

# Public-private dialogue on effective compliance programmes

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<http://www.bafa.de/>

## Federal Office for Economic Affairs and Export Control (BAFA) Main tasks: Foreign trade, promotion of economic development, energy

- Central licensing authority for conventional armaments and dual-use items
- Administrative implementation of embargo resolutions
- Expertise for investigating authorities
- Participation in international export control regimes and for a
- Implementing EU-Outreach projects
- Awareness-raising / industry outreach



## The Wiesbaden Process: Wiesbaden Conference IV, 19-20 November 2015, Wiesbaden, Germany

- Hosted by the Government of Germany in cooperation with the United Nations Office for Disarmament Affairs using contributions provided by the Governments of the Republic of Korea, the United States of America and the European Union
- UNSCR 1540 calls upon all states to „**develop appropriate ways to work with and inform industry (...)** regarding their obligations“
- Conference Title: „Private Sector Engagment in Strategic Trade Controls: Recommendations for Effective Approaches on United Nations Security Council Resolution 1540 (2004) Implementation - A contribution to the UNSCR 1540 Comprehensive Review 2016“

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## The Wiesbaden Process: Wiesbaden Conference IV, 19-20 November 2015, Wiesbaden, Germany

- Results from Wiesbaden Conference 2015 in two conference papers:
  - I. **Effective elements of robust export compliance management systems**
  - II. **How can compliance be facilitated – Key recommendations for regulators from the viewpoint of industry**



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## I. Frequently discussed elements of robust export compliance management systems

### Main points:

1. Leadership and corporate governance (Culture / policy)
2. Identifying the scope of regulatory requirements
3. Organisational structure and chain of responsibility
4. Transactional due diligence
5. Documentation and archiving
6. Training & HR matters
7. Monitoring and audits

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## I. Frequently discussed elements of robust export compliance management systems

### 1. Leadership and corporate governance (Culture / policy)

- High level awareness and responsibility in companies needed
- Management commitment / Top level policy statement
- Benefits of compliance measures should be highlighted

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## **I. Frequently discussed elements of robust export compliance management systems**

### **2. Identifying the scope of regulatory requirements**

- Awareness of relevant regulations in all countries of operation
- Advantages of global, group-wide solutions
- Scope needs to be comprehensive: importing, exporting and re-exporting goods, technology, software, services and financial transactions

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## **I. Frequently discussed elements of robust export compliance management systems**

### **3. Organisational structure and chain of responsibility**

- Sufficient human resources are needed
- Establish a compliance organization and give it time/power/resources/clear competencies
- Define clear responsibilities through guidelines and job descriptions

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## I. Frequently discussed elements of robust export compliance management systems

### 4. Transactional due diligence

- Check the export classification prior to export to determine whether any authorization is required
- Screen customers
- Watch for warning signs or “red flags”

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## I. Frequently discussed elements of robust export compliance management systems

### 5. Documentation and archiving

- Define period of safe keeping
- Define scope of documents
- IT-support

### 6. Training & HR matters

- Selection of staff
- Training of all staff concerned - Seminars for compliance staff, in-house training for operating personnel

### 7. Monitoring and audits

- Provide for checks and surveillance of workflow
- Provide for corrective action and conduct audits of the ICP on a regular basis

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## II. How can compliance be facilitated – Key recommendations for regulators from the viewpoint of industry

### Main points:

- 1. Refinement of legislation according to business' needs**
- 2. Active involvement of industry**
- 3. Rewards**

## II. How can compliance be facilitated – Key recommendations for regulators from the viewpoint of industry

### 1. Refinement of legislation according to business' needs

- Business and administration need good, coherent and workable provisions
- Export control related regulations should reflect 'business reality'
- Harmonisation

## II. How can compliance be facilitated – Key recommendations for regulators from the viewpoint of industry

### 2. Active involvement of industry

- Regular dialogue and mutual exchange of information with government authorities needed
- Consultation mechanisms between governments and industry need to be strengthened, especially when it comes to developing regulations
- Keep Industry informed about upcoming changes

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## II. How can compliance be facilitated – Key recommendations for regulators from the viewpoint of industry

### 3. Rewards

- Compliance is in itself rewarding – but governments might set up encouraging programs to fight illicit procurement
- Penalties and fines should be the last option

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**Thank you very much  
for your attention!**

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