End-Use Monitoring and Effective Export Compliance

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Export Enforcement: Mission & Priorities

**Mission:** Protect national security, foreign policy, and economic interests by inhibiting the unauthorized export/reexport of items subject to export control.

**Priorities:**
- Proliferation of weapons of mass destruction and their means of delivery (nuclear, chemical, biological, and missile)
- Terrorism (including terrorist organizations and state sponsors)
- Sanctions/embargoes (e.g., North Korea, Syria, etc.)
- Unauthorized military end-use (i.e., China, Russia, and Venezuela)
- Foreign policy/human rights

“Securing America’s Trade”
Compliance Partnership

**Industry**
- Attend seminars
- Implement compliance programs
- Be alert to suspicious inquiries
- Customer due diligence
- Voluntary disclosures
- Compliance with foreign import/export controls

**Government**
- Ensure educated export/reexport communities
- Assess high-risk transactions
- Conduct end-use checks
- Coordinate enforcement with foreign partners
- Identify/refer export control violations

End-Use Monitoring

**Department of Commerce**
- BIS End-Use Monitoring Program managed by the Office of Enforcement Analysis (OEA)
- Exports of items subject to the Export Administration Regulations (EAR), including Commerce Control List (CCL) items

**Department of State**
- Directorate of Defense Trade Controls (DDTC) Blue Lantern Program managed by DTC-Compliance (DTCC)
- Exports of U.S. Munitions List (USML) defense articles under the International Traffic in Arms Regulations (ITAR)

**Department of Defense**
- Defense Security Cooperation Agency (DSCA) Golden Sentry Program managed by DSCA’s Directorate for Programs
- Exports of USML defense articles and services under the U.S. Foreign Military Sales (FMS) program
What is an End-Use Check

• An End-Use Check (EUC) is a physical verification on location with a party of the transaction to determine if the party is a reliable recipient of U.S. goods and that items are or will be used in accordance with the EAR.

• As part of its licensing process and preventive enforcement efforts, BIS selectively conducts end-use checks on certain dual-use and munitions exports.
  – Monitor license condition compliance.
  – Monitor compliance of non-licensed transactions.
  – Confirm the end-use.
  – Determine if the company is a reliable end-user.
  – Discover more information about the parties.

BIS End-Use Monitoring

• Pre-License Check (PLC): Establishes bona fides and validates information on export license applications PRIOR to shipment.

• Post-Shipment Verification (PSV): Strengthens assurances that all parties comply with an export license and licensing conditions to deter diversions AFTER shipment.

• Non-Licensed PSV: Measures compliance with U.S. export controls and monitors illicit diversion of U.S. exports.
Who Conducts End-use Verification?

- **Export Control Officers (ECOs)**
  - Export control policy engagement.
  - Foreign government and local business outreach.

- **Sentinel Program:**
  - Checks conducted by Export Enforcement personnel in locations where no ECO is present.

- **U.S. Embassy officials**

Consequences of Unfavorables

- **Watch List:** Scrutiny of license applications and export transactions, including denial/conditions. May include outreach to alert exporters about customers of concern.

- **Unverified List:** Alerts exporters about foreign persons whose *bona fides* could not be verified. License Exceptions are not available and an export license or consignee statement may be required.

- **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.
End-Use Check Documents

• You may receive a request for documents
  – This is routine and does not indicate BIS has any specific compliance concerns about you or your customer
  – In FY14, BIS obtained and evaluated records for >1,000+ shipments
• Provide the following documentation:
  – Air waybills/bills of lading
  – Purchase orders and customer contact information
  – Commercial invoices and packing lists
  – Commodity specifications and ECCN information
  – Any export license, CCATS, etc.

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Internal Compliance Programs/
Voluntary Self-Disclosures

Elements of a 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

• Safeguard your company’s reputation
• Enforcement mitigation
• Report suspicious inquiries
Due Diligence Best Practices

- Screen customers (e.g., www.export.gov)
- Request an end-user certificate
- Visit the public website
- Review other social media sources
- Request business registration
- Understand foreign export control practices
- Provide license/regulatory conditions in writing and obtain written confirmation
- Conduct a visit
- Any other red flags?

My customer is located in Hong Kong:

- Request a copy of the import license from Hong Kong’s Trade and Industry Department if your item is AG, MTCR, NSG, or WA controlled. A Hong Kong export license is required for any reexport.
- Request end-use certifications if your customer is located at a secretarial address where many other companies are registered.

My customer is located in Singapore:

- Request a copy of the Singapore Customs export permit if your AG, MTCR, NSG, or WA controlled item is destined for reexport.

My customer is located in the UAE:

- Request a copy of the business registration
- Request a copy of the UAE import permit if your item is a CWC Schedule 3 chemical, an armored vehicle (ECCN: 0A606), or is controlled for NP1 reasons.
Russia Due Diligence Guidance

• Pay attention to the customer contact information (country code/web extension)
• Request end-use certifications for shipments consigned to freight forwarders/logistics companies
• Research customer line-of-business and request end-use certification if exporting under license exception CIV

Export Controls: Joint Responsibility & Benefits

• Protecting national security is in the interests of the business community and BIS
• Culture of compliance:
  – Protects company reputation
  – Creates a level playing field
  – Creates trade benefits
  – Mitigates enforcement activities
• Government needs industry support...
  \[including\text{ }facilitating\text{ }successful\text{ }end-use\text{ }checks!\]
Thank You!

Office of Enforcement Analysis
Bureau of Industry and Security

www.bis.doc.gov