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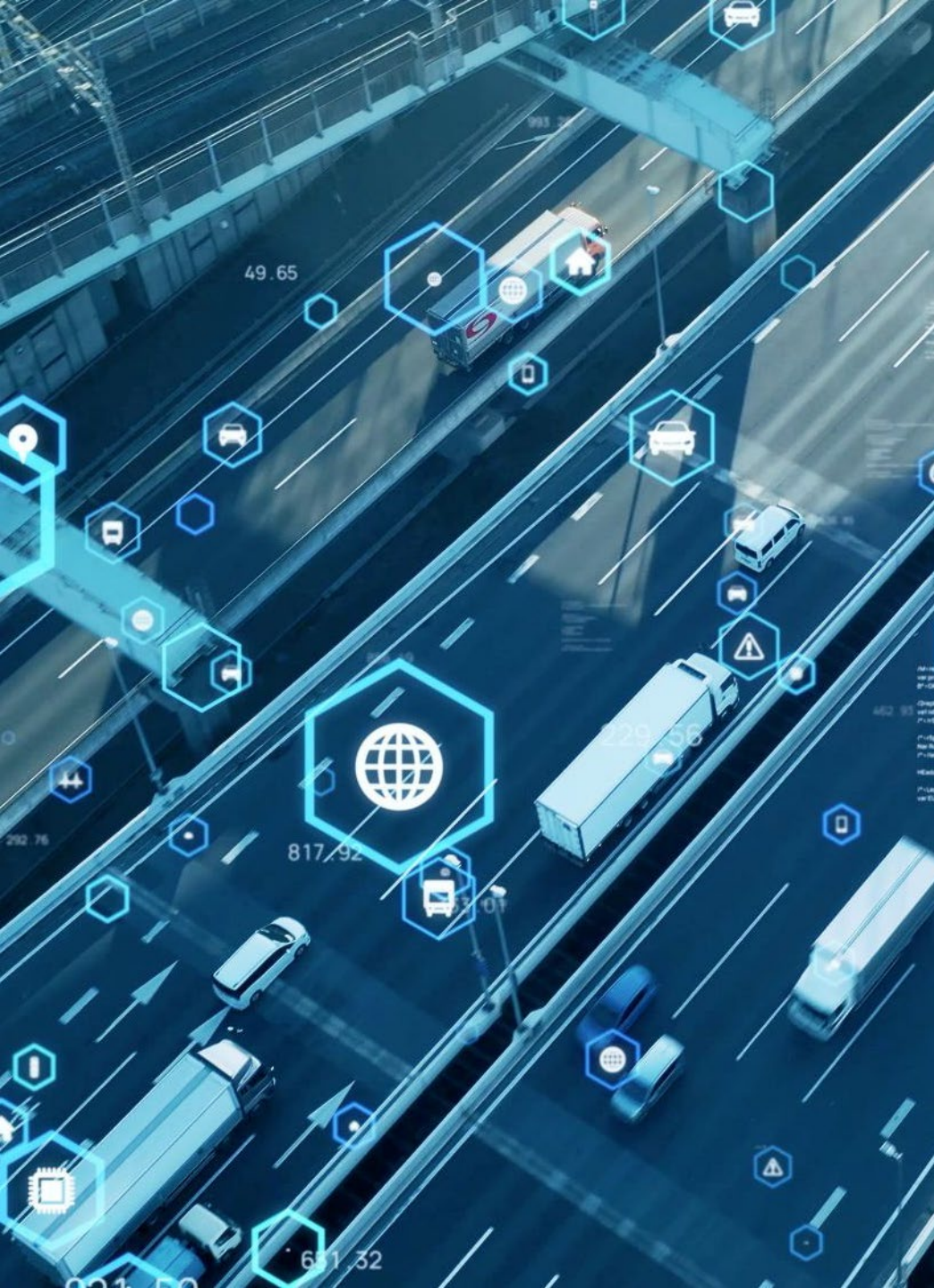
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End-Use Monitoring

European Sanctions and Export Control Society

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Agenda

Background of End-Use Monitoring

What is an End-Use Check

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Background of End-Use Monitoring



1976 – The Birth of End-Use Monitoring

- **Congress enacted AECA, Section 40A (22 U.S.C. 2785), in 1976,** and as amended, it requires the President to establish an EUM program to improve accountability with respect to defense articles sold, leased, or exported under the AECA or the FAA of 1961, as amended.

URL:

<https://www.dscu.edu/documents/publications/greenbook/18-Chapter.pdf?id=1>

Chapter

18

END-USE MONITORING AND THIRD-PARTY TRANSFERS

INTRODUCTION

Policies and procedures for the end-use monitoring (EUM) and third-party transfer of U.S.-origin defense articles and sensitive or classified defense technology are contained in the Arms Export Control Act (AECA), the Foreign Assistance Act (FAA), various other laws and policies, and the applicable regulations of the Department of State (DOS) and the Department of Defense (DOD). This chapter is designed to augment Chapter 8 of the Security Assistance Management Manual (SAMM) and provide additional details and guidance for the administration or oversight of EUM and third party transfers.

What is Export Enforcement?

Enforcement is a process to protect national security, homeland security, foreign policy, and the economic interests with a multi-faceted program focused on sensitive exports to hostile entities or those that engage in onward proliferation.

Export controls and sanctions are only as good as the enforcement of them.

The Export Enforcement Program



Outreaches



Licensing



Intelligence



End-Use
Monitoring



Criminal
Investigations



Admin
Investigations



Sanctions



Restrictions



Disruption



U.S. End-Use Monitoring Programs



Blue Lantern - Direct Commercial Sales (DCS) of United States Munitions List (USML) articles, technology, services, and brokering.



Golden Sentry - Foreign Military Sales (FMS) of defense articles and services via government-to-government channels.



No Pseudonym - Dual-use items and munitions on the Commerce Control List (CCL) and “600-series” items.



Golden Sentry Program

Golden Sentry End-Use Monitoring (EUM) program - designed to verify defense articles or services transferred by the United States Government (USG) to foreign recipients are being used in accordance with the terms and conditions of the transfer agreement or other applicable agreement. In accordance with Section 505 of the Foreign Assistance Act (FAA) (22 U.S.C. 2314), as amended, and the Section 3 (22 U.S.C. 2753) and Section 4 (22 U.S.C. 2754) of the Arms Export Control Act, and as reflected in the Letter of Offer and Acceptance (LOA) Standard Terms and Conditions, recipients must agree:

- to use U.S.-provided defense articles, training, and services only for their intended purpose;
- not to transfer title to, or possession of, any defense article or related training to anyone not an officer, employee, or agent of that country or of the USG without prior written consent of the USG;
- to maintain the security of any article with substantially the same degree of protection afforded to it by the USG; and
- to permit observation and review by, and to furnish necessary information to, representatives of the USG with regards to use of such articles.

URL: [Defense Security Cooperation Agency](https://www.defense.gov/SecurityCooperationAgency/)





Blue Lantern Program

Blue Lantern End-Use Monitoring (EUM) Program - The Arms Export Control Act (AECA) requires the U.S. government (USG) to conduct EUM to ensure that foreign end-users are complying with the requirements agreed with by foreign partners via government-to-government transfers or imposed by the U.S. government for direct commercial sale transfers (DCS) with respect to use, transfers, and security of defense articles and defense services and such articles and services are used only for the purposes for which they were furnished. USG EUM can include scheduled inspections, physical inventories, general inquiries, and reviews of accountability records by the U.S. government. The end-use of U.S.-origin defense articles should also be in accordance with international law and consistent with any agreements or licenses under which such articles have been transferred.

URL: [U.S. Department of State](#)





BIS End-Use Check Program

ECO EUM Program – The Export Control Officer (ECO) Program oversees BIS's seven ECOs and provides support to other U.S. Commercial Service Officers stationed abroad that conduct pre-license checks (PLCs) and post-shipment verifications (PSVs). Furthermore, ECOs perform outreach and educational activities in addition to liaising with foreign governments on export control issues. BIS ECOs are detailed to the U.S. Commercial Service, and report directly to the Embassies/Consulates to which they are posted. Several of these ECO positions have regional responsibilities extending the reach of their export control activities to forty-three countries.

Sentinel EUM Program – For countries not covered by an ECO, BIS Special Agents from the U.S. will conduct end-use checks to supplement ECO missions.

URL: [Bureau of Industry and Security](https://www.bis.doc.gov)

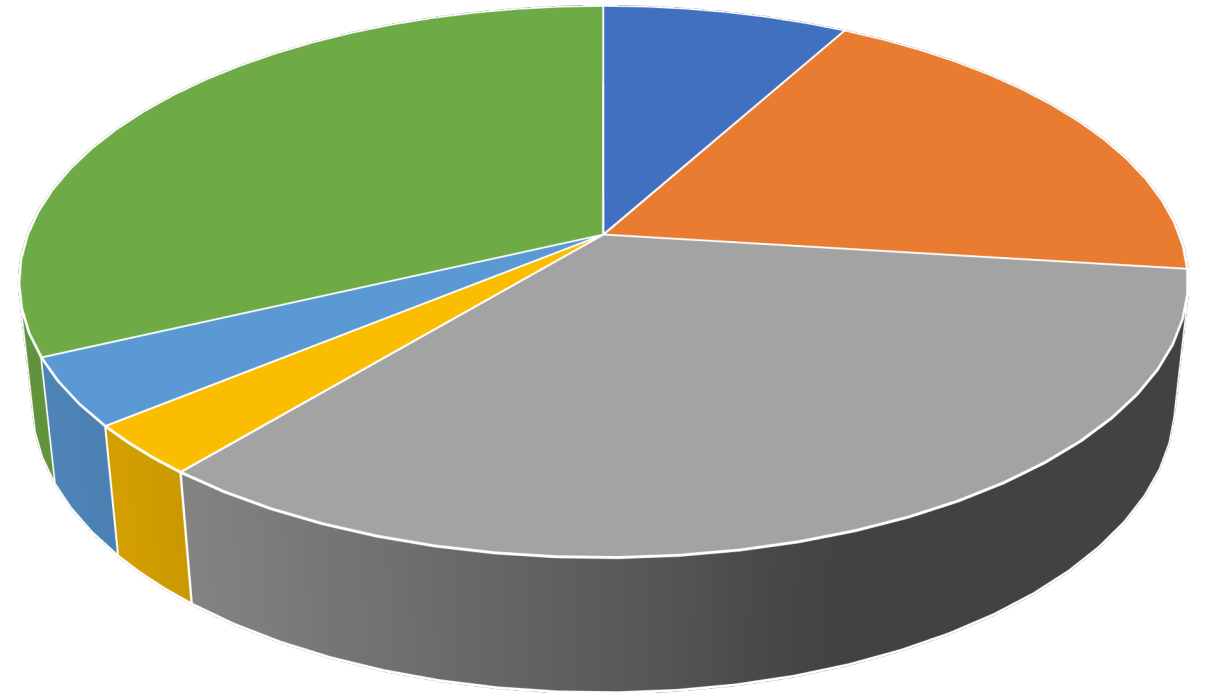




What is an End-Use Check

- **Pre-License Check (PLC)**: Conducted prior to a license is authorized to verify the bona fides of a stated end user and that the commodities will be used as per the license.
- **Post-Shipment Verification (PSV)**: Used to verify that the commodities were received by the intended recipient and are being used in accordance with U.S. laws.

Global End-Use Check Statistics



■ North America ■ Europe ■ Asia ■ South America ■ Africa ■ Middle East



End Use Monitoring (BIS, DOS, DOD)

“Trust but verify.”

Pres. Ronald Reagan

Protect international security, foreign and domestic policy, and economic interests by inhibiting the unauthorized export/re-export of items subject to export control.

HISTORIC STATED INTENTIONS

- Facilitate secure trade
- Assist Licensing Process
- Monitor trends in technology transfer
- Build relationships between government and industry
- Minimize illicit transshipment
- Level the playing field for international business
- Verify Bona Fides and End Use, End-User

RECENT STATED INTENTIONS

- **Create opportunities for enforcement actions/operations;**
- Inform adjudication of export control license applications;
- **Prevent diversion** through end-use checks, outreach, and cooperation with foreign governments and industry;
- **Identify violators;** and
- Alert exporters about suspicious inquiries.

OTHER INTENTIONS

- Collect Intelligence Information
- Support Criminal Investigations
- Support Admin Investigations
- Gain Access to Companies
- Outreaches
- Track Commodities
- At the request of a foreign partner



Lead Generation – Where does Gov get leads?

Government analysts, agents, and licensing officers review license applications, export histories of **ALL THE PARTIES** to the transaction, sensitivities related to the items being exported, and other available information (or lack of information!) to request physical end-use checks.

EUM leads can come from:

- Anonymous reporting
- Review of export databases (AES)
- Sources of information
- Foreign partners
- Industry
- Voluntary Self Disclosures
- Other USG agencies
- Intelligence Community
- FINCEN
- End-use monitoring
- Leads from other investigations
- News reports
- Foreign companies about U.S. companies
- Border searches
- Tracking shipments

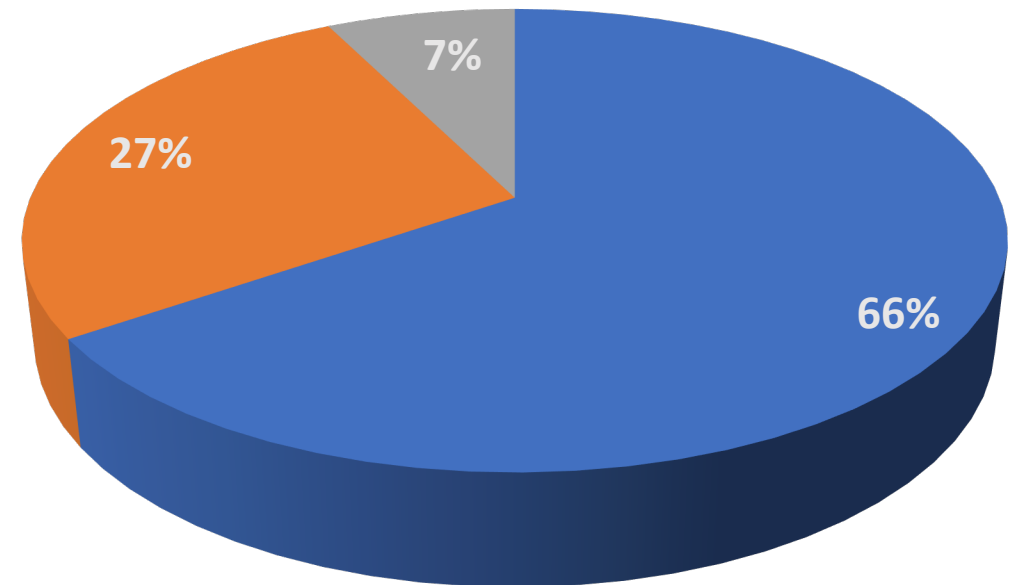


Reliable End-User Statistics

- **Reliable** – Foreign entity appears to be legitimate, in compliances with law governing the commodities, is using the item(s) as permitted, and has proven receipt or legal transshipment of the commodities to a subsequent entity. Subsequent entity is using in accordance with governing laws.
- **Unreliable** – Foreign entity was unable to prove receipt or transshipment, is not using commodity according to government laws, unable to provide proof of shipping to subsequent entity, etc.
- **Unable to Determine Reliability** – Company was unwilling to cooperate, doesn't exist

Overall Percentage of EUC Disposition

■ Reliable ■ Unreliable ■ Unverified





Other Countries with End-Use Monitoring

- **Independent of the U.S.**
 - Germany (War weapons with Iran)
 - Russia (Paper End-Use Checks, about 10 per year)
 - Switzerland (Swiss strategic goods)
 - Japan (NFI)
- **To Complement the U.S.**
 - Switzerland
 - U.K.
 - Luxembourg



End-Use Check Documents

- You may receive a request for documents:**

- This is routine and does not indicate BIS has any specific compliance concerns about you or your customer.
- In FY2020, BIS obtained and evaluated records for nearly 1,000 shipments.

- Provide the following documentation:**

- Air waybills/bills of lading.
- Purchase orders and customer contact information.
- Commercial invoices and packing lists.
- Commodity specifications and ECCN information.
- Any export license, CCATS, etc.



Knowledge Test:

What can happen if an End-Use Check yields a negative result?

PURCHASE ORDER

SUPPLIER NAME
ADDRESS

Not Negotiable (Air Consignment note) Issued by

Air WayBill

Copies 1, 2 and 3 of this Air Waybill are originals and have the same validity.

Reference Number Optional Shipping Information

Currency: Local **INTERNATIONAL** Other Declared Value for Carriage Declared Value for Customs

Amount of Insurance INSURANCE - If carrier offers insurance, and such insurance is requested in accordance with the conditions thereof, indicate amount to be insured in figure in box marked "Amount of Insurance".

PACKING LIST

Order # Date:

Qty	Part #	Description

SBU



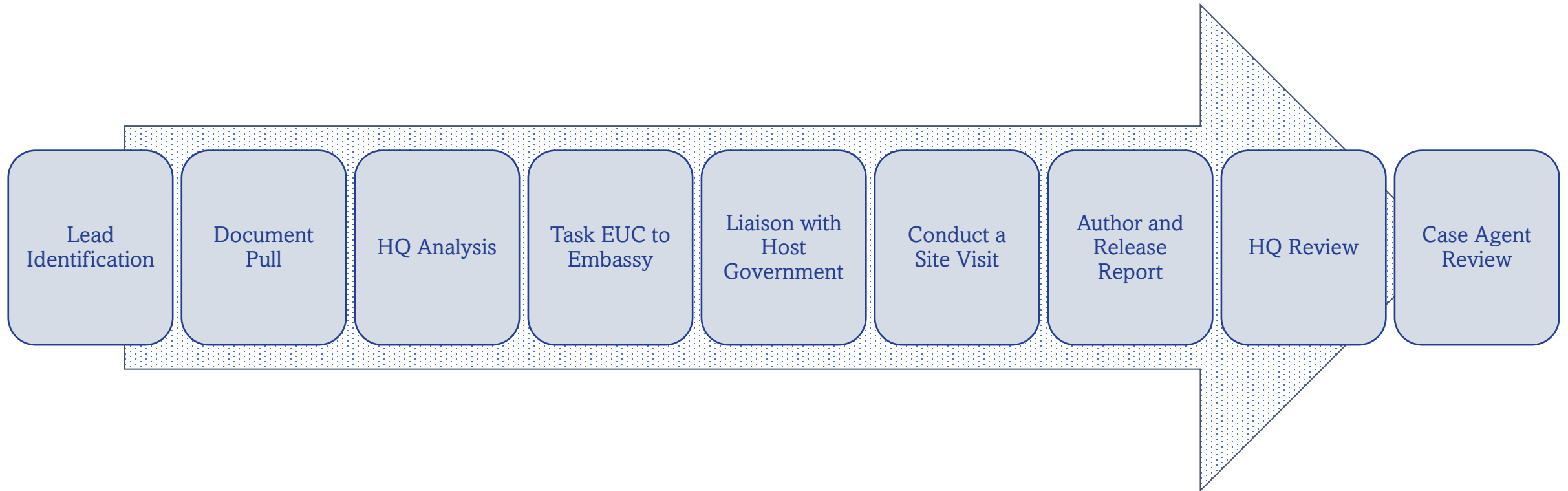
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Process of End-Use Monitoring

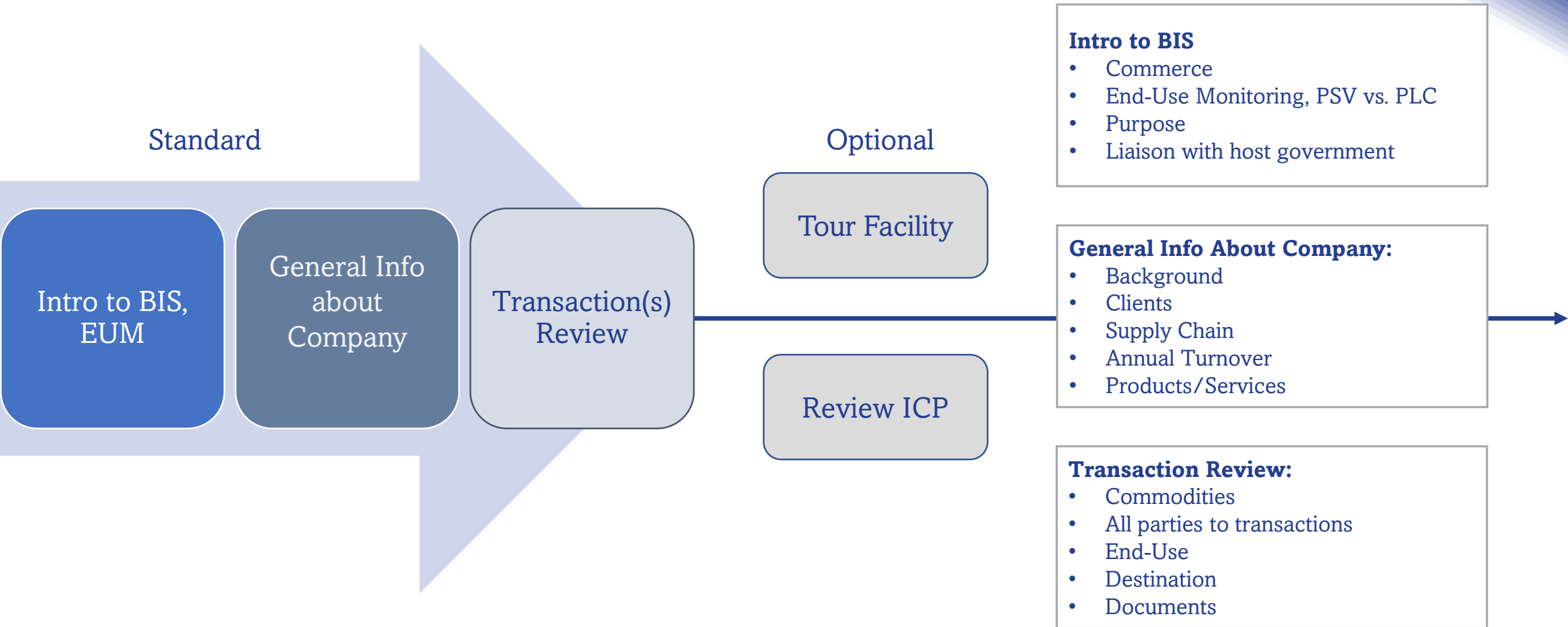


Life Cycle of an End-Use Check





Parts to the on-site End-Use Check





Government Preparations for an EUC

- Receives request for end-use check
- Provide notification to host government
- Open-source research on company
- Send a meeting request to target company
- Meet with host government prior to meeting with company
- Meeting with U.S. Embassy
- Meeting with the target company

Important Point

- The government typically knows more information about the transaction, company, and company representative than, the company typically understands



International Sharing of Information (US – Europe)

- **Mutual Legal Assistance Treaties (MLATs)** allow for the exchange of evidence and information in criminal and related matters. MLATs are reserved for use by the criminal law enforcement authorities of the parties, which include prosecutors and criminal investigators.
- **Financial Crimes Enforcement Network (FinCEN)** has either a Memorandum of Understanding (MOU) or an exchange of letters in place with the financial intelligence units (FIUs) of many countries to facilitate the exchange of information.
- **Customs Mutual Assistance Agreements (CMAA)** are legally binding, government-to-government agreements that provide the legal framework for the exchange of information to assist the United States' international partners in the enforcement against customs offenses.
- **U.S. Federal Law Enforcement to Foreign Federal Law Enforcement** agencies can and have shared information with US and other law enforcement agencies informally or pursuant to a letterhead request.
- **End-Use Monitoring** is designed to conduct inspections at foreign companies and can be utilized as an authorized method to collect information in support of licensing decisions confirm the suitability of recipients of sensitive and controlled technology and items, or to support investigations.
- **Administrative Subpoenas** can allow certain government agencies to issue a compulsory request for documents or testimony without prior approval from a grand jury, court, or other judicial entity. This method of collecting information can be used to collect information on foreign entities pursuant to investigations and other inquiries.
- **Grand Jury Subpoenas** are used to identify and gather evidence about a certain federal crime and are issued by a court.



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What can we do?



Practical Recommendations to Prepare for an End-Use Check

- Create a process in your company to handle end-use check requests.
- Typical end-use checks can inspect 1-5 transactions but be ready to receive more during the site visit.
- Checks can involve a 5-year lookback on transactions.
- Ensure you have an ICP that is up to date, tested, and risk-based.
- When government calls, seek assistance if necessary.
- Do not tell the government “NO”.
- Government is not after good companies but needs to ascertain this for themselves.
- Everyone makes mistakes – even the best companies have had a violation at some point.
- Provide member of compliance team for the site visit.
- Does not hurt to have legal counsel present.



Company Preparations for an EUC

When you receive a call / email from government.....

- Know beforehand who in your company will be the point of contact for the meeting.
- If not provided, ask which shipments they would like to review with you.
- Conduct your own research prior to the meeting on these shipments and compile relevant documents to indicate how it was received and where those items are currently and how being used. Identify all parties to the transactions, track to end-user, identify POCs throughout chain of custody.
- Identify any issues indicating non-compliance. If found, don't try to hide it. Find out what happened and why. Initiate corrective actions as soon as possible and share these with the Export Control Officer.
- If time allows, conduct a look back for previous shipments received from the same exporter.
- Be direct and honest with the ECO during the check. If you don't know an answer to a question, don't guess or fake it. Say you are not sure but will check on that question and follow-up with them once you get those details.



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Recent Case Studies




POLITICS

The Swedes: Russian couple arrested in Stockholm has ties to GRU and Swedish military intelligence, lives next door to Skripals' poisoner

28 November 2022

URL: <https://theins.ru/en/politics/257348>

Bilateral Monitoring

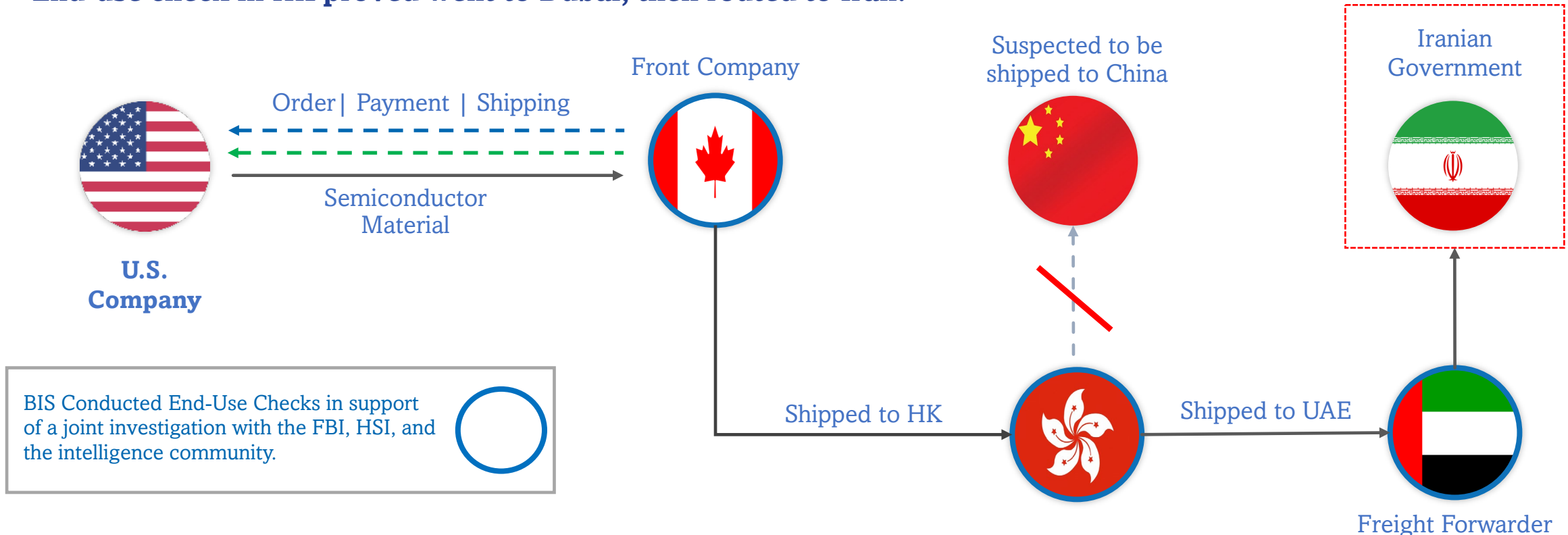


Events

- 20 years of illicit procurement
- Married Swedish National
- Visa waiver program for access to the US
- Generated 10m+ per year
- Procured “half a nuclear weapons program”

Iran Sanctions Violation – Semiconductor Material

- Front company in Canada orders semiconductor material
- Shipped from Canada to HK; end-use checks conducted, assumed went to China
- **End-use check in HK proved went to Dubai, then routed to Iran.**





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