

HOW to proceed and with whom to engage with?

1. ASSESSING MOTIVATIONS FOR ADOPTING AN ACTIVE COMPLIANCE STANCE

An interesting question to think about is how a university or a faculty comes to the realisation that some kind of internal control mechanism is necessary. Often times, a communication by the competent authorities such as a warning letter or a verified violation including a subsequent penalty will make an exporter including a university to pursue actively an internal compliance structure. Generally speaking, in the EU academia is still unaware of export control implications that may affect its activities and, targeted outreach by the authorities towards academia is not as much common as it should be due to limited resources and little experience in dealing with export controls in an academic context. This points to the blunt conclusion that the rigorous enforcement of export controls including imposition of sanctions can lead to increased awareness and compliance.

However, if the objective is to establish a trusted relationship with the academia and research communities, some constructive thinking and motivation is very much required. Authorities need to approach the academic community in very thoughtful manner and with comprehension of researchers' specific needs and peculiarities of research environments. LERU and other university compliance officers in Europe have brought out certain common compliance issues that can be particularly cumbersome in a research setting. This is the case for example with research projects involving

multiannual research and an increased fluctuation of researchers as new partners might enter research consortia in the course of such long-term projects. Trade facilitations such as general licences could mitigate additional compliance costs for joint research ventures and act as a stimulus for the implementation of internal controls by those universities who wish to contract with international partners from industry and/or other universities.

As explained in section 2.4, funding schemes may have leverage for raising awareness on dual export control issues and identifying potential risks at an early stage. In addition, compliance obligations coming through such funding sources can lead to enhanced compliance practices for export controls. For instance, in the UK, the Economic and Social Research Council (ESRC) may require from universities to have some sort of internal mechanism for ethical review of all research funded under its framework. Similarly, in Germany the National Academy of Science “Leopoldina” sets specific standards for security related research⁴⁴. These avenues may need to be adapted in order to reflect export control obligations as well.

Furthermore, global supply chain compliance can have a positive effect in incentivizing universities to be responsible and follow the letter and the spirit of the export control law. It is a common practice for several large firms and SMEs to apply due-diligence procedures for all third parties involved in their supply chain. In that view, economic operators are eager to enter into and maintain business with reliable and compliant actors and thus universities have additional reasons to activate their reflexes. It has been also acknowledged that thanks to partnerships between firms and universities, academics are becoming aware of export control requirements set in the law and start querying on the topic.

44 C. Charatsis, “Interferences between non-proliferation and science: ‘exporting’ dual-use know-how and technology in conformity with security imperatives”, Liege: European Studies Unit, December 2017, p. 187.

Therefore, joint ventures including universities can contribute to awareness raising among the research community⁴⁵.

Engaging research and academic communities to the policy making for export controls is a key to enhancing their understanding and commitment to the non-proliferation cause. A more inclusive decision-making process can bring several benefits as it will allow researchers to familiarise themselves with export control objectives and processes and it will provide to policy makers insightful expertise concerning forthcoming technological advances that may need to be addressed in the control lists. Universities function as beehive of technological novelties and ground-breaking findings that can tap into industrial applications and they are well positioned in identifying the next generation of technologies having a dual-use potential.

Interrelated to the previous, introducing export control training and awareness modules in the curricula of the most sensitive disciplines and research areas can help greatly in forging an export compliance culture within the academic community and beyond. In that respect, the Targeted Initiatives by the EU under the Instrument contributing to Stability and Peace have the aim to develop master courses and promote export control awareness in central Asian and GUAM countries.

There are also other ideas with regards to how researchers can become more aware and sensible to export control objectives. For instance, expanding the scope of the AEO designation to be available to any actor meeting certain security and reliability criteria was one of the suggestions discussed in the Chaudfontaine seminar. Presently, only economic operators are eligible to apply for the AEO status⁴⁶. Providing some kind of compensation such as tenures

45 *Ibid*, p. 160-170.

46 More information on the AEO concept is available in the following link: https://ec.europa.eu/taxation_customs/general-information-customs/customs-security/authorised-economic-operator-aeo/authorised-economic-operator-aeo_en#what_is.

and promotions to researchers dealing with very sensitive research and having limited possibilities to publish was a further innovative idea discussed during the Chaudfontaine conference.