



Core Concepts of Export Controls: Roles of Industry, Academia, and Government

Anne M. Harrington

Former Deputy Administrator for Defense Nuclear Nonproliferation U.S. Department of Energy National Nuclear Security Administration

The Science and Technology Center in Ukraine in conjunction with the European Commissions

WORKSHOP

« Export Control on Dual-use Materials and Technologies in GUAM» Radisson Blu Hotel, Kyiv, Ukraine – 14-15 March 2018

Main Messages

- Responsibility for developing and enforcing export control regulations rests with each nation, but requires:
 - Active involvement of economic partners (industry, banks, insurance, universities)
 - Engagement by engineers, scientists, economists, and the academic community
- Because commerce is at the heart of modern economies -- but has real security risks -- important to learn from each other and share good practices and lessons learned through regional and international cooperation, including the academic community
- Cooperating with those who have long experience with export controls (US, EU, e.g. through STCU/ISTC) can accelerate implementation of effective practices

The Evolving Context for Export Controls

"Export control is political, multilateral, and event-driven.

In other words, export control in each country is ever changing along with the changes in the security situation of the country, its region, and the world. This means that the export control system of each country has its own historical background. Indeed, a country like the U.S. has been implementing export controls as a means to achieving strategic objectives throughout its history.

Therefore, it is much more interesting and important for us to know a country's export control system from a historical perspective than just to know the present status. Doing so helps one to understand the system of a particular country more firmly, deeply and vividly."

Tamotsu Aoi, Advisor, Overseas Matters, International Security Trade Control Department, Trade and Logistics Division, Mitsui & Co., Ltd.
 (http://www.cistec.or.jp/english/service/report/1605historical-background-export control development.pdf); published by the Center for Information on Security Trade Controls (CISTEC).

EXPORT CONTROL CHRONOLOGY

1914		The World War I broke out (ended in 1918)
1917	U.S.	The Trading with the Enemy Act (TWEA) was enacted
1935	U.S.	The Neutrality Act was enacted
1939		The World War II broke out (ended in 1945)
1939	U.K.	The Import, Export and Customs Power (Defense) Act was enacted
	France	The Decree-Law of April 18, 1939 related to military export controls was enacted
1940	U.S.	The Export Control Act 1940 was enacted
1949		The North Atlantic Treaty Organization (NATO) was established
	U.S.	The Export Control 1949 was enacted
	Japan	The Foreign Exchange and Foreign Trade Control Act was enacted
	China	The People's Republic of China (PRC) was born
1950		The Coordination Committee for Multilateral Export Controls (COCM) was established
	Korea	The Korean War started (ended in 1953)
1952	Japan	Japan joined COCOM
1955	Germany	West Germany joined COCOM
1957		The International Atomic Energy Agency (IAEA) was founded
1958	EU	The European Economic Community (EEC) was established
1960	Vietnam	The Vietnam War started (ended in 1975)
1961	Germany	The War Weapons Control Act (KWKG) and the Foreign Trade Payment Act (AWG) were enacted
1969	U.S.	The Export Administration Act (EAA) was enacted
1974	India	India conducted the first nuclear test

Export Control Motivations

- National/International Security
 - Do not want to spread technologies or ideas that could create instability or threats to your country/region/world
 - Do not want your country/industry/universities to be known as sources of items that create risk

Profit

- Companies want to maximize the benefits of invention and innovation, but have to comply with laws and regulations
- Countries want the results of science and engineering to be recognized by others, but have to ensure that increasing trade does not reduce security

What is Controlled?

Military goods

Tanks, guns and ammunition are examples of military goods

Dual-use goods

- Have both civil and military applications
 - Example: certain fire retardants used in the construction industry can also be used to manufacture poison gas

Strategic services

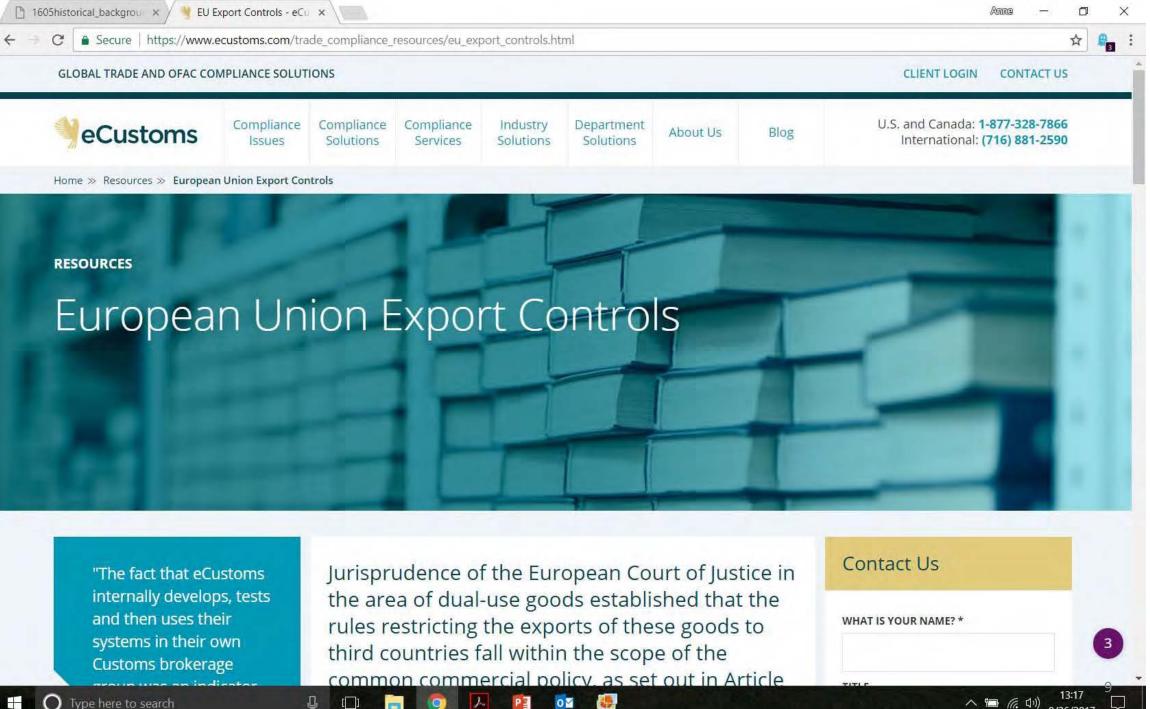
- Repairing and maintaining military or dual-use goods
- Teaching people or sharing knowledge about how to use them (intangible or deemed exports)
- Same applies to supplying certain types of software

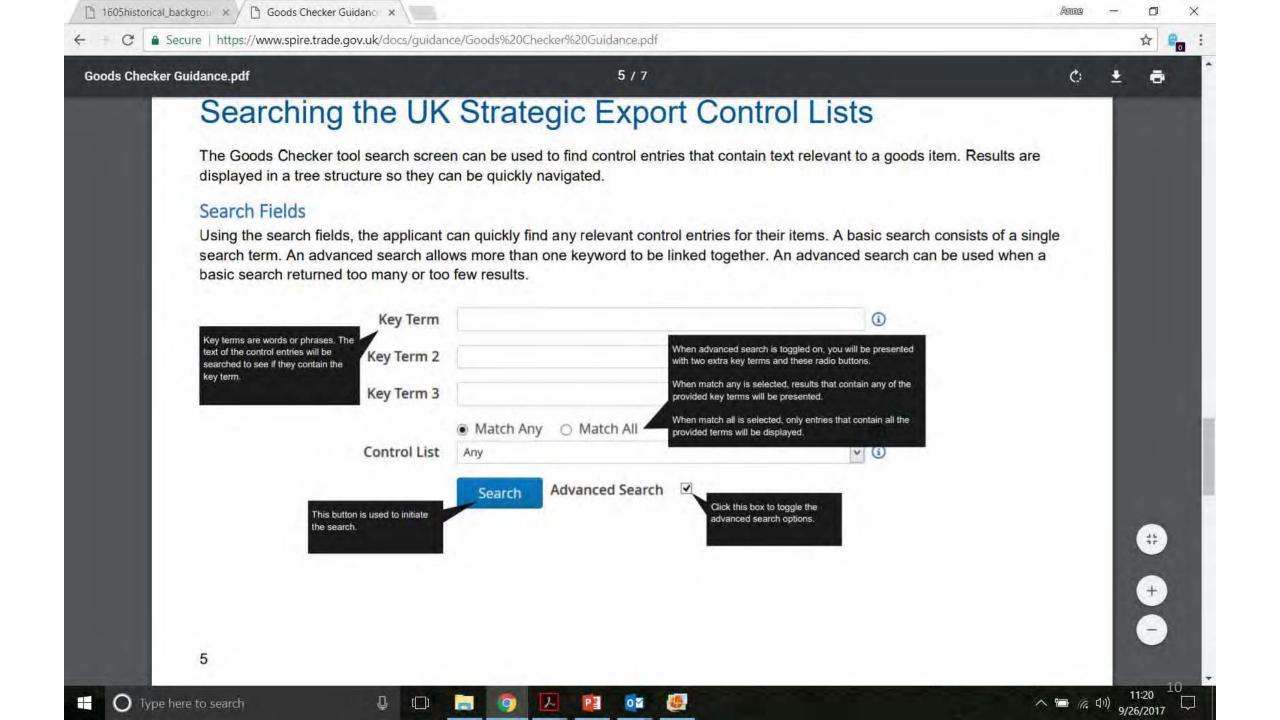
Who Makes the Rules?

- Each nation makes its own rules, but there are several important export control regimes:
 - The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies
 - The Nuclear Suppliers Group (NSG), for the control of nuclear related technology
 - The Australia Group (AG) for control of chemical and biological technology that could be weaponized
 - The Missile Technology Control Regime for the control of rockets and other aerial vehicles capable of delivering weapons of mass destruction
- UNSCR 1540 also requires certain actions

Making Export Regulations Accessible

- Many countries have experience with automated systems
 - Can be updated to keep up with changes in national and international regulations
 - Accessible by everyone, not just larger organizations
- Major contributions made by non-government organizations
 - Center for Information on Security Trade Controls (CISTEC) is a Tokyo-based nonprofit and non-governmental organization that supports Japanese industry activities by timely research and analysis on numerous peace and security issues related to export controls
 - Center for International Trade & Security [CITS], University of Georgia School of Public & International Affairs
 - Reducing the WMD threat to international security and promoting economic development through safe and secure trade in technologies and materials that might contribute to the development of weapons of mass destruction (WMD)
 - Over the past quarter-century, CITS has carried its mission to students, companies and government officials in more than seventy nations









บอฮสกอธศาสเน เขาหลอธกาอกา

ന്നുള്ളവോ

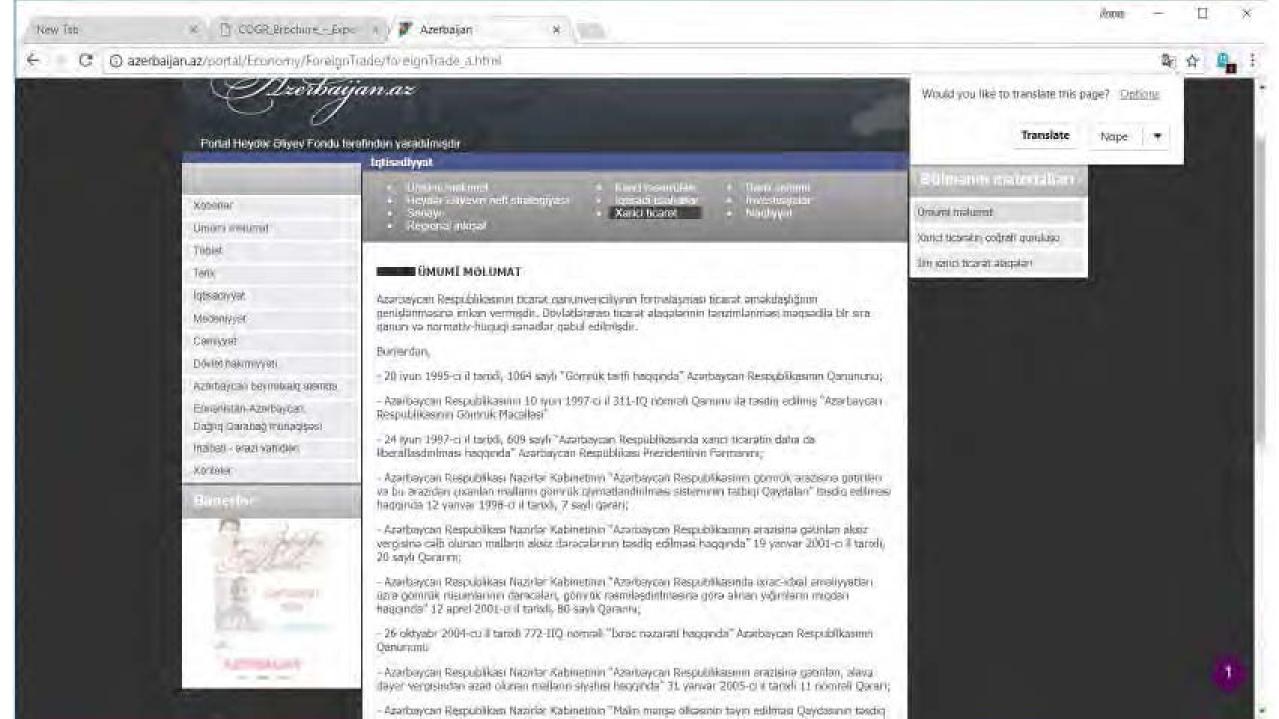


რა ბრის საქმიანობის ლიცენზია?

ადმინისტრაციული ორგანოს მიერ ადმინისტრაციული აქტის საფუძველზე პირისათვის კანონით დადგენილი პირობების დაკმბყოფილების საფუძველნე მინიჭებელი განსაზუგრული საქმიანობის განსორციელების უფლება.

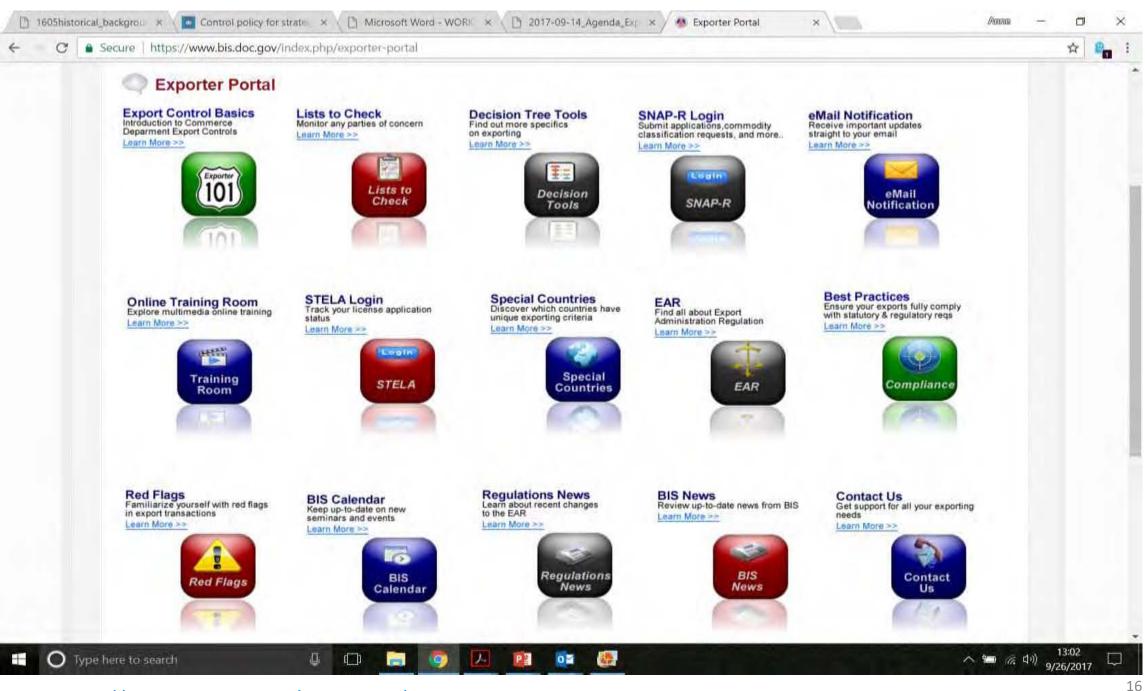
საქართველოს თაგდაცვის სამინისტროს მიერ გასაცეში ლიცენზიის სახეები:

- სამხედრო პროდუქციის დამზადენის, წარმოების გენერალური ლიცემზია;
- სამხედრო პროდუქციის შეკეთების (მოდერნიზებისა და ადგილზე მომსახურების ჩათვლით). გენერალური ლიცემზია;



590 rends







Message: if you want people to follow the rules, make the rules easy to find and understand.

Why Do Export Controls Matter?

- Many times, countries or groups seeking disruptive or destructive capabilities don't need obvious things
 - Information on construction
 - Better understanding of metallurgy
- Countries like the DPRK have their own capabilities, but also had help
 - UN reported in February 2017 (http://www.un.org/ga/search/view_doc.asp?symbol=S/2017/150) that the DPRK:
 - Gets around sanctions with evasion techniques that are increasing in scale, scope and sophistication.
 - New interdictions show:
 - DPRK ability to manufacture and trade in sophisticated and lucrative military technologies using overseas networks
 - The vessel Jie Shun was the largest seizure of ammunition in the history of sanctions against the Democratic People's Republic of Korea, and showed the country's use of concealment techniques, as well as an emerging nexus between entities trading in arms and minerals.
 - Revealed previous arms trading by DPRK and cooperation in Africa, including previously unknown types of cooperation on a large scale
 - Designated entities and banks have continued to operate in the sanctioned environment by using agents who are highly
 experienced and well trained in moving money, people and goods, including arms and related material, across borders.
 - These agents use non-nationals of the DPRK as facilitators, and rely on numerous front companies.
 - DPRK official and diplomatic personnel systematically play key roles in prohibited sales, procurement, finance and logistics.
 - DPRK networks are adapting by using greater ingenuity in accessing formal banking channels, as well as bulk cash and gold transfers.
 - Despite the new sectoral bans adopted for the first time in 2016, the Democratic People's Republic of Korea continues to export banned minerals to generate revenue.
- Libya also had extensive and successful procurement networks

What Can We Do?

OPCW Advisory Board on Education and Outreach 12 February 2018 REPORT ON THE ROLE OF EDUCATION AND OUTREACH



- As part of its expanded activities in E&O, the OPCW should reach out to new stakeholder communities to raise awareness about their possible contributions to the "prevention of the re-emergence of chemical weapons" and promote professional, scientific, and business cultures that aim to reduce the risks of inadvertently undermining the norm against chemical weapons. This report identifies a range of stakeholders—industry, scientists, academia, civil society, policymakers, and the media—and formulates recommendations on:
 - (a) the *general approach* to take;
 - (b) the *projects* that should be pursued;
 - (c) the *concrete actions* that should be undertaken; and
 - (d) who should undertake the projects/activities.

What You Do Will Make A Difference

- Science and technology increasingly difficult to control
 - Hard to anticipate whether new technology or inventions can be used for disruptive purposes
- Traditional international control lists and national legislation often far behind the technology
- Academic community in partnership with industry and government
 - can help look ahead and anticipate issues
 - Help educate
 - Develop resources
 - Develop their own internal compliance programs



Export Controls

UH Office of Export Controls (OEC)



Export Controls at UH

2008:

 Executive Policy E5.218 was promulgated; OTTED once handled export controls.

2011:

 OEC was established by the former Vice President for Research, Dr. James Gaines

2013:

 OEC was fully staffed with 3 full-time personnel; now organized under the Vice President for Research and Innovation, Dr. Vassilis Syrmos

2014:

- OEC website was re-launched: http://www.hawaii.edu/offices/export/
- Rolling out new training to the UH System



Thank You For Your Questions and Discussion