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PART III

Other Notifications, Orders, etc.

GOVERNMENT OF PAKISTAN

MINISTRY OF FOREIGN AFFAIRS

NOTIFICATION

Islamabad, the 3rd October, 2014

No. 2(24)/2013-SECDIV(P).—In exercise of the powers conferred by Seciton 3 of the Export Control on goods, Technologies, Material and Equipment related to Nuclear and Biological Weapons and their Delivery Systems Act 2004 (Act No. V of 2004) the Federal Government is pleased to notify the following Internal Compliance Programme (ICP) Guidelines:-

ZAFAR ALI,
Director General (SECDIV).

(2603)

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Commitment, Responsibility, Due Diligence



Internal Compliance Programme (ICP) Guidelines

Strategic Export Control Division (SECDIV)
Ministry of Foreign Affairs, Islamabad

April 2014

MINISTRY OF FOREIGN AFFAIRS
STRATEGIC EXPORT CONTROL DIVISION (SECDIV)
ISLAMABAD

INTERNAL COMPLIANCE PROGRAMME (ICP) GUIDELINES

SECTION-1: COMMON GUIDELINES

Introduction

1. Proliferation of Weapons of Mass Destruction poses a threat to international peace and security. In pursuance of its commitment to non-proliferation, Pakistan has instituted a comprehensive legislative, regulatory and implementation system involving transfer of sensitive goods and technologies. *Export Control on Goods, Technologies, Material and Equipment related to Nuclear and Biological Weapons and their Delivery Systems Act – 2004* was passed by the National Assembly on 14 September 2004. The Act further strengthens controls over exports of sensitive goods and technologies particularly related to Nuclear and Biological Weapons and their means of delivery, and enables governmental controls over export, re-export, transit, and transshipment of goods, technologies, material and equipment related therewith.
2. Effective implementation of laws derives from shouldering respective responsibility on the part of Government as well as entities and individuals. The establishment of an effective institutional ICP provides a method of routinely screening transactions, contacts, and dealings etc, in order to eliminate suspicious approaches, thereby ensuring that only legitimate transactions proceed and the risk of breaching the law is minimized. The need for an effective ICP to avoid law violations has increased exponentially, driven by the increasing contacts between small businesses and foreign clients, increasing focus on stemming the flow of financial resources to terrorist organizations, and emergence of new and dual use technologies.
3. Self regulation contributes to overall effectiveness of the country's export control system. Relevant entities are urged to establish enforceable prohibitions against efforts by individuals/entities to assist others in acquiring the technology, materials, and knowhow needed to develop WMDs or their delivery systems.
4. ICP provides two significant benefits to an entity: it reduces the chances of law violations and may mitigate penalties in case of a minor offence. As per our system ICP is not a legally binding requirement nonetheless; entities are encouraged to set up ICP, and declare information on their compliance programme in export license. As part of export control practice, ICP involves risk detection, solving problems, and exporting in a responsible manner. However, ICP differs from one entity to another given the nature and size of the entity concerned. There are, however, a number of essential elements common to all programmes. Large entities including industries and manufacturing firms, multinationals, could adopt their own codes of conduct to combat proliferation problems. Nonetheless, it is important to understand that export authorization would be needed for sensitive goods and technologies regardless of the method of transfer.

Aim of the Guidelines

5. To assist entities, institutions, companies, exporters and others involved in the export chain in evolving an effective system of self regulation by establishing an effective export compliance programme within the

**Develop a compliance
culture**

entity/organization. If adequately implemented this would foster export control culture, facilitate export decision making, maintain consistency in policy/procedures, and enhance compliance with relevant export control laws. Violation of export laws could result in both criminal and administrative penalties and businesses/entities might lose lucrative market place or attract bad reputation.

6. These Guidelines are not exhaustive and entities/organizations may have specific requirements depending on the nature of business activities, resources, customer base, etc. However, these might serve as starting point for evolving an ICP that is flexible to cater for varying needs and future expansions.

What is Export and Export Control?¹

7. Export Control relates to Governmental restrictions on export of goods, materials, equipment, technologies, software, and/or sharing information and materials internationally or within Pakistan with the knowledge or intent of its being transferred or shipped outside by any means or method.

8. 'Export' means shipment, transfer or transmission of goods or technology out of the territory of Pakistan; and a transfer of goods or technology within Pakistan with the knowledge or intent that the goods or technology will be shipped, transferred or transmitted to an unauthorized recipient outside Pakistan.

What is an ICP?

10. ICP is an in-house mechanism that entities' adopt to facilitate compliance with national export control requirements. It is a set of policies, procedures and guidelines an entity/organization implements for minimizing the risk of law violations through a regulatory system wherein all the employees are aware of their responsibilities and obligations, and comply with the entity's policies and procedures on transfer of goods and technologies. An effective ICP protects business interests and minimizes the risk of law violation.

11. Every entity involved in export/transfer of sensitive goods/technologies/information/software should have an ICP that is tailor made to its unique requirement/business activities. An export applicant is required to furnish information on how ICP is implemented within the respective entity. This notwithstanding, there are certain key elements, which are relevant to all organizations whether small, medium or large.

12. It is also important to understand that there is no one-size-fits-all solution for designing and implementing an ICP. Nonetheless, ICP could assist in deciding whether export compliance responsibilities should be centralized under a single person, small/large team, or located within various departments. Depending on peculiar structure, size and environment, internal organizational structure, responsible for export control, could either be established as a stand-alone unit or as an additional task for an appropriate unit within the entity. This notwithstanding, export compliance unit should be independent of the sales and marketing departments and preferably work under direct supervision of the CEO.



¹ Export Control on Goods, Technologies, Material and Equipment related to Nuclear and Biological Weapons and their Delivery Systems Act-2004.

Key Elements of a Compliance Programme

13. An effective compliance within an entity is based on some key factors, which together contribute to efficacy of the programme. Some key elements are as under:-

- a. Management Commitment.
- b. Written Operational Guidelines and Procedures.
- c. Continuous Risk Assessment.
- d. Screening at each stage including initial negotiation, contracts, and actual export chain.
- e. Compliance Training and Awareness Raising.
- f. Cradle to Grave Export Compliance Security.
- g. Record Keeping.
- h. Procedures for Handling and Reporting Export Compliance Problems and Violations.
- i. Compliance Monitoring and Auditing.
- j. Follow Through and Corrective Action.
- k. Establish Good Working Relationship between Enterprise/Entity and Export Licensing Authorities.

Conceptualizing an ICP

14. As noted above, each entity should evolve a compliance programme that is unique to its requirement and business activities. In evolving an ICP, the following factors may be considered:-

- a. The nature of business activities.
- b. Size, organizational structure and resources.
- c. Sensitivity of the items and volume of exports/re-export etc, the scope, frequency and level of interaction involving possible transfer of sensitive information, technology, software, and services etc.
- d. Recipient, end users and other beneficiaries.
- e. Production and distribution network.
- f. Geographic location of the customers.

15. Internationally suggested elements for structuring an ICP are given below. However, the list is not exhaustive and entities involved in the export chain or interaction involving transfer of goods, technologies, information, software, and services could add on, based on their peculiar requirements:-

- a. **Management Commitment:** Establish written export compliance standards, devote sufficient resources, designate officials and set out compliance commitment (Example given at **Annex-I**).

- b. **Designate Officials with responsibility for implementing ICP:** Empowered and authorized Chief Compliance Officer (CCO) assisted by Compliance Managers(CM)/Compliance Officers (CO) as the case may be, or a Compliance Team (CT) may be designated, by the management, who should be responsible for structuring, setting up, functioning and overseeing implementation of ICP.
- c. **Evolve Formal Written ICP, Policies and Procedures:** Based on risk assessment, evolve a formal written ICP with manual of policies and procedures. Risk assessment is a continuous process for adapting ICP to confront emerging threats.
- d. **Set UP a Screening System:** A system to screen all enquiries, orders, brokers/freight forwarders/exporters, end users, and end use. 'Cradle to Grave' export compliance and screening system should be the focus.
- e. **Establish an Effective Product Classification Procedure:** Capitalize on the knowledge of subject matter experts. Product classification table given at **Annex-II**.
- f. **Order Processing and Shipping Procedure:** Should be established to monitor and track the whole process.
- g. **Compliance Training and Awareness:** Tailor made compliance and awareness training modules should be developed and implemented periodically.
- h. **Record Keeping:** Adherence to record keeping and regulatory requirements is important for effective monitoring and eventual investigation in case of possible violations. It may be noted that record keeping is mandatory according to Article 6 of Export Control Act-2004. Proper documentation of all decisions, minutes, and transactions should be kept, preferably for a period of at least ten years.
- i. **Compliance Monitoring and Periodic Audits/Assessments.**
- j. **Handle Compliance Problems:** Internal system for handling compliance problems including reporting and escalating export violations.
- k. **Taking Corrective Actions:** Completing appropriate corrective actions in response to export violations.



Know your
product and
customer

16. To summarize, important elements of an effective compliance system include elaborate structures and processes on Compliance Organization Structure, Corporate Commitment and Policy, Identification, Receipt and Tracking of Control Lists/Non-listed items having possible WMD uses, Re-Exports/Retransfers, Screening customers/carriers/country and possible diversion, Record Keeping/Audit/Monitoring, Training/Awareness Raising, Penalties/Punishments for Violations and Awards/Rewards for Best Compliance Standards.

Benefits of an ICP

17. ICP accrues many benefits to an entity and assists in compliance with laws, promoting market reputation while minimizing violation risks:-

- a. Enhance trust and confidence by reinforcing senior management commitment to compliance.

- b. Allocate responsibilities within an organization.
- c. Assist in taking correct decisions.
- d. Institute a system of checks, accountability and audits.
- e. Ensuring screening at all stages of the export/transaction chain.
- f. Facilitate processing of orders by indentifying items that would not require a license.
- g. Establishing trust of the licensing authorities.
- h. Streamline the process and reduce time of compliance processes.
- i. Reduce the chances of non-compliance and risk of inadvertent violation.
- j. Foster export control culture in employees and institution.
- k. Reduce time spent on compliance activities when employees have written instructions, tools and on-going training.

Importance of Public-Private Partnership

18. Today's proliferation threats are far more diverse and increasingly difficult to counter as goods and technologies with legitimate commercial use, frequently have military applications. The challenges of globalization spurred by fast paced technological developments, diffusion of technology, the changing proliferation patterns and the threat from non-state actors suggest that export controls on sensitive goods and technologies should be continuously evaluated and adapted.

19. Public-Private partnership is elemental in promoting and advancing Pakistan's non-proliferation and security (national/international) objectives and preventing diversion of goods and technologies, especially dual use items, or access thereto by state and non-state actors for destructive or harmful purposes. It is in this context that the individual/entities' or companies' role becomes important and require due diligence in evaluating its customers/clients and prospective transactions in order for it to contribute towards national security and foreign policy objectives.

20. Effective national export control system is possible if all stakeholders, including manufacturers of critical goods, exporters, freight forwarders, intermediaries, subsidiaries joint partners, engineers/scientists, and persons with technical knowhow recognize the need for such controls and support them with all resources available to them.

Developing an ICP Architecture

21. It is recommended that the CEO or his designated official/team representing all relevant organs of the entity, should first define scope and parameters of the proposed ICP based on the factors for conceptualizing an ICP (Paragraph 14 & 15 above). The team should follow a sequential process and recommend building blocks of the ICP architecture, which may include:-

Investment in compliance programme
is investment in the entity's reputation
and business sustenance

- a. Export compliance commitment from the entity's senior management. A written statement communicating CEO/senior management's resolve for compliance,

- willingness to allocate adequate resources, and investment in instituting and implementing an effective ICP.
- b. CEO/senior management's commitment is a written formal policy document (Example given at **Annex-I**). This should include an introductory paragraph, importance of export controls for national security, foreign policy interests, and entity's reputation and sustenance of legitimate business, dual use risks statement, statement on proceeding against violations, and on whom to direct questions/queries within the set up.
- 1) Should be a formal declaration explicitly conveying that export/transfer of goods and technologies/software will not be pursued at the expense of compliance.
 - 2) Compliance is essential for entity/company's business interest and reputation.
 - 3) Every individual has compliance responsibility. **Be alert for prohibited activities, destinations and entities/persons**
 - 4) Should be communicated to all individuals, contractors, middlemen, brokers, partners etc involved in export/transfer.
 - 5) The statement should be customized in a way appropriate for the entity/company.
- c. Formulate entity/organization's export control policy.
- d. Establish export compliance positions preferably under direct supervision of the entity's senior most executive, and may include CCO who should be in-charge of export controls (Head of Export Control and ICP), Administrators/Managers, Product Classification and Technical Experts etc.
- e. Resource allocation.
- f. Chalk out a plan for training, meetings, company/entity reports. Compliance posters prominently displayed at appropriate places are always helpful.
- g. Develop methodology of risk assessment covering each stage starting from export inquiry to actual shipment. Risks specific to the entity's products, technology, software, and activities should be listed.
- h. Institute a system of verifying your customer/interlocutor.
- i. Institute a system of incentive and rewards including punishments for violators. It may be stressed that export violations could draw a punishment that may extend to 14 years imprisonment and/or 500 million rupees fine, and confiscation of assets/property or both.
- j. Clear instructions on how export inquiries will be responded and in case of any doubt/question; who should be consulted.
- k. Based on the suggested approach above, the entity/organization should be able to develop a comprehensive ICP manual that outlines organizational policies, risk assessment, procedures of processing inquiries, research projects, export orders,

accountability and checks at each stage of the transaction/transfer with adequate guidelines to enable decision making. Suggested elements of ICP manual are:-

- 1) This is a set of formal written policies and procedures.
- 2) A guidance document on all matters related to export compliance.
- 3) Should be kept up to date and consistent with the entity/organization's overall policies and procedure.
- 4) Based on relevant national laws, rules, procedure and policies.

Compliance Training

22. Export Control framework should include training modules for compliance in order to minimize the chances of inadvertent violations. All employees who are involved in export-related functions including top management, compliance officials, contractors, consultants, etc should fully understand export compliance responsibilities. Such training need to be job specific and focus on individual responsibilities, raising awareness on current laws/rules/regulations, licensing, proliferation risks, ways in which the entity's products can be misused, red flag indicators, auditing and detecting irregularities, etc.

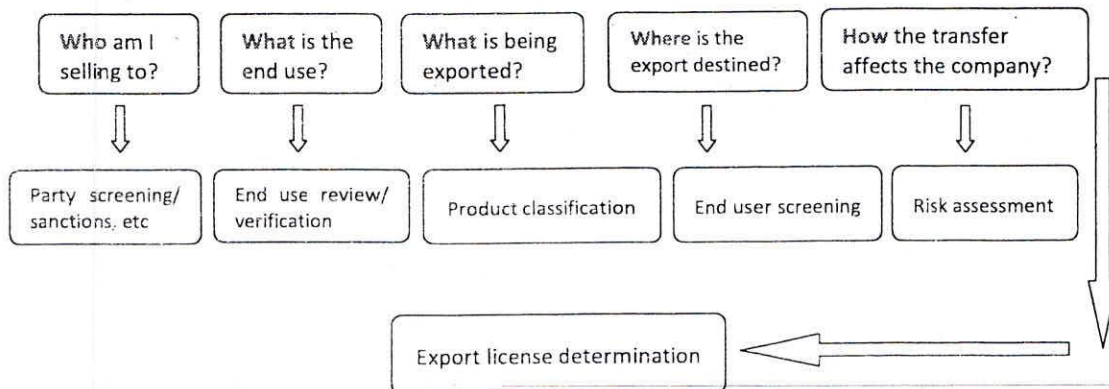
23. The training should be made interesting and encompass exercises, quizzes, and competitions. Separate training modules for basic, mid career, advance, and refresher trainings may be developed besides on-job-training and making use of information circulars/intranet, newsletters, etc for reminding individual responsibilities and sharing latest changes and developments.

24. Security awareness on marketing within and outside the country should also form part of compliance training for those involved in marketing the entity's products/services.

Everyone has a part to play in export compliance

Compliance Procedures

25. ICP is intended to institute a system of safeguards to prevent sale/transfer of sensitive goods technologies, software and information to unauthorized entities. Have procedures in place to guard against transfer/pilferage/theft/diversion of tangible and intangible sensitive goods and technologie at all stages including demonstration/exhibitions, manufacturing, production, transportation, marketing, post shipment verification, etc. In conducting screening for a proposed transaction, the questions identified in the following diagram may be deliberated:-



Commodity Classification

26. Commodity classification is critical for arriving at correct export decision; this also facilitates export application processing. Item's classification is based on SECDIV control lists, which are periodically reviewed. Entity's export control department must be aware of the latest edition of control lists, promulgated through Statutory Regulatory Order and, also posted on SECDIV web page. Every item on SECDIV control lists has SECDIV Classification Number called *Control Lists Classification Number* (CLCN).

27. SECDIV control lists categorize the goods and related technology it covers into ten categories, each subdivided into lists of specific items. Items are further arranged into five product groups, and each item is given a specific classification number called Control Lists Classification Number (CLCN). An example of how to classify an item is given at **Annex-III**.

28. Export control department of the entity should indentify the most appropriate classification of the commodity, consulting entity's relevant technical experts, if required. For this, a team of relevant experts may be designated who should use a standard report format, developed by export control department, for recording their expert input/views on the most appropriate classification of the item in question. If the entity is uncertain of the exact classification of the item, the matter may be raised with SECDIV using the form at **Annex-IV**.

Catch All Controls

29. Any item, goods, technology, software, data, etc that is not specifically mentioned in the control lists but has possible use in WMDs or their delivery systems or if there are end user/use concerns, it would require export license under the 'Catch-All' control provided for in Article 5 (3) of the Act.

30. An exporter is under legal obligation to notify to the competent authority if the exporter is aware or suspects that the goods or technology are intended, in their entirety or in part, in connection with nuclear or biological weapons or missiles capable of delivering such weapons.

31. An authorization is also required from the GoP/SECDIV for the transfer of non-listed items where the exporter is informed by the competent authority or the exporter is aware that the items in question may be intended, in their entirety or in part, for use in connection with WMD activities.

32. **List of Countries/Entities/Individuals under Sanctions/or of Concern.** SECDIV, Ministry of Foreign Affairs may be consulted on case to case basis.

Record Keeping

33. Record keeping requirements mentioned in Article 6 of Export Control Act – 2004 apply to all transactions under the Act. Record should be located and be available for examination of the designated authority, when required. Regardless of the filing system used (manual, digital, electronic), an entity must be able to maintain, retrieve required documents, in the original form in which they were created or received. The record must also be capable of being produced on paper. In a computer based environment it is important to note that every employee/individual involved in the export business of the entity becomes a records manager responsible for ensuring that records can be located, easily shared, and are not at risk of being lost.

34. Inadvertent violations of export laws and regulations could occur during informal technical exchanges with foreign nationals, visitors or customers through telephone, facsimile, electronic mail, or in person. A system of documenting all such communications is considered

useful besides putting in place a system to prevent the release of controlled technology and software.

35. Maintain a back-up system for all electronic files. Record retention may also be clearly defined in contractual agreements with the importers, brokers, freight forwarders, etc.

36. Maintaining record of all license applications, processes, decisions, minutes etc is mandatory for all relevant governmental departments. It is also mandatory for the exporters to keep a complete record of their transactions, which is also liable to inspection by the designated authorities.

A Generalized ICP Framework

37. Generalized ICP framework is given at **Annex-V**, which could serve as a baseline for the entities/institutions to put together the building blocks of an effective compliance system appropriate to their requirement and need.

SECTION-2: SPECIFIC TO RESEARCH/ACADEMIC INSTITUTIONS

Measures Specific to Research/Academic Institutions

38. Export controls present unique challenges for academic and research institutions because they have to balance national foreign policy/security interests with traditional concepts of unrestricted academic freedom, publication, dissemination of research findings, etc. Academicians, researchers and administrators should understand the extent to which the export control laws and procedures apply/do not apply to their activities and to obviate the chance of unknowingly falling into exchange/transfer of sensitive goods, technologies, software, knowledge whether directly or through joint research projects. Export Control Act-2004 provides for basic definition of 'services' and 'technology' under Article 2 (k) & 2 (l) respectively.

39. The purpose of this part of the document is to provide some basic information to assist academic and research institutions, individuals/researchers including faculty and students, and relevant administrators to identify when and how export control provisions may apply and what mechanism should be put in place to prevent dissemination of sensitive knowledge, technology and equipment etc, in and outside the country especially involving 'deemed exports'.

40. Export control on Goods, Technologies, Materials, Equipment related to Nuclear & Biological Weapons and their Delivery Systems Act-2004 and other laws apply to tangible and intangible goods and technologies irrespective of the method of transfer. These laws equally apply to 'deemed exports' and disclosure of specific information inside or outside Pakistan. When the activities of institutions/researchers/individuals involve dissemination/transfer/exchange/export of those specific things, services, information, software etc they come under SECDIV regulatory controls and would require prior license/permission of SECDIV.

41. This may not be construed as restriction on teaching and dissemination of information on instruction in courses or general scientific, mathematical, or engineering principles, research and experimentation commonly taught in colleges and universities as part of fundamental research and education purposes. SECDIV license/permission would not be required if such information is in the public domain or involves basic scientific research. Text of Export Control Act-2004 and Control Lists is available at <http://www.mofa.gov.pk/secdiv/content.php?pageID=notification>, for which, SECDIV in the

Ministry of Foreign Affairs is responsible for licensing. It is advisable to check the latest lists of sanctioned/embargoed entities and individuals before venturing into a project that may be liable to export control regulations.

42. Export control laws may restrict researchers from freely sharing certain types of information with certain individuals. It also may restrict what equipment, software, and information can be released for international destinations. Penalties for violations of export control regulations can be quite severe.

How Does Something Become Export Controlled

43. A matter becomes export controlled if it involves goods, technologies/software, materials and equipment given in the control lists, or if there are destination concerns e.g. sanctions/embargoes, or if there are end use and end user concerns. If research involves export/transfer including 'deemed exports' of goods, technologies/software, materials and equipment mentioned in control lists, SECDIV approval would be required before such a transaction takes place.

Benefits of Compliance Programme for Academic/Research Institutions

44. Export control laws govern how certain information, technologies/software, services and commodities can be exported/ transferred. The scope of the regulation is broad and encompasses a variety of commodities that may have dual application and may include the fields of science, engineering, science and technology and apply to research and other academic activities regardless of the method of transfer/export. Non compliance could have serious consequences both for the institution and individuals and may include fines and possibly imprisonment. Compliance programme is the expression of the institutions' commitment to carry out its educational, research and other activities in compliance with all relevant laws and regulations. Some significant benefits of an effective compliance program are as follow:

- a. Instituting a culture that does not tolerate illegal or actionable behavior.
- b. Increasing the likelihood of early detection of an unlawful activity or conduct.
- c. Risk minimization.
- d. Enhance reputation, efficiency, and improve outcomes.
- e. Avert consequences of non-compliance.
- f. May reduce or mitigate penalties in case of inadvertent violation.
- g. Contribute towards national security and foreign policy interests.

Undertaking Research or Venturing into Areas involving Sensitive Information

45. Vast majority of activities, items and services do not require license. Only goods and technologies falling under Export Control Act 2004 and Control Lists issued there under, and in certain cases goods and technologies with commercial as well as possible WMD applications would require a license, even if not listed in SECDIV control lists (refer Article 5 (3) of the Act). While undertaking a research project or venturing into areas involving exchange/dissemination of critical goods, technologies/software or information, the following questions needs to be asked:-

- a. Does it involve sharing sensitive information, technology/software, services or equipment?
- b. Is it a joint project involving foreign nationals inside and outside Pakistan?

- c. Will it require physical export of some equipment, data, technology/software or components?
- d. Are there any contractual restrictions on dissemination of information and research results, etc?
- e. Does the project fall under one of the export-control technologies as given in the Act and Control Lists?
- f. Is the country, individual or entity with whom a joint project or collaborative activity is intended, under national and international/UN sanctions/embargoes? It is important to check with SECDIV, Ministry of Foreign Affairs if any such restrictions or sanctions exist.
- g. Does it require a license on the part of the individual or institution?

46. It is advisable that export control administrators of the research or academic institution informs, in writing, the researcher/individual/entity undertaking a specific project that involves or could result into sensitive information. Mandatory acknowledgement certification (Specimen at **Annex-VI**) should be submitted, to the compliance office, by the researcher/individual/entity.

47. Export of materials that could possibly be used in chemical or biological weapons such as human pathogens, animal pathogens, genetically modified microorganisms, and plant pathogens given in the control lists, are regulated under the export control laws. Individuals/departments/institutions planning to work with these materials should check with the appropriate institutional export control compliance officials as to the need for a license if the materials are to be exported/ transferred.

48. The fundamental research exclusion does not apply to export/re-export of materials, equipment, and technology that fall in the control lists. Actual shipment of these items is subject to SECDIV licensing, regardless of destination.

49. A best practice guide is at **Annex-VII**.

Setting up a Compliance Framework

50. It is important that academic and research institutions set up a system that is able to filter all research activities, publications or dissemination of information, data, technology/software, or articles and be responsible for export control matters. To prevent law violations it is important to create an institutional compliance program with a mandate to coordinate, monitor, implement, and improve compliance functions. Most institutions have compliance mechanisms in place however, on occasions it is either not formalized or focused in selected areas. As an additional function, the existing set ups could be adequately geared and mandated for export compliance as well.

51. Establish a compliance office or a compliance committee under a designated officer as Chief Compliance Officer/Director Compliance/Compliance Administrator.

52. If required, the compliance committee may be supported and assisted in its oversight responsibilities by a compliance officer in each subsidiary department/organization. Each compliance officer is responsible for the day-to-day operations of the compliance programme as it relates to his specific organization/area.

53. The designated official/administrator should be able to assist researchers and university administration in the identification and management assessment of export control matters.

54. He should be the official contact person for both the governmental agencies as well as the researchers with respect to the treatment of all the issues raised above, and may be assisted by a research/foreign visitors' coordinator.
55. If the designated official is not a technical expert, it would be advisable to set up a technical review committee to assist in terms of recommendation on assessment of the proposed activity/project as fundamental research or otherwise and to determine if a license would be required in line with the Export Control Act.
56. Set up a system for training/awareness raising on specific export control matters, for the administrators, researchers and expert committee members including general training cum awareness raising programme for students and faculty members albeit focusing on departments, individuals with high likelihood of receiving/involving in projects that trigger export regulatory requirement i.e. engineering, chemical/biological labs/research work, computer and space sciences, etc.
57. Develop and disseminate institutional policies and procedures on compliance with export control laws. Policies and procedures may also be developed for projects of high sensitivity involving foreign nationals and joint ventures. The development and distribution of written standards as well as policies and procedures that reflect the institution's commitment to compliance is important for effective implementation of export control laws.
58. Clear definition of roles and responsibilities would substantially assist in instituting an effective compliance mechanism.
59. Develop policies and procedures for the investigation of identified instances of non-compliance and initiation of appropriate corrective action and preventive measures. Appropriate disciplinary action should be taken against violators of the institution's policies and those trying to circumvent the system.
60. All departments should be able to provide their Annual Compliance Reports to the Compliance Office for compilation of the institution's overall Annual Compliance Report.

License acquisition may take a long time, so plan ahead

61. Institution's website is a useful tool to disseminate essential information on fundamentals of export control laws and institute's policy, procedures and compliance guidelines. Contact details for directing questions/inquiries would further assist individual researchers.

SECTION-3: CONCLUSION

62. When business entities/academic and research institutions/individuals/administrators are aware of regulations governing the transfer of proliferation-relevant technologies and items, understand how to comply with national strategic trade regulations, and possess tools such as internal procedures to screen potential customers and review proposed export deals, compliance with export regulations increases and the likelihood of illicit transfers is substantially reduced.

This Document Is Not and Should Not Be Used as Formal Legal Advice

Further Assistance/Inquiries

63. For further assistance or inquiries SECDIV officials may be contacted on the following address/telephone numbers:-

Address: Strategic Export Control Division (SECDIV)
Ministry of Foreign Affairs, Islamabad

Phone: 051- 9266152

Fax: 051- 9266543

Website: <http://www.mofa.gov.pk/secdiv/> (The website has information on export control law, licensing and enforcement regulations, control lists, and policies/procedures on export/transfer of sensitive goods and technologies, etc).

Annex-IExample of a Company/Organization's Policy Statement

(To be circulated to all relevant employees/individuals/entities and affirmation recorded periodically)

_____ (Name of the entity/organization) is committed to contribute towards the national policy of non-proliferation through effective compliance with Export Control on Goods, Technologies, Material and Equipment related to Nuclear and Biological Weapons and their Delivery Systems Act-2004 and implementing regulations/policies/procedures issued by Strategic Export Control Division (SECDIV).

The _____ (Name of the entity/organization) and affiliated organs/individuals will not undertake any export business or indulge in transfer of sensitive goods, technologies, services and information etc, in contravention to national laws, policies and regulations on non-proliferation of nuclear, biological and chemical weapons or their delivery means including dual use items that are usable in weapons of mass destruction.

Failure to comply may result in the imposition of criminal and/or administrative penalties including termination of service of those involved in unauthorized transaction.

Particular attention must be given to transactions involving dual use/non-listed items usable in WMDs and their delivery systems including related technology/services, and release of technical information to foreign nationals, electronic transmission of data/software, etc.

Every employee of _____ (Name of the entity/organization) and affiliated entities/individuals whether in Pakistan or abroad are asked to take the matter seriously and support the entity/organization in pursuit of its genuine business interests, upholding reputation and sustenance of legitimate business activities.

For any inquiry/question on legitimacy of a transaction or reports and information on potential export control violations/non-compliance, please contact the designated authority given below:-

(Name, Designation, Phone, E-Mail, etc)

Annex-II

Product Classification Table

Item	Description & Model*	Uses i.e. Commercial, WMD including Delivery Systems	Control Parameters of CL	Classification & CL description	Control Reference MECRs	Remarks
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*Complete specifications to be attached

Classification Assessment by the Compliance Officer

Date:

Signature
(Name, Designation, Stamp)

Final Classification Assessment By CCO

Date:

Signature
(Name, Designation, Stamp)

Annex-IIIControl Lists ClassificationTechnical Categories

- 0 - Nuclear materials, facilities, and equipment.
- 1 - Materials, chemicals, 'microorganisms', and "toxins".
- 2 - Materials processing.
- 3 - Electronics.
- 4 - Computers.
- 5 - Telecommunications and information security.
- 6 - Sensors and lasers.
- 7 - Navigation and avionics.
- 8 - Marine.
- 9 - Propulsion systems, space vehicles, and related equipment.

1 C 239
HE (FOX, HMX
etc)

Multilateral & Unilateral Controls

- 100 - 199 Missile Tech Control Regime
- 200 - 299 Nuclear Suppliers Group
- 300 - 399 Australia Group
- 400 - 499 reserved
- 500 - 599 Reserved
- 600 - 699 Reserved
- 700 - 799 Reserved
- 800 - 899 Reserved
- 900 - 999 Unilateral Controls

Product Groups

- A - Equipment, Assemblies and Components
- B - Production and Test Equipment
- C - Materials
- D - Software
- E - Technology

Annex-IV

Export Authorization Decision Template

Item Description	Technical Specifications	CLCN	Route, Destination & Intermediate Countries	End-Use of the Item (Commercial and WMD?)	Stated End Use	End User Concerns/ Sanctions etc	License Required/Not Required	Remarks
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Remarks of CCO (Chief Compliance Officer)

Date:

Signature
(Name, Designation, Stamp)

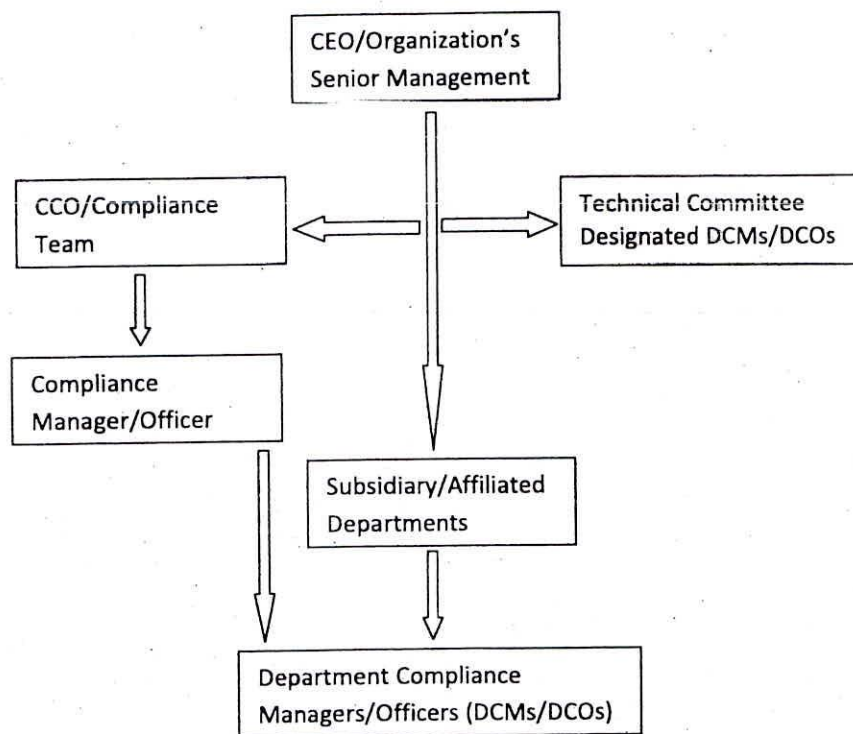
Decision by the CEO

Date:

Signature
(Name, Designation, Stamp)

Annex-V

Generalized ICP Framework



Annex-VI

The University of _____ (or name of research institute)
Export Control Acknowledgement and Certification

I/We, the undersigned, acknowledge that it is unlawful under the Export Control on Goods, Technologies, Materials, Equipment related to Nuclear and Biological Weapons and their Delivery Systems Act -2004 (Act No V of 2004) and rules/regulations promulgated there under, to export, transfer or share (by any means viz tangible or intangible), goods and technologies mentioned in the control lists or those which could have possible use in nuclear and biological weapons or their delivery systems, without proper approval.

I/We also understand that an export license may be required from Strategic Export Control Division if any such item as mentioned above is to be transferred/shared with a person/entity within Pakistan who may ultimately export it using any means.

I/We understand that a laptop or any data storage device/gadget fall under the category of a 'controlled' item due to controlled information or software stored on the system and I/We will comply with all applicable export control laws, rules, and regulations. In such a case the institute/entity's compliance office will be approached for removing the 'controlled' data, and seeking certification to this effect.

I/We understand that I/We may be subject to civil and criminal penalties including imprisonment, for unlawful export and sharing of export controlled item, technology or information and therefore agree to take appropriate security measures and to contact the export compliance office before making any type of transfer/disclosure of export-controlled information to any person.

By signing below, I/We certify that I/We have understood my/our legal obligations under the export control laws including the _____ (name of the institution) policies/procedures and agree to comply with these. I/We also understand that failure to comply with export control laws, rules, regulations and policies may constitute just cause for disciplinary action, up to and including termination, as well as criminal prosecution.

Date: _____

Signature: _____
Name: _____
Designation: _____

Chief Compliance Officer: _____

Registrar: _____

Annex-VII

Best Practice Guide for Academic and Research Institutions

- Have designated officials to handle export control matters besides designating some faculty member as research/foreign visitors' coordinator.
- Widely disseminated institutional compliance policies and procedures.
- Setting up exclusive areas, with access control etc for research areas falling under export controls.
- Access control, securing computers/gadgets, documents containing sensitive information/data.
- Training in export control matters, laws, policies, procedures and making it clear when, where and how do they apply.
- Close liaison and coordination with officials of SECDIV for guidance and updates on the current export control policies, procedures and restrictive/sanctions lists.
- Compliance with proprietary rights and non-disclosure requirement of any parties involved in the project.
- Factoring in national export compliance requirement as part of contractual obligations for joint ventures or projects involving foreign nationals.
- Do not export any items, materials, or equipment, even at the request of a government sponsor, without consulting the institutions compliance officer.
- Take adequate precaution against 'deemed exports'.
- Never agree to contract language that requires you to provide indemnification for violations of the export regulations.
- Seek guidance before travelling to or undertaking research/project in sanctioned/embargoed countries or with denied persons.
- The University/entity shall conduct periodic risk assessments to evaluate and prioritize the compliance-related risks facing the more heavily regulated areas of the University/entity.
- Institution's website is a useful tool to disseminate essential information on fundamental of export control laws and institutes policy, procedures and compliance guidelines. Contact details for directing questions/inquiries would further assist individual researchers.