



Ministry of Foreign Affairs

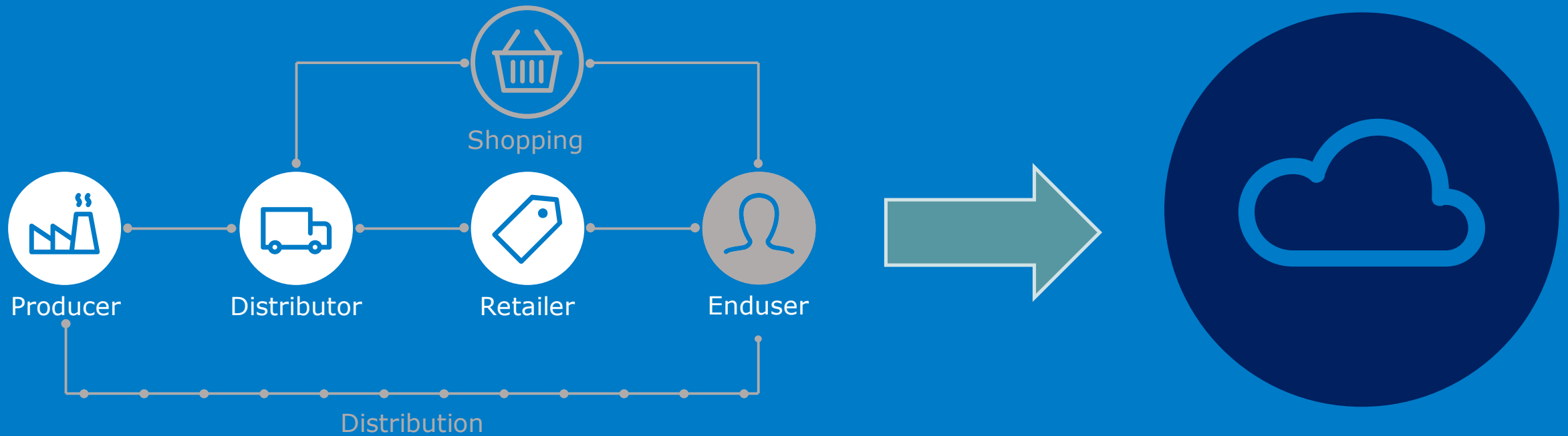
ITT management for cloud computing

Tanja Röling

Head Exportcontrols and Strategic Goods
Ministry of Foreign Affairs
The Kingdom of the Netherlands



The flow of export has shifted from physical to digital. Is the current exportcontrol framework still functioning?





Intangible Transfer of Technology is a multi-layered puzzle where Cloud is one of the pieces of this puzzle.

- Students/academic activities
- Employees in the private sector
- Cloud Export
- Digital data carriers
- Additive manufacturing





Cloud is.....

- Boundless
 - Intangible
 - Replicable
 -
-
- Still within the scope of general exportcontrol rules?





In principle, exporting technology is all about managing access to controlled technology. Therefore we made some rules.

General Rules

- Uploading a controlled technology to the Cloud and making it available to people outside the Netherlands constitutes export.
- If no one outside the Netherlands has access, it is not export until the moment this access is granted. The party who grants access is the exporter.
- All persons or entities who have access to the controlled technology formally are the recipients of controlled technology





Managing access to (controlled) data – it's about security

Security Rules

- Uploading to a cloud that does not have adequate security in place is equivalent to making controlled data publicly accessible and is therefore prohibited.
- The server or data transfer is secured using an end-to-end encryption standard that is appropriate for the sector.
- The exporter must demonstrate that he has a risk identification and risk management system in place.





Managing access to (controlled) data – it's about security

Scenario I: Location of the server

A Dutch private limited company stored their controlled technology on a server in Mexico. Now they want to export this technology to an individual outside of the EU. Do you need a license? Does it matter in what country the server is located?

Perspective

In most cases the country where the server is located does not matter, provided the server is secured in compliance with industry standards and the transfer is secured at the very least by means of end-to-end encryption. If it is not common practice in your industry to share information without knowing where the server is located, please keep this in mind.

Conclusion

This constitutes export because the controlled technology is made available to individuals outside the Netherlands. Therefore you will need an export licence.



Managing access to (controlled) data – it's about security

Scenario I: Mobile phone

You have stored controlled technology in a secure private cloud that only you can access. You have access through your smartphone, which you want to take with you on a trip abroad.

Perspective

Crossing the border with a smartphone that provides access to controlled technology constitutes export. You will need a licence if you travel outside the region covered by a general export authorisation, if such exists.

Conclusion

This constitutes export because the controlled technology is made available to individuals outside the Netherlands. Therefore you will need an export licence.



Managing access to (controlled) data – it's about security

Scenario I: Abroad intra-company transfer

Do I need an export licence if the controlled technology is only accessible to my own employees?

Perspective

You must have an export licence if employees abroad have access to the controlled technology, even if they are employed by your own company. You do not need an export licence if your employees can only access the controlled technology from the Netherlands.

Conclusion

This constitutes export because the controlled technology is made available to individuals outside the Netherlands. Therefore you will need an export licence. In many cases, the export of controlled technology falls under an EU general export authorisation, so that you do not have to apply to the Dutch authorities for an individual licence to export the controlled technology to another EU member state.



Clouds are moving, so is our policy. Our cloud export policy is learning-by-doing.

Cloud is embedded in a few general Dutch exportcontrol guidelines

- List based controls for known goods and technology.
- Catch-all for flexibility and urgent cases
- Corporate Social Responsibility (next slide)
- Risk-based case-by-case approach
 - Exporter / Items / End-Use(r)





Cloud control must be part of every organizations Internal Compliance Program

What we do

- Human rights as key pillar in our assessments
- Drafted ICP guideline document
- National reporting instruments
 - Annual national report
 - Monthly overview of DU export
- Minister approval for high risk transactions
- Outreach

What industry can do

- Make a thorough risk assessment
- Implement (minimal) ICP requirements
 - Management commitment
 - Continuous risk assessment
 - Transaction screening
 - Training, monitoring and auditing
- Use your common sense