Industry Experience in implementing Internal Compliance Programmes (ICP)

Benefits including use of Global Licenses

Belgrade, September 10, 2024

EU P2P
export control programme
for dual use goods

Funded by
the European Union

Implemented by

EXPERTISE FRANCE GROUPE AFD

Federal Office for Economic Affairs and Export Control

KING'S College LONDON

MINISTÈRE DE L'ÉCONOMIE, DES FINANCES ET DE LA SOUVERAINETÉ INDUSTRIELLE ET NUMÉRIQUE
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LIÈGE université

Internal Compliance Programmes (ICP)

Topics:

1. OERLIKON Background Information
2. Internal Compliance Programme (ICP) Basics
3. How to start the ICP preparation
4. ICP Implementation Process
   - Responsibility Assignment Matrix -
5. Global ICP-Roll-out
6. ICP-Benefits (e.g. Global Licences)and Return On Investment

Company Profile OERLIKON:

➢ Machines for surface coating (PVD, CVD, EBPVD etc.)
➢ Job coating of parts sent by customers (incl. Military Items)
➢ Exchange of coating technology, globally, with affiliates & customers
➢ Impact by all Export Control Regimes (except Australia Group)
➢ Approx. 13.000 employees / 40 countries / ~170 affiliates
➢ 11 Full time employees for Export Compliance in HQ, ~100 globally
➢ Annual turnover ~3 billion CHF
➢ No fines paid in 17 years (few violations, disclosed to authorities)
➢ 1 Global Master ICP, >40 national ICPs (in line with national laws)

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Oerlikon ICP Elements Overview

Organisation
- 1. Management Commitment
- 2. Policy Statement

Processes
- 3. Export Control Personnel
- 4. Control status of Goods, Software & Technology
- 5. Business Partner Screening / End Use Controls
- 6. Training & Education
- 7. Export Licensing Process
- 8. Internal Audit / Oversight
- 9. Documentation / Recordkeeping

Tools
- 10. IT-Support / Data Storage / Technology Transfer

➢ Most of these „Elements" were recommended by various governments since the 1990ies when the global roll-out of export controls began.

➢ The „Export Control Outreach" efforts of the USA and the EU contributed to what today is sort of a „global ICP standard"

➢ A very good source for industry is the „EU COMMISSION RECOMMENDATION (EU) 2019/1318 of 30 July 2019 on internal compliance programmes for dual-use trade controls....."
(not binding but highly recommended)
Link

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Our basic principles in Export Compliance:

Keep it as small and simple as possible!

1. The best approach is a systematic one.
2. The only systematic approach is via ICP.
3. Since most countries where we have subsidiaries recommend „ICP", we will follow.
4. ICP should be part of quality documents.
5. Our subsidiaries pay due respect to additional national requirements.
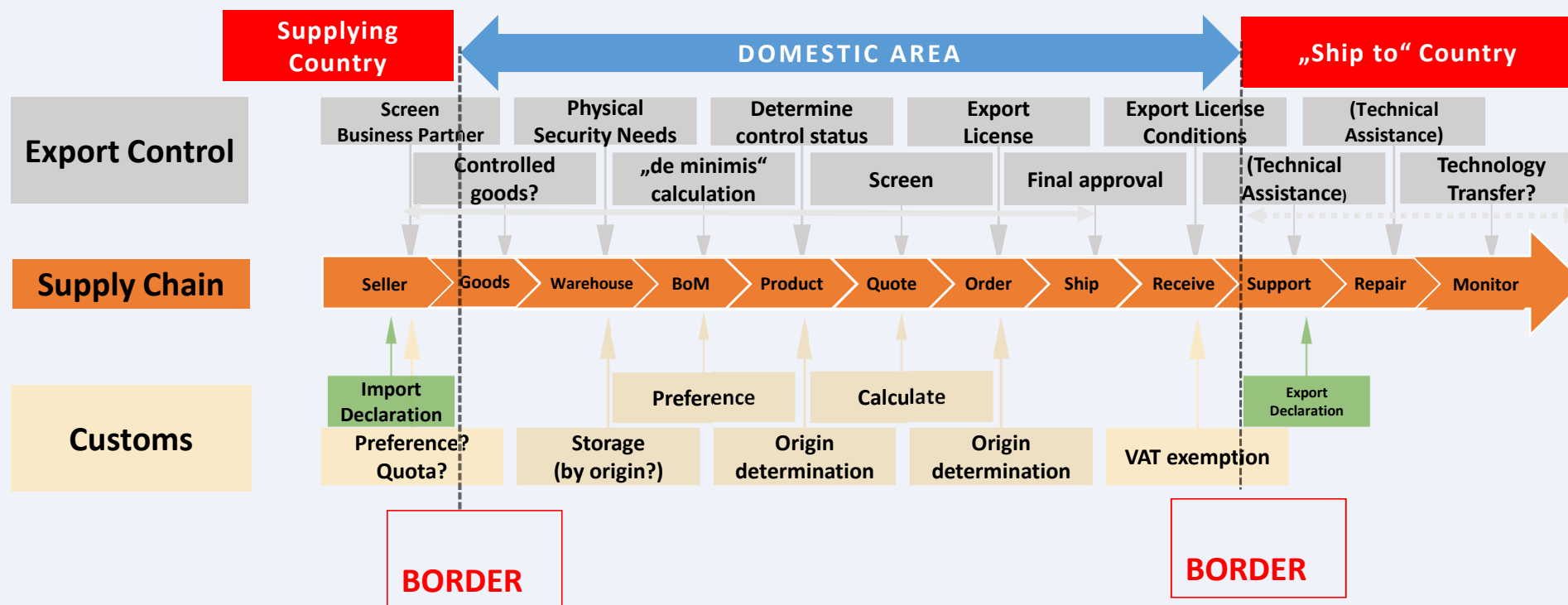6. Progress is monitored by Top Management.

3. How to start the ICP preparation
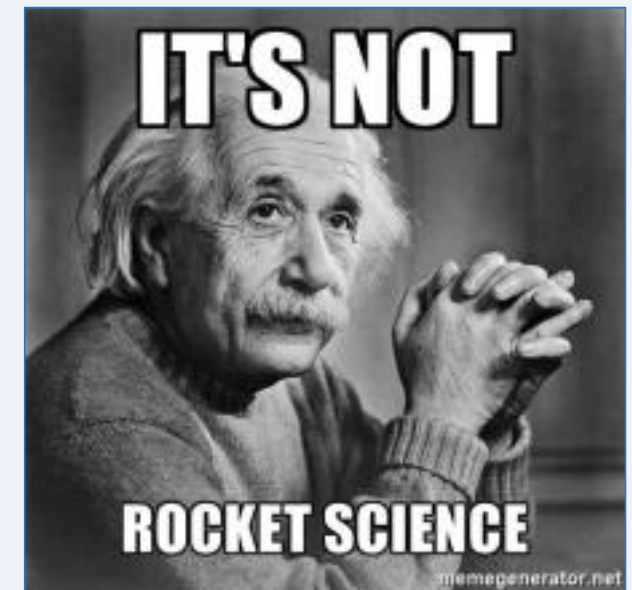
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> **Export Control is a supporting process**
> **Seamless integration is required**

| | Supplying Country | DOMESTIC AREA | "Ship to" Country |

Export Control

| Screen Business Partner | Physical Security Needs | Determine control status | Export License | Export License Conditions | (Technical Assistance) |
| Controlled goods? | „de minimis" calculation | Screen | Final approval | (Technical Assistance) | Technology Transfer? |

Supply Chain

Seller → Goods → Warehouse → BoM → Product → Quote → Order → Ship → Receive → Support → Repair → Monitor

Customs

| Import Declaration | | Preference | Calculate | | Export Declaration |
| Preference? Quota? | Storage (by origin?) | Origin determination | Origin determination | VAT exemption | |

BORDER

BORDER

ICP Requirements

> „One size does not fit all"

- ➢ Ideally, a handbook or manual with elements / chapters, **with updates.**
- ➢ Written document (no purely graphic visualization in flow charts etc.).
- ➢ Should be signed/released by C-level.
- ➢ Should have version no. and date.
- ➢ Should be integral part of Quality Mgt.
- ➢ Must be company specific, addressing risks.
- ➢ No copy/paste from other companies.

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Tools
- 10. IT-Support

Main content / Global Best Practice

- • „Tone from the top"
- • Management understands / accepts accountability
- • Provision of sufficient resources
- • Practice Oversight / Reviews

- • Define Roles & Responsibilities
- • No conflict of interest / reliable staff with good background

- • Items, technology and software
- • Task for experienced engineers

- • All customers, vendors, employees
- • End use checks and red flags

- • TC staff need good regulatory knowledge
- • Translate laws into internal processes / train other staff

- • Export license Application / License Management
- • To be done by experienced staff only

- • Continuous improvement, share learnings
- • Internal Supervision / Detect Potential Violations etc.

- • Conditions; Types; national requirements
- • Access to Records; reporting requirements by authorities

- • Blockages; stringent authorization concept
- • Good Master Data Quality; smart customization
- • Process automation

FUNCTIONS

- ▪ Management (global)
- ▪ Sales
- ▪ Service
- ▪ Shipping & Receiving
- ▪ Purchase
- ▪ Human Resources
- ▪ Research & Development
- ▪ Engineering
- ▪ Legal
- ▪ Internal Audit
- ▪ Business Development
- ▪ Mergers & Acquisitions
- ▪ Information Techn.

ICP Development & Implementation Requires A Team Effort

➢ Export Control Manager starts analysing status quo and preparing a project plan.
➢ Management approves and endorses the project plan, informs division or department heads; they must make contributors available.
➢ Communication is important: ICP implementation is not a „one time exercise".
  ▪ Legislation, products and processes change → **ICP adjustment is needed**.
➢ Team members tasked by their managers will be formally appointed.
  ▪ They may be needed after implementation, as „gate keepers".
➢ Kick-off meeting and information to general staff via town hall meeting etc.

Success will widely depend on commitment by top management

ICP Development & Implementation Requires A Team Effort

➢ Define and discuss all process steps, using existing manuals, procedures as well as laws and regulations, plus ICP guidelines ("EU COMMISSION RECOMMENDATION (EU) 2019/1318 of 30 July 2019 on internal compliance programmes for dual-use trade controls…..").

➢ Keep in mind formal requirements (separate documents, version no, date etc.)

➢ Use **RASCI methodology**, clearly defining roles and responsibilities for each process step.

➢ Have each ICP element approved/released by top management (CEO)

➢ Formalize it: communicate it to general staff (CEO), train staff members (team).

Internal Compliance Programmes

The RASCI matrix allows the unambiguous assignment of roles and responsibilities.

Responsibility Assignment Matrix (WIKIPEDIA)

Export Control System
Partner Screening and End Use Examination

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of: 7

œrlikon

→ Printout for information only, will not be updated when changed! ←

Contents:

S A M P L E

1   Purpose

Many states run arms projects without informing the public. Continual tightening of export control regulations for a number of countries has contributed additionally to the fact that the needed goods and technologies are not procured by these countries direct, but through third countries instead.

Additionally, there are international boycott lists which need to be respected and put us under the obligation to ensure that Oerlikon does not provide any resources to restricted parties.
It is the aim of this guideline to ensure through clear business rulings that all staff of Oerlikon will respond in the same way as to the internal business processes.

2   Area of Application

This guideline applies to Oerlikon world-wide.

3   Definition of Terms and Abbreviations

None

4   Responsibilities

	prepared	Verified / released
Name, Dept.:	J. Klefisch, Trade Control	R. Witz, Trade Control
Date:	Nov. 28, 2006	Nov. 28, 2006
Signature:	*J. Klefisch*	*R. Witz*

Version: A   Date: Nov. 28, 2006   Partner Screening and End Use Examination.doc

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4.1   Matrix of Responsibilities

Responsibility and Competence

Assignment of quality related activities and tasks

R Responsible for implementation
A Assistance
I Information

S A M P L E

GTC
Oerlikon IT Solution
Trade Control Officer
Order Management/Service Admin.
Sales & Marketing
Agents

No.	Activity with additional explanation, if required	Oerlikon IT Solution	Trade Control Officer	Order Management/Service Admin.	Sales & Marketing	Agents		
1	Definition of standardized screening procedure	R	A					
2	Safety requirement (all partners must be keyed in)			R				
3	Content update	A	R					
4	Suspend transaction if system reports a match			A	R			
5	Review and decision of reported match	R	A	I				
6	Definition of the country matrix	R		I				
7	Classification of the business partners				A	R	A	
8	Delivery blockage in Customer Master Data				R			
9	Agents support by providing end user order copy				R		A	
10	Checking inquiries and orders				R	R		
11	Requesting end user evidence				R	R	A	
12	Submission of complete and correct information				R	R		
13	Release of transaction	A		R	I	I		
14	Warnings in case of repeated sensitive requirements	R		A				

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5. Global ICP-Roll-out

ICP Global Roll-Out:

➤ For subsidiaries outside of Serbia, consider a global roll-out project.
➤ Same pattern as for the Head Quarter in Serbia (top management commitment etc.)
➤ The local manager must accept the full responsibility for compliance in his country.
➤ The foreign site will need a local Export Control Manager (resourcing to be determined).
➤ National regulations must be considered during the ICP implementation.
➤ All sales agents and distributors should be trained.
➤ Centralization of global compliance responsibility in Head Quarter; certain processes may have to be centralized (decision making about shipments from subsidiaries).
➤ A global Export Compliance organization will be needed.

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Benefits of Internal Compliance Programmes – avoiding disadvantages:

➢ Supply Chain Security Certification (AEO, C-TPAT etc.) are not possible without ICP.
➢ External auditors will want to see your export compliance documentation.
➢ M & A projects occasionaly fail if a high risk company has no ICP.
➢ In some countries, export licence applications are not even processed absent appointed officials on management level.
➢ Customers and suppliers ask for existence of ICP; occasional audits are known.
➢ In the event of a violation, the ICP demonstrates a systematic approach and the violation may be regarded as a working mistake, not as management failure.
➢ Internal Audit / management oversight will monitor adherence to your ICP.

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Benefits of Internal Compliance Programmes: Global Licences

➢ Compliance is in itself rewarding, but there are huge material benefits for compliant economic operators with well implemented internal compliance processes:

➢ We profit from many **national Global Licences**, which exempt exports worth millions of EUR and hundreds of shipments from individual licence applications.

➢ In addition, there are several **EU Global Licences**, with even higher economic impact.

Global Licences save huge administrative burden, and resources for exporters.
→ On-time delivery → satisfied customers → continuous good business.
Our authorities are always open for dialogue and constructive solutions.

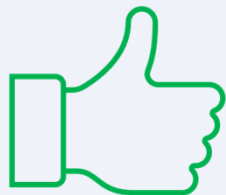Even in Taiwan (we had ~10 employees there), our ICPwas implemented and is still effective and registered, ensuring the company can enjoy the benefits.

Your takeaway:

YOU CAN DO IT AS WELL! Good luck!

項次	中文名稱	Company Name
	實施企業內部出口管控制度廠商名單(ICP Companies)	
1.	德州儀器工業股份有限公司	TEXAS INSTRUMENTS TAIWAN LTD.
2.	台灣三豐儀器股份有限公司	MITUTOYO TAIWAN CO.,LTD.
3.	欣銓科技股份有限公司	ARDENTEC CORPORATION
4.	台灣積體電路製造股份有限公司	TAIWAN SEMICONDUCTOR MANUFACTURING COMPANY LIMITED
5.	台灣應用材料股份有限公司	APPLIED MATERIALS TAIWAN, LTD.
6.	台灣應用材料股份有限公司台南分公司	APPLIED MATERIALS TAIWAN LTD., TAINAN BRANCH OFFICE
7.	新加坡商應用材料股份有限公司台灣分公司	APPLIED MATERIALS SOUTH EAST ASIA PTE. LTD., TAIWAN BRANCH (SINGAPORE)
8.	聯華電子股份有限公司	UNITED MICROELECTRONICS CORP.
17.	台灣萊寶股份有限公司	LEYBOLD TAIWAN LTD.
18.	台灣艾司摩爾股份有限公司	ASML TAIWAN LTD.
19.	台灣恩智浦半導體股份有限公司	NXP SEMICONDUCTORS TAIWAN LTD.

From ICP to „CIP" (Continuous Improvement Process)

Trade Compliance Core Best Practices

Top Ten Essentials

1. Commitment Globally, Horizontally and Vertically
2. Written & Followed Standardized Policies, Processes and Procedures
3. Initial & Recurring Education & Training
4. Effective Organization & Staffing
5. Timely & Accurate Jurisdiction & Classification
6. Cradle to Grave License Management
7. Thorough Due Diligence
8. Complete Documentation / Recordkeeping
9. Periodic External & Internal Assessments / Audits
10. Dealing with Violations / Non-Compliance

Trade Compliance Solutions

Without these you don't have an "effective" and comprehensive "World Class" program.

	Weight
1. Management Commitment	~5%
2. Policy Statement	~5%
3. Export Control Personnel*	~15%
4. Screening of goods*	~20%
5. Business partner screening / End use*	~15%
6. Training / Education*	~10%
7. Export Licensing Process	~5%
8. Internal Audit	~5%
9. Documentation / Archiving	~5%
10. IT Support	~15%
Total:	100%

- Heavy weight operational elements
- Approx. 40 questions
- Guided self-assessment

Use of the ICP to measure the export compliance maturity – weighted example

Use of **Key Performance Indicators (KPI)**
„Maturity Grade"

Section	Result 2015	Result 2017
Management commitment	77,3%	64,4%
Policy Statement	54,5%	60,0%
TC Personnel	81,6%	77,6%
Classification of goods	82,0%	92,0%
BP screening and End-use	78,8%	98,8%
Training	75,0%	73,3%
Export licensing process	100,0%	91,5%
Audit processes	50,0%	N/A
Recordkeeping	50,0%	93,3%
IT Support	100,0%	92,0%
Result of KPI Measurement	79,6%	86,9%

➤ KPI per entity/year
➤ Guided self-assessments
➤ Results were aggregated
➤ Report to management
➤ Improvement targets were in manager´s annual target setting and bonus payments

</= 50%   red
51 -80%   yellow
>   80%   green

If compliance becomes measurable and incentivized, progress is made

Thank you for our partnership!

Contact

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