

The Caribbean and Resolution 1540: The importance of implementing strategic trade controls

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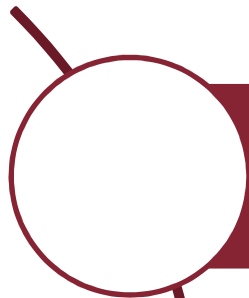
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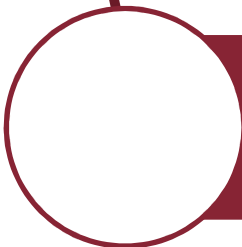
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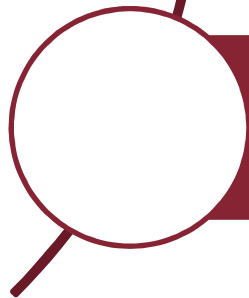
Highlights for Today



Multilateral and National Export Control Regimes



End Use and End User Issues



Key Principles and Best Practices



Primary Multilateral Export Control Regimes

Multilateral Regime	Types of Goods Controlled
Wassenaar Arrangement	Conventional arms and dual-use goods
Australia Group	Chemical and biological materials and related technologies
Nuclear Suppliers Group	Nuclear and nuclear-related materials and technologies
Missile Technology Control Regime	Missiles and related technologies



Control Lists

- Established pursuant to legal authority
- Identify defense articles and dual-use goods, technology, and software
- Indicate whether a license is required for export, import, re-export, and/or transshipment
- Promote transparency and clarity



EU Control List

- ❑ Incorporates the multilateral regimes' lists
- ❑ Annex 1 to Regulation No. 428/2009
 - List of controlled dual-use goods
 - Nuclear materials, electronics, computers, sensors and lasers, marine, aerospace and more
- ❑ Adopted by non-EU countries
- ❑ Catch-all clause for non-listed items



End User Issues

- Controls on end use and end users for licensing
- Start with UN Security Council resolutions
- Look to lists from other countries as examples



Transshipment Hubs

- ❑ Bad guys exploit weak regulatory systems
- ❑ Goal: obscure ultimate end use / end user
 - Circuitous shipping routes
 - E.g., set up shell companies to act as end users
 - Fraudulent paperwork
 - E.g., imposters show up with fake papers to claim goods in Turkey
 - Rogue employees



Look for Red Flags

- Customer reluctant to provide information
- Goods or volume are incompatible with business or with technical level of supposed destination
- Goods incompatible with technical level of country to which it's being shipped
- Customer willing to pay cash for expensive items
- Customer unfamiliar with product's performance
- Buyer declines routine installation, training, or maintenance services
- Forwarding firm is given as final destination



Key Principles and Best Practices

Transparency

Efficiency and Timeliness

Interagency and International Cooperation



Transparency

- Opaque procedures increase uncertainty and undermine public support
- Provide opportunities for public consultations and comment
- Make clear plans to maintain and publish up-to-date legislation, control lists, licensing restrictions, forms, etc.



Efficiency and Timeliness

- ❑ Create an easy to follow, consolidated control list
- ❑ Designate a single agency to oversee licensing
- ❑ Avoid lengthy reviews and slow decision-making
- ❑ Make prompt and fair decisions regarding licenses
 - E.g., EU member states' 20-day timeframe
- ❑ Respond to questions from industry and other countries seeking info in a timely fashion

Interagency and International Cooperation

- ❑ Encourage legislators, trade agency, law enforcement, etc. to coordinate creation, implementation, and enforcement of controls
- ❑ Share information with counterparts in other states
- ❑ Take advantage of assistance and capacity building opportunities
 - E.g., Container Security Initiative (DR, Jamaica)
 - E.g., U.S. Dept. of State's Export Control and Related Border Security Assistance Program



Won't export controls negatively impact growth and competitiveness?

- At least one study has shown trade controls do *not* have an adverse impact on trade.
- Controls may actually *increase* imports and spur investment in the region.
- Our clients look for a predictable and reliable regulatory environment.



Potential Repercussions

What happens if we don't have strategic trade controls?

Consequences of non-compliance can be costly

Potentially disproportionate repercussions

E.g., Canada revoked visa-free travel for St. Kitts and Nevis, trade restrictions, sanctions



Thank you

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