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SECURUS Strategic Trade Solutions, LLC is a global foreign trade consultancy.

We operate on the front lines of the global economy. We maintain up-to-date information on foreign trade regulatory changes, the trading environment, and trade challenges in virtually every corner of the globe.

We help traders of all sizes enter and navigate the complex world of foreign trade regulation. We work with major multinational enterprises, small businesses, and individuals—anyone looking to move their goods across borders.

SECURUS is also a partner to governments in promoting a fair, safe, and secure global foreign trade landscape.

SECURUS has the solutions to your trade challenges and compliance needs. *SECURUS is your port of entry to the world.*

To learn more, please contact us at:

Info@SECURUSTrade.com

www.SECURUSTrade.com

## **Export Regulations in South Korea**

### **Fourth Quarter 2018**

South Korea has a thriving export economy, which reached a national record high value of US\$573.7 billion in 2017. It is the sixth largest exporter in the world. South Korea is a major producer and exporter of advanced technology products. As of 2017, South Korea's top exports include electrical machinery (28.4% of total exports), industrial machinery (12.1%), automobiles and their parts (10.8%), mineral fuels and oil (6.3%), optical, technical, and medical apparatus (5.1%), and iron and steel (3.9%) and their articles (2.3%). Its major export partners are China (US\$141.1 billion), the United States (US\$68.6 billion), Vietnam (US\$47.8 billion), Hong Kong (US\$39.1 billion), and Japan (US\$26.8 billion).

South Korea has prioritized free trade. The South Korean government has ratified free trade agreements (FTAs) with the U.S., China, Vietnam, the European Union, and others in recent years. In February 2018, the Korean government signed FTAs with five Central American countries: Costa Rica, El Salvador, Honduras, Nicaragua, and Panama. The Central American agreements are expected to increase South Korea's exports of key products, including automobiles and their components, steel, and cosmetics. FTAs provide numerous benefits, including an edge over competitors through greater access to markets and consumers.

South Korea's prospering export economy and increasing free trade with diverse regions create an advantageous climate for companies seeking to export from Korea. In order to maintain a successful and compliant export business, exporters must stay informed of South Korea's export laws and regulations.

### **Laws & Regulations**

The *Foreign Trade Act* (last amended in 2016) is the main law governing exports of goods, technologies, software, and services from Korea.

The act requires exporters to obtain a license to export "strategic items," which are dual-use, nuclear, military, and other items identified in Annexes 1-2, 2, and 3 of the *Public Notice on Trade of Strategic Goods and Technologies*.

The act also requires exporters to maintain relevant records, such as those related to export licenses, for a period of five years, and establishes penalties for trade violations.

In addition, it identifies the Ministry of Trade, Industry and Energy (MOTIE) as one of the principal licensing authorities and empowers it to prohibit or restrict exports for various reasons. These include adhering to international legal authorities, protecting natural resources, and promoting economic cooperation with trade partner countries.

***In order to maintain a successful and compliant export business, exporters must stay informed of South Korea's export laws and regulations.***

<b>Other Export Laws and Regulations Include...</b>	<b>What They Do...</b>
<i>Public Notice on Trade of Strategic Goods and Technologies</i> (last amended in 2018)	Provides guidelines for the export of strategic items for national and international security reasons Identifies the licensing authorities and types of licenses for strategic items
<i>Safety Management of Guns, Swords, Explosives, Etc. Act</i> (last amended in 2017)	Regulates the export of guns, explosives, swords, crossbows, gas sprayers, and electroshock weapons that have no military use
<i>Defense Acquisition Program Act</i> (last amended in 2018)	Governs the export of defense industry materials
<i>Prohibition of Chemical and Biological Weapons Act</i> (last amended in 2018)	Regulates the export of certain chemicals and biological agents principally for the purpose of nonproliferation
<i>Chemicals Control Act</i> (last amended in 2018)	Regulates the export of restricted and prohibited chemicals
<i>Narcotics Control Act</i> (last amended in 2018)	Regulates the export of narcotics
<i>Plant Protection Act</i> (last amended in 2017)	Requires inspections of plant exports under certain circumstances
<i>Wildlife Protection and Management Act</i> (last amended in 2018)	Governs the export of endangered and non-endangered wildlife and globally endangered species

The *Customs Act* (last amended in 2018) also regulates exports. It requires exporters to submit declarations and any relevant supporting documents to Customs in order to export goods and to keep records for a set period. The act also identifies tariff rates and classifications, lists prohibited exports, and establishes penalties for export violations.

***The Foreign Trade Act is the main law governing exports of goods, technologies, software, and services from Korea.***

South Korea's export laws share several features. Each law identifies the items subject to control, the relevant regulatory bodies, and penalties for violations. They are also typically accompanied by "enforcement decrees" and "enforcement rules."

Enforcement decrees describe export procedures, such as registration requirements and the types of documents that traders must submit to authorizing agencies or store on file for future inspection.

Enforcement rules supplement the laws and enforcement decrees, including by detailing the actors within the relevant agencies to which export information must be submitted and providing copies of applications and other forms required for exports.

### Regulatory Bodies

The Korea Customs Service (KCS) enforces South Korea's customs laws and regulations,

imposes and collects customs duties, engages in the customs clearance of goods, and combats smuggling and other illicit export activities.

MOTIE is responsible for developing and managing South Korea's trade policy and export control system.

MOTIE is the export licensing authority for a variety of items, including: certain dual-use commodities controlled under the Missile Technology Control Regime, Nuclear Suppliers Group, and Australia Group (civilian, commercial items with missile and nuclear, chemical, and biological weapons applications); toxic and precursor chemicals controlled under the Chemical Weapons Convention; biological agents; substances that deplete the ozone layer; and certain "national core technology," which is valuable technology that, if disclosed abroad, could negatively impact the Korean economy and national security.

MOTIE also registers persons engaging in the export of alternative fuels and different gases, and it prohibits exports of items identified in Annex 1 of the *Export-Import Notice* (last amended in 2018) for reasons deemed necessary for trade and industrial policies.

### Controlled Items

For national security purposes, the Korean government requires licenses for a wide range of military and dual-use exports, including:

- Special materials and related equipment, such as protective and detection equipment, human and animal pathogens and toxins, plant pathogens, and some genetically modified organisms;
- Certain electronics;
- Specified computers and related equipment;

- Telecommunication and information security systems, components, and related items;
- Sensors and lasers, their components, and related items;
- Navigation and avionics systems, components, and related items;
- Marine systems, components, and related items;
- Aerospace and propulsion systems, components, and related items;
- Nuclear materials and related items;
- Missiles and other WMD and conventional delivery systems;
- Arms;
- Ammunition;
- Items specially designed or modified for military use, including vessels, aircraft, drones, spacecraft, imaging and countermeasure equipment, construction equipment, software, and related items;
- Ground vehicles and their components;
- Chemical or biological toxic agents, riot control agents, radioactive materials, and related components and items;
- "Energetic materials" and related substances, such as explosives and propellants; and
- Armored or protective equipment.

***The Ministry of Trade, Industry and Energy is responsible for developing and managing South Korea's trade policy and export control system.***

Other Regulatory Bodies Include...	What They Do...
Defense Acquisition Program Administration (DAPA)	Issues export licenses for defense materials and technology controlled under the Arms Trade Treaty and Wassenaar Arrangement Issues export licenses for any dual-use item in Annex 2 of the <i>Public Notice on Trade of Strategic Goods and Technologies</i> that is to be used for military purposes by the importing government
Nuclear Safety and Security Commission (NSSC)	Issues licenses for exports of nuclear materials, nuclear power plant technology, and related items (those appearing on the Nuclear Suppliers Group "Trigger List")
National Police Agency (NPA), Ministry of Interior and Safety	Authorizes exports of non-military weapons (guns, explosives, swords, gas sprayers, electroshock weapons, crossbows)
Ministry of Environment	Issues export licenses for endangered wildlife and globally endangered species Prohibits or restricts exports of wastes under certain conditions Relevant personnel authorize exports of restricted and prohibited chemicals and wastes subject to restrictions
Ministry of Oceans and Fisheries	Relevant personnel inspect and issue export quarantine certificates for aquatic organisms subject to quarantine Authorizes exports of protected marine organisms and species likely to have a major impact on marine conservation and sustainability efforts
Ministry of Agriculture, Food and Rural Affairs	Relevant personnel inspect animals, plants, and related items and issue export sanitary and phytosanitary certificates Regulates exports of grain

Other Controlled Items Include...	Why They Are Controlled...
Guns, explosives, swords, gas sprayers, electroshock weapons, and crossbows with no military use	Public safety
Living modified organisms	Public health and safety, environmental protection, international commitments
Liquefied petroleum gas	Public safety, proper supply and usage
Petroleum and alternative fuel	Economic development, stabilization of supply and demand, product quality
"Urban gas," such as natural gas, petroleum gas, or certain byproduct gas	Public safety, protection of user interests, promotion of sound business development
National core technology	National security, economic development
Expensive items, including cameras, furs, luxury watches, jewelry, and precious metals that are not personal belongings, such as gold bars	Duty collection and exemption
"Means of payment," such as government and bank notes, coins, checks, payment orders, vouchers, and plastic cards, and "securities," such as bonds, equity, investment contracts, beneficiary certificates, and unregistered certificates of deposit exceeding US\$10,000	Economic development, maintenance of equilibrium in the balance of payments, stabilization of currency value, combating narcotic drug funding and money laundering
Cultural heritage items	Cultural preservation
Endangered and non-endangered wildlife and globally endangered species	Wildlife and environmental management and protection
Aquatic organisms subject to quarantine	Protection of supply, environmental protection, public health
Protected marine organisms and species likely to have a significant impact on marine conservation and sustainability	Environmental management and protection
Animals, plants, and related items	Environmental protection, industry protection and development, public health
Grain, including rice, barley, and wheat	Maintenance of supply and demand
Sand and gravel-related items	Protection of natural resources
Wastes subject to restrictions	Environmental protection
Restricted and prohibited chemicals	Public health, environmental protection
Certain cosmetics and their raw materials	Public health, industry development, international commitments
Certain drugs	Public health, international commitments
Narcotics and their precursor substances	Public health
Certain substances that deplete the ozone layer	Environmental protection, industry development, international commitments

MOTIE prohibits exports of: whale meat and products to protect endangered species; dog furskins and products for animal protection; and certain types of stones, such as natural granite, to protect natural resources.

The KCS also prohibits the exportation of:

- Books, videos, records, and other similar goods that interfere with constitutional and public order and public safety, and corrupt public morals;
- Goods that infringe upon intellectual property rights;
- Goods containing confidential government information or that are utilized in intelligence operations; and
- Counterfeit, forged, or copied currencies, bonds, and securities.

## Export Process

In order to export goods of any kind, traders must undergo customs clearance. This process requires the submission of an export declaration and possibly supporting documentation, depending on who files the declaration.

Traders can submit documentation through the KCS automated, electronic system. Export approval is obtained with receipt of a KCS-issued certificate.

The exportation of strategic items involves additional procedures. Traders first must determine whether their items are controlled and require an export license. For example, MOTIE, DAPA, and NSSC operate their own online systems that assist persons in identifying the items they control. If requested by traders, these licensing authorities will perform the identification services either in house or they will delegate this responsibility to another entity.

Following confirmation that the items are controlled, exporters must submit a license application and supporting documents to the relevant licensing authority. This information can be filed through the agencies' online systems.

Once exporters obtain authorization, they must notify the relevant Customs authority and then declare the items.

***For national security purposes, the Korean government requires licenses for a wide range of military and dual-use exports.***

*If requested by traders, licensing authorities either will perform strategic commodity identification services in house or delegate the responsibility to another entity.*

Approval processes for other types of exports vary based on the item, authorizing agency, and importing country. Examples include:

- **Registration:** Persons intending to export certain items, such as petroleum, must register with the relevant agency before exporting.
- **Quarantines and inspections:** In order to export animals, plants, and related items, exporters must file an application for and undergo quarantine or inspection, if the importing country requires it. In such cases, certificates are necessary to export the items.
- **Fees:** To obtain export approval for some items, such as globally endangered species and restricted or prohibited chemicals, persons must pay a fee to the authorizing agency. Fees are also required for certain goods, such as animals and related items, to undergo quarantine or inspection for receipt of the applicable export certificate.
- **Packaging:** Exports of specified items, such as restricted wastes, must be packaged and labeled in a particular manner. For example, persons are required to seal the export containers or packages of narcotic drugs and psychotropic substances with government-issued certificate stamps.
- **Additional authorization:** Exporters of certain goods, such as narcotics, must obtain permission for every export operation and for each item they intend to export.

## Penalties for Non-Compliance

The *Foreign Trade Act* contains administrative and criminal penalties for strategic trade violations.

Administrative penalties for strategic trade violations include:

- **Fraudulently or improperly obtaining an export license:** Potential license revocation or mandatory attendance of a training course;
- **Export of strategic items without authorization:** Potential partial or full suspension of the right to trade in strategic items for up to 3 years;
- **Failure to keep required documentation for a set period:** A fine of up to 10 million won (US\$9,400).

Criminal penalties for strategic trade violations include:

- **Fraudulently or improperly obtaining an export license:** Imprisonment with labor for up to 5 years or a fine of up to 3 times the value of the goods;
- **Export of strategic items without authorization:** Imprisonment with labor for up to 7 years or a fine of up to 5 times the value of the goods.

*In order to export goods of any kind, traders must undergo customs clearance.*

Other laws contain penalties for trade violations involving specific commodities.

Administrative penalties for trade violations involving specific items include:

- **Illegally or improperly obtaining an export license for endangered or non-endangered wildlife or globally endangered species:** License revocation (*Wildlife Protection and Management Act*);

- **Failure to seal export containers or packages of narcotic drugs and psychotropic substances with government-issued certificate stamps:** Partial or full suspension of export business for up to a year (*Narcotics Control Act*);
- **Illegally or improperly registered to engage in the liquefied petroleum gas export business:** Registration revocation (*Liquefied Petroleum Gas Safety and Business Management Act*).

Criminal penalties for trade violations involving specific commodities include:

- **Export of specific chemicals or biological agents without a license:** Imprisonment with labor for up to 5 years or a fine of up to 50 million won (US\$46,800) (*Prohibition of Chemical and Biological Weapons Act*);
- **Export of defense materials and technology without a license or with a license obtained fraudulently or improperly:** Imprisonment, with or without labor, for up to 10 years or a fine of up to 100 million won (US\$93,700) (*Defense Acquisition Program Act*);
- **Export of plants and related items without passing inspection or passing it illegally:** Imprisonment for up to 1 year or a fine of up to 10 million won (US\$9,400) (*Plant Protection Act*);
- **Illegally or improperly obtaining an export license for endangered wildlife or globally endangered species:** Imprisonment with labor for a maximum of 1 year or a fine of up to 10 million won (US\$9,400) (*Wildlife Protection and Management Act*);
- **Failure to seal export containers or packages of psychotropic substances with government-issued certificate stamps:** Imprisonment with labor for up to 1 year or a fine of up to 10 million won (US\$9,400) (*Narcotics Control Act*);
- **Engaging in the liquefied petroleum gas export business without obtaining registration:** Imprisonment with labor for a maximum of 5 years or a fine of up to 200 million won (US\$187,400) (*Liquefied Petroleum Gas Safety and Business Management Act*).

*It is important that exporters stay informed of South Korea's ever-changing foreign trade laws and regulations to avoid penalties.*

The *Customs Act* provides a list of administrative and criminal penalties concerning general export violations.

For example, failure to file an export declaration or filing a false one can result in an administrative fine as high as the prime cost of the goods or 20 million won (US\$18,700).

Criminal penalties for general export violations include:

- **Export of prohibited goods:** Imprisonment with labor for a maximum of 7 years or a fine of up to 70 million won (US\$65,600);
- **Export of goods without filing an export declaration in the prescribed manner:** Imprisonment with labor for up to 3 years or a fine equal to the prime cost of the goods;
- **Export of goods that are different from those listed in the export declaration:** Imprisonment with labor for up to 3 years or a fine equal to the prime cost of the goods.

It is important that exporters stay informed of South Korea's ever-changing laws and regulations to avoid these penalties.

*SECURUS Strategic Trade Solutions, LLC has substantial experience guiding private industry and governments through the intricacies of foreign trade regimes, including South Korea's. Please contact us today with your specific issues or questions regarding South Korea's export regulations.*

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