

Export control responsibilities & human rights due diligence

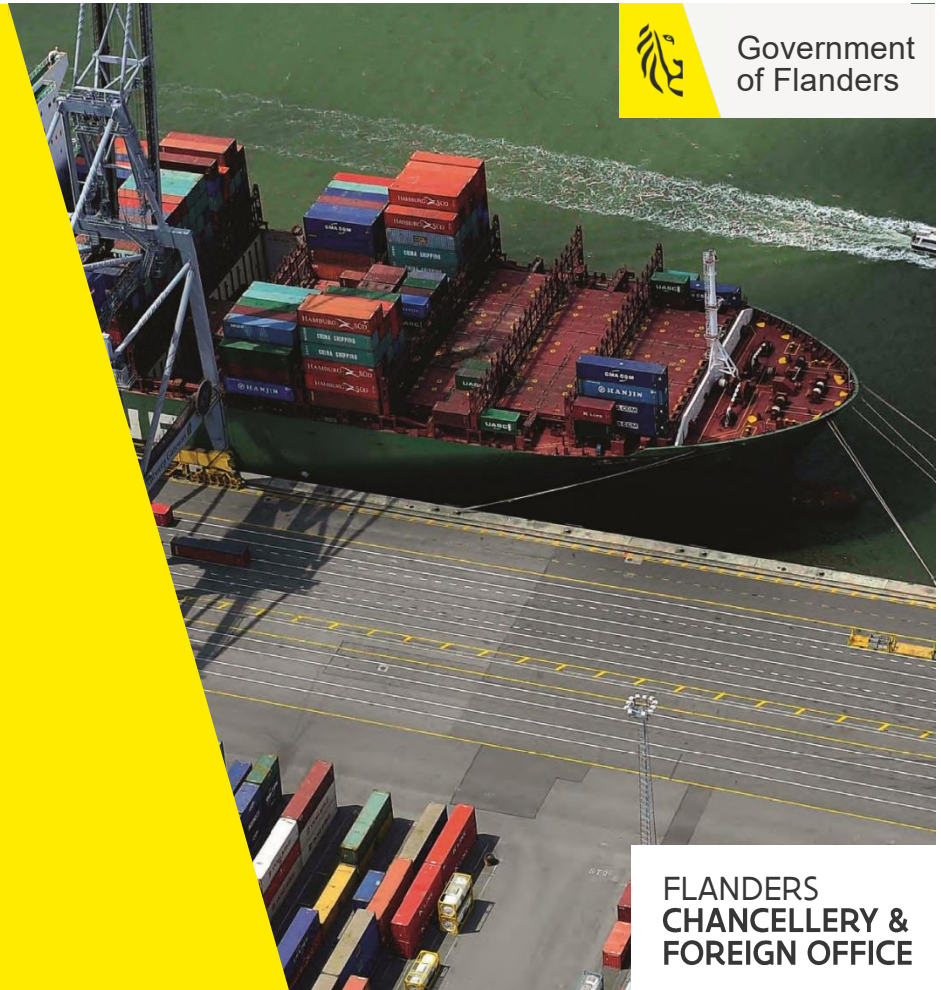
Government of Flanders' practical approach

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Strategic Goods Control Unit
www.dcsf.be



Government
of Flanders



FLANDERS
CHANCELLERY &
FOREIGN OFFICE

Export Control is a **shared** exercise and responsibility between authorities and the industry

Human rights due diligence is an **autonomous** exercise and responsibility of the industry

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Internal Compliance Programme (ICP) Guidance

ICP - guidance



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ICP - guidance

1. **What is an ICP?**
2. **Reasons for implementing an ICP**
3. **Risk profile**
4. **Core elements**

1. What is an ICP?



- Company measures
 - Working tool and facilitating instrument
 - Tool to assess the risk associated with a transaction (e.g. use of goods for violation of IHL or HRL)
 - Customised
- ➔ Risk profile

2. Reasons for implementing an ICP

Micro – level

- Complying with export control legislation
- Efficient export flow
- Obtaining knowledge of the end users
- Avoiding being listed
- Raising internal and external awareness
- Corporate reputation
- Condition for obtaining prior authorisation



2. Reasons for implementing an ICP

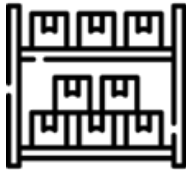
Macro – level



- Safeguarding international peace and security
- Complying with international commitments and trade restrictions
- ICP as part of corporate social responsibility (**human rights due diligence**)

3. Risk profile

To which extent should internal control measures take place within the organisation?



Product range



Customers



Profile of exporter and organisation

4. Core elements



1 Top-level management commitment to compliance

2 Organisation structure, responsibilities and resources

3 Training and awareness raising



4 Transaction screening process and procedures

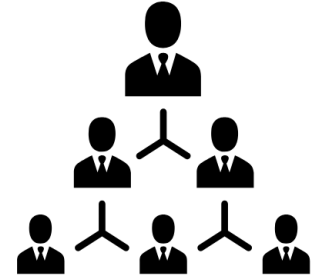
5 Performance review, audits and corrective actions

6 Recordkeeping and reporting obligations



7 Physical and information security

Core element 1: Top-level management commitment to compliance



Code of conduct



Internal processes

Core element 4: Transaction screening

Risk assessment



Item classification



End use, end user(s) and
involved parties screening



Human rights due diligence



Administrative processing
following risk assessment

Core element 4: Transactionscreening



End use, end user(s) and
involved parties screening

Export control obligations ↔ human rights due diligence

- Pre-contractual phase: transaction screening
- Contractual phase: Human rights clause
- Post-delivery phase: report suspected misuse and act upon

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The prior authorisation

Prior authorisation



Required to be granted the right to apply for export and transfer licences

What?

- Research into:
 - Trustworthiness and ethics
 - **Internal compliance programme (ICP)**

How?

- Advice from governmental partners
- **ICP-screening procedure**

ICP – screening procedure

Based on core elements from the ICP-guidance



ICP-questionnaire



Interview



Assessment

E.g.:

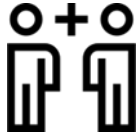
“Is there a standard inclusion of a human rights clause in contracts, and does the clause attach consequences to non-compliance?”

“How do you assess the risk that defense-related products may be used in violation of human rights, international humanitarian law or other provisions prohibited by the Flemish Arms Trade Act?”

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Outreach towards industry

Proactive outreach towards industry



One to one meetings

- Acquaintance
- Support towards prior authorisation



Introductory training sessions

- 2x/year



Webpage on export control obligations

- Human rights due diligence
- Estimation of export admissibility + guidelines



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overheid

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