



Export Control

THE REGULATION OF THE
DUAL USE ITEMS

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What Are Dual Use Products?



Dual Use Products are products such as software and technological devices that are designed for civilian purposes, but can also be used for military purposes.

These may be represented by any form of object or software susceptible for use in the production of armaments. This includes, but is not limited to, nuclear, chemical, or biological explosives aimed at terrorist purposes.



COMPLIANCE CONTROL

The export of these types of products is subject to strict control for compliance with national interests as well as international commitments and agreements.

PROHIBITION

In some cases, the export of these products is prohibited. In others, it is subject to a prior authorization by the competent National Authority, the UAMA (Armament Material Authorization Unit).

Relevant legislation

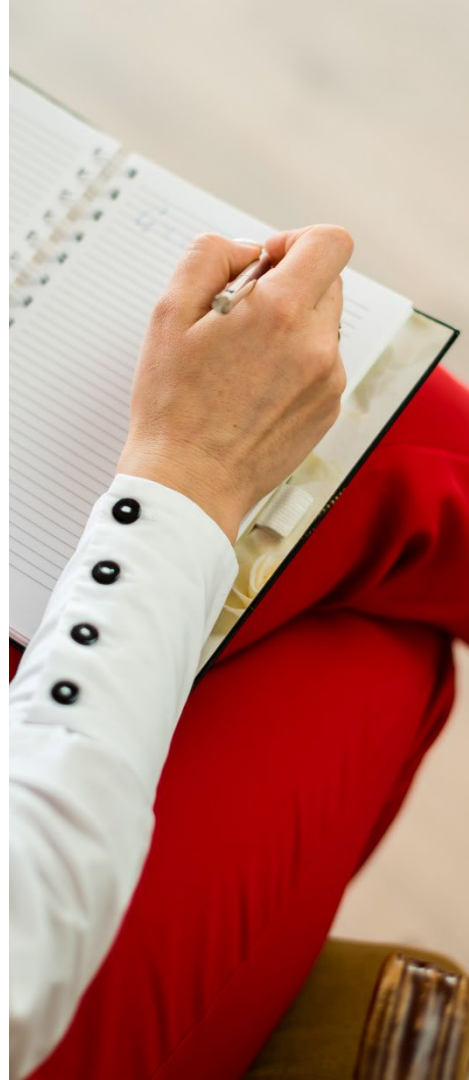
- ▶ The regulation on controls of "dual use" products was born in 2000 with the introduction of the **CE Regulation 1334/2000**. Over the years and with the proliferation of products that can be considered dual, the discipline has been constantly modified and updated by several regulations.
- ▶ It may be useful to recall the **CE Regulation 428/2009**, which led the Italian government to adopt the **Legislative Decree 221/2017** to harmonize the Italian law with the European standards.
- ▶ In recent years, two regulations have particularly modified the discipline of export controls: specifically, the **CE Regulation 821/2021** which reformed the export control procedure by establishing a system of authorizations issued by the Ministry of Foreign Affairs and International Cooperation, and the **CE Delegated Regulation 1/2022**, which replaced and expanded the list of dual use items included in Annex I of the CE Regulation 821/2021.
- ▶ In addition, CE Regulation 821/2021, introduced two other new developments: the requirement to establish an **Internal Compliance Program (ICP)** when applying for authorizations, and a new **e-Licensing** system for the application of export authorization.

Internal Control Program (ICP) – pt.1

The provisions of the **CE Regulation 821/2021** expanded the range of possible export authorizations, making them subject to the prior establishment of an **Internal Compliance Program**, which allows the exporter to be "aware" of the regularity and compliance of its activities.

This program, whose **efficacy** must be constantly monitored by the company, by the assessment of **potential risks** that may affect certain exports, involves several steps

The company can freely choose the organization of its **Internal Program**, keeping in mind that an efficient and functioning system will have the dual effect of speeding up export licensing procedures as well as supporting **national authorities** in dealing with terrorism and weapons proliferation.



PURPOSES



UPGRADE
The European Union's Export Control Toolbox



RESPOND
To Changes in Technology, Science, and Trade



ADJUST
To Rapidly Evolving Security Risks



CLARIFY
Rules and Controls Regarding Trading of Dual Use Products

Internal Control Program (ICP) – pt.2

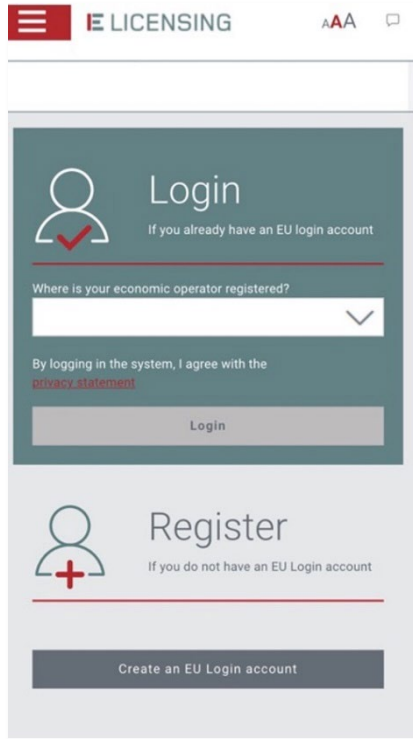
To summarize, the basic points that an efficient Internal Program should follow are:

- ▶ Analysis of the potential duality of the item, by using the ECCNs (**Export Control Code Number**);
- ▶ Verification of all available **information** regarding business operations, starting from the first contact with the foreign customer;
- ▶ Supervise **internal activities** aimed at fulfilling export procedures;
- ▶ Verify the **identity** and **trustworthiness** of the recipient of the product, through a request for an End User Statement;
- ▶ Follow the arrival of the product at its **destination** and check that it is used for its stated purpose.



Setting up an Internal Program to deal with these operations would not only have an ethical value, to assist the Peacekeeping and Anti-Terrorism Authorities, but also, a practical value, as it would make it possible to anticipate the assessments of the MISE Export Control, and consequently speed up and simplify the entire licensing procedure.

E-Licensing System



The screenshot shows the E-Licensing System interface. At the top, there is a red menu icon, the text 'E LICENSING', and a search icon. Below this, there are two main sections: 'Login' and 'Register'. The 'Login' section features a person icon with a red checkmark, the text 'Login', and the subtext 'If you already have an EU login account'. Below this is a dropdown menu labeled 'Where is your economic operator registered?' and a 'Login' button. The 'Register' section features a person icon with a red plus sign, the text 'Register', and the subtext 'If you do not have an EU Login account'. Below this is a 'Create an EU Login account' button.

The last big innovation introduced in the area of dual-use items is the implementation of an electronic system for managing the procedures for issuing export authorizations (the so-called e-Licensing system), which as of July 1, 2022, entirely replaced the paper-based mode.

For this reason, it has become necessary to know how to use the electronic system in order to continue exporting dual-use items and technologies without delay.

- ▶ First, it is essential for the exporter to have his or her ECAS Identity, also known as EU Login, which is the digital identity of every citizen of the Union Europe, necessary to access any EU digital program.
- ▶ Once the ECAS Identity is obtained, it will be possible to access the e-Licensing platform, and after filing the company-related documents required by the system, it will be possible to be registered as a "European economic operator."
- ▶ Once registration is completed, you will be able to use the platform to obtain the necessary authorizations for the worldwide export of dual-use items.

So What Can You Do?

If you are a company exporting dual use products and want to avoid sanctions, export blockages or slowdowns in the licensing application process, we can help. With our expertise in the field, we at LEXIA can assist you in implementing an effective Internal Compliance / Control Program and as well as with the various steps required to obtain export licenses.

RELY ON THE FOREIGN DIRECT INVESTMENT AND CORPORATE SERVICES TEAM FOR THE LEGAL SUPPORT AND ASSISTANCE YOU NEED.





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