THE ROLE OF SUPPLIERS' INTERNAL COMPLIANCE

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WHAT IS INTERNAL COMPLIANCE?

A commitment to comply with all relevant export control laws and regulations.

▶ Top down - governance and accountabilities

▶ Resources – breadth and depth

▶ Product classification and knowledge of what products can be used for

▶ Procedures and information systems

▶ Due diligence

▶ Training

▶ Audit

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CONSEQUENCES OF NON-COMPLIANCE

International Consequences

▶Items obtained by unauthorised users or used for unauthorised purposes

▶Could harm national security and foreign policy interests

Corporate Consequences

▶Heavy fines, removal of company directors, damaged reputation, loss of export privileges or compulsory compliance requirements

Personal Consequences

▶Disciplinary action, dismissal, fines or imprisonment

ORGANISING EXPORT CONTROL

While there is no set structure that must be followed for organising compliance, a company needs a top down commitment to comply with export controls. All staff should be aware of that commitment. A senior official should be made responsible for compliance – preferably not the person responsible for sales, to minimise any conflict of interest. Under the senior official a person or persons needs to be appointed to manage export control on a daily basis. Export control managers may deal with goods, technology transfer or both depending on the size and complexity of the business.

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COMPLIANCE PROCESS

The compliance process needs to be formalised with a set of operating procedures for all staff (this is not a set of work instructions for Export Control Managers) and should include the following topics:-

▶ Product classifications – how to determine and record

▶ Licences – how to determine whether one is needed, find out whether one already exists or support the application process for new licences.

▶ Export controls in IT, electronic transfers and carriage of technology e.g. on laptops

▶ Recording the exports of goods and technology

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PRODUCT CLASSIFICATION

In order to have any hope of complying a company must understand whether, and in what circumstances its goods, technology and software are subject to export control.

All items need to be assessed against the control list(s). If not on the list they may, depending on the end-use/end-user, still require a license under the end-use ('catch-all') controls.

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DUE DILIGENCE

Monitor, collate and vet enquiries

▶Screen all parties to a transaction against denied parties lists

▶Examine the transaction against a suspicious enquiry checklist

▶Assess whether the end-user has a legitimate use for the items to be supplied

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INFORMATION SYSTEMS, TRAINING, AUDIT

▶ The systems you use to keep records will depend on the complexity of your operation, and the number of licensable exports you make. The systems you use for physical exports and electronic transfers don't necessarily have to be the same.

▶ All staff should be provided with (annual) training on the basics of export control.

▶ Audits should be carried out to ensure that the compliance process is working properly.

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CHALLENGES

▶ Supply chain diversity – both private, national companies, small, large, wide geographical spread.

▶ Lack of awareness of export controls in the supply chain.

▶ Insufficient government – industry engagement (sometimes due to lack of trust).

▶ Business can play an important role but it needs direction from governments on what that role should be. Such direction would reduce the risk of inadvertent supply of items to illicit WMD programmes and other end-users of concern. For business it would also avoid the possibility of reputational damage and sanctions that may follow from such supply.

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PROBLEMS THAT YOU MIGHT ENCOUNTER ALONG THE WAY

▶ Compliance viewed as a cost and barrier to business rather than a requirement and facilitator of business.

▶ Data on the control status of goods and technology patchy.

▶ Existing information systems not up to the task (where they exist).

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MESSAGE TO GOVERNMENTS

▶ Business is in the front line. What we do or don't do can have a detrimental impact on non-proliferation. Our knowledge of increasingly complex supply chains and our ability to deploy that knowledge to good effect is a skill that governments don't possess. The way governments view our activities and the export licensing hurdles they make us jump through can have a detrimental impact on business. Both sides need to foster trust and promote ways of working that encourage legitimate business while raising the barrier for the proliferators.

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