



INTERNAL COMPLIANCE AND EXPORT CONTROL GUIDANCE DOCUMENTS FOR TRANSPORT OR DISTRIBUTION SERVICE PROVIDERS

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INTRODUCTION

This SIPRI Good Practice Guide outlines the sector-specific, compliance-related guidance material that is available to transport or distribution service providers that might be affected by the European Union's arms and dual-use export controls.¹ It covers guidance material produced by national governments, the EU, SIPRI and other bodies, as well as publicly available Internal Compliance Programmes (ICPs) produced by transport or distribution service providers.

Transport or distribution service providers have only recently become a focus of attention for the export control community not only for the ways in which they are affected by the EU's dual-use and arms trade controls, but also for the role they can play as partners in combating proliferation. There has been a trend for transport service providers, shippers and freight forwarders to offer more and more ancillary and trade-facilitation services. Taking on responsibilities that had previously been assumed by the original exporter has affected the role of such providers, shippers and forwarders in supply chains and export processes. The level of interdependence and the overlap of functions are thus increasing. Fast parcel operators and the postal authorities also play important roles, especially due to the immense demand for their services from e-commerce and the mail order trade. These changes provide additional opportunities for transport companies to increase the impact of their screening and compliance measures. However, increasing requirements and responsibilities also put an additional burden on their export control and compliance resources. These may be specific to different types of transport or distribution service providers and go beyond dual-use

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 transport or distribution service providers. It covers guidance material produced by national governments, the EU and other bodies, industry associations as well as publicly available ICPs produced by transport or distribution service providers.

¹ For 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).



and arms export controls, but include for example the implementation of EU sanctions and US re-export controls.

Given the complexity of the issues and challenges facing transport or distribution service providers, there is a clear need to make the companies and other actors involved aware of the compliance-related guidance material that is already available and to fill any remaining gaps.

GOVERNMENT- AND EU-ISSUED GUIDANCE MATERIAL

US Department of Commerce, Bureau of Industry and Security, 'Freight forwarder guidance' (Feb. 2012), <<https://www.bis.doc.gov/index.php/forms-documents/compliance-training/export-management-compliance/620-new-freight-forwarder-guidance/file>>.

This guidance document from the Bureau of Industry and Security (BIS) provides a concise outline of the 'Responsibilities of the Forwarding Community' under US law, focused on the key concepts of 'principal parties in interest' (PPI) and 'routed export transaction'. It also draws attention to the penalties to which freight forwarders might be subject. The BIS proposes a number of measures, such as checklists, export management and compliance programmes, actively engaging with the export control authorities and building compliance partnerships and other sorts of synergies by cooperating on compliance with all the parties involved.

US Department of Commerce, Bureau of Industry and Security, Office of Technology Evaluation, 'BIS "best practices" for industry to guard against unlawful diversion through transshipment trade' (Aug. 2011), <<https://www.bis.doc.gov/index.php/forms-documents/pdfs/625-best-practices/file>>.

This best practices guide by the BIS Office of Technology Evaluation, developed in cooperation with US industry, addresses the challenge of the diversion of dual-use items shipped to a trans-shipment 'hub', or to an intermediate country, before being shipped to the country of final destination.

US Department of State, Bureau of International Security and Nonproliferation, Export Control and Related Border Security (EXBS), 'Guidance for the shipping industry', <<http://icp.rit.albany.edu/index.php/industry-sector-specific-tools/guidance-for-the-shipping-industry>>.

The EXBS programme of the US Department of State provides guidance for the shipping and freight forwarding industry on its 'Internal Compliance Program Guide' website. The guidance document introduces the specific challenges facing brokers, shippers, freight forwarders and carriers when building and subsequently implementing a company ICP. It discusses relevant definitions, enforcement case studies and the licensing requirements specifically relevant to the information that shippers and freight forwarders typically have available from their screening processes and their position in the supply chain. In addition, it provides a list of topics to be covered in a shipper's ICP manual



or reference guide, links to the EXBS implementation tools and some sample transaction screening questions.

OTHER GUIDANCE MATERIAL

GTS Group, 'Corporate compliance program', <<http://www.gtsgroup.com/page.cfm?pageID=97>>.

The GTS Group provides a range of transport logistics services. The company outlines the main elements of its corporate compliance programme on its website. The key elements of the compliance programme are senior management's commitment to compliance control, a written procedure that defines the compliance programme, constant monitoring and auditing, training programmes, employing an on-staff Export Compliance Officer, record keeping, enforcement of export control procedures, swift adaptation to changes in regulations, proper handling and internal reporting of potential export violations, and swift implementation of any necessary corrective action. The website also outlines the company's approach to risk assessment in export processes.

SIPRI GOOD PRACTICE GUIDE SERIES: THE TRANSPORT SECTOR AS COUNTERPROLIFERATION PARTNER

Muscat, I., 'Securing the supply chain through transport sector cooperation', *SIPRI Good Practice Guide: The Transport Sector as Counterproliferation Partner*, no. 1 (Sep. 2016), <https://www.sipri.org/sites/default/files/SIPRIGPG%20Transport%2001_Muscat_0.pdf>.

The first issue in the SIPRI Good Practice Guide series focuses on the importance of cooperation between transport or distribution service providers and customs as a means of increasing supply chain security. It provides the background to the many challenges facing the transport or distribution service provider community, and between this community and customs and other relevant government authorities.

Palmer, M., 'Restricted parties and the transport sector', *SIPRI Good Practice Guide: The Transport Sector as Counterproliferation Partner*, no. 2 (Sep. 2016), <https://www.sipri.org/sites/default/files/SIPRIGPG%20Transport%2002_Palmer.pdf>.

This issue of the SIPRI Good Practice Guide series discusses the concepts of 'restricted party' and 'restricted-party lists' and their association with export control compliance, especially in the form of shipment screening processes by transport companies.

Palmer, M., 'Proliferation red flags and the transport sector', *SIPRI Good Practice Guide: The Transport Sector as Counterproliferation Partner*, no. 3 (Sep. 2016), <https://www.sipri.org/sites/default/files/SIPRIGPG%20Transport%2003_Palmer.pdf>.

This issue of the SIPRI Good Practice Guide series discusses the concept of 'red flags' as indicators of possible non-compliance and



proliferation-related activity, specifically in the context of transport and trans-shipment services.

Jones, S., 'Counterproliferation good practice for freight forwarders', *SIPRI Good Practice Guide: The Transport Sector as Counterproliferation Partner*, no. 4 (Sep. 2016), <https://www.sipri.org/sites/default/files/SIPRIGPG%20Transport%2004_Jones.pdf>.

This issue of the SIPRI Good Practice Guide series for the transport sector provides specific guidance for freight forwarders. It pays particular attention to the changing role of freight forwarders in the global supply chain, as their services expand to include tasks that were previously carried out by the original exporter. This has affected the liability of freight forwarders. Reflecting these developments, the guide proposes a number of elements of and specifications for the export compliance programmes of freight forwarders.

Orzel, R., Pal, D. and Heine, P., 'Export control compliance and the transport sector: Lessons for internal compliance programmes', *SIPRI Good Practice Guide: The Transport Sector as Counterproliferation Partner*, no. 5 (Sep. 2016), <https://www.sipri.org/sites/default/files/SIPRIGPG%20Transport%2005_Orzel%20et%20al_0.pdf>.

This issue of the SIPRI Good Practice Guide series for the transport sector provides an overview of recent high-profile cases of transport service providers being subjected to fines and penalties for export control violations. It explains the growing focus on supply chain security, which has increased the attention regulators are paying to the role of the transport sector in the diversion of strategic goods. The guide makes a number of recommendations on how the transport sector could reduce the number of export control violations by using harmonized system (HS) codes, and by successfully setting up and running an ICP.

Dunne, A., 'The role of transit and trans-shipment in counterproliferation efforts', *SIPRI Good Practice Guide: The Transport Sector as Counterproliferation Partner*, no. 6 (Sep. 2016), <https://www.sipri.org/sites/default/files/SIPRIGPG%20Transport%2006_Dunne.pdf>.

This issue of the SIPRI Good Practice Guide series discusses compliance and good practice specific to the field of transit and trans-shipment.

Dunne, A., 'Counterproliferation-related information sources for the transport sector', *SIPRI Good Practice Guide: The Transport Sector as Counterproliferation Partner*, no. 7 (Sep. 2016), <https://www.sipri.org/sites/default/files/SIPRIGPG%20Transport%2007_Dunne_0.pdf>.

The final issue in the SIPRI Good Practice Guide series provides an overview of the sources for relevant definitions and background information on multilateral regimes, initiatives and treaties, trade controls and proliferation-related sanctions. It also lists useful resources that provide context for or elaborate on the issues and concepts discussed in the series.

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