Export controls
Oil and gas

Managing risk in your supply chain.

What are export controls?
Export controls are regulations that support national security policies and prevent the proliferation of weapons of mass destruction (WMD) and related terrorist activities. Export controls have been around for many years, but due to recent terrorist activities and developments in technology, governments and industry have sharpened their focus. Today, export controls are a high-profile topic and we have seen a recent surge in enforcement, particularly around dual-use goods (for example, items that are designed for a commercial application, but that also have a potential military end-use).

Companies must ensure compliance with national export control regulations, as well as, US regulations which can impact any company dealing with US origin product/software/technology, US persons, or US-owned companies, wherever located.

How do export controls impact the oil and gas industry?
The tightened export regulations impacting the oil and gas industry stem from the Iraqi Super-Gun incident when drill piping was exported to Iraq. As such, export control regulations are a key focus of the oil and gas industry, and effective export compliance procedures are essential in this sector.

For example, the following dual-use items which are often used in the oil and gas industry may require a licence for export or movement offshore:

- Robotic equipment.
- Surveillance equipment, such as gyros and guidance systems.
- Pumps and valves.
- Lubricants and chemicals.
- Vibration test equipment.
- Down-hole drilling equipment, such as EBW detonators, bearings, piping, drill bits.

Furthermore, because of Iran's continued non-compliance with international agreements and efforts to build its nuclear weapons programme, major powers around the world – including the US and EU – believe that sanctions targeting Iran's petroleum industry will cut off financing to Iran's nuclear programme and would therefore hinder Iran's nuclear ambitions.

As a result, in 2010 the US and EU council passed legislation that, among other things, prohibits member states and their nationals from selling, supplying or transferring to Iran key equipment and technology, as well as, related technical or financial assistance, which could be used in the oil and natural gas industries – including any new investments in these sectors in Iran. Key sectors include refining, liquefied natural gas, and exploration and production.

What other related issues should the oil and gas industry consider?
Recent changes to the regulations mean that more valves are now subject to export control. Companies should be aware of these amendments, as they may impact commercial operations with respect to items which would not normally have had licensing requirements.

US regulations extending to cover US persons, goods, technology and companies wherever they are located. US controls must therefore be built into an effective overseas compliance programme.

Business activities may also be impacted by more than one jurisdiction. For example, a major oil and gas company based in the UK, was fined millions of dollars by the US government for the export and re-export of various US origin items, without the required licenses. Moreover, in 2009 a major UK company was fined $350m for breaching US sanctions on Iran, Libya, and Sudan.

What is the impact of breaching export control regulations?

There are often significant monetary penalties for non-compliance, as well as, in extreme cases, custodial sentences. For example, in June 2009, three men were jailed in the UK for a total of ten years for illegally exporting controlled items to Iran.

However, a major cost to business is often reputational damage that results from supply chain delays and late licensing decisions, which impact a company's ability to serve its internal and external customers and to compete in the marketplace.

How could my business be impacted?

Your business could be impacted by export controls in one of four ways:

- Product controls – your products, services, technology (for example, technical data, formulas, chemical analysis specification sheets) and software may require a licence to be exported.

- End-use controls – the final end-use of items can trigger a licence requirement. For example, could one of your products be used to develop a potential WMD or military application?

- End-user controls – exports to specific entities or persons can be prohibited or may require a licence, and companies must screen entities in the supply chain against applicable denied party lists. For example, do you conduct business with government or military owned companies?

- Destination controls – embargoes and sanctions against specific countries, entities or individuals can restrict exports of products, technology or activities. For example, are you supplying any of your products to Iran?

How can Deloitte help?

Deloitte's multidisciplinary Customs and Global Trade team is market leading in this field, with specialists in European and US export control regulations, covering both dual-use and military controls. Our team consists of lawyers, ex-government officials, industry experts and consultants, providing years of export control experience. The team has unrivalled experience in reviewing, developing and implementing comprehensive, customised, user-friendly export compliance programmes, from basic must-have procedures through to leading practice methodologies.

Our service offerings include:

- Developing or enhancing of leading practice compliance programmes.
- Automation/systems support and guidance on organisational structure.
- Licence management programmes.
- Training.
- Due diligence services.
- Risk reviews and audits.
- Supply chain optimisation.

As well as improving risk management, our methodologies can drive improved operational performance throughout the supply chain by eliminating ineffective processes, improving lead times and minimising supply chain disruption. Ask our experts about how we can help to improve your global trade practices from both a risk management and cost reduction perspective.

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