

Report on 2006 Berlin Export Control Seminar on End-Use Verification

Presentation at the 8th International Export Control Conference

Bucharest, Romania, March 06-08, 2007

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The seminar touched upon a lot of different aspects of end-use verification. Thereby it illuminated the complexity of the issue. On the one hand, export controls cannot be exercised efficiently without ensuring the end-use of the goods to be exported. This is why the full name of the seminar read “End-Use Verification – A Core Element of Export Control”. On the other hand, end-use verification is – even more than other elements of export control – a question of predicting potential risks in the export process. There is no such thing as an absolute end-use verification. In order to minimize risks, a thorough examination of the pending application is essential. But: What is “thorough”? And: Who takes part in the examination? Finally: What needs to be done at which point in time?

The Berlin seminar convened – as does this conference today – officials dealing with conventional arms and dual-use goods and WMD-related items alike. The difference in nature of these goods has to be reflected in the end-use screening process. Main battle tanks require another treatment than milling machines; propulsion components must be analyzed differently from small arms. This is but one differentiation officials have to take: others include the nature of the end-user (official or private), the destination country and potential intermediaries. Before we start analyzing the end-use, we have to analyze the level of sensitivity. In times of scarce resources, authorities should put more emphasis on cases with a high potential for misuse or diversion than on routine cases involving reliable partners and less sensitive goods.

These were some of the questions raised at the Berlin seminar. The participants from about 50 countries represented different agencies involved in export control procedures. This reflects the fact that the quality of end-use safeguarding depends on

the co-operation of different actors, all playing specific roles in the process. Licensing authorities, ministries of foreign affairs and economics, customs officials, intelligence services and diplomatic missions all together represent only the governmental side of this complex mechanism. In order to be fully effective, the end-use verification process has to begin within the exporting company and has to take into account findings of Academia and other non-governmental actors.

This overview – and I would like to point out that it is anything but exhaustive – shows that end-use safeguarding is not a one-shot task. On the contrary, it is a dynamic process that does not only begin with the application and is far from being accomplished when issuing the license. It has been pointed out at the Berlin seminar that end-use safeguarding starts long before the would-be exporter files an application: clear-cut legislation, awareness-raising programs by the authorities or internal compliance programs within the exporting company have to be in place irrespective of a specific export business. This very conference is one element within this pre-license phase: government authorities exchange ideas on how to best exert export controls. During the application procedure, authorities gather information in order to shed as much light as possible on the proposed transfer: Who is the end-user? What is his field of activity? Does he have a record of previous transfers? What do other agencies, intelligence services, embassies or partner governments think about the transfer? It is the duty of the applicant in this phase to provide as complete a picture as possible to the authorities, including precise and complete end-use documentation. All these actions serve one goal: to forecast the risk of diversion after the goods have been exported. This is why end-use safeguarding has to continue after the factual export has taken place, for example by regular compliance checks, information exchange or record-keeping. Depending on the nature of the transfer, we might also think of conducting some kind of post-shipment controls.

These were only some of the points raised during our discussions in Berlin. We also touched enforcement and judicial questions; we spoke about specific risks of transit and transshipment or when brokers are involved; we exchanged ideas on awareness-raising and training; we also looked at licensing procedures and the structure of control lists. This enumeration shows that end-use verification reaches out into many different areas of export control. Many of those have been touched upon by previous speakers in the last two days and I will refrain from repeating what they have said.

If I were to sum up the discussions of the 2006 Berlin Export Control Seminar in three sentences, I would say:

- End-use safeguards are crucial for export control.
- A flexible approach for end-use safeguards is needed in order to take into account different levels of sensitivity.
- Due to globalization, international co-operation is indispensable for effective end-use controls.