

August 23, 2019

Recent Developments Regarding AML/ CTF and Trade Issues in Japan

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1 Recent Developments Regarding AML/CTF

(1) AML and CTF Guideline

Anti-Money-Laundering and Counter Terrorist Financing Guideline for Financial Institution has been implemented by the Finance Services Agency of Japan in February, 2018 which virtually obliges Financial Institutions to implement internal control to deal with AML and CTF issues and to adopt risk based approach.

(2) Foreign Exchange Inspection Guideline

The guideline on Foreign Exchange Inspection Guideline has been implemented in September, 2018. This guideline will be applicable mainly to financial institutions.

By this guideline, risk based approach is virtually obligated.

(3) e-KYC is enabled

The cabinet ordinance of Japan's AML Act has been amended on Nov 30, 2018 to enable e-KYC and has come into force.

(4) Stricter Requirements for Customer Identification

The Cabinet Ordinance of Japan's AML Act has been amended on Nov 30, 2018 to tighten the requirements for customer identification procedures made through

(i) receiving copies of ID documents through mail and such, and (ii) sending to the address of such customer transfer prohibited mail (or *tensou-fuyou-yubin* in Japanese).

This amendment will be applicable from April, 2020.

2 Trade Issues

(1) South Korea's rank is degraded from Group A to Group B in relation with Export Procedures

Cabinet Order of Japan's Foreign Exchange and Foreign Trade Act has been amended to change the status of the Republic of Korea (or South Korea) from Group A (the most favored group) to Group B (the second favored group out of 4 groups, and is the best ranked in all Asian countries).

(By the way, China, is Group C, which means stricter procedure is required for export to China compared to export to the Republic of Korea.)

The main different between Group A and Group B is that more documents are

basically required for companies to get approval for exports to such country of goods relating to weapons, weapon related materials and such.

The said change was introduced because (i) the Republic of Korea has neglected Japan's demand to hold meetings to deal with foreign trade security issues for more than three years, and (ii) because there were cases found where weapon related goods were exported to the Republic of Korea and there were suspicious transactions (e.g. use/consumption of goods exported to the Republic of Korea which may be used to manufacture poisonous gas and such could not be verified).

If Japan would not deal with the said issue adequately, Japan will not be able to ensure national security and also US, EU and other countries may regard Japan as high risk country, so this amendment was a "must-do" amendment, in my opinion.

However, the Republic of Korea is criticizing that this amendment is against WTO's most favored nation treatment principle and such.

If Japan's treatment is illegal, EU and the US which do not give the Republic of Korea

most favored nation treatment in relation with export procedures would also be against the WTO rules.

Also, Republic of Korea which has excluded Japan from the most favored treatment countries (or the preferred trade list) this month in retaliation would also be against WTO's most favored nation treatment, if Japan is against it¹.

Moreover, the Republic of Korea is said to have violated UN sanction measures against North Korea (DPRK) as reported in UN Security Council Expert Group Report in March 2019².

Republic of Korea has also hindered Japan to inspect suspicious DPRK ship in Japan's EEZ area by locking on to Japan's helicopter with firearm control radar threatening to shoot. DPRK has kidnapped many people in Japan in the past and is suspected

¹ <https://japantoday.com/category/politics/south-korea-to-remove-japan-from-preferred-trade-list>

² https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2019_171.pdf

of illegal exports and such, but the Republic of Korea has hindered investigation of DPRK suspicious vessel, so many experts in Japan, including me are suspecting the Republic of Korea for illegally assisting the DPRK³.

In addition, the Republic of Korea has violated many bilateral treaties with Japan.

The prime minister of Japan is reported to have commented that the [government of] the Republic of Korea is untrustworthy.

The Japanese government, in relation with sanction measures surrounding North Korea (DPRK), has commented that money transmission to areas close to North Korea (DPRK) and such shall be regarded as high risk.

This may be because, Republic of Korea is (i) very close to DPRK geographically, (ii) the only country that speaks the same language as DPRK, (iii) the President of the Republic of Korea is very amicable to DPRK, (iv) refused to participate in the

³ <https://thediplomat.com/2019/01/japan-releases-audio-of-alleged-radar-lock-on-incident-with-south-korean-warship/>

surveillance activities of DPRK, although, US, Japan, Australia and the UK had participated in such activities in corporation, and (v) many illegal exports are reported to have taken place between the Republic of Korea and the DPRK.

Rather than trying to solve sanction related issues, the President of the Republic of Korea is blaming Japan criticizing unreasonably that Japan's said measures are against the WTO rules. Hatred of the citizens of Republic of Korea toward Japan is growing as seen in the below pictures and employees of Japanese companies hesitate to work in the Republic of Korea, causing many Japanese companies to retreat from the Republic of Korea.



Boycott Japan flag posted by district office of Seoul⁴. The Korean government is likely to have violated WTO rules by accelerating boycott Japan campaigns.



⁴ <https://www.phnompenhpost.com/international/south-koreans-reject-no-japan-campaign>

Relationship between Japan and the Republic of Korea is getting worse and worse every month⁵. Many Japanese companies are retreating from the Republic of Korea. For example, out of the five biggest trading companies (or *shousha* in Japanese) in Japan, four trading companies are said to have already retreated from the Republic of Korea⁶. Also, Uniqlo, a Japanese manufacturer of clothing, which became a target of the “Boycott Japan” campaign has closed a store in Seoul in the Republic of Korea. Investment from Japan to the Republic of Korea is decreasing substantially.

My expectation is that this situation will not improve until the Republic of Korea will take necessary corrective measures to regain trust from Japan. However, it is unlikely that the Republic of Korea will make any substantial concession,

⁵ For example, a Korean citizen is reported to have thrown a bag, containing a shit of a human, at the Japan ’ s embassy in the Republic of Korea. http://www.chosunonline.com/site/data/html_dir/2019/08/14/2019081480170.html

⁶ Mitsubishi Corp, Mitsui Corp, Marubeni, Itochu, Sojitz and such are reported to have retreated from the Republic of Korea. Also, Sony is reported to have decreased the number of its employees in the Republic of Korea by 90 %.

<https://news.naver.com/main/read.nhn?mode=LSD&mid=sec&sid1=100&oid=448&aid=000277254>

so the chances are very high that such situation will worsen.

Many experts in the area of trade around me anticipate (i) a stricter inspection of export from Japan to the Republic of Korea by Japan's governmental authority to prevent illegal export from the Republic of Korea to DPRK or Iran, and (ii) harsher inspections toward Japanese financial institutions to prevent financing or settlement of such illegal exports, will take place within a year. It is likely that investment toward the Republic of Korea from Japan will decrease even more which will also decrease employment in the Republic of Korea.