

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



# How to Build an Export Compliance Program

*BIS Update*

*October 5, 2017*

The screenshot displays the Bureau of Industry and Security (BIS) website. The header includes the BIS logo and the text "Bureau of Industry and Security, U.S. Department of Commerce, Where Industry and Security Intersect". A navigation bar contains links: Home, About BIS, Regulations, Licensing, Enforcement, Compliance & Training, Policy Guidance, AdFT Programs, Reform, and Data. The main content area features a large banner for the "Export Compliance Program (ECP)" with the headline "Updated! Export Compliance Guidelines 2017". Below this, it says "U.S. Department of Commerce, Bureau of Industry and Security" and "Export Compliance Guidelines". At the bottom of the banner, it reads "The Elements of an Effective Export Compliance Program". To the left of the banner is a sidebar with "Export Management & Compliance" and "Compliance Links". To the right is a "Contact Us" section with a "Submit your ECP" form and a list of contact information for Tom Andriukonis, Bryce Bewley, Orestes Theocharides, Ken Soo, and Dawn Kawasaki. Below the contact information is an "ECP Resources" section with links to "Updated! Export Compliance Guidelines 2017", "Elements of an ECP", "Freight Forwarder Guidance", "Compliance Poster", "Webinar: How to Develop and ECP", and "Upcoming ECP Seminars".

## National Security Requires



**A strong partnership among, & between,  
government agencies & industry in international  
trade.**



## **BUILDING A COMPLIANCE TEAM**

**Identify Organizational Structures  
that have an Export Component**

<b>Accounting</b> <b>Credit Department</b> <b>Finance</b> <b>Purchasing</b>	<b>Marketing</b> <b>Sales</b> <b>Contracts</b> <b>Customer Service</b>
<b>Human Resources</b> <b>Legal Counsel &amp; Licensing</b> <b>Engineering/R&amp;D</b> <b>Information Technology</b>	<b>Field Services</b> <b>Shipping</b> <b>Travel Agency (in-house)</b>

**NO COOKIE CUTTER APPROACH!**

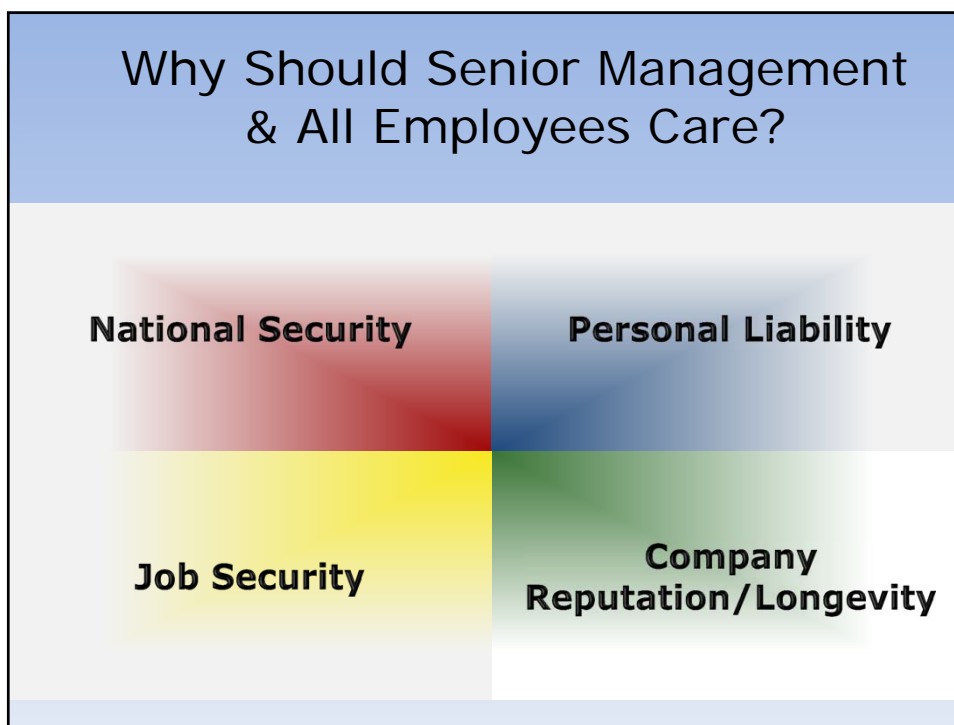


**Tailor Your ECP to Your  
Organization's Needs**



## Management Commitment

- High-profile support for compliance policies & procedures
- Provide sufficient resources
- Build a corporate culture of compliance





## Assign a Compliance Manager

- Oversee the Entire Export Compliance Program
- Liaison Between Staff & Management
- Senior Level & Empowered
- Builder of Compliance Team(s)



## Excuses & Resistance



- “An Export Compliance Program is **not required** by the EAR.”
- “Violations are the **cost of doing business.**”
- “It won’t happen to us.”
- “We’ve **always** done it this way.”
- “Our **freight forwarder will manage** our exports.”

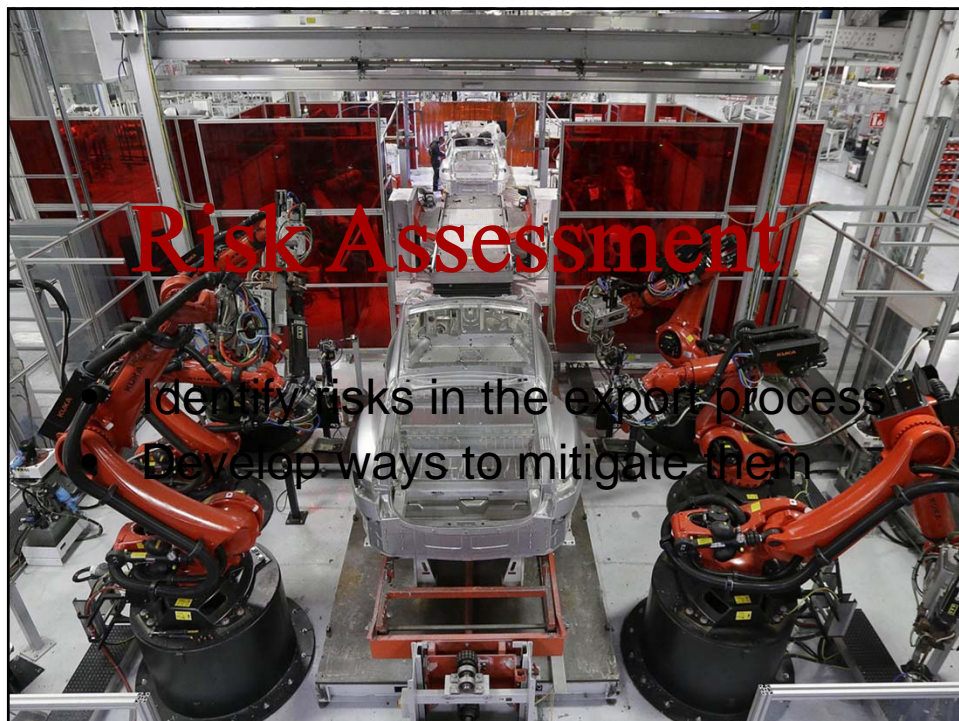
## Management Commitment Statement

October 5, 2017

Memorandum For All Employees and Contractors

From President and CEO:

- 1) Introductory Statement of Management Commitment to Export Compliance
- 2) Dual-Use Risk Statement
- 3) Penalties Statement
- 4) Whom To Direct Questions To
- 5) Employee Acknowledgement/Receipt

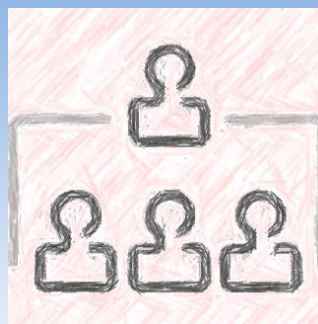


## Risk Assessment Profiles



## Organizational Structuring & Processes

- Centralize/Decentralize
- Align/re-align/embed compliance functions within business processes







## Instructions for Risky Exports

- 1) What level of risk is this scenario?
  - High
  - Medium
  - Low
- 2) What are the risks?
- 3) How would you mitigate the risks or what additional information do you need?

## *Customer #1*

- Canada
- Existing Customer
- End-User was Screened



## *Customer #2*

- China
- New Customer
- No Screening
- Ultimate Consignee is Freight Forwarder



## *Customer #3*

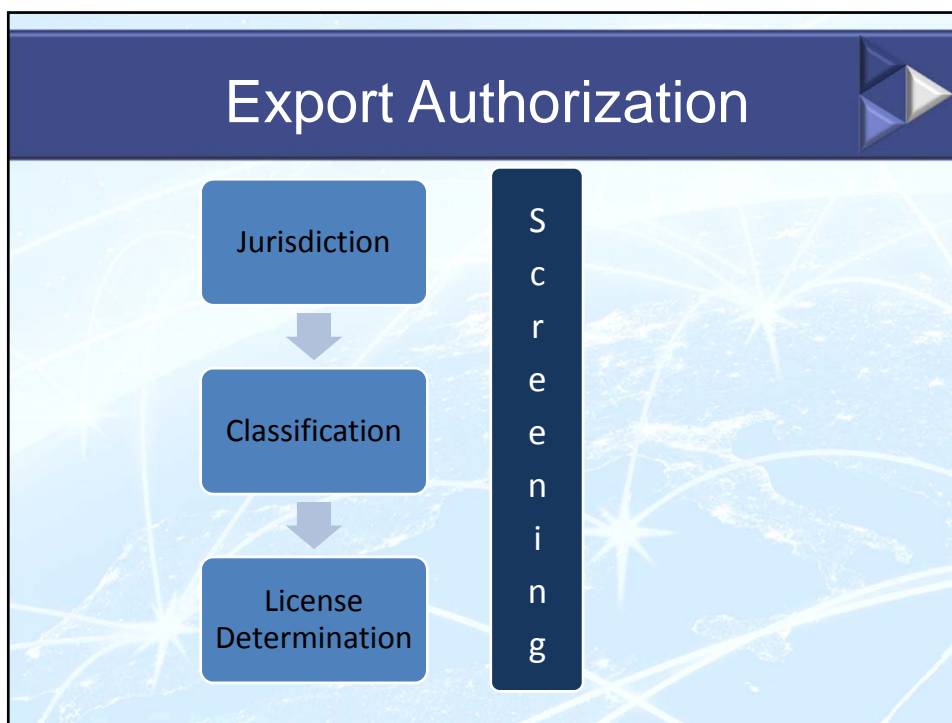
- Germany
- New Customer referred by existing customer
- Vessel route stopping at Syria
- End-User was Screened



## Export Authorization

Building procedures and process flows to help employees make consistent and correct export decisions





## Jurisdiction

Always the first consideration.

- Determine which agency has jurisdiction over your organization's exports.
- Review 734.3(b) of the EAR for details of other agencies jurisdictions to regulate exports/reexports.
- BIS has helpful information on its web site ([www.bis.doc.gov](http://www.bis.doc.gov)) to assist in determining the order of review for jurisdiction decisions.



## Agencies Overview



Dual Use (Commercial and Military Nature)



Military Items or Services



Nuclear materials and equipment



Economic or Trade Sanctions



Natural Gas, Electric Power, Use of Nuclear Technology, Technical Data for Nuclear power, Materials



Controlled Substances and Precursor Chemicals



Food, Animal, and Plant Safety and Inspection



Safety of Food, Drug, and Cosmetics

## Jurisdiction: Order of Review

(Part 774, Supp. No. 4)

Is item subject to **jurisdiction of another** USG agency?

NO

Is the item described in the **USML**?

YES

The item is subject to **ITAR**.  
Contact DDTC for all ITAR questions.

NO

**\*\* See EAR for other U.S. Government agencies with export control responsibilities.**

YES

Is item subject to the EAR?

NO

**\*NOT subject to the EAR.**  
Review the three WARNING Notes.

YES

Proceed to License Determination

## BIS Decision Tree Tools

1. CCL Order of Review
2. Specially Designed
3. STA
4. De Minimis & Direct Product Rules

**Export Control Classification Interactive Tool**

Is the item subject to the EAR?

☐ Yes  
☐ No

[Reset](#) [Key Terms List](#)

[<< Previous](#) [Next >>](#)

**Additional Information**  
If you don't know if the item is subject to the EAR, review § 734.3.

**Key Terms**  
[+ Subject to the EAR](#)

## Classification

Once Jurisdiction is confirmed, for items subject to the EAR, the Export Control Classification Number (ECCN) must be determined.

- Compare technical specs of your item to those technical descriptions in the Commerce Control List (CCL)
- Three ways to classify your item(s):
  - Self-Classify
  - Manufacturer supplies classification (ECCN)
  - Request formally from BIS (Using electronic SNAP-R request)

## Document Classification



### Item Classification Sheet

Item Name/Model/Description	
Technical Specifications	
Agency Jurisdiction	
ECCN Classification Decision	
Name and Contact	
Information of Parties Involved	
Changes to Evaluation	
Evaluation Decision	

## License Determination



Once item classification is confirmed, determine if a valid license is required.

- Note the reasons for control for your item
- Look up on the EAR Country Chart (Supp. 1 to Part 738) whether a license is required to the destination
- Check to make sure if a license exception is available for your item to that destination (EAR Part 740)

## Commerce Country Chart

	Reason for Control														
	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Firearms Convention	Crime Control			Anti-Terrorism
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1
Jamaica	X	X		X		X	X	X	X	X	X	X		X	
Japan	X					X		X	X						
Jordan	X	X	X	X		X	X	X	X	X		X		X	
Sierra Leone	X	X		X		X	X	X	X	X		X		X	
Singapore	X	X		X		X	X	X	X	X		X		X	
Sint Maarten (the Dutch two-fifths of the island of Saint Martin)	X	X		X		X	X	X	X	X		X		X	

## License Determination Matrix Example

Country	Product Number	Item Description	Agency Juris.	ECCN or Other	Eligible License Exception
UK	S45234	Components	BIS	3A001.a.5	STA
SI	B23424	Toxins	BIS	1C351.b.4	License Required
CN	AT687243	Valves	BIS	2B350	License Required
DE	FHF234A3	Military Aircraft Parts	DDTC	Cat. VIII	License Required
CA	I234	Iron Pipes	BIS	EAR99	NLR



## Screening



Critical action of Export Authorization – for any and all items subject to the EAR

- Best done as orders comes in, and prior to export if any lapse in time
- Vendor software screening programs may be preferable for larger volumes
- Commerce and other agencies have produced a Consolidated Screening List search tool

## Screening Procedures



- Where and how to maintain screening record results
- How to resolve “false positives”
- Cost of purchasing screening software versus manually completing
- How best to educate staff on “red flags” or suspicious transactions and how to escalate to resolve (“Hold” and “Release” procedures)

## Consolidated Screening List What is Included?

### Commerce – BIS

- 1) Denied Persons List
- 2) Entity List
- 3) Unverified List

### State - DDTC

- 4) Nonproliferation Sanctions List Part 561 List
- 5) Debarred Parties List

### Treasury - Office of Foreign Assets Control

- 6) Specially Designated Nationals List

### 7) Foreign Sanctions Evaders

### 8) Sectoral Sanctions Identification (SSI)

### 9) Palestinian Legislative Council (PLC)

### 10) Foreign Financial Institutions Subject to Part 561

### 11) Non SDN Iranian Sanctions Act (NS-ISA) List

## Search App

### Search the Consolidated Screening List

Search **eleven screening lists** at one time by filling in the search boxes below. If you get too many results, try including more information to the addit fields. If you get too few results, try searching one field at a time.

#### Keyword

Search for words in the name, alternative names (aliases), title of the entity, and additional remarks regarding the entity.

#### Name

Search for an entity's name or one of its alternative names.

#### Fuzzy Name

When set to off, the spelling of the Name you search for must be correct to get results. When set to on, the spelling for the Name you search for may be slightly off. Check the score for each result to determine how close a match it is to the entity's name or its alternative names. A score of 100 is an exact match. Results are returned with the highest scores first.

Off

#### Address

Search for the street address, city, province, and postal code of an entity.

#### Sources

Choose which of the eleven screening lists that you want to search.

#### Countries

Choose which countries that you want to search.

Note, the Nonproliferation Sanctions and ITAR Debarred lists do not include the country with an entity. If you choose to search for entities by country then you will not be searching these two lists.

Search

<http://apps.export.gov/csl-search>

**If you or the export compliance officer were to leave tomorrow, how would that affect your organization and what procedures do you have to authorize exports?**

BREAK TIME





## Recordkeeping - EAR Part 762



- How long to keep records
- What records are required to be maintained
- Which records are exempt from retention
- How to reproduce records, if required



## Common Barriers



Poor...

- Development
- Support
- Execution

## Communications with Foreign Nationals and Government Officials



### **Communications with Foreign Nationals:**

- Organizations with controlled technology/software, or employing, or frequently meeting with, foreign nationals should create and maintain a technology control plan.
- Records of foreign national visits or exchanges should include:
  - Foreign party's name/nationality
  - Organization
  - Date of visit/exchange
  - Company official involved in meeting/exchange
  - Purpose, products or services discussed
  - Visit/Exchange summary

### **Communications with Government Officials:**

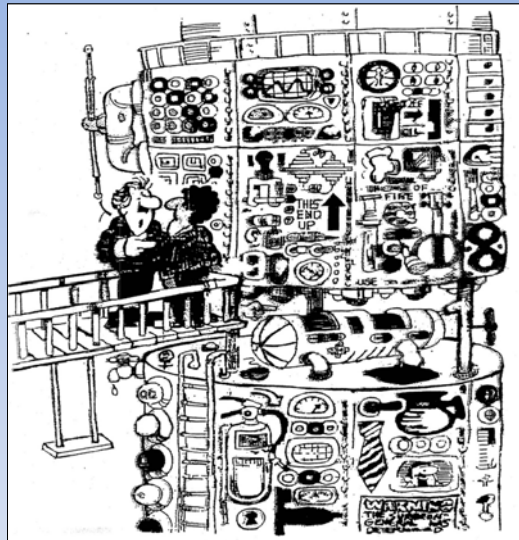
- Establish procedures, and document and maintain records of exchanges with Government officials on export control issues.

## Record Requirements Include:



Commerce	BIS: Export Administration Regulations	Part 762
	Census: Foreign Trade Regulations	15 CFR 30.66(c)
State	Directorate of Defense Trade Controls: International Traffic in Arms Regulations	22 CFR Part 122.5
Treasury	Office of Foreign Assets Control: Reporting, Procedures, & Penalties Regulations	31 CFR Part 501
Homeland Security	Customs and Border Protection: Recordkeeping	19 CFR Part 163

**If your company received a document request from a government agency, who would handle the request, and how would it be completed?**



*"Of course, you'll get a little training on it."*

## Effective Training Programs Include Multiple Stakeholders



- Internal
- Global
- Community of Practice



## Export-Compliance Training



- Frequency of Training
- Quizzes & Certificates
- Formal & Informal Training
- Building the Corporate Culture of Compliance
- Keeping Training Up-to-Date
- Training Resources: Internal & External



## External Export Training Resources

BIS Exporter Portal

BIS Online Training Room

BIS Seminars

US Census Bureau's AES Compliance Training

US Census Bureau's Export Training Room

The screenshot shows the BIS Website homepage. The header includes the Bureau of Industry and Security logo and the text "Bureau of Industry and Security U.S. Department of Commerce Where Industry and Security Intersect". A search bar is located in the top right. A navigation menu includes links for Home, About BIS, Regulations, Licensing, Enforcement, Compliance & Training, Policy Guidance, Add'l Programs, Reform, and Data. The main content area features a large circular seal of the U.S. Department of Commerce. To the right of the seal, there are several news items, including "Texas Man Pleads Guilty to Conspiring to Illegally Export Radiation Hardened Integrated Circuits to Russia and China", "Update 2017 Conference on Export Controls and Policy", and "California Man Sentenced to 12 Months in Prison for Conspiring to Violate U.S. Sanctions Against Syria". Below the seal, there are several sections: "Would you like to..." with a dropdown menu and an "ENTER" button; "Export Control Reform" with a link to "Export Control Reform - Teleconferences and Webinars"; "Consolidated Screening List" with a link to "The following list may be relevant to your export or reexport transaction"; "In The News" with a link to "BIS Newsroom"; and "Report Violations" with a link to "Reporting Possible Violations". The "Exporter Portal" link is circled in the bottom left corner. A text box in the top right corner contains the text "Exporter Counseling (202) 482-4811; (949) 660-0144". A text box at the bottom center contains the URL "http://www.bis.doc.gov".

Search

Bureau of Industry and Security  
U.S. Department of Commerce  
Where Industry and Security Intersect

Home About BIS Regulations Licensing Enforcement Compliance & Training Policy Guidance Add'l Programs Reform Data

Update 2017 Conference on Export Controls and Policy  
The Bureau of Industry and Security Presents Update 2017 Proposed Rules - October 2017, Washington, D.C.

Texas Man Pleads Guilty to Conspiring to Illegally Export Radiation Hardened Integrated Circuits to Russia and China

Update 2017 Conference on Export Controls and Policy

California Man Sentenced to 12 Months in Prison for Conspiring to Violate U.S. Sanctions Against Syria

Would you like to...  
Select from the list below:  
Speak to an Export Counselor ENTER

Export Control Reform  
Export Control Reform - Teleconferences and Webinars

Consolidated Screening List  
The following list may be relevant to your export or reexport transaction

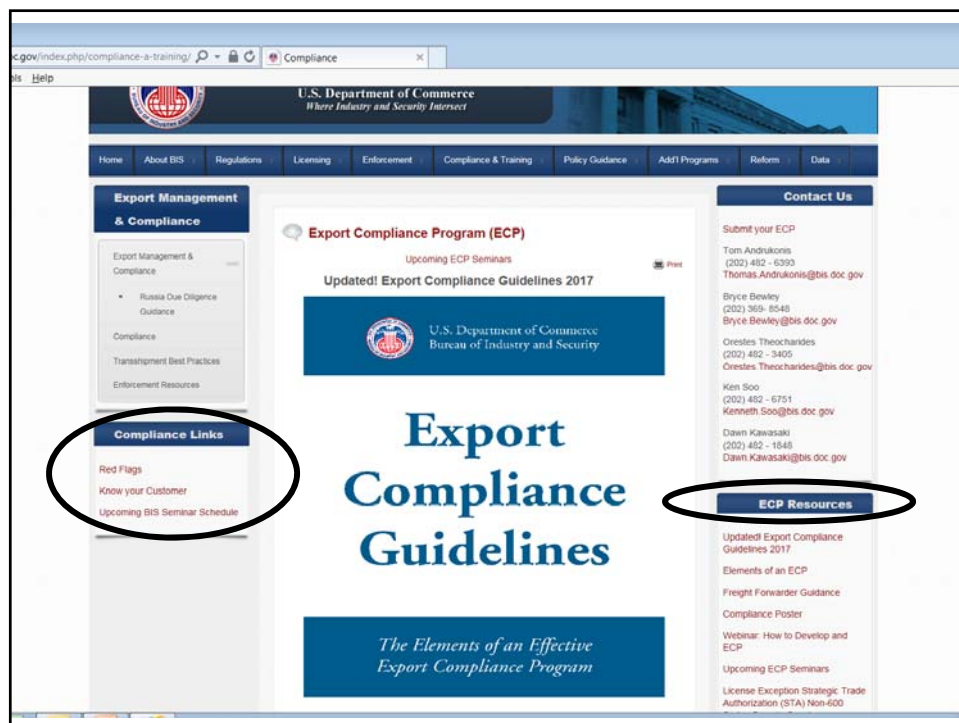
In The News  
BIS Newsroom

Report Violations  
Reporting Possible Violations

Exporter Portal  
Everything you need to know about exporting


http://www.bis.doc.gov

Exporter Counseling  
(202) 482-4811; (949) 660-0144



ix.doc.gov/index.php/compliance-a-training/ Online Training Room

Tools Help

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

Home About BIS Regulations Licensing Enforcement Compliance & Training Policy Guidance Ad&I Programs Reform Data

**Export Administration Regulations Training**

Export Administration Regulations Training  
Current Seminar Schedule  
Online Training Room  
Email Notification Form  
Seminar FAQs  
ECR FAQs  
Make a Seminar Inquiry – Western Region  
Contact a Counselor – Western Region  
Make a Seminar Inquiry – Eastern Region  
Contact a Counselor – Eastern Region  
BIS/Census AES Compliance Training  
Update 2016  
Update 2016 Videos

**Online Training Room**

Take advantage of BIS's free on-line training, which is available in a variety of electronic formats.

Export 101 Training Videos  
Update 2016 Conference on Export Controls and Policy  
Update 2015 Conference on Export Controls and Policy  
Update 2014 Conference on Export Controls and Policy  
Update 2013 Conference on Export Controls and Policy  
Essentials of Export Controls  
Complying with US Export Controls Webinar Series  
Special Topics Training Modules and Other Archived Webinars

ix.doc.gov/index.php/compliance-a-training/ Special Topics Training Modules

Tools Help

Western Region  
Contact a Counselor – Western Region  
Make a Seminar Inquiry – Eastern Region  
Contact a Counselor – Eastern Region  
BIS/Census AES Compliance Training  
Update 2016  
Update 2016 Videos

**Deemed Exports Module:  
Introduction to BIS Deemed Export Policies (35:24)  
Transcript**

**Antiboycott Compliance Module:  
Overview of the Antiboycott Provisions of the Export Administration Regulations (15:19)  
Transcript**

Note: These are full length Windows Media format videos narrated by BIS staff. Downloading may take a few minutes with certain internet connections. Please email the BIS Webmaster if you experience any difficulties.

The following archived webinar broadcasts are available for viewing free of charge. The slide presentation is also available in PDF format to download and print.

September 16, 2009  
**Elements of an Effective Export Compliance Program**  
Video | PDF

July 16, 2009  
**Special Comprehensive License Webinar**  
Video | PDF

June 22, 2009  
**EAR Compliance Webinar in Automated Export System Electronic Export Information Filings**  
Video | PDF

May 28, 2008  
**Embargoes and Other Sanctions Webinar**  
Video | PDF

April 15, 2008  
**Deemed Export Advisory Committee Report**  
Video | PDF

October 18, 2007  
**An Introduction to Commercial Export Licensing Requirements (Spanish Language Version)**  
Video | PDF

August 29, 2007  
**Intermediate Deemed Exports**  
Video | PDF

June 20, 2007  
**Revisions and Clarification of Export and Reexport Controls for the People's Republic of China (PRC); New Authorization Validated End-User; Revision of the Import Certificate and PRC End-User Statement Requirements**  
Video | PDF

May 15, 2007  
**An Introduction to Commercial Export Licensing Requirements**  
Video | PDF

doc.gov/index.php/compliance-a-training/ Essentials of Export Controls

Tools Help

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

Home About BIS Regulations Licensing Enforcement Compliance & Training Policy Guidance Adf Programs Reform Data

**Export Administration Regulations Training**

Export Administration Regulations Training  
Current Seminar Schedule  
Online Training Room  
Email Notification Form  
Seminar FAQs  
ECR FAQs  
Make a Seminar Inquiry -- Western Region  
Contact a Counselor -- Western Region  
Make a Seminar Inquiry -- Eastern Region  
Contact a Counselor -- Eastern Region  
BIS/Census AES Compliance Training  
Update 2016  
Update 2016 Videos

**Essentials of Export Controls**

This series of six modules covers the content presented at the one-day BIS Essentials of Export Controls seminar.

Module 1: Export Control Basics (22:10) Transcript

Module 2: Classifying Your Item and Determining if You Need a License (20:24) Transcript

Module 3: General Prohibitions Including Prohibited First-Class and First-Class and Antitoxins (19:01) Transcript

Module 4: Using License Exceptions (10:36) Transcript

Module 5: License Application and Supporting Documentation (10:36) Transcript

Module 6: Export Clearance and Recordkeeping (6:07) Transcript

Essentials of Export Controls Training Modules in PDF

Note: These are full length Windows Media format videos narrated by BIS staff. Downloading may take a few minutes with certain internet connections. Please email the BIS Webmaster if you experience any difficulties.

[Return to BIS Training Room Main Page](#)

doc.gov/index.php/decision-tree-tools/ Decision Tree Tools

Tools Help

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

Home About BIS Regulations Licensing Enforcement Compliance & Training Policy Guidance Adf Programs Reform Data

**Decision Tree Tools**

Decision Tree Tools  
CCL Order of Review  
Specialty Designed  
SIA  
De minimis & Direct Product Rules  
Decision Tool  
Technical FAQs

**Decision Tree Tools**

**CCL Order of Review**  
The CCL Order of Review Decision Tool will assist users in understanding the steps to follow in reviewing the Commerce Control List when determining the classification of their item. (See Supplement No. 4 to part 774 of the EAR).

**Specialty Designed**  
The "Specialty Designed" Decision Tool will assist users in determining if an item is "specially designed" under the Export Administration Regulations. (See § 772.1 of the EAR).

**STA**  
The Strategic Trade Authorization (STA) tool will help you determine if your item is eligible for License Exception STA (§ 740.20 of the EAR) and if you are prepared to meet the compliance requirements of License Exception STA.  
Note: The STA tool is now updated for the 600 series and 9x515 ECCNs.

**De minimis & Direct Product Rules**  
This tool will help you determine if your non-U.S.-made item, which is located outside the U.S., is subject to the EAR.

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FOIA | Disclaimer | Privacy Policy | SORN | Information Quality | Open Government Plan | Strategic Plan | Annual Performance Plan  
Department of Commerce | BIS Jobs | No FEAR ACT | USA.gov | Export.gov | Contact Us



## A FRESH PERSPECTIVE

*A few weeks ago, I saw the flash of a traffic camera while I was driving. I figured my picture had been taken for speeding.*

*To be sure, I went around the block and passed the same spot, driving even more slowly. Again the camera flashed.*

*Surprised, I drove past again even slower. Again the traffic camera flashed.*

*I tried a fourth and a fifth time with the same results as I rolled past at a snails pace.*







*Two weeks later, I got five tickets in the mail for driving without a seat belt.*

## Audits & Best Practices

Plan

Perform

Present

Follow-Up

## The Auditing Process

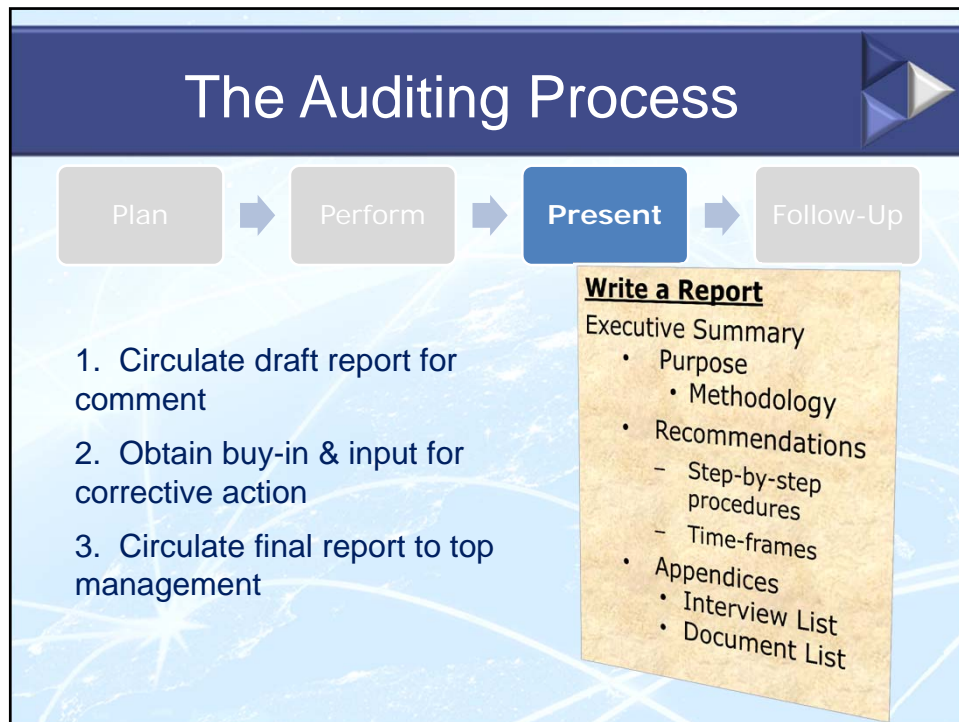


- Identify business units/processes/transactions to be audited;
- Prepare an audit template, interview questions, & a transactional review checklist;
- Request written procedures from targeted business units;
- Consider using internal/external audit teams;
- Audit/Assess at least annually

## The Auditing Process



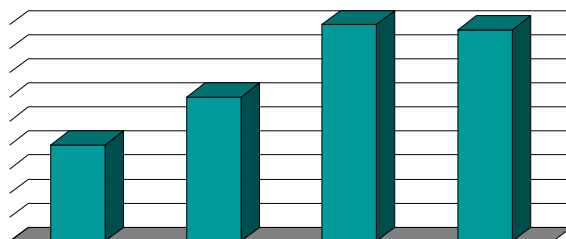
1. Examine transactions & procedures
2. Interview personnel at all levels
3. Identify gaps & inconsistencies
4. Develop a tracking log for document requests



## Cycle of Compliance



## Compliance Metrics



Track & Report  
Key Performance Indicators  
for  
Activities & Results



## Senior Management Support

- Essential to an effective notification program
- Require all employees to report suspected export violations
- Support training, knowledge sharing, and sufficient resources dedicated to compliance



## Internal and External Reporting



## Corrective Actions

1. Find the root cause
2. Develop practices to prevent future noncompliance
3. Contact the appropriate government agencies:
  - BIS (US Commerce Department)
  - DDTC (US State Department)
  - OFAC (US Treasury Department)
  - ITMD (US Commerce Department/Census)
4. Roll "Lessons Learned" into training

## Voluntary Self-Disclosures (VSDs)

### Section 764.5



**Submitted by:** A company when there is knowledge of a possible export violation of the EAR, license, license condition, or order.

**Fully disclose:** Write a complete description including Who, What, When, Where, How, and Why

**Mail to:**

U.S. Department of Commerce  
Bureau of Industry and Security  
Director, Office of Export Enforcement  
1401 Constitution Ave., N.W.  
Room H4514  
Washington, D.C. 20230

## VSD Statistics for FY 2016



OEE Actions (Total VSDs 475)	#	%
Warning Letter	383	81%
Closed with no action or violation	63	13%
Closed for Other Reasons	23	5%
Closed by Issuance of Administrative Sanctions	6	1%

**Point of Contact for VSD Questions**  
Office of Export Enforcement  
(202) 482-5036



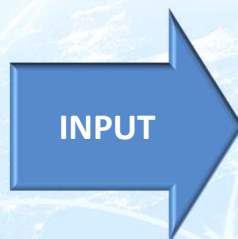
## Benefits of a Written ECP

- Mitigate Risks of Export Noncompliance;
- Educate on Roles & Responsibilities;
- Standard Operating Procedures;
- Enhance Corporate Culture of Compliance;
- Great Weight Mitigating Factor for Administrative Penalties



## Developing & Maintaining the ECP

- STAKEHOLDERS
- LESSONS LEARNED
- COMMUNITY OF PRACTICE



## Include Detailed Procedures

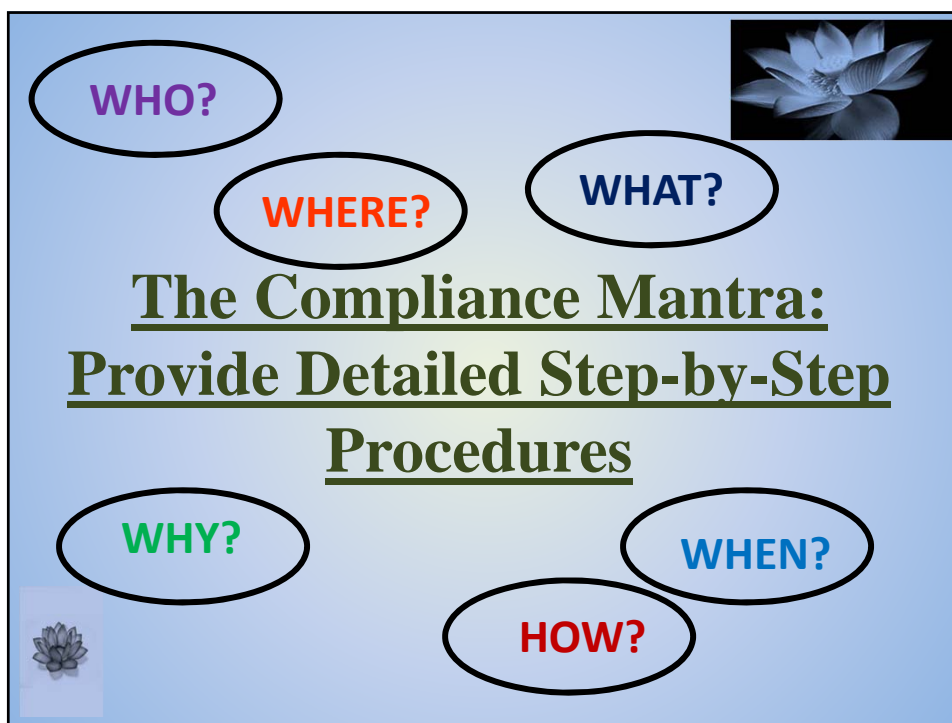
Policy Directive for Recordkeeping:

*Company ABC prepares the necessary documents required by 762.*


### Detailed steps with assigned roles

Operational Example for Recordkeeping:

*Megan from HR will include the **following documents** with each shipment filed by date of export. All export files will be kept in the filing cabinet located in **Room 615**, marked Export Shipments. **Bob** from sales will provide **Megan** with the invoice and **Larry** from transportation will provide her with the AWB or BoL.*



## Revising your ECP



- Update Content for:
  - Regulatory Changes
  - Internal Changes
  - External Changes
  - Product Changes
- Enhance Implementation



## Other Points to Consider



- Are All ECP Elements Addressed?
- Are Contact Persons, with Contact Info., Included?
- Is the ECP Available Online & in Hardcopy?
- How often will the ECP be Distributed?
- Whom to Contact Regarding Maintaining & Distributing the ECP?

## Receive Feedback on Manual



- EMCD Review of ECP
- 30 days to receive feedback

Send to:

[Thomas.Andrukonis@bis.doc.gov](mailto:Thomas.Andrukonis@bis.doc.gov)