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National Best Practices for Effective Export, Reexport, Transit, and Transshipment Controls

The following list of "best practices" for effective export, re-export, transit and transshipment enforcement was discussed by a group of experts from thirteen countries and economies⁽¹⁾ at a Transshipment Enforcement Conference held November 15-17, 2000 in San Diego, California. These practices form a non-binding description of the export, re-export, transit and transshipment enforcement practices followed by countries around the world, which are illustrative of an effective control and enforcement program.

Laws and Regulations

1. Have a transparent legal and regulatory framework that allows a country to control the export, re-export, transit and transshipment of items controlled by the international nonproliferation regimes/arrangements, while assuring that such controls do not interfere with legitimate trade.
2. Maintain or have access to an up-to-date list of products and technologies consistent with international nonproliferation regimes to allow a country to control export, re-export, transit and transshipment when necessary.
3. Have the ability to regulate any export transaction regardless of whether the product or technology is on a control list or not, when it is known that the item will be used in a program of proliferation involving weapons of mass destruction (WMD) equipment, technology or related delivery systems.

Preventive Enforcement

4. Develop procedures for evaluating parties involved in export, re-export, transit and transshipment transactions, paying particular attention to those considered to be suspicious, unreliable, or presenting a high risk of diversion.
5. Maintain, as part of the evaluation process, a list of problem parties to identify transactions deserving closer scrutiny.
6. As appropriate, confirm the stated end-user and end-use of items being exported, re-exported, in transit or transshipped.
7. As necessary, obtain assurances regarding the end-use of licensed items. Confirm, as appropriate, that they have reached their intended destinations.

Training and Industry Awareness Programs

8. Provide adequate resources and training for enforcement officers.

9. Conduct industry awareness programs to improve exporters' understandings of the objectives and coverage of export controls, including controls on software and technology.

10. Seek voluntary compliance by industry. As appropriate, encourage development by industry of internal compliance programs.

11. Keep industry and the general public apprised of penalties for failure to comply, using, as appropriate, cases of successful prosecution of serious offenses as examples.

Investigations

12. Designate law enforcement responsibilities for detection, prevention, and punishment of violations of export control laws.

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

- Enforcement officials may maintain, as appropriate, formal and informal information exchanges with their counterparts in other countries.

16. Government officials should respect the confidentiality of information received and should ensure that access to it is restricted to those officials who have been duly authorized.

17. In particular, cooperate with other countries on interdicting illicit transfers of proliferation concern, including WMD and missiles as delivery systems.

¹ Canada; Cyprus; Germany; Hong Kong, China; Japan; Jordan; Malaysia; Malta; The Netherlands; Singapore; United Arab Emirates; United Kingdom; United States.

