

# Effective Compliance & Enforcement



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U.S. DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY

# EXPORT COMPLIANCE & ENFORCEMENT: MISSION AND 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 designated terrorist organizations and state sponsors of terrorism)
- Sanctions/embargoes (e.g., Iran, N. Korea)
- Unauthorized military end-use
- Foreign policy/human rights



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# COMPLIANCE AND ENFORCEMENT

## COMPLIANCE:

- Create culture of informed compliance
- Evaluate transactions

## ENFORCEMENT:

- Detect and investigate
- Interdict shipments
- Penalize violators

*“Those who comply with the rules benefit from strong enforcement because lax enforcement permits violators to flourish.”*

Eric L. Hirschhorn,  
Under Secretary for  
Industry and Security



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# Compliance: Complementary Mission of Industry and Government

- 1) Ensure educated export and reexport (foreign business) communities
- 2) Alert exporters of suspicious inquiries
- 3) Evaluate *bona fides* of transaction parties
- 4) Conduct end-use monitoring abroad
- 5) Coordinate with partner governments/ customers to enforce/comply with complementary export controls
- 6) Identify export control violations



# Best Practices for Evaluating Bona Fides

- Screen customers (e.g., Consolidated Screening List at [www.export.gov/ecr](http://www.export.gov/ecr))
- Request an end-user certificate
- Visit the public website
- Review other social media sources (e.g., Twitter, Facebook, LinkedIn)
- 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*?



# Potential Red Flags

- Consignee name or address is similar to parties found on U.N., E.U., or U.S. sanctions/screening lists.
- Product's capabilities do not appear to fit the consignee's line of business.
- Item incompatible with the technical level of the country.
- Freight forwarding, logistics, secretarial, or trading company listed as the final destination.
- Shipping route abnormal for the product and destination.

***Practice Due Diligence, Do Not Self-Blind!***



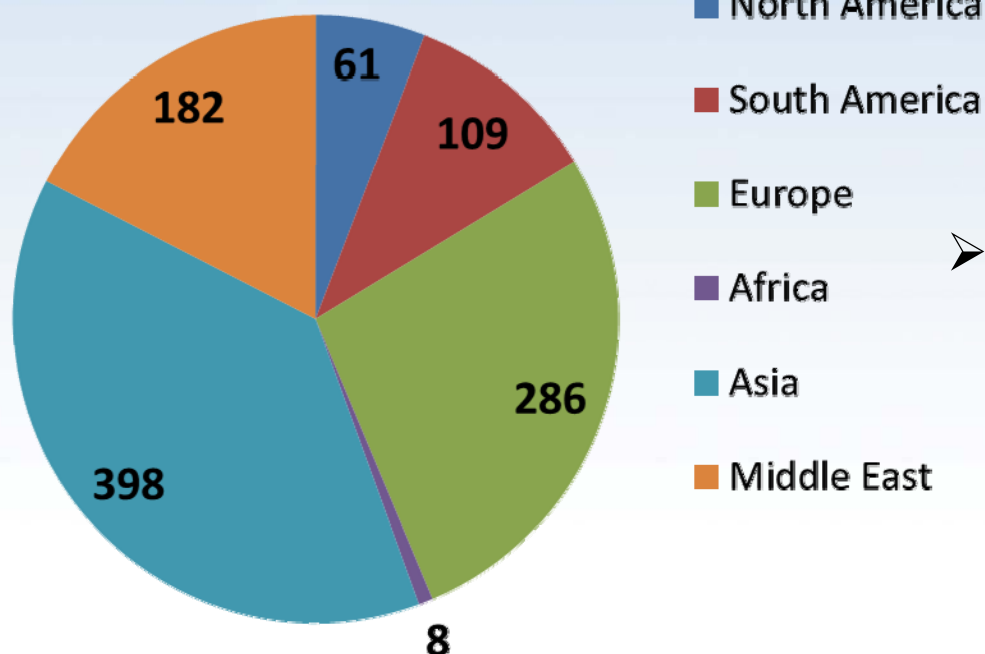
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# End-Use Check Program

- Objective: Facilitate secure exports and reliable sources of supply

## FY2014 EUC Total By Region (1044)



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





# Export Control Officer Locations with Regional Responsibilities





# End-Use Checks

- 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.-origin 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 exports subject to the EAR.
  - Monitor license condition compliance.
  - Monitor compliance of no license required (NLR) transactions.
  - Confirm the end use.
  - Determine if the company is a reliable end user.
  - Discover more information about the parties.



*This item is a Triggered Spark Gap ,  
controlled for Nuclear Nonproliferation  
under ECCN 3A228.*



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# Why is End-Use Verification Important?

- Important for the protection of controlled goods and technology.
- Valuable tool in detecting or preventing illegal technology transfer.
- Licensing and enforcement officials rely on PLCs and PSVs to develop information otherwise unavailable.
- PLCs and PSVs serve the purposes of both finding unscrupulous businesses as well as bolstering the credentials of dependable foreign companies.



# What we learn (Examples)

Different company  
at address

Unfamiliar with  
license conditions

Falsified/Fraudulent  
documents

How compliance is  
managed in real  
world

Whether  
companies are  
familiar with local  
laws

Why companies  
transship (both  
legal and illegal)



# CONSEQUENCES OF UNFAVORABLE 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.



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# Internal Compliance Program

## 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

- Trade benefits
- Safeguard your company's reputation
- Enforcement mitigation



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# INDUSTRY REPORTING MECHANISMS

➤ Confidential Tip Line:  
(1-800-424-2980)

➤ Confidential Tip Form (online)

## Confidential Enforcement Lead/Tip Form

This information relates to a possible [please check one]:\*

Export Control Violation  Antiboycott Violation  FQA Violation  CWC Regulation Violation

Your Name :\*

\_\_\_\_\_

Your Telephone Number: \*

\_\_\_\_\_

Your E-mail Address:

\_\_\_\_\_

The Substance of your lead or tip : \*

\_\_\_\_\_

Submit

Reset

[Privacy Policy Statement](#)

➤ Voluntary Self-Disclosures:

- Carefully reviewed
- Indicate compliance
- Most resolved without penalty

[www.bis.doc.gov/index.php/enforcement/oe/voluntary-self-disclosure](http://www.bis.doc.gov/index.php/enforcement/oe/voluntary-self-disclosure)



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# EXPORT ENFORCEMENT INVESTIGATIONS

- 1) Pursue compliance and end-use monitoring leads
- 2) Investigate illicit export activity
- 3) Work with interagency partners to interdict illicit shipments
- 4) Pursue criminal and administrative penalties for export violations
- 5) Work with the exporting community by promoting voluntary disclosure of violations and conducting educational outreach

robust enforcement = even playing field for business



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# CRIMINAL AND ADMINISTRATIVE PENALTIES

- **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





# Export Controls: Joint Responsibility and Joint Benefits

- Protecting national security is in the interests of the business community in addition to government
- Culture of compliance:
  - Protects company reputation
  - Creates a level playing field
  - Creates trade benefits
  - Mitigates enforcement activities
- Government needs industry support!



# THANK YOU!

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