

## **BEST PRACTICES FOR EFFECTIVE EXPORT CONTROL ENFORCEMENT**

(Agreed at the 2000 Plenary and amended at the 2016 Plenary)

The following list of Best Practices for effective export control enforcement was adopted by the Wassenaar Plenary as a non-binding compilation of the enforcement practices followed by different Wassenaar Arrangement Participating States. These Best Practices encompass enforcement actions for export control activities.<sup>1</sup> The following list of Best Practices is illustrative of an effective export control enforcement programme.

### **I. 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 consignees, end-users, and other parties of concern to identify export transactions and related activities deserving closer scrutiny.
3. Confirm the stated consignee, end-user and end-use of items to be exported prior to issuing an export licence. As appropriate, this can be accomplished by several means, ranging from documentation to on-premise checks of the consignee, end-user and end-use.
4. Obtain assurances regarding the end-use and the non-transfer/re-export of licenced items, as appropriate.
5. Examine the items and the relevant documentation that is required to be presented at point of export, using risk assessment techniques to aid selection. Detain suspect shipments and seize unauthorized or illegal exports, which may also include items that are passing in-transit or being transshipped.
6. As necessary, confirm that exported items have reached their intended destinations using appropriate means, ranging from documentation to on-site verification.
7. Conduct educational outreach programmes for export controls.
8. Promote compliance by all relevant parties in export and related transactions. As appropriate, encourage implementation of internal compliance programmes<sup>2</sup> and voluntary self-disclosures of violations discovered.
9. Keep all relevant parties apprised of penalties for failure to comply, using, as appropriate, cases of successful criminal prosecution or other civil or administrative enforcement actions, as examples.
10. Ensure all relevant parties, utilizing digital methods to store and transmit controlled data provide adequate levels of information and cryptographic security according to national laws, regulations and policies to prevent unauthorized access or disclosure of sensitive data.

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<sup>1</sup> Export control activities may include related brokering, transit and transshipment.

<sup>2</sup> In accordance with WA 2011 *Best Practice Guidelines on Internal Compliance Programmes for Dual-Use Goods and Technologies*.

11. Take into account the role of brokers or other intermediaries in transactions and address the risks that may be associated with their activities.

## **II. EFFECTIVE PENALTIES**

1. Establish effective penalties sufficient to deter and/or punish violations of export control and applicable brokering, transit, and transshipment laws. Such deterrents may include, as appropriate, fines, civil or administrative actions, criminal sanctions, and restriction or denial of export privileges, along with making public the outcomes of violation proceedings.

2. Designate administrative, civil, and/or criminal enforcement responsibilities for detection, prevention, and punishment of violations of export control laws, including related laws.

## **III. INVESTIGATIONS**

1. Provide adequate resources and training for enforcement officers.

2. Ensure that national laws, regulations, and policies have statutes of limitations sufficiently long to enable effective detection and prosecution of export control and related violations.

3. Coordinate, as appropriate, with other regulatory authorities to identify suspicious transactions, such as attempts at trade-based money laundering, irregularities in business registration or licencing, or other commercial frauds involving exporters, consignees, or end-users.

4. Consistent with national laws, regulations, and policies, governments may cooperate in the investigation and prosecution of export control violations, by:

- a. Furnishing documents and relevant information;
- b. Facilitating the availability of witnesses; and
- c. Providing for extradition, consistent with international agreement obligations.

## **IV. INTERNATIONAL COOPERATION/INFORMATION EXCHANGES**

1. Consistent with national laws, regulations, and policies, governments may, as appropriate, share information bilaterally on entities considered to present a high risk of diversion. Examples of information that may be shared include:

- a. Information obtained in the course of pre-licence and post-shipment verifications; and
- b. Information about export control and related civil or administrative actions, prosecutions, convictions, and restrictions or denials of export privileges.

2. Consistent with national laws, regulations, and policies, governments may, as appropriate, share information in the context of multilateral export control arrangements. Examples of information that may be shared include:

- a. General information on risks associated with destinations of concern;
- b. Information on licence denials; and
- c. Information on networks, agents, brokers, consignees and end-users of concern.

3. Enforcement officials are encouraged to maintain, as appropriate, formal and informal information exchanges with their counterparts in other countries.
4. Consistent with national laws, regulations, and policies, licencing and enforcement officials should respect the confidentiality of information received from international sources and should ensure that access is restricted to those officials who have been duly authorized.