

INTERNAL COMPLIANCE AND EXPORT CONTROL GUIDANCE DOCUMENTS FOR THE NUCLEAR SECTOR

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INTRODUCTION

This SIPRI Good Practice Guide outlines the sector-specific compliance-related guidance material that is available to companies in the nuclear sector that are subject to the European Union's arms and dual-use export controls.¹ It covers guidance materials produced by national governments and industry associations, and describes the publicly available information on the export control policies of a company operating in this field.

The nuclear sector encompasses the companies that build and operate nuclear power plants and those involved in associated manufacturing and trading activities. Almost all aspects of the nuclear sector are subject to dual-use controls and nearly all the principal items and components concerned are included on the EU dual-use list. At the international level, the provisions regulating the trade in nuclear materials and related technology stem from the 1968 Treaty on the Non-Proliferation of Nuclear Weapons (Non-Proliferation Treaty, NPT). The objective of the NPT is to prevent the spread of nuclear weapons and weapons technology, and to promote cooperation on the peaceful uses of nuclear energy. The NPT establishes a safeguards system under the International Atomic Energy Agency (IAEA), which is mandated to verify that each non-nuclear-weapon state party to the Treaty is meeting its obligations. This system is complemented by the rules put in place by the Nuclear Suppliers Group (NSG), which has established two sets of Guidelines. The first is for 'nuclear transfer' and is commonly referred to as the 'Trigger List' because the export of these items triggers the IAEA safeguards system mentioned above. The other is for transfers of nuclear-related dual-use equipment, materials, software and related technology. The items on the NSG Trigger List can also be found in the EU lists under 'Category 0'.

While most of the larger companies in the nuclear sector are aware of their obligations under the EU's arms and dual-use export controls there is often a lack of knowledge among smaller companies and those working in research and academia. There is therefore a clear need to make the companies

¹For further information, see SIPRI, 'Challenges and good practices in the implementation of the EU's arms and dual-use export controls: A cross-sector analysis' (forthcoming).

SERIES SUMMARY

● The scope of European Union (EU) dual-use and arms export controls has expanded in recent years to cover a wider range of goods, technologies and activities. This means that a broader range of sectors and actors are now affected by controls. This expansion has been accompanied by efforts by governments and the EU to incentivize the adoption of internal compliance programmes (ICPs) by companies and other affected entities. An ICP is an arrangement that a company or other entity puts in place to ensure that it is complying with dual-use and arms export controls. However, while the requirement to have an ICP is becoming more mainstream, the guidance available on how one should be established and maintained is often generic and fails to take into account the specific needs of different affected sectors and actors. This SIPRI Good Practice Guide is one of a short series that helps fill this gap by collecting available sector or actor-specific compliance-related guidance material. This Guide presents guidance material that is available to companies in the nuclear sector. It covers guidance material produced by national governments, the EU and other bodies, industry associations as well as publicly available ICPs produced by companies in the nuclear sector.



involved aware of the compliance-related guidance material that is already available and to fill any remaining gaps.

GOVERNMENT GUIDANCE MATERIAL

UK Department of International Trade, Department of Energy and Climate Change, Export Control Organisation, 'Export of nuclear equipment, material and technology: "Trigger List" requirements', <<https://www.gov.uk/guidance/export-of-nuclear-equipment-material-and-technology-trigger-list-requirements>>.

The British Government provides guidance for exporters of nuclear equipment, materials and technology. It also provides information on the export licence application process and the subsequent assessment of the applications by the appropriate authorities. Key elements of these guidelines are explanations of: why and when assurances are required for the export of sensitive nuclear items and what exporters should do to provide these; when an End User Undertaking (EUU) certificate is required for sensitive nuclear items; the factors to consider when obtaining an assurance and applying for a licence for sensitive nuclear items; the Nuclear Suppliers Group's guidelines; and the relevant treaties.

US Department of Commerce, 'Civil nuclear guide to exporting', <<http://2016.export.gov/civilnuclear/>>.

This Guide is a component of the International Trade Administration's Civil Nuclear Trade Initiative (CNTI) intended to help US companies better navigate the rules and regulations governing the export of civil nuclear technology and services, nuclear fuel services, common related equipment or other nuclear services.

Canadian Nuclear Safety Commission, 'Nuclear substances: import and export controls', <<http://nuclearsafety.gc.ca/eng/nuclear-substances/import-and-export-controls/index.cfm>>.

The website of the Canadian Nuclear Safety Commission (CNSC), the federal authority that regulates the import and export of nuclear-related materials in Canada, contains a dedicated section on import and export controls. Information is provided on: the types of licences; controlled substances, technologies and information; and filing an authorization application. The webpage also contains sub-sections on import and export controls, and end-users.

OTHER GUIDANCE MATERIAL

World Nuclear Association, 'Good practice in the compliance and licensing of nuclear exports' (Aug. 2015), <[http://www.world-nuclear.org/uploadedFiles/org/WNA/Publications/Working_Group_Reports/REPORT_Good_Practice_in_Nuclear_Exports\(1\).pdf](http://www.world-nuclear.org/uploadedFiles/org/WNA/Publications/Working_Group_Reports/REPORT_Good_Practice_in_Nuclear_Exports(1).pdf)>.

This report identifies 'examples of good practices by suppliers and export control authorities' based on the replies received by the World Nuclear Association from its members. The document provides an



overview of the nuclear industry and the main export control regimes, and good practices in both compliance and licensing. It also contains proposals for developing regulator-industry relations and streamlining the export control regime.

Carnegie Endowment for International Peace, 'Nuclear power plant exporters' principles of conduct' (6 Mar. 2014), <http://nuclearprinciples.org/wp-content/uploads/2014/03/PrinciplesofConduct_March2014.pdf>.

The Nuclear Power Plant Exporters' Principles of Conduct is a set of norms 'derived from the experience of nuclear power plant vendors and operators and the guidelines of the International Atomic Energy Agency'. It sets out 'best practices' in the area of non-proliferation. In particular, Principle 5, 'nonproliferation and safeguards', notes that vendors recognize that their 'vendor state' has export control laws in place and states their commitment to abide by them and to support the non-proliferation regime. Vendors also undertake to: promote proliferation resistant design; take account of IAEA safeguards, NSG guidelines and United Nations Security Council resolutions; and urge their customers to implement a system of accounting for and control of nuclear materials in their facilities and a safeguards approach consistent with their IAEA obligations.

Institut de Radioprotection et de Sûreté Nucléaire (IRSN), 'Manuel de notification des importations et exportations de matières nucléaires', <http://non-proliferation.irsn.fr/Telecharger/Documents/IE_Manuel_complet.pdf>.

France's Institute of Radioprotection and Nuclear Safety (IRSN) is under the joint authority of the ministries of Defence, the Environment, Industry, Research and Health. It is the public service expert on nuclear and radiation risks. The aim of this guide (available in French) is to help French nuclear operators meet their international obligations on the import and export of nuclear materials. To this end, the document contains various sections on the materials and actors concerned; a flow chart on what to do when importing or exporting nuclear materials, according to EURATOM regulations, agreements with third countries and safeguards agreements; instructions on how to use the online system to notify imports or exports; and a list of the different applicable codes.

Export controls at Rolls Royce, <<http://www.rolls-royce.com/sustainability/ethics-and-compliance.aspx#export-control-compliance>>.

There are 15 policy documents on the 'ethics and compliance' section of the Rolls Royce website that outline different aspects of the firm's compliance systems. These include its 'strategic export controls policy', 'screening of parties policy' and 'export control training policy'. The documents do not refer specifically to the nuclear sector but cover the whole range of the company's activities.

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