



Internal Compliance Program – Series (14)– Applicable Legislation

Today, in the fourteenth article in the hands-on practical advice series on Internal Compliance Programs for Export Control:

Part 14: Applicable Legislation

Now that you have concluded your risk assessment chapter (the second, and a very important one, of your ICP), it is time to move on. In a third chapter, you will have to demonstrate that you are mastering the laws and regulations governing your exports and other controlled operations on sensitive goods.

Again, there is no one-fits-all text we are able to recommend. Even if the EU Guidelines are not providing specific guidelines for that point, the drafting of a specific chapter dealing with the applicable legislation fulfils a double purpose.

First, you should see the ICP as being an internal working document to be used in daily operations. As such, the chapter dedicated to applicable legislation has to provide internal users of the ICP with a complete and detailed overview of the legal framework of export control compliance. It should therefore contain precise legal references where to find the laws and regulations to which the company is subject to, and, above all, with (legally justified) answers to precise questions.

Secondly, it should demonstrate to licensing authorities that the program you have implemented is built on the right foundations and that you are completely aware of the rules covering export control and the penalties it may face in case of violations of the laws and regulations.



A few tips how to approach this chapter:

1. Begin with collecting and attaching to the ICP document (preferably as an annex, because of volume) **complete legal texts** applicable in your jurisdiction. Go for consolidated and updated versions of the legal texts.
2. Continue by convert the set of legal texts to an **explanatory document**, focusing on controlled products, controlled operations, authorisations and fines. Exclusively use a simple (not legal) language, because you want your readers (who are mainly not lawyers) to understand easily.
3. Add, at any place, **references to legal texts** (for example: "Law of (date), art. (number), paragraph (number)", or "EU Regulation 428/2009 on dual-use items, art. (number)"). Add a reference to the annex if the relevant legal text is reproduced in the attachments to your ICP document.
4. Integrate **FAQ (frequently-asked-questions)**, which you can enlarge with subsequent updates, as a specific section of this ICP chapter.
5. Ensure that you are **covering all jurisdictions** applying to your activity. You must demonstrate that you have analysed and integrated into the ICP relevant legislation of countries other than your home country, because they are destination countries of products or services, or geographical location of affiliated companies or corporate sale agencies, or location of customers or business partners and have therefore an impact on overall, worldwide, compliance. In case your company has its headquarters in country A and a link in country B, your chapter should cover respective export control regulations of countries A and B. As this can be tough for multinationals, respect the point 6 hereafter.
6. Describe applicable legal rules in a **graphic way**. One basic approach could consist in creating a table with 4 columns: the first one dealing with goods (dual-use, military, civil ...), the second one

indicating the different operations (export, import, transit, technical assistance, brokerage ...), and the third one the possible restriction (prior authorization requirement, prohibition, no restriction) for each product/operation. The fourth column would indicate the legal basis for each of the results. Use additional notes to explain furthermore the steps or precise the meaning of legal wording, e.g. in a note section or in footnotes.

7. Be **concise but precise and complete**. Be aware that any modification of relevant laws, regulations and rules on export control must generate an update of the ICP document.

