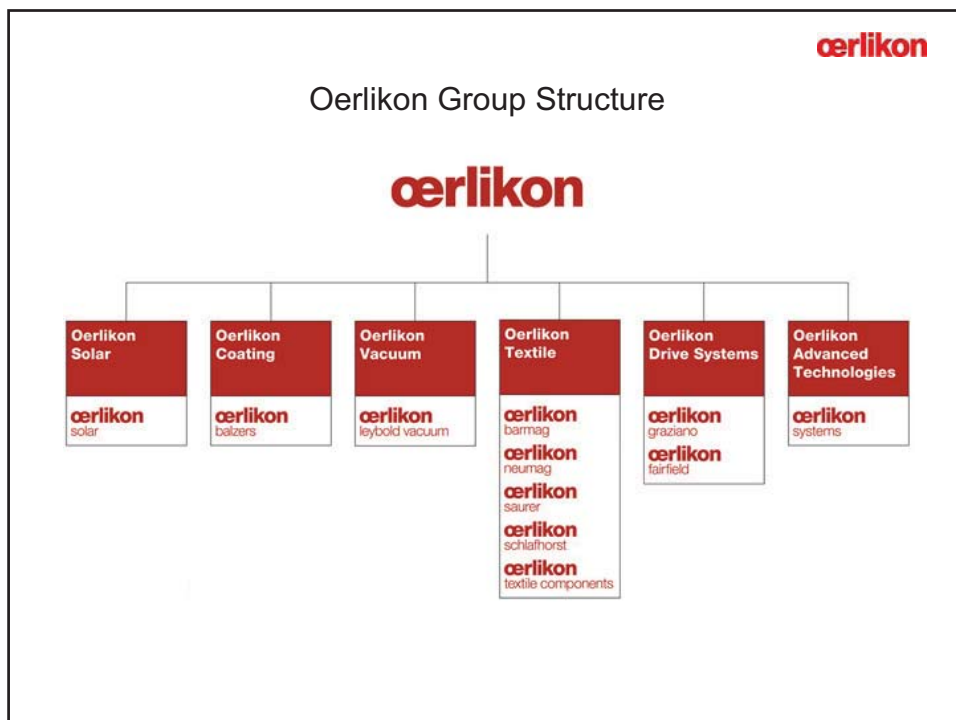


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Global Trade Control

Implementation of Internal Control Programs (ICP)

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Oerlikon Group – Global Footprint

- Approx. 16.000 employees worldwide
- 160 legal entities in 35 countries
- Thousands of export transactions daily
- Tens of thousands of business partners
- Millions of parts in product portfolio
- Licensable items, sensitive end uses
- Various IT systems in use
- Work in 35 different legislations, but...
-need to respect all countries' laws

Export Control – tasks and goals

The **main task** is to secure the strict compliance with all relevant regulations;

Compliant enterprises

- enjoy privileges (simplified procedures, general licenses)
- are more competitive than companies without privileges
- do not have to expect high penalties or jail term
- will not have any reputation damage by media reports
- are attractive employers

The **goal** of Export Compliance is to

- **safeguard all material and intangible company assets**
- **protect all employees and management**
- **secure sustainable business**

How do we achieve export compliance?

- ❖ A systematic approach is required = Internal Control Program (ICP)
- ❖ Export controls can be standardized
- ❖ Control lists are widely harmonized
- ❖ The goal is clear: 100% compliance
- ❖ Published recommendations (web sites)
- ❖ No need to „re-invent the wheel“
- ❖ Group HQ provides the guidelines
- ❖ All subsidiary add national legislation to their ICP

**A „Total Quality Management“ system,
aiming at a company’s full export compliance**

Export Compliance....

...is not just a function for one individual – the Export Control Officer

Rather, it is a compliance goal to which the entire organisation has to contribute, by means of

- Commitment
- Smart and effective processes
- Sufficient resources



1. Management Commitment
2. Top Level Policy Statement
3. Export Control staff - good regulatory knowledge - clear competences
4. Roles and responsibilities (no conflict of interest!)
5. Classification of all goods
6. Screening of business partners
7. Training / further education
8. Export Licensing Process
9. IT-Support
10. Internal Audit

Elements of Internal Control Programs

- ▶ **Element 1: Appointment of „Chief Export Control Officer“**
- **Most important criteria: personal responsibility**
- **„Must“: a genuine commitment to Trade Compliance**
- **Responsibilities:**
 - **to select of qualified/reliable compliance personnel**
 - **supervision of compliance personnel**
 - **Organisation of Trade Compliance within the entity or group**
 - **Enabling resp. encouragement of trainings/further education (knowledge of regulations)**
- ▶ **A responsibly acting Top Manager is the best „Enabler“!**

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Elements of Internal Control Programs

▶ **Element 2: „Policy Statement“**

A written statement of the Top Management commitment to unconditional company policy of compliance (leave no doubt)

- No statutory provision in Germany, but
- helpful to communicate company philosophy
 - to business partners (customers, suppliers, representatives)
 - to existing and new employees

Oerlikon provides policy statement together with work contract and additional documents (company agreements)

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Elements of Internal Control Programs

▶ **Element 3: Compliance personnel (Trade Control Officers)**

- Definition of authorizations of Trade Control Officers
- Adequate time/resources to perform functions
- Equipped with authorizations to stop each critical export
- Access to all necessary documents
- Compliance department should be organized independently within company organisation (avoid collision of interest)
- Compliance staff should report directly to CEO
- The functions should be well-defined within the organisation

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Elements of Internal Control Programs

- ▶ **Element 4: Written documentation (incl. roles/responsibilities)**
 - Documentation with activities, processes, responsibilities
 - It's not essential whether there a one or more working instructions.
 - Documentation should be clear and „all inclusive“ (languages!)
 - Must include clearly defined functions and responsibilities
 - „Trade Compliance“ should be part of job description of all concerned
 - Documentation should include version number, date and signature
 - Should include internal contact persons (with telephone number)
 - Should always be up to date
- ▶ In case of foreign trade/enforcement audits documentation has to be available!

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Elements of Internal Control Programs

- ▶ **Element 5: Screen all goods/technology against export list**
 - „One time exercise“ at the beginning, then
 - Continuous/permanent check of all new parts, design reviews
 - Screening shall be performed by well trained engineers/technicians
 - Liensable goods should be blocked in IT system (if any)
 - All business partners should have access to information
 - Data processing system should generate revision notifications
 - Export lists subject to continuous modifications (pay attention!)
 - In cases of doubt please contact authority
 - If you are not producer, please ask supplier

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Elements of Internal Control Programs

- ▶ **Element 6: Screening of business partners**
- Please mind for „red flags“ in inquiries and orders (diversion?)
Search in the internet, commercial register and the „Yellow Pages“ etc. about customer
- Special caution when dealing with trading companies
- Insist in enduser declarations providing unambiguous references to the end user, if required.
- In case of doubt regarding the end use, please contact the authorities
- If you have to reject a delivery, warn other companies
- Inform your authorities
- Enter a delivery block for sensitive/critical companies

- ▶ **No business is profitable enough to buy yourself a new, good reputation.**

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Elements of Internal Control Programs

- ▶ **Element 7: „Education and trainings“**
- Regulatory knowledge requires continuous updates
- Compliance staff should participate in seminars
- Certificates of attendance document the participation in seminars (confirmation for management)
- Export control staff read and comprehend the according laws
- They have to be translated in the (simple) language of the company
- Export Controllers should train their colleagues in internal seminars and workshops (not only by means of newsletters)
- Use of web casts, training videos etc. possible, but
- Prefer personal meetings for immediate clarification of questions
- Have attendance sheets / participant lists signed (evidence of training)
- Ask HR to support with invitations and administrative preparations

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Elements of Internal Control Programs

- ▶ **Element 8: „Export License Applications“**
- Guarantee that export license application is complete in all details (accompanying documentation about goods and end use respectively end user)
- Evaluate the supply transactions, comment on it and the reasons why end use appears to be plausible.
It's mandatory that all data and information are true and correct
- Export applications are handled with a strict 4-eyes-principle
- If the Licensing Authority imposes conditions, check if you can fulfill these (prior to delivery, 4-eye-principle)
- Caution: recordkeeping requirements may be special!

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Elements of Internal Control Programs

- ▶ **Element 9: „IT support in Export Compliance“**
- No obligation, but highly recommendable
- If you want to use IT support, you should
 - have an appropriate authorization concept (no data access for everybody)
 - have clear written business processes (blue prints)
 - have highly qualified users to maintain the data bases
 - have access to all log files for all field entries/modifications
 - be aware that internal and external auditors review the IT
- ▶ IT support for Export Compliance is mostly uncomplicated and not necessarily expensive (standard ERP software available)
- ▶ A business requirement for automated processes including the interface with Automated Export Systems (customs)

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Elements of Internal Control Programs

- ▶ **Element 10: „Internal Audits“**
- „Trust is good, but control is even much better“
- Your employees tend to forget the processes introduced by you
- Export compliance should be audited like other compliance
- If there is no audit team in your company available internal audits can be conducted by any other independent function
- The compliance personnel should not be in charge of audits (The controllers must not control themselves)
- Forward the audit report to all concerned, including Top Management
- You should implement re-audits (control progress)

- ▶ Audits will help your company to avoid violations and improve (The punishment of employees is not the prime task)

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What requires urgent improvement?

Situation:

- Catch-all clauses are not very effective – sensitive projects are kept secret
- Many companies receive „sensitive“ inquiries (no further action)

Consequence:

- ❖ Government authorities miss A LOT OF precious information that would help raise „red flags“, provide new aspects or confirm current analysis
- ❖ A good opportunity of powerful counter-proliferation activities is lost

Requirement:

- Launch, re-launch or intensification (depending on status quo) of high-volume industry-government information sharing programs
- Preferably by authorities without legal obligation to investigate
- Full confidentiality („witness protection program“) for companies
- Expand information sharing between states and IAEA
- Optional: incentives for participating companies

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1 = Valve made in Germany – not on Control List
2 = Pressure transducer made in USA – controlled/licensable
3 = Pressure transducer made in Europe - not on Control List



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What requires urgent improvement (continued) ?

More requirements:

- Faster updates of the international control lists
- More and better focussed restrictions (see equipment of previous page)
- A voluntary self-restraint in export matters of key industries
 - direct approach or via associations
 - companies use „brand ambassadors“ – why not have „ethics ambassadors“?

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Thank you ! --- Questions welcome

