



# Going Global: An Update on Export Control Reform, Operations, and Technology

March 20, 2012



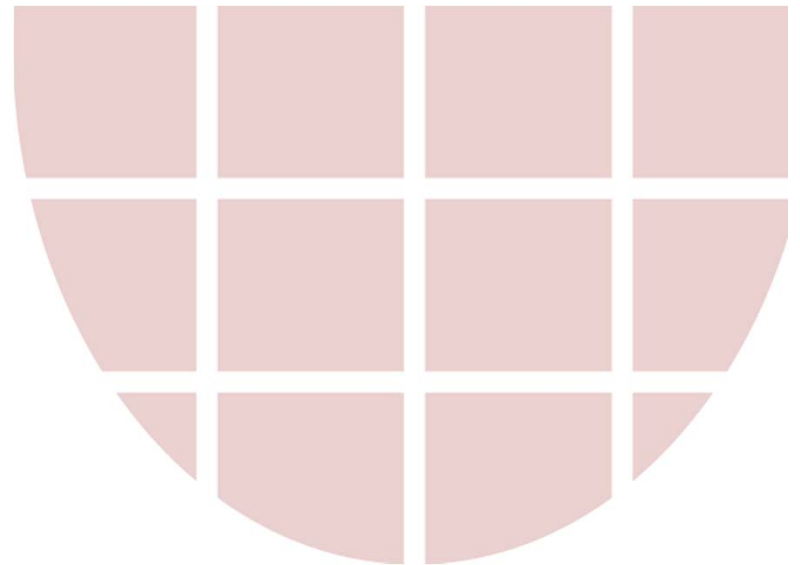
# Today's Speakers

**Eric Kulisch**  
Associate Editor  
*American Shipper*



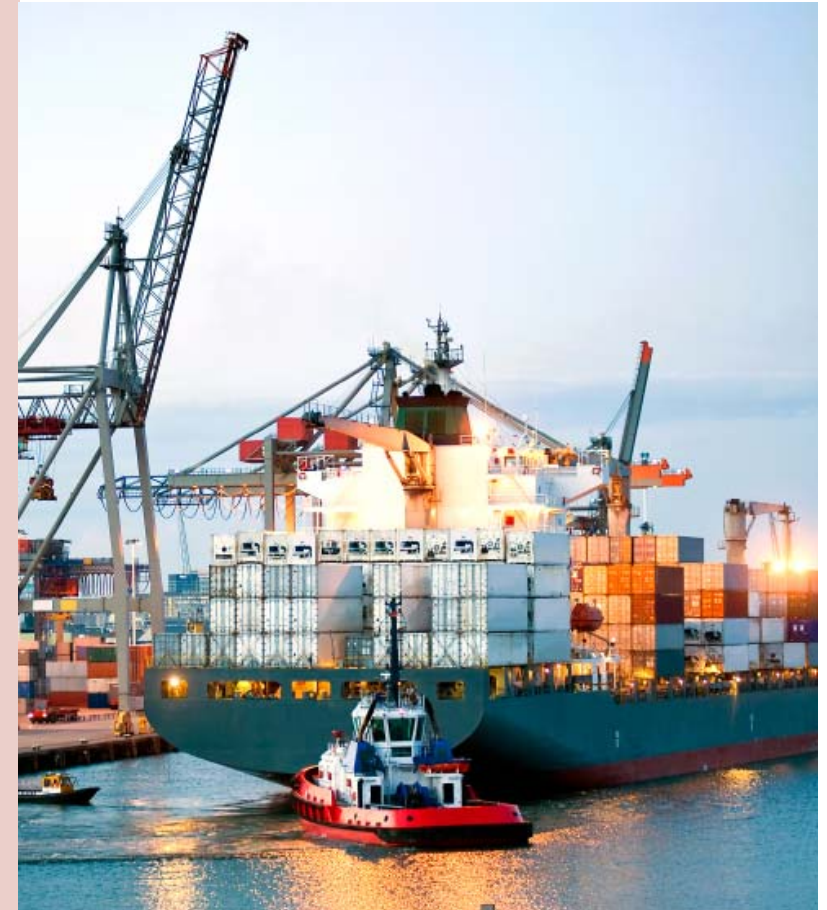
**Beth Peterson**  
President  
*BPE Global*

**American Shipper**



# Agenda

- U.S. export control reform
- U.S. export control reform realities
- 2011 Export Operations & Compliance Benchmark
- Organizational structures
- Productivity metrics for exporters
- Operational best practices
- Risk mitigation through automation



## Purpose of Export Control Reform

- In August 2009, President Obama directed a broad based review of the U.S. export control system to enhance the national security, foreign policy and economic security interests of the United States.
- Objective: Strengthen national security and competitiveness of key U.S. manufacturing technology centers by:
  - Focusing on current threats
  - Adapting systems to the emerging worldwide commercial and technology landscape

## What Reform Looks Like

- General
  - Not a wholesale re-write of the EAR and ITAR
  - Improving upon existing regulations/changes over time
- Export Classification
  - ITAR U.S. Munitions List will change, moving to a positive list with number similar to EAR Commerce Control List (CCL)
  - Some ECCNs revised or removed from CCL
- License Exceptions / Exemptions
  - More and broader License Exceptions or Exemptions
  - Some may require industry to implement compliance measures

## Export Control Reform - Long Term

- Consists of 4 elements:
  - Single control list
  - Single licensing agency
  - Single IT system
  - Single export enforcement coordination agency

## Export Control Reform Current Efforts

- Create license exceptions for close allies and regime partners. License Exception STA.
- Revise Commerce Control List to be more clear.
- Revise control lists so that they are parallel and “positive.”
- Move items that no longer warrant control on the US Munitions List to the CCL.

## Revisions to CCL

- December 9, 2010 Advance Notice of Proposed Rulemaking Changes to CCL:
  - Ensures that CCL entries are clear and based on objective technical parameters.
  - If items are controlled on CCL and USML, a performance parameter will distinguish which set of regulations applies.
  - Seeks foreign availability information.



## US Munitions List

- Convert USML into a "positive list."
- Establish objective technical parameters rather than design intent to control items on USML.
- Items not meeting criteria to be on "positive" USML list would be transferred to CCL:
  - End-items, parts, components, accessories and attachments
  - Requires congressional notification
- Commerce and State have published several complementary proposed rules detailing what and how items would move from the USML to the CCL.

## Compliance and Enforcement

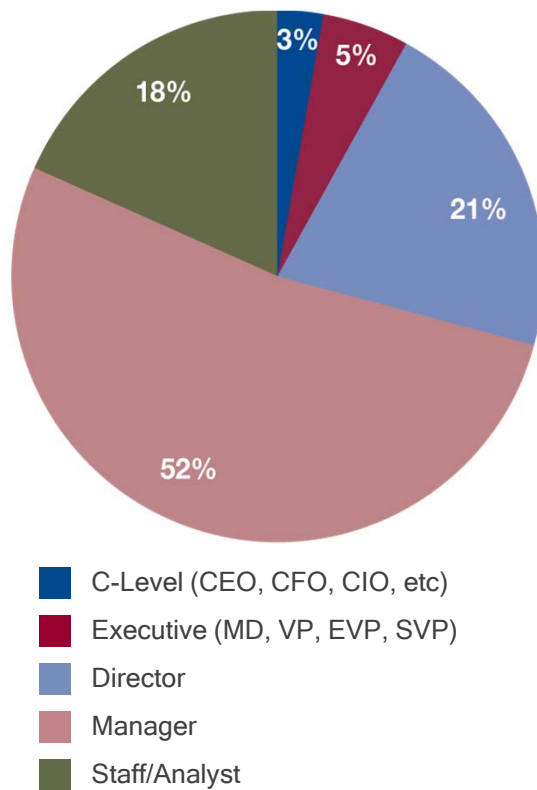
- Executive Order establishing Export Enforcement Coordination Center.
- Importance of voluntary self-disclosures.
- Going forward, where there is a deliberate violation, BIS will seek penalties against individuals as well as companies.

## About Our Study

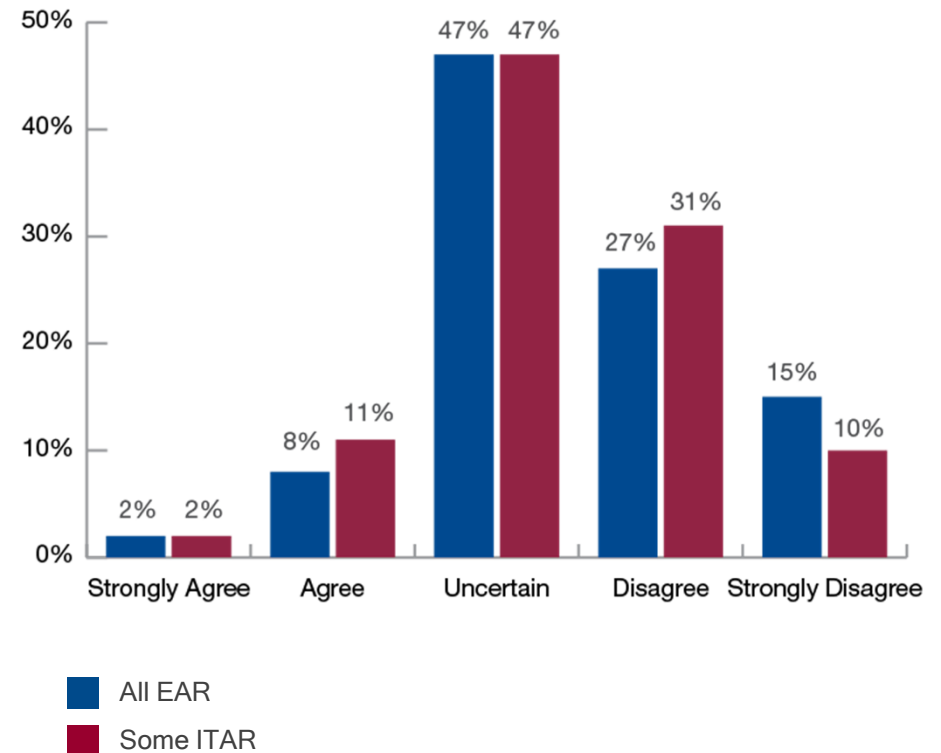
- 2011 Export Operations & Compliance Benchmark  
“Going Global” – September 2011
- [www.AmericanShipper.com/ExportReport2011](http://www.AmericanShipper.com/ExportReport2011)
- Second annual report on this subject.
- 300+ qualified respondents including US-based discrete and process manufacturing, wholesale, 3PLs and others.
- Covers export control reform, operations & compliance issues processes, policies and technology.
- EAR vs ITAR, automated vs. manual, small/medium vs. large companies.

# Impact of Export Reform

## Job Levels Represented

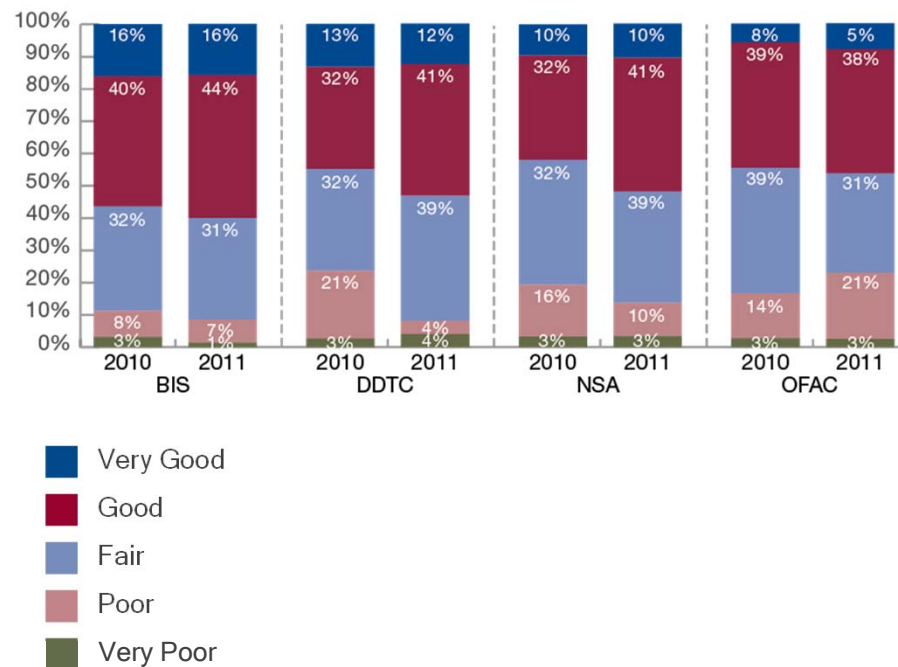


## My Company is Already Benefitting From Export Reform

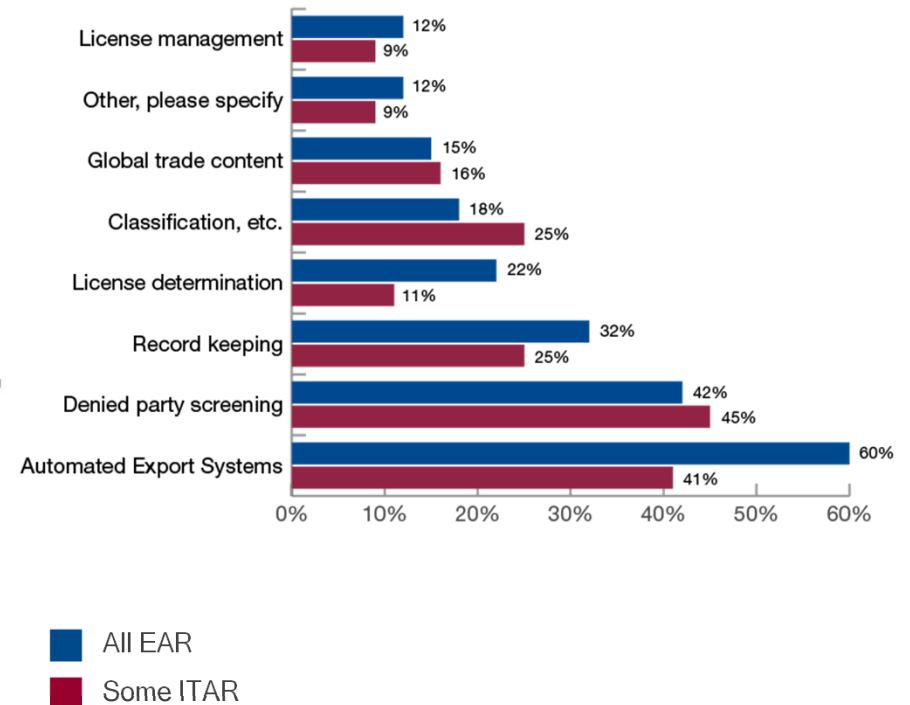


# Agencies are Improving

## Effectiveness of Licensing Agencies—'10/'11



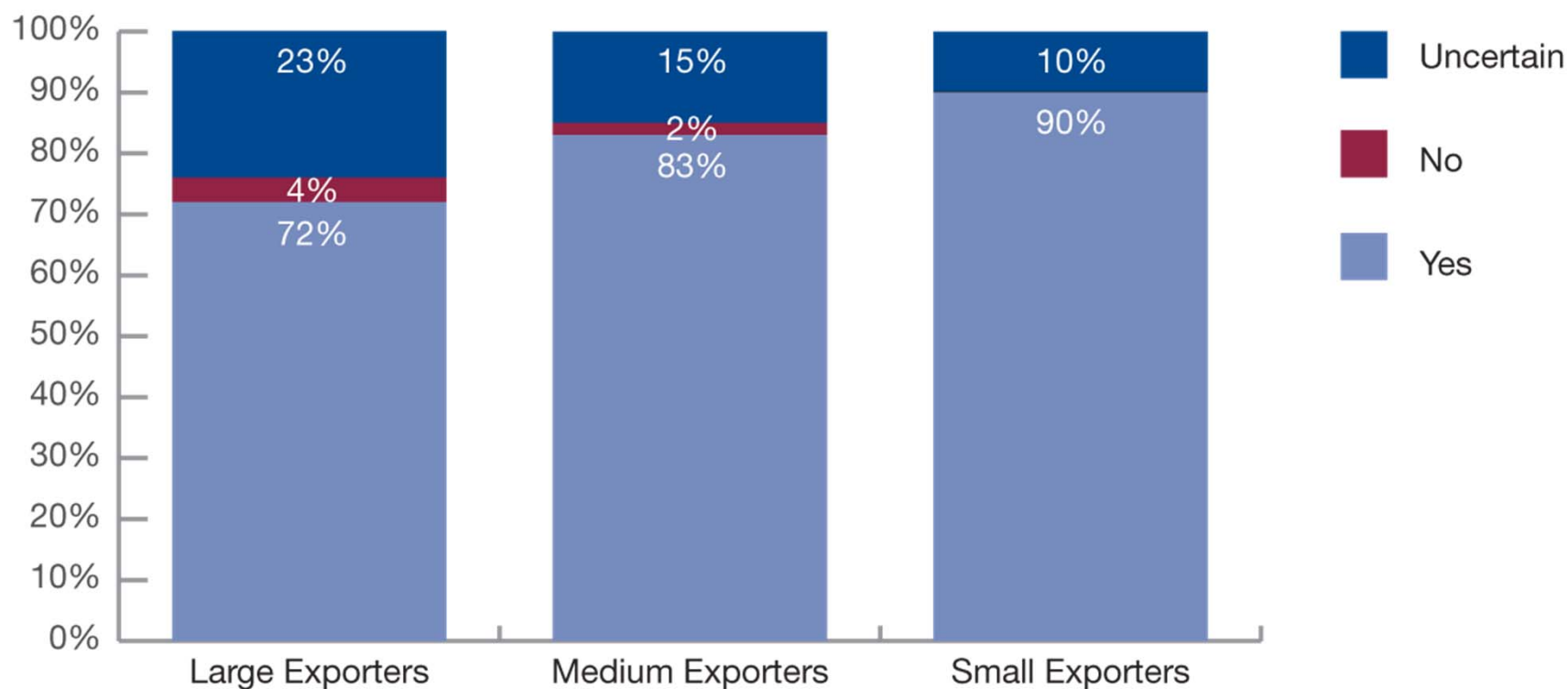
## Export Compliance Functions Outsourced



## Evidence of change

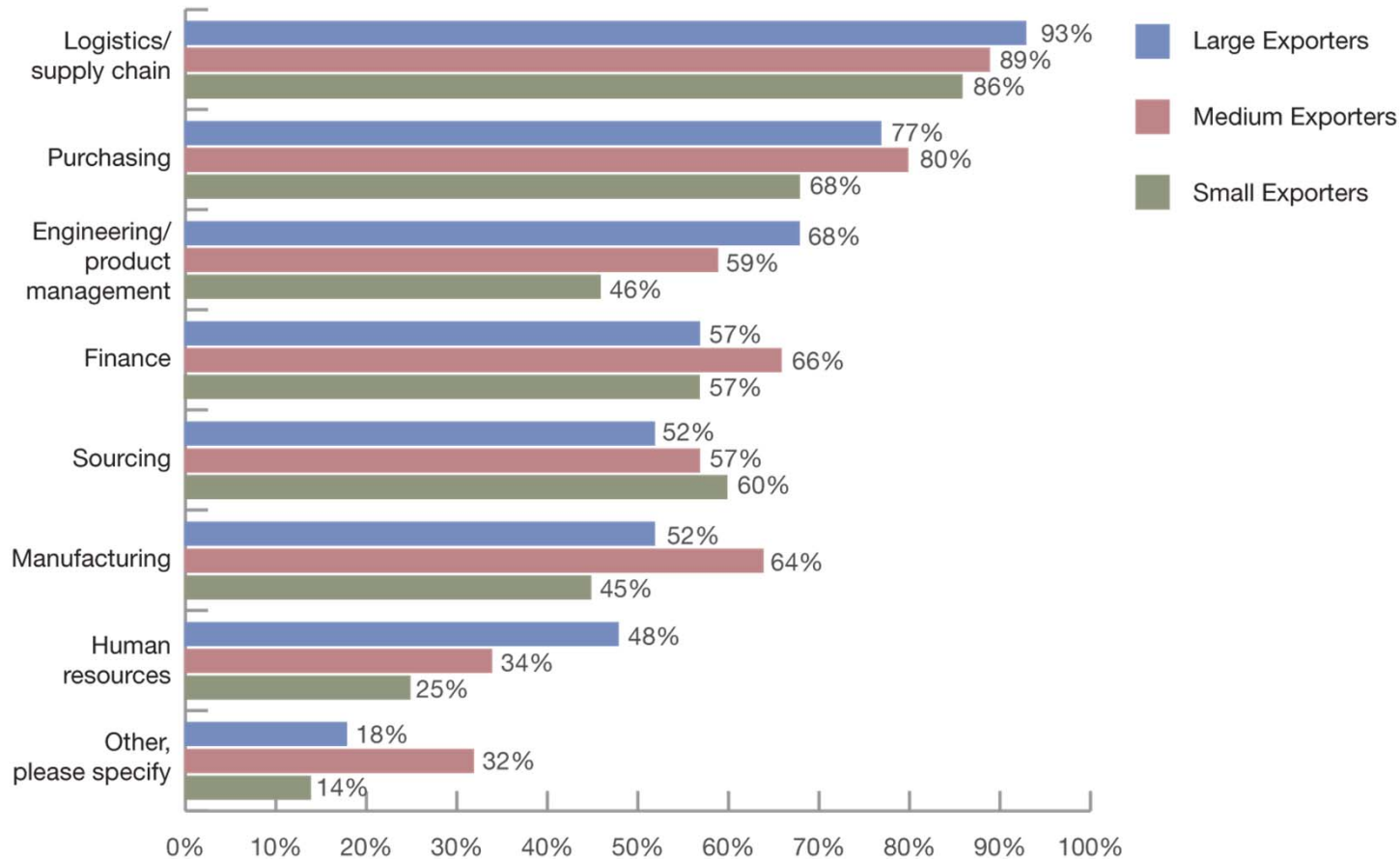
- Despite survey respondents indicating uncertainty about export reform impact on their operations anecdotal evidence indicates that subtle but important changes are occurring.
  - Export Classifications (“CCATS”) are being processed more quickly
  - Export licenses are being processed more quickly
  - Government employees are responding more quickly to inquiries

## Desire for a Single Combined List



*Single List is Extremely Critical*

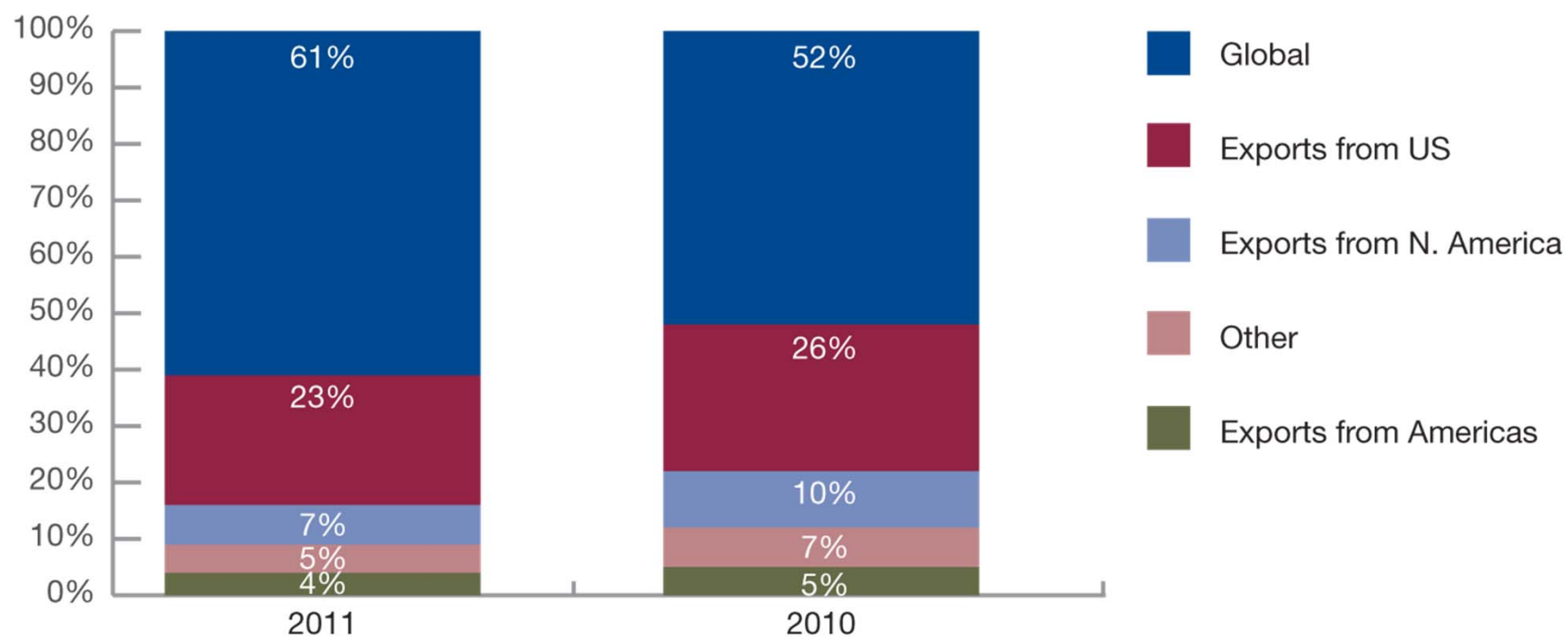
# Export Team Frequently Meets With



*Export Team focusing on logistics and supply chain functions*

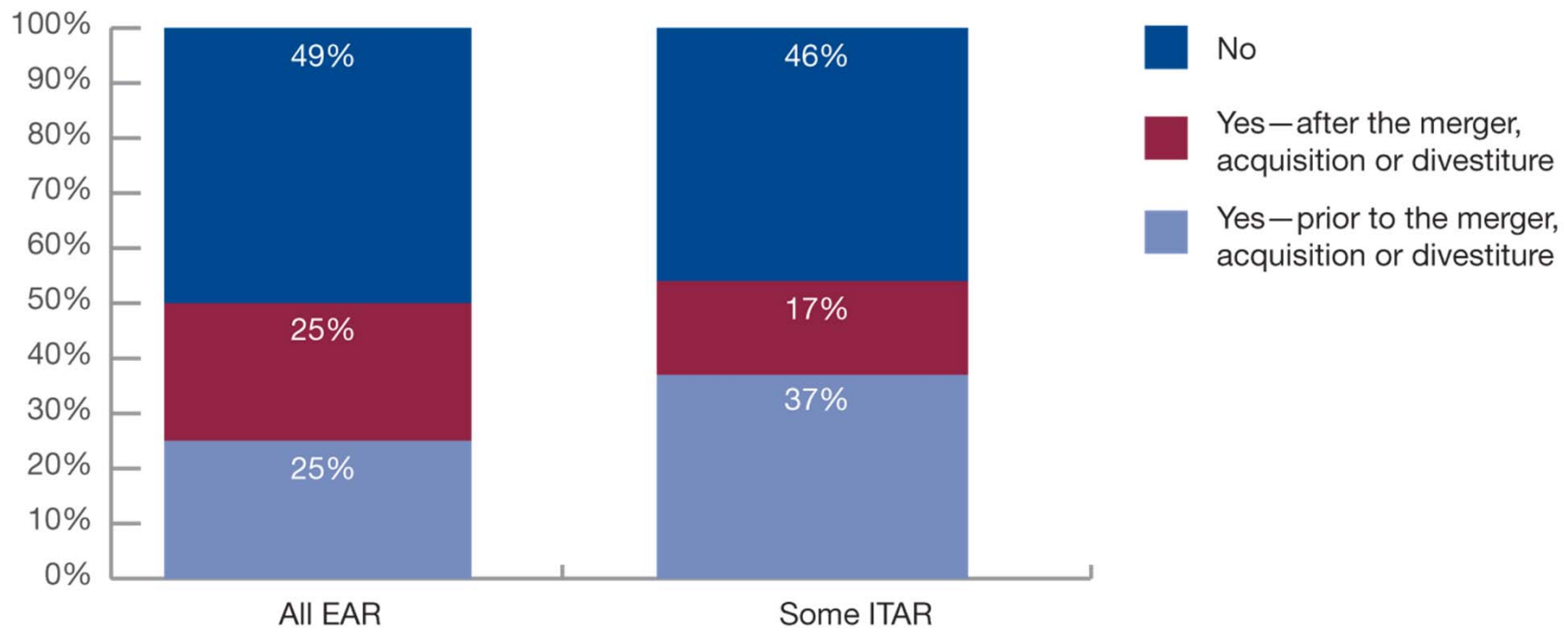


## Scope of Responsibility



*Export is going global*

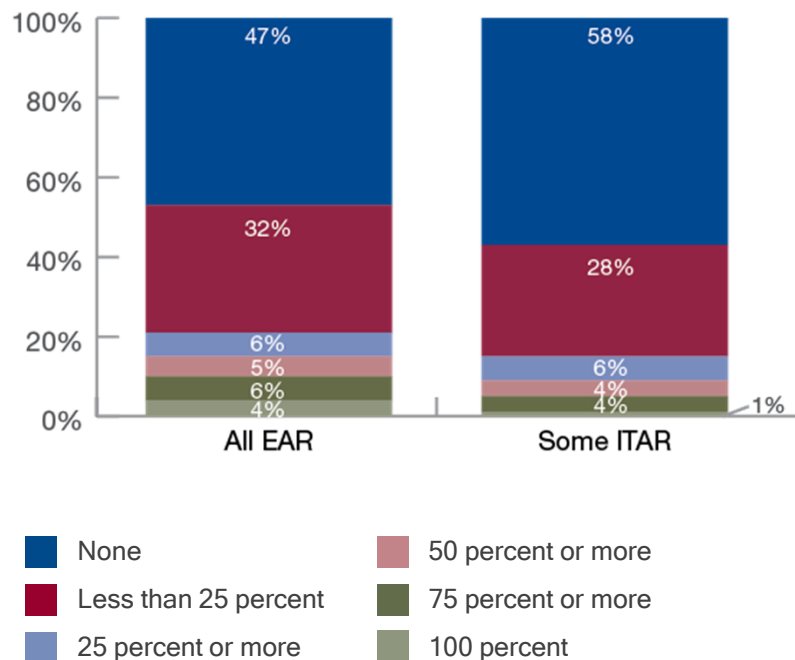
# Is Export Compliance Included in Strategic Discussions?



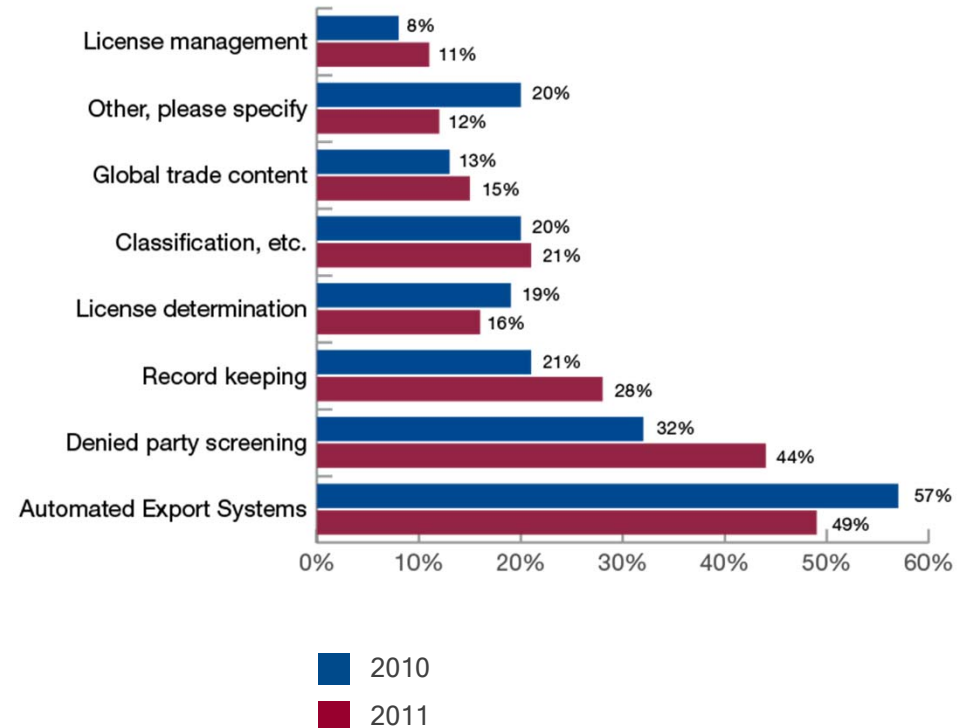
*Despite risk, export is not included in strategic conversations*

# Companies manage export compliance in-house

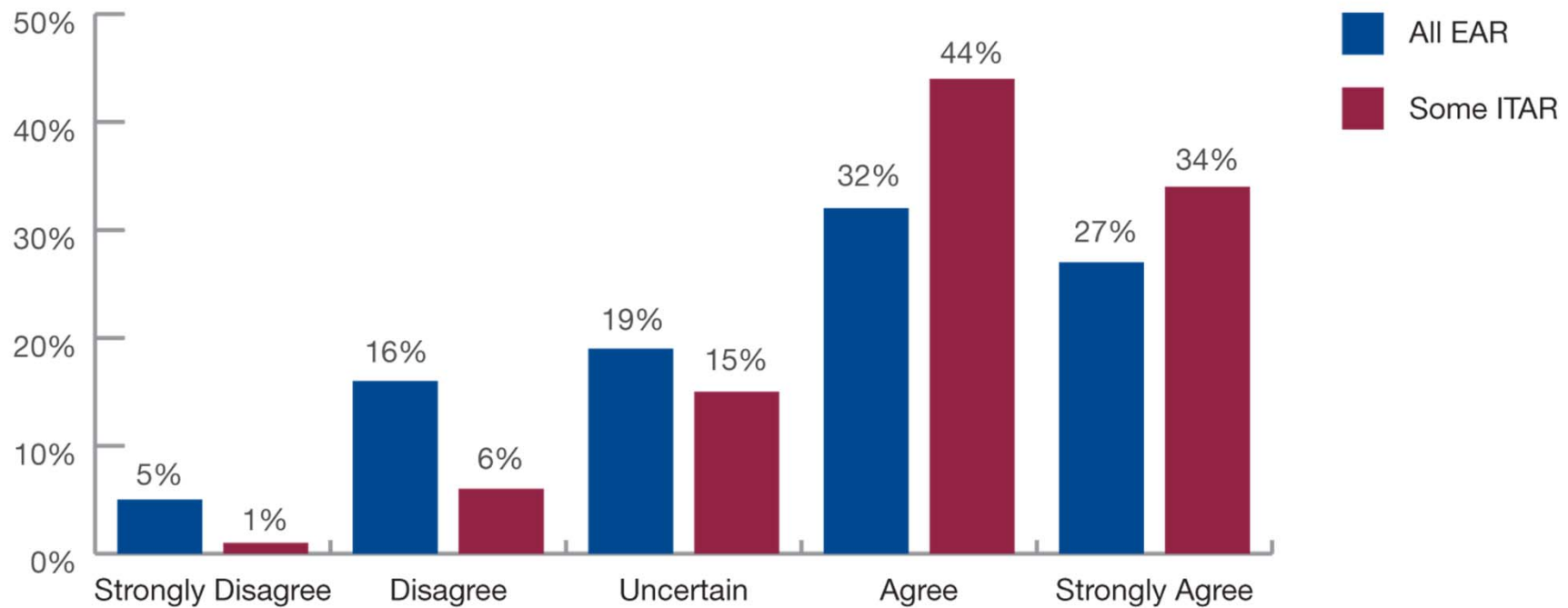
**Percentage of Export Compliance Work Outsourced**



**Export Compliance Functions Outsourced—2010 vs. 2011**

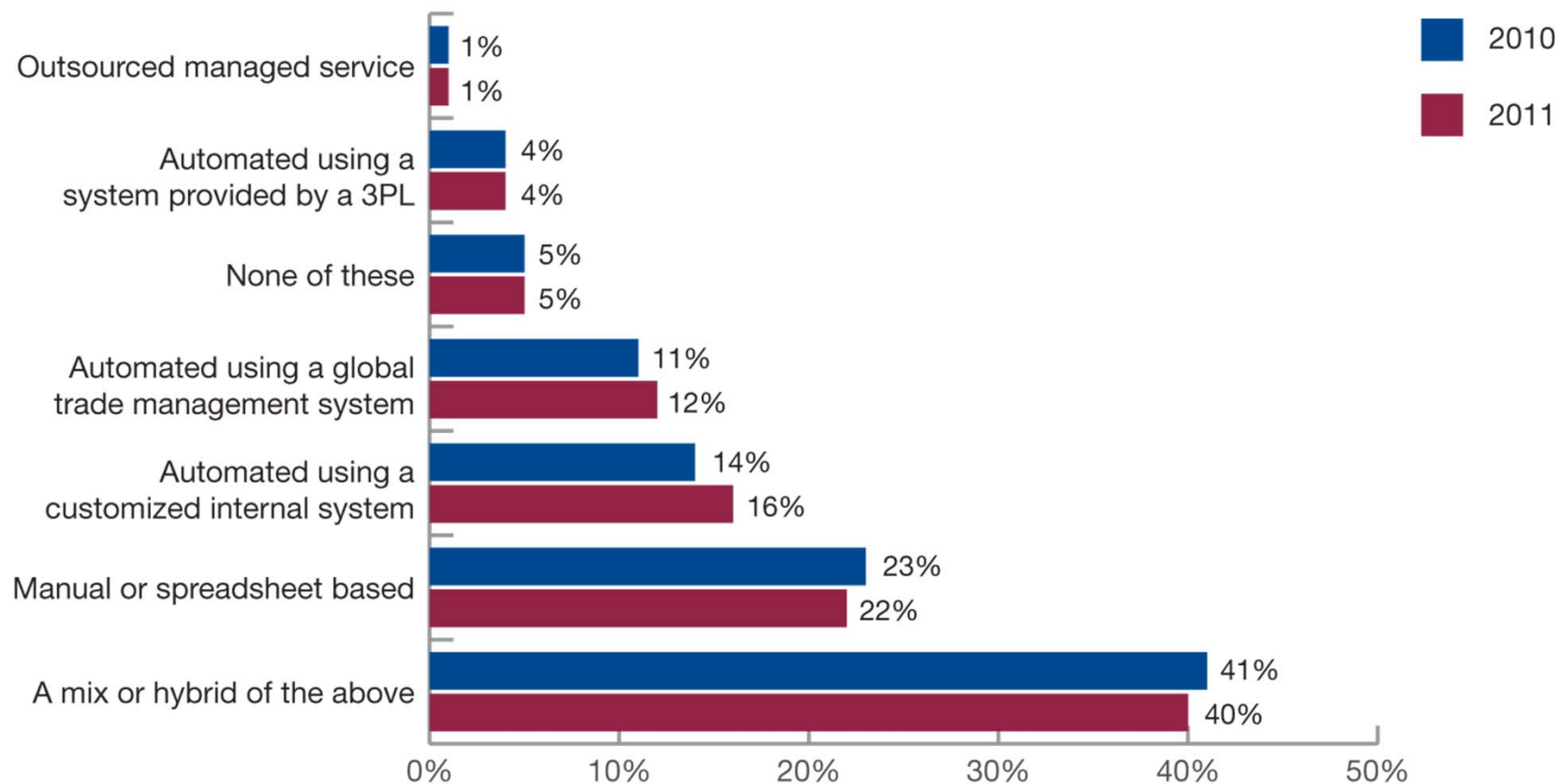


# “GTM Systems Are a Strategic Investment”



*GTM systems are a strategic risk mitigation tool*

## GTM Platform–2010 vs. 2011

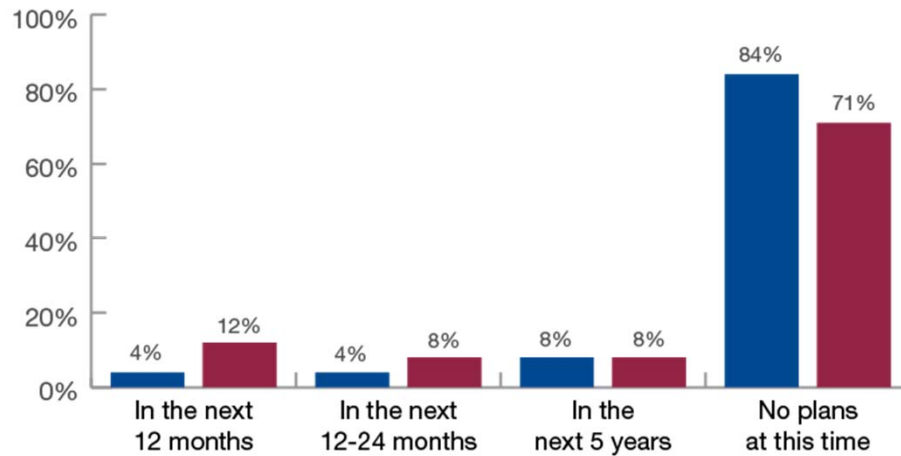


*Little change for automation platform*

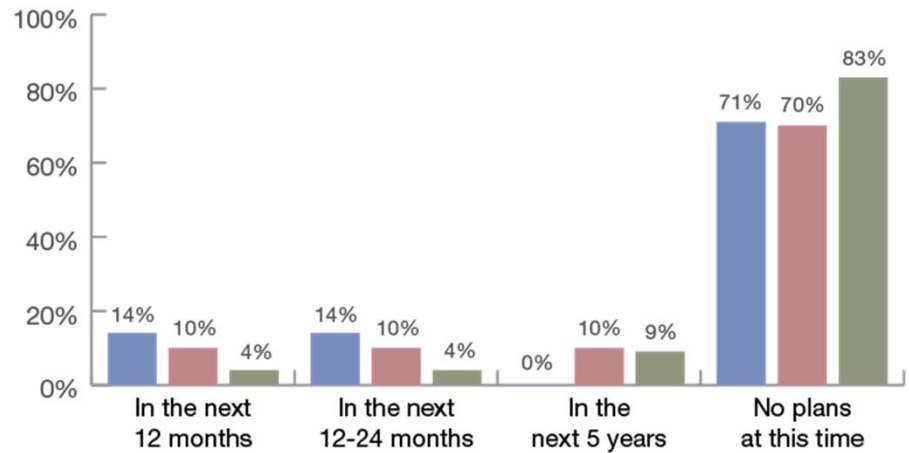
# GTM System Purchase is in the Plans

## Plans to Purchase GTM Systems

## Plans to Purchase GTM Systems by Company Size

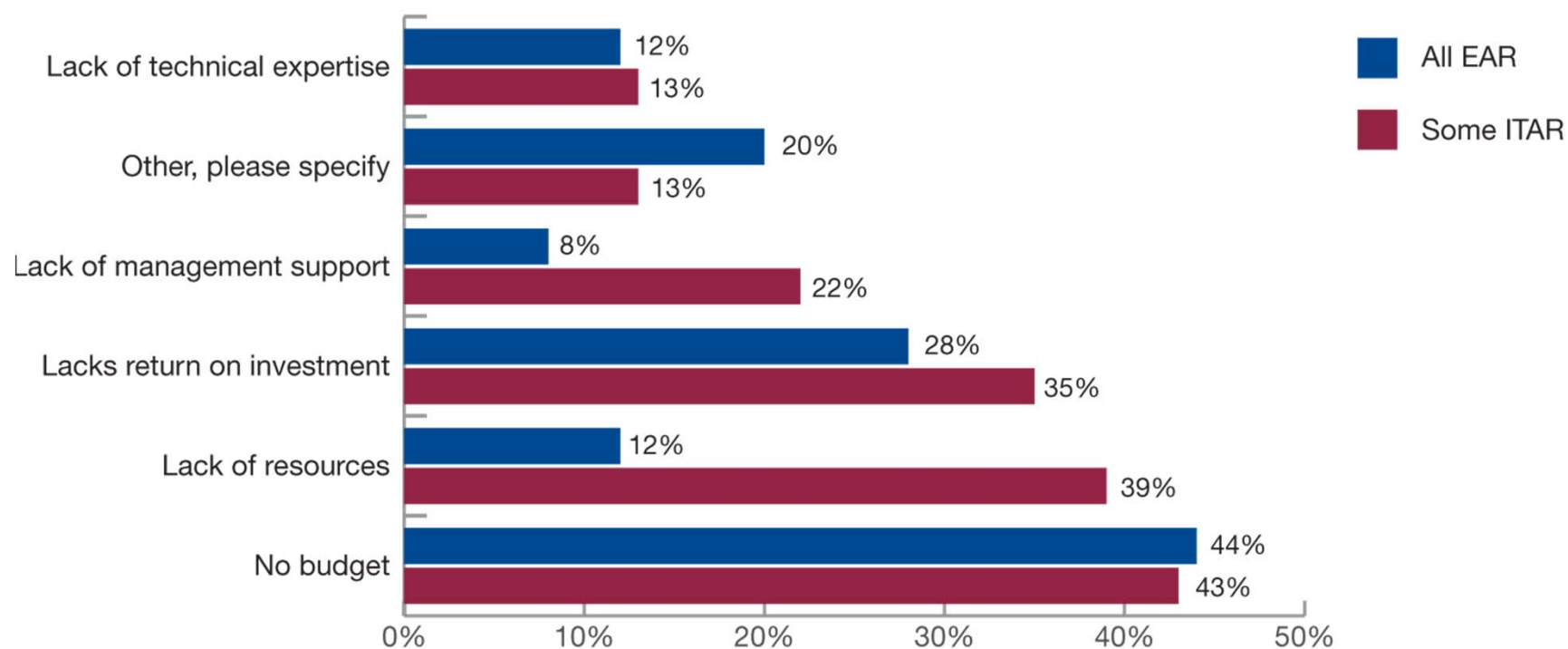


■ All EAR  
■ Some ITAR



■ Large Exporters  
■ Medium Exporters  
■ Small Exporters

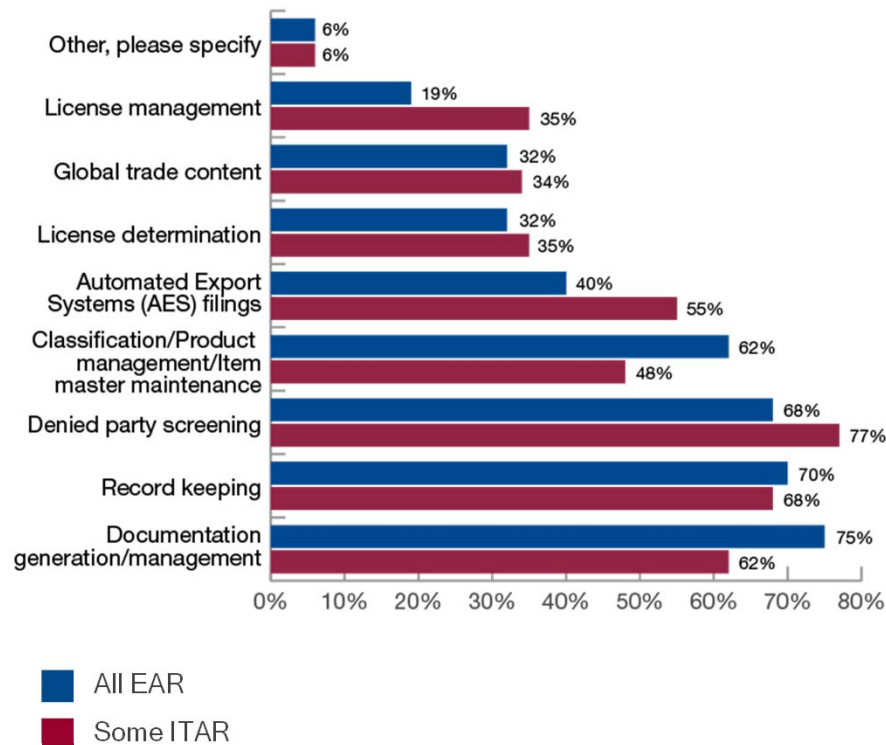
# Inhibitors to Investment in Systems



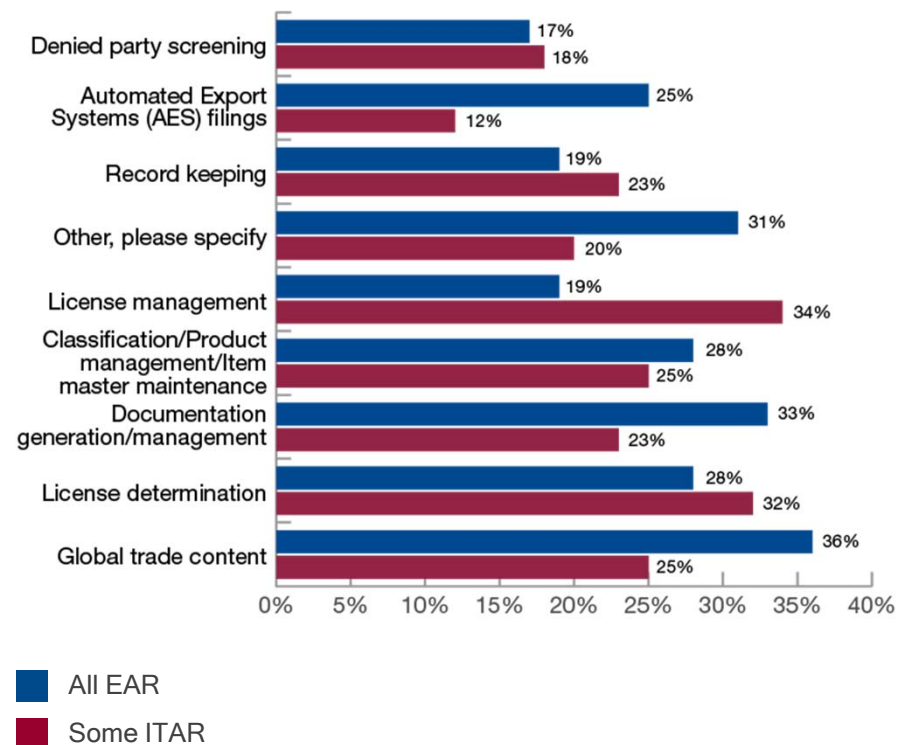
*Lack of budget is number one*

# The Future is Automation

## Current GTM Functionality



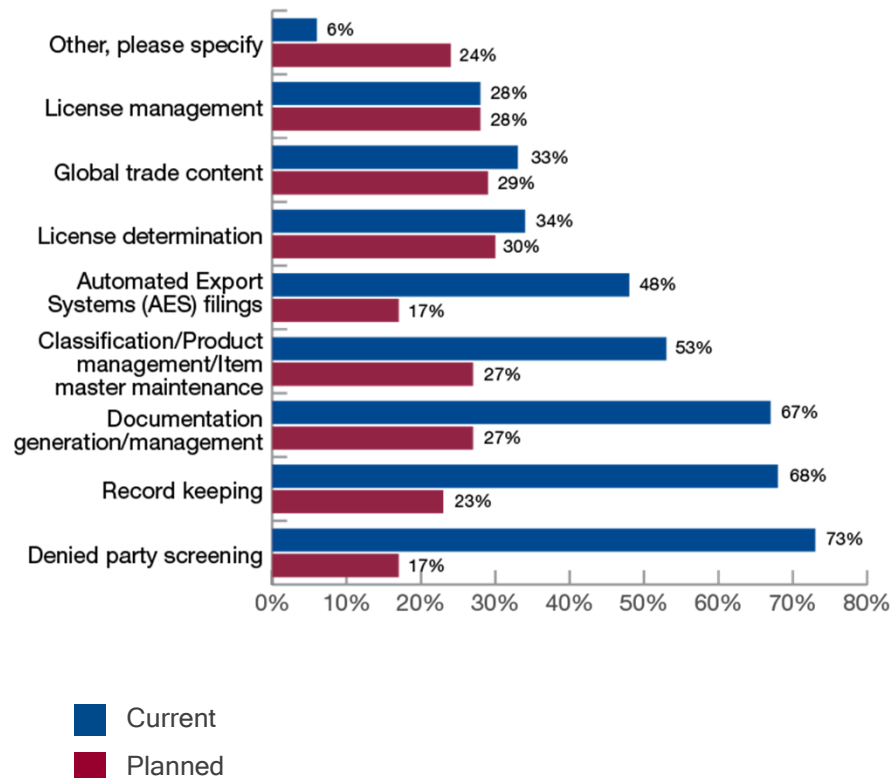
## Planned GTM Functionality



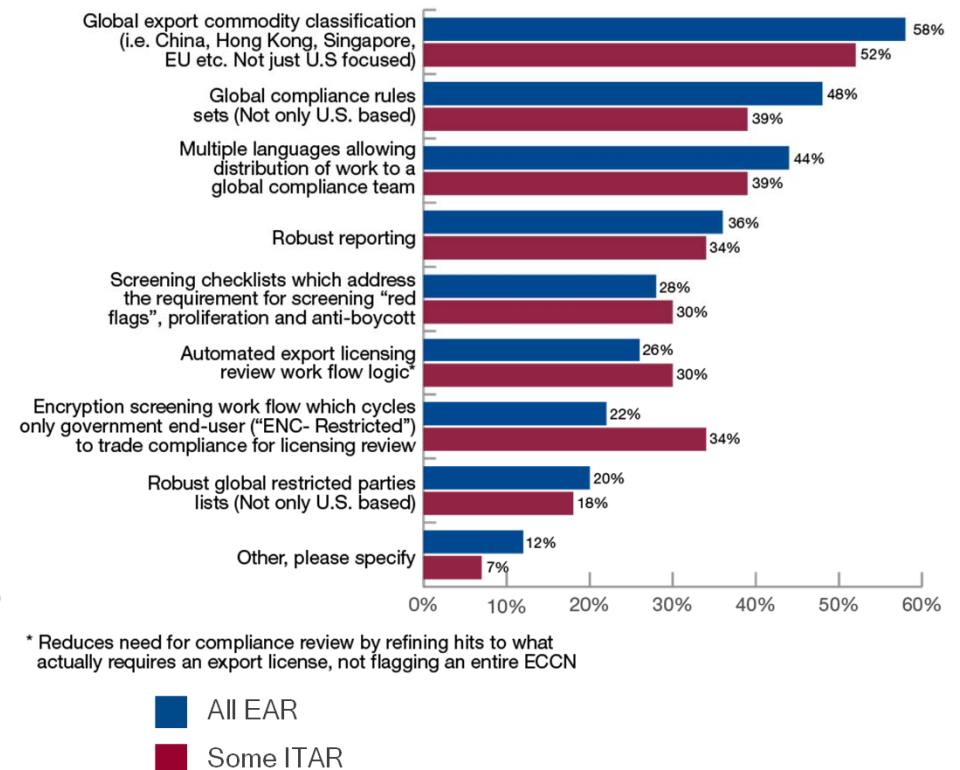


# Global Systems are Required

## Current vs. Planned GTM Functionality



## Desired GTM Functionality



\* Reduces need for compliance review by refining hits to what actually requires an export license, not flagging an entire ECCN

## ECR Review

- Assemble company-wide working group to review and comment
  - Export, Government Relations & Legal
  - Business Development, Engineering & Programs
- Brief senior executive stakeholders
- Industry coordination with key external stakeholders
  - Share comments with peer companies on common topics of interest
  - Share comments with industry groups (AAEI, NAM)
- Submit response letters to USG Regulators, State and Commerce Departments

## How to Provide Comments

- Submit *specific* comments to:
  - Federal Register at <http://www.regulations.gov>
  - BIS at [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov)
- BIS conducts weekly teleconferences on ECR proposals
  - Calls intended to foster public understanding of the proposal and assist interested parties prepare more informed comments.
  - [http://www.bis.doc.gov/news/2011/ecr\\_teleconferences.htm](http://www.bis.doc.gov/news/2011/ecr_teleconferences.htm)

## GTM Crystal Ball

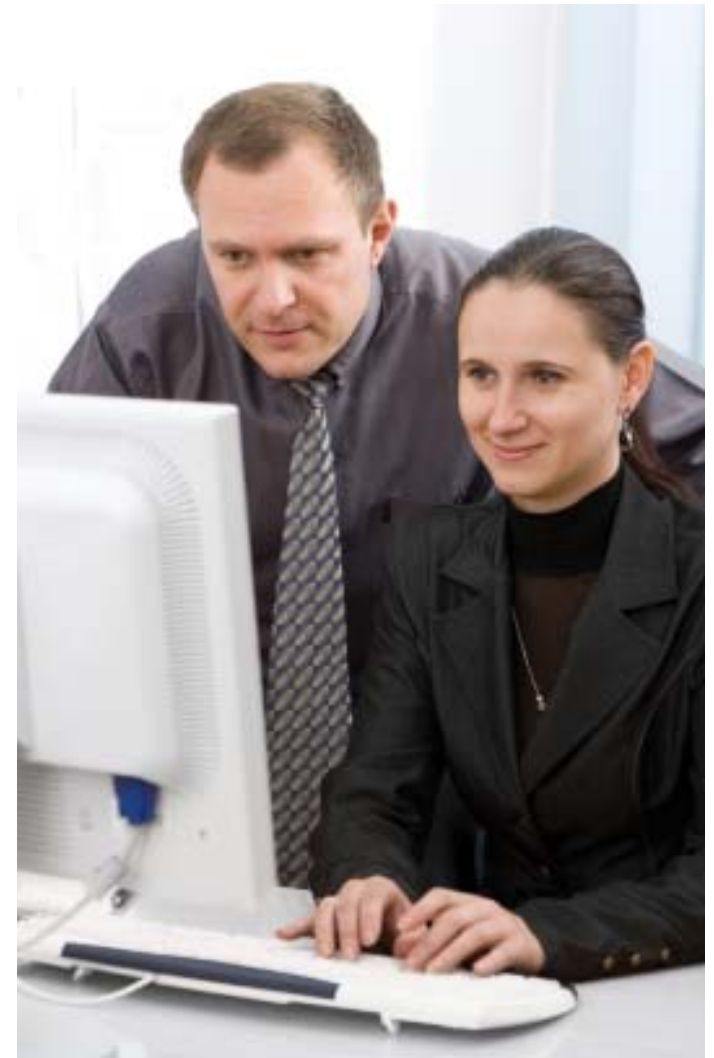
- Some firms are delaying ERP systems investments, whether new systems, or badly needed enhancements.
- Those ERP system investment delays in turn are pushing out GTM investment decisions.
- Based on recent headline there is an increased awareness of trade compliance risk by executives.
- Risk aversion or economic change will trigger purse strings to open.
- Firms still nervous about GTM sector viability - Focus/direction on product roadmaps, investment, news of continued bankruptcy, consolidation, mergers.

## Best Practices—7 Quick Points

1. Visibility at the Executive level
2. Create cross-functional team or communication methodology (Creates visibility internally and with logistics partners )
3. Focus on the necessary functions only
4. Access to trade intelligence (Focus on accurate, up-to-date content)
5. Implement reliable software
6. Is there a process (Create handbook, have parties involved sign-off and C-level commit)
7. Risk Management

# Risk Management

- Assign responsibilities
- Create and keep back-Up documentation
  - Product detail
  - Classification logic
- Obtain information prior to damage done to take timely corrective actions
- Prioritize
- Profile actions and associated risks
- Create audit trail
- Random reviews and report on those



## A Call to Action

- Understand how reform will impact your company
- Brief Executive Management on key changes
- Consider what changes you may need to make to your program
- Get Involved
- Advocate for reforms that you know are needed
- Provide meaningful comments to Federal Register Notices
- Examples include industry groups or direct company advocacy

## Upcoming Benchmark Reports

- GTM Landscape Report - coming soon





## Q&A

Thank you for participating in this session. We would like to take your questions now.

For more information, you can contact today's speakers:

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