



A Resource on Strategic Trade Management and Export Controls

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For Exporters/Re-Exporters and Trade Facilitation Companies

Purpose

To help industry, and in particular Trade Facilitators/Freight Forwarders and Exporters/Re-Exporters, contribute to a reduction in the illicit transshipment, transit, or re-export of dual-use items subject to U.S. and foreign export controls, and to facilitate legitimate global commerce by improving the capacity to distinguish between licit and illicit transactions.

Principles

1. Industry and government should work together to foster secure trade that reduces the risk of diversion of items subject to export controls.
2. Secure trade will reduce the diversion of dual-use items to prohibited end-uses, end-users, and destinations.
3. Secure trade will encourage the more expeditious movement of legitimate trade through borders and ports.
4. Industry can achieve secure trade objectives through appropriate export management practices.

Scope

The best practices identified herein:

1. Are designed Trade Facilitators/Freight Forwarders and Exporters/Re-Exporters. The terms "Company" and "Companies," when used herein, refer to all of these types of entities;
2. Are designed to apply to transactions subject to the jurisdiction of the Department of Commerce; and
3. Complement the set of Best Practices for Exporters/Shippers found in the U.S. Department of Commerce Export Management System. Additional information on the Export Management System resides on the [BIS Web Site](#).

Company Policy and Company Management

1. Each Company should develop a written policy against allowing its exports or services to contribute to terrorism or programs of proliferation concern.
2. Each Company should identify one person, who reports to the Company's Chief Executive Officer, General Counsel, or other senior management official (but not to a sales or marketing official), as the ultimate party responsible for oversight of the Company's export control compliance program.
3. Each Company should create an export control compliance program. Companies should integrate this compliance program into its overall regulatory compliance, security, and ethics programs.
4. Each Company should ensure that relevant Company personnel receive regular training in export control compliance responsibilities, and should consider offering to its employees incentives for compliance (and disincentives for noncompliance) with their export control responsibilities.
5. Exporters/Re-Exporters should seek to utilize only those Trade Facilitators/Freight Forwarders that also observe these best practices.

Compliance Activities: General

1. An Exporter/Re-Exporter should classify each of its products according the requirements of the Export Administration Regulations (EAR), 15 CFR Parts 730-774 (2003), and should communicate the appropriate Export Control Classification Number (ECCN) or other classification information for each export to the Trade Facilitator/Freight Forwarder and the end-user involved in that export (even if the shipment is made under an EAR License Exception). Each Company involved in the transaction should also maintain a record of such classification for every export.
2. A Company should screen all parties to the transaction against all relevant lists (such as the Denied Persons List, Unverified List, Entities List, and lists of U.S. Government-sanctioned parties), and should maintain a record of such screening.
3. A Company should screen all exports/re-exports against a list of embargoed destinations, and should maintain a record of such screening.

Compliance Activities: Transshipment Hub

1. With respect to transactions to, from, or through transshipment hubs, Exporters/Re-Exporters should take appropriate steps to know who the end-user is and to determine whether the item will be re-exported or incorporated in an item to be re-exported. An Exporter/Re-Exporter of a dual-use item under license should inform the end-user, distributor, or other appropriate recipient of the item of the license terms and conditions for such export.
2. With respect to transactions to, from, or through transshipment hubs, Companies should have in place compliance and/or business procedures to be immediately responsive to theft or unauthorized delivery. This includes procedures--including documented confirmation-- to ensure that the item exported has reached the proper end-user.
3. With respect to transactions to, from, or through transshipment hubs, Companies should pay heightened attention to the Red Flag Indicators on the BIS Web site (see [Red Flag Indicators](#)) and in the "Know Your Customer Guidance" set forth in Supplement 3 to part 732 of the EAR. Responding to Suspicious Transactions
4. When a Company encounters a suspicious transaction, it should halt the shipment and consult with its export control compliance specialist. If the transaction is determined to involve a potential or actual violation of the EAR, the Company should contact BIS or another U.S. law enforcement agency immediately and maintain all relevant records.

Guidance from the Department of Commerce, Bureau of Industry and Security.

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