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The critical role of global trade compliance

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International trade laws include export controls, economic sanctions and embargoes, customs and import controls, and antiboycott requirements. These are used by national governments and international organizations throughout the world to safeguard national security, prevent proliferation of weapons of mass destruction, support foreign policy objectives, protect economic security interests, ensure the public's health and safety, and meet other standards.

International trade requirements touch almost every organization that buys or sells products, services, software, or technical data from/to other countries. Every such organization must conduct its business in full compliance with all domestic and international trade laws and regulations; failure to meet these obligations may result in significant civil and criminal penalties, disrupt business initiatives, delay fulfillment of on-time deliveries to customers, and damage the organization's reputation.

The aim of this article is to describe international trade requirements and the processes to be implemented by an organization in order to assure trade compliance. To manage supply chain compliance requirements efficiently and effectively, organizations need not only the knowledge, access to information, and ability to interpret the impact of existing compliance requirements, but they must also have the capability to adapt to new and rapidly emerging requirements.

Export and import controls

Export controls are rules that restrict the export of products, services, and information, depending on their type, use, and destination. The objective of US export regulations is to protect US national security, meet its foreign policy goals, and prevent diversion of sensitive products or technical data. The outcome of these export regulations is several lists defining restricted countries and entities.

Companies must understand whether the products they export are subject to US export control laws, because those exports could require government-issued licenses—depending on the products' "end use" or "end user"—before they may be shipped abroad. In those situations where an export license is required, the company cannot send the product (or any associated technical data) abroad or otherwise share the product with non-US persons until and unless the appropriate authorization has been obtained from either the U.S. Department of State or the U.S. Department of Commerce.

US export control laws prohibit any involvement of a US person or support from the US in a sale to an embargoed country. The US also may impose separate technology controls on sales to embargoed countries of products that incorporate US origin goods or are developed with US technology or other assistance.

Two principal US regulatory regimes govern the export of products and technology:

- The export of items or technologies that are either commercial or “dual-use” in nature is subject to the Export Administration Regulations, administered by the U.S. Department of Commerce Bureau of Industry and Security. Dual-use items have a predominant commercial purpose, but they can be adapted for military purposes.
- The export of defense articles and related technical data (i.e., items or technology that are “inherently military” in nature, as well as most space-related items) is subject to the International Traffic in Arms Regulations, administered by the U.S. Department of State Directorate of Defense Trade Controls.

Moreover, the U.S. Department of the Treasury Office of Foreign Assets Control administers regulations governing the export of items involving countries subject to sanctions or embargoes or certain blocked named persons or entities. The anti-boycott laws and regulations are intended to prevent US companies from taking action in support of a boycott imposed by a foreign country upon a country that is friendly to the US. In general, the anti-boycott laws prohibit US firms and persons from providing information concerning business relationships with a boycotted country, in a boycotted country, or with a company in a boycotted country. Any agreements or transactions seeking to discriminate or actual discrimination against other persons based on race, religion, sex, national origin, or nationality are prohibited.

The company should consider that it may be subject to additional various trade sanctions imposed by the United Nations, the European Union, the US, and any other countries in which it does business. Therefore, the company should be able to perform a screening of customers in a database containing numerous blacklists of all different origins.

Lastly, based on the agreed Incoterms, local import laws should be taken into account as well—whether the product requires an import license or any other regulatory or governmental license or approval for entering the territory it is shipped to.

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