

Internal Compliance Program (ICP)

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What is an Internal Compliance Program or ICP?

- is a set of processes and procedures within an institute or enterprise to assure adherence to national export control laws and regulations.
- Is an exporter's internal policy to comply with the export control laws and regulations.

ICP is not mandatory...

Goal of ICP?

- Facilitate regulatory compliance while providing significant benefits to enterprises.
- Know when a sale looks questionable and when an export may require a license.

Benefits of ICP

For Exporters:

- Ensure systematic compliance with applicable laws and regulations, thereby protecting the company.
 - ICPs are required by law in some countries
 - Avoid penalties for export violations
 - Maintain a favorable public image
 - Establish reputation of the enterprise as a responsible trading partner
- They can strengthen self-management system and reduce the risk of committing unintentional illicit exports.
- Obtain “bulk license” or “fast lane” privileges from the government.

Benefits of ICP

For Government:

- It helps the government to strengthen the over-all export control system.
- The government can also focus its resources on malicious illicit export cases.

Responsibilities of an ICP

1. Determine classification of goods (military or dual-use item);
2. Determine and acquire end-use and end user information from the client;
3. Apply for and secure a license when necessary
4. Ensure that all conditions stipulated in the license are complied with;
5. Report any irregularity or possible violations detected in the transaction;
6. Record all transactions relating to export controls.

Duties of an ICP Officer/ Export Control Manager

1. Provide expertise and current information on export control laws, regulations, and customs procedures
2. Assist in classification of exports
3. Prepare and/or review export license applications
4. Disseminate export control information
5. Maintain records
6. Maintain and update support tools (web site, control lists, references, software)
7. Coordinate export control training

The ICP officer/ export control manager is key to a successful internal compliance program.

Elements of an Effective ICP

1. Management policy and commitment statement
2. Internal export control organization and personnel
3. Development and dissemination of standard operating procedures
4. Order screening processes for controlled goods and technologies, customers, destinations, end-users, and end-uses
5. Recordkeeping
6. Training
7. Auditing

1. Management policy and commitment statement

- Foundation of an ICP
- Should be issued by highest levels of company management to all employees potentially affected by export controls
- Should demonstrate the company's commitment to adhering to applicable export control laws and regulations
- Should indicate goals of export control in general and company ICP in particular
- Should note that there are potential penalties for compliance failure

2. Internal export control organization and personnel

- Institutional structure of an ICP
- Should indicate overall management of ICP within company and within each business unit, subsidiary, and other affiliates
- Should be transparent, unambiguous, and communicated to all employees
- Personnel should have clearly defined responsibilities
- Chain of authority between ICP managers and all other employees should be defined

3. Standard Operating Procedures

- Ensure that employees are aware of export compliance responsibilities in given situations
- Should be disseminated and clearly communicated to all relevant employees
- Especially important in larger companies or firms with high employee turnover
- Should be updated in accordance with changes in applicable laws, regulations, control lists, and practices and in response to findings of ICP audits
- Should address intangible transfers of technology (ITT) and “deemed” exports

4. Order Screening Process

- The heart of a strategic trader's ICP
- Must include mechanisms to screen all orders for selected criteria
- Should include barriers to prevent orders from being filled under certain circumstances
- System may be electronic, human-driven, or some combination of the two

The most important aim of an internal compliance system is to prevent doing business with unauthorized parties

5. Record keeping

- Export control laws and regulations generally require strategic traders to maintain records of transactions for a designated period of time
- Enables trader to detect accidental export control violations when performing an audit
- Allows trader to cooperate more fully with government inspections and law enforcement investigations
- Enables a company to demonstrate that it has performed “due diligence” when conducting business with a new customer and when screening transactions

6. Training

- Ensures that employees understand compliance responsibilities
- Minimizes risk of employees committing accidental violations
- Training elements
 - New employee training
 - Periodic refresher training
 - Seminars and workshops
 - Company resources: intranet, manual
 - “Culture of Nonproliferation Responsibility”
- Firms may use a variety of pedagogical tools to instruct employees
- New employee orientation and refresher training are desirable

7. Auditing

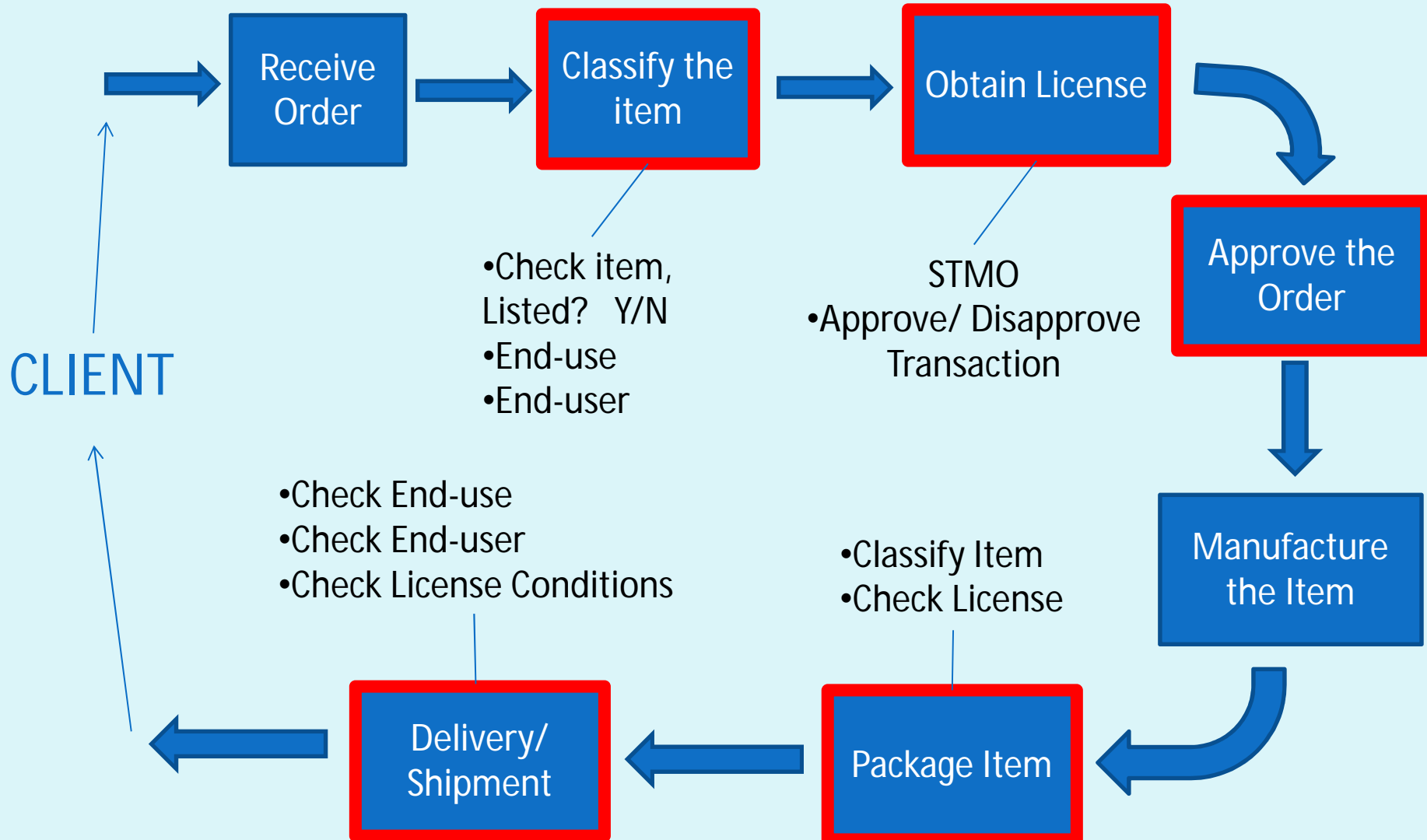
- Trader should periodically and randomly audit its ICP
- May be conducted by an internal office, external entity, or both
- Enables company to determine if the ICP is operating as desired, if elements require revision, and whether or not export control violations have occurred
- Audits should be followed by actionable recommendations to senior compliance personnel and company management

Practice of “Due Diligence”

- Evaluate transactions for abnormalities
- Check for proscribed parties to the transaction (such as those on UN sanctions lists or national lists)
- Screen for indicators of suspicious procurement (red flags)
- If there are “red flags“, check out the suspicious circumstances and inquire about the end-use, end-user, or ultimate country of destination
- Determine whether the “red flags“ can be explained or justified
- If you continue to have reason for concern, either refrain from the transaction or notify the export authority

“Know your customer (KYC)”

ICP Flowchart



Key Success Strategies for ICPs

- Ensure all employees understand their export control responsibilities
 - Training and awareness briefings
 - Know the consequences of violations: fines and / or prison
- Give employees the tools to comply with export control regulations while remaining competitive
 - “How to” guides with step-by-step procedures and check lists
 - Export control officer assigned at each facility
- Engage all supply channel partners in effective export control “best practices”
 - Becomes the normal way of doing business

Summary

- What is ICP?
- What are the benefits of ICP?
- ICP Responsibilities
- Duties of ICP Officer/ Export Control Manager
- Elements of an Effective ICP
- Practice of “Due Diligence”
- Key Success Strategies

End of Presentation...Thank you