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Special Section

2004 In Review: Export Controls and Nonproliferation in East Asia

Northeast Asia

Notable developments in Northeast Asia were China's acceptance as a member to the Nuclear Suppliers Group (NSG) in May 2004, Japan's revision of its long-standing "Three Principles on Arms Exports," and South Korea's hosting of the MTCR plenary meeting in October. Overall, 2004 saw continuing efforts to promote cooperation on export controls, either through multilateral dialogue and seminars, or via bilateral arrangements, including China-Japan and U.S.-China consultations and related training sessions and workshops. The year 2004 also saw the U.S. government sanction Chinese and North Korean firms for alleged involvement in WMD-related exports to Iran.

China

China continued to strengthen its export control system with a series of initiatives. One established an ad hoc interagency emergency response mechanism to deal with issues arising from nonproliferation and export control-related contingencies. [1] Chinese officials, both on public occasions and in private, have made repeated reference to this new mechanism, although its exact nature remains to be clarified. China's export control authorities began to publicize relevant documents more actively, undertake outreach activities, and engage in dialogue and consultation with their counterparts in the United States, European Union (EU), United Kingdom (UK), and Japan, among other partners. Revisions and updates to Chinese export control regulations have been posted on government websites, as have been new decrees and notices regarding implementation and enforcement. At the same time, Chinese NGOs such as the China Arms Control and Disarmament Association (CACDA) became more involved in training activities to strengthen the export control infrastructure. CACDA, for instance, held a series of workshops in 2004 for local officials, customs officers, and enterprise managers on export controls for sensitive materials. [2]

On May 25, 2004, China's Ministry of Commerce (MOFCOM) announced that Beijing had fined two companies for violating domestic export control regulations on missiles and missile technologies. [3] This announcement marked the first time Chinese authorities made public the punishment of firms for export control violations. Although MOFCOM did not provide much detail about the identity of the companies, the offenses committed, or the exact fines levied, Beijing's identification of the home provinces and type of industries involved was the highest level of specificity seen thus far in China's internal export control efforts. [4]

Perhaps the highlight of Chinese export control developments in 2004 was China's accession in late May to the Nuclear Suppliers Group (NSG). Beijing also applied for membership in the Missile Technology Control Regime (MTCR), but that application is still under review. In 2004, Beijing held consultations with both the Australia Group (AG) and the Wassenaar Arrangement (WA). [1] In December 2004, China signed a joint declaration with the EU on arms control and nonproliferation. (See related story on page 12 of the current issue.)

Despite these important developments, the U.S. government remained concerned about the actions of a number of high-profile Chinese companies, particularly entities seen as "serial proliferators." On numerous occasions in 2004, the U.S. government imposed sanctions on Chinese firms. A number of sanctioned entities, including the China North Industries Corporation (NORINCO), China Precision Machinery Import/Export Corporation (CPMIEC), China Great Wall Industry Corporation, and an individual identified as Q.C. Chen, had been sanctioned repeatedly in past years.

In April 2004, NORINCO and CPMIEC, along with the Beijing Institute of Opto-Electronic Technology (BIOET), Oriental Scientific Instruments Corporation (OSIC), and Zibo Chemet Equipment Plant (a.k.a. Zibo Chemet Equipment Corporation, Ltd., and Chemet Global Ltd.) were sanctioned for alleged WMD-related transfers to Iran. [5] On September 20, 2004, sanctions were imposed against another major Chinese company, the Xinshidai Group (China New Era Group), for allegedly engaging in missile proliferation activities. Nine days later, on September 29, 2004, sanctions were again announced against NORINCO,

BIOET, and OSIC (which were all sanctioned in April), as well as on China Great Wall Industry Corporation, South Industries Science and Technology Trading Co., Ltd., and LIMMT Economic and Trade Company, Ltd. In November, 2004, Washington sanctioned another four Chinese entities for allegedly shipping exports to Iran that could contribute to Tehran's suspected development of unconventional weapons. The Chinese entities sanctioned were Liaoning Jiayi Metals and Mineral Company. Ltd., Wha Cheong Tai Company. Ltd., and Shanghai Triple International, Ltd., along with Q.C. Chen. [6] In late December 2004, another set of sanctions were placed against seven Chinese entities, including the previously sanctioned companies NORINCO, China Great Wall Industry Corporation, Wha Cheong Tai Company, and Zibo Chemet Equipment Corporation, Ltd.. The individual known as Q.C. Chen was also sanctioned, along with Beijing Alite Technologies Company. (See related story on page 14 of the current issue) These ongoing accusations were likely a key reason why China's accession to the MTCR remains under debate. [7]

Sources: [1] Beijing Review year-end interview with Director-General Liu Jieyi, December 30, 2004, <<http://www.fmprc.gov.cn/chn/wjzb/zzjg/jks/jksxwlb/t177654.htm>> [2] These activities are noted on the official website of the China Arms Control and Disarmament Association (CACDA), <http://www.cacda.org.cn/english/index_e.asp>. [3] "2 Chinese Firms Fined for Violating Missile Export Rules," China View, May 25, 2004, <http://news.xinhuanet.com/english/2004-05/25/content_1490243.htm>; "Liang gongsi yin weifan chukou guanzhide youguan guiding zao xingzheng chufa" (Two Companies Fined for Violating Regulations Related to Export Controls), Ministry of Commerce of the People's Republic of China, May 25, 2004, <http://www.mofcom.gov.cn/article/200405/20040500225170_1.xml>. [4] "Two Chinese Companies Fined for Violating Regulations on Missile Export Control," *Asian Export Control Observer*, June 2004, <http://cns.miis.edu/pubs/observer/asian/pdfs/aeco_0406.pdf>. [5] Department of State, "Public Notice 4680," Federal Register 69:67, April 7, 2004, <<http://wais.access.gpo.gov>>. [6] Mike Nartker, "United States Imposes Sanctions Against Chinese Firm," Global Security Newswire, September 22, 2004, <<http://www.nti.org>>. Wade Boese, "U.S. Imposes Iran-Related Sanctions," *Arms Control Today*, 35:1 (January/February 2005), <http://www.armscontrol.org/act/2005_01-02/Iran_Sanctions.asp>. [7] Mike Nartker, "Missile Meeting to Discuss Chinese Membership" Global Security Newswire, October 4, 2004, <<http://www.nti.org>>.

Japan

Concerned about North Korea's proliferation and nuclear activities, the Japanese government in recent years has taken a proactive approach toward strengthening export controls in the region. Part of this strategy has been to assist other countries in bolstering their export controls, cooperating in preventing transshipments to North Korea, and raising the importance of export controls in regional security discussions.

On January 5, 2004, Tokyo announced that it would tie the content of its official development assistance (ODA) to recipient countries' ability to enforce export controls. Under its revised ODA Charter, Japan would use ODA as a way to provide assistance in strengthening export control throughout the region. [1] Japan also held several training seminars to provide Asian countries professional and technical expertise for improving export controls and inspecting and interdicting suspect cargo ships and airplanes. [2] Japan began to create a network of export control cooperative agreements by signing agreements with Singapore and Hong Kong. The individual agreements provided for both the establishment of reciprocal liaison offices to assist with bilateral cooperation and the monitoring of suspicious exports. [2]

Japan organized two large conferences on export controls. The 12th annual Asian Export Control Seminar was held in October in Tokyo and had participants from many from Southeast Asian countries, as well as Pakistan and the United Arab Emirates. [3] In the same month, Japan held the second annual Asian Export Control Dialogue in Tokyo. At the conference, officials from Australia, China, Japan, Hong Kong, the Republic of Korea, Singapore, Thailand, and the United States agreed to new export control principles known as the "Tokyo Principles." These principles called for governments to establish stringent export controls, make efforts to reduce the risk of illicit transfers through transshipments, and share with each other regulatory experience and expertise to promote effective export controls in Asia. Tokyo has been a strong supporter of the U.S.-led Proliferation Security Initiative (PSI) and hosted the first PSI exercise in East Asia. The exercise, known as "Team Samurai," was held in late October 2004 and incorporated approximately 900 troops from Japan, the United States, France, and Australia and included observers from 18 other nations. [4]

Japan also introduced significant revisions to its export control regulations and initiatives in the area of government and industry relations. Tokyo revised its control lists, increasing the number of items subject to controls, and enlarged its lists of foreign companies and organizations suspected of involvement in WMD development. [3] Tokyo also announced a controversial plan to revise its "Three Arms Export Principles" to allow exports of weapons and weapons-related components on a case-by-case basis. (For more information on these revisions, see related story on page 10 of the current issue.)

Sources: [1] "Japan's ODA to Promote Export Controls in Other Asian Nations," *Asian Export Control Observer*, April 2004, pg. 8, <http://www.cns.miiis.edu/pubs/observer/asian/pdfs/aeco_0404.pdf>. [2] Katsuhisa Furukawa, "New Developments in Japan's Export Control Policy," *Asian Export Control Observer*, April 2004, pg. 17, <http://www.cns.miiis.edu/pubs/observer/asian/pdfs/aeco_0404.pdf>. [3] "The 12th Asian Export Control Seminar Agenda," on the Center for Information on Trade Security Control (CISTEC) Website, <<http://www.cistec.or.jp/open/service/intlcoop/>>. [4] "Team Samurai: Bringing PSI to Asia," *Asian Export Control Observer*, October/November 2004, pg. 11, <http://www.cns.miiis.edu/pubs/observer/asian/pdfs/aeco_0410.pdf>.

North Korea

In January 2004, a private delegation from the United States led by Stanford University Professor John Lewis and former Los Alamos National Laboratory Director Siegfried S. Hecker visited the Yongbyon Nuclear Complex. The delegation confirmed that the spent fuel canned under the Agreed Framework had been removed from a temporary storage pond. Dr. Hecker was shown a piece of metal that was consistent with the properties of plutonium, but Hecker had no diagnostic equipment to confirm whether or not it was plutonium, or, if it indeed was plutonium, when it had been reprocessed. [1] In February and June 2004, North Korea participated in the second and third rounds of six-party talks aimed to end Pyongyang's nuclear weapons program. During the third round of talks in June, North Korea rejected a U.S. proposal to freeze its nuclear facilities and commit to the "complete, verifiable and irreversible dismantlement" of its nuclear program, saying the proposal was unrealistic. [2] A fourth round of talks had been scheduled for September, but North Korea declined to participate. (As of late January 2005, no further talks had been scheduled, but there was speculation that another round of talks could be held early in the year.)

In December 2004, North and South Korea opened the Kaesong Industrial Complex in the city of Kaesong, North Korea, which is about 15 kilometers (km) north of the Military Demarcation Line. The project has raised concerns over the possible transfer of sensitive materials and technologies, particularly in the areas of information technology and machine tools, to North Korea. In response Pyongyang claimed that Washington was trying to sabotage the project and to thwart inter-Korean cooperation and North Korean economic development. [3] U.S. military officials have asserted that some of the materials and fuel destined for the Kaesong Industrial Complex have been diverted, noting that some trucks in convoys from South Korea have been seen turning off the main road before reaching the complex in Kaesong. [4]

North Korea was very critical of the "Team Samurai" exercises held in Japanese waters in late October. North Korean media claimed, "the objective of the PSI is to isolate and blockade the DPRK." [5] On September 29, 2004, the U.S. government sanctioned a North Korean financial entity, Korea Changgwang Credit Bank (Changgwang Sinyong), for its alleged involvement with WMD-related transfers to Iran. Changgwang Sinyong had been subject to U.S. sanctions four times since 2000. [6] On December 27, 2004, the U.S. imposed sanctions against the North Korean firm Paeksan Associated Corporation for transferring materials or technologies to Iran restricted by multilateral export control regime lists. However, it remains unclear what materials or technology the firm transferred. [7]

Sources: [1] Siegfried S. Hecker, "Visit to the Yongbyon Nuclear Scientific Research Center in North Korea" Statement for a hearing before the Senate Committee on Foreign Relations, January 21, 2004; "Spokesman for DPRK FM on U.S. Professor's Visit to Nyongbyon Nuclear Facility," Korean Central News Agency, January 10, 2004, <<http://www.kcna.co.jp>>. [2] "DPRK Foreign Ministry Spokesman on Six-Party Talks," Korean Central News Agency, June 28, 2004, <<http://www.kcna.co.jp>>; Charles Whelan, "NKorea (sic) Rejects 'Unrealistic' US Offer but Calls Nuclear Talks Positive," Agence France Presse, June 28, 2004, in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [3] "U.S. Obstructions to Construction of Kaesong Industrial Zone Assailed," Korean Central News Agency, November 6, 2004, <<http://www.kcna.co.jp>>. [4] Interviews with anonymous military officials by Daniel A. Pinkston, Seoul, December 2004. [5] "KCNA Assails Projected Joint Naval Exercise," Korean Central News Agency, October 25, 2004, <<http://www.kcna.co.jp>>; Eric Talmadge, "Under U.S. Initiative, Japan Hosts Round of WMD Interception Drills at Sea," Associated Press, October 26, 2004, in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [6] "Chinese, DPRK Firms, and Indian Scientists Among Those Sanctioned by U.S. Government for WMD Proliferation to Iran," *Asian Export Control Observer*, October/November 2004, <http://www.cns.miiis.edu/pubs/observer/asian/pdfs/aeco_0410.pdf>. [7] U.S. Department of State, Bureau of Nonproliferation, Public Notice 4946, Federal Register, Vol. 70, No. 1, January 3, 2005; David E. Sanger, "U.S. Is Punishing 8 Chinese Firms for Aiding Iran," *The New York Times*, January 18, 2005, p. 1.

South Korea

South Korea hosted the plenary meeting of the MTCR in Seoul in October 2004. About 220 participants from the 34 member states attended the conference, and they reached a consensus on the need to strengthen export controls to address missile proliferation in Northeast Asia, South Asia, and the Middle East. [1] In June,

South Korea joined the Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, which was established by the G-8 to halt the spread of WMD and related materials. [2] In December 2004, the Ministry of National Defense established export control standards covering 8,023 technologies with potential applications for 97 weapons systems. [3] (See related story on page 15 of the current issue.) Furthermore, the Strategic Item Control Center opened as a nongovernmental organization to serve as an information center and initial clearing house for Korean exporters to help them comply with export control regulations. [4]

South Korean awareness of export control issues increased significantly in 2004, as the country continued to move up the technology ladder and experienced export control-related problems. The Ministry of Commerce, Industry, and Energy (MOCIE) discovered that a South Korean firm shipped 107 tons of sodium cyanide, a chemical used in the production of nerve agent, to a Chinese enterprise, which then transshipped the chemicals to North Korea between June 2003 and September 2004. The South Korean Customs Service revealed that the country had exported more than 77,000 tons of sodium cyanide to China and Malaysia between 1998 and 2004, but it was unclear whether any sodium cyanide had been diverted to produce chemical weapons, in these states or elsewhere. [5] [Editor's note: Malaysia, a member of the Chemical Weapons Convention (CWC), has not been identified as a state developing such weapons; China is also a member of the CWC, ratifying the treaty in 1997.] In February 2004, MOCIE filed a legal complaint against a South Korean firm after the International Atomic Energy Agency (IAEA) discovered South Korean-made balancing machines, which can be used to balance uranium enrichment centrifuges, in Libya. [6] The machines are subject to export licensing as nuclear-related dual-use items.

A number of South Korean institutions were affected by the revelation that the Korea Atomic Energy Research Institute (KAERI) conducted plutonium extraction experiments in 1982 and uranium enrichment experiments using the laser isotope separation method in 2000. Both technologies can be used to produce material suitable for the core of nuclear weapons. Information about the experiments was discovered during the summer of 2004 after the National Assembly ratified the Additional Protocol to South Korea's comprehensive inspection agreement with the IAEA in April. The Additional Protocol requires detailed declarations of activities relevant to nuclear weapons development and expands the agency's inspection authority. As a result of the oversight problems surrounding the 2,000 uranium enrichment experiments, the Technology Center for Nuclear Control (TCNC) was transferred from KAERI's jurisdiction to the Korea Institute of Nuclear Safety (KINS), with an effective date of January 1, 2005. TCNC has been renamed to the National Nuclear Management and Control Agency. The agency will now be responsible for "material control and accounting of nuclear materials, inspection interface with the IAEA, export controls and Korean representation in the Nuclear Suppliers Group (NSG), as well as nuclear security and physical protection." [7]

As mentioned above, North and South Korea opened the Kaesong Industrial Complex, in North Korea, in December 2004. The South Korean government selected 15 South Korean firms to participate in the pilot project, but two companies were unable to receive authorization until late January 2005, after the firms deleted sensitive items from their lists of materials the firms had planned to transfer to Kaesong. [8] South Korean government officials assert that factories in the complex will manufacture labor-intensive products and that no sensitive materials or technologies will be transferred to North Korea through the Kaesong corridor. [10]

Sources: [1] "ROK'S Yonhap" MTCR Meeting Calls for Stricter Control of Missile Proliferation," Yonhap News Agency, October 8, 2004, in FBIS KPP20041008000043. [2] Lee Sun Jin, "To Prevent WMD Falling into Wrong Hands," *Korea Herald*, June 17, 2004, p. 13, in KINDS, <<http://www.kinds.or.kr>>. [3] Yoon Won Sup, "S. Korea to Control Technology Exports," *Korea Times*, December 22, 2004, in KINDS, <<http://www.kinds.or.kr>>; Jang Il Hyeon, "Export Controls to Safeguard Military Technology," *Chosun Ilbo*, December 22, 2004, <<http://english.chosun.com/w21data/html/news/200412/200412220026.html>>. [4] South Korea Ministry of Unification, "Kaesonggongdan Saopch'ujin Hyonhwang," December 31, 2004, p.4, <<http://www.unikorea.go.kr>>. [5] "ROK's Yonhap: More Chemical Weapons Material May Have Been Shipped to N. Korea," Yonhap News Agency, September 25, 2004, in FBIS KPP20040925000002; Agence France Presse, September 24, 2004, in "AFP: ROK Says Sodium Cyanide Shipped to North Korea via China Sep 2003," FBIS Document ID: JPP20040924000085. [6] "ROK Accuses Domestic Firm of Exporting WMD-Related Equipment to Libya," Yonhap News Agency, February 11, 2004, in FBIS KPP20040211000104. [7] Daniel A. Pinkston, "South Korea's Nuclear Experiments," CNS Research Story, November 9, 2004, <<http://cns.miis.edu/pubs/week/041109.htm>>. [8] "DPRK, ROK Anticipate benefits, Obstacles to Kaesong Industrial Zone—Multimedia," February 24, 2004, FBIS Report KPP20040224000111; "ROK's Yonhap Weekly North Korean Review—9-15 Dec 04," Yonhap News Agency, December 16, 2004, in FBIS KPP20041216000019; "Approval of Cooperative Business Partnership and Projects for Two Additional Companies in the Model Site of

the Gaeoseong Industrial Complex,” South Korea Ministry of Unification Press Release, January 26, 2005, <<http://www.unikorea.go.kr>>. [9] South Korean government officials interviewed by Daniel A. Pinkston in Seoul, fall 2004.

Taiwan

Taiwan’s export control developments continued to be constrained by the island’s ambiguous international position and its limited access to international and multilateral organizations, while its well-developed chemical, computer, and electronic industries has given Taiwan significant capabilities as a supplier of sensitive dual-use items and technologies. In 2004, Taiwan continued to maintain a domestic export control system that largely corresponded to multilateral regimes. In February 2004, U.S. Deputy Assistant Secretary for Export Administration Matthew Borman and other Bureau of Industry and Security staff met at the U.S. offices of the American Institute in Taiwan with high-ranking officials from the Bureau of Foreign Trade of the Taiwan Ministry of Economic Affairs to discuss dual-use export controls. [1]

Efforts to strengthen Taiwan’s export controls have been set back by partisan disputes in Taipei, especially with regard to the impact on trade with the Mainland. A number of bills aimed at addressing the security implications of growing China-Taiwan trade in the technology realm have so far been stalled due to major differences between the Pan Green and Pan Blue party blocs in the Legislative Yuan, where these bills are being debated. Meanwhile, export control violations by Taiwanese companies continue. In April 2004, the Taiwan-based company Goodly Industrial Company Ltd. was sanctioned by the U.S. government under the Iran Nonproliferation Act. [2] On December 27, 2004, the U.S. State Department, Bureau of Nonproliferation imposed sanctions on the Taiwanese company Ecoma Enterprise, also for violating the Iran Nonproliferation Act [3].

Sources: [1] Department of Commerce, “Transshipment Country Export Control Initiative: Notable Events and Accomplishments,” <<http://www.bxa.doc.gov/ComplianceAndEnforcement/NotableAccomplishTECI.htm>>. [2] Department of State, “Public Notice 4680,” Federal Register 69:67, April 7, 2004, <<http://wais.access.gpo.gov>>. [3] Department of State, “Public Notice 4946,” Federal Register 70:1, December 27, 2004, <<http://wais.access.gpo.gov>>.

Southeast Asia

Export controls continued to play a subordinate role to economic and maritime security concerns throughout Southeast Asia in 2004. However, many initiatives aimed at raising nonproliferation awareness in the region appeared to make inroads. Conferences and workshops in 2004 sponsored by the United States, Japan, and Australia had strong representation from Southeast Asian nations, and meetings of both the Association of Southeast Asian Nations (ASEAN) and the Asia-Pacific Economic Cooperation (APEC) focused on the importance of strengthening export controls. As mentioned above, in 2004 Japan began considering export controls as one factor in determining the amount of development assistance countries would receive. The United States, particularly through the Export Control and Related Border Security Assistance (EXBS) program, sponsored training activities throughout the region. The active participation of Southeast Asian nations at two meetings in late 2004—namely the 12th annual Asian Export Control Seminar, held in Tokyo in October, and the Asia-Pacific Nuclear Safeguards and Security Conference, held in Sydney in November—appeared to signify that the importance of nonproliferation will continue to increase in the coming year. At both meetings, attendees commented that Southeast Asian nations were more actively asking questions and focusing on dealing with real-world issues than at past meetings.

Brunei Darussalam

A member of ASEAN and APEC, Brunei participated in regional meetings that dealt with export controls and nonproliferation in 2004. Brunei also took part in the 12th annual Asia Export Control Seminar in Tokyo and attended the ministerial and officials meetings at the Asia-Pacific Nuclear Safeguards and Security Conference in Sydney. Despite this activity, the sultanate has not actively undertaken domestic efforts in the past year to strengthen or clarify its export control system. Brunei currently has little in the way of dual-use or WMD-related trade. The vast majority of exports are connected to the energy industry, which makes up 88 percent of government revenues and 53 percent of the sultanate’s gross domestic product. [1] However, Brunei is in the midst of a five-year plan aimed at attracting new industry, including petrochemicals. The Bruneian government is also currently building a megaport for container handling at Pulau Muara Besar. Officials estimate that the new port, which could be commissioned by 2009, will attract up to five percent of the region’s transshipment industry. [2] As Brunei diversifies its economy and increases its share of

transshipment business, the strengthening of the sultanate's export controls for sensitive items will increase in importance.

Sources: [1] Australian Department of Foreign Affairs and Trade, "Brunei Darussalam: Economic Outlook," *TradeWatch*, <<http://www.tradewatch.dfat.gov.au/TradeWatch/TradeWatch.nsf/vEconomicWeb/Brunei%20Darussalam>>. [2] CT Hj Mahmod, "Pulau Muara Besar: Brunei's World-Class Transshipment Hub," *Borneo Bulletin*, December 16, 2004 in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>.

Cambodia

In January 2004, Japan's Minister of Economy, Trade and Industry Shoichi Nakagawa announced during a visit to Phnom Penh that Tokyo would assist Cambodia with tightening its export controls. [1] Cambodia took part in meetings of the ASEAN Regional Forum (ARF) in May and July 2004, in which export controls and nonproliferation were key issues of discussion. Cambodia also took part in the 12th Asia Export Control Seminar and the Australian-sponsored Asia-Pacific Nuclear Safeguards and Security Conference. Interpreted as a sign of support for the Proliferation Security Initiative (PSI), Cambodia attended the Japanese-hosted "Team Samurai" exercise as an observer in November 2004. [2] Despite these activities, Cambodia's ongoing problems with corruption, lack of rule of law and insufficient capacity could impede any efforts to improve domestic export controls. [3] While Cambodia lacks the relevant industries for dual-use and WMD-related trade, illicit transfers in conventional arms remain a problem. Cambodia's history of civil strife has meant that a significant number of arms remained available for trade; some estimates set the number of small arms in Cambodia at between 500,000 and one million. Smuggling and drug trafficking are also rife [4], which could potentially open up Cambodia as a conduit for WMD-related transfers.

Sources: [1] "Japan to Help Cambodia Tighten Export Control," Jiji Press Ticker Service, January 15, 2004, in Lexis-Nexis Academic Universe, <<http://web.lexis-nexis.com>>. [2] "Team Samurai: Bringing PSI to Asia," *Asian Export Control Observer*, October/November 2004, pg. 11, <http://www.cns.miis.edu/pubs/observer/asian/pdfs/aeco_0410.pdf>. [3] "Report: Cambodia Must Tackle Corruption to Improve Economy," Website of the World Bank Group, <<http://www.worldbank.org>>; "Cambodia: Country Brief," Website of the World Bank Group, <<http://www.worldbank.org>>. [4] U.S. Drug Enforcement Agency, "Cambodia: Country Brief," *Drug Intelligence Brief*, <<http://www.usdoj.gov/dea/pubs/intel/02003/>>.

Indonesia

As the largest Southeast Asian nation, Indonesia plays a critical role in regional security and is heavily involved with ASEAN (which is headquartered in Jakarta) and APEC. As part of these regional bodies, Jakarta has participated in the numerous meetings held to address issues of nonproliferation, export controls, and maritime security. During 2004, Indonesia was also the chair of the Preparatory Committee for the Treaty on the Nonproliferation of Nuclear Weapons (NPT) Review Conference, held in April 2004. In October, Indonesia participated in the 12th annual Asian Export Control Seminar, in Tokyo. At that meeting, the Indonesian representative mentioned that Jakarta still had difficulties in assuring industry compliance with export control regulations and pointed to problems still present in interagency cooperation. [1] In November 2004, on the sidelines of the Asia-Pacific Nuclear Safeguards and Security Conference, Indonesia and the United States signed an agreement on nuclear safeguards and security cooperation. Technical projects under the new arrangement will further efforts to support IAEA material protection, control, and accounting activities in Indonesia. [2]

While supportive of traditional multilateral nonproliferation instruments, such as the NPT and CWC, Indonesia has been skeptical of more recent counterproliferation activities, particularly the U.S.-led PSI. The Indonesian government has been particularly suspicious of attempts by the United States and Japan to become involved with security in the Straits of Malacca, where piracy is a major concern.

According to observers, Indonesia's domestic export control system remains nascent, and issues such as piracy and smuggling trump nonproliferation in domestic policymaking. Also, as part of the Non-Aligned Movement, Indonesia has been historically suspicious of export control regimes, viewing them as barriers to economic development. However, as the victim of a number of serious terrorist attacks during 2004, Indonesia appears more ready to accept the necessity of stronger controls on the flow of WMD-related materials and to pay more attention to issues related to transshipment through many of its ports. Assistance in the coming year from countries like the United States and Japan will likely play a key role in strengthening export controls and enforcement of nonproliferation legislation throughout Indonesia.

Sources: [1] Member of U.S. delegation to the Asia Export Control Seminar, October 2004, discussion with Stephanie Lieggi, November 2004. [2] "U.S. and Indonesia Sign Nuclear Security Arrangement," *Asian Export Control Observer*, Issue 4, October/November 2004, pg. 11.

Malaysia

Malaysian export controls and nonproliferation policies came under increased scrutiny in the first half of 2004, as more revelations surfaced about the A.Q. Khan nuclear smuggling network. During a speech to the National Defense University in February 2004, U.S. President George W. Bush identified Sri Lankan businessman Buhary Syed Abu Tahir "in Malaysia" as the "chief financial officer and money launderer" in the Khan nuclear black market. Bush also referred to Scomi Precision Engineering (SCOPE)—a subsidiary of the Malaysian chemical, oil, and gas conglomerate, Scomi Group—which reportedly manufactured components for centrifuges used in the enrichment of uranium for use in nuclear weapons. The revelations about SCOPE and its parent company Scomi were particularly embarrassing for the Malaysian government since the company's largest shareholder was Kamaluddin Abdullah, the son of Prime Minister Abdullah Badawi, and its chairperson, Asmat Kamaludin, was the former general secretary of Malaysia's International Trade Ministry. Officials at Scomi maintained that they were unaware of the final destination of the seized components and that they believed the items were meant for the oil and gas industry. After a three-month investigation by the Malaysian national police, company officials were cleared of any wrong doing. Although Tahir confessed to aiding Khan in transferring nuclear technology to Iran and Libya, his actions were found to have violated no aspects of Malaysian law. [1]

Soon after the problems surrounding Scomi were revealed, Malaysia announced that it would not soon be signing an Additional Protocol to its comprehensive safeguards agreement as mandated by the NPT. The announcement was made during a visit to Kuala Lumpur by then-U.S. Assistant Secretary of State for Nonproliferation John Wolf in March 2004. Foreign Minister Datuk Seri Syed Hamid Albar said that "Malaysia wouldn't want to make any further decisions on it, and for now, there is no necessity for us to sign any additional protocol." [2] In the chemical field, in December 2004, Malaysia announced that it was enacting regulations to implement CWC-related legislations. (See related article on page 13 of the current issue.)

Along with its neighbor Indonesia, Malaysia rejected a U.S. offer to hold a PSI-related maritime exercise in the Straits of Malacca in early 2004, and Kuala Lumpur has questioned the legal basis for PSI. However, unlike the Indonesian government, Malaysian officials have expressed interest in possible future participation in PSI activities. [3] Malaysia has been active in the U.S. Container Security Initiative (CSI) program since January 2003. Kuala Lumpur and Washington signed a declaration of principles that allowed for the stationing of one U.S. Customs official each at the Malaysian ports of Kelang and Tanjung Pelapas. In 2004, CSI became operational at these two ports, and U.S. officials now work jointly with Malaysian authorities to screen cargo containers for illicit items, including firearms and weapons of mass destruction. [4]

Sources: [1] "Politically Connected Malaysian Firm Linked to Nuclear Smuggling Network," *Asian Export Control Observer*, April 2004, pg. 9 <http://cns.miis.edu/pubs/observer/asian/pdfs/aeco_0404.pdf>. [2] Farrah Naz Karim, "Malaysia's Hamid Reaffirms Refusal to Sign Additional Protocols to NPT," *New Straits Times* (Kuala Lumpur), March 3, 2004. [3] "Asian States React to Bush Nonproliferation Initiatives," *Asian Export Control Observer*, April 2004, pg. 7, <http://www.cns.miis.edu/pubs/observer/asian/pdfs/aeco_0404.pdf>. [4] Shi-Chin Lin, "The U.S. Container Security Initiative in Asia," *Asian Export Control Observer*, June 2004, pg. 20, <http://cns.miis.edu/pubs/observer/asian/pdfs/aeco_0406.pdf>.

Myanmar (Burma)

Questions about Myanmar's interest in WMD-related items and its cooperation with North Korea persisted in 2004. In March, a U.S. State Department official testified to Congress that there was reason to believe that North Korea was selling surface-to-surface missiles to Yangon (Rangoon). [1] The U.S. government has in the past also suspected Myanmar of having a covert chemical weapons (CW) program, despite the country's ratification of the CWC. [2] Already a key transfer point for the drugs and arms trade in the region, [3] Myanmar could become a transshipment point for sensitive materials. Corruption and political apathy in Yangon have meant that domestic export controls have remained weak. [4] On the positive side, as a member of ASEAN, Rangoon took part in a number of high-level meetings focusing on export controls and nonproliferation. Myanmar also participated in the 12th Annual Asia Export Controls Seminar in Tokyo, as well as in the Asia-Pacific Nuclear Safeguards and Security Conference in Sydney. As part of Tokyo's

efforts to strengthen export controls in the region, Japan sent a delegation to Rangoon in February 2004 to discuss export control assistance with the Myanmar leadership. [3]

Sources: [1] "Myanmar-North Korea Nuclear, Missile Cooperation Alleged," *Asian Export Control Observer*, April 2004, p. 11, <http://cns.miis.edu/pubs/observer/asian/pdfs/aeco_0404.pdf>. [2] E. J. Hogendoorn, "A Chemical Weapons Atlas," *The Bulletin of Atomic Scientists*, September/October 1997, <http://www.thebulletin.org/article.php?art_ofn=so97hogendoorn>. [3] Peter Chalk "Myanmar Leads Rise in Southeast Asian Drug Trade," *Jane's Intelligence Review*, December 01, 2004; "Country Profile: Burma," BBC News online, <http://news.bbc.co.uk/1/hi/world/asia-pacific/country_profiles/1300003.stm>. [4] "Burma," *CIA World Factbook*, [5] "Japan to Send Delegation to 10 ASEAN Nations for Nonproliferation," Jiji Press Ticker Service, February 5, 2004, in Lexis-Nexis, <<http://web.lexis-nexis.com>>.

Philippines

The Philippines has worked actively with the United States in battling terrorism and has been particularly interested in beefing up regional maritime security. The Philippines hosted missions of the U.S. International Nuclear Security Advisory Service (INSServ), which aimed at assisting Manila in assessing the security of both nuclear and radiological materials. The Philippines also recently received a grant from the EU to assist with strengthening border security and customs in conjunction with UNSCR 1373, which calls on states to prevent terrorist acts. [1] While not participating in the U.S. CSI, the Philippine Port Authority has already complied with new international maritime safety standards and has also installed X-ray machines that could be utilized in the future under CSI. [2] The Philippines has been actively engaged in the PSI and attended the "Team Samurai" exercise as an observer. The Philippines also participated in the 12th annual Asian Export Control Seminar. At that meeting, the Philippine representative pointed out that Manila already has regulations governing the export and transfer of nuclear materials and munitions, but lacked legislation for CBW-related items. [3] Manila's delegation was also pointed out that the Philippines was currently trying to adopt the control lists from all of the international suppliers groups, despite not being a member of these export control regimes.

Sources: [1] "Philippines Receives US\$6.5mln Grant from European Body," *Asia Pulse*, January 5, 2005, in Lexis-Lexis. [2] Shi-Chin Lin, "The U.S. Container Security Initiative in Asia," *Asian Export Control Observer*, June 2004, pg. 20, <http://cns.miis.edu/pubs/observer/asian/pdfs/aeco_0406.pdf>. [3] Member of U.S. delegation to the Asia Export Control Seminar, October 2004, discussion with Stephanie Lieggi, November 2004.

Singapore

Singapore has one of the strongest and most comprehensive export control systems in the Southeast Asian region. The island nation's government has made strengthening regulations on exports and transshipments an important goal, keeping in mind the essential role that international commerce plays in Singapore's economy. Legislation that was passed in 2002 and 2003 to strengthen Singapore's export control system were further buffered in 2004 with the inclusion of the Strategic Goods (Control) Regulations (SGCR) of 2004, which provide more detailed guidelines for regulating trade in strategic goods and related technologies. [1]

Singapore has also been actively supporting export control cooperation in multilateral and bilateral fora. In April 2004, the Japanese and Singaporean governments agreed to increase export control cooperation in an attempt to establish more effective ways to deal with the growing problem of illicit transfer of sensitive weapons materials. Under this agreement, Japan and Singapore will further encourage other Asian countries to introduce national laws to strengthen domestic export controls. [2]

Singapore was the first country in Southeast Asia to take an active role in the Proliferation Security Initiative, contributing personnel to PSI exercises as early as 2003. As the largest transshipment port in the world for U.S.-bound cargo, Singapore was the first port in Asia to implement CSI, beginning on March 17, 2003. U.S. Customs and Border Protection deployed a team of five officers to work with Singaporean authorities to screen and inspect all cargoes prior to their shipment to the United States. [3]

Sources: [1] Jing-dong Yuan, "Singapore's Export Control System – An Interview with Singapore Customs Officials," *Asian Export Control Observer*, August/September 2004, <http://cns.miis.edu/pubs/observer/asian/pdfs/aeco_0408.pdf>. [2] "Bilateral Export Control Cooperation between Japan and Singapore," *Asian Export Control Observer*, June 2004, <http://cns.miis.edu/pubs/observer/asian/pdfs/aeco_0406.pdf>. [3] Shi-Chin Lin, "The U.S. Container Security Initiative in Asia," *Asian Export Control Observer*, June 2004, pg. 20, <http://cns.miis.edu/pubs/observer/asian/pdfs/aeco_0406.pdf>.

Thailand

Thailand is an important transshipment point and has been linked to a number of illicit transfers of dual-use items. Of particular concern to the international nonproliferation community is the fact that Thailand is one of North Korea's main trading partners, after China and Japan. Thailand has a growing chemical sector, and some of its industries have nuclear and missile dual-use potential. Additionally, Bangkok's close relationship with Washington has meant that Thailand has been a large recipient of U.S. military assistance and technology. Recognizing the potential problem of WMD-related transfers either originating in or transiting through Thailand, Bangkok was active in 2004 in improving its export control system. Although the system remains nascent, the Thai government has an established legal framework for export control regulation. [1] Thailand plans to sign an Additional Protocol to its comprehensive nuclear inspection agreement with the IAEA. [2] The Thai government has also held cooperative events and training sessions with the United States, Australia, and Japan aimed at strengthening the Thai export control system.

Thailand has been increasingly active in the U.S.-led PSI and participated in the Team Samurai exercise as an observer. The Thai port of Laem Chabang is the 20th ranked port in terms of container traffic to the United States annually. In 2003, an agreement was signed to include Laem Chabang in the CSI. However, Thailand extended implementation deadlines for CSI regulations twice due to financial constraints and resistance from exporters over additional costs. Despite these problems, X-ray machines for scanning cargo containers were installed in the spring of 2004. By the fall of 2004, CSI was operational in Laem Chabang, and U.S. Customs officers had been deployed to the port. [3]

Sources: [1] Information received from Thai official, November 2004. [2] "Fifteen Countries and Regions Attend the 12th Annual Asia Export Controls Seminar," *Asian Export Control Observer*, October/November 2004, <http://cns.miis.edu/pubs/observer/asian/pdfs/aeco_0410.pdf>. [3] Shi-Chin Lin, "The U.S. Container Security Initiative in Asia," *Asian Export Control Observer*, June 2004, pg. 20, <http://cns.miis.edu/pubs/observer/asian/pdfs/aeco_0406.pdf>.

Vietnam

Vietnam's economy is developing quickly, with a GDP growth of 7.7 percent in 2004. [1] This growth, coupled with concerns about Vietnam's military purchases and allegations of a possible small scale CW program, may make Vietnam's export controls an important issue in the years to come. Prior to joining the CWC, Vietnam was accused by U.S. government officials of potentially maintaining a CW program. [2] Reports since the mid-1990s have also indicated that Vietnam is buying missile parts from North Korea. [3] Despite these potential conflicts, Vietnam has participated in events aimed at strengthening domestic export controls, including the 12th annual Asia Export Controls Seminar in Tokyo. At that seminar, Vietnamese representatives pointed out that Hanoi has in place export controls on conventional weapons but no laws on dual-use items. However, the officials claimed that even without dual-use lists, sensitive items are controlled strictly. [3]

Sources: [1] "Vietnam's GDP Growth Rate Reaches 7.7 % Despite Difficulties," *Asia Pulse*, January 5, 2005 in Lexis-Nexis Academic Universe, <<http://web.lexis-nexis.com>>. [2] E. J. Hogendoorn, "A Chemical Weapons Atlas," *The Bulletin of Atomic Scientists*, September/October 1997, <http://www.thebulletin.org/article.php?art_ofn=so97hogendoorn>. [3] "North Korea Profile: Missile Chronology," *NTI Country Profiles*, <http://www.nti.org/e_research/profiles/nk/missile/65_688.html>. [3] Member of delegation to the Asia Export Control Seminar, October 2004, discussion with Stephanie Lieggi, November 2004.

Recent Developments in the Region

Japan Revises the Three Arms Export Principles

Special Report by Mark Wuebbels

After a year of internal debate, Japan's two leading parties, the Liberal Democratic Party (LDP) and New Komeito, agreed to partially revise Japan's "Three Arms Export Principles," which had previously banned all exports of military-related items. On December 10, Chief Cabinet Secretary Hiroyuki Hosoda announced in a statement that the Cabinet would exclude from the prohibition the production and export of missile defense-related equipment being jointly developed by Japan and the United States. In addition, the statement included a controversial revision that would permit exports of military-related items and technologies to other countries on a case-by-case basis. Many have pointed to this decision as an indication of Japan's increased

commitment to missile defense and its national security. However, the new policy is also closely linked to the successful lobbying efforts by Japan's defense industry.

The defense industry has had strong ties with the ruling LDP for decades. Following World War II, conservatives in the LDP began arguing for *kokusanka*—a reconstitution and promotion of Japan's domestic defense industry. Initial support for *kokusanka* was weak until U.S. demand for materials during the Korean War began to revitalize Japan's dismantled industries. The subsequent jumpstart of the Japanese economy strengthened the arguments for production of military products. [1] However, the bitter experience of World War II left the public and some policymakers wary of remilitarization. [2] In 1967, as a response to popular opposition, the Japanese government passed a Cabinet resolution establishing the "Three Arms Export Principles." These three principles banned all military exports to countries in conflict, communist countries, or countries in danger of entering into a conflict. [1] In 1976, the principles were extended to include all countries. Further loopholes were closed by the "Unified View of the Government on Arms Exports," which stated that equipment and facilities used in the manufacture of arms would be treated as arms exports. [3] This all-inclusive ban proved short lived as *kokusanka* advocates sought new ways around the "three principles." In 1983, then-Prime Minister Yasuhiro Nakasone, a proponent of *kokusanka*, established an exemption for technology transfers to the United States by concluding a memorandum of understanding on joint military technology transfers with Washington.

Even with the exemption for transfers to the United States, the export ban meant higher costs for Japan's defense industry and the Japanese Defense Agency (JDA). Since Japan's domestic military industries were unable to achieve economies of scale through arms and arms-related exports, the cost of indigenously producing military equipment has been three to four times higher than that of foreign equivalents. [4] In recent years, these high costs have forced the JDA to scale down planned procurement. The Japanese Business Federation (Keidanren) and defense industry advocates have long argued that the "three principles" severely impeded Japan's export performance and technological growth. [5] They maintained that industry's inability to cooperate with foreign firms in defense and other high-tech projects excluded Japan from reaping the commercial and military benefits of such projects. However, the Japanese public and liberal political forces have only recently been willing to consider greater defense-related measures, such as the revision to the "three principles." [6]

In December 2003, JDA Director General Shigeru Ishiba first proposed reviewing Japan's arms export ban, citing national security reasons. His remarks immediately sparked criticism and concern from the LDP's coalition partner, the New Komeito. Prime Minister Koizumi downplayed Ishiba's remarks at the time, stating that the comments were made only in the context of the decision to develop a missile defense system jointly with the United States. [7] While Koizumi's public statement appeared to take the moderate approach to the arms ban, other LDP members reacted to Ishiba's proposal by announcing their support for a broader interpretation of the "three principles." At a January 2004 press conference, Chief Cabinet Secretary Yasuo Fukuda remarked that Japan should consider partners other than the United States in the development of new weapons. [7] Later that same month, an LDP National Defense Division proposal went further in its proposed changes, arguing that the export ban be limited only to "those listed by U.N. resolutions as terrorism-sponsoring countries or countries violating basic human rights." [8] Members of the New Komeito party initially objected to any changes to the "three principles," citing it as a "pillar of a pacifist country." [9] However, LDP party leaders, citing a changed security environment, persuaded New Komeito politicians to allow missile defense-related exports to the United States and future reviews of other exports to other countries on a case-by-case basis.

This new interpretation of the "three principles" is seen as a victory for Japan's defense industry. Since the Nakasone exemption in 1983, Japan has cooperated in only 13 U.S.-Japan joint defense projects through technology transfers. Less than a month after having announced the "three principles" revision, the Japanese government decided to review exports of decommissioned naval ships to Southeast Asia and reconsider Japan's participation in the F-35 Joint Strike Fighter project. [10]

Sources: [1] Demand for war material rose to nearly 70% of Japan's exports. Michael J. Greene, *Arming Japan: Defense Production, Alliance Politics, and the Postwar Search for Autonomy*, (Columbia University Press 1995), pg.10. [2] Yoshida Shigeru proved unwilling to support a complete remilitarization. Instead, he argued for what would be known as the "Yoshida Doctrine." Japan would focus on a developing its economic power and rely on the United States military as a deterrent to potential enemies. [3] Jun-ichi Ozawa

and Takeshi Ito, "Export Control Policies in Japan: The Current System and Stream of Change," U.S. and Japanese Nonproliferation Export Controls, ed. Gary K. Bertsh, Richard T. Cupitt, Takehiko Yamamoto. Pg. 124 [4] "Arms Export Ban Vexes Industry," *The Daily Yomiuri*. September 24, 2004, in Lexis-Nexis, <<http://web.lexis-nexis.com>>. [5] "Kongono boeiryo kuseibino arikatani tsuite-boeiseisan gijutsukibanno kyokukani mukete" (Regarding the Future Course of Defense Capabilities: A Path to Strengthening the Technological Base and Production), Japanese Business Federation Homepage, July 20, 2004, <<http://www.keidanren.or.jp/japanese/policy/2004/063.html>>; "Nihonno anzenhoshouto boueiryo kuno arikata-21seikihe muketenotenbou" (The Modality of the Security and Defense Capability of Japan: The Outlook for the 21st Century), Advisory Group on Defense Issues, August 12, 1994, <<http://www.ioc.u-tokyo.ac.jp/~worldjpn/index.html>>. [6] Stephanie Lieggi and Mark Wuebbels, "Will Emerging Challenges Change Japanese Security Policy?" Nuclear Threat Initiative (NTI) Issue Brief, December 2003, <http://www.nti.org/e_research/e3_37a.html>. [7] "Roundup: Japan Eyes Relaxing Arms -Export Ban Just For Missile Defense," Xinhua News Agency, January 14, 2004, in Lexis-Nexis in Lexis-Nexis, <<http://web.lexis-nexis.com>>. [8] Yoshio Okubo, "Arms Export Ban Outdated," *The Daily Yomiuri*, August 11, 2004 in Lexis-Nexis, <<http://web.lexis-nexis.com>>. [9] "Government Will Not State Ease of Arms Export Ban in Defense Outline," Kyodo News Service. November 25, 2004, in Lexis-Nexis, <<http://web.lexis-nexis.com>>. [10] Japan Mulls Selling Decommissioned Destroyers to Malaysia, Singapore," *The Daily Yomiuri*, December 22, 2004 in FBIS JPP20041221000157.

EU-China Sign Nonproliferation Declaration; Continue Discussions on Arms Ban

At their seventh summit held in The Hague, the Netherlands, on December 8, 2004, China and the EU continued to strengthen their strategic partnership with in-depth discussions on a range of issues of mutual interest and concern. Of particular note was the signing of a joint declaration on nonproliferation and arms control, in which both sides acknowledged that "the proliferation of weapons of mass destruction (WMD) and their means of delivery poses a serious threat to international peace and security" and especially noted "the possibility of the proliferation of WMD, and their means of delivery as well as related materials and technology, to terrorists and other non-state actors." The two sides also indicated their support for a stronger role for the United Nations, the IAEA, and the Organisation for the Prohibition of Chemical Weapons (OPCW) and acknowledged the contribution to WMD nonproliferation by multilateral export control regimes. China also made a favorable comment on the Hague Code of Conduct against the Proliferation of Ballistic Missiles. [*Editor's note: The Hague Code of Conduct is an initiative aimed at slowing the proliferation of ballistic missiles. China has not adopted the voluntary code, which, among other elements, calls upon states to disclose their missile holdings.*] Both sides also pledged to continue cooperation in resolving the Iranian and North Korean nuclear issues. [1]

Despite heavy pre-summit lobbying by the French and German governments, the summit did not result in a pledge by the EU to lift its ban on arms sales to China. While not ending the ban, the summit did see both sides committing to work toward that end. [2] A joint statement released at the conclusion of the summit declared that "the EU side confirmed its political will to continue to work toward lifting the embargo. The Chinese side welcomed the positive signal, and considered it beneficial to the sound development of the comprehensive strategic partnership between China and the EU." The statement also noted, however, that "China reaffirmed that political discrimination on this issue was not acceptable and should be immediately removed." [3]

While the summit failed to resolve the arms ban issue, both the joint statement and subsequent statements by the EU and individual member state officials suggest that the lifting of the arms ban is no longer a question of "if" but "when." Indeed, there have been strong indications that the EU may seek to resolve the issue in the near future. Secretary-General of the Council of the EU and High Representative for the EU Common Foreign and Security Policy Javier Solana told a French radio station that the embargo would be lifted in the next six months. [4]

Perhaps the most significant development following the summit was the change in the British position, which in the past has been more cautious about lifting the arms ban. UK Foreign Secretary Jack Straw recently told a British Parliament select committee that, while China's human rights record remains a problem, it was wrong to put China in the same category with Zimbabwe and Burma. Straw suggested that "it is more likely than not" that the ban would be lifted before Britain assumes the EU presidency in July 2005. Straw reaffirmed this position during his meeting with Chinese leaders in Beijing on January 21, 2005. [5]

The United States remains opposed to the EU lifting the arms export ban, arguing that the embargo should remain until China improves its record on human rights. The United States is also concerned that China's

acquisition of advanced arms from the EU could increase tensions between mainland China and Taiwan. Washington has made veiled threats that, should the arms ban be lifted, EU member states currently enjoying access to U.S. technology and participating in joint projects on weapons development may see the curtailment of those ties and projects. The Pentagon warned that the EU should expect “strong reactions” from Congress should the ban be removed. [6]

Sources: [1] “Joint Declaration of the People’s Republic of China and the EU on Non-Proliferation and Arms Control,” December 8, 2004, Website of the Dutch EU Presidency, <<http://www.eu2004.nl>>; Mike Nartker, “China, EU to Increase Nonproliferation Cooperation,” *Global Security Newswire*, December 9, 2004, <<http://www.nti.org>>. [2] “EU Will Not Lift China Arms Ban,” BBC News online, December 8, 2004, <<http://news.bbc.co.uk/1/hi/world/asia-pacific/4077739.stm>>. [3] “Joint Statement of the 7th EU-China Summit,” December 8, 2004, Website of the European Union <http://europa.eu.int/comm/external_relations/china/summit_1204/conclusions.pdf>. [4] Hu Qihua, “Solana: EU May Lift Arms Ban on China Early Next Year,” *China Daily*, December 9, 2004, <http://www.chinadaily.com.cn/english/doc/2004-12/09/content_398488.htm>. [5] “EU China Arms Ban ‘To Be Lifted’,” January 12, 2005, BBC News online, <http://news.bbc.co.uk/2/hi/uk_news/politics/4167693.stm>; Jiao Xiaoyang, “Britain Backs EU in Lifting Arms Ban,” *China Daily*, January 22, 2005, <http://www.chinadaily.com.cn/english/doc/2005-01/22/content_411221.htm> [6] “Pentagon Warns EU on Sale of Arms to China,” *Financial Times*, December 23, 2004, in Lexis-Nexis, <<http://web.lexis-nexis.com>>.

South Korea Set to Include More Than 8,000 Weapons Technologies on Export Control List

South Korea’s Ministry of National Defense (MND) appears set to add 8,023 items related to weapons technologies to its domestic export control lists. The move, which will likely go into effect in early 2005, is designed to protect core technologies of Korean defense industries from being transferred overseas or threatening national security. [1]

The list of 8,023 items, which have applications in 97 weapon systems, will be divided into six defense technology categories: surveillance, command and control, information and electronic warfare, special operations, precision-strike, and basic war power. [2] The list will categorize weapons-related technologies by order of military importance into classes A, B, and C: level A technologies may not be made public or transferred to another country, level B technologies may selectively be made public or transferred, and level C technologies may freely be made public or transferred except to those states classified as being hostile to South Korea or supporting terrorism, such as North Korea and Iran. The three classes, A, B, and C, will be assigned 1,278 technologies, 3,965 technologies, and 2,780 technologies, respectively. [3]

These new Defense Ministry measures will follow recent increases in exports of more sophisticated South Korean military-industrial products. South Korea began exporting military-related products in 1975, and since that time, military-industrial exports have steadily increased to more than \$400 million in 2004. [4] Currently, the Public Notice on Export and Import of Strategic Commodities, which is closely modeled on the Wassenaar Arrangement, is published annually as an annex to the Foreign Trade Law, South Korea’s primary legislation of authority. [5]

Sources: [1] “Over 8,000 Weapons Technologies Selected for Export Control,” *Korea Times* online edition, December 23, 2004, in Lexis-Nexis, <<http://web.lexis-nexis.com>>. [2] “South Korean Defense Ministry Guards against Technology Leaks,” Yonhap News Agency, December 22, 2004, in Lexis-Nexis, <<http://web.lexis-nexis.com>>. [3] Jang Il-Hyeon, “Export Controls to Safeguard Military Technology,” *Chosun Ilbo* online edition, December 22, 2004, <<http://english.chosun.com/w21data/html/news/200412/200412220026.html>>. [4] “Weapons Exports Surpass \$400 Million This Year,” Website of the Republic of Korea’s Ministry of National Defense, December 22, 2004, <<http://www.mnd.go.kr>>, (accessed December 30, 2004); Yoon Won-sup, “S. Korea to Control Technology Exports,” *Korea Times* online edition, December 22, 2004, <<http://times.hankooki.com>>. [5] *Comparing National Export Control Systems*, SIPRI Export Control Project, accessed on January 20, 2005, <<http://projects.sipri.se/expcon/db1.htm>>.

Malaysia and Bangladesh Planning to Enact Legislation to Control Dangerous Chemicals

In December 2004, Malaysia and Bangladesh edged closer toward full implementation of the CWC, which both states have ratified. On December 7, Malaysian Foreign Minister Datuk Seri Syed Hamid Albar introduced draft legislation in the Dewan Rakyat, the lower house of the Malaysian parliament, prohibiting

possession, production, or trade in chemical weapons and their precursor chemicals. The Chemical Weapons Convention Bill - 2004 will receive its second reading and be debated during the next parliamentary session in the spring of 2005. If passed, the new law will establish penalties of up to 30 years imprisonment and fines of up to US\$264,000 for individuals convicted of illegally possessing, using, or assisting in the production of a chemical weapon. The new law will also establish a National Authority responsible for ensuring implementation and Malaysia's obligations under the CWC. [1]

In Bangladesh, Mahbubur Rahman, defense advisor to the prime minister, in an interview with *The Daily Star* newspaper on December 9, 2004, described plans for CWC implementation. The Bangladeshi parliament, which is scheduled to begin on January 31, 2005, is expected to consider during its next session a draft bill that would outlaw the development, stockpiling, or use of chemical weapons in the country. The draft bill proposes punishments of up to 14 years in prison and fines of up to 50,000 Bangladesh Taka (approximately US\$830) for violations of the act. The proposed Chemical Weapons Convention Implementation Act - 2005 would also establish a National Authority responsible for the supervision of all governmental and private use of chemicals. The National Authority would also be Bangladesh's primary point of contact with the OPCW. [2]

The CWC entered into force for Bangladesh on April 29, 1997, and for Malaysia on May 20, 2000. Although both countries have been slow to implement all of the convention's requirements, they are far from unique in this regard. According to the OPCW, as of October 31, 2004, 82 percent of member states had established national authorities, while a mere 32 percent of member states had put in place comprehensive legislation criminalizing activities by individuals or companies that are prohibited under the CWC. [3] Under the terms of the convention, all member states are required to designate a national authority and pass appropriate legislation as soon as the convention enters into force.

Since late 2002, the United States and other leading nations have been placing increasing pressure on CWC member states to implement fully all the provisions of the convention. In October 2003, this resulted in agreement on an action plan adopted by parties to the treaty whereby all CWC members would strive to enact legislation implementing the convention by November 2005. [4]

Sources: [1] "Bill on Chemical Weapons Tabled in Parliament," Bernama (Malaysian National News Agency), December 7, 2004. [2] Shakhawat Liton, "Dhaka to Ban Chemical Weapon Production, Use; Bill Seeking Ban to Be Placed in Parliament Soon," *The Daily Star*, December 9, 2004, <<http://www.thedailystar.net>>. [3] *The CBW Conventions Bulletin*, No. 66 (December 2004), p. 16. [4] "C-8/DEC.16: Plan of Action Regarding the Implementation of Article VII Obligations," Organization for the Prohibition of Chemical Weapons, October 24, 2003, <http://www.opcw.org/docs/c8dec16_EN.pdf>.

Embargoes and Sanction Regimes

U.S. Sanctions "Unrepentant Proliferators" in China and North Korea

The United States imposed nonproliferation-related sanctions on Chinese entities on two separate occasions within a one-month span for making "a material contribution" to Iran's WMD or missile programs, according to notices in the U.S. Federal Register. [1, 2] Both sets of sanctions were imposed under the Iran Nonproliferation Act of 2000 and will last for a period of two years. The first set of sanctions, which went into effect on November 24, 2004, were imposed on Liaoning Jiayi Metals and Minerals Company, Ltd. (China); Q.C. Chen (a Chinese individual); Wha Cheong Tai Company, Ltd. (China); Shanghai Triple International Ltd. (China); and Changgwang Sinyong Corporation (North Korea). While Liaoning Jiayi Metals and Minerals Company and Shanghai Triple International Ltd. have never been sanctioned before, the other three entities have been sanctioned numerous times over the past five years by the U.S. government.

The second set of sanctions was imposed on six Chinese companies and one Chinese national, as well as on one entity each in Taiwan and North Korea, for alleged transfers occurring between 1999 and mid-2004. [3] Specifically, the notice in the Federal Register identified the following entities, and any successor, sub-unit or subsidiary, as being penalized, effective December 27, 2004: Beijing Alite Technologies Company, Limited (China); China Aero-Technology Import Export Corporation (CATIC) (China); China Great Wall

Industry Corporation (China); China North Industry Corporation (NORINCO) (China); Q.C. Chen (a Chinese individual); Wha Cheong Tai Company (a.k.a. Wah Cheong Tai Company and Hua Change Tai Company) (China); Zibo Chemet Equipment Corporation, Ltd. (a.k.a. Chemet Global Ltd.) (China); Paeksan Associated Corporation (North Korea); and Ecoma Enterprise Co, Ltd. (Taiwan). [2]

In a press briefing regarding the November 24 sanctions, U.S. State Department Deputy Spokesman Adam Ereli said that the United States was “certainly not going to stand by idly while weapons proliferation programs are assisted... There are...unrepentant proliferators out there, and it’s going to require a concerted, sustained effort to fight them.” While stating that “there’s definitely a ways to go,” Ereli said that “sustained and high-level engagement with the government of China” was very important, particularly with “developing the kind of export control regulations that would address this kind of problem and...enforcing them in a robust and systematic way.” [4]

Chinese Foreign Ministry Spokesperson Zhang Qiyue responded to the November 24 sanctions by stating that “the Chinese government attaches great importance to export control and law enforcement.” While saying that China was “firmly opposed” to the U.S. imposition of sanctions against Chinese companies, Zhang said that if the violations prove to be true, China “will punish them according to law. In the meantime, however, we oppose other countries citing their domestic laws to impose sanctions on Chinese companies.” [5] When asked about the December sanctions in an interview with *The China Daily*, an official with the Foreign Ministry spokesperson’s office said that the actions were “very irresponsible” and would “not help expand Sino-US. cooperation on nonproliferation.” [6] The Foreign Ministry Spokesperson Kong Quan reiterated China’s disapproval during a regular press briefing, adding that: “The US government’s wanton launch of sanctions against Chinese companies without real evidence is not a wise choice.” [7]

The imposed sanctions, among other penalties, prohibit any U.S. government agency from procuring goods, technology or services from the entities in question, and require the termination of any existing U.S. government sales contracts with them. Furthermore, the sanctions bar the granting of new licenses for the transfer of items controlled under U.S. export laws to the sanctioned entities, while existing licenses are rendered null and void. [1]

Sources: [1] “Bureau of Nonproliferation; Imposition of Nonproliferation Measures Against Five Foreign Entities, Including a Ban on U.S. Government Procurement,” U.S. Department of State, *Federal Register*, December 1, 2004, Volume 69, Number 230; [2] “Bureau of Nonproliferation; Imposition of Nonproliferation Measures Against Nine Foreign Entities, Including a Ban on U.S. Government Procurement, and Removal of Penalties from One Entity,” U.S. Department of State, *Federal Register*, January 3, 2005, Volume 70, Number 1. [3] Mike Nartker, “United States Sanctions Chinese, Other Entities for Allegedly Aiding Iranian Weapons Programs,” *Global Security Newswire*, January 10, 2004, <<http://www.nti.org>>. [4] Adam J. Ereli, U.S. State Department Daily Press Briefing, December 1, 2004, <<http://www.state.gov/r/pa/prs/dpb/2004/39292.htm>>. [5] Zhang Qiyue, China’s Foreign Ministry Spokesperson Press Briefing, 2 December 2004, <<http://www.fmprc.gov.cn/eng/default.htm>>. [6] “PRC FM Spokesman’s Office: US Sanctions ‘Very Irresponsible,’ ‘Strong Dissatisfaction,’” *China Daily*, January 7, 2005. [7] “China Slams US Sanctions against Five Chinese Proliferators,” *Agence France Presse*, December 2, 2004, in Lexis -Nexis, <<http://web.lexis-nexis.com>>.

Illicit Trafficking in the Region

South Korean Businessman Detained in Russia for Importing Radioactive Material

Russian authorities detained Kim Jong Hon, 43, of South Korea on December 29, 2004, for illegally importing highly radioactive materials through the port of Korsakov on the southern part of Sakhalin Island, in the Russian Far East, just north of Japan. [1] The Sakhalin regional prosecutor Viktor Dedov stated that Russian customs officers seized a container carrying 13 radionuclide instruments belonging to Kim’s All Nations Company on December 20, 2004. [2]

Russian customs officials found the devices among other freight containers that were received by the Korean contracting company, which is constructing a factory for liquefied natural gas in the nearby town of Prigorodnoye. According to early reports, the Sakhalin region’s Sanitary and Epidemic Control Service claimed that the radiation from the radioactive devices, believed to be intended for checking the quality of welding seams, exceeded by over 200 times natural background radiation levels due to the presence of

uranium isotopes contained in the devices. [3] However, later reports indicated that the radiation levels were much lower than originally reported. [4] Additionally, according to an assessment by the U.S. Department of Homeland Security's Nuclear Assessment Program, the uranium found in this device was most likely "depleted uranium used as shielding material for the radioactive sources." [4]

A South Korean Foreign Ministry official confirmed the arrest and stated that Kim, president of the South Korean company All Nations, simply failed to obtain permission for bringing in the construction-related machines that use radioactive material. He also suggested that the incident was not connected to nuclear trade or similar violations. [5] However, the ITAR-TASS news agency reported the equipment was imported using fake documents. [3] Kim is being held for investigation by Russian authorities after being stopped at an airport for attempting to enter the Russian Federation with undeclared items. He is expected to be tried by a Russian court at the end of January 2005. [6]

Sources: [1] "Radioactive Materials Seized on Sakhalin Island," RIA Novosti, December 29, 2004, in Lexis-Nexis, <<http://web.lexis-nexis.com>>. [2] "South Korean Detained for Smuggling Radioactive Material into Russia," Interfax News Agency, December 30, 2004, in FBIS CEP20041230000050. [3] "South Korean Company Officer Arrested in Russia over Radioactive Imports," ITAR-TASS, December 29, 2004, in FBIS CEP20041229000196; "Radioactive Materials Seized on Sakhalin Island," RIA Novosti; "Probe Opens into Radioactive Cargo Delivered to Sakhalin from South Korea," RIA Novosti, November 24, 2004, in Lexis-Nexis, <<http://web.lexis-nexis.com>>. [4] "Open Source Reporting: Illicit Trafficking of Nuclear Materials," Department of Homeland Security Nuclear Assessment Program, December 2004. [5] "Russia Detains ROK National for Importing Radioactive 'Construction-related Machine,'" Yonhap News Agency, December 30, 2004, in Lexis-Nexis, <<http://web.lexis-nexis.com>>. [6] "South Korean to Appear in Russian Court over Nuclear Trade," Reuters, January 10, 2005, <<http://reuters.com/newsArticle.jhtml?type=topNews&storyID=7278961>>.

U.S. and German Companies Accused of Illegally Exporting Military Parts to China

In November 2004, Interaero Inc., a California-based aircraft supplies company, was fined US\$500,000 and placed on five years probation for illegally shipping \$40,000 worth of missile and jet fighter equipment to a supplier in China. The sentencing came after an August 17, 2004, guilty plea by Interaero for violating the U.S. Arms Export Controls Act and International Traffic in Arms Regulations. Both of these laws prohibit the transfer of military aircraft parts without an export license. [1]

Interaero admitted to exporting six shipments of military aircraft parts to China between June 2000 and March 2001. The aircraft equipment was reportedly intended solely for military use, particularly in F-4 Phantom fighters, F-5 Tiger fighters, and Hawk missiles. [2] Interaero was originally targeted as an export control violator as the result of an undercover investigation looking at companies selling aircraft supplies and defense parts to foreign buyers over the Internet without obtaining appropriate export licenses. [1]

According to the Department of Justice, Interaero was aware that the buyer was from China and knew that the buyer intended to sell the parts to Iran. Despite being aware of their intended destination and end use, Interaero nonetheless shipped the parts to China. The Department of State denies to China and Iran all export licenses of defense articles on the U.S. Munitions List, and considered this latest incident a gross breach of national security. [1] According to United States Attorney Kenneth Wainstein, "this sentence sends a message to companies dealing in military and defense equipment that export restrictions are not avoidable obstacles but necessary safeguards for the protection of our national interests. These matters are taken seriously since failure to comply could have severe consequences." [1]

German Green Party Accuses Government of Ignoring Export Violation

In another incident of illicit military exports to China, two German companies, MTU Friedrichshafen and Deutz AG, reportedly exported weapons supplies to Beijing. According to German media reports, the companies made use of a loophole in German law to sell to Beijing engines for submarines, destroyers and armored personnel carriers meant for the Chinese military. Politicians from the German Green Party claimed German export control authorities knew of the transfers and that the lapse was an "after-the-fact attempt to legalize illegal practices," referring to the call by German Chancellor Gerhard Schroeder's government to lift the weapons embargo against China. The transfers in question were a breach in German government guidelines, which bans armament supplies sales to countries suspected of human rights violations. [3]

Source: [1] U.S. Department of Justice Press Release, "Interaero, Inc. Is Sentenced for Illegally Exporting Military Aircraft Parts to China," November 18, 2004, <http://www.usdoj.gov/usao/dc/Press_Releases/Nov_2004/04429.html>. [2] "Aircraft Parts Supplier Slapped with \$500K Fine," American City Business Journals, Inc., November 23, 2004, <<http://www.bizjournals.com/losangeles/stories/2004/11/22/daily13.html>> [3] "German Firms Said to Have Sold Defense Material Illegally to China," BBC Monitoring International, December 2, 2004, in Lexis-Nexis, <<http://web.lexis-nexis.com>>.

Regional Cooperation

APEC Countries Discuss Export Controls, Regional Security

Between November 17–21, 2004, representatives from the 21 member states of the APEC met in Santiago, Chile, under the theme "One Community, Our Future" for a series of meetings largely focusing on trade liberalization and security issues within the region. On November 17-18, foreign and trade ministers of APEC nations gathered for the 16th Ministerial Meeting, which laid much of the groundwork for the later meetings involving heads of state. The 12th APEC Economic Leaders' Meeting took place November 20-21, as the leaders of the APEC nations convened in the Chilean capital, with discussions on nonproliferation and export control cooperation prominently featured. [1] Additionally, the APEC CEO Summit, a gathering of corporate executives from around the region, took place between November 19–21.

APEC is an arrangement that brings together 21 developed and developing economies from both sides of the Pacific. [2] Collectively, APEC nations account for about 40 percent of the world's population, almost 50 percent of the world's trade, nearly 60 percent of global GDP, and, by some accounts, about 70 percent of world economic growth in recent years. [3]

While at the summit, U.S. President George W. Bush took the opportunity to meet bilaterally with the leaders of 10 countries, including Russia, China, Japan, and South Korea—all members of the six-party talks aimed at defusing the North Korean nuclear crisis. A senior Bush administration official characterized these meetings as "very important" for increasing pressure from Asian allies on North Korea to restart the stalled multilateral talks. [4]

At the conclusion of the formal summit, APEC leaders issued the "Santiago Declaration," reaffirming their commitment to "sustainable and equitable growth...enhancing human security and promoting good governance." The declaration, the final summary document produced by the 21 Pacific Rim leaders, also contained pledges for further progress to "eliminate the danger posed by proliferation of weapons of mass destruction, their delivery systems and related items." [5] Ambassador Lauren Moriarty, permanent U.S. envoy to APEC, commenting on the progress of the organization's work, said that in 2003, "APEC Leaders recognized that there can be no prosperity without security." [3] The 2004 Santiago meetings at both the ministerial and head-of-state levels continued in this vein, emphasizing the link between trade and security. A joint statement issued by the participants in the APEC Ministerial Meeting, as well as discussions by APEC leaders, highlighted the following initiatives, underscoring the priority placed on security issues:

- APEC members identified key elements of effective export control systems, and agreed to facilitate flow of goods to legitimate end users, while taking all necessary measures to prevent illicit trafficking of WMD materials, equipment, components, and technologies. Referring to the ministerial discussions on this subject, Australian Foreign Minister Alexander Downer said that "there was a focus on export controls, and in particular, export controls on materials that could be used for weapons of mass destruction." [6, 7]
- APEC nations established guidelines for the control of Man-Portable Air Defense Systems (MANPADS) exports, which could be used by terrorists for shooting down commercial airliners. The participating countries agreed to adjust their national legal norms and practices to the adopted guidelines. [6]
- APEC countries agreed on a major maritime and port security initiative to support implementation of the International Maritime Organization's International Ship and Port Facility Security (ISPS)

Code throughout the APEC region. The code requires port officials to improve port access controls, evaluate threats, plan for contingencies, and establish special procedures for inspecting containers that are suspected of carrying items related to WMD or their means of delivery. [6]

- APEC members also pledged to work more effectively in the implementation of the Secure Trade in the APEC Region (STAR) initiative. Designed to make the flow of goods and people within APEC more secure and efficient through specific actions and deadlines, STAR also includes an integrated container security regime, promotion of supply chain security in the private sector, and standardized customs reporting. [3]

On November 20, 2004, at the closing session of the APEC CEO Summit, President Bush addressed the issue of North Korea, considered by the U.S. government to be one of the biggest threats to peace and security in the Asia-Pacific region. Saying that “five APEC members are working to convince North Korea to abandon its pursuit of nuclear weapons,” President Bush reported to the audience of business executives “that the will is strong, that the effort is united and the message is clear to Mr. Kim Jong-Il: Get rid of your nuclear weapons programs.” [8]

Some APEC members felt that security issues were unjustifiably dominant at the forum, sidetracking the meeting from key trade and economic issues. Malaysian Trade Minister Rafidah Aziz argued that “some APEC developed economies are pushing to expand the APEC agenda beyond its current economic mandate to include the twin agenda on security issues like proliferation of weapons of mass destruction.” [1] Most APEC members, however, agreed that issues of trade liberalization, security, and nonproliferation export controls are intertwined in today’s world, and it was appropriate to discuss them in one package.

Sources: [1] “Asia-Pacific Leaders Head to Chile for Summit Dominated by Terror,” Agence France Presse, November 19, 2004, in Lexis-Nexis <<http://web.lexis-nexis.com>>. [2] APEC members include: the United States, Canada, Mexico, Peru, Chile, China, Japan, Republic of Korea, Thailand, the Philippines, Malaysia, Indonesia, Singapore, Vietnam, Brunei, Hong Kong, Taiwan, Australia, New Zealand, Papua New Guinea, and Russia. As a major part of APEC’s decision-making mechanism, ministerial meetings are commissioned with preparations of the APEC leaders meetings, known as APEC Economic Leaders’ Meetings, or AELM. Ministerial meetings are also tasked with implementation of the AELM resolutions. For details, see: “Backgrounder: APEC Ministerial Meetings,” Xinhua News Agency, November 17, 2004, in Lexis-Nexis <<http://web.lexis-nexis.com>>. [3] Lauren Moriarty, U.S. Envoy to the 2004 APEC forum, “Progress Achieved on U.S. Priorities at APEC, Ambassador Says,” Remarks to the Asia Society, States News Service, December 1, 2004, in Lexis-Nexis <<http://web.lexis-nexis.com>>. [4] Robin Wright and Mike Allen, “Protesters Greet Bush in Santiago; President Hopes to Use ‘New Capital’ at Summit,” *Washington Post*, November 20, 2004, p.A10. [5] “One Community, Our Future,” 12th APEC Economic Leaders’ Santiago Declaration, November 20-21, 2004. <www.apecsec.org.sg/apec.html>. [6] “Joint Statement of the 16th APEC Ministerial Meeting,” Santiago, Chile, November 17-18, 2004. <www.apecsec.org.sg/apec/>. [7] “Fears of Terrorism Dogging 19 APEC Foreign Ministers: Nukes, Portable Missiles Greatest Fears,” Agence France Presse, November 19, 2004, in Lexis-Nexis <<http://web.lexis-nexis.com>>. [8] George W. Bush, Remarks at CEO Summit Closing Session, November 20, 2004. <http://usinfo.state.gov/eap/east_asia_pacific/apec.html>.

Maritime and Port Security

Australia Establishes 1,000 Mile Nautical Zone

On December 15, 2004, Australian Prime Minister John Howard announced new measures to enhance maritime security, including the creation of an Australian Maritime Identification Zone (AMIZ) that extends out for 1,000 nautical miles (1,850 kilometers) from the Australian coastline. The AMIZ will come into effect in March 2005, and all ships entering this zone will be required to provide identification and give details on their crew and cargo. Ships intending to enter Australian harbors will need to provide comprehensive information, including course, speed, ports visited, and intended port of arrival. [1] In a radio statement, Howard explained, “It’s just a way of making doubly sure that you know who wants to come to this country and what their business is.” [2] The AMIZ was implemented to protect offshore oil and gas facilities in the Timor Sea and to provide quick detection of terrorist threats to maritime and coastal assets. The zone will be administered by the newly designated Joint Offshore Protection Command, which will combine the resources of the Australian Defense Force and Australian Customs.

The Indonesian government expressed alarm at Australia's plan. Members of the Indonesian Parliament's Commission on Defense and Foreign Affairs advised the government to reject the AMIZ, as it would cover two-thirds of Indonesian territorial waters. Theo Sambuaga, chair of the commission stated, "Australia cannot unilaterally declare the zone. Such an action will clearly be a provocation and violate our territorial sovereignty." [3] Indonesian Foreign Minister Hassan Wirayuda condemned the proposal, interpreting the move as a push into Indonesia's jurisdiction, and Foreign Ministry spokesperson Marty Natalegawa declared that the Indonesian response to the AMIZ was a "clear, resounding, absolute and unequivocal no." [4] Defense Minister Juwono Sudarsono warned that Indonesia would deploy its naval forces if Australian ships tried to enter its territorial waters under the AMIZ. [3]

Australian Defense Minister Robert Hill was sent to meet with Indonesian authorities on December 17, 2004, but was unsuccessful at gaining support for the plan. His comment that the plan represents "an extension of geography" received condemnation from both the Indonesian and the Malaysian press. An article in Malaysia's *New Sunday Times* stated, "Australia has every right to protect its nationals as much as its offshore assets, whether or not it has exposed them to greater jeopardy by aligning itself so closely with the U.S. But that right must surely stop at its borders. If its national interests are taken farther, Australia will make more enemies in the region than friends." [5]

Australian Foreign Minister Alexander Downer was more successful at allaying concerns in New Zealand during his visit to Auckland on December 18, 2004. Although the proposed zone cuts across the south island of New Zealand, Wellington accepted the creation of the AMIZ. New Zealand's Foreign Minister Phil Goff stated, "At a time when all of us are conscious of threats to security, from people and drug smugglers, and terrorist organizations, seeking this information is not unreasonable.... Similar requirements already exist for air traffic and New Zealand itself requires vessels to provide authorities with similar information 48 hours before entering a New Zealand port. For the average container ship traveling at 21 knots, this in effect equates to a 1,008 nautical mile maritime information zone." [6]

Opposition lawmakers in Australia expressed their concern that the measures may not in fact go far enough and have pushed for the creation of a sea marshals program, similar to the U.S. Coast Guard's program. Opposition defense spokesperson Robert McClelland said, "Under the government's proposal ships are still going to be able to come deep into our ports carrying dangerous substances before even a basic physical examination occurs or before any face-to-face interview with ship's captain or crew." [7]

Editor's note: Some Indonesian critics view Canberra's plan as an extension of the Proliferation Security Initiative and accuse Prime Minister Howard of being President Bush's deputy sheriff in the Pacific region. [8] Australia, one of the original eleven members of the PSI, hosted the second plenary meeting in 2003. Australia led the first interdiction training exercise, "Pacific Protector," in the Coral Sea in September 2003, and took part in the "Team Samurai" exercises in Sagami Bay, Japan, in October 2004.

Sources: [1] John Howard, "Strengthening Offshore Maritime Security," PM Office Media Release, December 15, 2004, <http://www.pm.gov.au/news/media_Releases/media_Release1173.html>. [2] "PM Announces Port Security Plan," The World Today, ABC Radio, December 15, 2004, transcript available at <<http://www.abc.net.au/worldtoday/content/2004/s1265678.htm>>. [3] "Indonesia Rejects Australian Maritime Zone," Laksamana.net, December 18, 2004, <http://www.laksamana.net/vnews.cfm?ncat=48&news_id=7746>. [4] "Indonesia Unhappy with Australia's Security Zone Proposal," The World Today, ABC Radio, December 18, 2004, transcript available at <<http://www.abc.net.au/am/content/2004/s1268287.htm>>. [5] "Australia Announces a New Nautical Security Zone," Regional Press Review, Radio Singapore International, December 24, 2004, <<http://rsi.com.sg/english/regionalpressreview/view/20041224125352/1/.html>>. [6] Phil Goff, "Australian Maritime Identification Zone," Foreign Minister Press Release, December 16, 2004, <<http://www.beehive.govt.nz/ViewDocument.cfm?DocumentID=21857>>. [7] "Government to Spend \$10m on Maritime Safety," *The Age*, December 15, 2004, <<http://www.theage.com.au>>. [8] "Malaysian Editorial Terms Australia's Maritime Surveillance Plan 'Insincere'," *Berita Harian* (Kuala Lumpur), December 18, 2004, in FBIS SEP20041218000040.

Regional Round-up

Chinese Authorities Find, Seal Deserted Radiation Source in Henan: An abandoned radium-beryllium neutron source was discovered in an agricultural technology promotion center in China's Henan Province and safely moved to a provincial storeroom for radioactive waste. The peanut-size source, abandoned since 1983, was found in a two-meter-tall iron containment jar and had been used for "breeding" (probably

sterilizing seeds for agriculture). [1] Based on an assessment by the U.S. Department of Homeland Security's Nuclear Assessment Program, the source appeared to be between 10 and 1,000 curies of radium-226 and was therefore a "substantial source." [2] In May 2004, China's State Environmental Protection Administration (SEPA) began working jointly with the Ministry of Public Security and the Ministry of Health to locate and secure abandoned radiation sources such as the one found in Henan. SEPA currently estimates there are 13,800 abandoned sources scattered across China that still need to be secured. [1]

Editor's note: The abandoned radiation source was at "level 2." [1] Assuming that the classification system used corresponds to the IAEA's system, then the radium-beryllium source found was 10 Ci or more. Category 2 sources are considered dangerous because they can cause radiation injuries in a short period of time to persons in close proximity to the source.

DPRK Accused of Supplying Philippine Separatist Group: According to a report by the Japanese newspaper *Yomiuri Shimbun*, Southeast Asian security authorities seized documents in November 2004 indicating that a North Korean arms dealer had supplied the Philippine-based Moro Islamic Liberation Front (MILF) with hand grenades, more than 10,000 M16 rifles, 200 assault rifles and related components. The total cost of the transactions was US\$2.2 million, and they allegedly took place between 1999 and 2000. The documents also indicated that the North Korean dealer tried to sell submersible infiltration vessels to the MILF. The MILF, which has been linked to al-Qaeda, is the largest Islamic separatist group in the Philippines and "seeks to establish an independent Islamic state comprising Mindanao Island (the second largest of the Philippine islands), Palawan, Basilan, the Sulu archipelago, and the neighboring islands." [3] According to the *Yomiuri Shimbun* article, the MILF issued two checks to a North Korean arms dealer named Rim Kyu Do for a deposit totaling \$1 million through a Malaysian intermediary. Security authorities alleged that the weapons were transshipped through Malaysia and delivered to MILF-controlled areas on Mindanao Island in the Southern Philippines. [4] MILF spokesperson Eid Kabalu dismissed the report as "baseless, an old issue and a propaganda by military officials." A spokesperson for the Philippine military was unable to confirm the story. [5]

Singapore Company Settles Charges of Unlicensed Re-Exports: On December 23, 2004, Lam Research Singapore Pte., Ltd. (LRS), agreed to pay a \$40,000 civil penalty to settle its case of knowingly re-exporting controlled items in violation of the Export Administration Regulations (EAR). According to the U.S. Department of Commerce Bureau of Industry and Security (BIS), on four occasions during November and December 2000, LRS shipped a total of nine U.S.-origin pressure transducers worth approximately \$100,000 to Malaysia without securing proper export licenses. Pressure transducers are controlled under the EAR due to their potential use in nuclear weapon development. [6]

Sources: Sources: [1] Cao Desheng, "Radiation Source Found and Sealed," *China Daily*, November 26, 2004, <http://www.chinadaily.com.cn/english/doc/2004-11/26/content_395229.htm>. [2] "Open Source Reporting: Illicit Trafficking of Nuclear Materials," Department of Homeland Security Nuclear Assessment Program, November 2004. [4] "Moro Islamic Liberation Front (MILF)," International Policy Institute for Counter-Terrorism website, <<http://www.ict.org.il/organizations/orgdet.cfm?orgid=92>>. [6] Yoshinari Kurose, "DPRK Sold Weapons to Philippine Extremist Group MILF," *Yomiuri Shimbun*, January 3, 2005 in FBIS JPP20050103000007; [4] "MILF Spokesman Denies Arms Deal with North Korea," *Manila Business World*, January 4, 2005, in FBIS SEP20050104000048. [6] "Lam Research Singapore Settles Charges of Unlicensed Reexport," U.S. Department of Commerce, Bureau of Industry and Security Press Release, January 3, 2005 at <<http://www.bis.doc.gov/news/2005/LamResearch.htm>>; "Lam Research Singapore Pte., Ltd.," BIS Electronic FOIA Reading Room Document, Case E859, December 23, 2004, <<http://efoia.bis.doc.gov/ExportControlViolations/E859.pdf>>.

International Assistance

U.S. EXBS Program Sponsors Training in Thailand, Singapore

During November 15-19, 2004, the U.S. Department of Energy's National Nuclear Security Administration (NNSA) participated in the Counterproliferation and Export Control Outreach in Bangkok hosted by the Australian Departments of Foreign Affairs and Trade (DFAT) and Defense, and the Australian Safeguards and Non-Proliferation Office (ASNO). NNSA presented Commodity Identification Training (CIT) for Thai government officials focused on those commodities listed in the IAEA's Additional Protocol. The CIT

curriculum is part of the NNSA's international effort to train border guards and customs officials to curtail the illicit smuggling of WMD-related equipment and technology. The CIT program is undertaken by NNSA with funding support from the Export Control and Related Border Security Assistance (EXBS) program. [1]

Editor's note: The EXBS program is the U.S. government's "premier initiative to help other countries improve their export control systems." The program is led and funded by the Department of State's Bureau of Nonproliferation, Office of Export Control Cooperation. According to the U.S. State Department website the EXBS program "draws on expertise from the Departments of State, Homeland Security, Commerce, Energy, Defense, and the private sector to provide a range of legal, licensing, and enforcement training and equipment." [2]

The session in Bangkok trained more than 50 senior Thai officials from various agencies, particularly from the Office of Atoms for Peace, which sent the most participants to the training program. Other ministries involved included Foreign Affairs, Science and Technology, Defense, and Health. The program focused on training Thai export control officials to identify sensitive items before export, as well as to assist Thai authorities in understanding their responsibilities under the IAEA's Additional Protocol. [3] *[Editor's note: The Thai government is currently finalizing its Additional Protocol Agreement with the IAEA. [4]]*

NNSA also held a separate CIT session in Singapore during the last week of January 2005. This program was held in cooperation with the Japanese Ministry of Economy, Trade and Industry (METI) and the Australian Department of Foreign Affairs and Trade. Over 100 Singaporean "front-line" export control officials, including staff from Singapore Customs, the Defense Science and Technology Agency, and the Immigration and Checkpoints Authority took part. [3]

In keeping with the intent of the CIT program, both the Thai and Singaporean training sessions were tailored to local needs. According to an NNSA official, while the Bangkok curriculum was aimed more toward training officials new to commodity and export controls, the Singapore program was designed to focus on assisting experienced export control officials to identify controlled commodities. [3]

Sources: [1] "NNSA Expands Efforts to Combat Illicit Smuggling of WMD-Related Equipment and Technologies," Press Release, October 14, 2004, National Nuclear Security Administration website, <<http://www.nnsa.doe.gov>>; "NNSA Expands Training Efforts to Combat WMD Smuggling," *Asian Export Control Observer*, October/November 2004, pg. 20, <http://www.cns.miis.edu/pubs/observer/asian/pdfs/aeco_0410.pdf>. [2] "The EXBS Program: Export Control and Related Border Security Assistance," U.S. Department of State website <<http://www.state.gov/documents/organization/29293.pdf>>. [3] Interview with NNSA official by e-mail, January 2005. [4] The Thai government spoke of their plans to sign the IAEA's Additional Protocol at the 12th Annual Asia Export Control Seminar, held in Tokyo, October 2004; see "Fifteen Countries and Regions Attend the 12th Annual Asia Export Controls Seminar," *Asian Export Control Observer*, October/November 2004, pg. 20, <http://www.cns.miis.edu/pubs/observer/asian/pdfs/aeco_0410.pdf>.

Chinese Export Control Officials Complete U.S.-Sponsored Fellowship Program

In October 2004, four Chinese export control officials arrived in the United States for an intensive two-month fellowship program. The program, which ended in December 2004, was sponsored by the NNSA's Office of Export Control Policy and Cooperation under the Department of Energy and took place at the Monterey Institute's Center for Nonproliferation Studies. Funding for the fellowships was provided by the EXBS program of the U.S. Department of State's Office of Export Control Cooperation. (For more on the EXBS program, see editor's note in previous story.) The program was developed by the Center for Nonproliferation Studies, in cooperation with the China Arms Control and Disarmament Association, as a means to strengthen the capacity of the Chinese export control system.

The Chinese Export Control Fellowship Program brought together high-level Chinese officials to receive intensive training in nonproliferation and export controls and was the first U.S. government-sponsored program of its kind aimed particularly at training Chinese export control officials and policymakers. The fellowship included participants from China's Ministries of Commerce and National Defense, as well as the General Administration of Customs. During the program, the visiting fellows took part in a specialized

curriculum designed to create a deeper understanding of the essentials of export controls. The fellows were also given the opportunity to undertake their own research on export control-related topics.

As part of the fellowship program, participants traveled to Washington, DC, to talk with U.S. officials and experts on export controls and nonproliferation issues. The fellows met with officials from the U.S. Departments of State, Commerce, Defense, and Energy, as well as congressional staff members. They also had a chance to talk with nongovernmental experts at the American Enterprise Institute, the Center for Strategic and International Studies, the Henry L. Stimson Center, and the RAND Corporation.

The visiting fellows felt the experience greatly increased their understanding of export controls and the importance of nonproliferation. Mr. Wu Genping from China's General Administration of Customs explained that the fellowship had given him an opportunity to explore export control issues in greater detail—something he would not have been able to do without this program. Another fellow, Mr. Zhu Qiangguo from the Ministry of National Defense, stated that the program gave him a better understanding of how export controls “not only influence the current security situation, but also influence the future security situation and national interests.” All four fellows expected that their departments would be eager to send additional participants to take part in such programs. The next fellowship is expected to take place in the summer of 2005.

International Export Control Regimes

2004 Developments in International Supplier Regimes

The article below summarizes the activities of the four major multilateral export control regimes—the Australia Group (AG), Missile Technology Control Regime (MTCR), Nuclear Suppliers Group (NSG), and Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WA)—in 2004.

Australia Group

During the plenary of the AG held in Paris on June 7-10, 2004, five new members—Estonia, Latvia, Lithuania, Malta, and Slovenia—joined the group, bringing the number of participating states to 38. The first three states became the only former Soviet republics that have joined the AG to date. This informal network of countries coordinate their national export control laws on dual-use items that could be used to create chemical or biological weapons (BW).

The AG plenary participants also expanded the AG List of Plant Pathogens for Export Controls by adding five plant pathogens (three bacteria, one virus, and one viroid). The updated list may be found at <http://www.australiagroup.net/en/control_list/plants.htm>. Participants also proposed consideration of further additions to the regime control lists, including airborne spraying and fogging systems capable of dispersing biological agents in aerosol form, and agreed to consider controls on brokers in order to curtail the proliferation activities of intermediaries and front companies. Participants also agreed on strategies to help non-AG-member supplier and transshipping countries, as well as other interested countries, to strengthen their national chemical and biological weapons (CBW) export controls. The next AG plenary meeting will be held in Australia in 2005.

Missile Technology Control Regime

On October 6-8, 2004, representatives from 34 member countries of the MTCR—an informal and voluntary association of countries that share the goals of nonproliferation of unmanned delivery systems capable of delivering WMD—met in Seoul, South Korea, for the organization's 19th annual plenary. The plenary participants expressed concern over missile proliferation in Northeast Asia, the Middle East, and South Asia, and reaffirmed their determination to continue discouraging missile programs and activities of proliferation concern. In response to increasingly sophisticated procurement attempts, the plenary recognized the need to consider intangible technology transfers; transit, transshipment, and brokering controls; and the need to curtail the activities of intermediaries and front companies. MTCR member countries welcomed the adoption

of UN Security Council Resolution 1540 (UNSCR 1540), which requires all countries to establish and enforce effective export controls regulating the transfer of weapons of mass destruction, ballistic missiles, and related technologies. Non-MTCR countries were urged to follow MTCR guidelines and controls. The plenary also welcomed Bulgaria as a new member of the group. For additional information on the regime's recent activities, see "Interview with R. Carlos Sersale di Cerisano" in this issue of the *NIS Export Control Observer*.

Nuclear Suppliers Group

The NSG, a multilateral export control regime that controls the transfers of sensitive nuclear items and technologies, held its 14th plenary meeting in Göteborg, Sweden, on May 27-28, 2004. During the plenary, the NSG members approved China, Estonia, Lithuania, and Malta as new participating governments in the group. Their participant status took effect by an exchange of notes on June 10, 2004.

In order to strengthen further the participating governments' national export controls, the plenary decided to adopt the following measures:

- a "catch-all" mechanism in the NSG Guidelines to provide a national legal basis to control the export of nuclear-related items that are not on the control lists, when such items are or may be intended for use in connection with a nuclear weapons program;
- steps to strengthen the annual exchange of information;
- initiatives to reinforce the NSG contacts with non-partners through seminars and other joint activities with states outside of the NSG;
- actions to enhance the relationship between the NSG and the IAEA, including the provision of briefings to the IAEA director general.

The plenary participants welcomed Libya's voluntary decision to eliminate its WMD programs and noted with deep concern the discovery of the covert international proliferation trafficking network led by Pakistani nuclear scientist A.Q. Khan. They also underscored the importance of Iran's full compliance with its obligations under the NPT and called on Iran to implement proactively the IAEA Board of Governors resolutions. The plenary participants urged the Democratic People's Republic of Korea to return to full compliance with its international nonproliferation obligations under the NPT, including its safeguards agreement with the IAEA, and expressed their support for the ongoing process of the six-party talks on the North Korean nuclear program involving that country and China, Japan, Russia, South Korea, and the United States.

The plenary called on all states to exercise extreme vigilance to ensure none of their exports contribute to nuclear weapons programs. The plenary also considered a range of other issues to strengthen further participating governments' national export control systems. Among them were conditions for the supply of nuclear and dual-use items on the NSG control lists and suspension of the supply of nuclear items following decisions taken by the IAEA board of governors as to a state's non-compliance with its NPT or safeguards obligations.

Wassenaar Arrangement

On October 19, 2004, the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies and the Japanese Permanent Mission to International Organizations in Vienna hosted a day-long outreach seminar "The Wassenaar Arrangement: Responsibility, Transparency and Security." This major outreach initiative was undertaken for the first time in the arrangement's history. More than 130 leading export control specialists and representatives from more than 35 countries attended the event. Seminar participants represented more than 50 nongovernmental organizations (NGOs), think tanks, academic institutes, and industry and the media, as well as a number of non-WA countries. The aim of the seminar was to raise awareness of the positive contribution that the WA makes to responsible transfers of conventional arms and dual-use goods and technologies. Presentations covered WA history; method of work; conclusions of the 2003 Assessment of its functioning, including its renewed focus on terrorism; current activities; and areas of ongoing negotiation. Other topics included the export control lists and how the lists are reviewed, arms brokering, and WA work on small arms and light weapons and on man-portable air defense systems (MANPADS). Participants from leading think tanks and NGOs also contributed their

perspectives on arms export control issues and how the WA and civil society might enhance their cooperation.

On December 8-9, 2004, the WA 10th plenary meeting was held in Vienna. The meeting reviewed the accomplishments of 2004 and considered further export control measures. WA participating states reaffirmed their intention to intensify efforts to prevent the acquisition of conventional arms and dual-use goods and technologies by terrorist groups and organizations. In this context they also exchanged information on national measures taken in accordance with the 2003 decision to tighten controls on the exports of MANPADS and called again on other countries to apply similar principles in order to prevent proliferation of these dangerous weapons. The plenary welcomed the UN Security Council adoption of UNSCR 1540. Participating states noted that the resolution decides that all states shall establish, develop, and maintain appropriate and effective export and transshipment controls, which is also a primary objective of the WA.

In order to keep pace with advances in technology, market availability, and developments in international security, the plenary agreed to a number of amendments to the control lists, which will be published shortly. Particular attention has been given to items that might be used for terrorist purposes. In 2004, participating states worked actively to make the existing control text more easily understood and “user friendly” for commercial exporters and licensing authorities.

The plenary participants welcomed Slovenia as a new WA participating state and reiterated that the arrangement is open, on a global and non-discriminatory basis, to prospective adherents that comply with the agreed criteria and that pending membership applications will continue to be examined to determine their acceptance on a case-by-case basis. The plenary reiterated its intention to broaden WA outreach to countries not participating in the arrangement, other export control regimes, and international and regional organizations. The next regular WA plenary meeting will take place in Vienna in December 2005.

International Developments

Reporting Date for UN Resolution 1540 Comes and Goes; Reactions Mixed

Eight months after the United Nations Security Council unanimously approved UNSC Resolution 1540, which mandated that all UN members “adopt and enforce appropriate effective laws” to prevent terrorists from acquiring weapons of mass destruction, roughly half of the 191 members of the United Nations have yet to file a report with the so-called 1540 Committee documenting the steps they have taken or intend to take to implement the resolution. [1]

In a December 9, 2004, briefing to the UN Security Council on the progress of the 1540 Committee, established for a period not longer than two years, Romanian Ambassador and Committee Chairman Mihnea Motoc said that as of December 5, 2004, only 86 states and one organization had fulfilled their reporting requirements. [2] While this number was only 50 percent of the total membership of the UN, it did represent an increase in the total number of reports filed since October 28, 2004, the target date set by the resolution for reports to be submitted. At that point, only 54 countries had submitted reports. [3]

In response to these low numbers, Deputy Assistant Secretary of State for Nuclear Nonproliferation Andrew K. Semmel said that the United States expected states to “take seriously” their reporting duties, stating that national reports “are an important tool in understanding the scope of the challenge before us and how best it can be addressed.” Saying that “none of us is stronger than the weakest link,” Semmel pointed out that while enforcement responsibilities may not be a role for the 1540 Committee, the United States “will revisit this view if it becomes evident that countries are not taking their 1540 obligations seriously or are ignoring their responsibility to put in place the legal and regulatory infrastructure required under the resolution.” [3]

During the briefing to the UN Security Council, Ambassador Motoc cited a number of developments regarding the 1540 Committee. He noted that the committee had selected four experts from Brazil, Germany, Russia, and the United States to help review the national reports. Filipino Ambassador Lauro Baja expressed

hope that future experts would be hired from Asia and Africa, as these areas have the most developing countries and would offer perspectives constructive to the committee's work. Pakistani Ambassador Munir Akram further stated that such an emphasis on hiring experts from developing countries might "help dispel the impression that the whole process of drafting the resolution was being led by the developed countries, to the exclusion of a large number of developing Member States." [2]

Though China has been relatively silent on the resolution, in its December 2004 White Paper on National Defense, it did express hope that UNSCR 1540 would be "implemented effectively" and stated that it submitted its report to the committee in October of 2004. That report, like most others, has not been made public. [4]

Sources: [1] *United Nations Security Council Resolution 1540 on the Non-proliferation of Weapons of Mass Destruction*, Adopted April 28, 2004, <http://www.un.org/Docs/sc/unsc_resolutions04.html>. [2] "Security Council Briefed by Chair of Monitoring Body Created to Combat Proliferation of Weapons of Mass Destruction," United Nations Security Council Press Release, December 9, 2004. <<http://www.un.org/News/Press/docs/2004/sc8265.doc.htm>>. [3] Andrew K. Semmel, "The U.S. Perspective on UN Security Council Resolution 1540," at the Asia-Pacific Nuclear Safeguards and Security Conference, November 8, 2004. <<http://www.state.gov/t/np/rls/rm/38256.htm>>. [4] "China's National Defense in 2004," Information Office of the State Council of the People's Republic of China, December 27, 2004.

IAEA Investigates Undeclared Nuclear Activities in Egypt

On November 5, 2004, the Associated Press reported that, according to diplomats speaking on condition of anonymity, inspectors from the International Atomic Energy Agency (IAEA) found traces of plutonium near an unspecified Egyptian nuclear facility. The media reports did not indicate when the discovery was made. [1,2] In press reports published in January 2005, a diplomat close to the IAEA stated that the agency was initially prompted to launch an investigation into activities in Egypt by research articles published by the Egyptian scientists, who in the past were involved in undeclared experiments with uranium (discussed below). [8,9] Because of the above developments, the IAEA has been actively investigating Egypt since the summer of 2004. The diplomat added that the agency is currently evaluating environmental samples collected in Egypt in December 2004. The test results are expected in late January 2005. [9] The ongoing IAEA investigation has not yet determined whether the discovered plutonium particles represent evidence of a secret attempt to produce plutonium, possibly as part of a clandestine nuclear weapons program, *or might have* originated from a damaged fuel element from a research reactor. The environmental samples collected by the IAEA in Egypt are now being analyzed in several European research laboratories. A Vienna-based diplomat familiar with the IAEA investigation, who refused to permit his name to be used in press reports, stated that the available information suggests that the plutonium particles could not have been released into the environment later than the 1980s. The diplomat also warned against making premature assumptions regarding Egypt prior to the completion of the IAEA investigation. [1,2] According to another Vienna-based source close to the IAEA, the plutonium particles found by the IAEA inspectors in Egypt were a direct indication of so-called "hot cell activity," a characterization implying that Egypt had engaged in clandestine work to obtain plutonium. [3] *[Editor's Note: Hot cells are shielded rooms used for separation of plutonium or other isotopes from radioactive materials.]*

On November 7, 2004, head of the Egyptian National Atomic Energy Agency Ali Islam rejected media speculation about Egypt's alleged clandestine nuclear capabilities and emphasized that the country is committed to the NPT and to cooperating with the IAEA. [4] On the same day, presidential spokesman Maged Abdel Fattah told reporters that the Egyptian nuclear program is transparent and open to international scrutiny. He added that the nuclear sites in Egypt had been inspected by IAEA experts as recently as October 2004. [5,6] On November 8, 2004, the Egyptian Foreign Ministry issued a joint statement with the Egyptian Ministry of Electricity and Energy in which it was stated that the media reports about an alleged secret nuclear program in Egypt had "no basis of truth." [6]

In a further development of the IAEA investigation, on January 4, 2005, unnamed diplomats told the Associated Press that IAEA experts had found further evidence of secret nuclear experiments that could have been used in weapons programs in Egypt. The diplomats specified that while most of the work had been carried out in the 1980s and 1990s, IAEA experts are also examining some work that was performed as recently as 2004. According to the diplomats, Egyptian scientists, who may have acted without governmental

approval, attempted to produce various amounts of uranium products, including several pounds of uranium metal and uranium tetrafluoride, which they did not report to the IAEA as they were supposed to under NPT provisions. [7,8] *[Editor's Note: Uranium metal would be suitable for use in a reactor to produce plutonium. The uranium tetrafluoride (UF4) is a precursor to uranium hexafluoride gas (UF6), which is the material used in uranium enrichment facilities, where uranium can be enriched to weapons grade. Both highly enriched uranium and plutonium can be used as the core of nuclear weapons.]* [7]

While the IAEA investigation continues, preliminary findings indicate that the Egyptian experiments were largely sporadic, lacked an overall objective, and entailed insignificant amounts of nuclear material. [7,9] The combination of these circumstances, according to one of the unnamed diplomats familiar with the matter who had made the disclosure to the Associated Press on January 4, 2005, leads to the conclusion that the nuclear experiments were not directly aimed at creating a nuclear weapons program. [7] Another diplomat close to the IAEA asserted that most of the nuclear experiments discovered in Egypt had taken place before 1982, which is when Egypt signed its comprehensive inspection agreement with the IAEA. [9]

When queried in early January 2005 on unfolding developments, IAEA spokesperson Mark Gwozdecky refrained from making public comments regarding the ongoing investigation into the Egyptian activities. [7] In light of the recent developments, the Egyptian government spokesperson, Magdy Rady, repeated the earlier assertions that Egypt runs limited nuclear programs for medical and scientific research purposes and that they are closely monitored by the IAEA. Mr. Rady stated, "Nothing about our nuclear program is secret and there is nothing that is not known to the IAEA." [7]

On January 21, 2005, unnamed Western diplomats told the Reuters news agency that IAEA experts are inspecting a laboratory facility located close to Cairo. According to the diplomats, the facility was designed to reprocess plutonium and was likely built in the 1980s. The main purpose of the IAEA inspection is to determine whether any undeclared nuclear experiments with plutonium were carried out on its premises in the past. The IAEA spokesperson declined to comment about this development. [8] Another Western diplomat familiar with the IAEA inspection in Egypt told the Associated Press, "It's what the agency does once there [are] grounds to look at past activities." [10] Western diplomats, speaking on the condition of anonymity, also strongly urged against drawing premature comparisons between Egypt's probable past nuclear experiments and the clandestine nuclear programs in Iran, Libya, and South Korea. In early January 2005, Egyptian Prime Minister Ahmed Nazif repudiated media claims about the alleged existence of the clandestine nuclear program in Egypt and stated that the Egyptian nuclear program is peaceful and is primarily directed "towards generating electricity and desalinating water." [8] In addition to this, Egyptian presidential spokesperson Suleiman Awad stated that the Egyptian government is collaborating with the IAEA on transparency of its energy programs.[10]

The Egyptian government's first cautious acknowledgment of the undeclared nuclear activities came on January 25, 2005. The Egyptian pro-government Middle East News Agency (MENA) quoted an unnamed Egyptian official who repeated that Egypt had a peaceful nuclear program and admitted that "the difference in interpreting some aspects of the safeguards agreement... led to a failure to inform the IAEA about some experiments and research activities which were undertaken and which are allowed to be undertaken." [11] The MENA report mentioned that Egypt and the IAEA are currently working on resolving this issue "through complete cooperation and transparency." [11] The IAEA's characterization of the undeclared nuclear activities in Egypt became further clarified on January 27, 2005, when the head of the Egyptian National Atomic Energy Agency Ali Islam told the MENA that while the UN agency found the Egyptian nuclear program to be "sound," it had still officially asked the Egyptian government "to take corrective steps in declaring research activities." [12] Unnamed Western diplomats in Vienna told Reuters that the IAEA will soon decide on whether information collected in Egypt merits submitting a special report to the 35-member Board of Governors, as was the case with the disclosures regarding clandestine weapons-related nuclear activities in South Korea and Iran. [12]

Editor's Notes: Egypt abandoned plans to develop nuclear weapons in the early 1970s. In the 1960s, the Soviet Union and People's Republic of China refused to provide nuclear weapons to Cairo. By the early 1970s the Egyptian government abandoned its project to build a plutonium production reactor and a reprocessing plant. Egypt joined the NPT in 1981. In 1982, Egypt signed a Nuclear Safeguards Agreement

with the IAEA, as required by NPT provisions. The IAEA Nuclear Safeguards Agreement allows IAEA inspectors to monitor the declared civilian nuclear activities of the parties to the NPT in order to ensure that such activities are not diverted for military purposes. Egypt has not yet signed the Additional Protocol to the Nuclear Safeguards Agreement with the IAEA, an amendment that would significantly expand the agency's inspection rights. [13,14]

At present, Egypt runs a very limited nuclear program, which consists of two small nuclear reactors that are primarily used for medical and scientific research purposes at the Inshas Nuclear Research Center. There are no nuclear power plants or reprocessing or enrichment facilities in Egypt. Egypt possesses so-called "hot cells," or shielded rooms that can be used for the separation of medical isotopes, as well as for plutonium separation. In 2002, the Egyptian government considered building its first nuclear power reactor and even selected a site near the coastal town of Al-Dabaa for this purpose. However, recently the pro-government Egyptian newspaper Al-Ahram reported that the plant site would be sold to accommodate development of the tourist industry. [1,2,3,5,7,14]

Sources: [1] Plutonium Traces Found at Egypt Nuke Facility," Associated Press, November 5, 2004. [2] George Jahn, "U.N.: Traces of Plutonium Found in Egypt," Associated Press, November 5, 2004. [3] Paul Kerr, "IAEA Investigating Egypt and Taiwan," *Arms Control Today*, January/February 2005, <http://www.armscontrol.org/act/2005_01-02/Egypt_Taiwan.asp>. [4] "Egypt's Atomic Energy Chief Denies Carrying Out Banned Nuclear Activity," MENA news agency (Cairo), November 7, 2004; in FBIS GMP20041107000178. [5] "Egypt Rejects Allegations of Secret Nuclear Programme," Agence France-Presse, November 7, 2004; in Lexis-Nexis, <<http://www.lexis-nexis.com>>. [6] "Egypt Rejects Speculations Over Nukes," *China Daily* website, November 8, 2004, <http://www.chinadaily.com.cn/english/doc/2004-11/08/content_389467.htm>. [7] "Egypt Said to Run Nuclear Tests With Possible Link to Weapons," Associated Press, January 4, 2005. [8] Louis Charbonneau, "UN Inspectors Visit Egypt Plutonium Lab – Diplomats," Reuters, January 21, 2005. [9] Michael Adler, "IAEA Probing Egypt for Atomic Experiments," Agence France-Presse, January 6, 2005. [10] Antonio Castaneda, "Diplomat: IAEA Tours Egyptian Laboratory," Associated Press, January 22, 2005. [11] "Egypt Says Failed to Tell UN Watchdog of Research," Reuters, January 25, 2005. [12] "Egypt Says IAEA Sees Its Nuke Research as 'Sound,'" Reuters, January 28, 2005. [13] "Egypt Denies Reports of Secret Nuclear Programme," Deutsche Presse-Agentur, November 7, 2004; in Lexis-Nexis, <<http://www.lexis-nexis.com>>. [14] Country Profile: Egypt: Nuclear Overview, Nuclear Threat Initiative website, <http://www.nti.org/e_research/profiles/Egypt/Nuclear/index.html>.

Workshops & Conferences

The 17th Annual Conference on the Globalization of Export Controls

On November 15-17, 2004, the 17th Annual Conference on the Globalization of Export Controls was held in London. [1] The conference is a yearly forum for business executives and government officials to discuss recent changes to export control regulations, current export control issues, and new developments in the area of export controls. The three-day conference attracted government officials from the United States and several European countries, as well as business leaders of some of the world's largest companies.

Governments in attendance included representatives from Estonia, France, Germany, Ireland, Romania, the Russian Federation, the United Kingdom, and the United States. The European Commission and the United Nations also sent representatives. Alongside these representatives, business executives from companies such as IBM Corporation, Financial Times, Marshall Aerospace, Microsoft, Mitsui & Co., Qualcomm, Raytheon, Rolls-Royce PLC, and SAP participated on panels discussing a range of issues from changes to U.S. and European export regulations to the Proliferation Security Initiative (PSI) and corporate compliance.

The 2004 conference began with presentations on changes to French, German, UK, and U.S. export control regulations. Matthew Borman, U.S. Deputy Assistant Secretary of Commerce for Industry and Security, explained the procedures for putting together an export license application, as well as recent changes to the Federal Register regarding "Knowledge," "Red Flags," and "Safe Harbor." Jo Guthrie of the Export Control Organization at the UK Department of Trade and Industry, and Dr Günther Sprögel, Head of Munitions Control at the German Ministry of Economics, covered recent updates in UK and German export regulations, respectively. [2] Finally, Dominique Lamoureux, General Secretary of Thales International, provided information on changes to export control-related legislation and regulations in France. [*Editor's Note: Thales International is an electronics, defense, and aerospace company founded in France.*]

In addition to receiving updates on national regulations, conference participants also attended panel discussions on issues such as encryption controls, software and technical data controls, and open general export licenses (OGELS). [Editor's Note: Similar to the U.S. Special Comprehensive License, an Open General Export License allows companies registered with the UK Export Control Organization to export freely without a Standard Individual Export License.] Panelists from government and nongovernmental organizations also debated the progress made in the PSI, Container Security Initiative (CSI), and Transshipment Country Export Control Initiative (TCECI) and discussed several new ideas. For instance, one panel discussed developing a certification system for auditing and verifying corporate internal compliance programs as a way of increasing corporate compliance. [3, 4] Under the proposal, G-7 nations would implement a certification scheme similar to other corporate management systems such as Total Quality Management (TQM). [Editor's Note: TQM is a common business management system used to ensure a certain quality in manufacturing and in the service industry.] Third-party auditors would audit a corporation's management system and present their findings to G-7 governments for final certification. Upon certification, G-7 certified corporations would be able to trade freely with other G-7 certified corporations. However, one panel member took a different approach, suggesting that governments certify corporate officials with export control training and expertise in export control regulations. [5]

The Annual Conference on the Globalization of Export Controls has become more global in recent years. While past conference participants have been mainly from Western Europe and North American governments and businesses, this year saw increased participation from Eastern Europe and Asia. [3,6]. As new export control-related initiatives like PSI, CSI, and certification develop, conferences such as this one will likely play a greater role in government-to-business outreach. The 2005 and 2006 annual conferences on the Globalization of Export Controls will be held in London and in Singapore, respectively.

Sources: [1] IBC Global Conference Daily Schedule for 17th Annual Conference on the Globalization of Export Controls. London, United Kingdom, November 15-17, 2004. [2] IBC Global Conference Pamphlet for the 17th Annual Conference on the Globalization of Export Controls. London, United Kingdom, November 15-17, 2004. [3] Toshio Watanabe, General Manager at Mitsui & Co. Ltd., "Corporate Compliance on Security Trade Controls," Presentation at the 17th Annual Conference on the Globalization of Export Controls. London, United Kingdom, November 15-17, 2004. [4] Toshio Watanabe, General Manager at Mitsui & Co. Ltd., "Outline of Certification for Corporate Internal Compliance Programs," Presentation at the 17th Annual Conference on the Globalization of Export Controls. London, United Kingdom, November 15-18, 2004. [5] Richard T. Cupitt, "Export Control Compliance: Emerging Standards," Presentation at the 17th Annual Conference on the Globalization of Export Controls. London, United Kingdom, November 15-18, 2003. [6] Nineta Barbulescu, Head of Romanian National Agency for Export Controls, "Government-Industry Relations In a Nut Shell," Presentation at the 17th Annual Conference on the Globalization of Export Controls. London, United Kingdom, November 15-17, 2004.

Special Report

Interview with R. Carlos Sersale di Cerisano

On November 23, 2004, the NIS Export Control Observer interviewed Ambassador R. Carlos Sersale di Cerisano, who recently completed a one-year term as Chairman of the Missile Technology Control Regime. Leonard Spector, Deputy Director of the Center for Nonproliferation Studies (CNS), Sonia Ben Ouagrham, Editor-in-Chief of the NIS Export Control Observer, and Lawrence Scheinman, CNS Distinguished Professor, conducted the interview with the editorial assistance of Elizabeth Eraker, CNS Scoville Fellow. In the interview, Ambassador Sersale di Cerisano addressed the regime's recent outreach activities, the challenges posed by intangible technology transfers and transshipment, concerns about legitimate dual-use trade, and the likely impact of UN Security Council Resolution 1540 (UNSCR 1540) and the Hague Code of Conduct on missile proliferation.

Sersale di Cerisano currently serves as the Director of International Security, Nuclear and Space Affairs in Argentina's Ministry of Foreign Affairs, where he oversees Argentine involvement in international agreements and activities related to WMD nonproliferation and disarmament and the peaceful development of nuclear energy and space affairs. He has previously served as the Director General of Human Rights in Argentina's Ministry of Foreign Affairs, Special Representative of the Director-General for UN Affairs at the UN Industrial Development Organization, and an officer in the Argentine Foreign Service.

MTCR Outreach: Libya, China, Yemen, Serbia, and Montenegro

OBSERVER: Could you highlight the MTCR's outreach activities during your year in office?

SERSALE di CERISANO: The most important outreach activities were our missions to Libya and China. Our work with Libya was based on their statement of December 2003 [that Libya would voluntarily abandon its WMD and missile programs]. That was not an achievement of the MTCR itself, but we moved very quickly to reinforce Libya's decision. In February of 2004, we went to Tripoli and assisted the Libyan government to implement and establish an export control system based on the MTCR Guidelines and the Technical Annex. Note that the MTCR has no secretariat. Its activities are based on the capacity of the chair, and the support of member countries interested in these activities, especially in regional work. In the case of Libya, with the support of some countries that have regional interests, we worked on the three different aspects that a country needs to look at to be a member of the MTCR: intelligence/information exchange, customs policy and enforcement, and implementation of the Technical Annex. On May 1-2, 2004, we set up a workshop for Libyan officials, whose participants included the MTCR chair, representatives of some supportive countries, and the co-chairs of three different MTCR groups [information sharing, customs, and technical issues]. Some countries, on a bilateral basis, are continuing to train Libyan officials in specific areas, like enforcement. I learned last week that Libya formally applied for MTCR membership. They will not get it immediately because, according to MTCR rules, they need to have an effective export control system in place. From the policy perspective, however, the Libyan case is a good example for other countries in Africa and the Middle East.

OBSERVER: So with Libya, one problem was that they possessed missiles, and we had to be concerned with what happened to those missiles and hardware?

SERSALE di CERISANO: We had to be concerned not only with the hardware, but also with the intangible technology that they had. Many of their people have been trained in the manufacture of missiles. The same applies for the nuclear sector. In the missile sector, however, they had very knowledgeable individuals and a significant program—a program that was not related to the exploration of outer space, but which was a missile effort for military purposes. Libya requested assistance from the MTCR on how to follow the rules to become an MTCR member. This means Libya must develop an export control regime and put it into place; they must also adopt the Guidelines and Technical Annex in their own legislation, including the adoption of catch-all provisions. Libya was mainly an importer from North Korea; they were not exporters. But an export control system can serve both purposes: monitoring imports and exports.

OBSERVER: You mentioned that the other major outreach mission was to China?

SERSALE di CERISANO: Yes. With China, it was a different type of outreach. We held two meetings—not to talk about general issues as we did with Libya or with others that were part of our general mission. In the case of China, they were already familiar with MTCR rules. So we held two specific meetings, one dealing with enforcement and the other with the Technical Annex. We were able, with a lot of technical expertise that supported the work of the chair, to analyze the dual-use items in the Chinese legislation, such as its control lists, and to compare it with the Technical Annex of the MTCR.

OBSERVER: The Chinese published export control regulations a year or two ago. When we analyzed them at the Center for Nonproliferation Studies, there were slight variations from the MTCR, but predominantly the two lists were quite similar. Is that what you found, as well?

SERSALE di CERISANO: There were a lot of variations, but they have been solved. In a six-month period, starting in February 2004 and continuing until June, the chair of the Technical Expert Group worked with the assistance of other members, and we solved those differences.

We also looked at China's licensing system—the practical side of an export and how they control goods at customs. We visited the port of Tianjin and viewed the technology that they use to trace containers. They have an organized system in place.

OBSERVER: Do they have the necessary equipment in place?

SERSALE di CERISANO: Yes. During our meetings, we talked with officials from the Ministry of Foreign Affairs and also from the Customs administration, and various other relevant ministries. The second meeting was particularly positive. Afterwards, I was able to conclude in my report that they have an export control system in place.

In addition to our outreach missions in Libya and China, which were probably the most important, we also worked with other countries. For instance, we obtained from Yemen a commitment that they would not purchase missile technology from North Korea. That was an important declaration. We also worked with Serbia and Montenegro. They want to have a licensing system in place because they wish to become members of the European Union and thus play by the rules.

Criteria for MTCR Membership

OBSERVER: What is the constraint on China's becoming a full member of the MTCR? Wouldn't it be important to lock down China as a member?

SERSALE di CERISANO: Membership decisions are based on consensus, and if just one country decides that an applicant is not ready for entry, membership won't be granted. There are different approaches on how to deal with this. The difference possibly is linked to the inclusion or not of the word "effective" before "export controls." In my view, I agree with the article published in the October issue of *Arms Control Today*. [Victor Zaborisky, "Does China Belong in the Missile Technology Control Regime?" *Arms Control Today* October 2004.] The author argues that it is much better to have China in than out, because there would be additional opportunities to control what this country is doing.

My perception is that China wants to respond to the conflicts occurring in the region, to the north and southwest, that are affecting its own security. That is why they will be a positive help to the U.S. strategy in the six-party talks [talks between North Korea, China, Japan, Russia, South Korea, and the United States on eliminating the North Korean nuclear weapons program]. The benefits to being accepted by the world are larger than not being accepted. China is not like North Korea, which makes a living from the missile trade. China submitted its application to the MTCR in mid-September after completing all these technical consultations.

OBSERVER: When Poland wanted to join the MTCR back in the mid-1990s, the question came up: What is it that you're providing in international trade that brings you to a level of activity in the field that would warrant this? They didn't have very much in the way of transactions in 1994-95.

SERSALE di CERISANO: When you look at the membership of the MTCR, most of the European countries don't have the technology that would be linked to membership criteria. However, each EU country needs to have national export control guidelines consistent with the ones adopted at the regional level by the EU as a whole. There are also transshipment issues that need to be addressed within the context of the EU.

OBSERVER: Does Libya have a technological capacity that meets standards that would normally be expected of an MTCR member?

SERSALE di CERISANO: Libya was a North Korean customer. What they did develop was the capacity to adapt the technology to their own needs. During our visits, they showed us how they modified the missile's warheads to adjust to climate conditions. They were also exporting liquid fuel to Serbia, which is at least one of the items from Part II of the Technical Annex.

OBSERVER: Do you think that some countries also want to participate in the MTCR for the prestige of being inside the fence?

SERSALE di CERISANO: Of course, but even for those countries who apply, membership may not be granted because of a veto from other members.

The point is that there may be countries that are not producers of missile technology, but if they do not adhere to the guidelines, they might be used as transshipment points. One of the best cases is Cyprus—which adheres to the MTCR Guidelines although it is not a member yet—because it is an important transshipment point. What they need is a licensing system, even for the goods that do not have Cyprus for final destination. Transshipment and intelligence on brokering are new issues that the MTCR was not originally planned for, but that need to be discussed today.

Another article published in *Arms Control Today* argues that for the MTCR to be effective, only [missile technology] producers should be included. Transshipment countries, on the other hand, should be part of another regime because they need a different sort of legislation. I don't know who is right about that because it's a theoretical approach. But this argument proposes to create a sub-regime for a regime that itself has no formal legal basis. I think we need to review all of the export control regimes to make them more effective. That applies for all of the export regimes, not only for the MTCR.

OBSERVER: So we should create a legal foundation for the Australia Group, the MTCR, and the NSG?

SERSALE di CERISANO: Possibly not for all of them, but to link what we are doing in the Australia Group, for example, more specifically to the treaties. In the case of missiles, we do not have a comparable instrument and so we need to address this issue.

Regional Outreach Work

OBSERVER: You also did an outreach mission to the Shanghai Cooperation Organization (SCO)? [*Editor's Note: The Shanghai Cooperation Organization is an intergovernmental international organization founded in Shanghai on June, 15, 2001, by six countries: China, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, and Uzbekistan.*]

SERSALE di CERISANO: That was a regional forum—another type of MTCR outreach. This year we went to the SCO and established a formal contact. I understand that the United States asked to be accepted into this organization—that shows how important it is. Kazakhstan wants to be a member of the MTCR and is part of the SCO. There are a lot of missiles in former USSR republics; the SCO countries are also very close to Afghanistan. Therefore, it would be desirable to make sure that these technologies are going to be controlled. That's why I think MTCR cooperation with the SCO was an important action that, I hope, the next chair will pursue.

OBSERVER: You are not speaking of the nuclear armed, strategic missiles that were in Kazakhstan, but other, shorter-range systems that could take any kind of warhead? Is the goal to try to get these countries to destroy those missiles that are above the MTCR threshold?

SERSALE di CERISANO: Well that is what the MTCR should look for. The SCO has two main objectives: one is to combat terrorism and the other is to work on infrastructure for energy purposes. The obvious thing is that if you want to combat terrorism, you try to dismantle the missile capabilities of those countries.

OBSERVER: Would you say it's a new trend for the MTCR to work with regional organizations, such as the SCO?

SERSALE di CERISANO: It's part of the mandate. I don't know that it's a new trend. My predecessors also did some work with regional organizations. But I think the important outreach was really the new missions, like our first attempt to establish contact with the Arab League. The Arab League is quite reluctant to discuss these issues. Mainly, here are countries that use the excuse that because the MTCR is not a UN institution and has no "global" nature, they don't want to be part of it. But starting a dialogue with them was important. We didn't make much progress, but at least we established a contact to discuss the pros and cons of membership and agreed to have a followup.

UNSC Resolution 1540

OBSERVER: What is your view of the U.N. Security Council's recent Resolution 1540, which I believe extends to missiles?

SERSALE di CERISANO: It is a good step. We define that as the first global instrument that the UN adopted in the nonproliferation field. It is important to have the Security Council leading. This decision by the Security Council is also important because it was taken under Chapter 7 of the UN charter, which makes it mandatory. Indirectly, even if the MTCR is not mentioned, it refers to all the export control regimes. So this is a sort of adoption of the MTCR Technical Annex.

The deadline for submitting reports was October 20, and only 57 countries out of all the UN members submitted reports. There is a lot of work to be done in assisting countries—not only assisting them in doing their reports, but also in promoting the export control regimes in all their aspects: control lists, enforcement, transshipment, and other issues. That's why we gave such importance to this Security Council resolution. What are doing now is exploiting the capacity of the UN to implement the requirements of resolution 1540 through a committee chaired by Romania. [Editor's Note: *The Committee is composed of all Security Council members.*] So the UN needs to think about how to support this committee in its task. The UN has expertise in the missile area [through UN Monitoring, Verification, and Inspection Commission, set up to locate and destroy missiles in Iraq] and resources that were received from the "Oil for Food" program in Iraq—perhaps as much as \$300 million. That is what the committee [that was] established to oversee implementation of Resolution 1540 should be using to help states implement improved export controls. That's my personal view.

OBSERVER: Countries like Egypt and other members of the Arab League traditionally have been very averse to the MTCR and not supportive of the control regimes because these countries consider themselves targets to some degree—the North vs. South conflict. But now under Resolution 1540, they are expected to adopt these rules. Was this issue part of the discussion, when you met with the Arab League?

SERSALE di CERISANO: Yes. That was one of the 13 points in my presentation. It was very good for the MTCR and other export control regimes to have this Resolution 1540. Obviously, as I said, this is a Chapter 7 resolution, which makes it legally binding on all UN member states. Building support for it will depend on the capacity of the chair of the committee to bring reluctant countries in. But your point is right—it becomes mandatory.

Intangible Technology Transfer and Transshipment Issues

OBSERVER: During the latest MTCR plenary, the members discussed the importance of intangible transfers, transshipment, and brokering issues. What action has the MTCR taken in these areas?

SERSALE di CERISANO: Intangible transfers were brought to the MTCR for the first time last September. Transshipment controls were also strengthened in the last plenary.

In the case of intangible transfers, it's more delicate—it's a more difficult issue. The Germans organized a good seminar last June, bringing together representatives from the intelligence and export control communities, as well as private companies and academia. Recently, the issue of academic freedom versus export controls and immigration issues [Editor's Note: *Immigration issues arise when foreign nationals are to receive training in high-tech subjects in advanced countries*] has become part of the debate. It is something that will be more difficult to resolve and will depend on whether you can establish common guidelines among MTCR members. That will depend on every country and the type of regulations they adopt—regulations on visas, for example. This has a lot of technological implications because it is linked to the development of software by foreign nationals in advanced countries, for example, and there are a lot of interests involved. In the MTCR context, we didn't do much, but it is an issue that still needs to be addressed from the policy perspective. The MTCR will continue to organize seminars and workshops to try to identify guidelines, but there are different views among the member states. There are countries who want to put controls on the Internet, for example, and that's impossible in real life.

In the case of transshipment or brokering by firms, there are also obviously some technical issues involved. With intelligence, the licensing system, and the catch-all clause, including end-user controls, transshipment and brokering can be addressed.

But the case of interdiction is more complicated because it is sometimes linked to commerce in international waters. Countries have been working on this in the context of the International Maritime Organization and trying to develop legislated norms that will be a modification of the Convention on the Law of the Sea. This is also linked to UN Security Council Resolution 1540, but the work started before the approval of that resolution.

Other issues still need to be discussed. For instance, liability and insurance. During an interdiction exercise, someone may be hurt; it is important to determine the responsibilities in this case. These are complex issues; that's why countries are trying to control their participation in PSI through bilateral agreements.

Obviously, all these issues are connected together. It is not sufficient to have control lists and know what is illegal and what is not. It is important to have other components of the export control system, such as a licensing procedure, training for personnel who will enforce these decisions, and intelligence; intelligence is the cross-cutting issue for having effective export controls.

Impact of the MTCR on Dual-Use Trade, Economic Development

OBSERVER: To what extent have you run into arguments that the very nature of this control regime is somehow impeding the ability of states to develop economically and move forward? Do you hear claims that developing states' technological capabilities are somehow being circumscribed in terms of transfers, accessibility, and the like?

SERSALE di CERISANO: It is a concern. In fact, it is a concern that we in Argentina have, for example, in the case of our space industry, in the MTCR context. [*Editor's Note: As discussed below, Argentina curtailed certain missile development activities in conjunction with joining the MTCR.*] In the case of nuclear technology, Argentina is a country with a successful peaceful nuclear program even though some imported goods for this program are regulated under international control regimes and subject to verification. For us the most important point is that being part of these export control regimes is a proof of conscience.

In the case of the MTCR, its mandate says specifically that all regime activities should not impede the development of space programs for peaceful purposes. On the other hand, however, export licenses are given on an individual basis. Countries that are exporting these technologies look at what the receiving country, whether an MTCR member or not, is going to do with the technologies.

I think that the countries that want to develop illegal programs try not to import goods for these programs through obvious channels. I can't imagine the United States receiving an import request from North Korea. They would use intermediary firms to import dual-use items like graphite, which is used in the automobile industry and also in nuclear reactors. I believe the impact of regime controls on technological development is an issue in the mind of all the countries who are negotiating with the MTCR and even of MTCR members themselves. But it is not a matter that can be negotiated because there are no tradeoffs on these issues.

Argentina, for instance, dismantled its missile program in 1990-91. We became MTCR members in 1993. We have an important space program, and now we are working with NASA on developing a satellite, using Argentine technology. We don't have launchers because it's too expensive. It is preferable to work with the Brazilians in their launch complex in Alcántara or with the launchers that United States has in California or Florida. There are three satellites that have been built with Argentine technology, and in 2008, there's going to be the Aquarius—one that will measure the salinity of the sea. Obviously, I was not part of the missile programs in those days. However, I suppose that this problem [of Argentina's missile development program] was solved, in part, because Argentina not only dismantled the systems that it had but also developed a redefined program that is transparent. The Air Force does not handle the aerospace program anymore. Instead, the program is now handled by a civilian agency—the National Space Affairs Commission (CONAE).

OBSERVER: Have you found that countries raise questions about technology denial that are not necessarily linked to launching, but just to the ability to have a space program?

SERSALE di CERISANO: It is in the back of their minds. We are discussing that in the context of a UN proposal to support countries in converting most of the capacity they have in the missile field. The UN Committee on the Peaceful Uses of Outer Space discusses the policies. As for the attitudes of specific countries towards their own space programs, further analysis would be needed.

Hague Code of Conduct against Ballistic Missile Proliferation (HCOOC)

OBSERVER: What is your assessment of the Code of Conduct?

SERSALE di CERISANO: It is a completely voluntary measure—an important component of the MTCR—this “regime that doesn’t exist.” In my view, it should be a UN mandatory instrument to be really effective, like a treaty where countries on a nominal basis give declarations of their launches in a sort of UN registry. That will be the only way that this ad hoc effort will survive. If not, you will see that in three, four years, countries will stop exchanging information. That’s my view. It is an important initiative, and where the UN should be involved. One hundred and seventeen countries have signed the code, but only 47-48 have submitted their declarations. There needs to be some technical assistance for countries and training on how to fill out the declarations. There is a UN resolution approved by the General Assembly addressing these issues.

OBSERVER: What do you think is the most important confidence boosting measure included in the code—disclosure of how many missiles you have? Advanced notice of launches?

SERSALE di CERISANO: I think most important is notice of all launches, even satellite launches not related to missiles. Particularly important are notices of launches on a regional basis, especially in regions of conflict.

OBSERVER: Thank you, Mr. Ambassador.

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