

Export Compliance Management

Olga King
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Export Compliance

- **Export Control Determination**
 - Export Administration Regulations (“EAR”)
 - International Traffic In Arms Regulation (“ITAR”)
- **Licensing**
 - Legal Authority to transfer controlled technical data and technical assistance (defense services)
- **Compliance Management**
 - Classification integrity
 - Licensing compliance
 - Technology transfer compliance
 - Facility access compliance
 - IT access compliance

Export Compliance Best Practices

- **Nunn-Wolfowitz Task Force Report: 7/2000**
 - **Executive Management Commitment**
 - **Export Compliance Council**
 - **Export Compliance Personnel**
 - **Export Compliance Training**
 - **Export Compliance IT Security**
 - **Export Licensing Management**
 - **Export Audit: Self Assessment**

Export Compliance Best Practices “Reality”

- **Executive Management Commitment**
 - I support your efforts as long as it does not cost me money
 - I know nothing – I see nothing
- **Export Compliance Council**
 - A good reason for a boondoggle in Hawaii
- **Export Compliance Personnel “professionals”**
 - Can we outsource compliance to India or China
- **Export Compliance Training**
 - As long as we can surf the internet or read e-mails during training we will attend
- **Export Compliance IT**
 - Firewalls to block spam should be sufficient
- **Export Licensing Management**
 - Outsource that too
- **Export Audits**
 - No evidence please



First Steps

- **Identification of all product lines**
 - **Product pedigree**
 - **Intended application or use of product**
- **Identification of all activities**
 - **Engineering**
 - **Manufacturing**
 - **Marketing**
 - **Warehousing**
 - **Shipping**
 - **Procurement**
- **Identification of all foreign nationals and foreign entities**
- **Categorizing what is controlled vs. what is not controlled**
- **What legal authority drives the controls**
- **How to incorporate controls**



Building Support Structure

- **Executive Management Buy-In**
 - Budget to support compliance
- **Identifying what resources will be needed**
 - Internal legal counsel
 - External legal counsel
 - Export professionals
- **Recruit professionals to support licensing and compliance**
- **Partner with Engineering**
 - Understand product pedigree
 - Engineering documentation; drawings, specs
 - Support export classification process
- **Partner with Sales & Marketing**
 - Customer profiles
 - What are customers purchasing and for what applications
 - Market concentration
- **Partner with R&D**
 - What is being developed
 - What are the applications

Identify Exposure

- **Product classification**
 - Integrity in the classification process
 - ECCN vs. USML
 - Bill of Materials; what is buried
- **Technical Assistance**
 - Engineering services
 - Marketing
 - Customer support
- **Foreign subsidiaries**
 - Manufacturing
 - Technology transfer
 - Technology commingling
 - Engineering support
- **Foreign nationals**
 - Engineering
 - Manufacturing
 - Sales and Marketing
- **Inventory who and what is licensed vs. who and what is NOT licensed**
- **Who has access to IT repositories and facilities**
 - CIO & Security

Exposure & Cost

Assessment of Exposure and Cost

- **What is your universe**
 - Licensed Products vs. unlicensed Products
 - Licensed Foreign Nationals vs. unlicensed FNs
 - Licensed Technical Assistance vs. unlicensed TA
 - Access to IT and sensitive facilities
- **Metrics; Chart % lacking legal authority vs. % total known population**
- **Metrics; How does this translate into Corporate Fines and Penalties**
 - Semi-crude calculation
- **Metrics; Provide a cost estimation of needed resources**
- **What does this mean for Executive Management**
 - Corporate liability
 - Personal liability
- **What does this mean for the Corporation**
 - Corporate liability
 - Bad press
 - Stock price depression

Mitigating Exposure

Compliance Plan Strategy

- **Management Commitment**
 - **Export Control Policy Statement to be communicated to all employees**
- **Endorsement of Export Compliance Plan**
 - **Export compliance requirements**
 - **What are the MUST DOs vs. the Nice-to-Haves**
 - **Export Compliance Council**
 - **Review and advise on complex issues**
 - **What resources are needed**
 - **Internal partnering support**
 - **Seasoned licensing personnel**
 - **Seasoned compliance personnel**
 - **Compliance tools**
 - **Outside counsel and other resources**
- **Compliance Plan Implementation**
 - **How to pull all elements together**

What Next?

Move forward with Compliance Plan

- **Management to issue an export compliance policy statement**
- **Get resources in place**
 - You can NOT do your job without a budget or people
- **Begin building partnerships with internal resources**
 - Engineering, procurement, marketing and others
- **Document – Document – Document**
 - export compliance personnel will be the first to be thrown under the bus