

Export Control Best Practices

Legal and Regulatory Framework

Comprehensive export control laws and regulations that control transfers of items, technology, and related services.

Laws and regulations that control technology in both tangible (blueprints, for example) and intangible (e-mails and verbal communications, for example) forms.

Controls that extend to items that are transiting or being transshipped through an economy's waters, airspace, or territory, including freeports.

Controls on foreign-origin items re-exported from an economy and on an economy's exports being re-exported by another economy.

Controls on items temporarily re-transferred to another economy –including commercial trade show demonstrations and equipment transfers to foreign-owned holdings.

Controls on brokering and other intermediary activities; including forwarding, servicing, and financing.

Comprehensive control lists and practices in harmony with the guidelines and control lists of the multilateral nonproliferation regimes and arrangements (Nuclear Suppliers Group, Missile Technology Control Regime. Australia Group. Wassenaar Arrangement).

Controls on transfers of unlisted items, services, and technologies of potential concern, if the transfers are intended for programs involved in weapons of mass destruction, their delivery systems, or conventional weapons (“catch-all” controls).

Legal authorities that permit denial of licenses *for* nonproliferation, foreign policy, and national security reasons without excessive threat of appeal or demand for compensation by trade companies.

Criminal and civil penalties, including imprisonment, fines, and restriction or denial of trading privileges, and publicity of such actions, to deter and prevent future violations.

Provisions that protect the confidentiality of commercial information, while permitting information-sharing with other governments to enhance international efforts against proliferation.

Licensing Procedures and Practices

Effective and transparent licensing organizations and processes to ensure adequate review of license applications for nonproliferation reasons.

Procedures, databases, and watch lists for evaluating parties involved in transfers, paying particular attention to those considered to be suspicious, unreliable, or presenting a high risk of diversion.

Processes to ensure that technical experts, intelligence agencies, and foreign policy officials from all relevant government agencies have the knowledge and opportunity to evaluate license applications for proliferation concerns.

Processes to promote interagency consensus on licensing decisions and resolve disputes among agencies.

Procedures to confirm, as appropriate, the legitimacy of stated end-users and end-uses.

Procedures to confirm, as appropriate, that licensed items have reached their stated end-users and are being used for their stated end-use.

Enforcement, Investigation, and Prosecution

Policies, laws, and regulations to provide enforcement agencies the mission, authority, training, and resources necessary to detect, identify, and interdict, shipments of proliferation concern, as well as to investigate and prosecute export control violators.

Legal authorities to pen-nit routine, advance review of detailed manifest data to analyze for suspicious transfers.

Procedures, databases, and watch lists for evaluating parties involved in transfers, paying particular attention to those considered to be suspicious, unreliable, or presenting a high risk of diversion.

Procedures to apply risk management and targeting strategies, using trade information and intelligence, to detect suspect shipments and to minimize impediments to legitimate trade.

Effective cooperation among enforcement agencies, licensing officials, technical experts, and intelligence agencies to establish whether specific shipments involve items or transactions that are controlled or are contrary to national security or other interests.

Cooperation among agencies responsible for export controls, including those responsible for licensing, investigation, and prosecution to ensure that laws are enforced effectively.

Use of inspection techniques and equipment to identify potential transfers of proliferation concern.

Industry Outreach

Effective outreach and internal control programs to raise the awareness of companies and commercial individuals, universities, and centers of research and development – including conventions and trade shows – about their responsibilities under the economy’s export control system, including penalties for violations.

Strong relationships with industry to identify suspect sales and deliveries and to elicit information from companies engaged in legitimate trade about potential violations by other companies.

Effective outreach efforts to encourage industry to develop internal compliance practices that incorporate checks on end-users and end-uses of concern.