



INTERNATIONAL EXPORT CONTROL
Observer

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Recent Developments

Russia Adopts Watch List of Entities Suspected of WMD-Related Activities

In early April 2006, during a meeting of the interagency Export Control Commission of the Russian Federation, the commission adopted a watch list of foreign entities suspected of involvement in nuclear, chemical, biological, or missile programs. This is the first time this body has adopted such a list. According to the chair of the commission, deputy prime minister and defense minister Sergey Ivanov, the watch list includes 1,152 entities from 51 countries. Ivanov did not specify the companies nor the countries included on the list.

Ivanov emphasized that the watch list does not represent a “black list,” but noted that companies included on it require special attention, caution, and vigilance. Furthermore, all transactions with these companies must be subject to export licenses. Ivanov also noted that in carrying out international business transactions with these entities, the Russian Federation reserves the right to monitor the use of exported goods and technologies after they are delivered, in order to verify that they are used for the purposes declared on export license applications. This implies that a proposed transaction with such an entity must be supported by an appropriate end-user certificate.

According to Ivanov the watch list—which has not been publicly released—was developed with the help of the Russian Ministry of Foreign Affairs, the intelligence community, and through information sharing with other nations concerned with WMD proliferation. The watch list will be used in drafting a non-classified report on Russia’s activities in the area of nonproliferation and export controls for the upcoming G8 summit in St. Petersburg in July 2006. The report will include a description of Russia’s export control system, a review of Russia’s accomplishments in this area, and assessments of activities of certain foreign organizations and countries in counteracting the global threat of WMD proliferation.

During the April meeting, commission members also discussed how Russia’s national export control system is functioning and ways to improve the licensing process for controlled dual-use items. In particular, Ivanov remarked that the commission examined the cooperation between the three agencies involved in export control—the Federal Technical and Export Control Service, the Federal Security Service, and the Federal Customs Service. He also noted that in recent years these agencies have significantly increased their cooperation at the regional level. According to Ivanov, in 2005 Russia issued 1,153 export licenses for dual use goods, and exported US\$3.8 billion worth of controlled goods, primarily to the European Union, United States, Ukraine, South Korea, and Kazakhstan.[1]

Source: [1] “Stenograficheskiy otchet o soveshchaniy s chlenami pravitelstva” (Verbatim records of the meeting with government members), April 10, 2006, President of Russia website, <http://www.kremlin.ru/appears/2006/04/10/1626_type63378type63381_104350.shtml>.

U.K. Releases List of Iranian Entities of Concern

Reflecting British concerns over Iran’s potential to develop weapons of mass destruction (WMD), on March 28, 2006 the Export Control Organization (ECO) under the U.K. Department of Trade and Industry (DTI) published a special supplement to its general guidance on dual-use export controls, indicating that London was placing increased scrutiny on exports to Iranian end-users. The supplement—Annex D of DTI’s publication entitled “The Operation of the WMD End-Use Control: Guidance”—includes a list of 43 Iranian entities suspected of being involved in WMD and other military-related programs.[1]

Annex D is meant to further explain to U.K. exporters DTI’s “end-use controls,” a form of catch-all control that, in practice, allows the ECO to make any item intended for suspect end-users, including items not on domestic control lists, subject to export licensing requirements. According to the main guidance document, the ECO reviews exports to suspect entities on a case-by-case basis and licensing depends on the determination of whether the item can in any way contribute to WMD-related programs by the end-user. The Iranian entities listed in Annex D have been singled out based on information gained from “the last three years’ experience of either invoking the WMD end-use control or refusing licenses under it.”[1] The list includes both entities the ECO has already refused licenses for and entities where there is publicly available information concerning their involvement in WMD programs.

Included in the Annex D list are Arak Petrochemical Co., the Atomic Energy Organization of Iran, the Nuclear Research Centre for Agriculture and Medicine, the National Research Center for Genetic Engineering & Biotechnology, and Tehran University. According to the annex, British companies are not prohibited from doing businesses with entities on the list, but they are required to submit an “Export License Rating Enquiry Form” for all export-related activities. Licenses will be granted on a case-by-case basis, if exporters can convince the ECO that exports will only be used for industrial or research purposes.[1]

Editor’s Note: The British government requires a license for the export of any item found on the U.K. Strategic Export Control Lists, which include the military, explosives, and dual-use lists. If the exporter is still unsure about whether or not a license is needed—for instance, if the item is not on the control list but may be going to a suspect entity—the exporter is required to submit an “Export License Rating Enquiry Form” to the ECO’s Technical Assessment Unit. Based on the information and technical specifications provided by the

exporter in the enquiry form, the Technical Assessment Unit will then inform the exporter whether a license is required.

According to British Trade Minister Malcolm Wicks, the purpose of adding the list to the guidance document was “to alert U.K. exporters to end-users that we are concerned about in Iran.”[2] By making this list and other relevant information available to domestic companies, the British government hopes to ensure that exporters will not contribute, knowingly or unknowingly, to WMD proliferation, while at the same time trying to avoid unnecessary burdens on legitimate trade. U.K. Control lists are based on the guidelines of the multilateral supply control regimes and the EU export control standards. Controlled items require export licenses from the ECO and exporters are legally obligated to report to the ECO any suspicious activities, requests or inquiries for sensitive items.[1,2]

Sources: [1] “The Operation of WMD End-Use Control: Guidance,” Export Control Organization, U.K. Department of Trade and Industry website, March 28, 2006, <<http://www.dti.gov.uk/files/file27155.pdf>>. [2] “Mullahs’ Firms Blacklisted in UK,” *Persian Journal* online edition, April 10, 2006, <<http://www.iranian.ws>>.

NATO-Ukraine Target Plan for 2006 Tasks Ukraine with Improving Export Controls

On April 7, 2006, President of Ukraine Viktor Yushchenko signed Edict No. 295/2006 approving the NATO-Ukraine Annual Target Plan for 2006 under the Framework of the NATO-Ukraine Action Plan.[1] Following the signing of the edict, on April 14, 2006, Anton Buteiko, first deputy minister of Foreign Affairs and chairman of the Interagency Commission for the Preparation of Ukraine’s Accession to NATO, unveiled the details of the plan at a press briefing organized at the Ministry of Foreign Affairs.[2]

As Buteiko stated, the adoption of the NATO-Ukraine Target Plan for 2006 is consistent with Ukraine’s commitments under the action plan approved at the NATO-Ukraine Commission meeting on November 22, 2002, in Prague, the Czech Republic. Implementing strategic and mid-term objectives set forth in annual target plans is part of the so-called “intensified dialogue” between Ukraine and NATO regarding Ukraine’s proposed membership in the organization and relevant domestic reforms.[3] The intensified dialogue was launched at the NATO-Ukraine Commission meeting on April 21, 2005, in Vilnius, Lithuania.[4]

The 2006 Target Plan sets objectives for Ukraine in different areas, including domestic policy issues, foreign and security policy, defense and security sector reform, public awareness of NATO-Ukraine relations, information security, as well as economic and legal issues. To meet these targets, the plan outlines a list of priorities and specific actions to be taken in each area, including domestic actions by Ukraine and joint NATO-Ukraine actions.[3,5] The 2006 Target Plan also

includes a number of measures that will improve Ukraine’s military and dual-use export controls.

One of the objectives set in the 2006 Target Plan is the “complete observance of international obligations to exercise control over armaments,” which tasks Ukraine with attaining two goals: improving implementation of international export control standards; and broadening international cooperation on arms control, disarmament, and nonproliferation.[6]

Under the first task, with the assistance of NATO and NATO member states, Ukraine will “assess the compatibility” of its national export control system for military and dual-use goods “with the requirements of international export control regulations,” and make the “necessary improvements... including by adapting national legislation in accordance with the EU [European Union] Code of Conduct.”[6]

Under the second task, Ukraine will:

- (1) participate in plenary sessions and meetings of working bodies of all relevant international nonproliferation and export control regimes, and ensure the full implementation of decisions adopted by these bodies;
- (2) enhance information exchanges with the NATO Weapons of Mass Destruction Center and relevant bodies of NATO member states on arms control and disarmament;
- (3) facilitate the conduct of inspections on the territory of Ukraine according to the Treaty on Conventional Armed Forces in Europe, the Open Skies Treaty, the 1999 Vienna Document, the Strategic Arms Reduction Treaty, and relevant bilateral agreements;
- (4) coordinate arms control verification activities with NATO member states in the framework of the NATO Verification Coordination Committee;
- (5) ensure fulfillment of all obligations under the Wassenaar Agreement, the Missile Technology Control Regime, the Nuclear Suppliers Group, UN Security Council Resolution 1540, the Zangger Committee, the Australia Group, the Organization for Security and Cooperation in Europe, and the UN Register of Conventional Arms;
- (6) share information about the export of armaments and defense technology, according to principles of transparency and requirements of relevant international organizations and regimes, while ensuring the protection of restricted information;
- (7) draft a U.S.-Ukrainian agreement on cooperation within the framework of the Proliferation Security Initiative (PSI); and
- (8) establish a program of cooperation within the framework of the G-8 Global Partnership Program, in particular for implementing the biological security project.[6]

Editor’s Note: Though the NATO-Ukraine Target Plan for 2006 does not specify the biological security project, the project in question may be a U.S.-Ukrainian agreement signed by the two countries on August 29, 2005, to counter the threat

of bioterrorism and prevent the proliferation of biological weapons and related technology, materials, and expertise. Under the agreement, the United States will assist Ukraine in upgrading safety and security of biological pathogens currently stored at public health laboratories throughout Ukraine. In addition, the United States will assist Ukraine in creating a national network of adequately equipped epidemiological monitoring stations that will improve detection, diagnosis, and treatment of infectious disease outbreaks, as well as be able to assess whether outbreaks are natural or the result of a terrorist act.[7]

To facilitate the implementation of Ukraine-NATO agreements and make the relevant Ukrainian legislation compliant with NATO norms and standards, the 2006 Target Plan tasks Ukraine with developing and promoting the adoption of a draft law on military-technical cooperation with foreign states, as well as with drafting regulations in accordance with decisions adopted within the framework of international export control regimes. The plan also envisages amending the following existing regulations (the document titles are given as they appear in the text of the 2006 Target Plan): the Law of Ukraine No. 549-IV of February 20, 2003 *On Exercising State Control over International Transfers of Products Designed for Military Purposes and of Those of Double Designation*; the Resolution of the Cabinet of Ministers No. 1807 of November 20, 2003 *On the Approval of the Procedure of Exercising State Control over International Transfers of Products Designed for Military Purposes*; the Resolution of the Cabinet of Ministers No. 86 of January 28, 2004 *On the Approval of the Procedure of Exercising State Control over International Transfers of Products of Double Designation*; the Resolution of the Cabinet of Ministers No. 920 of May 27, 1999 *On the Approval of the Regulations on the Procedure of Rendering Guarantees and Exercising State Control over the Fulfillment of Obligations Concerning the Use, According to Declared Purposes, of Products Which Are Under State Export Control*. The plan, however, does not specify what kind of amendments should be introduced in the above-mentioned regulations.[4]

The full text of the *NATO-Ukraine Annual Target Plan for 2006 in the Framework of NATO-Ukraine Action Plan* is available on the NATO website at <<http://www.nato.int/docu/basicxt/b060407e.pdf>>.

Sources: [1] Presidential Edict No. 295/2006 of April 7, 2006, "O Tselvom plane Ukraina-NATO na 2006 god v ramkakh Plana deystviy Ukraina-NATO" (On Ukraine-NATO Target Plan for 2006 in the framework of the Ukraine-NATO Action Plan), President of Ukraine website, <<http://www.president.gov.ua/ru/documents/4239.html>>. [2] Ukrinform News Agency, in "Ukraine-NATO Target Plan for 2006 presented at Ukrainian Foreign Ministry," Government Portal (Ukraine), April 14, 2006, <<http://www.kmu.gov.ua>>. [3] "Speech of A. Buteiko, Head of the Interdepartmental Commission on preparation of Ukraine's accession to the NATO, First Deputy Minister for Foreign Affairs of Ukraine at the presentation of the Ukraine-NATO Target Plan for 2006," Ministry of Foreign Affairs of Ukraine website, April 14, 2006, <<http://www.mfa.gov.ua/mfa/en/news/detail/1885.htm>>. [4] "United States to Install Radiation Detection Equipment on Ukrainian Borders; Ukraine-NATO Commission Adopts 2005

Target Plan," *NIS Export Control Observer*, May 2005, pp. 9-10, <<http://www.cns.miis.edu/pubs/nisexcon/index.htm>>. [5] "NATO-Ukraine 2006 Target Plan online," NATO Update, April 2006, NATO website, <<http://www.nato.int/docu/update/2006/04-april/e0407a.htm>>. [6] "NATO-Ukraine Annual Target Plan for 2006 in the Framework of NATO-Ukraine Action Plan," NATO website, <<http://www.nato.int/docu/basicxt/b060407e.pdf>>. [7] "United States and Ukraine Sign Biological Threat Reduction Agreement," *International Export Control Observer*, October 2005, p. 6, <<http://www.cns.miis.edu/pubs/observer/index.htm>>.

Russian Customs Service Discusses Creation of Electronic Advance Information Exchange with the Kyrgyz Republic, Strengthens Customs Cooperation with Belgium

In early April 2006, officials from Russia's Federal Customs Service (FCS) met with Kyrgyz State Customs Inspectorate representatives at the Russian FCS Representative Office in Bishkek, the Kyrgyz Republic, to discuss the establishment of electronic advance information exchange between the two agencies. At the meeting, Russian and Kyrgyz customs officials discussed details of information exchanges where the customs agency in the exporting country would inform its counterpart in the recipient country of shipments released for export and provide details about the sender and recipient of any shipment, the details of the export contract, and specific information regarding the transporter. In order to implement the proposed measure, the two agencies must upgrade their communications equipment and introduce a single format for electronic customs information into their standard operating procedures. Currently the Russian and Kyrgyz customs agencies are drafting a protocol that will provide a legal basis for mutual electronic advance information exchange on goods and vehicles exiting and entering these two countries.[1]

Editor's Note: Advance notification is a measure stipulated in the World Customs Organization (WCO) Framework of Standards to Secure and Facilitate Global Trade (commonly referred to as the WCO Framework) as well as by the International Convention on the Simplification and Harmonization of Customs Procedures (the Kyoto Convention). The WCO Framework was unanimously adopted in June 2005 by 166 WCO members in response to the growing concern over the vulnerability of the global shipping system to the threat of terrorism. The Kyoto Convention was adopted on May 18, 1973 in Kyoto (Japan) and came into effect on September 25, 1974. Later, it was revised by the WCO to bring it in line with current practices of international trade. The protocol of the amendment was adopted on June 26, 1999 in Brussels, Belgium.

In a separate development, on April 12, 2006, FCS head Aleksandr Zherikhov met with Noël Colpin, head of the Belgian Customs and Excise Administration, to discuss a number of issues, including pending ratification of the October 2001 Russia-Belgium agreement on mutual administrative assistance in customs issues, information exchange between the two customs agencies, joint efforts to combat intellectual

property violations, and intensification of information sharing in the law enforcement area.[2]

The cooperation between Russian and Belgian customs services is based on the *Agreement on Partnership and Cooperation* between the European Union and the Russian Federation and Protocol 2 to the agreement *On Mutual Administrative Assistance for the Correct Application of Customs Legislation*. [Editor's Note: *The Russia-European Union Partnership and Cooperation Agreement and its protocols were signed on June 24, 1994, and entered into force on December 1, 1997.*] The agreement established a partnership between the European Union and the Russian Federation that covers a broad range of issues, including political, economic, and social issues, as well as customs cooperation.[2,3]

In preparation for implementation by both countries of the WCO Framework, particular attention was given to increased information sharing between the Russian and Belgian customs services. Zherikhov and Colpin agreed to create a working group in the near future tasked with working out the legal, technical, and other conditions necessary for such information sharing. As part of the process of increasing information exchange, customs officials from both countries will focus on the risk management systems used by both parties, techniques and procedures related to container customs control, and information on "authorized economic operators." [Editor's Note: *According to the WCO Framework, an authorized economic operator (AEO) is "a party involved in the international movement of goods in whatever function that has been approved by or on behalf of a national Customs administration as complying with WCO or equivalent supply chain security standards." AEOs "include inter alia manufacturers, importers, exporters, brokers, carriers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators, warehouses, distributors."*][4]

At the meeting, the heads of the two customs services also agreed to intensify law enforcement-related data sharing, to conduct regular expert meetings aimed at sharing experience in enforcing intellectual property rights, and to establish cooperation between Russian and Belgian airport customs.[2]

Sources: [1] "Tamozhennoye sotrudnichestvo Rossii i Kirgizii vykhodit na novyy uroven" (Customs cooperation between Russia and Kyrgyzstan enters a new level), April 6, 2006, Russian Federal Customs Service (FCS) website, <<http://www.customs.ru/ru/press/index.php?&date286=200604&id286=10074>>. [2] "Russia and Belgium Strengthen the Customs Co-operation", April 12, 2006, FCS website, <<http://www.customs.ru/en/news/index.php?id695=10215>>. [3] "Agreement on Partnership and Cooperation Establishing a Partnership between the European Communities and their Member States, of the one part, and the Russian Federation, of the other part," November 27, 1997, European Union website, <http://ec.europa.eu/comm/external_relations/russia/pca_legal>. [4] "WCO Framework of Standards to Secure and Facilitate Global Trade," World Customs Organization website, <<http://www.wcoomd.org/ie/En/en.html>>.

Changes in Personnel

New Head of the Kazakhstan National Nuclear Center Appointed

On April 12, 2006, Kazakhstan's Ministry of Energy and Mineral Resources issued an order that officially appointed Kayrat Kadyrzhanov the director general of the country's National Nuclear Center (NNC). Kadyrzhanov also retained the position of director of the NNC Institute of Nuclear Physics (INP), which he has headed since 1997.[1,2]

Kayrat Kadyrzhanov was born on December 5, 1945 in Taldykorgan, Kazakhstan. In 1970, he graduated with a degree in solid-state physics from the department of experimental and theoretical physics at the Moscow Engineering and Physics Institute. In 1976, Kadyrzhanov earned a candidate of science degree in physics and mathematics, and in 1993, he received a doctor of science degree in physics and mathematics. From 1975 to 1978, Kadyrzhanov taught at the Kazakh Polytechnic Institute. In 1978, he began working as a senior research assistant at the INP (then under the Academy of Science of the Kazakh Soviet Socialist Republic). In 1993, Kadyrzhanov was appointed INP deputy director for science and was promoted to the NNC deputy director general in 1995. In 1997, he became the INP director.[3]

Editor's Note: The NNC was established in accordance with Presidential Edict No. 779 of May 15, 1992. In addition to the INP main campus located in Almaty, the center incorporates the following organizations: the Institute of Atomic Energy (Kurchatov), the Institute of Geophysical Research (Kurchatov), the Institute of Radiation Safety and Ecology (Kurchatov), the Baikal Enterprise (Kurchatov), and the Kazakh State Research and Production Center of Explosive Operations (Almaty). The NNC's primary objectives are: the environmental recovery of the former nuclear weapons test sites located in Kazakhstan; the establishment of a scientific, technological, and human resource foundation for the development of Kazakhstan's nuclear energy industry; and the conversion of the former Semipalatinsk nuclear test site to peaceful purposes. The NNC also participates in the International Monitoring System which is part of the global verification regime being established to monitor compliance with the Comprehensive Nuclear Test Ban Treaty.[4] *According to Kazakhstani government officials, the NNC and its facilities will also serve as a base for a nuclear commodity classification center that the government of Kazakhstan plans to establish to assist exporters and customs officials in determining whether items are subject to licensing.*[5]

Sources: [1] "Naznacheni novyy Generalnyy direktor NYaTs RK" (New NNC director general has been appointed), Ministry of Energy and Mineral Resources of Kazakhstan press service; in Nuclear News (electronic publication of the Nuclear Society of Kazakhstan), No. 9-10 (109-110), April 1-13, 2006. [2] CNS communication with an INP official, May 10, 2006. [3] Institute of Nuclear Physics of Kazakhstan website, <<http://www.inp.kz>>. [4] National Nuclear Center of Kazakhstan website, <<http://www.nnc.kz>>.

[5] CNS interviews with Kazakhstani government officials in Almaty and Astana, Kazakhstan, February 13-17, 2006.

Illicit Trafficking

Sensitive Machine Tool Exports from Taiwan to China

According to an April 13, 2006 report by the Japanese daily *Sankei Shimbun*, numerical control lathes produced in Taiwan were exported to China and are being used by the Chinese military. The report, which cites Taiwanese defense officials as the source of the allegations, notes that Chinese entities are using lathes purchased directly from unspecified Taiwanese sources in 2005 to manufacture stainless steel missile components and parts.[1]

Editor's Note: Lathes are used to spin a block of material so that when cutting or shaping tools are applied to the block, it can be shaped to produce an object that has symmetry around an axis of rotation. A lathe can be used in many different applications, including the reduction of a metal piece's diameter, to create flat and smooth surfaces in what is called "facing," to drill accurate holes with the centerline of a cylindrical part, as well as in "boring," which makes a hole larger.[2] All of these uses have potential application to missile systems and components. Numerical controlled lathes use computers to place the cutting or shaping tools for high accuracy.

In an initial response to the Japanese report, on April 15, 2006, the Taiwanese Ministry of Economic Affairs (MOEA) released a statement saying that it had found no suspicious cases involving exports of sensitive high-precision machine tools. However, a few days later, on April 18, the Bureau of Foreign Trade (BOFT), the export control body under the MOEA, released another statement admitting that its export controls were not foolproof, and that it is quite difficult to control how exported items may ultimately be utilized by end-users in China. The spokesman for BOFT confirmed that the government was conducting a case-by-case investigation to determine whether or not machine tools that could aid Chinese missile development had in fact been shipped to China and whether they could have ended up in the hands of the military. The spokesman confirmed that the investigation was ordered as a result of the Japanese media report.[3,4,5] However, Taiwanese authorities continued to downplay the significance of the media report, and have noted that their own discussion with Taiwanese defense officials—cited as the source of the Japanese story—have not corroborated the information given in the article.[5]

Preliminary findings of BOFT and MOEA showed that no machine tools legally exported to China between January 1, 2005, and March 2006 had met the precision standards

considered useful in the production of Chinese missile components. According to BOFT, in 2005 Taiwan shipped more than 230 million Taiwanese dollars (US\$7.2 million) worth of machine tools to China. According to the Industrial Development Bureau, under the MOEA, the equipment exported to China in the period examined had not been subject to export controls, since the items had not been viewed as sufficiently sophisticated to warrant controlling them as dual-use goods. Additionally, officials at the MOEA noted that only manufacturers in the United States, Switzerland, and Japan have the ability to produce the high-precision control lathes and machine tools that were described in the Japanese report. However, as pointed out by Deputy Director General of BOFT James Wu, any item, including the lathes exported to China, could be controlled under Taiwan's *Regulations Governing the Export and Import of Strategic High-tech Commodities*, which bans the export of any item to an end-user that could use the Taiwanese-origin item for military purposes.[3,4,6,7]

Despite the absence of corroborating evidence, the Japanese allegations have heightened concerns in Taipei over Beijing's military intentions and growing capabilities. The reunification of Taiwan to the mainland, through peaceful or other means, has been a primary objective of the Chinese Communist Party since 1949, when Nationalist forces fled to the island after the Chinese Civil War (1927-1949). Pressure towards reunification has taken many forms, including the continued build-up of Chinese ballistic missiles targeting Taiwan. The Chinese military threat has been a strong driving factor in Taiwan's aim to prevent sensitive technologies from being transferred to China, especially those technologies with the potential to improve Chinese military capabilities that could be used against Taiwan in a possible future conflict.

Editor's Note: In Taiwan, exports are controlled and regulated by the MOEA, which enforces export controls in conjunction with the Foreign Trade Act. The Foreign Trade Act was first promulgated in 1993, and further amended throughout the 1990s. Under the Foreign Trade Act, Iran, Iraq, Libya, North Korea, and all countries under UN embargo are listed as restricted destinations for exports. Exports to China are also scrutinized and special export licenses are required for the transfer of any controlled item, as well as the provision of an end-user statement that identifies the end-user and the item's intended use. The BOFT reviews applications for the exports of controlled items, after which the bureau issues Individual Export Permits (IEP). In accordance with Taiwan's Comprehensive Export Control on Strategic High-Tech Commodities, Taiwanese control lists adhere to the Wassenaar Arrangement, the Missile Technology Control Regime (MTCR), the Australia Group, and the Nuclear Suppliers Group (NSG).[8,9] The export of machine tools is tightly controlled by NSG guidelines, and controls are based on precision standards and capability.[10,11]

China has worked to block Taiwanese participation in nearly all international organizations, including international nonproliferation regimes. Taiwan is not eligible to join multilateral agreements, such as arms control and nonproliferation treaties and multilateral export control regimes. Taiwanese officials have argued that this has made developing and maintaining an export control system difficult. At the same time, since the majority of the global community does not recognize Taiwan as a sovereign state, it is heavily dependent on its trade, particularly in high technology, to maintain some standing internationally. These pressures have often contributed to weaknesses in Taiwan's export control system. In the 1980s, the United States began to pressure Taiwan to improve its export control system, particularly on items with potential military and weapons applications.[12]

Sources: [1] Shuto Hasegawa, "Japan: China Said to Divert Taiwan-Made Machine Tool into Military Use," *Sankei Shimbun*, April 12, 2006; in FBIS Document JPP20060412038001. [2] "Lathe," Wikipedia online encyclopedia, <http://en.wikipedia.org/wiki/Lathe_%28tool%29>; see also "Lathes," Department of Mechanical Engineering at the Massachusetts Institute of Technology website, <<http://www-me.mit.edu/lectures/machinetools/lathe/intro.html>>. [3] Sofia Wu, "MOEA Checks Report about Sensitive Machine Tool Export to China," Central News Agency (Taiwan), April 13, 2006, <<http://english.www.gov.tw>>. [4] Elisa Kao, "MOEA Finds No Case Involving Suspicious High-Tech Exports to China," Central News Agency (Taiwan), April 15, 2006, <<http://english.www.gov.tw>>. [5] Max Hirsch, "BOFT Says Controls on Exports of Sensitive Technology Not Foolproof," *Taipei Times*, April 18, 2006; in FBIS Document CPP20060418968024. [6] Han Nai-Kuo, "BOFT Concerned About Taiwan's Machine Tool Exports to China," Central News Agency (Taiwan), April 13, 2006, <<http://english.mof.gov.tw>>. [7] Max Hirsch, "Chinese Military is Using Taiwan Tools for Weapons: Report," *Taipei Times* online edition, April 14, 2006, <<http://www.taipeitimes.com>>. [8] Richard T. Cupitt and Morgan Flo, "Export Controls in Taiwan (ROC)" [report last modified on-line on October 12, 2004], University of Georgia's Center for International Trade and Security, <http://www.uga.edu/cits/documents/html/nat_eval_taiwan.htm>. [9] Lin Mei-Chun, "BOFT: Fostering Foreign Trade," *Taiwan Business Topics*, August 2003, American Chamber of Commerce in Taipei website, <http://www.amcham.com.tw/publication_ta.php>. [10] "Comprehensive Export Control on Strategic High-Tech Commodities," Bureau of Foreign Trade (BOFT) website, revised on December 13, 2003, <<http://eweb.trade.gov.tw/kmDoit.asp?CAT459&CtNode=640>>. [11] "Communications Received From Certain Member States Regarding Guidelines For Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software, and Related Technology," INFIRC/254/Rev.5/Part 2, International Atomic Energy Agency website, May 16, 2003, <<http://www.iaea.org/Publications/Documents/Infircs/2003/infirc254r5p2.pdf>>. [12] Mark Wuebbels, Patrick Heiman, "Growing Pains: An Overview of Taiwan's Export Control System," *Asian Export Control Observer*, February/March 2005, pp. 11-16, <<http://cns.miis.edu/pubs/observer/asian/index.htm>>.

Four Charged with Conspiracy to Export Arms to Indonesia

On April 9, 2006, U.S. authorities arrested seven individuals in Hawaii for attempting to purchase and illegally export to Indonesia 245 Sidewinder air-to-air missiles, 800 Heckler and Koch (H&K) 9mm handguns, 882 H&K MP5 submachine guns, and 16 H&K sniper rifles. Many of those arrested were completing a licensed transaction for the export of APQ-159 radar equipment to the Indonesian Air Force while negotiating the purchase and export of the items listed above. Since the Sidewinder missiles were presumably destined for the

Indonesian National Defense Forces and the companies and private individuals involved in procuring them were the same ones engaged in legal purchases for the air force, the arrests raised concerns about the Indonesian military's potential involvement with an effort to illegally export U.S. weapons.

The seven arrested were identified as Ibrahim Bin Amran of Singapore; Hadianto Djoko Djuliarso of Indonesia; Ignatius Ferdinandus Soeharli and his wife Awliyah Mauliadiyah, both from Indonesia; David Beecroft, a British citizen residing in Singapore; and two Indonesian Air Force officials identified as Lt. Col. Hadi Suwito and Lt. Col. Edi Supriyanto. Djuliarso is president of PT Ataru Indonesia, one of a number of small military suppliers working with Indonesia's Defense Ministry and Air Force.[1] Djuliarso and Amran, a broker for PT Ataru, also operate three other companies conducting business in Indonesia and Singapore: Indodial Pte. Ltd., PBJV Global, and Eaststar Logistics.[2]

According to news reports, in March 2005, an employee of Indodial contacted Detroit-based Orchard Logistics Service to buy radar-related spare parts for military aircraft and, in June 2005, Indodial official Amran met with representatives of Orchard Logistics Service in London. A month later, in July 2005, Amran allegedly also requested separate quotes from Orchard Logistics Service for Sidewinder missiles and strafing ammunition.

The March 2005 request for the radar parts was apparently in preparation for a deal with the Indonesian Air Force, which awarded a procurement contract to PT Ataru in September 2005 for radar spare parts for F-5 Tiger jet fighters and C-130 Hercules helicopters. The procurement of these products was arranged through Orchard Logistics Service, and the proper U.S. export licenses were obtained. As the discussions over the radar parts proceeded, Amran and Djuliarso conducted negotiations with Orchard on the Sidewinders and various small arms, but—in contrast to the radar parts—the PT Ataru representatives stressed to Orchard Logistics Service the need to keep these transactions secret and *not* to seek export licenses for them. The order for the Sidewinder missiles and small arms was placed by Amran on January 5, 2006.

US\$447,000 was transferred to a Detroit bank account to fund the purchase of the radar parts, and Djuliarso and Amran finalized discussions with Orchard Logistics Service to transfer an additional US\$3.3 million for the unlicensed purchases.[2,3,4,5,6] According to media reports, Orchard most likely alerted federal authorities about the pending deal. Undercover federal agents posing as Orchard representatives in Hawaii arrested the seven suspects.[3]

Three of the arrested suspects were eventually released; Mauliadiyah was released without charge, and the two Indonesian Air Force officials were deported without being

questioned, after it was determined that they were involved only with the licensed radar parts transaction.[7]

An indictment had been handed down on Amran and Djuliarso on April 4, 2006, in the Eastern District Federal Court of Michigan, five days prior to their arrest in Hawaii. Amran and Djuliarso were charged with conspiracy, money laundering, and violation of the U.S. Arms Export Control Act (AEA). David Beecroft and Ignatius Ferdinandus Soeharli have been accused of playing various roles assisting Djuliarso and Amran in the illegal transaction. Soeharli allegedly provided the cash for the purchases, while Beecroft, who works with PBJV Global as a freelance salesperson, was to help arrange the shipments to Indonesia through Singapore. Soeharli and Beecroft have been charged separately with conspiring to violate the AEA. All four were charged in federal court in Hawaii, on April 13, 2006, and have since been transferred to Detroit to stand trial. If found guilty on all charges, Djuliarso and Amran face maximum penalties of 35 years in prison and fines of up to US\$1.5 million. Soeharli and Beecroft face up to 5 years in prison and US\$250,000 in fines.[4,6]

The arrests came less than six months after Washington completely removed restrictions on military sales to Indonesia. Military cooperation between the United States and Indonesia was first restricted in 1991 due to Indonesian human rights abuses in East Timor. [*Editor's Note: On November 12, 1991, Indonesian soldiers allegedly killed hundreds of unarmed mourners at a funeral for a student activist in Dili, East Timor. This incident was called the Santa Cruz massacre and focused international attention on Indonesia's occupation of East Timor.*][8] In 1999, the United States cut military ties with Indonesia and imposed an arms ban after additional reported abuses by the Indonesian military in East Timor. This forced the grounding of many of Indonesia's U.S.-produced F-5 Tiger and F-16 fighter jets.

The European Union dropped a similar ban in 2000, after international peacekeeping forces brought the violence in East Timor to an end. This allowed the Indonesian military to buy some parts through alternate suppliers in the Netherlands and other European countries.[6] In May 2002, East Timor was internationally recognized as an independent state. In February 2005, in recognition of Indonesia's assistance against Islamic extremists, the United States resumed military training of Indonesian personnel and, in May 2005, relaxed the ban on sales of non-lethal equipment to the country. The remaining ban on transfers of lethal equipment was lifted on November 22, 2005.[9]

The Indonesian National Defense Forces (commonly referred to as TNI, short for Tentara Nasional Indonesia) has tried to distance itself from those arrested in Hawaii and has argued that the radar-related procurement was legal, as the items were non-lethal and the contract for the procurement was made after the partial lifting of the U.S. arms embargo on Indonesia in

May 2005.[1,7,10] Despite the claims by Indonesian officials, the case has raised concerns about TNI's methods of procuring military items and its relationships with suspect suppliers.

PT Ataru and TNI have had an on-going procurement relationship. According to Indonesian military officials, PT Ataru was granted 15 arms procurement deals in 2004 to supply spare parts to the Indonesian Air Force for British-made OV-10 Bronco fighters.[7] In a statement released by Hoedaifah Koeddah, a relative of Djuliarso, the Indonesian military is reportedly PT Ataru's sole customer and all items purchased by the company (including the restricted Sidewinders and small arms) would have been destined for TNI end-users. Indodial and Eaststar Logistic—two of PT Ataru's Singapore-based subsidiaries—were reportedly set-up to help the Indonesian military maneuver around the U.S. embargo.[1] According to an unnamed source familiar with the arms industry, quoted in the Indonesian press, Djuliarso most likely received insider information about future arms procurement plans of TNI. His attempt to acquire the items in addition to the radar spare parts were therefore intended to secure weapons for PT Ataru's inventory to support future sales to the Indonesian military. Military officials recently verified that with the complete lifting of the U.S. arms ban in November 2005, the Indonesian Air Force intends to propose a purchase of Sidewinders in 2007.[6] It is not clear why PT Ataru might have sought to by-pass U.S. export controls when it placed its order for the Sidewinders and other lethal arms with Orchard Logistics Service in January 2006, since by that time, U.S. law no longer prohibited such exports.

TNI has denied any involvement in the unlicensed Sidewinder and small arms deal. On April 17, 2006, Defense Minister Sudarsono accused the companies involved of exploiting TNI by ordering arms that the military had never requested.[10,11] An April 18, 2006 article in the Indonesian weekly *Tempo* portrayed the Indonesian military as disavowing responsibility for the procurement practices of its suppliers, quoting the head of the Indonesian Air Force's information agency, Brigadier General Sagoem Tamboen, as stating that it is not the business of the military how its suppliers procure items for TNI.[5] However, in order to prevent similar embarrassments in the future, the Indonesian Ministry of Defense recently pledged to improve transparency and accountability in arms procurement by awarding all military supply contracts through public tenders and barring TNI chiefs from being involved in the selection of suppliers.[12]

Sources: [1] "Indonesia: Weapons Were Ordered for TNI: Purchasing Agent," *Jakarta Post*, April 20, 2006; in FBIS Document SEP20060420111005. [2] David Ashenfelter, "4 Held in Plot to Ship Weapons," *Detroit Free Press*, April 12, 2006; in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [3] Ansley Ng, "Singaporean Arrested in US Over \$4.8m Arms Deal," *Channel NewsAsia*, April 13, 2006, <<http://www.channelnewsasia.com>>. [4] Debra Barayuga, "Arms-Deal Case a Mix-up, Attorney Says," *Star Bulletin* (Honolulu) online edition, April 15, 2006, <<http://starbulletin.com>>. [5] Budi Setyarso, Purwanto, Wahyu Dhyatmika, "Hawaii Beach Ending," *Tempo*, April 18, 2006; in FBIS Document SEP20060419112001. [6] "Indonesia: TNI Implicated in Bungled

Weapons Deal, Govt Denies Any Involvement,” *Tempo*, April 25, 2006; in FBIS Document SEP20060427112002. [7] “Ataru Indonesia, Weapons Shopping in a ‘Gray Market,’” *Jakarta Post* online edition, May 03, 2006, <<http://www.thejakartapost.com>>. [8] Richard Lloyd Parry, “US Resumes Arms Trading With Islam’s ‘Voice of Moderation,’” *The Times* (U.K.), November 24, 2005; in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [9] Glenn Kessler, “Military Ties to Indonesia Resume Too Soon for Some,” *Washington Post*, November 23, 2005; in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [10] “Indonesian Defence Force Partners to be Blacklisted Over Illegal Arms Deal,” *Antara News*, April 17, 2006; in FBIS Document SEP20060418111003. [11] “Arms Plot Alleged Here Brings Denial in Jakarta,” *Associated Press*, April 16, 2006; in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [12] “Jakarta Fights Graft in Weapons Contract; Military Chiefs Can No Longer be Involved in Arms Purchases,” *Straits Times*, May 15, 2006; in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>.

Four New Jersey Residents Sentenced for Illegal Exports to China

Four naturalized U.S. citizens were sentenced in Newark, New Jersey on May 1, 2006, for violating the U.S. Arms Export Control Act (AEA) and Export Administration Act (EAA) by illegally exporting sensitive electronic equipment to state-run agencies in China and lying on U.S. customs forms.[1] The four, owner-operators of Manten Electronics Inc. located in Mount Laurel, New Jersey, were originally arrested in July 2004, together with three executives from Universal Technology, Inc. (UTI)—another Mount Laurel-based firm. UTI officials were also accused of illegally exporting controlled items to state-sponsored institutions in China in violation of the EAA and AEA. The case against the three UTI executives is still pending.[2] *[Editor’s Note: For more background on the arrests, see “Seven Arrested for Illegal Transfers of Weapons to China,” Asian Export Control Observer, August/September 2004, p. 7, <<http://www.cns.miis.edu/pubs/observer/asian/index.htm>>.]*

The four Manten executives pled guilty to U.S. government charges in September 2005.[3] Manten, an electronics supply company, was closed soon after the arrest of its executives. The convicted include: Xu Weibo (Kevin Xu), former president of the company, sentenced to 44 months in prison; his wife, Xiu Ling Chen (Linda Chen), former purchasing agent, sentenced to 18 months in prison; her brother, Hao Li Chen (Ali Chen), former vice president, sentenced to 30 months in prison; and Chen’s wife, Kwan Chun Chan (Jenny Chan), former controller, sentenced to 6 months of house arrest.[1,3,4]

According to U.S. investigators, the New Jersey company worked closely with an unidentified broker who was a known supplier to Chinese government-run entities. From the end of 2003 until their arrest in 2004, the convicted executives sent at least 15 illegal shipments to entities in China. The total value of these shipments exceeded US\$300,000. Manten executives would receive an order for controlled items from an entity in China and obtain the products from various U.S. companies without disclosing that the items were to be exported to China.

They then shipped the items to China without the relevant licenses and used false shipping declarations to hide the illegal nature of the shipment.[5]

In at least one instance, Manten’s broker requested that the company procure gallium arsenide monolithic microwave integrated circuit (GaAs MMIC) amplifiers, which are dual-use items controlled by U.S. Export Administration Regulations (EAR) and can be used for military aircraft and guidance. According to the indictment against the four Manten executives, the specific GaAs MMICs requested in this instance were models MAAM71100 and MAAM7120, which are manufactured by Massachusetts-based M/A-COM, a subsidiary of Tyco Electronics. These models can be used for wireless communications, such as cell phones and wireless personal data assistants (PDAs), but are also important elements “in radar systems, especially fighter aircraft and reconnaissance radar systems.”[3] According to the EAR, the export of the GaAs MMICs to China required a license from the U.S. Department of Commerce.[5]

In October 2003, after receiving a request from the broker, Linda Chen faxed a distributor of the MMICs amplifiers located in Idaho to inquire about the cost of the models in question. The Idaho distributor replied to the Manten request and later sent an export declaration form, requesting end-user information and noting at the same time that the items were controlled and would therefore require a license if exported. According to court records, in response to the email from the distributor, the broker working with Xu told him to falsify the end destination so as to avoid the licensing requirement. As a result, Xu declared that the end-user was “GMC”—a shell company set up by Manten to cover their illegal exports. Manten used the cover of GMC 12 times in order to avoid licensing requirements for items being sent to China.[5]

In total, Manten arranged the purchase of more than US\$300,000 worth of weapons-related electronics for government research institutes in China. Although the other items Manten exported were not specifically identified in publicly available court documents, all were controlled either by the Department of Commerce under the EAR or by the Department of State under the International Trafficking in Arms Regulations (ITAR), according to U.S. prosecutors. The criminal complaint against the four executives identified the ultimate recipients of the items as two research institutes under the China Electronics Technology Group Corporation, a unit of the Chinese Ministry of Information Industry. The two institutes were the 20th Research Institute, also known as the Xi’an Research Institute of Navigation Technology and the 41st Research Institute in Bengbu, Anhui Province, which reportedly develops military amplifiers and testing devices for military instruments. The U.S. government suspects both institutions of being part of China’s WMD and missile programs.[5]

Sources: [1] "Four Owners/Operators of Mount Laurel Company Sentenced for Illegally Selling National-Security Sensitive Items to Chinese Interests," U.S. Department of Justice (DOJ) News Release, May 1, 2006, Federal Bureau of Investigation (FBI) Newark Division website, <<http://newark.fbi.gov/dojpressrel/2006/nk050106.htm>> [2] "Major Cases List," April 2006, U.S. Department of Commerce, Bureau of Industry and Security (BIS) Export Enforcement, p. 8, <<http://www.bis.doc.gov/ComplianceAndEnforcement/Majorcaselist.pdf>>. [3] "Four Owners/Operators of New Jersey Company Admit Illegally Selling National-Security Sensitive Items to Chinese Interests," DOJ News Release, September, 13, 2005, <http://www.usdoj.gov/usao/nj/publicaffairs/NJ_Press/files/mant0913_r.htm>. [4] "Four sentenced for illegal sale of electronics gear to China," Associated Press State & Local Wire, May 1, 2006; in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [5] United States District Court, District of New Jersey, "Criminal Complaint: United States of America v. Xu Weibo a/k/a Kevin Xu; Xiu Ling Chen a/k/a Linda Chen; Hao Li Chen a/k/a Ali Chan; Kwan Chun Chan a/k/a Jenny Chan," June 30, 2004, DOJ website, <http://www.usdoj.gov/usao/nj/publicaffairs/NJ_Press/files/pdffiles/Mantenco_mplaint.pdf>.

Radioactive Metals Missing in China's Anhui Province

On the morning of April 15, 2006, two radioactive sources were reported missing from the Wantong Cement Factory, in Suzhou City's Fuli Township, in China's Anhui Province. The incident was made public later that evening by officials from Fuli Township, who told reporters that the missing sources contain cesium-137.[1] The incident was reported to the provincial public security and environment protection bureaus. Special task forces at both the provincial and the Suzhou municipal levels were formed to investigate the incident.

Editor's Note: None of the available sources specified what the cesium was used for in the Wantong plant; however, cesium-137 is commonly used in a wide variety of industrial instruments, such as moisture density gauges (items used in the construction industry) and level and thickness gauges. Many gauges in these categories use very small quantities of cesium, insufficient for the manufacture of a powerful radiological dispersal device, or "dirty bomb," but some instruments use larger quantities, which, if obtained by terrorists, could be used in the construction of such devices.

The Anhui provincial government offered a 5,000 yuan (US\$624) reward to anyone who could provide clues regarding the whereabouts of these materials. The provincial government also warned residents via radio and television about the hazardous nature of cesium. Authorities warned that the materials can cause serious damage to people's health, noting that if touched or placed near a person's body for a prolonged period, the radiation from the materials could cause skin discoloration, genetic damage which can affect pregnancies, as well as skin cancer or leukemia.[1,2]

According to Chinese official estimates, radioisotopes such as these are lost or stolen approximately 30 times per year in China.[3]

Editor's Note: Suzhou City in Anhui Province is different from the better known city of Suzhou, which is in Jiangsu Province. Although the romanized names of both cities are the same, their characters are different in Chinese. Anhui's Suzhou is in the northeast of the province. It is a prefecture-level city consisting of five counties and 118 townships. It borders Jiangsu Province and has a population of approximately 6 million.[3]

Sources: [1] "Sùzhōu yī shùini chāng liǎng fāngshè yuán shīzhōng duì réntī wēihài jùdà" (A Suzhou cement factory loses two radioactive sources, could be very harmful to the human body), *People's Daily* online edition, April 15, 2006, <<http://ah.people.com.cn>>. [2] "5,000 Yuan for Lost Radioactive Materials," *Shanghai Daily* online edition, April 17, 2006, <<http://www.shanghaidaily.com>>. [3] "Suzhou, Anhui," Wikipedia, online encyclopedia, <http://en.wikipedia.org/wiki/Suzhou,_Anhui>.

Review of Incidents Involving Radioactive Materials in Russia

In February-April 2006, several incidents with radioactive sources took place in Russia. The following article is a summary of these incidents.

According to Russian media reports from February 27, 2006, a Mercedes Benz truck attempting to enter Russia was detained at the Port of St. Petersburg when its driver was passing through the port checkpoint. A radiation detector installed at the checkpoint sounded an alarm indicating that the truck's cargo was emitting radiation. The amount of radiation was not clear from available media reports: according to one source, radiation was three times higher than the natural background level of 0.1 microsievert per hour; however another source claims that radiation was equal to 30 microsieverts per hour. [Editor's Note: "Background radiation" refers to radiation from naturally occurring sources.] A subsequent examination of the truck by port officials revealed a piece of equipment that contained an unspecified radioactive source. Since the cargo's owner presented no documents permitting the import or use of the equipment, the authorities impounded the truck and its cargo.[1,2] The media reports on this incident do not identify the cargo's owner nor its country of origin.

On the same day, the Russian media reported a similar incident near Pskov, a city located 250 km southwest of St. Petersburg. Pskov customs officers detained a Volvo truck loaded with a large piece of equipment containing a radioactive source that emitted an unspecified amount of radiation. The truck and its cargo were placed at a special storage site for further examination.[2] Available reports did not provide any other details of the incident. On March 6, 2006, Pskov Customs officers at the Shumilkino checkpoint discovered another radioactive cargo during the inspection of a truck arriving from Poland. Radiation from the cargo—more than 20 tons of potassium hydroxide—was almost three times higher than the maximum exposure level considered safe under Russian regulations. According to the truck driver, a Polish national, the cargo was intended for a private company

in St. Petersburg, however media reports did not provide any other information on those involved in the incident.[3]

In a separate development, on March 24, 2006, radioactive scrap metal was discovered at the Marine Fishery Port of Vladivostok. Specialists from Primatekhnopolis, a local company responsible for radiation safety, examined the radioactive cargo and removed a source of radiation which turned out to be a fast neutron source, 30 mm to 20 mm in size. Radiation on the surface of the source was 14,000 microroentgen per hour. According to media reports, the source did not cause human casualties or radioactive contamination of the adjacent area. Local authorities launched an investigation into the incident.[4,5] *[Editor's Note: With regards to gamma and beta emitters, levels of sieverts and roentgens are essentially equivalent and can be used interchangeably. Sievert measures the dose equivalent, i.e. the effective radiation dose on living tissue, whereas roentgen or rad measures the dose or radiation energy deposited in a material, whether living or not.]*

Another radioactive source was discovered on March 29, 2006, in Barnaul, Russia's Altay Kray, at the site of the Barnaul Second Thermal Power Plant (TETs-2). The detected source turned out to be a container marked with a radioactivity sign and labeled as "iridium, 12 curie, 1977, weight 7 kg." Media reports indicated that radiation levels around the container were "relatively low"—not exceeding the background level at a meter's distance from the item. Further examination of the item by representatives from the local departments of the ministries of Emergency Situations and Internal Affairs and the Federal Security Service established that the radioactive container was part of the Stapel-5M gamma radiography device known as "defectoscope" that uses iridium-192 for the non-destructive testing of the quality of welding seams and foundry products. According to TETs-2's director of safety and security issues, Mikhail Molostov, the plant does not use equipment containing such sources; law enforcement authorities have therefore launched an investigation into how the device ended up at the TETs-2 area.[6,7] *[Editor's Note: Iridium is a dense, very hard, brittle, silvery-white transition metal of the platinum family. It is used in high strength alloys that can withstand high temperatures and occurs in natural alloys with platinum or osmium. Iridium is known for being the most corrosion resistant element.[8] One of its radioisotopes, iridium-192, is of high security concern. Very small amounts (much less than one gram) can be injurious and could serve as the radioactive component of a radiation dispersal device.]*

As reported by Russia's Baltic Customs press service, in mid-April 2006, Baltic Customs officers at the Port of St. Petersburg detained a minivan ferried from Germany after high radioactivity was detected in its cargo. During the inspection of the cargo, customs officers discovered a metal box marked with a radioactivity sign. Radiation from the box

exceeded background levels by almost 100 times. The unspecified radioactive equipment was not declared in customs documents that accompanied the cargo. In accordance with Russian regulations, the cargo was sent back to Germany where it was seized by German customs authorities in the Port of Kukshafen. The German customs officials admitted that the cargo was sent to Russia in violation of German foreign trade regulations. According to press reports, the German customs service launched an investigation into the incident.[9]

Sources: [1] "'Mercedes-Bents' s istochnikom radioaktivnogo izlucheniya byl zaderzhan v Morskom portu Peterburga" (Mercedes Benz with a radioactive source detained at the Seaport of St. Petersburg), Agentstvo Biznes Novostey (Business News Agency, St. Petersburg), February 27, 2006, <<http://www.abnews.ru>>. [2] "Avtomobili s radiatsiey proryvalis s dvukh tamozhennykh postov" (Radioactive cars tried to break through two customs posts), Fontanka.ru (St. Petersburg online newspaper), February 27, 2006, <<http://www.fontanka.ru>>. [3] Olga Vtorova, "Na Pskovskoy tamozhne zaderzhan polskiy gruzovik s radioaktivnym gruzom" (A Polish truck with radioactive cargo detained at the Pskov Customs), RIA Novosti, March 6, 2006, <<http://www.rian.ru>>. [4] "Likvidirovana radiatsionnaya avariya" (A radiation incident has been resolved), Primatekhnopolis website, March 24, 2006, <<http://www.primatekhnopolis.ru>>. [5] Veronika Perminova, "V portu Vladivostoka obezvrezhen istochnik neytronnogo izlucheniya" (A neutron source neutralized in the port of Vladivostok), RIA Novosti, March 27, 2006, <<http://www.rian.ru>>. [6] "V zone vosstanovitelnykh rabot na Barnaulskoy TETs-2 nayden istochnik radioaktivnogo izlucheniya" (A radioactive source discovered at the reconstruction site of the Barnaul TETs-2), Bankfax (Altay Kray information website), March 30, 2006, <<http://www.bankfax.ru>>. [7] Yana Ryabinskaya, "Radioaktivnyy konteyner v Barnaule – fragment izmeritelnogo pribora" (A radioactive container in Barnaul is part of a measuring device), RIA Novosti, March 30, 2006, <<http://www.rian.ru>>. [8] "Iridium," Wikipedia, online encyclopedia, <<http://en.wikipedia.org/wiki/Iridium>>. [9] "Tamozhennaya sluzhba Germanii poblagodarila rossiyskikh tamozhennikov za sotrudnichestvo, professionalnyye i operativnyye deystviya" (Germany's Customs Service thanked Russian customs officers for cooperation, professional and effective actions), SeverInform News Agency, May 6, 2006, <<http://www.severinform.ru>>.

International Assistance Programs

United States and Kazakhstan Sign Second Line of Defense Agreement

On May 5, 2006, U.S. Ambassador to Kazakhstan John Ordway and chairman of the Customs Control Committee (CCC) under the Ministry of Finance of Kazakhstan Askar Shakirov signed a bilateral Implementing Arrangement to create a partnership under the U.S. Second Line of Defense (SLD) program. Under the agreement, the U.S. Department of Energy's (DOE) National Nuclear Security Administration (NNSA), which manages the SLD program, will cooperate with the CCC to install radiation detection and integrated communications equipment at strategic border crossings along Kazakhstan's borders. The equipment will help identify, detect, deter, and interdict illicit transfers of nuclear or radiological materials. NNSA and Kazakhstani officials will also work together to train local law enforcement officials in the use of the detection and communications equipment to be

provided under the SLD agreement.[1,2] The available open sources do not specify which border crossings in Kazakhstan will be equipped with radiation detection equipment.

Editor's Note: SLD activities in Kazakhstan began as early as in 2002, though no implementing bilateral agreement was signed at that time. From 2002 to early 2004, the DOE sent several expert teams to conduct site assessments of more than 20 customs posts and border crossings in Kazakhstan with assistance from the U.S. Department of State-administered Export Control and Related Border Security (EXBS) program.[3] In August 2002, the SLD program in cooperation with U.S. Customs and the U.S. Embassy in Kazakhstan organized a five-day training course for customs officers at the Zhibek Zholy customs post on the Kazakhstani-Uzbek border. In December 2002, a large group of customs officials and cadets from the Kazakhstani Financial Police Academy attended a training course in the United States on combating smuggling of nuclear and radioactive materials. This course was also organized under the SLD program.[4] Interviews conducted by CNS staff with Kazakhstani officials in Astana in mid-February 2006 indicated that the signing of the SLD Implementing Arrangement was delayed by Kazakhstan due to the need to conduct an interagency review of the agreement and designate a government agency to sign it.

As stated by U.S. Secretary of Energy Samuel Bodman in a DOE press release, “establishing strong border security partnerships with willing partners such as Kazakhstan [is] critical to preventing the smuggling of nuclear and other radioactive materials. The U.S. and Kazakhstan share a strong commitment to keeping nuclear weapons beyond the reach of terrorists.”[1,2]

Editor's Note: The SLD program is a U.S. initiative that uses detection and deterrence to minimize the risk of nuclear proliferation, illegal trafficking, and terrorism. SLD focuses on preventing illicit trafficking of nuclear and other radioactive materials through major railways, airports, seaports, and other state entry and exit points in Russia and, starting 2002, in other key transit states, such as Kazakhstan and Ukraine. SLD installs and maintains radiation detection equipment, and provides training to officials in the use of the equipment. SLD is also responsible for the worldwide maintenance of portal monitors and X-ray vans provided through assistance programs sponsored by the U.S. Department of State. In addition, SLD supports the U.S. Customs and Border Protection in its Container Security Initiative, which promotes shipping container security in major foreign ports that account for the vast majority of shipments coming into U.S. ports. Further information on the SLD program is available at <http://www.nti.org/e_research/cnwm/interdicting/second.asp>.

Sources: [1] “U.S. Works With Kazakhstan to Stop Nuclear and Radioactive Material Smuggling,” U.S. Department of Energy Press Release, May 6, 2006, U.S. Department of Energy website, <<http://www.doe.gov/news/3628.htm>>.

[2] “U.S., Kazakhstan Sign Radiation Detection Agreement,” Global Security

Newswire, May 9, 2006, Nuclear Threat Initiative website, <<http://www.nti.org>>. [3] CNS email communication with U.S. Embassy in Kazakhstan officials, May 13, 2006. [4] “Second Line of Defense: Kazakhstani Customs Officers Receive Training,” *NIS Export Control Observer*, March 2003, p. 7, <<http://www.cns.mti.edu/pubs/nisexcon/index.htm>>.

Border Guards Training Center Opens in Yerevan, Armenia

On March 22, 2006, during a ceremony celebrating the opening of a renovated border guard training center in Yerevan, U.S. Ambassador to Armenia John M. Evans officially transferred the facility to the commander of the Border Guard Service of Armenia, Colonel Armen Abramyan. The renovation of the facility cost a total of US\$214,000, and was co-funded by the U.S. Embassy's International Narcotics and Law Enforcement Affairs Office (US\$130,000) and by the U.S. Department of State's Export Control and Related Border Security Assistance Program (US\$84,000).[1,2,3,4]

The renovated facility will provide basic training for new recruits, advanced training on legislative and structural changes, and instruction on the use of new equipment for border guards. The center had been partially operational before its renovation was officially finished and it hosted training sessions for border guards after renovations on one section of the building were completed. [1,2,3,4]

Speaking at the ceremony, Ambassador Evans emphasized that the opening of the renovated center was an important milestone in ensuring the reliable protection of Armenia's borders, preventing illegal transport of dangerous cargoes and other smuggling and trafficking activities. In his remarks at the ceremony, Colonel Abramyan stated that the U.S. government had been assisting Armenian border guards with transportation, customs inspection tools, radio communications, and computer equipment since December 2001. Colonel Abramyan further noted that several groups of Armenian border guards will be partially replacing the Russian border guards at the Zvartnots international airport—Armenia's main airport located in Yerevan—after receiving a 1 to 2 month training session at the renovated center.[1,2,3,4]

Editor's Note: Under bilateral security cooperation and strategic partnership agreements between Armenia and Russia, Armenian and Russian border guards protect Armenia's borders with Turkey and Iran. Until recently, only Russian border guards served at the checkpoint named 'Armenia' at the Zvartnots airport. According to the head of the Russian Federal Security Service's Border Directorate in Armenia, Lieutenant General Sergey Bondarev, Armenian and Russian border guards started to serve jointly at Zvartnots airport as early as January 2006.[1,2,3,4]

Sources: [1] “Border Guard Training Center Opened in Yerevan,” Independent Armenian ARMINFO News Agency, March 22, 2006, <<http://www.arminfo.am>>. [2] “US-Sponsored Border Guard Training Centre Opens in Armenia,” Mediamax news agency, March 22, 2006,

<<http://www.mediamax.am>>. [3] "Armenia to Partly Replace Russian Border Guards at its Main International Airport," Associated Press, March 22, 2006. [4] "Commander of RA Frontier Troops: Russian Frontier Guards to be Partially Replaced by Armenians in 'Zvartnots' Yerevan Airport," ARKA News Agency, March 23, 2006, <<http://www.arka.am>>.

International Suppliers Regimes

CWC Implementation: Recent Developments

The Organization for the Prohibition of Chemical Weapons (OPCW) and its member states have in recent months carried out a number of activities related to improving national implementation of the Chemical Weapons Convention (CWC). This article provides an overview of these developments.

OPCW Holds Challenge Inspection Exercise in Germany

On March 26-31, 2006, inspectors and verification experts from the OPCW Technical Secretariat participated in a mock challenge inspection exercise at a military airbase in Germany. The OPCW conducts and participates in challenge inspection exercises such as this one in order to maintain its readiness to respond quickly and effectively should a challenge request be submitted by any of the OPCW member states. This exercise was also aimed to test Germany's preparedness to receive a challenge inspection.

Editor's Note: Under Article IX (Consultations, Cooperation and Fact-Finding) of the CWC, each OPCW state party can request an on-site challenge inspection of any facility or location in the territory or in any other place under the jurisdiction or control of any other state party for the sole purpose of clarifying and resolving any questions concerning possible noncompliance with the CWC. Such a challenge inspection would be carried out by an inspection team designated by the OPCW Director General and in accordance with Part XI of the Verification Annex of the CWC. However, no challenge inspection has been requested by a state party since the entry into force of the CWC in April 1997.

The German challenge inspection exercise began on March 24, 2006, when a simulated request for a challenge inspection was delivered to the OPCW headquarters in The Hague, the Netherlands. The simulated request specified the Lagerlechfeld military airbase near Augsburg, Germany, as the inspection site. On March 25, 2006, Germany was officially notified of the simulated request, and on March 26, 15 international inspectors from the OPCW arrived in Munich, the point of entry for the simulation. On March 27, after receiving a pre-inspection briefing from the host country, the OPCW inspection team was granted access to the inspection area, which covered twelve square miles. OPCW inspectors carried out aerial reconnaissance by helicopter of the entire inspection area and deployed non-destructive testing

equipment, detection equipment, and a mobile laboratory to conduct analyses of swipe and soil samples. On March 29, OPCW Director-General Rogelio Pflirter and Ambassador Friedrich Gröning, Germany's Commissioner for Arms Control and Disarmament, visited the inspection area at the Lagerlechfeld airbase, where they were briefed and observed the inspection activities, including chemical analyses.[1]

OPCW Organizes Meeting of Legal Experts and Training Course for Customs Officials from the Caribbean Forum

In April 2006, the OPCW Technical Secretariat organized two events on the island nation of Saint Kitts and Nevis. These events aimed at assisting the 10 members of the Caribbean Forum on the CWC to improve their national implementation of the Convention. [Editor's Note: The CWC states parties that make up the Caribbean Forum on the CWC are: Antigua and Barbuda, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, and Trinidad and Tobago.]

On April 24-25, the OPCW sponsored a meeting of legal experts responsible for the development of CWC implementing legislation for the 10 Caribbean Forum states. Legal experts from the Bahamas (which has not yet joined the CWC) along with one expert from the secretariat of the Organization of the Eastern Caribbean States (OECS) also participated in this event. The main objective of this meeting was to provide direct bilateral technical assistance to each country in drafting the national legislative and administrative measures required to implement the CWC.

On April 27, 2006, the representatives from the ten Caribbean states parties and the Bahamas also participated in a training course on OPCW-related enforcement issues for customs officials. This course offered information and basic training on the legal and practical aspects of the export and transfer-related provisions of the CWC and how these provisions affect the work of Caribbean customs authorities. Furthermore, the participants are expected to share their newly acquired knowledge with their colleagues in national licensing and customs authorities, increasing the Caribbean governments' capacity to track transfers of scheduled chemicals and accurately report them to the OPCW.[2]

Tanzania, Haiti, Suriname, Yemen, and Niue Establish CWC National Authorities

On April 28, 2006 the OPCW announced that the governments of the United Republic of Tanzania, the Republic of Haiti, the Republic of Suriname, the Republic of Yemen, and the Pacific island nation of Niue had informed the Organization of the establishment of their respective National Authorities, which are responsible for coordinating national CWC implementation.[3,4,5,6,7] Tanzania, Haiti, and Suriname have established interim national authorities, whereas Yemen and Niue have established permanent national authorities.[3,4,5,6,7] [Editor's Note: An interim or

provisional national authority takes up responsibilities for implementing obligations under the CWC until the formal process of forming a national authority is complete and the national implementing legislation has been drafted and enacted by the national government.] The Tanzanian government created its interim national authority according to a National Action Plan, adopted during a training workshop on the implementation of Article VII (National Implementation Measures) that was held in the Tanzanian capital Dar es Salaam on February 13-15, 2006.[3] In Haiti, the Department of International Organizations under the Ministry of Foreign Affairs was designated to serve as country's interim national authority.[4] In Suriname, the Defense Strategic Planning and Training Department of the Ministry of Defense has been designated as the provisional national authority.[5] Niue's permanent national authority was established under the Premier's Department, within the Secretary of Government.[6] According to an OPCW press release, Yemen also established a permanent national authority, although the document did not identify the placement of the authority within the government.[7]

Editor's Note: Under Article VII, paragraph 4 of the CWC, each state party shall "designate or establish a National Authority to serve as the national focal point for effective liaison with the Organization and other States Parties." Thus, a CWC National Authority serves as the national focal point of communication between CWC member states, the national data collection point, and the facilitator of national implementation. A CWC National Authority is a crucial element in ensuring the effective implementation of CWC provisions within each state party's national jurisdiction. Some of the functions performed by a CWC National Authority include the following: submitting required declarations to the OPCW; communicating with the OPCW; facilitating OPCW inspections; responding to OPCW requests for assistance; protecting confidential information; monitoring and enforcing national compliance; and cooperating in the peaceful uses of chemistry.[1,2,3,4,5]

Sources: [1] "Germany Hosts OPCW Challenge Inspection Exercise," OPCW Press Release, April 6, 2006, OPCW website, <http://www.opcw.org/pressreleases/2006/PR17_2006.html>. [2] "Meeting of Legal Drafters and Training Course for Customs Officials of Member States of the Caribbean Forum Take Place in Saint Kitts and Nevis," OPCW Press Release, April 28, 2006, OPCW website, <http://www.opcw.org/pressreleases/2006/PR21_2006.html>. [3] "United Republic of Tanzania Establishes OPCW National Authority," OPCW Press Release, April 28, 2006, OPCW website, <http://www.opcw.org/pressreleases/2006/PR26_2006.html>. [4] "Haiti Establishes OPCW National Authority," OPCW Press Release, April 28, 2006, OPCW website, <http://www.opcw.org/pressreleases/2006/PR25_2006.html>. [5] "Suriname Establishes OPCW National Authority," OPCW Press Release, April 28, 2006, OPCW website, <http://www.opcw.org/pressreleases/2006/PR24_2006.html>. [6] "Niue Establishes OPCW National Authority," OPCW Press Release, April 28, 2006, OPCW website, <http://www.opcw.org/pressreleases/2006/PR22_2006.html>. [7] "Yemen Establishes OPCW National Authority," OPCW Press Release, April 28, 2006, OPCW website, <http://www.opcw.org/pressreleases/2006/PR23_2006.html>.

Embargo and Sanction Regimes

U.S. Department of Commerce Bureau of Industry and Security Releases Annual Report on Fiscal Year 2005 Activities

On April 5, 2006, the U.S. Department of Commerce Bureau of Industry and Security (BIS) released an annual report for fiscal year 2005, summarizing BIS activities and accomplishments in the period from October 1, 2004 to September 30, 2005. The BIS released the report pursuant to the annual reporting requirement set forth in Section 14 of the Export Administration Act of 1979 (EAA). [*Editor's Note: Since the EAA expired in 1990, successive U.S. presidents have issued annual executive orders under the International Emergency Economic Powers Act (IEEPA), extending the EAA and allowing the BIS to control dual-use exports thereby maintaining the U.S. export control system for these commodities.*] The 105-page document is thematically divided into seven chapters ranging from descriptions of U.S. export control policies to international cooperation programs and includes nine appendices. This article presents a brief overview of the most relevant sections of this report.

In the 2005 fiscal year, the BIS continued to pursue its stated mission of striking a balance between advancing U.S. national security, foreign policy, and economic interests on the one hand, and implementing an effective export control and treaty compliance system and sustaining the U.S. lead in strategic technologies on the other. In FY2005, the BIS processed 16,719 export license applications, worth approximately US\$36 billion, as compared to 15,534 in 2004, an increase of eight percent. In addition, export license applications were processed on average 14 percent faster than in 2004. Specifically, it took an average of 31 days to process an export license application in 2005. Of the export license applications received in FY2005, the BIS approved 14,100 applications, returned 2,380 applications without action, and denied 239 applications. Chinese entities were the largest end-users in approved licenses, as the BIS approved 1,303 licenses, worth more than US\$2.4 billion for them. Thirty-one percent of these licenses were for "deemed exports" intended to transfer know-how to Chinese nationals working in U.S. companies and universities.

Of the export license applications reviewed by the BIS in 2005, 165 cases were submitted to the interagency Operating Committee comprised of working-level export control officials, and, of these, only 15 were forwarded for additional consideration to the policy-level Advisory Committee on Export Control Policy (ACEP). [*Editor's Note: In accordance with Executive Order 12981 (Administration of Export Controls, December 5, 1995), the Operating Committee, which consists of representatives from the departments of Commerce, Defense, Energy, and State, convenes to resolve export license applications when there is a disagreement*

among these government agencies as to the appropriate licensing action. If the Operating Committee fails to resolve the disagreements, the export license application under review is submitted to the Advisory Committee on Export Control Policy. The ACEP consists of more senior, Assistant Secretary-level representatives from the departments of Defense, Energy, and State and is chaired by the Assistant Secretary of Commerce for Export Administration. The ACEP also includes advisors from the Joint Chiefs of Staff and the Nonproliferation Center of the Central Intelligence Agency, but these individuals are nonvoting members.] The average time for a decision for an escalated case was 64 days, which was within the 90-day time frame established under provisions of Executive Order 12981 for resolution of these applications.

In the area of end-use verification, the BIS conducted 761 end-use checks (EUCs) in 73 countries to verify proper end-use of targeted commodities exported by the United States. This included 256 pre-license checks, which are conducted *before* a transaction involving controlled U.S. goods or technical data takes place, to determine whether the intended overseas person or entity is a suitable party to receive such exports. The other 505 EUCs were post-shipment verifications, which aim to confirm whether exported goods were received by the party named on the license and whether goods are being used in accordance with the provisions embedded in the license. As a result of the EUCs carried out in FY2005, the BIS added six entities to the Unverified List (UVL). [Editor's Note: *The Unverified List includes names and countries of residence of foreign persons who have in the past been party to a transaction for which the BIS was unable to conduct an end-user check for reasons outside of the U.S. government's control. The inability of the BIS to conduct a check that would allow the agency to verify the bona fides of a potential end-user raises questions about the suitability of the entity for receiving controlled items. Any possible transaction with someone on the Unverified List should, according to the BIS, raise a "red flag,"—that is, should trigger added scrutiny—particularly if the transaction involves a controlled item. For the current version of the Unverified List (last updated November 2, 2005), go to <http://207.96.48.13/enforcement/unverifiedlist/unverified_parties.html>.]*

In terms of international export control cooperation and assistance programs, the BIS conducted 76 bilateral technical exchanges with 23 countries to help them develop and strengthen their national export control systems, as required by the UN Security Council Resolution 1540. The BIS held four international export control seminars—two in India, one in the Republic of Korea, and one in Singapore. In 2005 the BIS initiated the development of the Internal Control Program (ICP) software tool for Moldova and Turkey. [Editor's Note: *The ICP was created in 1998. The software provides companies with self-paced training, searchable databases, and templates for internal procedures that assist them to comply with their respective national export control systems.*

The BIS ICP software is already in use in the Czech Republic, Hungary, Kazakhstan, Poland, Romania, Russia, and Ukraine. ICP software is also being developed for Estonia, Latvia, Lithuania, Slovakia, and Slovenia.] Furthermore, in 2005 the BIS launched Product Identification Tool (PIT) programs in Bulgaria, Cyprus, Kazakhstan, and Turkey. [Editor's Note: *Developed in 2003, PIT is a software program designed to help prevent proliferation of weapons of mass destruction (WMD). It provides computer-based self-paced training and case studies on screening shipments at the border. It includes an extensive database of controlled items with photos. At present PIT is used in Russia and Ukraine.*]

In the area of domestic outreach to U.S. exporters, the BIS helped organize six Technical Advisory Committees, which elicited input from industry and academia regarding their perspectives on trends in technology and on the practicality and impact of U.S. export controls. The President's Export Council's Subcommittee on Export Administration held three meetings to discuss the impact of technological developments on existing U.S. and foreign export controls. The BIS held 45 domestic export control seminars in 17 states and 21 outreach programs tailored specifically for targeted industry sectors. 2005 also marked the preparations for the launch of Project Guardian by the BIS. Officially launched in 2006, Project Guardian focuses on specific goods and technologies sought by overseas proliferation networks. Through this program the BIS, via its export enforcement branch, maintains contacts with U.S. manufacturers and exporters of these goods and technologies. The primary objective is to keep them constantly informed about acquisition threats and to solicit cooperation in identifying and responding to suspicious foreign purchase requests. The BIS already conducted 15 Project Guardian outreach contacts in the first 30 days of the program.

In terms of export control enforcement, the BIS concluded 74 administrative cases and imposed US\$6.8 million in administrative penalties for various violations of dual-use export control laws. Thirty-one individuals and businesses were convicted of criminal violations of U.S. export laws, and the BIS imposed over US\$7.7 million in criminal fines in these cases. The uncovering of the smuggling ring led by Asher Karni and Humayun Khan is hailed in the BIS report as "among the most significant cases in Fiscal Year 2005." [Editor's Note: *This case was covered in detail in past issues of the Observer. See: Stephanie Lieggi, "The Case of Asher Karni and Humayun Khan" in the Special Report "The Globalization of Nuclear Smuggling: Methods Used by Two Pakistan-Based Networks," NIS Export Control Observer, May 2005, pp. 19-22, <<http://www.cns.mii.edu/pubs/nisexcon/index.htm>>.] Appendix D to the 2005 BIS report presents summaries of these criminal cases. The annex is essentially an updated version of another BIS document, "Major Cases List," which was released on May 6, 2005 and was the first publicly available compilation of proliferation-significant criminal cases. [Editor's Note: *The release of the**

“Major Cases List” was covered in the June 2005 issue of the Observer, see: “U.S. Department of Commerce Releases Major Cases List,” NIS Export Control Observer, June 2005, pp. 9-17, <<http://www.cns.miis.edu/pubs/nisexcon/index.htm>>.] The updates in Annex D include information from cases that were still pending when the “Major Cases List” was released in 2005. For instance, the names of the six employees of the Maine Biological Lab who sent unidentified toxins to Syria were withheld in the Major Cases List, but are given in the new document because their trials are over and they have been sentenced.[1]

Source: [1] “Bureau of Industry and Security Annual Report Fiscal Year 2005,” U.S. Department of Commerce Bureau of Industry and Security website, <http://www.bis.doc.gov/News/2006/annualReport/BIS_annualReportComplete05.pdf>.

Boeing Pays US\$15 Million Fine for “Blatant Disregard” of Licensing Requirements

On March 28, 2006, The Boeing Company—the leading manufacturer of commercial and military aircraft in the United States—signed an agreement with U.S. authorities that settled charges brought against it by the U.S. Department of State for violating U.S. export control laws. The agreement, announced on April 10, 2006, included a fine of US\$15 million for violations of the U.S. Arms Export Control Act (AEA). The fine was among the largest paid by a U.S. company for export control violations and was a result of Boeing’s disregard of numerous warnings from the Department of State’s Directorate of Defense Trade Controls (DDTC) about the export licensing requirements on products containing an embedded “gyrochip” controlled under the U.S. Munitions List (USML). The agreement also imposed increased oversight requirements for Boeing’s exports—including a requirement for an external auditor to monitor compliance—in large part due to Boeing’s conduct in this case and the U.S. government’s frustration with the pattern of export control violations by the company.[1,2]

Although the resulting fine was substantial, Boeing could have been liable for much tougher penalties. In July 2005, *The Seattle Times* reported the contents of a draft charge letter prepared by the Department of State, which accused Boeing of violating U.S. export control regulations 94 times between 2000 and 2003. According to the letter, Boeing showed “a blatant disregard for the authority of the Department” with regard to the export of controlled items on the Munitions List. Furthermore, it stated that Boeing employees intentionally made false statements on shipping documents when they declared that the exports did not require a license.[3,4,5] Under U.S. export control laws, the company could have been liable for up to US\$47 million in fines, since each of the 94 counts against Boeing had maximum penalties of US\$500,000. Boeing also faced a potential three-year ban from U.S. government contracts, which would have had devastating effects on the company, a major supplier for U.S. military and space programs.

The U.S. government’s case against Boeing centered on the export of aircraft containing flight recorders with the QRS-11 gyrochip, which, prior to 2004, was controlled as a military item under the jurisdiction of the International Traffic in Arms Regulations (ITAR) and included on the Munitions List. [Editor’s Note: *The QRS-11 was used in the U.S. military’s air-to-surface Maverick missile system, resulting in the item to be included on the USML in 1993.*][4] The Department of State, which under ITAR has the authority for licensing Munitions List items, informed Boeing as early as 2000 that the export of QRS-11 or products containing the gyrochip required authorization by the DDTC. Additionally, the supplier of the gyrochip—the French firm Thales—reportedly informed Boeing in 2000 that the chip required an export license.[1,3] [Editor’s Note: *The QRS-11 is produced by BEI Technologies of Sylmar, California, and works together with a chip made by the French company.*] In 2003, the DDTC became aware that—despite its numerous warnings—Boeing was making unlicensed exports of aircraft containing the QRS-11 gyrochip. The Department of State temporarily blocked the shipment of two aircraft to China with flight recorders containing the chip. Those aircraft were eventually delivered after President George W. Bush signed a waiver in September 2003 allowing the transfer to go through.[3]

According to Boeing’s own account, the company exported a total of 96 aircraft and 27 spare flight recorders containing the QRS-11 to various countries without the necessary authorizations from the Department of State. [Editor’s Note: *Boeing only faced charges in the shipment of 94 of the aircraft, since the remaining two were allowed by the September 2003 presidential waiver. There is no indication in available reports that Boeing faced charges in relation to the spare flight recorders it exported.*] These gyrochips “provide a three-dimensional positional reading, telling the pilot through the flight display the precise yaw, roll and pitch of the airplane.”[3] According to the QRS-11 specifications, the items can also be used to stabilize and control missiles, as well as for mid-course guidance.[6]

In what was considered by the Department of State to be evidence of a complete disregard for the legal authority granted to it under U.S. export control laws, Boeing executives stated in a letter dated August 2003 that at the time of the sales the company had determined that the Department of State did not have the relevant authority with regards to the exports, and therefore they determined that they were carrying out the transfer “in good faith based upon a well-founded legal opinion.” It was this attitude by Boeing executives that prompted U.S. investigators to take aggressive action against the company.[3]

Boeing’s decision to disregard the DDTC’s warnings on this matter was a result of the view of company executives that the QRS-11 should not have still been controlled by the Munitions List. In their opinion, the technology in question was

“unsophisticated” and easily obtainable. Boeing executives previously argued that entities looking to acquire this item—which costs less than US\$2,000—would likely not need to purchase a multimillion dollar aircraft in order to obtain it.[3,7] U.S. trade groups, such as the Aerospace Industries Association, siding with Boeing’s logic, have pointed to this case as typifying the problem of how slow U.S. export controls are in adapting to changing technology.[7]

On January 7, 2004, in some part due to discussions with Boeing over this case, the Department of State published a rule that allowed certain quartz rate sensors such as the QRS-11, which are only used in commercial standby instrument systems (CSIS), to be removed from ITAR jurisdiction. A Final Rule published on February 9, 2004, officially reduced the licensing requirement for the QRS-11 when intended solely for CSIS, placing the item instead under the less restrictive Commerce Control List, administered by the U.S. Department of Commerce.[8,9]

Despite the admission by the Department of State that the QRS-11 when intended solely for CSIS was not a militarily sensitive technology after all, Boeing’s intentional disregard of the authority of the DDTIC in this case, and the company’s deliberate falsification of shipping documents, led U.S. authorities to push for punitive action. In contrast to Boeing, other aviation companies faced with the same predicament regarding the QRS-11 chose to redesign products or replace the chip with another one not on the Munitions List. For instance, the U.S. aerospace firm Sikorsky Aircraft—part of United Technologies Corporation—reportedly replaced the QRS-11 chips, which had been embedded in its S-92 helicopter, in order to avoid the aircraft falling under State Department’s jurisdiction.[7]

Boeing’s recent history of export control violations also played heavily on the State Department’s determination to proceed with this case.[1] In 1998, Boeing was punished for unlicensed transfers of sensitive technologies—specifically technical data and defense items controlled by the Munitions List—to foreign partners in the company’s “Sea Launch” satellite program. These foreign entities included companies in Russia and the Ukraine.[10] In 2001, Boeing was punished for illegally providing information and technology controlled by ITAR to the Australian government in order to assure a deal for the purchase of Boeing’s Wedgetail 737 Airborne Early Warning and Control aircrafts.[11] Finally, in one of the more publicized cases, the U.S. government settled a case brought against Loral and Hughes Space and Communication company for illegally supplying Chinese companies with satellite related technology that could assist in China’s ballistic missile development. Boeing—which acquired Hughes after the infraction—had to pay a share of the US\$32 million fine in this case.[1]

As a result of these earlier cases against Boeing, the company has paid fines totaling US\$50 million and been subject to government-mandated oversight measures on the company’s compliance with U.S. export control rules. However, these earlier penalties appeared insufficient to alter Boeing’s attitude regarding export controls. In a candid internal evaluation of the corporate culture that allowed these violations to occur, Boeing’s then-general counsel Douglas Bain told company executives in January 2006 that as a result of all the company’s violations the “State Department’s view of Boeing is we just don’t get it” with regard to export controls. According to Bain, the biggest issue that Boeing currently faces is export control compliance and the perception that Boeing is a consistent violator, and therefore not to be trusted. Bain noted that the company “cannot afford another major scandal” and that it was up to top executives to avoid such an outcome.[12]

The ramifications of the QRS-11 case, as well as the other high profile violations, have already affected the way that Boeing is proceeding with large commercial projects—such as the current 787 aircraft program. The number of people working on export control compliance has increased dramatically over the last few years, and currently the 787 program has more than 100 personnel working to assure AEA and ITAR compliance. According to recent press reports on the 787 program, Boeing is taking steps to assure that the 787 is “ITAR-free”—that is, completely devoid of any item or technology that would place it under ITAR-related restrictions and licensing requirements.[13]

The most recent efforts by Boeing to improve export control compliance appear to be having some positive impact on the views of U.S. authorities. According to Department of State officials, the U.S. government chose to not impose the government contracts ban on Boeing specifically because the company appeared to understand the seriousness of its actions, expressed “regret for these activities” and was displaying a “willingness to make amends.”[1]

Sources: [1] Dominic Gates, “Boeing Pays \$15 Million Fine,” *Seattle Times* online edition, April 8, 2006, <<http://seattletimes.nwsources.com>>. [2] “Boeing Pays Fine for Violation of Export Controls,” Agence France Presse, April 10, 2006; in Lexis Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [3] Dominic Gates, “Boeing Faces State Department Fines over Unlicensed Exports,” *Seattle Times*, July 7, 2005; in Lexis Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [4] “Boeing Facing Possible U.S. Charges over Aircraft Sales,” Agence France Presse, July 6, 2005; in Lexis Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [5] “State Department Warns Boeing It May Be Fined Over Microchip,” Associated Press, July 6, 2005; in Lexis Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [6] “BEI GyroChip Model QRS11: Micromachined Angular Rate Sensor,” BEI Technologies Inc., Systron Donner Inertial Division (SDID) website, <http://www.systron.com/pro_QRS11.asp>. [7] Rebecca Christie, “Airbus, Sikorsky Tangled with Export Snag Facing Boeing,” Associated Press/ Dow Jones Newswires, July 15, 2005; in Lexis Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [8] U.S. Department of State, “Amendment to the International Traffic in Arms Regulations: United States Munitions List,” Federal Register, Vol. 69, No. 4, pp. 873-874, January 7, 2004, <http://www.access.gpo.gov/su_docs/fedreg/a040107c.html>. [9] U.S. Department of Commerce, “Licensing Jurisdiction for QRS11 Micromachined

Angular Rate Sensors” Federal Register, Vol. 69, No. 26, pp. 5928-5930, February 9, 2004, <http://www.access.gpo.gov/su_docs/fedreg/a040209e.html>. [10] U.S. Department of State, “Proposed Charging Letter,” September 2, 1998, Directorate of Defense Trade Controls website, <<https://www.pmdtc.org/Consent%20Agreements/1998/The%20Boeing%20Company/Proposed%20Charging%20Letter.pdf>> [11] Tony Capaccio, “Boeing Fined Again by State Dept.: Company Accused of Breaking Export Laws,” *Seattle Times*, April 4, 2001; in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [12] “Transcript of Speech by Boeing’s Doug Bain,” *Seattle Times* online edition, posted January 31, 2006, <<http://seattletimes.nwsourc.com>>. The transcript was supplied to the newspaper by an unnamed Boeing executive. Bain delivered the speech during the Boeing Leadership Meeting on January 5, 2006. [13] Dominic Gates, “Separation Anxiety: The Wall between Military and Commercial Technology,” *Seattle Times* online edition, January 22, 2006, <<http://seattletimes.nwsourc.com>>.

Workshops and Conferences

Commodity Identification Trainings Organized in Kyrgyz Republic and Kazakhstan

By Sean Reid, Nonproliferation Graduate Program Intern for the Office of Global Security Engagement and Cooperation, National Nuclear Security Administration, U.S. Department of Energy

On April 25-27, 2006, the U.S. Department of Energy (DOE) held a Weapons of Mass Destruction (WMD) Commodity Identification Training (CIT) course in Bishkek, the Kyrgyz Republic, hosted by the Kyrgyz National Academy of Sciences. The majority of the twenty-three attendees were officials from the Kyrgyz State Customs Inspectorate and the Border Guard Troops under the National Security Service of the Kyrgyz Republic. Representatives from the Kyrgyz ministries of Internal Affairs, Defense, Foreign Affairs, and Industry, Trade, and Tourism were also in attendance.

The course taught by representatives of the International Nonproliferation Export Control Program (INECP) at the DOE’s National Nuclear Security Administration (NNSA) covered dual-use commodities relating to the manufacture of WMD, including nuclear, chemical, biological, and missile technologies. The purpose of the course was to strengthen enforcement of export controls by familiarizing enforcement officials with the physical and visual characteristics of dual-use commodities to aid in the recognition and identification of these goods at border inspection points. This is the first time a CIT course was held in the Kyrgyz Republic, but plans are in place to continue implementing CIT workshops twice a year in cities with major customs and border guard offices throughout the country.

On March 13-17, 2006, the Almaty Customs Control Department hosted instructors from the Kazakhstani Customs Control Committee (CCC), Border Guard Service, Atomic Energy Committee, and Institute of Atomic Energy and

National Nuclear Center at its Educational and Methodological Training Center in the first ever CIT course prepared and taught by Kazakhstani technical experts. The seminar was funded by the INECP and was attended by representatives of the NNSA, the U.S. State Department’s Export Control and Related Border Security Assistance Program (EXBS), and Pacific Northwest National Laboratory, all of which facilitate INECP projects in Central Asia.

The pilot training course was administered to CCC representatives from 12 of the 14 oblasts in Kazakhstan as well as two representatives from the Border Guard Service and the Defense Institute, both under the National Security Committee of Kazakhstan. The CIT was geared toward identification of nuclear and dual-use goods and equipment, and safety protocols for handling nuclear or radiological material. In addition to identification training, participants were required to engage in practical exercises in assessing the regulatory jurisdiction of various exported goods. The Kazakhstani instructors also provided technical information on the composition of such goods, the nuclear fuel cycle, dual-use items, and international norms and agreements within the nonproliferation regime.

Editor’s Note: As part of expanding its efforts to prevent illicit trade in items and technologies needed to manufacture WMD, the INECP has developed a package of training modules collectively referred to as the Commodity Identification Training (CIT) program. This program educates foreign customs inspectors and other border enforcement personnel on export control practices and improves their ability to identify dual-use commodities, based on key visual and other distinguishing characteristics. For more information on the CIT program see: Richard Talley, “NNSA’s Role in Preventing Weapons Proliferation: CIT Workshop Indigenization Moving Forward,” NIS Export Control Observer, September 2004, pp. 3-4, <<http://www.cns.miis.edu/pubs/nisexcon/index.htm>>.

Cambodia Holds Counterproliferation, Counterterrorism Workshops

Cambodia recently co-hosted two workshops aimed at demonstrating its commitment to fighting proliferation and terrorism. On April 6-7, 2006, the Cambodian government, in conjunction with the embassies of Australia and the United Kingdom, held the “WMD Counterproliferation Workshop” in Phnom Penh. This workshop is part of recent efforts by Cambodia to increase domestic awareness of weapons of mass destruction (WMD) proliferation issues. The meeting was followed by a separate seminar on counterterrorism, also co-hosted by Australia and the United Kingdom, on April 27-28, 2006 in Phnom Penh.

During the Counterproliferation Workshop, diplomats from the co-hosting nations attended alongside high-ranking

officials from the Cambodian Royal Armed Forces, National Police Force, and other relevant domestic agencies.[1] The overall goal of the workshop was to facilitate cooperation and information sharing among Cambodia's military, police force, and relevant government organizations. Among the presenters were Sean Kelly, Director of the Counterproliferation Section of Australia's Department of Foreign Affairs and Trade, and Russell Leslie, Director of the International Safeguards Section of the Australian Safeguards and Nonproliferation Office.[2] Those in attendance received a comprehensive overview of the means available to fight the spread of WMD, including a review of international nonproliferation treaties such as the Nuclear Nonproliferation Treaty (NPT), the Biological and Toxins Weapons Convention (BTWC), and the Chemical Weapons Convention (CWC); counterproliferation measures such as the Proliferation Security Initiative (PSI); international export control regimes, such as the Wassenaar Arrangement; and domestic measures, such as cooperation among customs officials, law enforcement personnel, and the intelligence community.[3,4]

According to an opening statement by Australian Ambassador to Cambodia Lisa Filipetto, the Counterproliferation Workshop is one in a series of steps taken by Cambodia aimed at establishing itself as a reliable partner in the global effort to reduce the threat of nuclear, chemical, biological, and radiological weapons.[3] She also cited Cambodia's recent ratification of the CWC as evidence that Cambodia is strongly committed to international cooperation and WMD nonproliferation.[1,3] [Editor's Note: Cambodia ratified the CWC on July 19, 2005. For more on Cambodia's ratification, see "Five More States Ratify the CWC," International Export Control Observer, October 2005, pp. 9-10, <<http://www.cns.miis.edu/pubs/observer/index.htm>>.] Further highlighting Cambodia's nonproliferation efforts, Ambassador Filipetto referred to comments made by Cambodian Prime Minister Hun Sen, calling for stricter enforcement of maritime laws against the trafficking of WMD and their delivery systems.[3,5] Cambodia's Deputy Prime Minister and Minister of National Defense, Tea Banh, in a speech concluding the workshop, affirmed his government's commitment to "regional and international cooperation to prevent the acts of terrorism, cross-border crimes, and trafficking of drugs, women, children and especially the proliferation of weapons of mass destruction." [5]

In a similar cooperative effort, the Cambodian, Australian and British governments co-sponsored the "National Seminar on Counterterrorism" from April 27-28, 2006. About 150 officials involved in counterterrorism from the three participating governments attended the seminar held at the British Embassy in Phnom Penh. The seminar was aimed at improving the Cambodian government's capacity to deal with terror-related security threats by fostering a unified government response, facilitated by the effective flow of information.[6]

The seminar agenda included speeches and presentations on how to thwart plots by terrorist groups such as al Qaeda and Jemaah Islamiyah.[7] [Editor's Note: Jemaah Islamiyah is the terrorist organization that carried out the 2002 nightclub bombing in Bali, Indonesia. The attack, which occurred on October 12, 2002, killed 202 people, with over 200 wounded.] In his opening remarks, British Chargé d'Affaires John Mitchell described the seriousness of the terrorist threat, noting that "[w]e cannot tolerate a terrorist capacity to inflict thousands of casualties in a single conventional attack. Or even, hundreds of thousands of casualties if terrorists gain access to the most terrible weapons human beings have invented." Mitchell praised Cambodia's counterterrorism efforts, including the recent formation of the National Counterterrorism Committee NCTC, whose members were in attendance.[7] [Editor's Note: The Cambodian Government established the NCTC in August 2005. The Committee is chaired by the Prime Minister and directly addresses the government's domestic and international counterterrorism responsibilities.]

Sources: [1] "Australia Welcomes Cambodia's WMD Commitment," Thai press reports, April 17, 2006; in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [2] CNS email correspondence with Guy Ruediger, First Secretary and Deputy Head of Mission, Australian Embassy in Phnom Penh, May 5, 2006. [3] Lisa Filipetto, "Opening Statement," WMD Counter-Proliferation Workshop, Phnom Penh, April 6, 2006. [4] Lisa Filipetto, "Closing Statement," WMD Counter-Proliferation Workshop, Phnom Penh, April 7, 2006. [5] "Australia Welcomes Cambodia's 'Strong Commitment' to WMD Counter-Proliferation," Agence Kampuchea Presse (official Cambodian government news agency), April 13, 2006; in FBIS Document SEP20060417021002. [6] "National Seminar on Counter-Terrorism," Phnom Penh Embassy News, April 27, 2006, British Embassy in Cambodia website, <<http://www.britishembassy.gov.uk>>. [7] "Chargé d'Affaires Speech at the National Seminar on Counter-Terrorism," Phnom Penh Embassy News, April 27, 2006, British Embassy in Cambodia website, <<http://www.britishembassy.gov.uk>>.

CIS Council of Border Guard Service Commanders Meets in Minsk

On April 19-20, 2006, the Commonwealth of Independent States (CIS) Council of Border Guard Service Commanders held its 55th session at the CIS headquarters in Minsk, Belarus. Delegations representing border guard agencies from ten out of twelve CIS member states attended the meeting; representatives from Georgia and Turkmenistan were absent. [Editor's Note: CIS member states are Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, and Ukraine. The CIS Council of Border Guard Service Commanders was created on July 6, 1992.] Vladimir Pronichev, head of the Border Guard Service under the Russian Federal Security Service, chaired the session.[1,2]

During the session, participants examined issues related to the implementation of cooperative programs directed against international terrorism, extremism, and other crimes, as well as cooperation between the CIS border guard services in preventing illegal migration and human trafficking.[1] The

border guard council recognized the need to enhance cooperation in addressing these challenges with similar multilateral institutions, such as the European Agency for the Management of Operational Cooperation at the External Borders of the EU Member States. As announced at the session, the CIS Border Guard Council and EU Border Management Agency agreed to establish contacts to discuss cooperative measures, such as exchange of information and experience, personnel training, joint exercises, and technical cooperation.[2,3] [Editor's Note: *The European Agency for the Management of Operational Cooperation at the External Borders of the EU Member States was established in accordance with the European Council Regulation No. 2007/2004 of October 26, 2004, to improve integrated management at the EU's external borders. Although responsibility for the control and surveillance of external borders lies with individual EU member states, the agency facilitates the application of existing and future EU measures relating to the management of these borders.*][4]

The council meeting also approved the *Concept of Coordinated Border Policy of CIS Member States until 2010* that was adopted by the CIS heads of state on August 26, 2005, and discussed its implementation plan.[1,5] Another item on the agenda of the council was the exchange of best practices between CIS border guard agencies in upgrading special equipment and weapons used in border protection. The council members agreed to create a CIS unified database containing information about special border control equipment produced or used on the territory of the CIS.[2]

Commanders of CIS border guard services agreed to organize a joint exercise on the Tajik-Afghan border in August 2006 aimed at improving coordination in deterring the flow of drugs, weapons, munitions, and illegal migrants from the territory of Afghanistan, as well as joint anti-poaching exercises on the Black Sea, Caspian Sea, and the Sea of Azov. The session agenda included visits to Belarusian border guard

facilities at Kamenny Log and Gudogay border crossings, Losha border guard outpost, and the Smorgon border guard unit.[1,2]

The session participants elected Lieutenant General Aleksandr Manilov, former deputy head of the Russian Border Guard Service, as chief of the Coordination Service—the council's permanent working body. The next session of the CIS Council of Border Guard Service Commanders is scheduled for the second half of 2006 in Bishkek, Kyrgyzstan.[2]

Sources: [1] "Ispolkom SNG: delovaya nedelya (17-21 aprelya 2006 goda)" (CIS Executive Committee: week of April 17-21, 2006), CIS Executive Committee website, <<http://cis.minsk.by/main.aspx?uid=5800>>. [2] Sergey Kozhukh, "Rubezhi na profilaktike" (Border maintenance), Rossiyskaya gazeta online edition, April 27, 2006, <<http://www.rg.ru>>. [3] "Pogranichniki stran SNG i ES budut sotrudnicat v borbe s terrorizmom i narkotrafikom" (CIS and EU border guards will cooperate in the fight against terrorism and drug trafficking), Interfax-Zapad, April 20, 2006, <<http://www.interfax.by>>. [4] "European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union," EU website, <<http://europa.eu.int/scadplus/leg/en/lvb/l33216.htm>>. [5] "Rukovoditeli pogranvedomstv stran SNG dogovorilis o kontseptsii sovместnoy pogranichnoy politiki do 2010 goda" (Commanders of CIS border guard services agreed on the concept of joint border policy until 2010), Interfax, April 19, 2006, <<http://www.interfax.ru>>.

NOTICE OF CORRECTION

The article "Moisture Density Gauge with Radioactive Components Stolen from Maryland Construction Site," which appeared in the April 2006 issue of the *International Export Control Observer*, contained several factual errors. The editorial team of the *Observer* would like to thank Mr. John Wheatley, Radiation Source Specialist from the International Atomic Energy Agency (IAEA), for noticing these discrepancies. The corrected version of the article has been incorporated into the revised April 2006 issue and is now available at <http://www.cns.miis.edu/pubs/observer/index.htm>.

Special Report

Norinco Delegation Visits United States to Discuss Export Control Issues and Sanctions; Talks with CNS Researchers

In April 2006, Mr. He Xiaodong, Vice President of the China North Industries Corporation (Norinco), led a delegation from the company's export control compliance office on a visit to the United States. The delegation included Mr. Cui Zheng, Deputy Director of the Internal Compliance Office, and Ms. Xia Ying, Deputy Director of the Legal Affairs Department. Mr. Li Genxin, Secretary-General of the China Arms Control and Disarmament Association (CACDA), accompanied the Norinco executives. The delegation described the visit to the United States as an opportunity to discuss Norinco's current internal compliance program with relevant U.S. experts and to improve the company's profile in Washington.

On April 25, 2006, the group concluded its visit to the United States by holding meetings at the Center for Nonproliferation Studies (CNS) in Monterey, California, where the Chinese representatives talked with CNS researchers and *Observer* staff Dr. Daniel Pinkston, Dr. Jing-dong Yuan, Ms. Stephanie Lieggi, and Mr. Andrew Diamond. This article provides a summary of their discussion.

Background

China North Industries Corporation, or as it is more commonly referred to, Norinco, is one of China's top state-owned defense firms. The company produces various military related items, including anti-tank missiles, precision strike systems, anti-aircraft and anti-missile systems, explosives, small arms, and ammunition. Aside from defense-related items, Norinco also produces a number of civilian products—such as oil field equipment—and is involved in civil construction projects. Currently, Norinco is constructing a subway system for the city of Tehran.[1,2]

Norinco has been the subject of several sets of sanctions imposed by the U.S. government. The first sanctions against the company were imposed in May 2003 by the U.S. Department of State for exports that could assist Iran's missile program. Although few details have been given officially to explain the sanctions, analysts at the time suspected that an export of maraging steel to a company involved in Iran's ballistic missile program triggered Washington's action. This was the first instance for the Bush administration to employ two executive orders—EO 12938 and 13094—as the basis for sanctions. [*Editor's Note: These two executive orders were issued during the Clinton administration: EO 12938 was signed in November 1994 and EO 13094, which expanded the scope of EO 12938, was signed in July 1998.*] These orders have a lower threshold for triggering sanctions in comparison to legislation, such as the *Iran Nonproliferation Act* (INA).

Legislation such as the INA allows for sanctions based primarily on the transfer of items controlled by international export regimes. However, the executive orders employed in May 2003 allowed for sanctions if a transfer is deemed to be one that may assist weapons of mass destruction (WMD) or missile proliferation, even if the item in question is not on an international control list. This implies that the items in question were, therefore, not likely to have been on China's missile-related control lists, which were largely in conformity with the list of the Missile Technology Control Regime (MTCR) in 2002.[3] In total, the U.S. has sanctioned Norinco seven times since 2003. According to the visiting Norinco delegation, U.S. sanctions against the company have cost the firm an estimated US\$200 million.

U.S. government officials have labeled Norinco a “serial proliferator” and have raised the company's record as proof that Chinese export control enforcement is still deficient and that Beijing's leadership lacks political will to stop the bad behavior of its biggest companies. U.S. officials note that, despite Washington's warnings, China “has taken no action to halt Norinco's proliferant behavior.”[4]

In comparison to Chinese government actions towards other large companies that have been sanctioned by Washington, Beijing has not taken legal action against Norinco. Instead, China's Ministry of Commerce and CACDA—a nongovernmental organization with ties to the Chinese Foreign Ministry—have worked closely with Norinco to improve its export control compliance, such as sponsoring of export control seminars for Norinco employees. [*Editor's Note: Although traditionally closed-mouth about cases of enforcement, Chinese sources have indicated privately that executives of other companies referred to as “serial proliferators” have faced criminal charges in China due to export control violations. Specifically, executives at China Precision Machinery Import-Export Corporation (CPMIEC) were reportedly jailed for proliferation-related activities.*]

U.S. Sanctions

Mr. He Xiaodong noted in discussions with *Observer* staff that it was detrimental for a company that wants to be seen internationally as a responsible player to be accused by the U.S. government of assisting WMD proliferation. Norinco executives have been frustrated by the use of the term “serial proliferator” by Washington, which they feel is as an unfair characterization of their company. Despite this frustration, company executives have realized that their viability as a company depends upon changing their corporate image.

Noting the numerous times Washington has sanctioned Norinco, Mr. He claimed that the company has not been able to identify clearly any transactions behind the triggering of punitive sanctions. However, Norinco officials believe that much of the problem stems from Norinco's lack of transparency in their dealings with "certain parties"—namely companies in Iran that Washington sees as proliferation risks. He pointed out that when sanctions have been imposed by Washington, the Chinese government—namely the ministries of Foreign Affairs and Commerce, and the Commission of Science, Technology, and Industry for National Defense (COSTIND)—required his company to review its transactions with Iran, noting at the same time that Norinco would have taken the initiative to review its transactions even without pressure from Beijing. As a result of its reviews, Norinco found some problems with previous transfers of potentially sensitive items, as well as transfers to entities of concern. Although these transfers were not technically illegal under Chinese law, since the items were not covered by domestic control lists, Norinco recognized that the end-users involved were considered suspect by U.S. authorities. According to He, Norinco has since come to understand that it needs to be cautious regarding its future transactions and remain transparent about their exports in order to avoid potential misunderstandings.

Mr. He said the seven cases of sanctions against Norinco had numerous similarities. He believed that many of them were not the result of separate cases, but were instead multiple sanctions based on single contracts or transfers. While reiterating that Norinco was not completely clear what had prompted U.S. sanctions, He said that company officials believe that exports to suspect Iranian entities were the likely trigger for most sanctions. The company's investigation turned up one particular transaction that may have brought on a number of the sanction actions—namely the export of steel products to Iran's Aerospace Industries Organization (AIO). Although the steel in question was relatively common according to He, and not on Chinese control lists, AIO is considered an entity of concern by Washington. This sale took place prior to 2002 when Chinese domestic export controls were significantly strengthened and "catch-all" clauses included in Chinese regulations.

Mr. He said Norinco did not export nuclear-related items (military or civilian), nor items relevant to chemical or biological weapons, or ballistic missiles. However, He noted that Norinco has significant conventional weapons-related exports, including anti-tank missiles, tanks, small arms, explosives, and conventional gravity bombs. These items would have military and dual-use relevance that require export controls.

Delegation's Overview of Norinco's ICP

According to the Norinco delegation, as part of the company's efforts to repair its reputation, Norinco has been promoting the

importance of its internal compliance program (ICP) in which it claims to have heavily invested. According to He, Norinco has already made efforts in the last few years to improve its ICP—which was first started in 2002—and to integrate nonproliferation export controls into its corporate culture. He noted that the company has been increasing its transparency with regards to dual-use exports, as well as with regard to exports to entities considered suspect for nonproliferation reasons.

In a direct effort to strengthen its internal compliance, Norinco managers involved in exports must sign a letter of responsibility that holds them personally accountable for any lapse in export control compliance. According to He, Norinco aims to follow international standards for nonproliferation export controls, but has found implementing these rules to be challenging, as the multitude of dual-use items circulating in world make such control difficult.

Contrasting the U.S. export control system with China's, the delegation noted that in the United States lawyers are heavily involved in companies' export control compliance programs. In China, on the other hand, export controls are seen as a business issue, not a legal issue—so the legal expertise of exporters in China remains limited. According to He, this is an aspect where Chinese companies can learn from the U.S. system. In general, He argued that China needs to strengthen domestic export control enforcement and compliance.

Mr. He said that Norinco is already applying the "catch-all" principle with regard to both the items the company exports and the customers with which it chooses to do business. He notes that Norinco has placed the issue of nonproliferation as its highest priority, despite potential revenue loss, because re-establishing Norinco's image as a responsible company is vitally important to its long-term success.

The Norinco "Model"

According to the delegation, Norinco plans to sponsor industry outreach programs and wants to have its export control compliance program become a role model for other Chinese companies. The company hopes to invite international experts to give lectures to Norinco staff and others in China. The delegation said that Norinco could sponsor and arrange these types of programs—such as a conference or workshop in Beijing on the topic of export controls.

Norinco's position as one of the largest defense firms in China gives the company significant influence with other companies in the Chinese defense industry. According to the delegation, Norinco's adoption of stricter compliance measures would lead to the greater adoption of these practices by other Chinese companies. At the same time, these companies are looking to see how the U.S. and Chinese governments react to the changes in Norinco's corporate culture. If no recognition is given that Norinco has made efforts to clean up its business

practices, then other Chinese companies will have less incentive to follow its lead.

Mr. He stated that Norinco is ready to discuss trade and its transactions with U.S. experts. He pointed out that Norinco has trade relations with entities in Burma, Iran, Pakistan, Sudan, and Syria—states that Washington considers potential proliferation risks. (Mr. He claimed that Norinco has no trade ties with the DPRK.) Focusing on its business in Iran, He said that Norinco strongly agrees it must abide by its nonproliferation obligations, but the firm has legitimate business in the country, such as the construction of Tehran subway. According to He, these types of projects help the Iranian people.

When asked specifically about the current nuclear standoff with Tehran, the delegation noted that civilian business transactions should go forward regardless of what happens at the UN Security Council with regard to the Iranian nuclear program. In general, the delegation felt that Beijing could possibly support a UN Security Council resolution targeted at

military trade with Iran, but that China is unlikely to support broad economic sanctions against Tehran.

During the delegation's trip to the United States, a report in the *Financial Times* characterized the visit as an attempt by Norinco to "lobby" U.S. officials—a characterization that He disagreed with. He argued that his delegation's visit was an effort to hold frank discussions about Norinco's business activities and the firm's efforts to comply with international export control standards. He added that a negative interpretation of their efforts in Washington could make Norinco—and thus other Chinese companies—hesitant about the promotion of export controls and nonproliferation cooperation.

Sources: [1] "China North Industries Group (NORINCO)," *China Profiles* [last updated October 10, 2003], Nuclear Threat Initiative website, <<http://www.nti.org/db/china/norinco.htm>>. [2] China North Industries Corp. (NORINCO) website, <<http://www.norinco.com/c1024/english/index.html>> [3] Philip Saunders and Stephanie Lieggi, "What's Behind U.S. Nonproliferation Sanctions Against Norinco?" Center for Nonproliferation Studies (CNS) Research Story of the Week, May 30, 2003, CNS website, <<http://cns.miss.edu/pubs/week/030530.htm>>. [4] Paula A. DeSutter, "China Should Tighten Missile Controls," Remarks Before the U.S.-China Commission, July 24, 2003, Nuclear Threat Initiative website, <http://www.nti.org/db/china/engdocs/desutter_0724.htm>.



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Associate Editors-in-Chief

Dauren Aben
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Senior Consultants

Daniel Pinkston
Leonard S. Spector

Co-Editor

Alexander Melikishvili

Associate Editors

Andrew Diamond
Tanat Kozhmanov
Jing-dong Yuan

Contributors

Dauren Aben
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Lindsie Brown
Tanat Kozhmanov
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Center for Nonproliferation Studies

1111 Nineteenth Street, NW, 12th Floor
Washington, D.C. 20036 USA
Tel: (202) 464-6000; Fax: (202) 238-9603
email: intexcon@miis.edu