

FIFTH INTERNATIONAL CONFERENCE ON EXPORT CONTROLS
Budapest, Hungary, September 15-17, 2003

INTRODUCTION

1. The Fifth International Conference on Export Controls (ICEC) convened in Budapest, Hungary September 15-17, 2003. With the aim of promoting the development of more effective international cooperation in the area of export controls, experts from some forty-one countries as well as non-governmental organizations¹ presented information on recent developments and discussed a wide range of current export control and nonproliferation issues. Hosted by the Governments of Hungary and the United States through the U.S. Department of State's Export Control and Related Border Security Assistance (EXBS) program, the conference was the latest in a series of annual gatherings that began at Oxford University in 1999. After the UK hosted the next two meetings, the 2002 conference was held in Warsaw, Poland.

2. Topics addressed by the conference were grouped around several themes:

- Enhancing export controls to meet new demands of the terrorist threat.
- Information sharing and regional cooperation.
- Best practices in export controls and how they are implemented.

¹ Government representatives from the following participated: Albania; Argentina; Australia; Austria; Bosnia & Herzegovina; Bulgaria; Canada; Croatia; Cyprus; Czech Republic; Denmark; Estonia; Finland; Germany; Greece; Hong Kong, China; Hungary; Ireland; Israel; Japan; Republic of Korea; Latvia; Lithuania; Luxembourg; Macedonia; Malta; Moldova; Netherlands; Norway; Poland; Romania; Russia; Serbia & Montenegro; Slovak Republic; Slovenia; South Africa; Sweden; Switzerland; Ukraine; United Kingdom; and the United States. Organizations represented included the Australia Group; International Atomic Energy Agency (IAEA); Missile Technology Control Regime (MTCR); Nuclear Suppliers Group (NSG); Stockholm International Peace Research Institute (SIPRI); the Center for International Trade and Security; Saferworld; the World Customs Organization; Transparency International; the Wassenaar Arrangement; Jane's; Siemens International; and Maspex. Los Alamos Technical Associates provided conference management.

- Trends in export control enforcement.
- New approaches in controlling conventional arms.

3. In addition to the focus on strengthening export control systems, several new areas were addressed at the Fifth ICEC. These included the potential threats posed by Man-Portable Air Defense Systems (MANPADS) and Unmanned Air Vehicles (UAVs), as well as issues such as transparency and ethics in the conventional arms trade and the conversion of the defense industry. There was also a lively discussion on the relative effectiveness of export control systems in preventing terrorists from developing weapons of mass destruction (WMD). While all agreed that effective export control systems play a vital role in stemming the flow of dangerous materials to states of concern, several participants pointed out that terrorists might be capable of assembling "kitchen" chemical or biological devices within a target country using locally available material. Solid intelligence takes on even greater value in countering this threat. In fact, the vital role played by intelligence in implementing export control systems was a point made repeatedly during the conference.

OPENING CEREMONY

4. Participants were welcomed by the Hungarian and U.S. co-hosts, Gabor Brodi, Deputy State Secretary of the Hungarian Ministry of Foreign Affairs, and Paul van Son, Director of the Office of Export Control Cooperation in the Department of State. Gyorgy Gilyan, Director-General of the Licensing and Administrative Office in the Hungarian Ministry of Economic Affairs and Transport, offered opening remarks, and Andrew Semmel, Deputy Assistant Secretary in the Department of State's Bureau of Nonproliferation, delivered the keynote address.

Welcoming Remarks

5. In his welcoming remarks, Gabor Brodi stressed that the fight against terrorism has increased the importance of export controls, while globalization has heightened the need for international cooperation. Information sharing and harmonized licensing policies are key to countering the proliferation of WMD. Much international cooperation takes place through the multilateral

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nonproliferation regimes², which over the past two years have increasingly focused on non-government actors and the risk of terrorists gaining access to materials that could be used to produce WMD. Control of Intangible Technology Transfers (ITT) has also taken on increasing importance. Brodi welcomed the new development of information about arms export denials under the EU Code of Conduct that has been made available over the past year. He closed with a statement of Hungary's commitment to work closely with other countries on strengthening export controls.

6. Paul van Son noted the significance of the conference's location in Budapest, a reflection of Hungary's hard work over the last ten years to put an effective export control system in place and its commitment to international cooperation. There are several reasons for this conference, he said, including mutual support for improving export control systems, the sharing of information on new developments, and promotion of a network of like-minded countries that can cooperate with each other in enforcing export controls. Reviewing conference themes, van Son noted speakers would address an issue of special importance in meeting the new demands of terrorist threats, the problem of MANPADS.

Keynote Address – United States

7. Andrew Semmel stressed that in the face of a growing proliferation threat, the U.S. and other nations are redoubling their efforts to keep WMD and their delivery systems out of the hands of rogue regimes and terrorist groups. The proliferation threat is becoming more diverse and unpredictable, Semmel noted, with countries of concern such as Iran and North Korea becoming secondary proliferators. Proliferators must know that they face isolation and other consequences if they continue to violate global norms and standards of conduct. Responsible and civilized nations must fully implement effective export control and border security policies, Semmel urged.

8. For its part, Semmel said, the U.S. employs a variety of tools to fight proliferation. These include:

- Tightening the multilateral export control regimes and assisting countries in harmonizing national export controls with international norms.

- Using interdiction as an option when controls fail and international bodies are unable or unwilling to act. The Proliferation Security Initiative (PSI) is an example of the U.S. commitment to interdiction.
- Implementing sanctions when states, companies or individuals sell to proliferators.

9. We face new challenges, Semmel warned. More and more transactions are conducted over the Internet and by fax, increasing their speed and giving enforcement a very small window to respond. Also, business has become more global and physical location now means little. This has spawned the ITT problem, which the U.S. seeks to control through its licensing system. Another important proliferation problem is the threat of MANPADS. Both the G-8 and the Wassenaar Arrangement (WA) are working to strengthen controls of these dangerous systems. This conference presents an important opportunity for like-minded supplier and transit countries to work together to address these challenges, Semmel concluded.

A Hungarian Perspective

10. In his opening remarks, Gyorgy Gilyan elaborated on the serious challenges globalization poses to export control.

- The number of international suppliers of high technology goods has increased significantly over the past decades, giving those seeking controlled materials many alternative suppliers.
- Weapons-related technologies requiring controls no longer emerge primarily from government-funded research. An increasing number of companies produce goods that can be used for both civilian purposes or as components for weapons.
- The widespread use of e-mail has made it necessary for states to find ways to control ITT.

11. The war against terrorism makes it all the more vital that nonproliferation efforts be strengthened, Gilyan stated. These factors are behind the Hungarian government's strategic goal of strengthening its national export control system and enhancing multilateral cooperation. Hungary is a member of all relevant international agreements and nonproliferation regimes and has placed high

² The Australia Group (AG), the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group (NSG), and the Wassenaar Arrangement (WA).

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priority on its bilateral cooperation with the EU member states, the U.S. and Canada, as well as with neighboring countries such as Austria and Romania. Furthermore, in preparation for accession to the EU in 2004, Hungary is adjusting its legal system to meet the EU's high standards in the areas of dual-use items and conventional arms. Gilyan also called attention to Hungary's emphasis on regional cooperation on export control and its active role in organizing conferences and seminars. In June, Hungary and the U.S. sponsored a seminar for the countries of Southeastern Europe in Szeged, Hungary. The seminar offered guidance to countries of the region, namely Bosnia and Herzegovina, Croatia, Macedonia, and Serbia and Montenegro, in the development, implementation, and enforcement of export control systems over strategic items and technology.

I. MEETING THE NEW DEMANDS OF THE TERRORIST THREAT

Threat Assessments – Jane's

12. John Eldridge, editor of *Jane's Nuclear, Biological, and Chemical Defence*, noted that terrorism has changed over the past several years. Technology permits larger networks to organize simultaneous and coordinated attacks all over the world. Better resources are available now, and there is increased collusion between groups with little in common. Eldridge focused on "theistic" terrorists, defined as those motivated by fervent belief that they are answering God's calling. Fanatic Islamic groups are more motivated, widespread, focused, and violent than other extremist religious groups, he stated. No dialogue is possible with such groups that firmly believe in the superiority of their beliefs.

13. With regard to possible terrorist use of WMD, Eldridge suggested that disadvantages might outweigh advantages in many instances. The advantages are clear – the potential for mass casualties and the psychological impact of nuclear, biological or chemical devices. The disadvantage is that WMDs are complicated to create, store, and transport and terrorists like simplicity. Moreover, the procurement of components is subject to close scrutiny. There is no doubt that terrorist groups have explored all types of WMD. However, even Al-Qaeda must have some doubts about WMDs, Eldridge said, or we would have seen more events by now. After discussing the threat of MANPADS, Eldridge reviewed recent trafficking events, commenting on the worrisome increase in trafficking of fissionable materials. He also called

attention to the issue of transshipment and the importance of securing maritime trade and container ports.

14. The nonproliferation regimes are important in preventing terrorists from obtaining dangerous material. However, they also have limitations, as demonstrated by the rapidly expanding control lists that become longer each day. Eldridge suggested that perhaps new approaches are in order. He referred to the International Committee of the Red Cross (ICRC) initiative in 2002, reminding the international community that planning to poison people is already outlawed. Therefore existing mechanisms under international law offer a potentially more successful route to counter proliferation. Perhaps more attention should be given to the widely ignored ICRC initiative, he suggested. The key to countering clandestine terrorist activity is "intelligence, intelligence, and intelligence," Eldridge emphasized.

Threat Assessment - Netherlands

15. Inge Bryan, head of the Non-Proliferation Department of the Ministry of Interior and Kingdom Relations of the Netherlands, presented a Western European perspective on terrorism and WMD. She divided terrorists into political extremists, religious extremists, and lone wolves. An important difference between political and religious groups, she noted, was that there was usually some room for negotiation with political extremists, while there is no compromise with religious extremists.

16. The war on terrorism has resulted in many changes within Islamic terrorist groups, Bryan said. One result has been that many terrorists have relocated to Europe, where travel is easy and where well-established ethnic communities in large cities offer intact networks. Another change is that there has been further decentralization or fragmentation of groups, resulting in more autonomous networks consisting of self-reliant cells. In addition there has been a move towards unifying the agenda of Islamic terrorist groups. Religious, ideological, and regional differences are now less clear-cut and the common agenda has become more radical. This makes task specialization such as forging identification papers, fund-raising, and recruiting possible for networks, with traveling liaisons maintaining contact between cells and higher-level leadership.

17. In assessing the threat posed by these networks, the Netherlands believes it unlikely that they will use WMD. Without a strong, central coordinating organization, the networks will not be

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able to produce full-fledged WMD. Instead it is more likely they will revert to “kitchen” biological and chemical devices that are smaller and less effective but that can still cause mass disruption. Undermining confidence is more important to these groups than inflicting large numbers of casualties. To respond to this threat, Bryan made several points:

- This is not a border-crossing problem. The materials for this type of terrorism are already in place within countries. Therefore, export controls will have no effect.
- The answer to the threat is intelligence.
- Rather than arresting potential terrorists, they should be monitored to avoid cutting off sources of information.
- Law enforcement should eradicate the support networks.
- Frustrating recruiting is difficult and requires a large investment in human intelligence but it can be done.
- Early Response Teams should be set up to deal with possible threats. Good communications are important and every effort should be made to avoid panic.

New Intelligence Challenges in Hungary

18. Colonel Gabor Diczhazi, Director of the Hungarian Information Office, opened his presentation by underlining the need for a coordinated approach at the national and international levels that involves intelligence services, police, customs, disaster prevention, and health services. Although the terrorist threat is still low in Hungary, the greater threat faced by its allies has caused Hungary to step up its own efforts. Hungarian intelligence collects information on terrorist organizations, giving special attention to WMD and trafficking in material that could be used to develop WMD. The Information Office is an integral part of the national export control licensing process, conducting background checks on companies, sellers, buyers, and brokers and performing risk analysis. In the case of suspected illegal activity, it initiates operations to prevent movement of controlled goods, often in cooperation with foreign partner services.

19. Intelligence also plays an important role in the effort to control illicit trafficking that transits

countries in East and Central Europe, Diczhazi said. The identification of illegal businesses, arms traders, and illicit traffickers who use countries in the region as meeting places is an important task. Countries in the region have also become potential sources for goods and technologies sought by terrorists as the result of political changes and privatization, including the closing of factories and laboratories and the laying off of workers. In some cases, radioactive materials were unaccounted for and thieves tried to sell them. It is easy to detect radioactive materials and more widespread use of detectors at bridges, tunnels, and highways is advisable, Diczhazi suggested. Moreover, it is important to train inspectors and enforcement officers to be able to recognize controlled goods in cases when items for export are illegally mislabeled.

20. Finally, Diczhazi identified a specific problem that requires well-coordinated intelligence work to counter. Terrorists do not have to try to get around export controls if they can procure expertise or components commercially within a target country and then assemble a weapon locally. In closing, Diczhazi called for more direct and closer intelligence cooperation between Hungary and its NATO allies as well as with services in neighboring countries in East and Central Europe.

Adapting National Controls and Enforcement to the Terrorist Threat

21. A panel consisting of Terry Bevin of Australia’s Department of Foreign Affairs and Trade and Janos Nagy of Hungarian Customs discussed adapting national control systems to fight terrorism. Noting that the specter of terrorists acquiring WMD presents the most urgent and difficult security challenge facing the international community, Bevin described export controls as one of the most effective tools for stemming the supply of materials and technology for WMD development. Many states use national controls in implementing their obligations under international control treaties³ and the nonproliferation regimes. However, it is necessary to find new ways of thinking to adapt these regimes to the terrorist threat. An important concern is that the number of countries that are sources of WMD material has increased significantly over the past two decades and many of these countries are outside of the nonproliferation regimes. It is not necessary to bring these countries into the regimes but outreach and

³ The Nuclear Nonproliferation Treaty (NPT), the Chemical Weapons Convention (CWC), and the Biological Weapons Convention (BWC).

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assistance are essential. These countries should be encouraged to adopt the control lists and enforcement measures in accordance with those belonging to the regimes.

22. In countering the terrorist threat, Bevin stressed, it is important to secure the supply chain for shipped goods and to improve controls in transshipment countries. He cited the U.S. Container Security Initiative as a good example of addressing this problem. For Australia, transshipment ports such as Singapore, Kuala Lumpur, Hong Kong, Macau, and others in the region are important

23. Export controls are of limited use in some circumstances, Bevin pointed out. Terrorists can obtain chemical and biological dual-use items domestically in countries where they plan to carry out attacks. The Australia Group (AG) is considering awareness-raising guidance for industry that alerts companies to ways of spotting WMD-related procurement attempts, including suspicious domestic as well as international orders. Nonetheless, export controls remain an important supply-side role in preventing the spread of WMD and all countries need to continue strengthening and adapting them if they are to remain effective in the fight against terrorism, Bevin concluded.

24. Janos Nagy reviewed Hungary's policies on export control, with special attention to the upgrading of Hungary's external borders to meet EU standards. The country's geographic position in the middle of Europe, with many important transportation corridors going through it, makes border control a major task. Over the past decade, there has been a steady increase in the volume of traffic crossing Hungary's borders. With assistance from the international community, especially the EU, Hungary has been modernizing major border crossings since 1995. When Hungary becomes an EU member in May 2004, Customs control on its external borders will meet Schengen norms, Nagy stated. Hungarian Customs' focus will shift from its western borders to its eastern borders, which will become the EU's most sensitive external border. Nagy went on to describe the facilities at modernized border crossings, including the equipment to detect radiological material.

25. Nagy stressed that Customs plays an active role in Hungary's licensing process for military and dual-use exports. Customs is also responsible for control of transit consignments, with its officers at the points of entry and exit ensuring the integrity of the process. Nagy concluded by showing some

examples of smuggling techniques and presenting statistics on Customs' seizure of small arms and light weapons (SALW) in 2002.

MANPADS and UAVS

26. Two officers from the U.S. Department of State's Bureau of Nonproliferation, Dayna Robison and Margaret Mitchell, gave a joint presentation on MANPADS. Robison reviewed the physical characteristics that make MANPADS an ideal terrorist weapon for use against civilian or military aircraft. These include portability, ready availability on the black and gray markets, and extreme lethality. Since the 1960s, MANPADS have been widely proliferated, with an estimated 600,000 to 700,000 systems worldwide, and have become the terrorists' weapon of choice. At least 27 terrorist and insurgent groups are believed to have MANPADS. Of these Al-Qaeda and its sympathizers pose the greatest threat, Robison said. A training video recovered in 2001 shows Al-Qaeda conducting MANPADS training and three incidents in 2002 are directly linked to Al-Qaeda.⁴ Robison warned that future MANPADS attacks against civilian targets are highly possible, including in the U.S. and Europe.

27. Margaret Mitchell reinforced the message that the threat of MANPADS is real and potentially devastating. Loss of life and economic consequences could be severe, with the airline and tourism industry especially vulnerable. The risk is global, Mitchell emphasized. MANPADS have been used against aircraft in, for example, Bosnia and Herzegovina, Kosovo, and Macedonia. To address the problem, the first step is better control through careful review of licenses and the sharing of information. The other half of the equation is stockpile security and accountability. She noted that the Wassenaar Arrangement and the G-8 have taken encouraging steps to address the MANPADS threat.

28. Unmanned Air Vehicles (UAVs) have not traditionally been included in discussion of international terrorism, but they probably should be, said Steven Tomchik, Senior Policy Advisor in the State Department's Office of Defense Trade Controls Policy. They are less costly than ballistic missiles, have less complex design systems and have both military and civilian applications.

⁴ These are the attacks against an Israeli chartered aircraft in Mombassa, Kenya in November; against a helicopter in Sanaa, Yemen in November; and against a U.S. military aircraft at Prince Sultan Airbase in Saudi Arabia. All failed.

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Tomchik illustrated the wide variety of UAVs, ranging from the U.S. *Global Hawk* and *Predator* to the UK's *Sprite*. Some of their characteristics make them attractive to terrorists. For example, they:

- Are difficult to defend against.
- Can be launched from almost any location.
- May have relatively long ranges and can carry substantial payloads.
- Can be more accurate than MANPADS or rockets.
- Would have great shock value when married with WMDs.
- Would give terrorists a better chance of surviving and escaping.
- Certain types are commercially available and not too difficult to build.

29. Export controls have limitations when it comes to UAVs, Tomchik cautioned. Terrorists operating in advanced countries can obtain what they need domestically. Small-scale acquisitions are easier and can avoid control lists. However, options for control exist. Most complete systems are already on MTCR and WA control lists and both regimes are giving increased attention to possible terrorist uses. Moreover, more advanced mechanisms such as controls for catch-all, ITT, and brokering can help. Clearly information sharing is vital. The U.S. is approaching the UAV problem with new revisions in its control lists. "Drones with military applications are already controlled under Category VIII on the Munitions List. New revisions to be published soon will include all UAVs with military applications as well as any UAV regardless of application that is capable of a 300 km range and a 500 kg payload. Other UAVs will be on the Commerce Department's control list for dual-use items. In sum, Tomchik said, UAVs have terrorist potential and the threat should be recognized in our counter-terrorism initiatives and export control systems.

A German View on Terrorist Threats and Export Control

30. Matthias Hopfner, Deputy Director General for Economic Affairs of Germany's Federal Foreign Office, argued that the danger posed by the combination of terrorists and conventional weapons is very real. Export controls are important in curbing this threat, as recognized by the WA in its focus on the issue of MANPADS for the past two

years. While terrorist groups such as Aum Shinrikyo in Japan have attempted to use WMD and al-Qaida has experimented with chemical and biological weapons, the limited success of their efforts suggests that the difficulties in developing and using WMD can only be overcome with financial and technical resources that are beyond the means of terrorist groups at present. However, terrorists can still concentrate on non-conventional agents available as household goods in small amounts. In this case, Hopfner said, export controls might not help since these materials can be procured locally and processed without sophisticated facilities. Nonetheless, export controls remain vital in the fight against terrorism for a number of reasons:

- In the case of a state supporting a terrorist group, traditional export controls remain essential.
- If a terrorist group has considerable financial resources, it might try to acquire high-quality material and technology on the international market rather than doing its own research and experimentation domestically.
- Items added to control lists because of their possible link to terrorism increase industry awareness and could also have an impact domestically.
- Licensing authorities are not only asking whether a state has a WMD program but also whether the company receiving the material has terrorist connections.
- States with established export control systems can compile informal lists of materials that could be useful to terrorists but do not belong on formal lists. These could be valuable to domestic law enforcement and could be exchanged between friendly states.
- Post-shipment controls could help protect against diversion of sensitive goods.

31. Hopfner concluded that the fight against terrorism is first and foremost a task for police and intelligence services, not customs officials. However, an effective export control system can make a contribution. The recently adopted Proliferation Security Initiative underscores the seriousness of the international community in fighting WMD proliferation and here export controls

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are indispensable.

Improving Intelligence Links

32. A panel consisting of Mario Dorigo, Senior Policy Advisor in the Ministry of Economic Affairs of the Netherlands, and Christopher Buzzeo, Senior Special Agent with the Security Investigations unit of the U.S. Department of Homeland Security, discussed improving intelligence links between government agencies. Dorigo said that good links already exist within the Netherlands. What is needed for the licensing process is timely, proactive information that helps prevent unwanted deliveries without hindering trade. Instances when intelligence could not be used in Dutch court cases has reinforced the importance for intelligence agencies to provide information about end-users and end-use that can be used in court.

33. Currently in the Netherlands the foreign intelligence agency (AIVD) and the internal intelligence agency (FIOD-ECD) work with licensing ministries, customs, and enforcement as well as with international counterparts. The services perform end-use and end-user evaluations for licensing and catch-all cases. Both AIVD and FIOD-ECD also conduct company visits to check records, gather information and, more importantly, to raise awareness. Currently the government is considering establishing black lists of suppliers and end-users. However, these cannot be made public in the Netherlands. Recently, AIVD has also taken part in working groups in the WA to get a better feeling for the flow of weaponry around the world. Dorigo said his recommendation would be for structured, timely international exchange of information that is robust enough to be used in licensing practices.

34. Christopher Buzzeo outlined how the Bureau of Immigration and Customs Enforcement (ICE) uses intelligence to enforce export controls through both reactive and proactive investigations. The latter are developed through the Shield America program (industry outreach), undercover operations, and historical investigations. ICE tries to get actionable intelligence, its own as well as information from other agencies, which can be used to build cases. International cooperation is especially important in investigations. For example, a recent case in which MANPADS were brought into the U.S. involved close cooperation between the governments of the U.S., Russia, and the UK. In "Operation Iraqi Freedom," ICE deployed agents to assist in identifying U.S. companies or individual Americans who provided assistance to Iraq's WMD programs. To illustrate a typical investigation, Buzzeo

reviewed a case in which Multicore Ltd., a front company operating in the U.S., tried to buy aircraft and missile parts for Iran, using a freight forwarder in Singapore. International cooperation played an important role in the success of the case.

Radiological Sources - IAEA Programs

35. Alexander Lodding of the International Atomic Energy Agency (IAEA) reviewed the organization's background and mandate. He noted that following September 11, 2001, nuclear security and the prevention of nuclear terrorism has become a major focus of the IAEA. High intensity radioactive sources became a concern because of their possible use in radioactive dispersal devices. The IAEA has also been active in helping regain control over orphan sources and is involved in a tripartite initiative with Russia and the U.S. to help recover this material.

36. IAEA's intensified activities include revising its Code of Conduct on Safety and Security of Radioactive Sources. The objectives of the Code are to harmonize national policies and foster international cooperation to achieve a high level of security of radioactive sources and to prevent the malicious use of this material. The Code also contains basic principles on import and export of radioactive sources. The revised version of the Code should be endorsed by the IAEA by the end of September, Lodding concluded.

II. INFORMATION SHARING AND REGIONAL COOPERATION

Multilateral Regimes- WA

37. Ambassador Sune Danielsson, Head of the Wassenaar Arrangement Secretariat, reviewed the background of the WA, demonstrated its website, and reviewed developments since the Fourth ICEC, held in Warsaw in 2002. The WA's goal, he stated, is to prevent terrorist and other violent groups from obtaining the tools they need to operate by means of effective export controls. The thirty-three participating countries take on two major commitments: (1) to impose effective national export controls on conventional weapons; and (2) to report to other members one's own transfers of items on agreed lists. The WA does not prohibit transfers of specific items to particular destinations, leaving such decisions to national discretion. However, by informing other members of transfers, a country opens its decisions to scrutiny and takes responsibility for its actions.

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38. After demonstrating the WA website, Danielsson noted that the December 2002 Plenary took several decisions:

- To intensify contacts with non-members.
- To strengthen relations with other international organizations, such as the UN, and with the other nonproliferation regimes.
- To reaffirm its counter terrorism policies and develop new means of sharing information and strengthening export controls in view of the terrorist threat.
- To adopt best practice guidelines and criteria for exports of small arms and light weapons (SALW).
- To review existing guidelines on MANPADS to ensure they are adequate to prevent terrorist use.
- To continue elaborating criteria for effective legislation on arms brokering.

39. Danielsson concluded by noting that this is a year of assessment for the WA, as members evaluate how well the organization is functioning and what might be done better. The December Plenary will review the assessment and take appropriate actions.

Multilateral Regimes - MTCR

40. After reviewing organization goals, MTCR Chairman Mariusz Handzlik focused his remarks on the MTCR's outreach activities. The December 2002 Plenary mandated that the Chair pursue a range of contacts with non-partners through a series of visits to discuss missile proliferation and encourage states to adopt appropriate export controls. Examples of countries that recently decided to adopt the MTCR technical annex and political guidelines include Serbia and Montenegro and Macedonia. Three areas are currently the focus of outreach activity:

- Promotion of missile nonproliferation within regional fora with special attention to Northeast Asia, South Asia, the Middle East, the Balkans, and Latin America.
- Visits to or contacts with countries of interest to the MTCR such as North Korea, China, Pakistan, Slovakia, Israel, Bulgaria, Romania, Cyprus, Kazakhstan, Belarus, Slovenia, Libya, Estonia, Latvia, Lithuania,

- Croatia, Serbia and Montenegro, and many others.
- Transparency and legitimacy of the MTCR in contacts with non-partners and the public to provide information on goals and actions.

Multilateral Regimes - AG

41. Leo Cruise, Australian Ambassador to Hungary, pointed out that the challenge of countering the threat of chemical and biological weapons (CBW) is being addressed by the AG. The process of globalization has created more sources for the procurement of dual-use chemical and biological materials and technologies while rapid technological change has made it difficult to keep control lists up to date. The success of export controls depends on the combined commitment of as many countries as possible, Cruise noted.

42. The June 2003 AG Plenary, held in Paris, endorsed greater outreach efforts to encourage and assist non-members to adopt or enhance export control measures compatible with the AG countries. Each participating AG country will take greater responsibility within its region. Australia plans to focus on briefing Asian and Pacific nations to encourage key suppliers and transshippers to employ best practices in export control. At present the Asia-Pacific region receives relatively low nonproliferation priority from countries outside the region and Australia hopes to encourage joint outreach activities with technical and enforcement experts from other AG participating countries. In addition, similar outreach plans may be developed in the Balkans and North Africa by other AG countries, Cruise suggested.

Multilateral Regimes - NSG

43. Ho-Jin Lee, Ambassador of the Republic of Korea (ROK) to Hungary, reported on the recent activities of the Nuclear Suppliers Group (NSG), which the ROK now chairs. In its December 2002 supplementary Plenary session, NSG member states agreed to strengthen the Guidelines to better respond to the threat of nuclear terrorism. When North Korea's highly enriched uranium program was revealed, the NSG called on all states to ensure their exports do not contribute to North Korea's nuclear efforts. The Chair also sent letters to several key non-NSG partners outlining NSG-controlled items and technology and materials below the threshold that North Korea might seek for uranium enrichment and plutonium reprocessing.

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44. At the May 2003 Plenary, the NSG agreed to step up international cooperation against proliferators and to strengthen outreach activities with non-members. Special attention was devoted to the problems of North Korea and Iran. The NSG emphasized the need to alert transshipment points to North Korean procurement attempts. The Plenary also discussed including a catch-all concept in the Guidelines. The Chair is currently conducting outreach dialogues with non-NSG states or potential nuclear suppliers such as China, Mexico, Indonesia, Malaysia, Egypt, Israel, and others. The Chair is also working with Lithuania and Estonia who plan to join the NSG.

45. In conclusion, Lee stated, the North Korean and Iranian issues have posed new threats to international security and prompted the strengthening of the NSG and IAEA safeguards system. Among its ongoing tasks, the NSG will continue reviewing its Guidelines to ensure they are up to date and it plans to do more to cope with possible nuclear terrorism. Also, the NPT must make sure the goals of nonproliferation and international trade are mutually reinforcing, Lee stated.

Regional Cooperation – Southeastern Europe

46. Andras Toth, Toomas Raba, and Bent Lindhardt Andersen, representing the Foreign Ministries of Hungary, Estonia, and Denmark, respectively, comprised a panel on regional cooperation in export control. In his remarks, Toth emphasized the importance of information sharing. Noting that three of Hungary's seven neighbors will become EU members in May 2004, Toth expressed Hungary's strong commitment to encouraging the whole region to meet EU standards for export control. As examples of this commitment, Toth pointed to Hungary's involvement with the MTCR's outreach activities in Southeastern Europe and the joint Hungarian-U.S. sponsorship of an export control seminar for policy, licensing, and enforcement officials from Southeastern Europe in Szeged, Hungary in June 2003.⁵ Two of the prominent issues discussed at the seminar, transit/transshipment and information sharing, are especially important for the region

Baltic/Nordic Regional Cooperation

47. Stressing the importance of informal regional export control cooperation, Toomas Raba said

Estonia has given priority to establishing close working ties with the Nordics, Latvia, and Lithuania. Cooperation exists at three levels – transnational, interdepartmental, and personal. Nordic export control officials meet twice a year and have incorporated the Baltic states into these meetings beginning this year. Estonia is also exchanging information on approved export and transit licenses with concerned countries and notifies partners about transit license denials. Estonia's experience has demonstrated that fancy or resource-demanding systems are not necessary for effective information sharing and consultations. Inter-ministerial level cooperation between Estonia and its Baltic and Nordic neighbors is also effective. Customs, police, intelligence officials, and other authorities work closely with their Baltic and Nordic counterparts. Personal level cooperation is perhaps the most important, Raba said. The most urgent issues can be resolved by a phone call to a colleague. Regional cooperation will continue to increase in the future, Raba concluded.

48. Bent Lindhardt Andersen of Denmark followed with a Nordic perspective on regional cooperation. There is a long tradition of cooperation among the Nordics, including in the field of export control, as well as close cooperation with the Baltic states since their independence. During the Danish presidency of the EU in the second half of 2002, surveys conducted to evaluate the export control systems of candidate countries revealed a number of problems. As a result, a project was initiated in 2003 to build a permanent export control network between the Nordic and Baltic states. Specific initiatives include:

- Establishment of a permanent partnership and network based on exchange of best practices. This can be used for daily contacts between officials dealing with dual-use items.
- A workshop was held in Lithuania in May 2003 to deal with practical implementation of EU export control regulations.
- Two workshops are to be held per year, starting with workshops in Latvia in November 2003 in Norway in March 2004. Topics will cover industry outreach and best practices in licensing decision-making.
- Assistance will be given to the Baltic states concerning entry into the international control regimes.

⁵ The Proceedings of the Szeged Seminar, as well as conference documentation, are or will soon be available on www.exportcontrol.org.

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Two specific projects are being undertaken within the framework of regional cooperation. Denmark has an initiative on dual-use items, while Sweden has taken the lead on conventional arms. The intention is to develop cooperation within these two networks at the same time through the use of workshops, Andersen said.

III. IMPLEMENTING BEST PRACTICES

Intangible Technology Transfer (ITT)

49. Anne-Charlotte Wetterwik of Sweden's Ministry of Foreign Affairs focused on the challenges of ITT resulting from the rapid spread of the Internet. With companies increasingly relying on electronic communication, the issue of ITT has grown in importance for the past couple of years, Wetterwik said, and many countries now have legislation in place. She listed a number of questions and issues concerning ITT and the Internet that are currently under discussion:

Borders – Since actual goods moving across a border cannot be seen, the only way to check is after the export has taken place. This makes preemptive efforts to curb the export vital. Also, Customs usually lacks resources and a mandate to carry out checks.

Surveillance – Intelligence services are important for carrying out surveillance of ITT transfers. Rules for monitoring are needed in real time, but this raises civil liberty issues, such as freedom of speech. How to check the identity of a person on the Internet is also a problem, making authentication very important.

The Exporter – This is a definitional problem, linked to the web Internet, not e-mail. Is the exporter the one who makes software or technology available on the Internet? The EU is discussing the issue, but has not resolved it. There is also a problem of multinational companies that transfer information between units that are in different countries.

When the Export Takes Place – Is it the upload or the download? You do not know when the download takes place, so perhaps a filter should be in place. Or should we focus more on the upload? Authentication and contact with the receiver is also an issue. One loophole is using an e-mail address in a country that is not considered to be a problem.

Exporting in Your Backyard – It is possible to have a transfer within a country that would inadvertently become an export if the server is located in another

country.

In sum, Wetterwik said, it is not impossible to deal with the ITT problem, but many issues remain to be resolved. Sharing experience among colleagues is the only way to go forward.

ITT – The U.S. View

50. Alexander Lopes of the U.S. Department of Commerce opened his presentation by asserting that, despite some skepticism, ITT can be controlled. Under U.S. law, ITT is covered in the "deemed export" program and comes under the licensing responsibilities of the Department of Commerce. A deemed export is the release to a foreign national of technology, knowledge, or source code subject to U.S. export controls. Besides Internet and e-mail transfer, examples of such releases would include visits by foreign delegations to internal company technical conferences, visual inspection of printed material by foreign nationals, and providing controlled technical assistance to foreign nationals. Several factors are taken into consideration in determining whether a license is required for a deemed export. These include questions such as whether the technology is on U.S. control lists and whether it is publicly available. In addition, the home country of the foreign national must be determined and licensing requirements for that country applied.

51. During the past year, Commerce has significantly increased its ITT outreach program with key industries. Statistics showing the number of applications returned for further information are going down, perhaps an indication that outreach is working. Commerce needs to focus on only a handful of companies – ten exporters are responsible for almost 75% of the applications received. The top deemed export technologies include semiconductors and electronics, telecommunications, and computer systems. Commerce is taking a number of initiatives to improve the implementation of ITT controls, including the development of a best practices plan for industry and looking at ways to handle intra-company transfers, Lopes said.

Catch-all Controls

52. Japan's experience with catch-all controls was the topic of a presentation by Masahiro Aoki of the Ministry of Economy, Trade and Industry (METI). Japan introduced a WMD catch-all system in 2002 and now has a year's experience. A license is required if the exporter has information that the item is connected with WMD development or if METI informs the exporter that the item relates to WMD

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development. The purpose of catch-all control is simple but the implementation is difficult. There are three elements to effective catch-all:

- Cooperation with exporters (promoting awareness, providing risk information on end-use and end-users, and helping develop internal compliance programs).
- Cooperation with customs.
- International cooperation.

53. Aoki called attention to Japan's extensive end-user list of 129 entities, available at METI's website. Since only a few countries have published such lists, Aoki expressed the hope that conference participants might find it useful. He also illustrated Japan's list of items beyond those of the regimes with possible use for WMD development.

54. As an example of how customs works with METI, Aoki cited the case of a customs report to METI of heavy trailers for North Korea. METI determined that the trailers could be used to pull SCUD missile launching systems and that the end-user in North Korea had connections with the military. Therefore, METI informed the exporter that an export license was required.

55. With regard to international cooperation, Aoki cited Japan and Hong Kong's successful blocking of an attempted diversion of sensitive goods to North Korea. A Japanese exporter attempted to ship stabilized DC power suppliers to Thailand, but the Japanese government had information that the shipment was ultimately destined for North Korea. In April, Japan notified Hong Kong that the shipment was transiting Hong Kong on its way to Thailand. Acting on the information, Hong Kong intercepted the cargo and shipped it back to Japan.

Licensing and Best Practices –Hungary and Slovakia

56. Gyula Kocsis and Jana Dlhopolcekova reviewed key elements of the Hungarian and the Slovakian export control systems, respectively. Kocsis, Director General of Licensing in the Ministry of Economy and Transport, outlined the laws and implementation decrees that form the basis for the Hungarian system. Underpinning the system are the multilateral regimes. With accession to the EU coming in May 2004, Hungary is harmonizing its laws and practices in accord with EU requirements. Prominent features of the Hungarian system include a requirement for exporting companies and individuals to register, use of the Tracker electronic

licensing system, end-use checks, an Internal Compliance Program (ICP) for industry, and a system for controlling transit.

57. Jana Dlhopolcekova, Legal Expert in the Slovak Republic's Ministry of Economy, said two amendments in the past year have significantly strengthened Slovakia's export control system. The system is divided into control of arms and control of dual-use goods. Each is governed by a legal act. Licenses are issued on an individual, case-by-case basis. Brokering of military material requires a license from the Ministry of Economy and brokers are required to register and keep accurate records of their activity. Transit is controlled by customs, which has the power to stop and return cargo. The ministries of Economy, Foreign Affairs, Defense, and Interior as well as the National Security Office, Customs and the intelligence agency are all involved in reviewing license applications for military material. The review process is conducted at two levels, with a final decision in cases of disagreement resting with the Ministry of Economy. The Ministry of Foreign Affairs plays an important role in the process by reviewing license applications in the context of Slovakia's multilateral and bilateral commitments. The process for dual-use goods is much the same. Dlhopolcekova noted that a special unit, the Customs Criminal Office, plays an important role in enforcing export control laws, as does the Ministry of Economy.

IV. ENFORCEMENT TRENDS

The WCO's New Direction

58. Will Robinson of the World Customs Organization (WCO) described the fundamental change in the way the WCO approaches customs in response to the threat of international terrorism. In June 2002, the WCO Council passed a resolution on security and facilitation that essentially shifted the focus from finance (collecting duties) to security. A task force has produced a package of measures to set standards for such key elements as legislative frameworks and a data elements exchange agreement. These changes will permit many countries to work on risk management principles. WCO is also working with industry to develop an authorized trade and supply system. However, these measures await implementation in the future and national governments must be willing to support the new role for customs. The WCO is working closely with the UN and with individual countries on these initiatives. In particular, Robinson said, WCO is cooperating closely with the U.S. Container Security Initiative.

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Export Control Enforcement - Supply Chain Security

59. Bill Flanagan, U.S. Customs attaché in Vienna, and John Badley of Her Majesty's Customs and Excise formed a panel on export control enforcement that focused primarily on the Container Security Initiative (CSI). Flanagan reviewed the background of CSI, which has the objective of identifying and pre-screening high-risk containers at foreign ports of lading. Phase I was established in the top 20 ports handling containers bound for the U.S. U.S. Customs officers are stationed in CSI ports where they work with and advise local customs who carries out enforcement, Flanagan said. Phase II will involve expansion to additional ports based on volume of traffic, location, and strategic concerns. Currently, discussions are taking place with Malaysia, Sri Lanka, and South Africa.

60. In assessing the benefits of CSI, Flanagan said:

- CSI is working -- enabling high-risk determinations to be based on more complete information and resulting in enhanced security
- It has improved the technology available for processing container traffic.
- It has decreased the amount of time it takes for containers to move from one point to another. Co-located inspections reduce the time for shipments and benefit the exporter.
- It has focused the shipping industry on the vulnerability of container traffic.
- It has increased cooperation between customs and the trade as well as among customs services around the world.

61. Badley complimented Flanagan's briefing by offering an assessment on how CSI actually works in the UK. Five UK ports are participating in CSI, all of which have direct sailing to the U.S. U.S. customs officials work with UK customs, with the U.S. team identifying high-risk containers by using computer profiling. Containers being transshipped, goods remaining on board, and direct shipments are all covered by CSI. Manifests, which are all sent electronically, are the basis for risk assessments, even though they are often general. U.S. computers at CSI ports are linked to the U.S. Automatic Targeting System (ATS) that identifies high-risk goods, but are not linked to UK computers.

Under the 24-hour rule, exporters must provide customs with information 24 hours in advance of arrival.

62. If a container is identified as high risk, inspection is carried out by the home authority. U.S. Customs has no legal powers in the UK but can be present at the examination. Examinations are mostly by x-ray. Cost is a sensitive area, Badley noted. However, exporters seem to accept that they bear any costs of examination, in part because they are assured their goods will not be subject to in-depth examination when they arrive in the U.S. Thus far, between 30 to 40 containers have been scanned at the five UK ports and nothing suspicious has been detected. Badley emphasized that the focus of CSI checks is very much on transshipment traffic. Other systems are in place for goods going from the UK to the U.S. The cooperative arrangement will be reviewed in a year to see if it should be continued or whether the U.S. may want to shift its resources to Phase II ports.

Industry Panel

63. A panel, chaired by Don Creed of the U.S. Department of Commerce, presented a perspective on export control issues from the side of industry. Denes Gyori, Director of Masped Expo, outlined the role of a freight forwarder in bringing military and dual-use goods into Hungary for exhibitions and trade shows. The major problem is the Carnet ATA, which is a general customs declaration permitting temporary import but which does not declare the specific items being brought into Hungary. In Hungary, export and import licenses must be obtained, but many customers claim their rights are being violated if the Carnet ATA is not sufficient. There will be a WCO exhibit in Budapest this weekend with many controlled items and many manufacturers argue that they should not need licenses for only an exhibit, especially since it is not possible to sell the exhibition goods in Hungary and they must be returned to the country of origin.

64. Konrad Grundner of Siemens in Munich reviewed his company's extensive export control program. The company operates in 95 foreign countries and deals with an extensive product range. Siemens has had a corporate export control compliance program since 1983 and currently spends some 50 million Euros annually on it. Siemens does not do business where there are indications that its products will go into manufacture of conventional weapons or WMD. Grundner stressed that training in the area of export controls is essential for Siemens personnel. Every regional company has one person responsible for export

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control compliance who reports to the managing board in Munich. Siemens in Munich has staff that keeps up with U.S. and EU regulations and control lists on a daily basis and enters the information in a database. All companies worldwide must check items they propose exporting against the database and obtain a license if so indicated. The system works very well, Grundner concluded.

V. NEW APPROACHES TO CONVENTIONAL ARMS CONTROL

Conventional Arms Guidelines

65. Offering a brief overview of conventional arms controls, Spencer Chilvers, Department of Trade and Industry in the UK, said the number of countries with controls in place is rising but the practice is by no means universal. The use of published criteria for licensing decisions is a relatively new phenomenon, dating back to the early 1990s. The most recent is the Wassenaar Arrangement's SALW guidelines of December 2002. None of these measures is legally binding, but a coalition of NGOs has been promoting a framework convention that they would like to be legally binding. Controls based on guidelines are an important part of helping to ensure that terrorists or criminals do not gain access to weapons and that those supplied to legitimate end-users do not contribute to regional conflicts. The UK's criteria for decisions are closely based on the EU Code of Conduct. Criteria most often used to deny licenses in the UK are those related to human rights in the importing country, the country's internal situation, preservation of regional stability, and risk of diversion. Under the EU Code, when a license is denied, the decision is circulated to all other member states and if any state is considering an identical transaction, it must consult the member state issuing the denial before making a decision. Chilvers said he recognized the issue is contentious for some but expressed the hope that the international community would continue discussing the development of common themes for judging transfer applications.

66. Explaining the Hungarian system of conventional arms export controls, Director Zoltan Vezer from the Ministry of Economy and Trade said it takes account of all relevant international obligations and aligns national criteria with the EU Code of Conduct. Licensing requirements are applied to all goods of military use including technology and technical assistance. Reviewing the interagency process for considering licenses, Vezer noted that the National Assembly exercises

political control. However, he added, there should be greater transparency, including the publishing of reports on military trade. In response to the new international environment and EU accession, Hungary is taking several measures:

- The EU Code of Conduct will become part of Hungary's national legislation in the coming months.
- A new regulation will place more emphasis on brokering controls.
- Risk assessment is a priority for MFA and the intelligence services.
- Post shipment controls will be strengthened.
- More attention will be devoted to MANPADS and UAVs.

Panel on Transparency and Ethics

67. Transparency and ethics, a topic that has not been discussed previously at the ICEC, was addressed by a panel consisting of Nineta Barbulescu, Head of the Romanian National Agency for Export Control; Anne-Charlotte Wetterwik, Ministry of Foreign Affairs of Sweden; and Joseph Roeber from Transparency International (TI). Barbulescu stated that there is a direct relationship between transparency and ethics in export control. The level of transparency can be a mark of the health of an export control system, she noted. Annual reports with data on military exports are one clear aspect of transparency. An example of such transparency is last year's publication by Romania of its first annual report on export control for the years 2000-2001. The government is looking into increasing transparency in its upcoming second report by publishing more data on countries of destination and the classification of end-users. In addition, to support the highest level of probity and integrity, it is important that export control officials travel to international conferences and have as much contact as possible with their international counterparts. Barbulescu ended with a call for expanded regional cooperation on export control.

68. The issue of corruption in the official arms trade was the topic addressed by Anne-Charlotte Wetterwik. Governments must address corruption, she stated, if they are to have credibility and if they are to avoid losing large amounts of revenue. The Swedish government has had a long-standing interest in corruption, transparency, and ethics.

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Since 1999, Sweden has had a project with TI called Corruption in the Official Arms Trade (COAT). At the first meeting in Stockholm in 2000, the problem was examined from the different perspectives of government, industry, the military, and academia and a set of draft recommendations was produced. At Cambridge the following year, the same set of partners singled out options and formed a steering committee that met in Stockholm in 2002. One of its ideas is the "Integrity Pact," an anti-bribery pact in which both buyer and seller in the arms trade sign an agreement not to offer or pay bribes. Outreach is an important part of COAT, so other governments will be contacted. Sweden tried to introduce the project and its ideas into the EU during the Swedish presidency in 2001, Wetterwik noted.

69. TI's Joseph Roeber opened by citing one of the most feasible of the Steering Group recommendations, that export licensing and export credit guarantees should be conditional on export companies presenting both annual sign-off letters and company-specific no bribery guarantees. He stated two propositions about the arms industry:

- The legal arms trade is the most corrupt of all legal trades.
- When a decision-maker stands to benefit from his decisions, he will make the decisions that increase his benefit.

Citing a number of international cases of "grand corruption" in arms sales, Roeber noted that all have profound effects for the countries involved and their economies. The arms industry is "hard-wired for corruption" by a number of special features. Among them are: the big contracts involving large sums of money; decision-making concentrated in largely unaccountable bodies; the cloak of secrecy surrounding the trade; and governments interested in the trade for national security reasons.

70. The consequences of corruption in the arms trade are huge, Roeber stated. The evidence is that corruption acts at the center of defense procurement and "blows any form of control out of the water." It inflates defense budgets and results in procuring inappropriate arms that do not match strategic needs. Furthermore it often produces sub-optimal contracts, with a company getting the business that is not necessarily the best to provide the equipment and services. Corruption in the arms trade is also a proliferation issue because it generates trade in unneeded arms and increases surpluses. Returning to the recommendation for

sign-off letters as a means of addressing the problem, Roeber noted that the letters make individual managers responsible if things go wrong. The letters were introduced in the oil industry, where they have proven very effective, he said. In closing, Roeber said the recommendation would, in the words of Ambassador Danelsson, restrict "irresponsible exports that can destabilize a country or a region."

Brokering Controls

71. Anne Kari Lunde of Norway's Ministry of Foreign Affairs argued that there must be a certain degree of international consistency to address the global issue of arms brokering. Although there are no agreed-upon international guidelines at present, there have been some encouraging developments. Norway and the Netherlands have recently launched an initiative on illicit brokering of SALW. The initiative addresses two main issues:

- Since brokering is an international activity, effective regulation has to be based on international cooperation.
- All countries must have legislation to distinguish between legal and illegal brokering. (Only 18 countries currently have such legislation.)

In pursuit of the initiative, Norway and the Netherlands have approached major regional organizations and plan to report on the initiative at the Biennial Meeting of States to Consider the Implementation of the UN Programme of Action in 2005. The Organization for Security and Cooperation in Europe (OSCE), the Wassenaar Arrangement, and the EU have also made progress on the issue.⁶

72. There are four basic principles under discussion: definitions of brokers and brokering activity; description of which arms and military material should be covered by legislation; establishment of a license or authorization requirement; and adequate penal provisions. Lunde described the principle of extraterritoriality as especially difficult for many countries, concluding

⁶ The OSCE Document on Small Arms and Light Weapons and a draft Best Practices Guide on brokering address the issue. The WA adopted a Statement of Understanding on arms brokering control at its 2002 Plenary. In June 2003, the EU adopted a common position on arms brokering control, requiring all member states to introduce *ad hoc* legislation to control brokering.

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that at present it seems most productive to concentrate on regulating brokering activities taking place on a country's own territory. In sum, Lunde said the priority at present should be to assist and encourage governments to adopt national legislation and to work towards establishing a binding international instrument on arms brokering.

Defense Industry in Transition

73. Using Bulgaria and Romania as examples of defense industry transition, Bernardo Mariani of Saferworld argued that effective export control policies must be implemented in conjunction with programs to assist the restructuring of the economically-troubled defense industry. These economic problems have resulted in a number of efforts to circumvent export controls and to sell to the black market in arms trade. Mariani suggested that governments adopt a different approach whereby the state uses investment, tax incentives, and subsidies to develop profitable alternatives to the production of arms. Governments should identify areas where the capacity of defense industries can be shifted to other products and re-oriented towards sales in western markets. Governments should also have more systematic outreach to defense industry to inform and train companies on export controls and how to implement internal compliance systems.

74. Bulgaria and Romania are paying a high economic price for their contribution to international security through more rigorous export control efforts, Mariani said. NATO enlargement has also imposed costs on candidate countries that have to pay for new weapons systems. NATO and the EU therefore should have an incentive to assist countries like Bulgaria and Romania in restructuring their defense industries, Mariani suggested. In conclusion, he said lack of transparency is a key obstacle standing in the way of defense industry restructuring. The gray and black markets in arms feed off the former tradition of secrecy and the lack of information makes it difficult for the affected defense industry to evaluate challenges and adopt the necessary responses to remain viable.

BREAKOUT GROUP REPORTS

75. Breakout groups addressed the topics of enforcement, licensing, and policy on the afternoons of September 16 and September 17. Two groups were formed to deal with each topic. The following summarizes their key conclusions, suggestions, and comments as reported to the Plenary:

Enforcement

Information Sharing -- Each country should look at updating and improving legislation, such as extradition treaties, that could facilitate international cooperation and information sharing.

Better Cooperation between agencies – The highest levels of government should provide a clear mandate and push for closer working relationships between intelligence, licensing, customs, and police in their country.

More Customs Liaison Officers – Another way to facilitate information sharing would be the enhanced use of customs or border enforcement liaison officers.

Greater Regional Cooperation -- More regional cooperation along the lines of the Nordic/Baltic model should be encouraged. In some cases cooperation is hampered by inability to share actionable intelligence. The SECI Center⁷ could be a useful regional resource but it has not lived up to its potential to provide timely information.

More Regional Conferences – It would be useful to have more regional and specialized conferences, such as conferences only for border officials to discuss best practices and how to conduct investigations.

Outreach to Industry – Because of its importance, outreach to industry should be expanded, with a focus on enforcement as well as licensing.

Assign Border officials to Intelligence Services – A border official assigned to each country's intelligence service could bring new perspective and experience to the work of intelligence officers.

Better Technical Information at Borders -- Better technical information to help identify WMD and dual-use items at border posts is needed.

Detection Strategy and Tools – While important, equipment itself does not solve the problems of enforcement. People and training are the keys. In considering the pros and cons of fixed versus mobile large-scale scanners, there was consensus that mobile systems offered advantages over fixed systems because they could be moved around based on intelligence reporting. This would help address the problem of "port shopping," a common

⁷ The SECI Regional Center for Combating Transborder Crime, located in Bucharest, Romania.

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tactic used by smugglers who constantly look for the weakest link. Finally, politicians and those overseeing programs should be cautioned to be patient in waiting for new, big-ticket equipment to show results. Smugglers often wait a while after the introduction of new equipment before resuming their efforts.

EU Expansion -- The EU's strategy of creating a strong border around member countries is a good tactic. However, many customs services also have the ability to stop cargo and commercial traffic within their own borders, based on intelligence. Mobile teams that work internally in reaction to intelligence are very effective.

Create National Databases -- Databases are needed in each country to share intelligence on the background of exporters, importers, end-users, and individuals. Information on previous violators would allow border officials another means to detect possible violations.

Laws to Protect Border Officials – Customs, border guards, and frontier police in some countries are afraid to stop suspicious items because they may be penalized if they make a mistake. New legislation and authorizations are needed to ensure that border officials have the authority to do their jobs without being subject to civil suits or being fired.

More Equipment and Training – The EU and the U.S. should provide more high tech equipment and training to customs and border officials where possible.

Increase Twinning – There should be more pairing of advanced countries with “junior” partners for professional development in export control and border security.

Licensing

ITT and Catch-All Difficult – All participants agreed that ITT and catch-all are difficult issues. Catch-all legislation is important and cooperation between intelligence agencies is the key requirement for effective catch-all implementation. ITT legislation is also necessary, but implementation is difficult because of definitional problems. It is also time-consuming and expensive. In addition, catch-all and ITT are the most difficult concepts to get across to industry, making outreach and education paramount. The academic community is especially sensitive about ITT.

Information Sharing -- Catch-all controls require cooperation between agencies and efficient information sharing on end-users and products of concern. There are pros and cons on whether lists of end-users of concern should be made public. One problem is that public lists tip off problem end-users.

The Importance of ICPs – Effective export control requires that companies have internal compliance programs in place. It is also necessary to have a system of penalties in place for companies that do not follow export control procedures and requirements.

EU Assistance Vital – It is very important that the EU provide export control assistance to acceding countries and candidates in order to harmonize systems.

Conventional Arms Brokering – It was noted that brokering was discussed at the Warsaw conference in 2002 and that the same issues are still there. There are great differences in how countries define brokering and brokering activities. For example, some register brokers; some do not. If all countries do not have brokering laws in place, it will take a long time to harmonize an approach. It is important to remember that brokering controls should stop illegal arms trade but not inhibit legal trade. Laws must define brokering very precisely so as not to hinder legitimate trade.

Brokering and Extraterritoriality – While it was generally accepted that in principle brokering is a global problem that requires extraterritorial powers, many countries had practical questions concerning the ability to enforce extraterritoriality. If a deal is done in a country where the activity is not a problem, what leverage could be used against that country to collect evidence to mount a prosecution?

Is Brokering Really a Major Problem? – It was noted that a lot of pressure on the brokering issue comes from NGOs concerned about the root causes of the conflicts in Africa. Some participants thought that the scale of the brokering problem might be overblown.

Suggestions for Controlling Conventional Arms -- Four suggestions were put forth on controlling conventional arms:

- ✓ Emphasize restrictions on the supply of ammunition and explosives as well as stockpile management. Weapons cannot be used without ammunition.

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- ✓ Systematic application of criteria would be ideal, but there are problems because different countries have different perceptions of other states.
- ✓ Establish universal control lists. Now lists are based on regimes and countries national control lists may vary from country to country.
- ✓ There should be increased transparency, end-use monitoring, and verification.

Policy

Regime Outreach -- Responsibility for outreach should not be restricted to just the chairs but should be the shared responsibility of all members of the regimes. Individual members should have the regime agenda higher on their own policy agendas and thus pursue regime goals through their own bilateral discussions. Also, there should be more coordination among regime members to avoid duplication of effort in outreach.

Carrots for Non-Regime Members – Perhaps the greatest incentive for non-regime members to adhere to regime controls is the confidence and trust that will result. As a result, non-regime members can be full-fledged commercial partners with regime members.

More Regime Public Diplomacy – Regime chairs should do more public affairs work, such as media interviews, and maintain more contact with private companies and educational institutions.

Guidelines Complex -- It was noted that interpreting regime guidelines and control lists is very complex. Even among members with sophisticated export control systems, interpretations can vary.

MANPADS -- After reviewing the rationale for using MANPADS, it was concluded that they pose a real security threat. There was some concern about the lack of good data on MANPADS (e.g., who has them? how many are out there?). There were also questions about how to draw the line on issuing licenses for MANPADS. It was suggested that it would be useful to consolidate the various initiatives in different fora such as the GA-8, WA, UN 1st committee, and the OSCE.

UAVs – To what extent should governments try to control when it comes to UAVs? As a delivery device? For reconnaissance purposes?

Transparency – A basic question was raised concerning the additional value of an Integrity Pact for a country that already has legislation against bribery. Most agreed that it is important to have sanctions that are costly and that criminal sanctions are sometimes not enough. Penalties such as removing export privileges, being placed on watchlists, and depriving companies from participating in similar projects might be more effective. It was agreed that enforcement is the key to addressing bribery issues. The idea of annual letters and no bribery guarantees is something that delegates will take back home for consideration.

Ethics – There are two levels of corruption to consider. Small-scale corruption can be addressed by small measures such as rotating officials and publicizing penalties more widely. Large-scale corruption may need to be dealt with at a higher level and it would be useful for opposition political parties to have the right to launch investigations of scandals in countries where this right does not now exist.

Laws and Regulations – It was thought that having export control laws, even as an initial step with implementation regulations to follow (for example, in the case of ITT export control legislation), is useful. Most want to obey the law and decision-makers can strengthen the impulse towards a complete system by first getting laws in place.

Suggestions for the Next Conference –

- ✓ Topics should be less general and more focused on a smaller number of specific themes. On the first day, there could be general presentations and updates on current issues. The second day could be used for breakout groups for focused discussion on issues such as policy or licensing.
- ✓ Participants should be encouraged to have a freely flowing discussion and to think out of the box. There should be an effort to create sparks, perhaps by having point – counterpoint presentations to stimulate discussion.
- ✓ Greater NGO involvement should be considered.

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CONCLUDING REMARKS

76. In closing remarks, co-chair Zoltan Vezer underlined two critical themes that ran throughout the conference: cooperation and intelligence. All participants stressed the importance of cooperation, he noted, as a crucial element in improving efforts to strengthen export controls. Improving cooperation at the international, national, and individual levels are all vital. Numerous speakers also emphasized that the role of intelligence is decisive for improving export control. Finally, Vezer said, it is important to follow up on the topics discussed. The International Conference on Export Controls has a long tradition and will certainly continue into the future.

77. Paul van Son remarked that the U.S. believes this annual conference is a useful forum to bring together a broad range of officials and countries dealing with export control issues. It can be a challenge to pull such a diverse range of officials and topics together each year and the suggestions for changes from the breakout groups are welcome. At this year's conference many interesting ideas were raised and there was good discussion on how export controls can and cannot be used to fight terrorism. Some interesting issues such as ethics, corruption, and industry transition were also raised, and participants can take them back to their countries for further consideration. Van Son concluded that stemming proliferation is clearly paramount to all. It is a global problem that can only be addressed globally through cooperation and mutual exchange of intelligence and information.