



ICP Series – Part 19 – Product Classification

As an exporting company, you are deemed to know your products and to screen them against the applicable trade regulations and control lists, starting with determining what CN code is given to your products.

What should your ICP manual contain in terms of product classification?

Before starting, please consider the current classification of your product portfolio has already been issued and integrated into the Risk Assessment chapter of your ICP. In the Transaction Screening chapter, you will have to display your company's internal proceedings to be followed to ensure proper classification of existing and new products.

First, start telling licensing authorities who are the engineers who classify your products on a regular basis, and who are the persons responsible for legal assessment and for validation of the classification.

Secondly, indicate and display the item classification sheet you are using. Such a classification sheet shall document why the concerned item is falling in a particular category of a control list, note the specific parameters and subparagraphs of the CN, dual-use or military lists. It shall also document if the product is mentioned in the sanctions regulations against a specific country and if an authorisation is required for an export, transit, import, technical assistance, brokering or technology transfer of such product. In Luxembourg for example, authorities have issued and made available a template sheet which may be used for the different classification steps.

The classification sheet should leave enough room for a reasoned and structured assessment. For example, if the use of the correlation table has resulted in one or more potential dual-use codes, take one code after the other and assess if the description of this code (including technical notes and definitions which may appear on other parts of the control list) correlates with the technical specifications of your product. In order to facilitate review by authorities (who may claim such product classification sheet as a justifying document for license applications), start the assessment by repeating the wording of the code, followed by a complete and duly reasoned (including technical data) argumentation why (or why not) the code is applicable to your product, and a conclusion.

Third point: Confirm telling authorities what is your classification process. Mention that your classification starts with the correct CN number (and explain also to your internal staff what this is

about). Indicate what are the product categories you are screening against. Speak about dual-use and military equipment lists.

Remember: The transaction risk assessment always starts with a proper product classification. As long as all your products have not been properly classified with regard to export control lists, it shall be difficult, not to say impossible, to be safe on the requirements attached to a specific product. And even if a product is not listed on a control list, it may be subject to catch-all provisions.

To start the wording of the ICP without having achieved complete product classification is not a good idea. As this classification shall be one of the risk factors you have to assess in the Risk Assessment chapter (we mentioned earlier), the risk assessment shall be incomplete without classification. And all measures you shall implement and explain in the ICP may be inappropriate and incomplete without this classification and risk assessment duly documented.

