Commitment, Responsibility, Due Diligence

Recent Developments in Pakistan's Strategic Export Controls – ICP Guidelines

23rd AEC Seminar, Tokyo
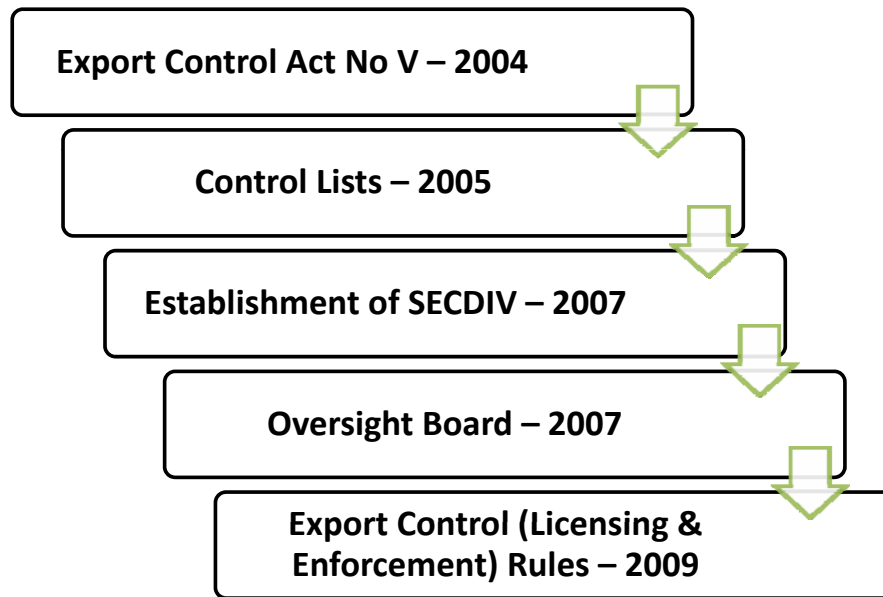
23 February 2016

Sequence

- **An Overview of Pakistan's Strategic Export Control System**

  o Salient Features of Strategic Export Control Act

  o Strategic Export Control Division (SECDIV)

  o Oversight Board (OSB)

  o Export Control (Licensing and Enforcement) Rules - 2009

- **Recent Developments**

  o Outreach and Awareness Raising

  o Capacity Building and CIT

  o WeBOC (Web Based One Customs)

  o SLIMS (SECDIV Licensing and Information Management System)

  o Control Lists Review

- **Internal Compliance Programme (ICP) Guidelines**

Pakistan's Strategic Export Control System

Export Control Act No V – 2004

Control Lists – 2005

Establishment of SECDIV – 2007

Oversight Board – 2007

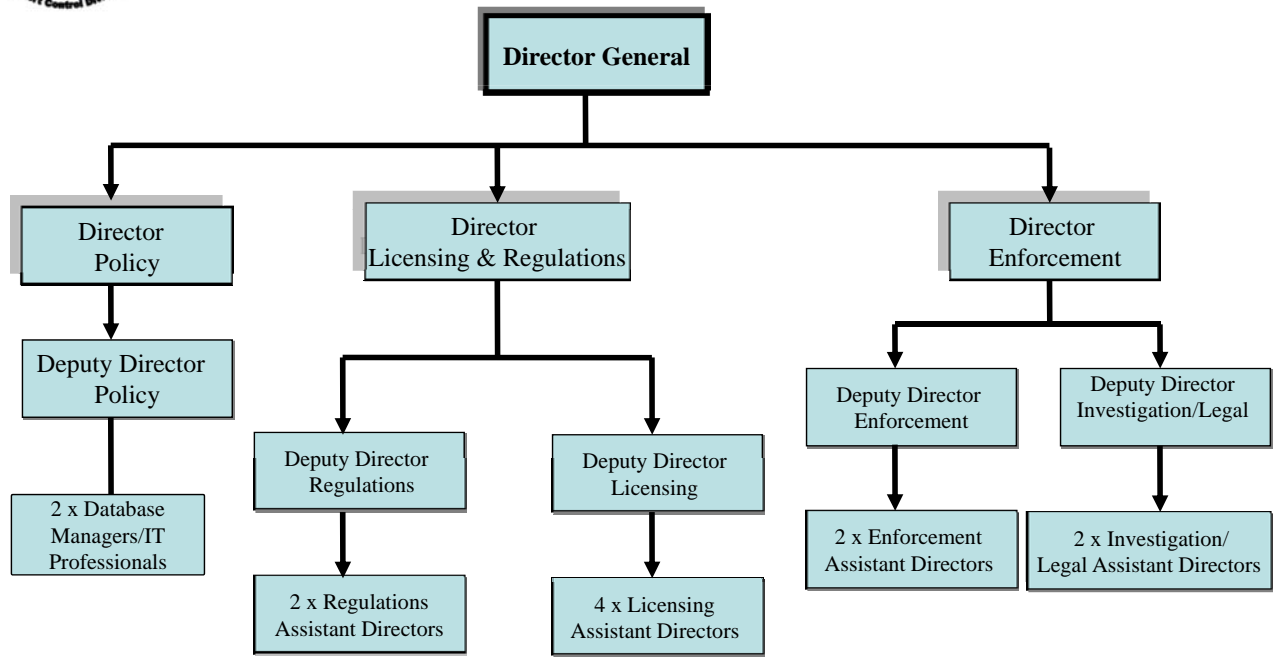Export Control (Licensing & Enforcement) Rules – 2009

Salient Features of Export Control Act 2004

- The Act enables the Government to control export, re-export, transshipment, transit of goods, technologies, material and equipment that may contribute to the designing, development, production, stockpiling, maintenance or use of nuclear and biological weapons and their delivery systems

- Wide jurisdiction (also includes Pakistanis visiting or working abroad)
- It also **prohibits diversion** of controlled goods and technologies
- Envisages an authority to administer rules and regulations framed under this legislation. Also provides for the establishment of an Oversight Board to monitor the implementation

- Comprehensive controls lists and **catch-all provision**

- Licensing and record keeping provisions

- The Act also **covers intangible technology transfer** by electronic means like email, fax, telephone etc. or through technical assistance in the form of instruction, skill, training, working knowledge, consulting services, etc

- Penal provisions up to 14 years imprisonment and Rs. 5 million fine plus confiscation of assets/property
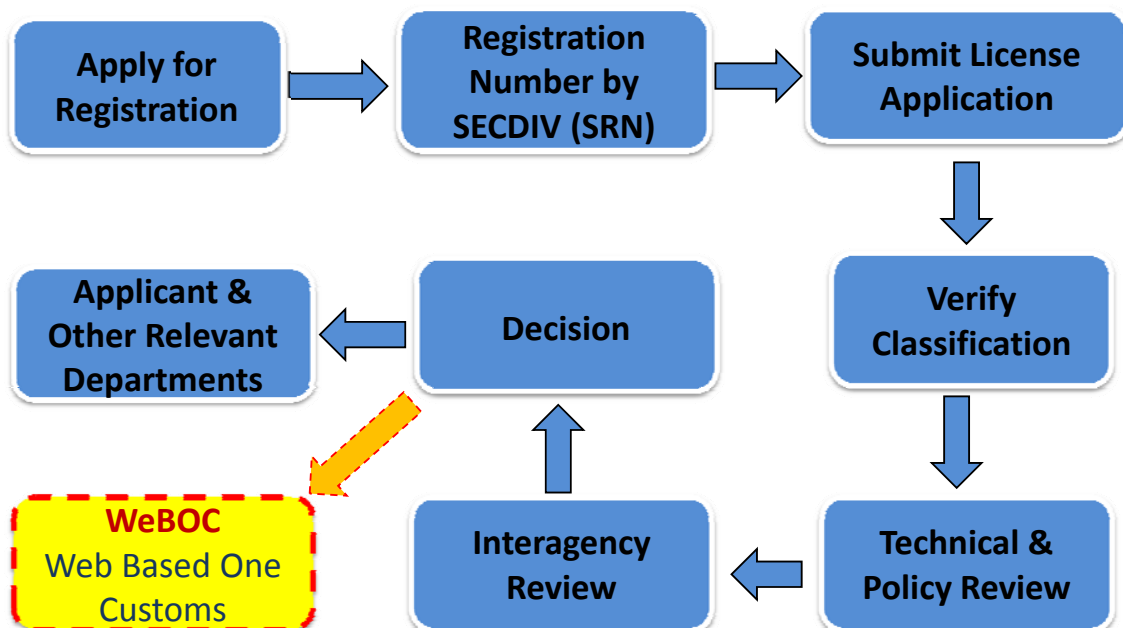
SECDIV Organogram

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                        ┌──────────────────┐
                        │ Director General │
                        └──────────────────┘
        ┌────────────────────────┼──────────────────────────────┐
┌───────────────┐      ┌─────────────────────┐          ┌──────────────────┐
│   Director     │      │      Director        │          │    Director       │
│    Policy      │      │ Licensing & Regulations│        │   Enforcement     │
└───────────────┘      └─────────────────────┘          └──────────────────┘
        │                   │              │                  │            │
┌───────────────┐   ┌──────────────┐ ┌──────────────┐ ┌──────────────┐ ┌──────────────┐
│ Deputy Director│   │Deputy Director│ │Deputy Director│ │Deputy Director│ │Deputy Director│
│    Policy      │   │  Regulations │ │  Licensing   │ │ Enforcement  │ │Investigation/Legal│
└───────────────┘   └──────────────┘ └──────────────┘ └──────────────┘ └──────────────┘
        │                   │              │                  │            │
┌───────────────┐   ┌──────────────┐ ┌──────────────┐ ┌──────────────┐ ┌──────────────┐
│ 2 x Database   │   │ 2 x Regulations│ │ 4 x Licensing│ │2 x Enforcement│ │2 x Investigation/│
│ Managers/IT    │   │ Assistant     │ │ Assistant    │ │Assistant      │ │Legal Assistant   │
│ Professionals  │   │ Directors     │ │ Directors    │ │Directors      │ │Directors         │
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SECDIV Licensing Process

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┌──────────────┐     ┌──────────────┐     ┌──────────────┐
│ Apply for    │ ──> │ Registration │ ──> │ Submit License│
│ Registration │     │ Number by    │     │ Application   │
│              │     │ SECDIV (SRN) │     │              │
└──────────────┘     └──────────────┘     └──────────────┘
                                                  │
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┌──────────────┐     ┌──────────────┐     ┌──────────────┐
│ Applicant &  │ <── │   Decision   │     │    Verify     │
│ Other Relevant│    │              │     │ Classification│
│ Departments  │     └──────────────┘     └──────────────┘
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                         │    │                  v
┌──────────────┐         v    │           ┌──────────────┐
│ WeBOC        │    ┌──────────────┐ <──  │ Technical &  │
│ Web Based One │   │ Interagency  │      │ Policy Review│
│ Customs       │   │ Review       │      └──────────────┘
└──────────────┘   └──────────────┘
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Recent Developments - SECDIV Activities

– **Outreach/Awareness Raising**

- **Outreach visits to all major cities - to interact with the business community, academia , and research institutions**

- **A talk on "Promoting Responsible Trade in Contemporary Security Environment" at the Industry Summit during IDEAS-2014**

- **Workshops on "Benefits of Internal Compliance and How to Setup Self Regulatory System" – Joint SECDIV-HEC workshops for researchers/research institutions**

- **Seminar for Government officials**

Recent Developments - SECDIV Activities

- **Training**

  o **Basic Orientation Course - module developed – three cycles conducted**

  o **Capacity building of SECDIV officials**

- **Strengthening Export Control Enforcement**

  o **Commodity Identification Training (CIT) - 197 officials trained**

  o **Introductory lecture on CIT during International Course on "Postal Aviation and Mail Security for ECO Countries" at ECO Postal Staff College**

  o **Institutionalization of CIT for Customs**

  o **Code of Conduct for Life Scientists**

  o **Pakistan Nuclear Regulatory Authority's Nuclear Security Action Plan (NSAP)**

  o **Access to WeBOC - Information sharing in real time**

  o **Strengthening inter-agency coordination**

Recent Developments - SECDIV Activities

- **Strengthening inter-agency coordination:-**

  o Services are generally administered by separate agencies and each one has own priorities and interests

  o Inter-agency coordination needed to address systemic loop holes

  o Shared responsibility should not create gaps

- **Outreach and awareness raising visits have helped in addressing overlapping**

- **SECDIV regularly interacts with other regulatory authorities such as NA CWC and PNRA etc.**

- **Online interface through WeBOC will further enhance coordination with Customs**

Outreach / CIT

Outreach – Lahore Chamber of Commerce and Industry

IDEAS 2014

CIT – FBR Training Academy Lahore

CIT – Sost Dry Port

SECDIV Access to WeBOC:-

- **WeBOC (Web Based One Custom) is electronic Customs filing and clearance system**

- **Customs has agreed in principle to provide access to SECDIV**

- **Will facilitate real time sharing of information**

- **Red flag and risk assessment of dual use items will be built in**

- **Interface between SLIMS and WeBOC will be set up**

Control Lists (CLs) Review

- **Initially notified in October 2005**

- **CLs Classification**

- **Review Process – Review is done as a routine by a standing JWG, which is an inter-ministerial body**

- **Encompass the lists and scope of export controls maintained by the NSG, MTCR and AG**

- **Contain items requiring a license. There is "catch-all" provision in the law**

- **1st review in July 2011**

- **2nd review in March 2015**

- **Technological advancements and amendments done by international export control regimes are regularly monitored**

2nd Revision of CLs

- **Changes (a total of 408) in following categories were done:-**

  – Nuclear Materials, Facilities and Equipment

  – Materials, Chemicals, Microorganisms and Toxins

  – Materials Processing

  – Electronics

  – Computers

  – Sensors and Lasers

  – Navigation and Avionics

  – Aerospace and Propulsion

Scope of Changes/Amendments – 2nd Review

Amendments/updates related to NSG, MTCR and AG :-

- NSG – 85 Changes

- MTCR – 141 Changes

- AG – 21 Changes

Internal Compliance

- "Internal Compliance is an in-house mechanism that entities' adopt to facilitate compliance with national regulatory laws/requirements"

- ICP provides two significant benefits to a company: it reduces the chances of law violations and may mitigate penalties in case of a minor offence

- A system of checks and self policing is important due to increasing contacts between small businesses and foreign clients
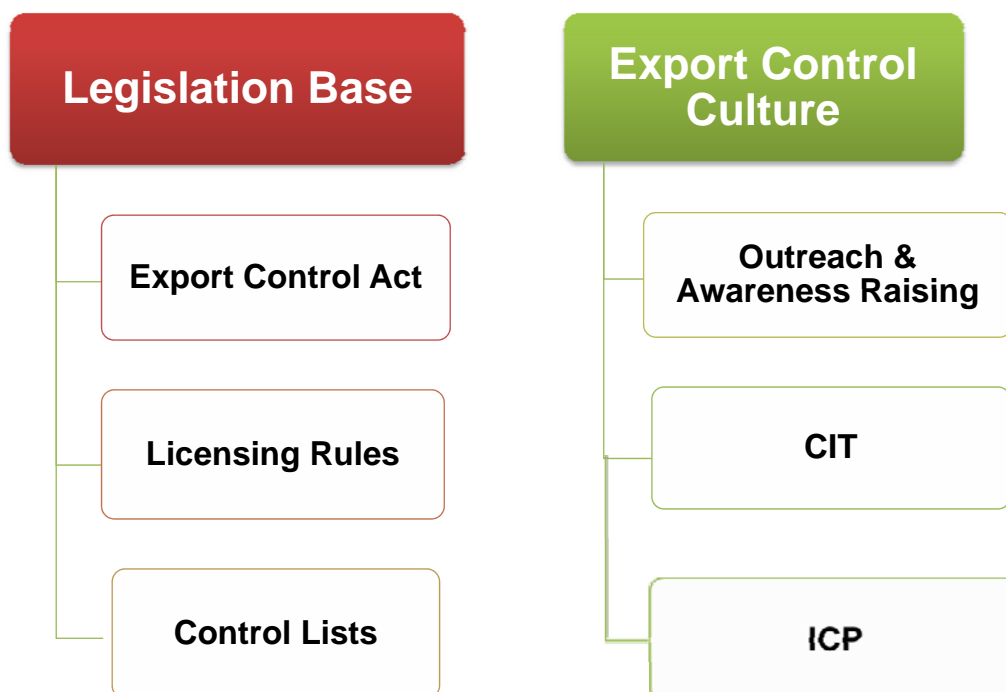
Internal Compliance

- Guidelines notified through Gazette Notification on 3 October 2014

- Two main sections – One generally for all entities including exporters, manufacturers, freight forwarders etc. and one specific to academic/research institutions

- Sets out guidelines on self regulation for a small, medium, and large entity

- An effective institutional ICP provides a method of routinely screening transactions, contacts, and dealings etc.

- Foster export control culture, facilitate export decision making, maintain consistency in policy/procedures

- Self regulation contributes to overall effectiveness of the country's export control system

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Contextualizing ICP

Legislation Base	Export Control Culture
Export Control Act	Outreach & Awareness Raising
Licensing Rules	CIT
Control Lists	ICP

Key Elements of ICP

ICP Guidelines – How to …..?

- Formulate entity/organization's policy

- Establish a compliance office/team/committee – to coordinate, monitor, implement and improve compliance

- Designate Chief Compliance Officer/Compliance Administrator

- Set up a system of training/awareness raising on specific regulatory matters

- Develop methodology of risk assessment

- Institute a system of verifying the customer/interlocutor

- Institute a system of incentive and rewards including punishments for violators

- Clear instructions on how customers' inquiries will be responded and in case of any doubt/question; who should be consulted

- Prepare annual compliance reports – address weaknesses

Thank You