

BEST PRACTICES FOR EFFECTIVE ENFORCEMENT

(Agreed at the WA Plenary, 1 December 2000)

The following list of “best practices” for effective export control enforcement were adopted by the Wassenaar Plenary as a non-binding amalgam of the enforcement practices followed by different Wassenaar Arrangement Participating States which are illustrative of an effective enforcement programme.

PREVENTIVE ENFORCEMENT

1. Use threat assessment techniques and procedures for evaluating parties involved in a proposed export transaction, paying particular attention to those considered to be suspicious, unreliable, or presenting a high risk of diversion.
2. Maintain a list of problem end-users to identify license applications deserving closer scrutiny.
3. Confirm the stated end-user and end-use of items to be exported prior to issuing an export license. As appropriate, this can be accomplished by several means, ranging from documentation to on-premise checks of the end-user and end-use.
4. Obtain assurances regarding the end-use and non re-export of licensed items, as appropriate.
5. Examine goods and the documentation required to be presented at point of export, using risk assessment techniques to aid selection. Detain suspect shipments and seize unauthorised or illegal exports, which may include those that are passing in-transit.
6. As necessary, confirm that exported goods have reached their intended destinations using appropriate means, ranging from documentation to on-site verification.
7. Conduct industry awareness programs to improve exporters’ understandings of the objectives and coverage of export controls, including controls on software and technology.
8. Seek voluntary compliance by industry. As appropriate, encourage development by industry of internal compliance programs.
9. Keep industry and the general public apprised of penalties for failure to comply, using, as appropriate, cases of successful prosecution as examples.

INVESTIGATIONS

10. Designate law enforcement responsibilities for detection, prevention, and punishment of violations of export control laws.
11. Provide adequate resources and training for enforcement officers.
12. Ensure that national laws and regulations have statutes of limitations sufficiently long to permit the detection and prosecution of export control violations.
13. Consistent with national laws, policies and regulations and on a mutually-agreed basis, including international agreements for legal and customs assistance, and mutually respecting national sovereignty, governments may cooperate in the investigation and prosecution of violations of export controls cases, by:
 - a. Furnishing relevant documents and items relating to violations;
 - b. Facilitating the availability of witnesses; and
 - c. Providing for the extradition of violators, consistent with treaty obligations.

EFFECTIVE PENALTIES

14. Establish effective penalties (including, as appropriate, criminal sanctions, civil fines, publicity and restriction or denial of export privileges) sufficient to punish and deter violations of export controls.

INTERNATIONAL COOPERATION/INFORMATION EXCHANGES

15. Consistent with national laws, policies and regulations and on a mutually-agreed basis, including international agreements for legal and customs assistance, governments may, as appropriate, share information bilaterally on persons and companies considered to present a high risk of diversion. Examples of information to share include:
 - a. Information obtained in the course of pre-license and post-shipment verifications; and
 - b. Information about export control prosecutions, convictions, and restrictions or denials of export privileges.
16. Consistent with national laws, policies and regulations, governments may, as appropriate, share information in the context of multilateral export control arrangements. Examples of information to share include:
 - a. General information on risks associated with destinations of concern;
 - b. Information on license denials;
 - c. Information on networks, agents, brokers and end-users of concern.
17. Senior enforcement officials may maintain, as appropriate, formal and informal information exchanges with their counterparts in member country governments.
18. Licensing and enforcement officials should respect the confidentiality of information received and should ensure that access to it is restricted to those officials who have been duly authorised.