

**INTERNATIONAL CONFERENCE ON EXPORT  
CONTROLS**

**REPORT OF PROCEEDINGS**

**OXFORD, ENGLAND**

**SEPTEMBER 28-30, 1999**

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**T A B L E O F C O N T E N T S**

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<b>Preface .....</b>	<b>3</b>
<b>Introduction .....</b>	<b>4</b>
<b>Proceedings .....</b>	<b>5</b>
<b>Conclusion .....</b>	<b>12</b>
<b>Attachment 1: Elements for Referral to Governments of Conference Participants for Possible Further Action .....</b>	<b>14</b>

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# P R E F A C E

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- 1 During September 28-30, 1999, export control representatives from 22 nations, 3 multilateral export control regimes, and 4 non-governmental and academic institutions convened in Oxford, England, for two back-to-back Conferences on the State of Export Controls around the Globe. On September 28, export control experts from Austria, Canada, Denmark, Finland, France, Germany, the Netherlands, Norway, Sweden, the United Kingdom, and the United States met to discuss ways to improve the global system of export controls. On September 29, these nations were joined by representatives from Albania, Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, and Slovenia, which are developing new export control infrastructures, to discuss ways to improve the effectiveness of national export control systems and international export control cooperation and assistance efforts.
- 2 The Conference enabled export control experts to engage in unrestricted discussion and debate regarding the state of export controls around the globe, particularly in Europe, where national export control systems are in various stages of development. They explored ways to strengthen national export control systems and the *global* system to respond effectively to challenges resulting from the end of the Cold War, rapid technological advancement, and globalization. The Conference also provided a first opportunity for representatives from countries with mature export control systems and representatives from countries currently developing export control systems to assess assistance and cooperation programs. They evaluated assistance programs that have been offered by the former to the latter and planned how best to coordinate cooperative programs in the future.



- 3 This document summarizes the main points made during those discussions, and has two purposes. The primary one is to assist the conference participants to communicate with their national governments for possible future action on those topics which Conference participants generally agreed merited governmental attention. The secondary purpose of the document is to provide a written record of the meeting so as to lay a basis for continued dialogue on similar themes.
- 4 None of the views expressed at the Conference and summarized in this document reflects official policy, principles, or proposals. None of the views is attributed to an individual speaker. Participants spoke on a not-for-attribution basis so as to allow the maximum degree of creativity and frankness. They debated issues as a community of experts, rather than individuals representing national governments or institutions.\*

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\* Remarks and presentations that the speakers were willing to have attributed to them have been included in a separate Appendix to these "Proceedings".

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# I N T R O D U C T I O N

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5 The extraordinary changes of the past decade fundamentally shifted the playing field on which the business of export controls is conducted day-by-day. Political changes resulting from the end of the Cold War accelerated global integration. Free market economies gradually replaced command economies in the former Soviet Union and Central Europe. Many national governments decided to open markets and boost trade. The bipolar security structure disappeared with the collapse of the Iron Curtain and, along with it, the Western alliance's determination to prevent the Soviet bloc from obtaining the means to threaten the West's interests.



6 Simultaneously, technological advancements made it easier and cheaper for people to exchange goods and information in “intangible” ways that are much more difficult to control directly. The development of the Internet and the onrush of cheap computers and communication devices enable customers in virtually any corner of the world to trade with suppliers anywhere in the world instantaneously, at the tap of a keyboard. To compete effectively in this international market, many companies have located their manufacturing and distribution processes in multiple countries.

7 The cumulative effect of the decade's “revolutions” – the end of the Cold War, technological advancement, and globalization – is that nations are highly interdependent and increasingly affected by events beyond their borders. This fact puts great pressure on export control advocates to strengthen their national export control systems and improve the *global* export control system to prevent the proliferation of weapons of mass destruction (WMD), WMD-related technologies, and their delivery systems. The Oxford Conference was convened to provide a venue in which export control

officials from a community of nations equally committed to the importance of effective export controls to global security could explore ways to improve current export control systems to meet that security objective.

8 The Conference posed a simple but complex question: “Is the international export control system as effective as it needs to be in achieving its nonproliferation objective, and, where it is not, what must be done to make it sufficiently effective?” The responses of Conference participants to that question are summarized in this document in four thematic

sections. The first section summarizes participants' views on what makes a national export control system effective, considered both as an integrated whole and in its constituent parts. The second section summarizes views on how nations might increase their effectiveness by cooperating and coordinating with other nations and adopting unified, global processes and procedures. The discussion considers the role of the multilateral export control regimes – the Australia Group, the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group (NSG), and the Wassenaar Arrangement – in facilitating such global cooperation and coordination. The third section summarizes participants' assessments of export control cooperation and assistance programs previously organized by nations with mature export control systems for nations developing new export control systems. The last section summarizes participants' views regarding issues to refer to their governments for consideration and possible future action, and participants' closing comments regarding how to extend their informal cooperation.

**WHAT MAKES A NATIONAL EXPORT CONTROL SYSTEM EFFECTIVE?**

- 9 An effective national export control system has three core virtues: it is adaptive, it is trusted and credible among those on whose cooperation it depends, e.g. exporters, and it is compatible with the export control systems of like-minded nations. National export control systems are also quite complex, involving multiple actors across diverse locations, which means that an export control system's ability to cultivate the core virtues depends upon its ability to communicate effectively internally and externally. National export control administrators must be able to send and receive information to and from other individuals, departments, and organizations, domestically and overseas.
- 10 An effective national export control system must be adaptive to external conditions in each of its functional areas. To adapt, national export control administrators must have a clear, unequivocal commitment to a core methodology that defines what they must do to complete their mission. A national export control system must operate effectively as an internally ordered system, which is also capable of adapting to external conditions. Under the COCOM\* common standard for the administration and enforcement of export controls, the core "functional" areas deemed essential for the development of an effective national export control and enforcement infrastructure included: legal and regulatory foundations, licensing procedures, enforcement mechanisms, and industry-government relations. These elements have remained prerequisites for effective control systems in the post-COCOM era. In each of these areas, we may consider what enables administrators to operate effectively and to adapt flexibly as conditions change.
- 11 National export control administrators must have adequate legal authority to interfere in commercial transactions when necessary to prevent the proliferation of WMD technologies, software, and their delivery systems. Furthermore, they must have the authority to do so *regardless of the means by which the transfer of technology or software occurs*, whether by physical (tangible) or



"intangible" means. "Intangible transfers" of technology and software occur in a variety of ways, including through telephone or face-to-face conversations and e-mail. The onrush of cheap computers and communications devices has increased the incidence of "intangible transfers," the control of which poses the most serious challenge in the legal and regulatory area of export control. Export control administrators have encountered various technical and constitutional constraints in attempting to control such "intangible transfers" of technology and software, and need to cooperate to determine the most effective, legal techniques to do so.

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\* COCOM was the "Coordinating Committee for Multilateral Export Controls," an alliance of Western governments that existed during the Cold War to prevent the transfer of specified items to Warsaw Pact countries. Formed to combat a monolithic Communist threat, COCOM differed from the current multilateral export control regimes in that COCOM focused on the *prohibition* of specified item transfers to a clearly defined group of target states. Following the end of the Cold War, COCOM was dissolved, and in 1995, former COCOM countries and some countries previously subject to COCOM controls, formed the Wassenaar Arrangement on new principles.

12 Export control administrators must have adequate legal authority to monitor commercial transactions based on an item's potential end use, in addition to its purely technical parameters. In some nations developing new export control systems, the administrators lack adequate legal authority to implement end-use controls and the "catch-all" provision.\*

13 National export control administrators must be knowledgeable concerning the latest WMD technologies, WMD-related technologies, and their delivery systems and be able to adjust their licensing procedures as necessary. Licensing officers must maintain current control lists and advise industries on licensing requirements for current technologies. To do this, licensing officers need access to multiple, current sources of information. They need to cooperate and communicate with experts in the science and technology fields to update control lists to include the very latest sensitive technologies. They need to communicate with licensing counterparts in like-minded nations to establish consistent control parameters and terminology.



14 Licensing officers have increased their effectiveness by using computer-based tools, which help users to establish standard processes, documents, and report formats. Many nations have installed the Tracker system, a network-based software system that automates the export control licensing process, to streamline their work so that licensing officers can respond more quickly to industry. Developed in the U.S., Tracker has been distributed (free of charge to the recipient nation) to many European nations. It can be installed within a single ministry for internal use only, or established in a network configuration that links several government agencies and even countries. In the future, Tracker will enable users voluntarily to exchange information with other Tracker users.

15 National export control administrations must have effective enforcement mechanisms in each of three core enforcement areas. First, they must have sufficient knowledge, tools, and techniques to conduct effective preventive enforcement. Enforcement officers need to be skilled in how to conduct pre-license checks and programs of effective outreach to the business community. Such preventive enforcement programs educate exporters about requirements and penalties so that they do not unwittingly commit a violation. The second "pillar" of effective enforcement is *aggressive* enforcement. It can be costly and time-consuming. That fact provides an incentive to increase the effectiveness of preventive enforcement, which if successful, reduces the need for investigation. Yet aggressive investigation is the cornerstone of an effective enforcement program, as it provides the "stick" – penalties and bad press – that is an important component of exporters' motivation to cooperate with their national export control administrations. The third "pillar" of effective enforcement is cooperation with export control enforcement administrations in like-minded nations to enable information-sharing and international assistance to resolve individual cases.

16 Enforcement officers have proposed some ways to strengthen international cooperation that would improve their competence in the other two enforcement areas. Enforcement officers have discussed the possibility of establishing computer-based information sharing systems on end users of concern, based on national information sources or "open source" information, such as lists of court cases in which an exporter was convicted of an export control violation. They have discussed sharing information on end-use assurances and propose There is a clear imperative – and opportunity – to improve global export controls by helping post-communist nations establish effective industry-government relations. This task likely will

\* The "catch-all" provision authorizes control of items based on the potential end use (i.e., if they are destined for an entity of concern with respect to possible participation in WMD proliferation activities), even in cases when export of the items otherwise would not be controllable by law.

Proposed exchanging, with counterparts in like-minded nations, copies of falsified end-use statements accompanied by copies of the real statements. And enforcement officers have discussed how like-minded nations, copies of falsified end-use statements accompanied by copies of the real statements. And enforcement officers have discussed how like-minded nations might cooperate to develop a common approach to handle intangible transfers of technology.

- 17 By being adaptive to external conditions, national export control administrators are able to respond more efficiently and effectively to their exporters' needs. By being responsive, administrators build credibility among businesses, on whose cooperation the government depends, and they lay the basis for effective industry-government relations. The exporters are the export control administrator's main sources of information concerning current technologies, end users, and best practices. As information is the export control system's "working capital," the desire to possess more of it motivates both parties to work together as partners.
- 18 Both industry and government contribute to and benefit from an effective partnership. Export control administrators help industry to avoid illegal transactions. The government attempts to make its rules consistent with those of other nations so exporters can compete internationally on a "level playing field." Industry, in turn, cooperates with the government during the licensing process to minimize paperwork and the risk of export control violations that result in penalties and bad publicity. Industry also may provide information useful to enforcement officers.
- 19 There is a clear imperative – and opportunity – to improve global export controls by helping post-communist nations establish effective industry-government relations. This task likely will pose a significant challenge, especially where industries are not integrated into the world economy and lack experience with export controls. The task is to redefine the principles governing industry-government relations. Under the old command economy model, the state dictated rules to industry and might favor one industry or region over another based on a central plan. A credible export control system must be based on a concept of law which establishes rules that apply equally to everyone and are enforced by independent courts. The decision to establish a rule of law and build trust among businesses is a political one. It is the essential first step in the development of a national export control system. Without the political commitment of the nation's leaders, the export control system cannot operate effectively.
- 20 Post-communist nations have already done much to educate their exporters regarding export control requirements. The U.S. Department of Commerce has made available a computer-based Internal Control Program (ICP), which is a training and job aid tool intended to assist foreign export control administrators in educating their businesses regarding export controls and helping businesses to design in-house control programs consistent with the national regulations. The tool also facilitates industry-government communication by providing links to government Web pages and contact information templates. A number of nations have adapted the ICP to their unique situations and distributed it to their main exporters of sensitive technologies.
- 21 National export control systems are most effective when they are compatible with other national export control systems. It is easier for nations to communicate, share information, and cooperate if their systems are compatible. If they can communicate easily, they are more likely to be consistent in their interpretation of terms and scope of coverage. Participants discussed possible ways to harmonize their tools, the formats of critical documents, and terminology. Systems like Tracker will enable users to share information, which in turn will help export control experts to harmonize the format of end use assurances, share end user information, and develop a common approach to enforcement of intangible transfers. Participants have compiled and circulated contact information to enable informal channels of communication, and also discussed ways in which existing formal channels of cooperation could be made more effective.

## HOW CAN THE EFFECTIVENESS OF THE MULTILATERAL EXPORT CONTROL REGIMES BE IMPROVED?

22 The – the Australia Group, MTCR, NSG, and Wassenaar Arrangement – provide a forum in which like-minded nations can agree on common, normative export control standards and licensing criteria. They also enable nations to share information and establish consistent approaches to those problems in line with international standards. The multilateral export control regimes are the principal venue in which nations regularly communicate with each other regarding export controls.



23 Given that nations need to communicate better if they are to adapt flexibly and harmoniously to external conditions and cooperate on common challenges, participants agreed that the multilateral export control regimes could take measures that would help nations – members and non-members alike – to communicate and cooperate efficiently and effectively. They could adopt secure systems of communication enabling national export control systems to be connected to them; some, including the Wassenaar Arrangement, currently are investigating the development of such systems. The multilateral regimes could improve the quality and extent of information exchanged, especially concerning enforcement of controls applied to end users of concern.

24 By communicating better among themselves, the multilateral export control regimes could develop clear and consistent guidelines for nations concerning how best to address challenging issues, such as the control of “intangible transfers” and the “catch-all” provision. The multilateral regimes could establish consistent standards for information sharing and transparency with respect to WMD, conventional arms, and dual-use commodities and technologies. Currently, like-minded nations have

firmly committed to a common policy to share information on WMD, but they are much less clear as to when to share information concerning dual-use items (which **could be dangerous**) and conventional arms (which **are dangerous**).

25 Multilateral export control regimes could also increase their effectiveness by improving their outreach and education programs to include non-members as well as members. Some non-members that do not produce sensitive goods or technologies and will not qualify for membership, handle high volumes goods or technologies in transit and would benefit immensely from more extensive multilateral outreach programs.

Currently, multilateral regimes conduct outreach efforts directed to non-members once per year on average. The multilateral regimes could do more to enhance dialogue between members and non-members. They could also more actively assist states that produce sensitive technologies to qualify for membership. Some multilateral regimes are attempting to improve their outreach programs, for example, by emphasizing national responsibilities to implement treaties and conventions.

26 Some participants suggested that the multilateral regimes would operate more effectively if they united to form a single entity. They note that a single entity responsible for setting standards and sharing information would eliminate the potential for duplication of functions and inconsistency in terminology and procedures under the existing 4-system model. Member nations would realize the benefits of a reduced burden on staff and of being able to manage information under a one-system model.

27 In some ways, it may be difficult for multilateral export control regimes to move beyond the current forms of cooperation with member states. The MTCR and Wassenaar Arrangement are voluntary organizations and have limited authority over the actions of their members. At the regimes, the participants set policies and guidelines, but interpretation is left to each individual nation. Differences in mandate, membership, and legal status also complicate the task of consolidation. But these obstacles are not insurmountable, as is evident from the model of the Organization for Economic Cooperation and Development (OECD), which has diverse membership and objectives. Most participants agreed to refer to their respective governments the question of establishing a committee composed of members of the four export control regimes that would examine issues of concern that affect or emanate from all or several of the regimes.

28 The multilateral regimes can begin to harmonize practices in some areas. Each of the multilateral regimes needs to shorten and sharpen its control list, and in the process harmonize them where possible. The multilateral regimes could also harmonize their transparency requirements, outreach activities, and end user requirements. They should establish common standards for effective enforcement that each country can implement on a national basis.

29 A potential model for harmonization is the European Union (EU), where member states exchange ideas and information concerning common problems. But the EU has had difficulty promoting greater cooperation among the various actors involved in export control: between different licensing authorities, between licensing authorities and exporters, and between different enforcement agencies. The task of coordinating common operational procedures across such a large membership has posed a daunting challenge. The EU has proposed an amendment of its dual-use export controls regulation that would increase harmonization among member states' export control systems.

### ***HOW CAN INTERNATIONAL EXPORT CONTROL COOPERATION AND ASSISTANCE BE PROVIDED?***

30 The aspect of the global export control system perhaps most affected by the lack of a multilateral coordination body is international export control cooperation and assistance. To be effective, export control cooperation and assistance programs must match a supplier's expertise with a recipient's needs, and the relationship should ideally be conducted over an extended period of time. Given the number of nations that do not have mature export control systems but that should have effective ones because of the likelihood that they may export sensitive goods and technologies or may be a transit point for the same, the scope of the needed task is immense. This makes it unlikely, if not impossible, that any single nation or a few nations could meet all of the assistance needs. Nor is it desirable. The last decade of assistance to countries in the process of starting or developing export control systems has taught both suppliers and recipients alike that "assistance" in this context has to some extent become a misnomer because these situations are "two-way streets," from which both parties benefit. For this reason, and because of the increasing sophistication of the national export control administrations in Central Europe and the Baltics, such joint efforts in the future more accurately will be called export control "cooperation," rather than "assistance."

31 By almost any measure, assistance efforts – and in the beginning they were accurately called "assistance" – have realized considerable success. Prior to 1989, the Soviet Union and Central European nations had little or no experience in export control, and lacked any legislative framework for export controls or programs. Today, almost all Central European and FSU nations have enacted laws on export control and non-proliferation, and a number are members

of one or more multilateral export control system(s). Some have installed Tracker, which has automated their licensing process, and are developing customized versions of the ICP to educate and distribute among their industries. Suppliers of assistance have included Austria, Canada, Finland, Germany, Norway, the United Kingdom, and the United States. Some nations, such as France, offer assistance through the EU Phare program. Other EU assistance mechanisms are the Small-Scale Technical Assistance Fund and "Euroduane," part of EU Phare. Assistance has been conducted through seminars and workshops, most often on a bilateral basis. Since 1992, the United States has hosted an annual "Symposium on International Export Control" at which nations of the FSU and Central Europe update each other on the progress of their national export control systems and share concerns. Recently, nations have begun cooperating with each other directly – particularly regionally — rather than doing so only in the context of assistance programs sponsored by other nations.



- 32 Most export control assistance and cooperative programs have been conducted by an individual nation without coordination with other interested nations, especially those that may be providing or considering providing assistance and cooperative programs to the same nation(s). This is, at best, inefficient and could be counter-productive. Without coordination, duplication of effort is inevitable, and efforts do not necessarily meet existing needs. Overlapping programs also consume the precious time of generally small export control and other staffs in the recipient nations.
- 33 A number of nations with developed, experienced export control national systems do not offer assistance and cooperative programs to nations developing their national systems. In some cases, this is because they lack the human resources to do so; in other cases, governments have been unwilling to commit necessary financial resources to enable such an effort. In either case, the pool of

knowledge and experience that can be made available to the nations developing export control systems is very unfortunately diminished due to human or financial resource limitations. If small nations with developed national system with specific areas of expertise – areas which tend to be especially useful to other small nations in similar geographical situations – cannot offer their own, substantial cooperation programs, they should be encouraged and aided to participate with other nations in existing or planned efforts. Such cooperation would enhance learning for all involved.

- 34 Participants discussed lessons they had learned during previous assistance and cooperative programs, and agreed that such lessons learned should be brought to the attention of the global export control community. For example, participants concur that cooperative programs should be based on a rigorous assessment of a recipient's needs prior to launching the assistance program. If supplier(s) and recipient work together to design the program matching expertise with needs, both are more likely to feel committed to the program's success. If the global export control community could develop a mechanism to gather, classify, and communicate knowledge acquired from assistance and cooperative programs on a regular basis, export control experts would contribute to the community's "working capital."
- 35 To supplement existing bilateral assistance programs, nations have begun to explore ways to foster "horizontal" cooperation, provided by one nation's export control experts to their colleagues in other countries within the same region. Some nations are developing training programs to train indigenous trainers. Some nations are also exploring ways for export control experts in one agency to provide immediate "hotline" assistance to export control personnel in other agencies with respect to questions concerning item classification and licensing requirements. Austria and Latvia have already installed such a "hotline" for use by customs officers, whose knowledge of export control is

minimal, that connects them with export control experts. Such tools could be developed and offered to other nations.

- 36 Participants concur that they need to coordinate their cooperation and assistance programs, and they proposed several mechanisms as potential models. Proposed models included a group on cooperative exchanges within the US/EU non-proliferation troika, an ad-hoc group under the Enhanced Threat Reduction Initiative for the NIS, the coordination of cooperation exchanges by one of the multilateral export control regimes, or an inter-institutional committee to organize cooperative exchanges. Participants also proposed informal ways to coordinate their cooperation and assistance programs to avoid the complexity, the potential delays, and the costs associated with formal channels. They suggested, for example, that nations create a computer-based information sharing system, which authorized users could use to obtain information on assistance and cooperative programs, contacts (including web sites of national export control agencies), existing needs, and areas of expertise. An example of the form such a database could take was created and demonstrated during the Conference.



- 37 During the final session, participants presented their views regarding what they perceived to be the Conference's key results. The majority stated that the Conference had initiated an extremely useful dialogue, which they would like to see continued. Many recommended that the group reconvene regularly. The majority of those expressing this thought suggested that the best frequency would be annually.
- 38 Although participants did not believe it desirable to produce a statement of principles or objectives to which all participating nations would formally agree, there was substantial agreement early in the

Conference that there should be a written product of their discussions. Participants wished to capture the issues identified by many as worthy of referral to their governments for official consideration and possible action. A paper, entitled "Elements for Referral to Governments of Conference Participants for Possible Future Action," was developed to do this; it was circulated and commented upon on the final day of the larger, combination Conference and is included at the conclusion of these "Proceedings." The document (shorthand, "Elements for Referral") effectively forms a draft "agenda" of issues which Conference participants may wish to refer to their national governments for further attention. As noted in its text, the "Elements for Referral" was produced

based on the discussions at the first of the two sequential Oxford conferences, when delegates from Central and Eastern Europe were not present. However, many of the same themes and issues were addressed during the second, combination conference, when all of the participants were present. All participants had the opportunity to

review and comment on the paper before the combined Conference concluded.

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# C O N C L U S I O N

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- 39 Following is a summary of the issues identified in the “Elements for Referral” paper and other points raised during the Conference. The topics are presented according to the purview of the panels making presentations during the Conference’s final afternoon, each addressing one facet of how to increase effectiveness within the various functional dimensions of an export control system.
- 40 First, there appeared to be general agreement that national systems, to be effective, must do the following things:
- Enjoy strong commitment from national authorities;
  - Establish a domestic legal and regulatory framework tied closely to globally accepted nonproliferation norms as expressed by the multilateral nonproliferation regimes;
  - Establish effective export control enforcement, with four elements: preventive enforcement, including screening of license applications, end-use checks, and review of export documentation; trained investigators; penalties for both administrative and criminal violations; and international law enforcement cooperation.
  - Encourage voluntary compliance with export control laws and regulations at the individual business level, and develop lines and means of communication between those businesses and government; and
  - Exercise meaningful control over the intangible transfer of technology and software;
- 41 Second, regarding ways that national systems might more effectively coordinate with other national systems, there appeared to be general agreement on the need for:
- Effective communication of licensing and enforcement information among national export control systems, consistent with limitations imposed by national privacy and information legislation;
  - Sharing of staff lists, including responsibilities and contact information, to enable easy access by the export control staffs of one country to the staffs of other countries;
  - Circulation of a directory of national export control agency web sites;
  - A coordination mechanism that gets the job done simply and informally and avoids unnecessary complexity, bureaucracy, and consequent delay and expense;
- 42 If conducted relatively simply and inexpensively, such coordination and information-sharing activities can actually save money for those who make use of them, because they will prevent the necessity of “re-inventing the wheel.”
- 43 Third, regarding how to increase the effectiveness of programs of export control assistance, nations need to begin cooperating directly with each other—particularly on a regional basis—rather than doing so only in the context of programs sponsored by other nations.
- 44 With respect to programs of export control cooperation offered by countries with more mature and experienced national export control systems to their Central and Eastern European partners still developing national systems, participants agreed that the cooperative export control programs could be more effective, and more rapidly address the more pressing needs, if the countries with developed systems offering the programs coordinated with each other concerning the objectives, structure, and scheduling of the programs. Many participants identified the absence of any multilateral means with which to coordinate such cooperative programs as a significant factor hindering the overall cooperative effort to develop an effective global export control system.

- 45 Several existing consultative means were examined as potential models for addressing this need, as was the idea of establishing a new means:
- Enhancing the US/EU nonproliferation troika by requesting that it establish a sub-group on assistance coordination.
  - Creating an ad-hoc group on assistance to Central and Eastern Europe similar to the one currently operating in the context of the Enhanced Threat Reduction Initiative for the Newly Independent States.
  - Assigning assistance coordination to one of the existing multilateral nonproliferation regimes.
  - Assigning the task to a new inter-regime committee.
  - Coordinating very informally – with each nation offering or willing to offer cooperative programs advising others with developed export control systems of their plans and intentions and seeking responses – and meeting occasionally to compare notes and agendas.
- 46 Participants did not reach consensus on what would be the best way to do this. It was generally agreed that there is a need for some such means, that international agreement should be sought on what is the best way, and that means should be established and utilized at the earliest possible time.
- 47 To facilitate greater coordination of cooperative programs, some participants recommended the creation of a database of such programs, both those planned and those conducted.
- 48 Fourth, regarding how to enhance the contributions of multilateral regimes, participants agreed that the multilateral export control regimes provide the appropriate forum in which nations should agree on the international norms to be implemented within national export control systems. However, several weaknesses within the multilateral regime system were identified which should be referred to national governments so they can determine whether to seek corrective action.
- 49 Participants believed it would be desirable to shorten and sharpen multilateral regime control lists, and harmonize them to the maximum extent possible.
- 50 Some participants believed that governments should consider extending regime membership to all significant producers of goods the regimes control. Others disagreed, noting that regime membership should be open only to those countries willing to accept the norms espoused by the regimes. Most participants agreed that it would be desirable to increase the dialogue between regime member nations and those that are not members.
- 51 Many participants identified the paucity of information from several of the multilateral regimes as a severe problem, and urged governments to consider establishing computer-based information sharing systems. Some expressed concern that unless governments coordinated carefully across regimes, four different – and expensive – sets of hardware would be procured when only one is really needed. Participants agreed that governments should consider ways to facilitate the regimes' information sharing needs.
- 52 Some participants expressed the concern that staffing participation in four nonproliferation regimes is too onerous a burden for small countries. They also argued that many of the functions carried out by the regimes are duplicative, and recommended consolidating the nonproliferation regimes into one entity. Others opposed that suggestion, noting the differences in mandate, membership, and legal status among the regimes. There appeared to be widespread support among participants for referring to their governments the question of establishing an inter-regime committee to examine crosscutting issues including development of common standards for effective enforcement each country can implement on a national basis.
- 53 A topic mentioned by several conference participants, but on which there was NOT a consensus, was the desirability of establishing a "no undercut" provision within each of the multilateral regimes. This will no doubt remain a controversial topic – favored by some nations and opposed by others — but delegates may wish to give careful thought to both the pros and cons of "no undercut" so that continuing conversations will be more knowledgeable and considered.

**Elements for Referral to Governments  
of Conference Participants  
for Possible Further Action**

On September 28, 1999 export control experts from Austria, Canada, Denmark, Finland, France, Germany, the Netherlands, Norway, Sweden, the United Kingdom and the United States met in Oxford, England to discuss ways to improve the global system of nonproliferation export control in the context of national nonproliferation policies. Participants, while representing governments, spoke on a not-for-attribution basis so as to allow the maximum degree of frankness in their exchange of views.

Early in the course of their discussions, participants decided that there should be a written product of their discussions. While a record of proceedings will be produced, it became apparent that an early harvest could be produced as well in the form of a synthesis of issues identified by many as worthy of referral to their governments for official consideration and possible action. This list represents the product of that effort. However, it is neither a set of recommendations nor a statement of policy agreed to in whole by, or binding on, any of the governments of the participating delegates. It is being offered to all the countries participating in the September 28-30 conferences in the hope that their governments will find it a useful point of departure for future discussions and actions.

Experts from the participating countries discussed the necessary components of national nonproliferation export control systems in great detail. There appeared to be general agreement that national systems, to be effective, must:

- enjoy strong commitment from national authorities, particularly a commitment effectively to enforce export controls;
- establish a domestic legal and regulatory framework tied closely to globally accepted nonproliferation norms as expressed by the multilateral nonproliferation regimes;
- encourage voluntary compliance with export control laws and regulations at the individual firm level, and develop lines and means of communication between those firms and government;
- exercise meaningful control over the intangible transfer of technology and software; and
- communicate licensing and enforcement information effectively among national export control systems, consistent with limitations imposed by national privacy and information legislation.

Two of these component issues were identified as being worthy of referral to governments for consideration and possible action.

1. Intangible transfer of technology and software. Participants acknowledged that intangible transfer of technology and software is a significant challenge to existing controls. Recognizing the difficulties inherent in attempting to control information flows in the Internet era, governments should consider ways to control intangible transfer of technology and software regardless of the transport mode used. Governments also should consider taking multilateral steps to harmonize their controls over intangible transfer of technology and software.

2. Communication between/among national export control systems. Participants acknowledged the tension between the need for information exchange among national export control systems, particularly as regards enforcement, and the provisions of national privacy and information legislation. Governments should examine ways consistent with those laws to increase the exchange of adverse end use/end user information. Some participants believed that should include the creation of a central database containing such information and information about license denials.

The role of the multilateral nonproliferation export control system also was discussed extensively. It was agreed that the Australia Group, the Missile Technology Control Regime, the Nuclear Suppliers Group and the Wassenaar Arrangement are vital components of the global nonproliferation effort, and that it is within those organizations that nations should agree on the international norms upon which national export control systems operate. However, several weaknesses within the multilateral system were identified. These should be referred to our governments so they can determine whether to advocate corrective action by the affected organizations.

3. Control lists. Participants unanimously believed that governments should consider shortening and sharpening multilateral export control lists, and harmonize them to the maximum extent possible.

4. Relations with non-members. Some participants believed that governments should consider extending membership to all significant producers of the goods the multilateral bodies control. Others disagreed, noting that membership should be open only to those countries willing to accept the norms espoused by the organizations. Most or all participants agreed that governments should consider the question of increasing dialogue between members and non-members and urge the multilateral bodies to engage in such dialogue.

5. Lack of secure information sharing. Many participants identified this as a severe problem for several multilateral bodies, and urged governments to consider establishing computer-based information sharing systems. Some expressed concern that unless governments coordinated carefully across bodies, four different – and expensive – sets of hardware would be procured when only one really was needed. All participants agreed, however, that governments should consider ways to facilitate the bodies' information sharing needs.

6. Handling issues that cut across organizations. Some participants expressed the concern that staffing participation in four nonproliferation bodies is too onerous a burden for small countries. They also argued that many of the functions carried out by the bodies are duplicative, and recommended consolidating them into one entity. Others opposed that suggestion, noting the differences in mandate, membership, and legal status among the bodies. There appeared to be widespread support for referring to our governments the question of establishing a committee composed of members of the Australia Group, the Missile Technology Control Regime, the Nuclear Suppliers Group and the Wassenaar Arrangement, to examine crosscutting issues including development of common standards for effective enforcement each country can implement on a national basis.

The effective coordination of export control cooperative exchanges with Central and Eastern European partners was the final topic addressed at the conference. The delegates from countries with more mature systems agreed that helping the nations of the region develop and operate effective nonproliferation export control systems is important to our mutual security, and makes a significant contribution to the integration of those nations into the broader political structure of the West. They identified the lack of any multilateral mechanism through which to coordinate and concert such cooperative exchanges as a significant factor hindering the overall cooperation effort. It prevents the most efficient use of scarce resources and produces inaccurate targeting of those resources to the greatest and most pressing needs.

Several consultative mechanisms were examined as potential models for addressing this need:

- Enhancing the US/EU nonproliferation troika by requesting that it establish a sub-group on coordinating cooperative exchanges.
- Creating an ad-hoc group on cooperative exchanges with Central and Eastern Europe similar to the one currently operating in the context of the Enhanced Threat Reduction Initiative for the Newly Independent States.
- Assigning coordination of cooperative exchanges to one of the existing multilateral nonproliferation bodies.
- Assigning assistance cooperation to an inter-institutional committee.

Participants did not reach consensus on what would be the best mechanism; however, it was generally agreed that the following issue should be referred to governments for consideration:

7. Coordination of Export Control Cooperative Exchanges. A mechanism should be agreed on and developed at the earliest possible time to coordinate the provision of nonproliferation export control cooperative exchanges to the nations of Central and Eastern Europe (and other nations with less mature or nonexistent export control capability where there are significant sensitive exports or transit).