

Practice of Export Control in Japanese Industry

- Example of an IT company

January, 2011
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Security Export Control Headquarters
Fujitsu Limited

Contents

1. About Fujitsu

2. Internal Export Control

3. Export Control Activity

4. Export Control / overseas subsidiaries

5. Employee Awareness

6. Internal Audit

7. For Efficient Export Control

1. About Fujitsu

Fujitsu at a Glance

As of 31 March, 2010

| | |
|-----------------------------|--|
| ■ Headquarters: | Tokyo, Japan |
| ■ President: | Masami Yamamoto |
| ■ Established: | June 1935 |
| ■ Net Sales: | 4,679.5 billion yen (US\$50,317 million) |
| ■ Net Income: | 93.0 billion yen (US\$1.1 billion) |
| ■ R&D Expenditure: | 224.9 billion yen (US\$2.4 billion) |
| ■ Employees: | 172,000 worldwide |
| ■ Principal Business Areas: | Technology Solutions, Ubiquitous Product Solutions, Device Solutions |
| ■ Stock Exchange Listings: | Tokyo (Code: 6702), Osaka, Nagoya, London |

Note : All yen figures have been converted to U.S. dollars for convenience only at a uniform rate of US\$1 = 93 yen, the approximate closing rate on March 31, 2010.

Principal Products & Services



Technology Solutions

System Platforms

- Servers (mainframe, UNIX, mission-critical IA, PC)
- Storage Systems
- Software (operating system, middleware)
- Optical Transmission Systems
- Mobile Phone Base Stations



Services

- Consulting
- Systems Integration
- Outsourcing Services
- Network Services
- System Support Services
- System Installation/Network Construction
- Dedicated Terminal Systems & Equipment (ATMs, PoS systems)



Ubiquitous Product Solutions

- Personal Computers
- Mobile Phones*
- Storage Equipment (hard disk drives, magneto-optical disk drives)
- Optical Transceiver Modules
- Other Products



Device Solutions

- Logic LSI Devices (system LSI, ASICs, microcontrollers, FRAM-embedded logic)
- System Memory Devices (Flash memory, FCRAM)
- Semiconductor Packages
- SAW Devices
- Other Electronic Components



Note: *Japan market only

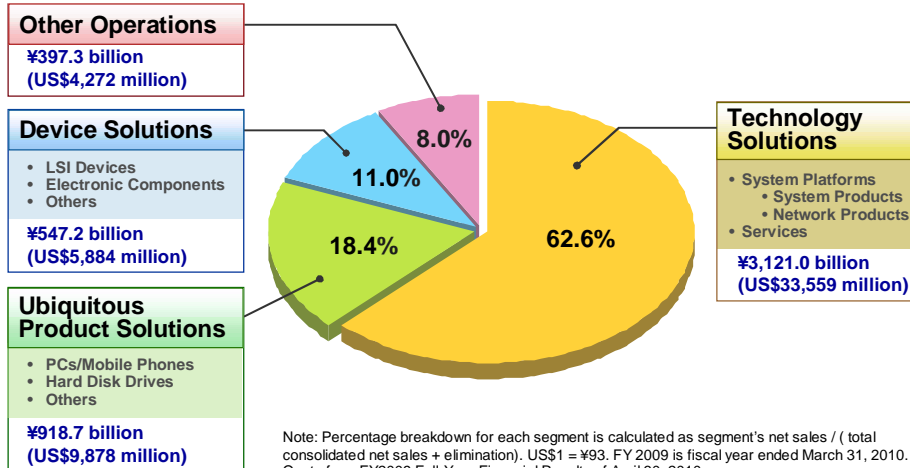
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Business Composition



FY 2009 Revenue by Business Segment

Consolidated Net Sales by Business Segment, Including Intersegment Sales as ¥304.8 billion

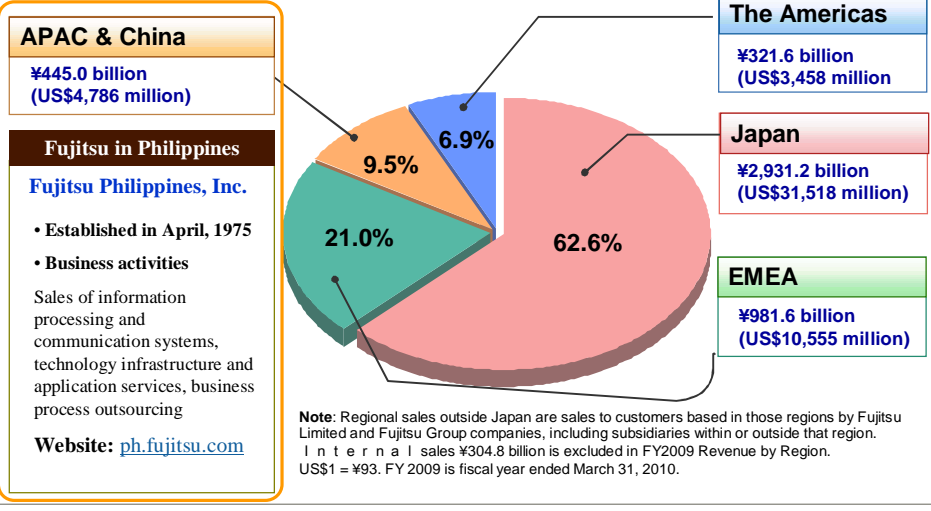


Note: Percentage breakdown for each segment is calculated as segment's net sales / (total consolidated net sales + elimination). US\$1 = ¥93. FY 2009 is fiscal year ended March 31, 2010. Quote from FY2009 Full-Year Financial Results of April 30, 2010

Business Composition



FY 2009 Revenue by Region Consolidated Net Sales to Unaffiliated Customers by Customer's Geographic Location



2. Internal Export Control

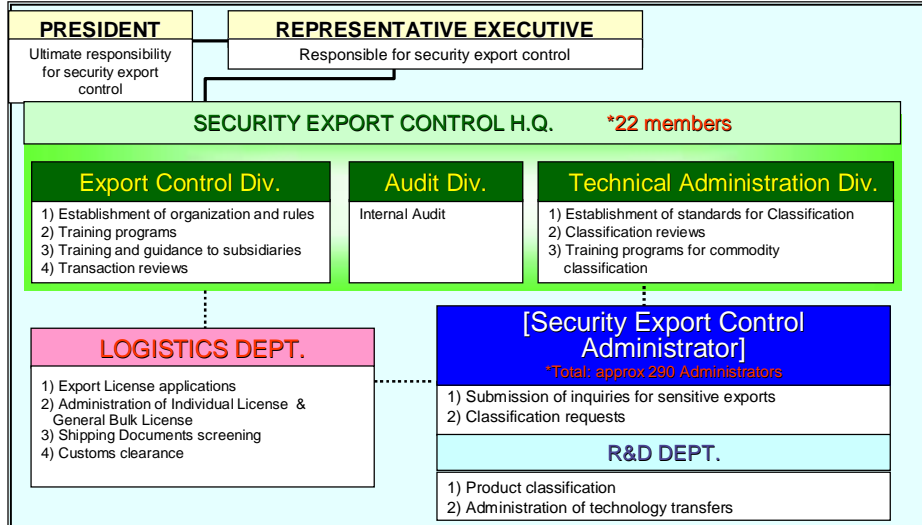
Export Control / rules vs organization



Export Control / Rules - organization

Compliance Program(CP)

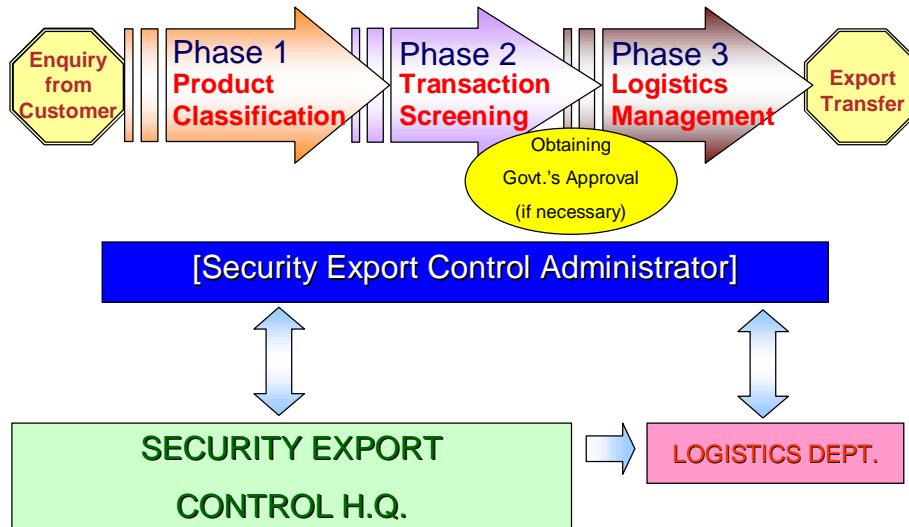
) CP : Bulk Export License is provided to a company whose CP has been submitted to and approved by the government.



3. Export Control Activities

Export Control Activities

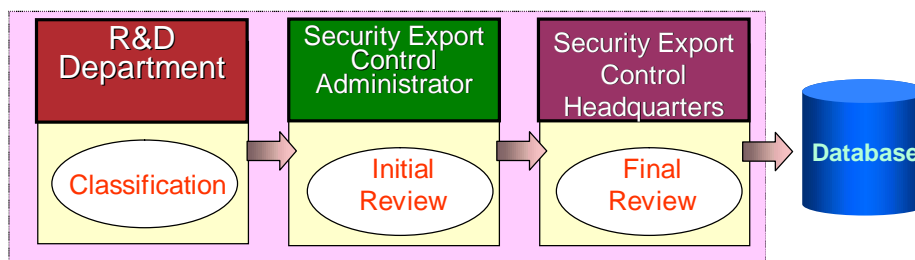
3.1 Overview



Export Control Activities

3.2 Product Classification

“**PRODUCT CLASSIFICATION**” is made through work flow system for all items to be exported, in order to determine whether an item is subject to controls of the Foreign Exchange and Foreign Trade Law.



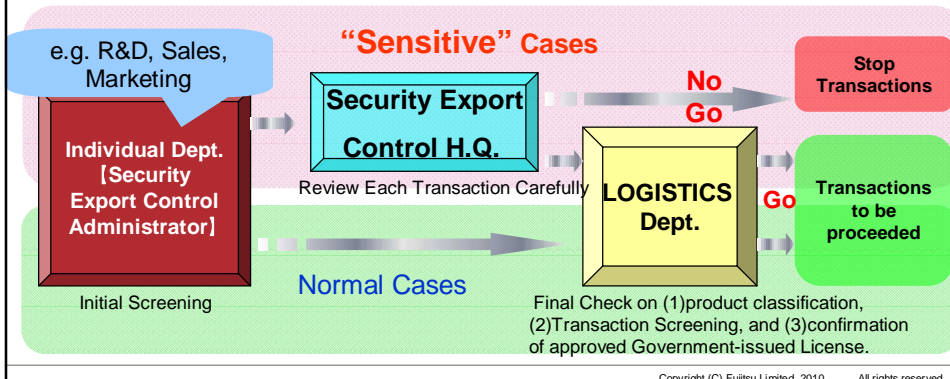
The classification results are registered in a “**CLASSIFICATION DATA BASE**”, so that any employee may refer to them freely.

Export Control Activities

3.3 Transaction Screening (1)

“HONOR SYSTEM”

Transaction screening is done initially by individual departments, while Security Export Control H.Q. has developed guidelines and conduct second screening in certain pre-determined “sensitive” cases.



Export Control Activities

3.3 Transaction Screening (2)

“Sensitive” Cases

Transactions with an Entity Listed on the “**Denied Customer List (DCL)**”

The Ultimate Destination is **Afghanistan, Democratic Republic of the Congo, Cote d'Ivoire, Cuba, Eritrea, Iran, Iraq, Lebanon, Libya, Liberia, North Korea, Sierra Leone, Somali, Sudan or Syria.**

Transaction is with **military or military related end-user(s)**, or is related to **military application(s)**.

Transaction is Related to **Weapons of Mass Destruction.**

Transaction is Suspected as **Unauthorized Diversion.**

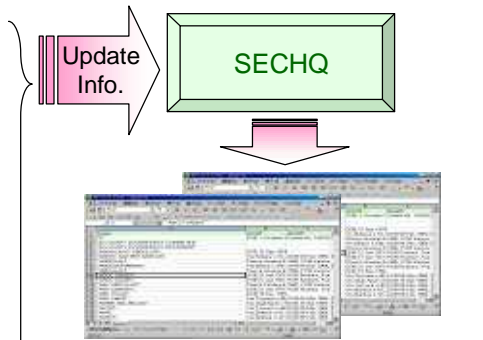


Export Control Activities

3.3 Transaction Screening (3)

“Denied Customer List (DCL)”

- METI (Japanese Government)**
 - WMD End User List
- Department of Commerce (DOC)**
 - Entity List
 - Denied Persons List
- Department of the Treasury (DOT)**
 - Specially Designated Nationals
 - Specially Designated Terrorists
 - Specially Designated Narcotic Traffickers
- Department of State (DOS)**
 - Statutorily Debarred Parties
 - Designated Terrorist Organization
 - Missile Proliferators
 - Chemical & Biological Weapons Concerns
- EU**
 - EU/ UN Sanctions List
- OTHERS**
 - U.K. and Germany Concerned Entity List



Provide Latest Version through Our Web Site

Export Control Activities

3.4 Transaction Screening on Catch-All Controls

[Review Sheet]

The image shows a 'CHECK SHEET FOR CATCH-ALL CONTROLS' form. The form is titled 'CHECK SHEET FOR CATCH-ALL CONTROLS' and 'Export Control Activities'. It contains several sections for review, including 'EXPORTER INFORMATION', 'END USER INFORMATION', 'COUNTRY INFORMATION', and 'PRODUCT INFORMATION'. A large red 'SAMPLE' watermark is overlaid on the form.

For any export to any country except for favored 26 countries, “Review Sheet (RS)” shall be submitted to SECHQ for approval

No shipment is allowed without approved “RS”

However, this “RS” procedure is not required in such cases as... **Exceptions**

- Export to overseas subsidiaries which have properly implemented ICP (Internal Control Program) approved by SECHQ.
- Export of parts to factories of overseas subsidiaries under a buy back agreement for completed products.
- Temporary Export under a condition of return shipment to Japan.

Export Control Activities

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3.5 Controls on Intangible Technology

Japanese Regulations

ALL Technology Transfers, both tangible (such as documents, recording media) and intangible (such as technical assistance, telephone, fax, e-mail), are subject to controls under Japanese Regulations.

- ⊕ Difficult to identify occurrence of Technology Transfer
- ⊕ Companies define “Control Units” for technology transfers
Project based control
- ⊕ Classification of Technology to be transferred, and license application, as necessary, shall be undertaken on “project-basis”.

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Export Control Activities

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3.5 Controls on Intangible Technology

Record Keeping of Technology Transfers

- ⊕ Submission of “*post factum*” report for each Technology transfer
- ⊕ Day-to-day records of telephone, fax, e-mail communications are NOT kept

Corporate “Self-Control”

- ⊕ Excessively strict Government controls would only hinder corporate activities.
- ⊕ Emphasis on “self-control”
- ⊕ Government support for corporate “self-control”.

“Self-Control” System Required

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Export Control Activities

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3.5 Controls on Intangible Technology

Corporate “Self-Control”

◆ **Employees’ Awareness**

Code of Conduct, Compliance Program
Education (e-learning)



◆ **Watch by Local Experts**

Compliance officers designated in each business unit

◆ **Audit by Experts**

SECHQ’s Experts execute periodic audits

◆ **Support by CISTEC with administrative guidelines**

(e.g. a guideline for Technology Transfer using Network Servers)

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4. Export Control / overseas subsidiaries

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Export Control / overseas subsidiaries

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Importance of control over subsidiaries abroad

After introduction of Catch-All Control in 2002, emphasis placed on confirmation of *ultimate end user & end use*



Overseas subsidiaries have *more information* on end user & end use than their parent company located in Japan.



It is important that overseas subsidiaries *establish ICP*, and perform appropriate controls.



METI(*) issued a message to the industry to strengthen control over subsidiaries abroad. (April 2005 & March 2006)

* METI: Ministry of Economy, Trade and Industry

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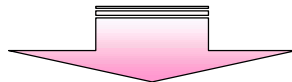
Export Control / overseas subsidiaries

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**In the public eyes,
FUJITSU Group is regarded as One Company**

Subsidiaries' non-compliance is considered by the Public as inappropriate conduct by the parent company.

If subsidiaries know their End user or End use is related to WMD, FUJITSU Japan is considered to know.



RISK MANAGEMENT by SUBSIDIARIES

- End User Check
- End Use Check
- Unauthorized Diversion / Illegal Transfer Check

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Export Control / overseas subsidiaries

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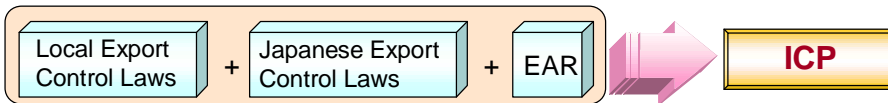
Be compliant with their country's regulation

Watch their customers & report to FUJITSU when required by FUJITSU (For details, please refer to the next slide)

Be aware of the U.S. EAR Regulation and take necessary preventive countermeasures

Observe your own ICP (Internal Compliance Program).

If your subsidiaries has not developed ICP, please establish ICP immediately based upon FUJITSU's recommended **Model ICP**.



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Export Control / overseas subsidiaries

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Under what circumstance is any subsidiary required to report to FUJITSU ??

A report to FUJITSU is required in the following cases, and in particular, prior consent from FUJITSU is also required for (a)

– (e) :

| | Prior report | Report upon notice | Prior consent |
|---|--------------|--------------------|---------------|
| (a) Transaction with Customers on Black List* | ✓ | | ✓ |
| (b) (Re) export to the Concerned Countries** | ✓ | | ✓ |
| (c) Military End-Use Related Transaction | ✓ | | ✓ |
| (d) WMD*** End-Use Related Transaction | ✓ | | ✓ |
| (e) Re-sale, re-export by subsidiary of items imported from Japan, with written pledge prohibiting those actions | ✓ | | ✓ |
| (f) Unauthorized Diversion | ✓ | | |
| (g) Violation of Export Control Laws (Local, U.S and Japan) | | ✓ | |

*Black List: DCL (Denied Customer List) including both Japanese Foreign User List and U.S.'s DPL (Denied Person's List) etc.

**Concerned Countries: Iran, Iraq, Libya, North Korea, Afghanistan, Cuba, Sudan, Syria

*** WMD: Weapons of Mass Destruction

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5. Employee Awareness

Training

Training per hierarchy level



Training per business unit (In-class training)

- ◆ Training for export control administrators
- ◆ Training of product classification
(Provided per training levels and product categories)
- ◆ Training for each department (upon request)

Company-wide e-learning

- ◆ Conducted Company-wide e-learning education (2005)
- ◆ e-learning has been provided since then

6. Internal Audit

Internal Audit

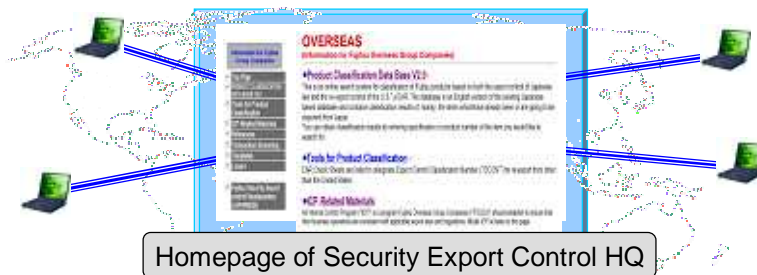
- **Audit Department:** Audit Division,
Security Export Control Headquarters
- **Audit frequency:** Once per year
- **Audit period:** 2,3 weeks up to 2 months
- **Audited department**
 - <Regularly audited departments>
 - Security Export Control Headquarters
 - Logistics Department
 - <Occasionally audited departments>
 - Sales department, R&D department which is dealing with foreign customers/partners
- **Transparency of Audit:**

Main points of audit is disclosed, with intention for educational effect.

7. For Efficient Export Control

For Efficient Export Control

Internal web site



Homepage of Security Export Control HQ

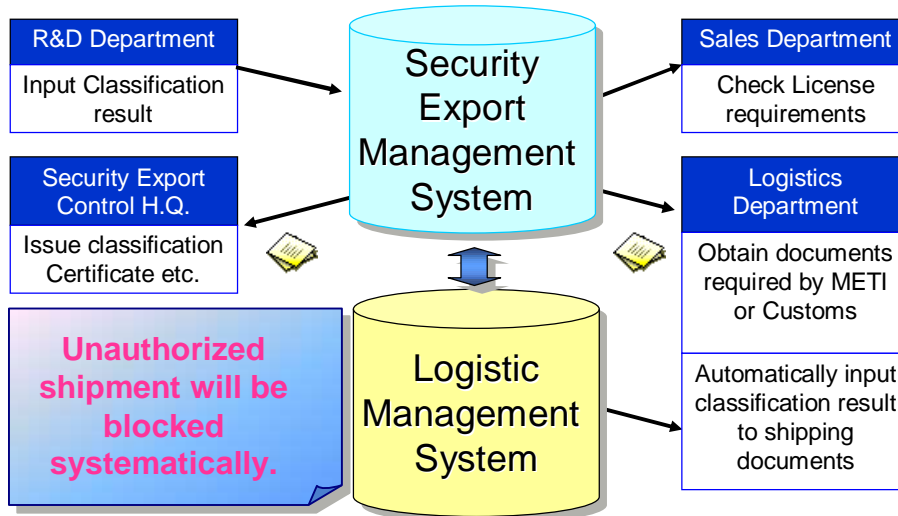


- Product Classification DB
- Tools/Documents for Product Classification
- Internal rule for security export control
- Lists to check (e.g. Denied Customer List etc.)
- References and Training Materials

For Efficient Export Control

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IT System



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For Efficient Export Control

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IT System

Our Challenges:

IT system being developed for efficiency, paperless operation and accuracy

- No further processing of delivery unless Product Classification Data is registered (completed)
- Intelligent check between our customer name and DCL (soon)
- Intelligent check of License Exception based on EAR
- Automatic Record Keeping (Improving)

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Profits vs Compliance

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- Potential **risks for non-compliance** with export control requirements, such as,,,,,

- **Penalty (Monetary or Imprisonment)**,
- **Release to the public of company name** by government or by the media and
- **Reputation risk** for dealing with concerned parties,



All of the above would **deteriorate corporate image**.

- In order to minimize / avoid those risks, additional cost may be required for employing export control organization and establishing control system in short term. However, **in long term, the cost will pay off**.

- Therefore, even if sales/profit may be reduced for the time being, it is **worth being compliant** with export control regulations, **which will eventually make company healthier, more profitable and long-lasting**.

Future profit



Compliance

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shaping tomorrow with you

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