

Study on International Transfer Procedures According to Administrative Arrangement of the ROK-US Bilateral Nuclear Cooperation Agreement

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Introduction

As of 2020, Korea has concluded bilateral nuclear cooperation agreements (NCAs) with 29 countries. Most of the bilateral NCAs stipulate that when nuclear material, equipment, and components subject to the agreement enter into or are carried out of the territorial jurisdiction of the parties, the supplying party should notify the receiving party in writing and the receiving party should confirm in writing the receipt thereof. In addition, the parties may establish a subsidiary arrangement (administrative or supplementary arrangement) in order to provide for the effective implementation of the provisions of the agreement, including the notification and confirmation procedures according to international transfer. Korea has concluded subsidiary arrangements with the US, Canada (CAN), and Australia, and the procedures necessary for the bilateral international transfer are implemented by the Korea Institute of Nuclear Nonproliferation And Control (KINAC) and the Nuclear Safety and Security Commission (NSSC). The items subject to the bilateral NCAs and the procedures of international transfer according to the subsidiary arrangements are different among the agreements with the individual countries. This article reviews the procedures of international transfer according to administrative arrangement (AA) with the US, analyzes the problems of the current procedures, and presents the parts that need to be considered to improve the implementation procedures according to the AA.

Analyzing

Table 1 and 2 show the procedures of international transfer according to ROK-US Administrative Arrangement (AA). In all types of transfer, both countries confirm that the transferred items are subject to the Agreement through the acknowledgement of prior notification. Direct transfer is performed by applying all of the basic four steps, while the retransfer is performed by implementing the three steps except the confirmation of receipt. Retransfer to a third country with prior consent require prior notification. On the other hand, a request of consent for retransfer should be made when the items are exported to a third country without prior consent. The obligations involved in the procedures of indirect transfer are mentioned in the main text of the Agreement, but the detailed procedures are not stipulated in the Arrangement. According to the Agreement, only prior notification and confirmation in writing are required for indirect transfer.

Table 1. Summary of the procedures of **direct and indirect transfer** according to ROK-US Administrative Arrangement

Types of transfer		Direct transfer	Indirect transfer
Related articles	NCA	Article 7	
	AA	5.1	N/A ¹⁾
① Prior notification		○	○
② Acknowledgement of prior notification		○ (reply within 30 days)	○
③ Confirmation of shipment		○	X
④ Confirmation of receipt		○	X

1) The AA does not specify the procedures for indirect transfer.

Table 2. Summary of the procedures of **retransfer** according to ROK-US Administrative Arrangement

Types of transfer		Retransfer (Countries with prior consent)	Retransfer (Countries without prior consent)
Related articles	NCA	Article 7	
	AA	6.2	6.3
① Prior notification		○ (prior notification of retransfer)	○ (request of consent for retransfer)
② Acknowledgement of prior notification		○ ¹⁾ (reply within 30 days)	○ (reply within 30 days)
③ Confirmation of shipment		○	○
④ Confirmation of receipt		X	X

1) After receiving a written acknowledgement, the exporting country should send a prior notification of retransfer to the third party.

Improvement Proposal

As described in Section 2.2 above, although the term 'direct transfer' is separately used, the ROK-US AA does not stipulate the procedures of 'indirect transfer.' In addition, according to the Agreement, shipment and receipt confirmation are not mandatory. Because the items to be transferred are notified and confirmed in their approximate amounts in the previous two steps (①, ② of table 1), the amounts of the items that are actually shipped and received may be different from the notification. If confirmation of shipment and receipt are omitted, the final amounts are not determined, and thus the inventory of the items subject to the Agreement, recited in the annual reports, may be different between the two countries. Therefore, the ROK and US may consider that the AA amendment through sufficient consultation with the US to specify the detailed procedures of 'indirect transfer', similar to 'direct transfer', and add the obligations of written confirmation of shipment and receipt.

Conclusion

The present study was conducted to review the procedures of international transfer according to ROK-US bilateral NCAs and its administrative arrangements, analyze the problems, and suggest the considerations for improvement of implementation procedures. Recently, it has found that weight of US origin nuclear material is different from the information in prior notification provided by US. It can cause problems such as inconsistency of accounting and annual report between US and ROK. As can be seen from this event, the detailed procedures of indirect transfer, omitted in the current Arrangement, may need to be added to the ROK-US AA.