

Industry Outreach: An Export Enforcement Perspective



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U.S. DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY

*-CEO of International Metallurgical Company
Sentenced to 57 Months in Prison for Conspiring
to Export Specialty Metals to Iran.*

*-Iranian national sentenced in Minnesota to 15
months in federal prison for conspiring to
illegally export restricted technology to Iran.*

*-Texas man sentenced to 46 months for
conspiring to illegally export radiation hardened
integrated circuits to Russia and China.*



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BUREAU OF INDUSTRY AND SECURITY

However

- We really are here to help!
- We want you to succeed by operating within the export control system.
- Together we keep our economy and our nations more secure.



Bottom Line Up Front

- Without a compliance plan, a WMD program could be your next customer!
- Illegal procurement of less sophisticated items can still provide a material contribution to those who would do us harm
- WMD and military programs seek a broad range of technologies



BIS Guidelines

“Know Your Customer” Guidance (Supp. 3 to 732)

- Defines how individuals and firms should act under the knowledge standard in the EAR.
- Recognize “red flags” in transactions, do not self-blind, and resolve questions before engaging in transactions.
- Contact BIS if you have questions about whether you have encountered a “red flag.”



Red Flag Indicators

- The consignee has little or no business background.
- The consignee is unfamiliar with the product's performance characteristics but still wants the product.
- Routine installation, training, or maintenance services are declined by the consignee.
- Delivery dates are vague, or deliveries are planned for out-of-the-way destinations.



Red Flag Indicators (Continued)

- A freight forwarding firm is listed as the product's final destination.
- The shipping route is abnormal for the product and destination.
- Packaging is inconsistent with the stated method of shipment or destination.
- When questioned, the consignee is evasive and especially unclear about whether the purchased product is for domestic use, for export, or for re-export.



Red Flag Indicators for 600 Series

- Singapore is one of the largest recipients of 600 series items. There are two red flag indicators that apply specifically to 600 series items:
 - Exporting 600 series items to a country for servicing certain end items, when you KNOW that the country doesn't have that particular end item
 - Facts or statements indicate that a 600 series item may be reexported to a D:5 country



Elements of Effective Compliance Programs

- The best way to know your customers and avoid violations is creating an effective compliance program.
 - Management Commitment
 - Risk Assessment
 - Written EMCP
 - Training
 - Pre to Post Sale and Screening
 - Recordkeeping
 - Auditing
 - Violations
 - Corrective Actions



Why have a Compliance Program From the Industry perspective

- 1) Reduce chances of trade violations/penalties
- 2) Reliable and predictable supply chain
- 3) Mitigating factor in any enforcement actions if a violation does occur
- 4) Competitive business advantage



Export Enforcement

- The U.S. accomplishes its enforcement mission on an interagency basis with various law enforcement partners both domestically and internationally through:
 - Focus on certain items, destinations, end users, and end uses.
 - Outreach and Prevention activities.
 - Pursuing appropriate administrative actions against export violators.
 - Pursuing appropriate criminal sanctions against export violators.



USG Prevention and Outreach

- The key to the USG's enforcement mission is educating the exporting and reexporting community about the Export Administration Regulations and how to avoid and prevent violations. We do that through:
 - Company and university outreach visits
 - Seminars
 - Workshops
 - Other publicity
 - BIS website (www.bis.doc.gov)



Outreach Outside the United States

- Provide training, including in conjunction with end-use checks, on U.S. export, reexport, and in-country transfer requirements
 - Meet with freight forwarding community, intermediate consignees, ultimate consignees, and end users.
 - Joint Outreach Seminars
 - Licensing, compliance, and enforcement discussions
- The information stresses compliance with the Export Administration Regulations including export and reexport license conditions.
 - Importance of Internal Compliance Programs.
- U.S. jurisdiction follows the U.S.-origin item regardless of the destination(s).
 - Violating EAR (e.g., export license conditions) or not complying with end-use checks may have a significant impact on whether future shipments are authorized.

Elements of an Effective Compliance Program:

- Management Commitment
- Continuous Risk Assessment
- Formal Written Program: Ongoing Compliance Training
- Pre/Post Export Compliance Security and Screening
- Adherence to Recordkeeping Requirements
- Internal and External Compliance -- Monitoring and Periodic Audits
- Program for Handling Compliance Problems, including Reporting Violations
- Completing Appropriate Corrective Actions

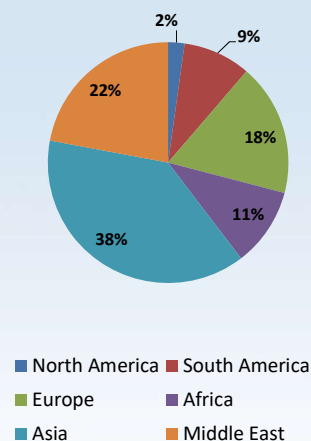
COMPLIANCE WITH EXPORT CONTROLS FACILITATES SECURE TRADE



End-Use Checks

- Confirm bona fides of parties to transaction
- Educate recipients of U.S.-origin items on EAR
- Confidence-building measure
 - Promote secure and reliable supply chains

FY18 – 1,042 EUCs in 50 Countries



Consequences of EUCs

Watch List: Scrutiny of license applications and export transactions, including rejection, strict conditions, and pre-shipment inspection.

Unverified List: Alerts exporters to exercise increased due diligence in transactions with foreign persons whose *bona fides* could not be verified. License Exceptions are not available.

Entity List: Imposes restrictions on exports, absent license approval, on foreign persons involved in activities contrary to the national security or foreign policy interests of the United States.

Referral for further Investigation: May result in criminal or administrative penalties.



Deterrent Effect of Robust Enforcement

➤ **Criminal Penalties may be imposed for “willful violations”**

- *Individuals:* \$1 million fine and/or 20 years imprisonment
- *Corporations:* \$1 million fine
- Forfeitures of the proceeds of export violations

➤ **Administrative Penalties follow a “strict liability” standard**

- The higher of: \$250,000 or twice the value of the transaction
- *Corporations:* \$1 million fine

➤ **Denial of Export Privileges**

- Prohibition on participating in any export activity
- *Temporary:* Up to 180 days to halt imminent violations
- *Standard:* Terms of 10 years or longer, in addition to criminal penalties

➤ **Public Screening Lists**

- *U.S. and Foreign Persons:* Denied Persons List
- *Foreign Persons Only:* Entity List and Unverified List

“Those who comply with the rules benefit from strong enforcement because lax enforcement permits violators to flourish.”

Eric L. Hirschhorn,
Former Under Secretary
for Industry and Security





Thank You!

**Bureau of Industry and Security
U.S. Department of Commerce**

www.bis.doc.gov

www.export.gov/ecr

