a circumstance, it is necessary to clarify export and import control items and licensing particulars provided in Nuclear Safety Act. Furthermore, it requires establishing applicable provisions of the NEPS system and the direct sharing information with other government agencies.

Consequently, it is expected that this revision plan could minimize international society's concern about nuclear proliferation due to the recent export of commercial nuclear power plants in UAE and research reactors in Jordan and will become the basis for expanding peaceful uses of nuclear energy.

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