

Core Elements of a Company's Internal Control Programme

Internal control programme (ICP) differs in its implementation from one company to another given the nature and the size of the company concerned. There are, however, a number of elements that are crucial components as outlined below.

1. Nomination of Responsible Personnel for Import/Export Controls

- The company should nominate suitable officers responsible for implementing internal control programme.
- Where possible, a company director or an officer with corresponding status should be assigned as Trade Control Manager (TCM). Under the TCM, a Trade Control Administrator (TCA) should be appointed to handle operational matters relating to the implementation and conduct of trade control matters. Each business unit should conduct their business in accordance with the instructions and guidance issued by the trade control team.

2. Product Screening

- Procedures should be in place to determine whether the item being ordered/handled by the company is a controlled commodity under the Import and Export (Strategic Commodities) Regulations (the Regulations).
- All goods the company handles or manufactures will need to be evaluated by the trade control team and classified as controlled goods or otherwise based on the control list in the Regulations. As for the items imported or purchased from other companies, the company should request a determination from the suppliers of the goods.
- In case of any doubt, the company may forward the technical details of its products to the Classification Section of the Strategic Trade Controls Branch, Trade and Industry Department (TID) for classification advice prior to actual transactions.

3. Customer and End User Screening

- The trade control team will need to evaluate their customers/endusers according to the risk they may be involved in the weapons of mass destruction (WMD) proliferation programme.

- In case the business unit of a company notes that the potential customers/endusers are located in or have very close relation with a sensitive destination or they are likely involved in the diversion of the items to a sensitive destination for activities related to WMD, they should seek advice from the trade control team.
- As a source of reference, companies may visit websites of governments of some high technology supplier countries (places) for information on persons, countries or entities to whom the export of products from these countries (places) would be denied.

4. Destination Screening

- In the case of re-exports from Hong Kong of controlled goods manufactured elsewhere, the trade control team should ensure that the government of the original exporting country (place) has no objection to the goods being re-exported to the third country (place).

5. End Use Screening

- The company should ascertain from the customer the end use of the product i.e. for what purpose the product is required and how it will be used at the final destination.
- If the intended end use is suspected to be related to the development, production or use of WMD programme, the company must stop any further transaction with the customer/ enduser.

6. Application for Licences

- If the transaction involves either the import or export of any controlled goods to any destination, or the import or export of any non-controlled goods but may be used in a WMD programme, the company needs to apply for a licence from TID.
- The import or export of the goods concerned must not be effected without a valid license issued by TID.

7. Shipment Control

- Companies must ensure that the goods to be imported or exported are the same as those appearing on the relevant shipping documents.

- In case of any discrepancy identified at the time of shipment, it must be immediately reported to the trade control team for further advice and actions.

8. Internal Audits

- The trade control team should conduct compliance audit or review the related functions on a periodic basis. Such audit/review can be conducted as part of the company's overall audit. The result of audit must be documented and kept for the period designated by the company rule. It must also be reported to the company management.

9. Education and Training

- The trade control team has the responsibility to conduct regular training and education for all the employees engaging in import and export of strategic commodities. Training records noting the dates, the names of attendees, the subject, etc. should be kept.

10. Record Keeping

- It should be the responsibility of the trade control team to maintain records of all paperwork generated in relation to a particular transaction or enquiries relevant to the Import and Export (Strategic Commodities) Regulations. Under the Laws of Hong Kong, companies are required to maintain all documents related to the import or export of controlled goods.

11. Guidance to Subsidiaries and Affiliates (if applicable)

- The trade control team of the parent company must provide guidance on trade control practices to its subsidiary or affiliate to assist the latter to comply with the laws and to introduce its own ICP.

12. Report of Violations

- All employees of the company should be made aware of an obligation to report any violations of Import and Export (Strategic Commodities) Regulations or the ICP or any perceived risk of violation. There should be a clear procedure for such reports to the TCM/TCA. The TCM is responsible for investigating any report and, where appropriate, reporting the cases to other senior management. Corrective actions or reminders should be issued to all relevant staff.

- For cases involving violation of the Import and Export (Strategic Commodities) Regulations, they should be reported to TID.

Note: For further details of the subject, please visit the Strategic Trade Controls Branch of the Trade and Industry Department.