

# Industry Outreach: An Export Enforcement Perspective



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- 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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## 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](http://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**

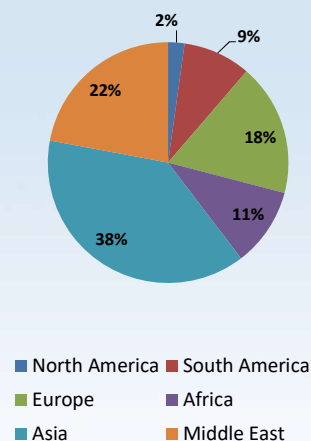


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## End-Use Checks

- 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**



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## 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**

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