

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

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Introduction

Korea concluded bilateral Nuclear Cooperation Agreement(NCA) with Canada(CAN) in 1976 entered into force in 2002 and as paragraph 2 of Article VII of Agreement, Supplement Arrangement(SA) was also concluded and amended in 2015. According to Article III.2 and 3, items subject to agreement shall not be transferred beyond the jurisdiction of the Party within whose territory such an item is located without the prior written consent of the other Party. Detail procedures for the formal approval between both Parties in writing are stipulated at Part 9 of SA. This article reviews the procedures for international transfer of items subject to ROK-CAN bilateral NCA, analyze the problems in terms of implementation and suggest the parts that need to be improved for implementation efficiency.

Analyzing

The first is that the procedures for shipment and receipt confirmation may be omitted in direct transfer. If the information in the shipment confirmation is the same as the prior notification, the confirmation may be omitted. If the information in the receipt confirmation is the same as the prior notification or shipment confirmation, the receiving country may omit the receipt confirmation procedure.

The second is that in indirect transfer, only the procedures of shipment and receipt confirmation are mandatory without the step of prior notification and acknowledgement of it in writing.

The third is that in retransfer to a country with prior consent, the receipt by the third party should be confirmed and a written receipt confirmation should be provided. While the ROK-US AA does not obligate receipt confirmation in retransfer, the ROK-CAN SA stipulates that a written receipt confirmation should be provided in retransfer to a country with prior consent

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

Types of transfer	Direct transfer	Indirect transfer
	Article III.2 and 3	Article III.2 and 3
Related articles	NCA	SA
	Part 9.1	Part 9.5
① Prior notification	○	X ²⁾
② Acknowledgement of prior notification	○	X ²⁾
③ Confirmation of shipment	(○) ¹⁾	○ (reply within 30 days from shipment)
④ Confirmation of receipt	(○) ¹⁾	○ ³⁾ (reply within 30 days from receipt)

1) Shipment and receipt confirmation may be omitted.

2) No procedures for prior notification and acknowledgement of it in writing.

3) A copy of the written confirmation of receipt should be provided to the third party.

Table 2. Summary of the procedures of **retransfer** according to ROK-CAN Supplementary Arrangement

Types of transfer	Retransfer (Countries with advance consent)	Retransfer (Countries without advance consent)
	Article III.2 and 3	Article III.2 and 3
Related articles	NCA	SA
	Part 9.3	Part 9.4
① Prior notification	○ (prior notification of retransfer)	○ ¹⁾ (request of consent for retransfer)
② Acknowledgement of prior notification	○	○ (reply within 30 days)
③ Confirmation of shipment	○ ²⁾	○
④ Confirmation of receipt	○	X

1) Exporting country should send a prior notification at least 6 weeks before shipment.

2) After shipment, the exporting country should send a shipment confirmation to the third party.

Improvement Proposal

As described in Section 2 above, indirect transfer according to the ROK-CAN SA does not require written prior notification and its acknowledgement in writing. In indirect transfer, the exporting country is usually Canada, and it is difficult to learn of export in advance from a third country. This may be the reason the procedures of written prior notification and its acknowledgement are not specified as mandatory. However, prior notification and acknowledgement are significant, because the procedures enable the two countries to confirm if the items to be transferred are subject to the Agreement and the importing country to check if the importer is qualified or not. When the transfer is conducted without the procedures by unilateral shipment confirmation made by the exporting country, items that are not subject to the Agreement may be wrongly designated as items subject to the Agreement or the items may be misused by an importer whose qualifications are not confirmed in advance. Therefore, the ROK-CAN SA needs to be amended through sufficient consultation with Canada to add the obligations of written prior notification and acknowledgement of it in the case of 'indirect transfer.'

Conclusion

The present study was conducted review the procedures of international transfer according to ROK-CAN bilateral NCAs and their SA, analyze the problems, and present the considerations for improvement of implementation procedures according to SA. The ROK and CAN may consider the SA amendment to add the obligations of prior notification and acknowledgement of it in writing in the procedures of indirect transfer. The improvement plan of the SA was discussed to increase the accuracy of inventory management and annual reports by enabling both parties to manage the items subject to the agreements more systematically from the steps of transfer.