



**10TH INTERNATIONAL  
EXPORT CONTROL  
CONFERENCE**  

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**ISTANBUL • 2009**



**PROCEEDINGS**  
JUNE 25-27, 2009

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This publication was prepared under U.S. Department of State contract # SAQMMA09F1189  
July 2009

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## EXECUTIVE SUMMARY

**June 25-27, 2009**  
**Istanbul, Turkey**

Over 215 officials from 60 countries, non-governmental organizations, (NGOs) and international organizations convened in Istanbul, Turkey on June 25-27, 2009 for the Tenth International Export Control Conference. Sponsored by the U.S. Department of State's Export Control and Related Border Security (EXBS) program, the International Conference on Export Controls, which first



met at Oxford University in 1999, gathers together export control practitioners for the purpose of strengthening export controls as a deterrent against the spread of weapons of mass destruction (WMD), their delivery systems, related dual-use items, and advanced conventional arms.

Jointly hosted by the governments of the United States and the Republic of Turkey, the 2009 Conference facilitated achieving the objective of a strengthened global export control community by promoting a dialogue among experts who are working to identify and solve emerging international export control challenges, such as the threat of nuclear terrorism. Conference themes included regional cooperation, optimizing government-industry relations, and best practices for investigations and prosecutions. During the three days, the critical role of interagency coordination and cooperation also emerged as a central theme.

The conference was structured to maximize delegate participation. Day one was designated to topical presentations in plenary format and day two was reserved for breakout sessions in smaller group format. Breakout groups met according to functional area: policy, licensing, and enforcement. On day two, the closing plenary session reviewed findings from the previous day's breakout groups, canvassed the role played by non-governmental organizations (NGOs) in establishing and practicing effective export controls, and examined various approaches to export control cooperation and outreach efforts.

Ahmet Muhtar Gün, Minister-Plenipotentiary of the Turkish Ministry of Foreign Affairs, delivered opening remarks on behalf of the Turkey and Yvette Wong, Director of the Office of Export Control Cooperation at the Department of State delivered opening remarks on behalf of the United States. Douglas A. Silliman, Deputy Chief of Mission, U.S. Embassy, provided welcome remarks. Ambassador Tomur Bayer, Director-General for International Security Affairs of the Turkish Ministry of Foreign Affairs, delivered the keynote address. And lastly, Deputy Assistant Secretary of State, Dr. C.S. Eliot Kang, provided an overview of U.S. perspectives on nonproliferation objectives and goals. Lastly, Elif Çomoğlu Ülgen, Head of Department, Disarmament & Arms Control, Turkish Ministry of Foreign Affairs, reviewed Turkish perspectives on nonproliferation.

Plenary presentations on the conference's first morning included an analysis of the current proliferation threat by the Monterey Institute and updates on the multilateral export control regimes provided by the Australia Group, the Nuclear Suppliers Group, the Missile Technology Control Regime, and the Wassenaar Arrangement. Subsequently, the U.N. 1540 Committee provided updates on Security Council Resolutions 1540 and 1810 implementation. .

The afternoon session was dedicated to surveying current export control issues and trends. The first session examined government-industry outreach and cooperation, followed by three presentations on export control investigations and prosecutions. New to this year's conference was the topic of proliferation financing, addressed by Charles Ott, Senior Advisor in the Office of Terrorist Financing and Financial Crimes at the U.S. Department of Treasury. Dr. Todd Perry of the U.S. Department of Energy addressed the export control ramifications of the nuclear energy renaissance. The final presentation highlighted the theme of regional cooperation by examining the Black Sea Maritime Security efforts.

On the second day of the conference, delegates divided into three discussion groups (policy, licensing, and enforcement) to conduct three sessions apiece, providing an opportunity for officials to examine export control issues from the perspective of their individual specializations and to hear presentations of particular interest to each group.

The Policy breakout group featured three sessions: Benefits of Multilateral Regime Adherence and Regional Organizations Adopting Multilateral Regime Commitments; Government-Industry Outreach; and Investigations/Prosecutions of export control cases. During the first session delegates heard presentations from representatives of the Wassenaar Arrangement, the Missile Technology Control Regime, Australia Group and the European Commission. The representatives reported and answered questions on the current state of affairs of the export control regimes and commented on potential future developments. Presenters and delegates in the second breakout session stressed the importance of effective government outreach to industry and discussed tools that can be used to that end. Presentations were made by delegates from Turkey, Australia, Germany, the United Kingdom and the United States. The session also heard a perspective on the subject matter from a member of a Japanese nongovernmental organization. The third session focused on how national law enforcement agencies and judicial systems can be improved to combat transnational criminal networks in the 21st century. Presentations were made by a U.S. District Court Judge, representatives of the U.S. Department of Justice and the U.S. Department of Homeland Security and by a delegate from Germany's Customs Criminological Institute.

The Licensing group included sessions on Risk Assessment and Licensing, Automated Licensing System Models, and Brokering and Dual-Use Controls. . The presentations examined broad issues in the context of specific national solutions. Issues that attracted particularly intense discussion were tools and methods of risk assessment in the pre-licensing stage; information sharing with industry participants and use of positive incentives to facilitate industry compliance; establishment of the internal compliance systems at strategic enterprises; control of intangible technology transfers; advantages of electronic licensing; use of on-line self-classification modules; and interagency coordination.

The Enforcement group featured sessions on Risk Assessment, Profiling, and Targeting; Anti-Corruption and Integrity Awareness; and Technical Reachback and Electronic Commodity Identification Training. The presentations included national and international organizations' perspectives. In the first session, Turkish Customs explained their risk management and assessment procedures and system; Singapore Customs presented their efforts at both maintaining and improving their risk management techniques; and the U.K. Defence Academy highlighted the complexities of developing effective risk management practices and the challenges of sharing intelligence within and between governments. The second enforcement breakout considered the challenges and costs of corruption and the corresponding ramifications for effective export controls. The World Customs Organization (WCO) provided a stark picture of the costs of corruption, which includes exacerbating the proliferation threat. However, organizations like the WCO have developed integrity awareness campaigns and training tools and resources. At the national level, both Croatia and Turkey provided examples of how their respective customs organizations are institutionalizing anti-corruption campaigns. The final Enforcement

breakout group underscored the importance of developing technical identification capabilities in order to ensure effective export control enforcement. Presentations were made by Moroccan customs, reviewing their customs modernization efforts, and by the U.S. Department of Energy (DOE). The DOE presentation demonstrated its program to assist countries in developing the technical expertise involved in properly identifying dual-use items.

On the final day of the conference, the plenary reconvened. The first panel reviewed recent export control changes in the European Union (EU). The EU recently amended its dual-use regulation in late May, as well as issued a directive establishing the regulatory and licensing framework for a common European defense market. A panel on the role of NGOs in supporting national export control implementation efforts followed. Subsequently, the conference rapporteurs reviewed each breakout discussion and presented the conclusions reached in each of their respective breakout groups from the previous day. The final panel focused on the Export Control and Outreach efforts of Australia, the European Union, Germany, Japan, the United Kingdom, and the United States Export Control and Related Border Security (EXBS) program. In concluding the conference, Ms. Yvette Wong and Ms. Elif Çomoğlu Ülgen provided a summary of the conference's accomplishments and thanked the participants for their collective efforts in making the conference a success.

A welcoming reception for the delegates on the evening of June 23rd, hosted by the United States Department of State, provided an informal venue for export control officials to meet their international colleagues. On the evening of June 24th, the Turkish Ministry of Foreign Affairs hosted a reception poolside at the Conrad Hilton. A highlight of the conference, the United States Department of State sponsored a dinner cruise on the Bosphorus, providing a further opportunity for officials to mix informally and a chance to explore one of the world's most historic cities.



**ATTENDING COUNTRIES:** Afghanistan, Albania, Algeria, Argentina, Armenia, Austria, Australia, Azerbaijan, Bahamas, Bangladesh, Bosnia and Herzegovina, Brazil, Chile, Croatia, Czech Republic, Egypt, Georgia, Germany, Hong Kong, India, Indonesia, Iraq, Israel, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kosovo, Kyrgyzstan, Lebanon, Macedonia, Malaysia, Mexico, Moldova, Mongolia, Montenegro, Morocco, Oman, Pakistan, Philippines, Poland, Republic of Korea, Romania, Russia, Serbia, Singapore, Slovakia, Sri Lanka, Sweden, Tajikistan, Thailand, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Uzbekistan, Vietnam, Yemen



## DAY ONE

### INTRODUCTIONS AND REVIEW OF CONFERENCE AGENDA

The conference began with brief welcoming remarks delivered on behalf of the host nation by Mr. Ahmet Muhtar Gün, Minister-Plenipotentiary, Deputy Director-General, Turkish Ministry of Foreign Affairs, and on behalf of the United States by Ms. Yvette Wong, Director, Office of Export Control Cooperation, Bureau of International Security and Nonproliferation, U.S. Department of State. On behalf of Turkey, Mr. Gün welcomed conference participants and stressed the importance of the issues under discussion. In addition to her welcoming remarks, Ms. Wong sought to connect the themes of the Ninth International Export Control Conference in Cavtat, Croatia in 2008 with an outline of the Istanbul conference agenda, wherein she stressed the importance of earlier themes while addressing new items, such as the importance of regional cooperation, interagency coordination, and government-industry cooperation.

Introductory statements were followed by welcoming remarks delivered by Mr. Douglas A. Silliman, Deputy Chief of Mission, U.S. Embassy. The keynote address was given by Ambassador Tomur Bayer, Director-General for International Security Affairs, Turkish Ministry of Foreign Affairs. The opening session's final remarks were delivered by the Deputy Assistant Secretary for Nuclear Nonproliferation Policy and Negotiations, Dr. C. S. Eliot Kang, outlining the United States government perspectives and goals on current nonproliferation challenges facing the international community.

### KEYNOTE ADDRESS

In his keynote address, Ambassador Bayer expressed gratitude for being able to host a conference on such an important topic as nonproliferation. He began by underlining the significance of such conferences, that they necessarily engendered not only the spirit, but also the practice of cooperation. He stressed that proliferation was a universal problem and that export control cooperation was a critical means to minimize global threats. In this regard, Ambassador Bayer explained how Turkish-U.S. export control cooperation, enshrined in the *Agreement between Turkey and the USA Regarding Cooperation to Facilitate the Provision of Assistance for Nonproliferation Purposes*, or the "EXBS Agreement," facilitated both mutual strengthening of their respective export control systems and also enhanced Turkish-U.S. nuclear trade and development.

Ambassador Bayer then described Turkish policy and priorities in maintaining effective nonproliferation controls. For years Turkey has been a staunch supporter of global nonproliferation and disarmament efforts. The Turkish government believes that one of the most effective measures in the fight against proliferation is to strengthen the legal framework and redefine and expand the basic parameters of the international nonproliferation instruments and export control regimes. In this regard, Turkey is a party to all of the multilateral export control regimes, as well as a supporter of the Proliferation Security Initiative (PSI). While keenly aware of the international implications of unchecked proliferation, Ambassador Bayer also stressed the regional importance of Turkey's commitment to implementing effective export controls, highlighting the vigilance with which Turkey practices transit and transshipment controls. Moreover, Turkish export control efforts are predicated on robust and timely exchanges of intelligence with partner countries.

After explaining Turkish nonproliferation policy and export control commitments, Ambassador Bayer noted that more details of Turkish systems operations would be forthcoming during the conference. His preview of system operations and changes included a brief explanation of Ankara's industry outreach program and of

the pending export control law before the Turkish parliament.

Ambassador Bayer also mentioned that Turkey was the presiding Chair of the UN Security Council for June 2009, and as such was presiding over the North Korean Sanctions Committee. The Ambassador praised the international community for presenting a unified condemnation of the recent nuclear weapons and missile test, culminating in Resolution 1874 of June 12, 2009. The sense of common purpose must also extend to the fight against terrorism, particularly with respect to the possible intersection of terrorism and WMD.

In conclusion, Bayer referenced one of the first international speeches by U.S. President Barack Obama, in which Obama asserted the global importance of nonproliferation and arms controls efforts and expressed his Administration's commitment to pursuing collective strategies and solutions. As part of this collective effort, Ambassador Bayer declared his country's commitment to the international struggle against the proliferation of WMD, noting the important role played by this conference. The Ambassador again thanked the participants and the EXBS program for leading the conference and, by extension, the effort to increase cooperation on an issue so vital to international security.

## U.S. ADMINISTRATION'S NONPROLIFERATION PERSPECTIVES/GOALS

Following the welcoming remarks and keynote address, Dr. C. S. Eliot Kang, U.S. Deputy Assistant Secretary for International Security and Nonproliferation, presented the U.S. Administration's nonproliferation perspectives and goals. In his opening remarks, Dr. Kang thanked the organizers of the event, particularly the Turkish government. He emphasized the importance of the conference to recent cooperative nonproliferation efforts such as UNSCR 1874, as also noted by Ambassador Bayer, in linking common policies with common endeavors. In this regard, export control cooperation, and the exchange of best practices thereof, is critical to global nonproliferation efforts, and a key aspect of U.S.

nonproliferation policy as enshrined in the EXBS program.

Dr. Kang underscored the important role played by the "export control professionals" attending the conference, noting that they are in every respect the first line of defense against proliferation. Moreover, the effectiveness of this front line is augmented by operating as a network across borders, one in which information and best practices are exchanged over time. He expressed his hope that the conference would reinforce this network.

In addressing the Administration's nonproliferation priorities, Dr. Kang noted that one of President Obama's first major international speeches focused on nonproliferation, offering a vision of a nuclear-weapons-free world and asserting the Administration's focus on intensifying strategic arms control efforts. As "one of our highest priorities," nonproliferation policy would be a key component of the Administration's foreign policies. Important objectives include: working closely with the U.S. Senate to ratify the Comprehensive Nuclear Test-Ban Treaty (CTBT); pursuing a Fissile Material Cutoff Treaty (FMCT); working toward sustained and verifiable reductions in U.S. and Russian nuclear weapons, and building a new framework for civil nuclear cooperation, including multilateral nuclear fuel supply assurances, to expand nuclear power peacefully without increasing the risks of proliferation; and strengthening and expanding PSI and the Global Initiative to Combat Nuclear Terrorism (GICNT).

Dr. Kang then noted that the U.S. strategic arms control strategy is built on the three pillars of the Nuclear Nonproliferation Treaty: arms control and disarmament; nonproliferation; and nuclear cooperation and security. Export control and comprehensive border security are central components of the nonproliferation pillar. In order to be effective, these components must be continually updated, particularly through better interagency coordination and cross-border cooperation.

Dr. Kang then outlined the global threat context in which these policies are addressed. Referring again to President Obama's Prague speech, Dr. Kang observed

that while the threat of global nuclear war has diminished, the risk of a nuclear attack has actually increased. The increasingly wider availability of nuclear technology and materials exacerbates this trend. Nevertheless, the Administration believes that under the Nuclear Non-Proliferation Treaty (NPT) every state has the right to the benefits derived from the peaceful use of nuclear energy, a right that comes with an attending responsibility to ensure that nuclear technology is not diverted to weapons use. In this regard, the Administration continues to be concerned about the lack of Iranian transparency with the (IAEA) on its enrichment, reprocessing, and heavy water activities. The U.S. will continue to fortify the P5+1 dual track strategy, working with the IAEA and the United Nations Security Council to seek greater transparency and compliance.

Dr. Kang observed that the pressing danger posed by noncompliance with the NPT is evidenced in the case of North Korea. In the wake of its April 5, 2009 missile and May 25, 2009 nuclear weapons tests, North Korea remains an acute nonproliferation problem. The Obama Administration remains committed to a peaceful resolution of this issue and to the full realization of the objectives articulated in the 2005 Joint Statement, in which North Korea committed to abandon all nuclear weapons programs and return at an early date to NPT and IAEA safeguards. The administration will continue to work with allies and partners in the United Nations Security Council and in the Six-Party Talks to achieve a nuclear weapons-free Korean peninsula. In closing this section on threats, Dr. Kang highlighted the threat posed by non-state actors, stressing that the hazards posed by terrorism are increasing. Wedded to nuclear technology, WMD terrorism is a global threat that will require working together on the full range of disciplines.

To conclude, Dr. Kang introduced new themes and actors for this year's conference: regional cooperation, government-industry outreach, and investigations and prosecution. In terms of new themes, Dr. Kang noted that regional cooperation, were new subjects that would appear throughout the conference agenda. Regarding government-to-industry outreach, as companies are becoming increasingly international in scope, it is important for governments and industry to have an

international forum such as this conference to discuss new challenges and to share industry best practices. By focusing on the latest global law enforcement efforts to eliminate proliferation financing and track down proliferators' networks, the conference offers a unique opportunity to emphasize the importance and means by which to share information, technology, and best practices. In terms of new actors, Dr. Kang noted that NGOs can be instrumental in assisting with regional models of partnership and national export control implementation efforts.

## TRKISH PERSPECTIVES ON NONPROLIFERATION

Following the keynote address was Ms. Elif Çomoğlu Ülgen, Head of Department for Disarmament and Arms Control at the Turkish Ministry of Foreign Affairs, who spoke about Turkey's export control system, the country's current fight against proliferation and observations about Turkey's future role in that fight. Ms. Ülgen reiterated Turkey's strong disarmament and nonproliferation record, and noted that the country is party to all disarmament, nonproliferation and arms control treaties, accords and arrangements. She stressed that Turkey does not only abide by export control regimes' lists but also implements a catch-all clause for non-listed sensitive items. Ms. Ülgen provided various specific schemes on how the Turkish export control system operates under different situations and conditions.

In an effort to further strengthen export controls and better manage better dual-use items, the Turkish Parliament is reviewing the Draft Law on Foreign Trade Controls of Dual-Use and Sensitive Items. Ms. Ülgen said that if Turkish legislators adopt the draft law, an export control board will be introduced that consists of members of Turkish export control agencies and the undersecretaries of the Turkish Ministries of Energy and Foreign Affairs. The Turkish Nonproliferation Task Force will also be given a legal mandate, which it currently does not enjoy. Finally, the new law will ensure that national export control lists will become a consolidated list of items similar the EU list, thereby further aligning Turkey with the EU acquis.

Ms. Ülgen turned to discuss Turkey's nonproliferation policies and priorities and noted that Turkey is situated in close proximity to regions of proliferation concern. As the previous Turkish speaker pointed out, WMD proliferation and means of their delivery is a serious concern for Turkey, she said, and the country has adopted a firm stance against proliferation, with zero tolerance for such activities. Turkey has an effective export control system, and continues to refine it not only because the country is a part of all nonproliferation regimes and arrangement, but because Turkey is a transit country so export controls are a national security priority. Turkey is not a major producer of proliferation risk items, but the country works on controls at origin countries, intelligence and information sharing, and international cooperation and burden-sharing in the fight against proliferation.

Ms. Ülgen said that when Turkish officials receive intelligence on a proliferation related activity, Turkey immediately starts interagency and international cooperation. In light of the passage of UNSCR 1540, Turkey strengthened its export controls and has a good record of implementation of the resolution; although there is room for improvement. She stressed that Turkey has also implemented other resolutions, such as those in connection to Iran, Lebanon and Sudan.

Finally, Ms. Ülgen spoke about Turkey's government-industry outreach program and said that the Secretary of Foreign Trade has a comprehensive program to inform industry of its obligations with regard to export controls. Turkey also engages in bilateral and multinational outreach efforts, she said, and noted that Ankara has called on all countries not state parties to the Chemical Weapons Convention to join the Convention immediately. Turkey has also held seminars on the entry into force of the Comprehensive Test Ban Treaty.

Upon conclusion of Ms. Ülgen remarks, and before breaking for coffee and a group photo, Ms. Wong thanked the first sessions' speakers and said that the presentations had woven together the importance of coordinating global nonproliferation efforts. She also noted how speakers have stressed the significance of sharing the nonproliferation burden, as well as the

knowledge needed to achieve that objective. She noted Turkey's outreach system and lauded the co-hosting country for its nonproliferation leadership and impressive level of work toward decreasing proliferation risks.

## THREAT UPDATE

In his presentation on the current proliferation threat environment, Mr. Leonard Spector, the Deputy Director of the James Martin Center for Nonproliferation Studies at the Monterey Institute of International Studies discussed the nuclear proliferation activities of Iran, North Korea, and Syria. He noted their ongoing efforts to secure access to a range of WMD-relevant dual-use technologies and advanced or improved delivery systems. In this context, he mentioned recent nuclear and missile tests by North Korea, noting that due to the improved missile capability, North Korea was beginning to emerge as a potential threat to the United States. Concerning Iran, Mr. Spector stressed that since the Ninth International Export Control Conference in October 2008, Iran has managed to double its centrifuge operating capacity. Mr. Spector argued that, coupled with Iran's increasing military advantages in the missile area, resulting from the successful tests of solid-fueled Sajjil-2 missiles, this presents a significant risk to regional and global security. Further, Mr. Spector noted ongoing efforts of the Iranian nuclear and missile procurement network and the risk that Iranians may obtain assistance from North Korea. While UN-endorsed interdiction efforts are likely to intensify, this may heighten the risk of a military confrontation with North Korea. Concerning Syria, Mr. Spector highlighted efforts by the United States, France and Israel to engage Syria in order to end its isolation and break its ties to Iran. Mr. Spector argued that if these engagement efforts are successful, they may lead to Syria's removal from the list of countries of proliferation concern. Finally, he noted the continuing WMD ambitions of terrorist organizations such as Al-Qaeda, which is expanding the scope of its operations in Afghanistan/Waziristan, despite mounting counter-offensive by Pakistani, Afghani, U.S., and NATO forces in the region.

Representatives from Turkey and Pakistan made comments in response to Mr. Spector's presentation. Turkish representatives noted their concern over the possibility of military confrontation with Iran and expressed their opposition to the acquisition of nuclear weapons capabilities by any of their neighbors. A Pakistani representative stressed that Pakistan is committed to the goals of nonproliferation, highlighted Pakistan's efforts to implement effective legal, regulatory, and administrative procedures designed to prevent proliferation of nuclear or radioactive materials, and stressed that Pakistan's nuclear assets remain adequately guarded against a possibility of any external or insider threat.



## REGIME UPDATES

### Wassenaar Arrangement

Ambassador Sune Danielsson, Head of the Secretariat of the Wassenaar Arrangement, provided the update on the status of the Wassenaar Arrangement (WA). Ambassador Danielsson outlined the structures and operations of the Wassenaar Arrangement since its inception. The Arrangement now has 40 participating states and a secretariat in Vienna, Austria where all meetings are held. The plenary is the decision-making body; it takes all decisions by consensus and normally meets every December. The chair of the Plenary rotates among the membership. For 2009, the chair is Canada, and next year it will be Switzerland.

Ambassador Danielsson updated the conference plenary as to the major changes and developments of the Arrangement based on results of the December 2008 Plenary in Vienna. In 2008, the Arrangement focused on implementation of the 2007 Assessment findings. Carried out every four years, the Assessment is a comprehensive review of the Arrangement's overall function and its contribution to regional and international security and stability. One of the key conclusions was the need to sustain information sharing activities, particularly

regarding regional issues of concern, and in 2009, to focus on the issue of destabilizing accumulations of conventional arms. The 2008 Plenary reviewed the Arrangement's effort to implement and improve the Elements on Export Control of man-portable air defense systems (MANPADS). Because of continued concerns about their acquisition by unauthorized users, the 2008 Plenary stressed the importance of effective implementation of the WA Elements, the need to continue to monitor the situation closely, and to continue discussion in order to strengthen export controls on MANPADS.

The Arrangement continues to track advances in technology, market trends and international security developments, such as the threat of terrorist acquisition of military and dual-use goods and technologies. To this end, the Arrangement conducts annual reviews of the WA Control Lists. The 2008 Plenary agreed to a significant number of amendments to the control lists, including some in technically complex and challenging areas such as low-light level and infrared sensors. Particular attention was given to items of potential interest to terrorists such as shaped charges and devices containing certain explosives. In addition, Ambassador Danielsson highlighted changes to Category 8 of the Dual-Use List, in which the Plenary agreed to exercise more control over civilian mini-submarines, submersibles that can be used to perform military tasks and could, by extension, also be used for terrorism purposes.

In closing, Ambassador Danielsson remarked that decontrolling items was an equally important task of the Arrangement. For example, controls over Category 4 items relating to software and technology controls for

computers were relaxed. In addition, the Arrangement continues to have an outreach dialogue with non-Participating States, industry, and international organizations. The goal of these outreach activities is to promote and share Arrangement export control best practices and to raise awareness of the WA. In 2008, outreach activities included meetings with Belarus, China, and Israel, and dialogue with select representatives from the private sector.

### Australia Group

Ms. Joannah Leahy, Head of Australia Group (AG) Secretariat provided an update on the Australia Group's objectives, current operations and future plans. In the beginning of her presentation, Ms. Leahy argued that in the absence of a verification mechanism for the Biological Weapons Convention, the Australia Group's control lists represent the international benchmark for controls over chemical and biological materials, technology, and equipment. She also highlighted AG's efforts to stay abreast of and respond quickly to the rapid technological advances in chemical and biological sciences. By means of illustration, Ms. Leahy mentioned that the AG Plenary had established a synthetic biology advisory body in 2008. The Australia Group has also made an effort to deepen implementation and enforcement of export controls through outreach to non-member countries. To that end, the Australia Group plenary has endorsed strategies to improve the focus of its outreach activities, to better coordinate efforts with other regimes and international organizations, to update its website and to publish a new information booklet.

### Missile Technology Control Regime

Ambassador John Quinn of Australia, which currently holds the rotating chairmanship, provided an update on the current status and work of the Missile Technology Control Regime (MTCR) since the Ninth International Export Control Conference. Ambassador Quinn described the MTCR, its goals, and its operations. He noted that there was continuing need to maintain MTCR-like controls to counter against growing sophistication of technology and the increasing threat of missile proliferation. Expressing concern over the fact that preventing the proliferation of technology relating to the

means of delivery of WMD generally receives less attention than other kinds of WMD proliferation, Ambassador Quinn observed that the MTCR Guidelines and the Annex are increasingly becoming established as the accepted international norm with regard to countering proliferation of WMD delivery systems in the form of missile and related technology. MTCR Guidelines and Annex are also being applied as binding by the UN Security Council. For example, the UN Security Council Resolution 1540 obliges all states to exercise effective export controls on these means of delivery, while the subsequent UN Security Council Resolution 1718 not only obliges Member States to use control lists, but also directly incorporates the control lists of the MTCR. Ambassador Quinn further noted the voluntary nature of MTCR and emphasized that the regime was not designed to impede national space programs or international cooperation in such programs, as long as they could not contribute to delivery systems for WMD.

A growing number of countries that are not formal members of the MTCR have voluntarily moved to adherence to the MTCR Guidelines and Annex, including incorporating them into their domestic legislation. Ambassador Quinn emphasized that his presence at this conference reflects the MTCR's commitment to engaging non-member countries. As a result of voluntary adherence, MTCR is receiving a growing number of requests seeking technical assistance, cooperation and other support related to sharing intelligence, law enforcement experience and providing capacity building assistance. To meet this demand, the MTCR took the initiative to arrange a technical outreach meeting in Paris on April 30, 2009 to provide a briefing on updates to the MTCR Annex which attracted participation by 15 non-MTCR member countries.

In conclusion, Ambassador Quinn stated that the global economic crisis has reinforced the need for regional and wider harmonization of export controls, highlighting in particular the need for government cooperation with industry to be intensified. Finally, Ambassador Quinn noted that Brazil will take over the chairmanship of the organization towards the end of 2009.

## Nuclear Suppliers Group

Dr. Stefán László, Senior Counsellor in the Export Control Section of the Hungarian Authority of Defence Industry and Export Control, Hungarian Trade Licensing Office, provided an overview of the functions of and recent developments in the Nuclear Suppliers Group (NSG). Dr. László noted that the aim of the NSG, which currently has 46 participating governments and the European Commission as a permanent observer, is to prevent the proliferation of nuclear weapons through the implementation, on a national basis, of export controls of nuclear and nuclear-related material, equipment, software and technology, on the basis of Guidelines INFCIRC/ 254 parts 1 and 2, without hindering international cooperation on peaceful uses of nuclear energy. He also explained that, as the highest level within the NSG, the NSG Plenary works on the basis of consensus. Overall responsibility for activities lies with the NSG participating governments, which meet once a year in a plenary meeting. The Plenary can establish working groups, with recommendations by the Consultative Group, on matters such as the review of the NSG Guidelines, the Annexes, the procedural arrangements, information sharing and transparency activities. The Plenary can also mandate the Chair to conduct outreach activities with specific countries. Dr. László also explained the work of the other two NSG bodies and meetings, the Consultative Group (CG) and the Information Exchange Meeting (IEM). The CG is the NSG's standing intercessional working body, tasked to hold consultations on issues associated with the Guidelines on nuclear supply and the technical annexes. The IEM immediately precedes the NSG Plenary and provides another opportunity for participating governments to share information and developments of relevance to the objectives and content of the NSG Guidelines.

Dr. László then provided a summary of the nineteenth plenary meeting in Budapest, Hungary 11-12 June 2009. During the Budapest meeting, the Chairman of the Zangger Committee participated as an observer, and Iceland was approved by the Plenary as the 46<sup>th</sup> participating government. The Plenary noted the need to balance the proliferation concerns associated with the sensitive aspects of the nuclear fuel cycle with the

growing demands for nuclear energy. The NSG agreed to continue working to strengthen the Guidelines dealing with the transfer of enrichment and reprocessing technologies, equipment, materials, and facilities, as well as stressing the need to continue discussions regarding multilateral approaches to the nuclear fuel cycle.

The Budapest Plenary also discussed the proliferation implications of the nuclear test conducted by the North Korea on May 25, 2009 and the challenges posed by Iran's nuclear program. The NSG reiterated its long-standing support for diplomatic efforts for the denuclearization of the Korean peninsula and resolution of concerns associated with the Iranian nuclear program. Plenary participants exchanged views on the national implementation of various UNSC resolutions relevant to the purposes of the NSG, and reaffirmed their commitment to ensure effective implementation. In terms of export control implementation, the plenary elaborated best-practice guides to be used by participating governments internally and for outreach activities to address the challenges posed by intangible transfer of technology (ITT) and end-use controls. Lastly, the Plenary addressed licensing and enforcement issues, international procurement patterns, trends and networks, and the identification of controlled items through national customs codes.

## UN SECURITY COUNCIL RESOLUTIONS

### 1540/1810 UPDATE

The last morning presentations were provided by Ana Marcela Calderón, 1540 Committee Member, and Permanent Mission to the UN, Costa Rica and Dr. Richard Cupitt, United Nations 1540 Committee Expert. Both Ms. Calderón and Dr. Cupitt noted that the 1540 Committee has seen a significant increase in measures taken by states to implement the resolution in recent years. However, they cautioned that much work remains to be done.

In her presentation during the afternoon plenary, Ms. Calderón provided an update on upcoming activities and priorities of the 1540 Committee, as reinforced by the 2008 UN Security Council resolution 1810. Awareness about UNSCR 1540 and integration of its obligations into

national nonproliferation policies has continued to grow in the last five years. Consequently, the Committee has moved beyond awareness-raising to emphasizing implementation and capacity-building. For instance, Ms. Calderón observed that the Committee has intensified its cooperation with international and regional organizations since last year's conference. She noted the Caribbean Community's (CARICOM) request to assign a 1540 coordinator to work directly with the CARICOM Secretariat to help its members draft legislation and otherwise further the implementation of the resolution. In addition, the Chairman of the 1540 Committee has held individual discussions with leaders of the International Atomic Energy Agency (IAEA) and the Organization for Security and Cooperation in Europe (OSCE), and plans to meet with representatives of the Organization for the Prohibition of Chemical Weapons (OPCW). Further, the 1540 Committee Chairman also plans to address the first intercessional meeting on nonproliferation and disarmament of the ASEAN Regional Forum held in July 2009 in Beijing, China. Finally, Ms. Calderón observed that the 1540 Committee has recently shared information and expertise on the resolution and its implementation with the Financial Action Task Force (FATF) Project Team on Proliferation Financing.

Many states have begun to submit, or have indicated that they are developing, national action plans related to the implementation of the resolution. The Committee received a substantial number of requests for assistance and will, pursuant to the UNSCR Resolution 1810 (2008), begin matching potential partners for technical cooperation projects shortly. To that end, Ms. Calderón noted that representatives of the 1540 Committee have had bilateral meetings dedicated to technical cooperation issues with more than forty states and agreed in March 2009 to seek voluntary contributions to a dedicated code in the "UN Trust Fund for Global and Regional Disarmament Activities" to augment existing funds from states and international organizations for projects that implement UNSCR 1540.

Ms. Calderón concluded her presentation by saying that the Committee plans to undertake a comprehensive

review on the status of implementation of the UNSCR 1540 later this fall, in addition to preparing the mandatory report to the UN Security Council by April 24, 2011.

Dr. Cupitt observed that only some states are taking a lot of 1540 measures, and many more states need to take more measures. Resolution 1540 is a vision approach, he said, a prescription on where the international community should go. It does not plan specifically for each state; rather, each state must decide how to implement measures independently. Nevertheless, national implementation is critical and states need to seek or give assistance or enter into partnerships to maximize the efforts.

Dr. Cupitt urged states to formulate action plans to share more information with the 1540 Committee. Action plans should include a gap analysis that establishes what measures are in place and what measures are lacking. The analysis should also establish implementation priorities based on the gaps in the implementation. Throughout this process, it is important to ask why the gaps exist so that they can be fixed in the most effective manner. To help in the gap analysis process, Dr. Cupitt suggested that states use the matrix that the 1540 Committee has developed to measure 1540 implementation rates.

The 1540 Committee will not tell countries what to do next in connection to national implementation – that is up each individual state – but he cautioned against trying to do everything at once. No more than six goals are advisable at one time. Dr. Cupitt also recommended that national authorities talk and work directly to the stakeholders who are involved in the implementation process and establish a timeline for completing components. National governments should also consider if they need technical expertise or cooperation to fulfill planning objectives.

Dr. Cupitt addressed the issue of whether export controls impede trade. He said that the 1540 Committee had studied nuclear trade and export controls and found no evidence to suggest the export controls were a barrier to trade.

The 1540 Committee website includes a legislation database updated regularly, and the Committee has published matrices so that friends and neighbors can see what is going on across the border. Dr. Cupitt suggested that states might develop activities in their own neighborhood to mirror effective implementation behavior of other states. The Committee stands ready to answer all questions regarding 1540 implementation.

## CURRENT ISSUES AND TRENDS

In the afternoon, the plenary heard a series of presentations on current issues and trends in government-industry cooperation and outreach, investigations and prosecutions, the Financial Action Task Force (FATF) on proliferation financing and its link with export control, the export control ramifications of nuclear energy related knowledge and equipment transfers, and regional cooperation efforts.

### Government-Industry Cooperation and Outreach

In the first panel of the afternoon plenary, Mr. Tom Andrukonis, the Director of Export Management and Compliance at the U.S. Department of Commerce's Bureau of Industry and Security, Mr. Makoto Horiguchi of the Security Export Control Division at the Japan Ministry of Economy, Trade and Industry's (METI) Bureau of Trade and Economic Cooperation, and Mr. Holger Beutel, Head of the Compliance/Industry Outreach Division of the German Federal Office of Economics and Export Control (BAFA) presented on their respective governments' role in export control outreach activities. Mr. Andrukonis stressed that the responsibility for export control compliance is shared between the licensing authorities and the exporting community and that licensing authorities must mitigate risk of inadvertent violations or deliberate diversions through industry outreach and exporter education. In addition, in the pre-licensing stage, establishment of positive incentives for responsible exporters, such as bulk licensing, inter-company transfer license provisions, validated end-user provisions, and assistance with implementation of internal compliance management systems, are key to engendering export control compliance.

Mr. Horiguchi provided an overview of METI's industry outreach activities, which are premised on two pillars: the promotion of internal compliance programs (ICP) and ensuring that Japanese companies are completely conversant on export control laws and regulations. Because of the ever-changing nature of proliferation and the sheer volume of Japanese exports, METI has made industry outreach a critical component of its export control efforts. Ensuring that companies are increasingly self-reliant in the adoption of ICPs is the primary means of ensuring industry compliance. ICPs are beneficial for companies' efforts to streamline trading activities; for example, an ICP system is necessary in order to receive a general export license from METI. To ensure that Japanese companies are aware of their legal obligations, METI conducts outreach activities throughout Japan several times a year. Further, METI works with an NGO, the Center for Information on Security Trade Control (CISTEC), as well as other groups, such as Chambers of Commerce, to facilitate and focus this outreach effort.

Mr. Beutel began his synopsis of BAFA's industry outreach program by emphasizing how German law stresses the importance of compliance. According to the German Administrative Offense Act, the CEO of a company is legally liable for any negligence or failure of supervision on behalf of the company. To facilitate industry compliance, BAFA and other German agencies such as Customs execute two forms of compliance checks: retrospective audits and current ICP reviews. Part of the ICP audits take the form of reliability checks, which occur at a company after a violation has occurred. The goal of these reliability checks is to ensure that future violations do not occur and that the ICP system currently in place is functioning properly. BAFA's outreach also provides industry with a common template for building an ICP system. Some of the constitutive elements include: a corporate commitment to compliance, organizational structure and carefully defined control procedures, awareness-raising and training programs, record keeping functions, and internal audits. BAFA-sponsored outreach events include: meetings with regional chambers of commerce, the annual "Export Control Day," and information counters at foreign trade exhibitions. BAFA also undertakes individual company visits, in addition to developing an export control DVD

and numerous publications available on the BAFA web site.

### Investigations and Prosecutions

The Investigation and Prosecution segment functioned as an introduction to the more in-depth discussions for day two in the Policy breakout group. U.S. District Judge Richard Stearns said that he hoped he would provide some food for thought in anticipation of the following day's breakout group. He observed that non-state actors such as terrorists currently have the ability to operate without fear of interception, detection and punishment. Judge Stearns suggested that organized criminals operate under a globalized 21<sup>st</sup> century business model while national judicial and law enforcement systems operate under old assumptions, and with outdated methods including extradition treaties, Interpol, telephone and faxes for private consulting between officers across borders. In order to effectively fight transnational crimes today, national judiciaries and enforcement agencies are in need of reform because they are currently slow and lack potential for cross-border cooperation. Judge Stearns ended by saying that his session in the breakout group tomorrow would attempt to come up with pragmatic steps to assuage the aforementioned problems.

Mr. Michael Gunnison, an Acting U.S. District Attorney, addressed the conference next on the topic of investigations and prosecutions, and began by saying that export control laws must be accompanied by enforcement mechanisms with severe penalties for misusing countries' ports and contributing to WMD proliferation. The prosecuting and jailing of offenders is crucial to deterring transnational criminals. Mr. Gunnison highlighted several unique challenges that differentiate export control cases from national criminal cases: evidence is often not gathered by one actor such as the police department; physical evidence is difficult to gather and must be located in more than one country; criminals may be distant and beyond reach; investigations need to engage many agencies, for example the Department of Commerce and the Federal Bureau of Investigation, to have results; suspects are difficult to identify and will not

be found within the national jurisdiction; and extradition and legal assistance are costly.

Mr. Gunnison outlined three stages of the export control regime: the adoption of necessary laws, the implementation of those laws and the enforcement of the laws. In order to create appropriate laws that can be used during prosecutions, it is important that prosecutors are a part of the drafting of the law. Other key issues for drafting laws are which authorities will be in charge of investigations. For example, if a customs agency is charged with investigations, it should have law enforcement powers. If not, investigation powers must be vested in a department or agency that has such authority. Finally, he said, laws alone will not deter trading and controlling of illegal goods. Implementation and enforcement is essential for success in deterring that behavior.

Mr. Clark Settles, the Unit Chief of Counter-Proliferation Initiatives from Immigration and Customs Enforcement (ICE) in the U.S. Department of Homeland Security (DHS) concluded the investigation and prosecution segment. He provided a detailed description of ICE, the investigative arm within the DHS. ICE has approximately 6,000 Special Agents comprised of former customs investigators and immigration and naturalization service investigators and has more than 200 domestic investigative offices and 54 foreign offices in 42 countries.

Every year, Mr. Settles reported, ICE executes more than 60,000 investigations, makes over 25,000 arrests and seizes vast amounts of narcotics and drugs, contraband and other illegal merchandise and currency and monetary instruments. ICE also assists other U.S. government law enforcement agencies on the local, state and federal level. ICE has jurisdictional authority in over 10 areas, including export enforcement and weapons smuggling, financial crimes and money laundering and transnational organized criminals.

ICE international regional offices work, *inter alia*, with host governments to implement bilateral strategic initiatives, observe the effectiveness of bilateral and multilateral agreements with foreign countries, train foreign officials and assist host country counterparts in

the development of legislation and regulations, and conduct extra-territorial prosecutions with the U.S. Department of Justice.

Mr. Settles also discussed the Department of Homeland Security's Counter-Proliferation Initiative, whose mission is to prevent terrorist groups, foreign adversaries, and hostile nations from illegally obtaining sensitive U.S. technology and munitions, including WMD components, precursors and delivery vehicles. ICE, as the investigating agency, bases its interdictions of aforementioned goods on inspections derived from intelligence or targeted information. Domestic and international law enforcement assistance, technology and collaborating with other DHS agencies are also at the disposal of ICE.

Finally, Mr. Settles said that ICE investigations are of two natures: reactive and proactive. The former consists of interdictions and seizures as discussed above. During proactive investigations, ICE works with sources within industry, with the objective that partners at companies will provide information about suspicious orders and businesses. ICE also relies on information from informants outside of companies. Other tools include intelligence and, when possible, information from defendants who are willing to cooperate after having been arrested. The most effective tool is undercover investigations. He thanked the delegates for their attention and said that during the investigation and prosecution breakout group session the following day, he would present a case study illustrating many facets of ICE's work.

Charles Ott, Senior Advisor, Office of Terrorist Financing & Financial Crimes of the U.S. Department of Treasury presented on the Financial Action Task Force (FATF) and its work in combating proliferation financing. He explained that the FATF is an inter-governmental body whose purpose is the development and promotion of policies, both at national and international levels, to combat money laundering and terrorist financing. The Task Force, composed of 34 countries and territories and two regional organizations, is a "policy-making body" that works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas. The FATF monitors members' progress in implementing necessary measures, reviews money

laundering and terrorist financing techniques and counter-measures, and promotes the adoption and implementation of appropriate measures globally. In performing these activities, the FATF collaborates with other international bodies involved in combating money laundering and the financing of terrorism.

FATF's work has both reflected and complemented UN Security Council concerns. For example, UN Security Council Resolution 1617 of July 2005 effectively recognized the importance of the task force by strongly urging all Member States to implement the comprehensive international standards embodied in the FATF's Forty Recommendations on money laundering and its Nine Special Recommendations on Terrorist Financing (so-called 40 + 9 recommendations). Mr. Ott noted that with the release of the June 2008 Proliferation Financing Typology Report, FATF reached a new milestone in its nonproliferation activities. The 2008 Report assesses the proliferation threat, identifies measures to combat proliferation financing in UNSCR context, offers 18 case studies, provides indicators of suspect transactions, provides red flags guidance in trade finance, and outlines elements of export control systems. The FATF currently has in place a Nonproliferation Project Team, established in October 2008, to continue work in this area. The Project Team is generally considering the four issues identified in the conclusion of the Typology Report – legal systems, preventative measures, awareness, and investigation – with a goal of articulating policy options.

## **Export Control Ramifications of the Nuclear Renaissance**

Dr. Todd Perry, Director of the U.S. Department of Energy's (DOE) International Nonproliferation Export Control Program (INECP) provided an overview of the export control ramifications of nuclear trade. In his presentation Dr. Perry drew attention to the potential for renewed nuclear proliferation arising out of projected increases in the size of the global nuclear power industry. He also highlighted the proliferation threats arising from past nuclear transfers. He then provided an overview of global nuclear energy trends, outlining conditions that have been placed on nuclear-related transfers in the past, and emphasized the importance of establishing effective

export control measures both at the national and international level. Planned expansions in the global installed base of nuclear power facilities will result in a significant increase in the trade in nuclear materials, and there is a need to improve export control measures in this area globally. Dr. Perry also outlined the elements of an effective export control system, including regulations, licensing and enforcement processes, and technical expertise as an integral component of governments' seeking to establish or expand their nuclear power infrastructure.

### **Regional Cooperation: Black Sea Maritime Security**

Ms. Deniz Çakar, Head of Department, NATO and Euro-Atlantic Infrastructure and Logistics, in the Turkish Ministry of Foreign Affairs presented on the security of the Black Sea Maritime region. Security in the Black Sea area is of great importance to maintaining stability in the region. Turkey endorses regional cooperation to achieve regional ownership, which will lead to confidence among the region's countries, and facilitate continued stability.

The use of existing regional mechanisms is a Turkish priority, Ms. Çakar said, and pointed to several existing forums for cooperation, including the Black Sea Economic Cooperation Organization, the Black Sea Naval Cooperation Task Group, Operation Black Sea Harmony, Black Sea Coast and Border Guards Cooperation Forum, Black Sea Border Coordination and Information Center Initiative, Confidence and Security Building Measures in

the Naval Field in the Black Sea and Black Sea Commission. All of these bodies are testaments to regional cooperation, and regional ownership is well established among the countries in the Black Sea area. Ms. Çakar provided further specifics some of the above-noted organizations, forums and initiatives, including partnerships, new members, recent developments and future endeavors.

Ms. Çakar also presented to the conference participants a proposed new initiative, the Black Sea Defence Ministerial Process (BSDMP). The BSDMP is intended to be mirrored on the Southeast European Defence Ministerial Process (SEDMP) and represents a model for similar efforts in the Black Sea region. Turkey has informed the appropriate coastal states of the Black Sea about the initiative in order to collect preliminary thoughts from relevant actors. The core aims of the BSDMP are to create a forum for good neighborly relations and to strengthen regional defense capabilities and confidence-building interaction among the countries of the region.

Concrete steps toward the establishment of the BSDMP have already been taken, including a high-level experts meeting in May 2009. The meeting provided an opportunity for all relevant parties to discuss and contribute to the process prior to the formal establishment of the BSDMP. The next step forward for the BSDMP is a first Defence Ministerial meeting intended to take place at the end of 2009.



## DAY TWO

*For the conference's second day, the plenary divided into three discussion groups to conduct three sessions apiece, providing an opportunity for officials to examine export control issues from the perspective of their individual specializations and to hear presentations of particular interest to each group.*

### POLICY GROUP

#### **Policy Breakout Session I: Benefits of Multilateral Regime Adherence and Regional Organizations Adopting Multilateral Regime Commitments**

Mr. Mustafa Yurdakul, Chief of Section for Arms Control and Disarmament in the Turkish Ministry of Foreign Affairs, moderated the first session in the Policy breakout group titled "Benefits of Multilateral Regime Adherence and Regional Organizations Adopting Multilateral Regime Commitments." Mr. Yurdakul opened by saying he was looking forward to discussions on a comprehensive set of topics, and asked the presenters to address the strengths and weaknesses of regime activities, how regimes can be more resilient, the voluntary nature of the regimes, compliance and enforcement issues, best practices, and the implementation of United Nations Security Council Resolution 1540.

The first presenter was Ambassador Sune Danielsson, Head of Secretariat of the Wassenaar Arrangement (WA), who began by saying that export control lists raise

important questions. On the one hand, exporting states must consider questions of general security, implications for their national security, whether items will be used against their own troops and/or against their own societies, risks resulting from unstable conditions in the region or sub-region, and whether items can be diverted to terrorists. On the other hand, exporters also need to bear in mind economic considerations and implications for industry because refusal to rely on exports has negative impacts on each state's economy. The latter point is particularly relevant in light of the current global recession.

In designing export control standards, a careful balance should be struck between security and economic interests. A considerable effort is made in developing these standards and keeping them up to date. Responding to technological developments and new risks is one important priority for the WA, as is keeping export control lists up-to-date.

Since the Ambassador did not want to assume that all in the Policy breakout group were familiar with the WA, he went on to provide an explanation of the WA's history and evolution, including the munitions and dual-use lists, and their updating procedures. Danielsson also informed the group of other WA functions besides the aforementioned lists, and highlighted how the WA develops non-binding best practices documents.

Turning to specifics on the munitions list, in addition to hardware goods, the list also comprises technologies and software that are used for producing conventional weapons. The dual-use list is a more complicated list although it has fewer categories than the munitions list. Ambassador Danielsson raised the issue over how goods, technology, and know-how in connection to encryption are included on the dual-use list. Encryption is vital for information security, including Internet commerce, but items also have important military uses, such as communications among forces.

Ambassador Danielsson reiterated the importance of keeping lists up-to-date and explained how the dual-use list has criteria for the selection of an item. For example, if the item is available everywhere, there is no reason to control it. Another criterion is whether the item can be

defined and described to the extent that it can be controlled. The latter criterion is a challenge and much work goes into formulating controls. Updating the lists is a continuous process, with great emphasis on technological and market developments. Six weeks is spent every year updating lists. As highly developed expertise is required to formulate lists, experts with specialized knowledge in different item categories participate in this process. Last year, 50 new items were added to the WA munitions and dual-use export control lists.

The WA also fulfills its purpose by developing non-binding best practices documents. Danielsson said that small arms and light weapons and man-portable air-defense systems have recently been covered, and a third category would be ITTs, a growing problem with which all licensing authorities need to cope.

Ambassador Danielsson concluded by informing all Policy Breakout participants that WA's control lists and best practices documents are available on WA's website. The Ambassador was pleased to see that many states have included WA lists in their own national legislation. He highlighted South Africa, which had already included the lists before joining WA. The lists and best practice documents are available free of charge, and are cost-effective products of intense work by participating WA states. Non-member states can "free ride" off WA products, which can help them deal with difficult items and decisions made in export controls.

The second presenter was John Quinn, Assistant Secretary, Strategic Issues and Intelligence, Australian Department of Foreign Affairs and Trade. Assistant Secretary Quinn spoke as a representative of the MTCR and acknowledged that his comments would build on the speech he delivered to the plenary on day one concerning recent MTCR activities.

Assistant Secretary Quinn began by stating that the international community is in a new environment concerning WMD nonproliferation. The United Nations Security Council (UNSC) has moved forward in connection to the regimes' lists on several occasions, which has resulted in bringing the WMD nonproliferation

issue and the regimes' status to a higher level. Since the UNSC has referenced regimes' lists in its resolutions, member states must understand both regimes' activities and lists and how export control regimes operate.

Quinn generalized that most countries now acknowledge the vital importance of nonproliferation efforts and observed that security issues, such as proliferation and organized crime, affect all countries. Therefore, countries must work together and control regimes can provide a helpful tool for further cooperation.

As more countries become determined to proliferate, proliferation challenges constantly become more complex. Simultaneously, access to technology is very important to many countries, especially space-based technology and civil applications. MTCR does not want to obstruct access to such crucial technology. That is why the MTCR studies the context and dynamics of each item considered for inclusion on its export control list. Hence, technical experts working for the MTCR are of the utmost importance in the area of export controls.

The Assistant Secretary went on to highlight the value of regional cooperation and noted that Australia works closely with other countries in the Pacific Island region and beyond. It is important that ministries, departments and offices in one government cooperate with their counterparts in other governments so as to understand each other's points of view and issues. Connecting people that carry out similar work is a key component of bridging differences, improving cooperation and minimizing misunderstandings.

Continuing on the topic of regional cooperation, Assistant Secretary Quinn said that regional economic harmonization in recent years has made it even more important to harmonize export controls. In that process, regional organizations can play an important role, as it is important to share information and intelligence among countries in order to manage security risks. In a practical sense, countries need to tip each other off about suspicious containers, companies and activities.

To conclude, Assistant Secretary Quinn stressed the "free ride" theme from the previous presenter; the lists can

benefit all countries' export controls – member states and non-member states alike. Great expertise goes into establishing the lists, and although the regimes are not perfect, the membership is a diverse group of countries. In a perfect world all the regimes would be UN conventions, but that is not likely to happen anytime soon. The problem of proliferation, however, needs to be dealt with now and the regimes are the best option for the moment.

The Policy breakout group also heard a brief presentation from Australia Group's Ms. Joannah Leahy, Executive Officer, Arms Control and Counter-Proliferation, Australian Department of Foreign Affairs and Trade. The AG covers biological and chemical weapons and its dual-use lists are available online in several different languages. Its membership has recently increased and outreach efforts have expanded. Many non-member states recognize the value of the lists and use them in their national legislation. Technical expertise in the group provides confidence in lists among both member states and non-member states.

The final presenter was Mr. Nicholas Organ, Policy Desk Officer, Nonproliferation, and European Commission. Organ explained the organizational structure and interconnectedness of the European Union, but highlighted that EU states are largely responsible for their own national security, while the European Commission can negotiate in the realm of trade for all EU member states. The EU dual-use regulation list brings together lists from WA, MTCR, the NSG, and AG, and it is open to all states and organizations implementing their own legislation and regulation. The EU list reduces the time it takes for a state to go through the individual regimes' lists and if states use them, it will ensure that no activities are inadvertently overlooked. The list is meant to be simple, and technically detailed information can be obtained through a contact person at the EU.

A question and answer session followed. It featured about half a dozen questions that the moderator and presenters took turns answering. A delegate from Indonesia asked how regimes can attempt to elevate the discussion of export control issues in the UN context. The Indonesian delegate stressed the importance of widening the regimes, having more open regimes, and going

outside of regimes' comfort zones when thinking about specific countries. The Indonesian delegate inquired whether a group of governmental experts under the framework of the UN system could be the solution. He also raised the idea of a multilaterally negotiated arrangement instead of the regimes.

Assistant Secretary Quinn responded that the current situation is complicated as a result of the history of the regime he represents. He again stressed that he believes the international community has entered a new era in nonproliferation efforts that all countries must help to further develop momentum for export controls and nonproliferation. Proliferation is a tough issue, he said, and MTCR tries to deliver cost-effective products and outreach, but the regime has a limited organizational framework and function. It will take time to multilateralize the regime. Resource shortages in the MTCR are a big problem, especially since the proliferation threat is increasing. This conference should be a forum to discuss MTCR resource constraints, he said. The Assistant Secretary suggested that more regional work, such as outreach activities, could help share technical expertise with more countries. He also said that there is no simple answer to multilateralization of regimes. A lot of energy goes into technical aspects of MTCR, but it is important to accelerate the process of increasing inclusiveness. In the interim, he said, all countries need to continue the work within existing frameworks.

Ambassador Danielsson said that the EU list is a good example if non-member states want to take advantage of regimes' work. He noted that the UNSC's use of the list in sanction resolutions also helps to further the regimes' impact. Addressing expanding regimes membership, Danielsson explained that eligibility is dependent on ability to contribute to the group and that there are four criteria for joining the WA: is the country a producer of relevant equipments; does the country use WA lists in national policy; does it adhere to the nonproliferation regime (NPT, etc); and, is it compliant with fully effective export controls? He added that he was very interested to work with the UN, but that he or the WA had never been invited to a conference or meeting or to inform the international organizations of the important work of the WA.

A member of the Afghan delegation next asked what kind of safeguards assurance and technical assistance could regimes provide if Afghanistan becomes a member.

Ambassador Danielsson said that the founding members of the WA decided that the WA secretariat would not be a strong structure. Only 30 people work for the WA and therefore it is not a robust arrangement from an organizational point of view. However, the resources of WA lay within the membership states. States add resources to the WA; they do the work, study the issues and the like. Resources within WA are within the member states and states should reach out to both regimes and their member states.

Assistant Secretary Quinn echoed this point and said that MTCR is institutionally light. A member state hosts plenary meetings and there is a very small MTCR support staff. Instead, member states are charged with the work of the organization. When it comes to membership and accelerating inclusiveness, he said that many non-member states already have adopted the lists. Technical advice is a large issue and one of the challenges of being institutionally light is to provide technical assistance. Assistant Secretary Quinn said that if there are particular questions from countries, MTCR is happy to address them.

Mr. Organ said that EU member states usually take charge of assistance and the process of moving forward. Individual member states provide assistance and generally undertake the bulk of the work. This is also a result of resource constraints and EU structure.

Mr. Zawar Haider Abidi, Deputy Director of the Arms Control and Disarmament Affairs in the Pakistani Ministry of Foreign Affairs noted that the UNSC had picked up regime activities, but stressed that many states do not have access to the regimes because a majority of all UN states are outside of them. As such, most states cannot contribute to the policies and objectives of the regimes, which is a large concern as the Security Council adopts the lists. He asked what the regimes are doing to bring in other capable nations so that their issues and concerns can be addressed.

Assistant Secretary Quinn said that dialogue, such as at the conference, is important and that he would pass on comments to the MTCR plenary. The MTCR is trying to deepen dialogue between member states and non-member states by continuous outreach attempts. Bilateral dialogue is also important, as well as regional seminars. MTCR has vivid debates, as it is made up of a diverse group of countries and many perspectives are represented. He encouraged countries to engage with regimes to play a more direct role in the procedures. Conferences, such as this one, are an important forum to bring issues to regimes.

Ambassador Danielsson recognized the important issue that Mr. Abidi raised and said that WA has only a limited outreach program because of limited resources. Also, countries in the group talk to non-members bilaterally. He went on to say that involvement in the regime is voluntary, and countries decide whether they want to join and make decisions about the rules of the regime. There are no politically binding contracts; the choice can be made by each member state whether it wants to be a part or not.

Ms. Vibha Bhalla, Joint Director General of Foreign Trade in the Indian Ministry of Commerce and Industry asked, in the context of providing technology, what the standards were for countries that are not party to all regimes.

Ambassador Danielsson responded that WA identifies items to be controlled, and also establishes guidelines that can be used by member states in their national legislation practices. Countries themselves decide whether to adhere to WA decisions. They are meant to facilitate a state's decision-making, rather than be requirements.

Assistant Secretary Quinn also stressed the voluntary nature of the arrangement, and said that no one can veto other states' decisions or make comments on other countries' decisions. An increasing number of states have begun following these lists so membership may not be such a big issue. MTCR does not want to interfere in sovereignty or internal politics of any states; it exists simply to provide information. MTCR has an important dialogue with Indonesia, India and Pakistan and has

absorbed the interests of these countries. Quinn again noted that dialogue with MTCR and individual countries in the regime is important. There is diversity of opinion in the group and a lot of discussion that includes a fine balance of judgment.

Dr. Alexander Von Portatius, Head of Division for Export Control, German Federal Ministry of Economics and Technology, said that he agreed with Assistant Secretary Quinn that regimes are the best solution in the current environment. In response to comments from the Pakistani delegate, he said that regimes are not directed to any one country. The regimes themselves are only politically, and not legally, binding, as Ambassador Danielsson said. However, because lists of regimes have been picked up in the UNSC, they have become legally binding. Another question is whether the existing regimes can be merged to increase collaboration and use resources more effectively.

Mr. Abidi of Pakistan responded to his German colleague's statement by saying that the former speaker had proven the Pakistani concern. Because the UNSC has picked up the regimes' lists, they are now legally binding and therefore the voluntary nature of the regimes are in question. The voluntary nature is undermined when UN organs adopt the regimes' lists. In order to achieve the objective of the regimes, which is nonproliferation, those countries that really matter must be taken into the regime, he said. Outreach and bilateral engagement must be supported by other efforts and those countries that follow almost all of the regimes criteria must be brought in.

Ambassador Danielsson said that he agreed that the regimes could be merged because the resources could be better used and more cooperation could be very useful.

Assistant Secretary Quinn commented that Germany makes large contributions in the MTCR, wrestling with technical issues in particular. More cooperation between regimes makes sense, he said, but this needs to be gradual. Harmonization of export controls and providing technical advice in a cost effective way is important. Synergizing the regimes is a good idea, but there are political challenges to such movements. It is hard to

break down these barriers, but he said he would bring questions and concerns back to the MTCR plenary.

Mr. Yardakul asked how non-member states perceive the way regimes provide technical expertise. There was no direct response to that question, but the Indonesian delegate who asked a previous question suggested that regimes listen more to concerns of non-member states in contrast to just speaking to them. Finally, Dr. Von Portatius of Germany said that it was a big plus that non-member states can access regime information for free and regime representatives promised to continue outreach efforts as well as listening to non-member states concerns and questions.

## **Policy Breakout Session II: Government-Industry Cooperation and Outreach**

The second Policy breakout group session on "Government-Industry Outreach" followed on the morning of day two. Ms. Elif Çomoğlu Ülgen, Head of Department, Disarmament & Arms Control in the Turkish Ministry of Foreign Affairs, moderated the session. In her opening remarks, she said that government-industry outreach and cooperation is a relatively new development in Turkey and initial outreach activities have added value. In Turkey, the Undersecretary of Foreign Trade is carrying out a comprehensive outreach program targeted toward major industries that are in the business of dual-use items. The Undersecretary focuses not only on industrial companies, but also reaches out to exporter unions.

The more Turkish government authorities inform industry, the better feedback they receive from companies. Ms. Ülgen also noted that the more government is frank and informative in its outreach efforts the better the response tends to be from industry. Finally, Turkey, she said, is situated in a strategically important geopolitical location, and as such the country is impacted immediately by various UNSC resolutions. It is therefore important that government outreach to industry reflect the changes in the neighborhood, as they can happen very quickly and directly impact both government and industry.

The first presenter was Mr. Angus Kirkwood, Director of Operations in the Australian Defence Export Control Office. Mr. Kirkwood said that Australia's export control lists were based on those adopted by the EU and WA. He noted that a functioning export control system is about facilitating legitimate trade in addition to border security. Australia works closely with customs services, police and with the intelligence community on border security, as well as with industry and does not try to get in the way of

industry how to set up an internal compliance program (ICP). The Australian government encourages each company that is a major exporter to have an ICP, and authorities provide advice on setting up internal systems. Australia also has a free telephone advice line where questions can be asked about a wide variety of issues in connection with export controls.

Mr. Kirkwood also discussed challenges and opportunities



important exports.

The main problem for exporters is not exporting a specific good, but the time it takes to go through the export control system and finally export the item, and Australian companies complain about the timing issue. The solution to this problem is effective outreach. If industry talks to government authorities early in the exporting process, delays can be minimized.

Australia updated its export control programs after the passage of Resolution 1540 in 2004. The state has a large outreach program with offices around the country to deliver seminars and also attend industry conferences. Government authorities have several different types of workshops and seminars. The "practitioners' workshop" includes an overview of export controls and how export control lists works. Another seminar explains the license application process so that industry immediately provides the right information to the government. This type of seminar also provides information on foreign governments' regulations. A third seminar informs

of dealing with academics on export controls. Mr. Kirkwood noted that getting academics on board has been difficult, and as a result, Australia has targeted large and influential universities as well as authorities in the field in explaining the processes and the importance of export controls. The idea is that smaller universities and other scholars will follow established universities and distinguished scholars. Scientists will listen to other scientists, Mr. Kirkwood concluded.

The second presenter was Germany's Holger Beutel, Head of the Compliance/Industry Outreach Division at the German export control agency, BAFA. Mr. Beutel spoke exclusively on the issue of government outreach to the scientific community. Scientists are an important group for outreach, as the individuals are likely to be impacted by export controls as a result of ITTs, such as know-how, transfers at conferences, trade fairs and the like. However, they may lack knowledge about export controls.

Mr. Beutel stressed the vast amount of higher educational institutions and scientists in Germany, the latter category being larger than 250,000 individuals, all of which require some level of outreach. He said that there are national controls on what scientists can and cannot do, and scientists need to be informed of both tangible and intangible transfer restrictions, such as license requirements.

The challenges in connection with outreach to scientists include difficulties in identifying contacts at universities; the lack of legal scholars in the scientific field, hence the perception that legal provisions are difficult to understand; technical difficulties; and a belief among scientists that export controls are an infringement on scholars' academic freedom.

Mr. Beutel emphasized that promoting ICPs at academic institutions is better than governments insisting that higher educational centers should follow the rules. The German government has capitalized on several lessons learned, including how to contend with publications, visiting scientists and travel abroad. For example, one research center in Germany has an ICP system in place where the research community is responsible for export controls. The ICP system states that scientists are not allowed to publish before their peers have approved the academic work, in order to ensure that sharing the information does not break any export control laws. Additionally, two scientists and one lawyer screen incoming visiting scientists. Finally, BAFA has provided scientists with a leaflet aimed at assisting them on business trips and when attending conferences and conventions.

Mr. Hiroshi Nakao of the Japanese nongovernmental organization CISTEC delivered the third perspective of the second session. Mr. Nakao discussed the organizational structure, purpose and work of CISTEC and reported that his organization employs over 40 people and has 350 companies as members.

CISTEC carries out various export control seminars to educate industry. In 2008, a new program was launched that included practical case studies aimed at intensifying outreach efforts. The new program was a multi-step approach consisting of various levels of seminar difficulty.

For example, the first level for industry beginners included workshops in eight cities and was attended by over 2,000 industry individuals. The agenda included basic export control education, such as how to decide license requirements. The new program's primary focus is to make export controls easier for companies to understand and ultimately create a more peaceful world.

Mr. Nakao also said that CISTEC provides a worksheet to industry in order for companies to understand classifications of items. Due to the nature of Japanese exports, he stressed that technology and software exports are very relevant in terms of export control issues. Therefore, CISTEC tries to provide information in those fields in particular. This is done, *inter alia*, by providing case studies to industry on how to deal with software transfers and ITT. Mr. Nakao discussed the issue of traveling with laptops and USB storage devices, and said that CISTEC tries to inform industry about regulations so that individuals do not accidentally transfer items illegally.

The last part of Mr. Nakao's presentation was devoted to how to establish an effective ICP in industry. Mr. Nakao stressed several requisite elements of an ICP program: industries must understand export control laws and regulations, have a responsible staff member dedicated to working with the ICP, have an awareness-raising program at the company about the ICP, have procedures that are easy for company employees to understand, have periodic reviews and modifications, and have the CEO involved in the process. Establishing an ICP is not the end goal, but that having a functioning ICP is important.

The next presenter was Mr. Spencer Chilvers, Head of the Policy Unit at the Export Control Organization of the United Kingdom Department for Business, Innovation and Skills (BIS). Mr. Chilvers provided an overview of the vast number of licenses that the U.K. processes: over 14,000 annually. The U.K. has about 40 general licenses; without these, Mr. Chilvers said, his organization would be processing over 100,000 licenses per year.

Turning to government-industry outreach, Mr. Chilvers said that all countries' licensing organizations, regardless of size, should have a website to disseminate information

to companies. Information accessible through that website should include export control legislation; license application forms, and how to fill them out; guidelines on end-user control; guidelines on arms embargoes and product classification; information about punishment and prosecution; information on sanctions and arms embargoes – what they are and how they work; and information on how long it will take to process a license.

The U.K. has a web-based search tool called “Checker,” which enables exporters and customs authorities to check whether the item they are trying to export is covered by any lists. If registered, the web-based tool is open not only to U.K. exporters but to exporters across the world.

“OGEL Checker” is an additional tool provided by Mr. Chilvers’ organization that seeks to demystify the export control process, especially when it comes to general licenses that have conditions put on them. This tool informs the exporter if there is a general license that covers their current circumstances; if so, the company can apply for that general license.

The U.K. also has a phone help-line that receives approximately 70 phone calls each day, and Mr. Chilvers’ organization has produced a YouTube film introducing export controls to industry. The next YouTube video will be about company compliance. The U.K. additionally has an email listserv through which government authorities inform exporters when there are changes to export controls laws and regulations.

Mr. Chilvers’ staff carries out industry outreach through workshops and seminars in London and regionally. They also join trade associations and chambers’ of commerce events and making company visits. In 2008, the U.K. held 38 seminars for 760 individuals from 300 organizations. The seminars ranged in sophistication, from beginner sessions that provide participants with a basic understanding of what export controls are all about, to more advanced workshops on end-use control, general licensing systems and compliance, control list classifications, and also how to operate the “Checker” tool and company-based training to gather information for individual needs. His office also responds to requests for specific seminars and workshops, periodically seeks

industry input on outreach programs, and surveys companies on how they perceive the services provided.

In conclusion, Mr. Chilvers highlighted the importance of taking a consultative approach rather than a commanding one. The objective is not for government to tell industry what to do but to help to bring them into the process when devising new approaches and developing new regulations. He would like companies to be a part of that process and to create peer pressure for compliance within industry.

The final speaker was Tom Andrukonis, the Director of Export Management and Compliance at the U.S. Department of Commerce, Bureau of Industry and Security, who asked the breakout group to brainstorm on how they do outreach to industry in their own countries. The resulting list included websites and other web-based tools, such as YouTube and online informational databases; a phone help-line; a listserv to inform companies when changes are made to export control systems; workshops and seminars of varying levels (from basic export control seminars to more issue-specific sessions); responding to requests from industry for particular educational seminars and workshops; attending industry conferences; on-site visits to gather information; and actively seeking feedback to improve outreach efforts.

Despite the long list of outreach opportunities, Mr. Andrukonis stressed the importance of each state individually catering their own programs and to strike the right balance within each organization. Seeking feedback from industry to ensure that organizations are maintaining compliance is also crucial. Echoing a previous speaker’s point, Mr. Andrukonis urged all countries to consider the impact new export control regulations will have on industry, and that government authorities should communicate with industry before changing any export control system.

Finally, Mr. Andrukonis discussed which individuals in industry should be targeted for outreach activities. He suggested that senior level management should be included because CEOs and CFOs have control over resources in a company. If they get on board, they can

allocate funds to improve a company's export control system. There was only time for a few short comments and questions after the final presentation. A representative of the European Commission said that actors in the field of WMD nonproliferation are unaware of wider policy considerations, and therefore the EU has launched a commission to coordinate efforts within and between EU states. He also noted that in connection to outreach to the scientific community, it is important to cooperate with foreign countries.

Dr. Von Portatius of Germany said that all agree on the critical role of government-to-industry outreach, and went on to ask what incentives are available for industries that comply with export controls. He also said that those charged with government outreach to industry often seem to inform the same people within companies, which are usually those who comply with the rules and the regulations in the first place. Reaching those who intentionally avoid export controls is a different matter. Mr. Kirkwood suggested governments approach company lawyers or general counsels. When those individuals realize the company is under scrutiny, and may be at risk, they will likely take the matter up with senior leadership who can make the decision to increase focus on the subject.

Finally, in light of Dr. Von Portatius' question on incentives, Mr. Andrukonis suggested that all export controllers use a "carrots and sticks" approach when trying to enforce export controls. That is, there should be rewards for industry that are in compliance with obligations and have established ICPs and the like. "Carrots" can include bulk licensing, validated end-user program and allowing inter-company transfers of items. Mr. Andrukonis' comment concluded the Government-Industry session of the Policy breakout group and the delegates broke for lunch.

### **Policy Breakout Session III: Investigations/Prosecutions**

The third and final session of the Policy breakout group, "Investigations/Prosecutions," was chaired by U.S. District Court Judge Richard Stearns. Judge Stearns opened by saying that enforcement of the export control legal framework is an important tool for nonproliferation.

However, today's enforcement tools do not fit the threat that the international community faces. Criminals today use a 21st century globalized business model that has no respect for national boundaries or systems. Al Qaeda, for example, disregards national borders, and these transnational criminals constantly seek to exploit loopholes and weaknesses in the system, increasing the risk of WMD proliferation exponentially. In the meantime, national authorities rely on outdated law enforcement tools.

One major problem is that law enforcement efforts are nationally oriented. Countries are using the Interpol model of policing proliferation, but the tools they use have not changed since the 1990s. Insufficient tools include the use of faxes, telephones, personal contacts and bilateral extradition treaties. Also, among regional organizations, border security is often charged to countries that form the border of the organization; however in the case of the EU, these countries have only recently entered the organization and they do not have the capacity to carry out effective protection.

Judge Stearns concluded by saying that the antidote to 21st century transnational criminality is wider and deeper regional and international cooperation. A best practices model includes the EU Council's mutual assistance in criminal matters.

Mr. Michael Gunnison, an Acting U.S. District Attorney, followed Judge Stearns' introductory remarks and said his presentation would build on his plenary session address from the previous day. Mr. Gunnison echoed Judge Stearns' contention that prosecutors need better tools to successfully prosecute cases. He also reiterated the need for greater collaboration on the domestic and international levels alike in terms of approaching export control cases.

According to Mr. Gunnison, the United Arab Emirates (U.A.E.) is in the forefront of such cooperation and stressed that the only way to fight the proliferation threat is through close cooperation with foreign governments' police and customs agents. Too often, however, enforcement agencies do not look outside of the box, and do not cooperate with each other. Criminals know what the law enforcement agencies do, and find the loopholes

and expose weaknesses. As a result, greater collaboration is needed between domestic agencies, as well as more partnerships within governments.

In order to bring focus to export control systems, they must be brought together. The U.S. has brought in customs enforcement, the Federal Bureau of Investigation, The Department of Commerce and others under the leadership of the U.S. Attorney General. Subsequently, all prosecutors were asked to report to the U.S. Attorney's Office on the cases they were working on, such as licensing violations, potential terrorists trying to get approval to acquire material, and false statements on a license statement. By collecting all cases, the U.S. Attorney's Office was able to get a clearer picture of ongoing violations and threats.

Export control violations are very common and involve material going to common suspects but also to destinations including the U.K., Sweden, Japan, Canada, Mexico, the U.A.E. and the Philippines. These cases do not necessarily involve governments trying to circumvent U.S. laws. Mr. Gunnison provided examples, including a case involving ammunitions sent to Jamaica. A case was built against someone falsely claiming that he was licensed to sell the ammunitions to that country. The same person the year before had engaged with the U.A.E. without a license to provide training to U.A.E. defense forces. Another case included a shipment of arms on September 5, 2008 to Mexico. The national Mexican authorities did not want the import; it was organized criminals trying to acquire the goods.

Mr. Gunnison concluded by saying that countries without an active enforcement regime are vulnerable to proliferation activities. He noted, however, that although the U.S. has strong enforcement mechanisms in place, it still experiences many problems.

The next presentation featured Mr. Axel Krickow, a Senior Customs Investigation Officer from the German Customs Criminological Institute. Mr. Krickow began by discussing the definition of a proliferation case, and said that there are violations of export control laws that do not constitute proliferation. A proliferation case includes export, brokering and know-how transfers of sensitive

goods and/or technology without a license. Sensitive goods and technology refers to military or dual-use goods bound for a country with a WMD program or for a country of concern.

Mr. Krickow turned to discussing how authorities build a case and noted multiple ways to gather information, including the use of intelligence, interagency cooperation on the national and international level, government research units, customs, information from informants, investigating and analyzing other cases documents, and anonymous information. "Following the money" is a helpful tool in building a case.

Mr. Krickow next described several case studies and lessons learned from each. For example, he pointed to a number of goods, such as valves and vacuum pumps, which can be used in a nuclear program, or as civilian-oriented weapons. It is important that investigators are asking technical questions and/or are supported by experts.

Another case study dealt with the structure of procurement networks, highlighting the role of front companies in such systems. When confronted with a procurement network, investigators must piece together all relevant information about company structures, persons involved and communication data. Sometimes part of a company is illegal, or a point of concern, while the majority of the company operates in a legal manner. Investigators need to consider the many steps involved when goods are transferred, involvement of non-state actors, front companies, brokers, etcetera, to the prosecutor. It is helpful for investigators to receive support from research units using specific IT-tools, and to interact with intelligence agencies.

The final presenter of the Investigation/Prosecution session was Mr. Clark Settles, the Unit Chief of Counter-Proliferation Initiatives from Immigration and Customs Enforcement (ICE) in the U.S. Department of Homeland Security. As Mr. Settles had detailed the role and work of ICE during the first day's plenary session, he moved on to discuss a recent investigation case.

The case in question began when ICE received information that the owners of an aircraft supply and maintenance company based in California were found to be illegally exporting various military aircraft parts to foreign entities, including various defense articles, single-use military applications and military aircraft parts utilized on the F-14, F-5 and F-4. ICE initiated an undercover operation to prove the illegality of the company's actions. Undercover overseas storefronts in Thailand and Canada were used. The undercover action included the purchase of parts for F-14, a fighter that only the U.S. and Iran flies; therefore the investigators knew that the final destination was Iran. Upon completing the transaction, the sellers – two business owners who were brothers – had committed a crime and were subsequently arrested.

Both brothers pleaded guilty to the charges and had their sentences reduced in return for full cooperation. They provided details about a couple carrying the F-14 parts into Iran in their hand luggage. ICE acquired search warrants for the couple, who were arrested and sentenced to jail.

Additionally, ICE received a new lead to a source in Iran, "Mr. G," who had introduced one of the brothers to an Iranian air force general. Through the brothers, Mr. G was attempting to procure various types of military technology from the United States, including F-14 parts, as well as military radios, night vision technology and military-grade accelerometers. At the time of the brothers' arrest, they had just received their first payment, but had not supplied the parts to Mr. G. ICE set up a new undercover operation with the goal of arresting Mr. G. They made available the parts that Mr. G requested, and in turn he wired money to an account designated by the undercover agent. ICE worked with colleagues in Thailand, where the initial undercover shop had been set up, and in February 2006, Mr. G was arrested at the Suvarnabhumi Airport by Thai authorities. However, despite U.S. requests to have Mr. G extradited, Thai authorities denied any transfer.

Drawing lessons from this investigation, Mr. Settles said that ICE continued working this case and saw a network unravel. They learned that the first set of suspects, the two brothers, were not really involved in the transfer of

parts to fighter planes to Iran. Mr. G was probably a general in the Iranian Air Force; had ICE concluded its investigation after the arrest of the two brothers they would never have intercepted the military parts that were likely aimed at developing an intermediate-range missile that the Iranians were working on at the time. Mr. Settles noted that the intermediaries in this case didn't care about the goods or the end destination for the parts. The motivator in this case was money.

The Policy breakout group turned to a few questions and reactions to the presentations. Mr. Liu Xiaoming, Director of Export Control Programs at the China Arms Control and Disarmament Association, commented that it is sometimes difficult to determine which agency or department will take the lead in an investigation. Different offices have different mandates they must follow, but in reality, the department that introduced the investigation is leading it. Mr. Liu also asked about the difference between an undercover investigation and a sting operation, and how it was possible for the couple in the aforementioned investigation to carry the parts through customs and across borders.

Regarding Mr. Liu Xiaoming's former question, Mr. Settles explained that the two are largely the same, but that an undercover investigation involves the use of a false identity to gather intelligence, whereas a sting operation is called a "false flag" where the undercover agent is gathering and offering to sell products. Regarding the latter question, he noted that it is legal to own the parts in question, but it is illegal to sell them. He also said that eBay, which was the marketplace for the commerce, has installed filters for guns and other material that are sensitive to export controls.

In closing, Judge Stearns again raised the issue of the outdated way of collecting evidence for prosecuting export control offenses. He said that if one needs evidence from a distant country, one needs to work with colleagues in appropriate offices. However, before getting information one needs to gain their trust, which can be a lengthy process. Judge Stearns noted the continued problem of relying on personal relationships to obtain evidence, while leaving the courts out of the equation. As a judge, he said it is important that evidence is gathered legally so that it can be used in court.

Finally, he said that the session had showcased that WMD proliferation today is, to a large extent, not a state-to-state issue. Private actors operate as intermediaries or receivers of illegal goods and know-how. He pointed to the over 900 documented incidents of individuals who have tried to sell fissile materials. In those cases, both sellers and consumers were private actors.

## LICENSING GROUP

### Licensing Breakout Session I: Risk Assessment in Licensing

The Licensing group attended presentations on risk assessment in licensing, development and application of automated licensing systems, and effective use of brokering and dual-use controls for strategic items. Issues that attracted intense discussion were tools and methods of risk assessment in the pre-licensing stage; information sharing with industry participants and use of positive incentives to facilitate industry compliance; establishment of the internal compliance systems at strategic enterprises; control of intangible technology transfers; advantages of electronic licensing; use of online self-classification modules; and interagency coordination.

The first Licensing group breakout session was facilitated by Mr. Spencer Chilvers, Head of the International Policy Unit at the United Kingdom's Department for Business Innovation and Skills (BIS). The session began with a presentation from Tom Andrukonis of the United States Department of Commerce on risk assessment in licensing. Mr. Andrukonis described three phases of licensing: pre-licensing, license issuance, and post-licensing, and discussed how risks associated with authorizing transfer of strategic goods may be mitigated during each of these stages.

He argued that the responsibility for export control compliance is shared between the licensing authorities and the exporting community, and that licensing authorities must mitigate risk of inadvertent violations or deliberate diversions through industry outreach and exporter education. In addition, in the pre-licensing

stage, establishing positive incentives for responsible exporters – such as bulk licensing, inter-company transfer license provisions, validated end-user provisions, and assistance with implementation of internal compliance management systems – are key to engendering export control compliance.

In the license issuance stage, Mr. Andrukonis identified technical analysis of the proposed export item and good communication with other agencies as essential to mitigating risks of unauthorized transfers. He also focused on the benefits of automation in export licensing, insisting that exporters, as well as licensing and enforcement authorities, should have access to computerized screening systems that prevent submission of inaccurate or incomplete information to facilitate compliance. Mr. Andrukonis made an example of the Automated Export System (AES), whose use is mandatory in the United States, to highlight the benefits of such systems. These systems would also facilitate recordkeeping of past transactions, which is critical to enforcement and prosecution in the post-licensing stage.

The discussion that followed Mr. Andrukonis' presentation demonstrated a particular interest in the development of positive compliance incentives for responsible exporters and end-users. Specifically, availability of bulk licensing, inter-company transfer license provisions, and more relaxed/expedited export clearance procedures were discussed. The discussion also touched upon the challenge of ensuring compliance after incentives have been put in place. Cost effectiveness of compliance measures in a very complex, globalized training environment was also debated, with participants agreeing that prevention, including screening end-users, contractors, and customers, is the most cost-effective compliance tool.

Ms. Sandra Raca, legal counsel and project manager for the German export licensing agency, BAFA, delivered the second presentation. Ms. Raca pointed out that BAFA has licensing authority for dual-use and munitions items, and -focused her presentation on describing the German approach to risk assessment.

First, Ms. Raca mentioned that in evaluating trustworthiness of parties to the export transaction, BAFA licensing officers are able to tap into the intelligence data, customs data, information reported in the media, exporter audits data, as well as information shared by multilateral export control regime members, or provided by German embassies abroad. She then proceeded to explain how this information is supplemented by the technical assessment, which evaluates the technological plausibility of the proposed export, and is then organized and electronically stored and accessed by BAFA licensing officials.

Ms. Raca described procedures put in place at BAFA to evaluate the risk associated with the export of military, dual-use, and non-listed items, noting that such procedures should balance thoroughness of analysis with the expedience demanded by the exporters, without compromising the nation's security or international reputation. The difficulty of evaluating end-users validity in dual-use export transactions makes risk assessment associated with dual-use exports more complex in comparison with military exports.

The discussion following addressed bureaucratic concerns of tracking license applications through the interagency referral process; sharing information about suspect end-users with the exporters and assisting the exporters in evaluating the validity of an end-user certificate; and licensing ITTs. Regarding the latter, Ms. Raca stated that BAFA differentiates among types of ITTs, and in some instances electronic information sharing is considered as a traditional export, while in others, a license for technical assistance is issued. An additional matter of interest to participants was the way in which German exporters can appeal license denials. Finally, discussion addressed Germany's approach to enforcing re-export controls.

The last presentation was by Mr. Angus Kirkwood, the Director of Operations at Australia's Defence Export Control Office (DECO), a national licensing authority for munitions and dual-use exports, who illustrated Australia's approach to risk assessment. Mr. Kirkwood emphasized the differences between DECO and two other licensing authorities in this breakout session by noting that DECO is subordinate to the Australia's

Ministry of Defence (MOD). DECO is a very small organization of only 30 licensing officers and handling only a few thousand license applications annually. It compensates for its limited personnel capacity by maintaining a robust industry outreach program and a close cooperative relationship with Australia's customs service. Interagency cooperation is facilitated through an integrated electronic licensing system that automatically notifies the customs service once the license is issued by DECO. Furthermore, the customs service's risk management targets are automatically integrated into DECO's licensing risk assessment system, allowing for continuous interagency information sharing and risk profile updates. Mr. Kirkwood also observed that in Australia, neither legal authorities nor resources exist for extra-territorial post-shipment controls; thus, DECO authorizes only the most plausible exports.

To conclude, Mr. Kirkwood cautioned against focusing risk assessment strictly on export license applications; instead, an effective risk assessment system should also seek to identify and target those exporters who may commit inadvertent violations by not applying for a license in the first place. The ensuing discussion focused on the unique character of DECO's placement within Australia's Ministry of Defence, and addressed the question of MOD's influence in licensing decision-making. Mr. Kirkwood responded that the consensus-based decision-making process in Australia precludes undue influence of any one ministry in license approval.

At the conclusion of the first morning's Licensing breakout session, Mr. Spencer summarized the proceedings by noting that risk assessment may take different forms, depending on the quantity of exports, sensitivity of export, and country of destination. The composition and diversity of a national strategic industry have direct influence on the type and focus of a national licensing organization.

## **Licensing Breakout Session II: Automated Licensing System Models**

Megan Amer of the U.S. Department of State presided over the second licensing breakout session on automated licensing systems. The group received presentations on

automated licensing solutions employed in the United Kingdom, South Korea, Hungary and Slovakia.

Ms. Antonia Rudge of the U.K.'s Department for Business, Innovation and Skills (BIS) opened the session with a presentation on SPIRE, the automated licensing system employed by BIS. She explained how automated licensing evolved in the U.K. from several incompatible databases, to a fully integrated, single window portal capable of processing license applications and handling inquiries from exporters and other government agencies. Ms. Rudge highlighted significant financial benefits and efficiency gains realized by BIS since electronic licensing was implemented in 2007, including halving the cost of license processing to the taxpayer, improving the workflow, reducing paperwork, and expediting license application processing time. She also noted significant security benefits achieved by integrating customs and other agencies into the electronic licensing system. At the end of her presentation, Ms. Rudge illustrated capabilities of the online searchable self-classification tool "*The Goods Checker*" employed by BIS to facilitate industry compliance. Questions about her presentation concerned the details of implementing an electronic licensing system, particularly the use of electronic signatures, which some countries do not yet recognize as legitimate.

Ms. Rudge's presentation on U.K.'s electronic licensing system was followed by a presentation from Dr. Soung-kun Shim and Mr. Seon-hong Hwang, respectively the President and Assistant Manager of the Korea Strategic Trade Institute, on the electronic licensing system "YESTRADE" employed in South Korea. Mr. Hwang provided an outline of the history and operation of "YESTRADE," noting consecutive stages of upgrades to the system over a short period of time, and illustrating how "YESTRADE" has enabled the integration of licensing functions of different licensing agencies, and greater coordination between licensing and enforcement authorities in the Republic of Korea.

Highlighting the similarities with the electronic licensing system in the U.K., Mr. Hwang also observed that deployment of "YESTRADE" improved the operational effectiveness of the export licensing process by

combining the electronic licensing system with a public information portal, including an online license application simulator for first time users, a self-classification tool, and a correlation table of control list numbers with the Harmonized Tariff Code. In addition, "YESTRADE" enables issuance of export licenses and import-certificates online, has an English-language version for foreign exporters, and allows quick generation of statistical reports related to trade in strategic exports.

Among the business benefits of "YESTRADE" noted were enhanced security of information and documentation submitted electronically, ability to re-use previously submitted information, and increased transparency of the application process to the exporters. In addition, "YESTRADE" allows users to verify legitimacy of export licenses issued by the South Korean government, which, Mr. Hwang stressed, was one of the most important features of the system.

Mr. Hwang concluded by adding that the system upgrade is ongoing, and he envisioned more extended integration with other automated systems of relevant government agencies, as well as with internal compliance systems of individual enterprises in the future.

In his brief remarks following Mr. Hwang's presentation, Dr. Shim noted that "YESTRADE" created a favorable and cost-effective environment for industry to exercise compliance, evidenced by a marked increase in the number of license applications submitted in 2008. He concluded by saying that a concerted industry outreach effort by the South Korean government facilitated acceptance and adoption of the electronic licensing system by industry.

Ms. Anita Polgar of the Hungarian Department of Export Controls next presented on the automated licensing system "Tracker" employed by the Hungarian Trade Licensing Office. Ms. Polgar provided a timeline of the system's deployment in Hungary, facilitated by Export Control and Related Border Security (EXBS) program assistance.

In contrast to the two systems featured earlier in the session, the Hungarian licensing system necessitates

submission of export license application information in hard copy; the export license is also issued in hard copy. The system is not yet integrated with customs databases, although a common administration system with the customs service is currently under construction. Despite its current limitation, Ms. Polgar noted considerable advantages associated with the use of "Tracker," namely, expedited workflow, ability to store data and licensing history electronically, and ability to maintain safe and secure connections with license referral agencies.

In conclusion, Ms. Polgar drew attention to the Hungarian government's plans to deploy a newer version of the automated licensing system, "Tracker 7," which would allow for a more effective and expedient connection between the licensing and customs authorities in Hungary, as well as for improved integration with third party tools, including a self-classification module, and others.

In the final presentation, Mr. Lubomir Kovacic, the Acting Head of the Division of Control Statistics at the Slovakia Ministry of Economy described the automated licensing system employed by the Ministry of Economy of Slovakia to administer munitions exports. The system consists of a two-tiered application process, in which a legal entity in Slovakia first applies for a permission to engage in foreign trade transactions with controlled military technologies, and then for a license to export a specific item. The first tier of the process serves as a registration function; once the permit is received, each license application for each export is considered individually.

Mr. Kovacic illustrated the system's deficiencies, including the need to forward license applications to referral agencies in hard copy and file customs declaration in hard copy. Furthermore, Mr. Kovasik observed that, currently, the Ministry of Economy does not have an electronic integration with Slovak Customs, but noted that efforts to facilitate automation of services and more efficient integration are ongoing.

Justifying the need to enhance an automated licensing system in Slovakia, Mr. Kovasik made several remarks, stressing the cost-effectiveness of that choice for a small country that does not process large numbers of licenses for trade in controlled items. In addition to those benefits

highlighted above, Mr. Kovasik also noted that an improved automated licensing system for munitions items would assist the Ministry of Economy in the exercise of its reporting responsibilities in compliance with Slovakia's international obligations and national legislation. One of the proposed solutions for upgrade described by Mr. Kovasik included an extension of Tracker software to cover licensing of both dual-use and munitions items in Slovakia.

There was limited the time for discussion, so Ms. Amer quickly summarized the session's proceedings by reiterating the benefits of adopting automated licensing systems. Tying the presentations together, she concluded that the array of automated licensing systems is wide, making it possible to identify cost-effective solutions appropriate for each type of licensing organization, export volume, and industry orientation.

### **Licensing Breakout Session III: Brokering and Dual-Use Controls**

The Licensing group's third and final session was moderated by Mr. Michael Kourteff, a Counter Proliferation Executive Officer at the Australian Department of Foreign Affairs and Trade, and included four presentations on dual-use and brokering.

The first presentation was delivered by Mr. Irfan Yusuf Shami, the Director-General for Disarmament at the Ministry of Foreign Affairs of Pakistan. Mr. Shami began by reiterating Pakistan's commitment to international nonproliferation norms. He then provided an overview of Pakistan's evolving dual-use export control system, enumerating the legislative and regulatory acts that provide licensing and enforcement authorities for regulating trade and transfer of controlled dual-use items, denoting the scope of control afforded by the Pakistani legislation, and specifying penalties available for export control violations. Noting the relative newness of the system, Mr. Shami discussed his government's efforts to establish an industry awareness and training program through visits to universities, companies, Chambers of Commerce, and local authorities in major cities; enhanced interagency coordination; and

development of an independent website for licensing and compliance information.

Mr. Shami also highlighted areas that presented particular challenges in the implementation of an effective dual-use export control system in Pakistan. These included lack of awareness among industry participants; an urgent need to build indigenous capacity for export control implementation and enforcement; the need to create information databases to assist exporters in making classification decisions and improve transparency; and the need to strengthen enforcement mechanisms and interagency coordination in licensing and enforcement. The presentation resulted in a lively discussion, which addressed issues related to Pakistan's ability to exercise control over brokers and traffickers; Pakistan's application of a "catch all" provision; and the comprehensiveness of Pakistan's national control list.

The next presentation was provided by Mr. Pakawat Srisukwattana, a Third Secretary at the Thailand Department of International Organizations. He provided an overview of Thailand's nascent dual-use export control system by presenting a chart summarizing Thailand's prospective licensing strategy and noting several positive recent developments. First, Thailand is considering adoption of a national control list, which – once developed – will be examined by a committee, chaired by the Minister of Commerce and inclusive of Thai government officials and foreign experts. Second, Mr. Srisukwattana noted several instances of joint industry outreach work between Thai government, the U.S. Departments of State and Energy, and Japanese METI. Finally, Mr. Srisukwattana highlighted the benefits of Thai participation in the Container Security Initiative (CSI). The discussion following addressed criteria used by the Thai authorities to grant or deny a dual-use license; the role of the Thai MFA in the dual-use licensing process; and the concerns expressed by Thai exporters regarding the impact of emerging controls on trade.

Helmut Krehlik, the Head of the Export Control Division at the Ministry for Economy, Family and Youth in Austria, described Austria's approach to brokering controls. Mr. Krehlik provided an overview of how brokering controls in Austria evolved in compliance with EU export control

regulations and the UNSCR 1540. He focused on illustrating the need for, and explaining the provisions of, the re-cast EU export control regulation No. 428/2009 of May 5, 2009, scheduled to come in force in early August 2009. Mr. Krehlik noted important exemptions from brokering controls and enumerated the penalties available for violation of brokering controls under the new regulation. Mr. Krehlik's presentation addressed the challenges inherent in regulating brokering activities, including the difficulty of identifying the brokers, particularly when brokered transactions take place entirely outside of one's national territory and leave limited financial traces. Mr. Krehlik offered possible solutions to this challenge, including registering the brokers; subjecting them to regular audits; and relying on intelligence information and inter-governmental information sharing to identify those who violate controls established for brokering dual-use items. Mr. Krehlik concluded with suggestions or guidelines for effective implementation of brokering controls. These included the adoption of appropriate legislation, approval of precise definitions for activities that constitute brokering and entities that may be considered a broker; implementation of a national register for brokers; explicit and prohibitive sanctions for noncompliance; industry outreach to explain provisions of brokering controls; and finally, information sharing with other countries and agencies.

Building on Mr. Krehlik's presentation, Mr. Kourteff delivered concluding remarks for this breakout session and summarized the session's proceedings. His presentation highlighted several modes of brokering, underscoring the need for a well defined legislation with a broad territorial scope. In his presentation, Mr. Kourteff also reiterated the reasons for regulating brokering, including the need to avoid creating "safe heavens" for proliferators and prevent destabilization of regional security. He stressed that dual-use licensing systems are a work in progress, which undergo a process of continuous modernization in response to evolving threats. He also noted that past experience of established systems should be shared with nations just starting to put dual-use export controls in place to avoid costly mistakes and delays in implementation. Finally, he pointed out the challenges of export control compliance, including interagency

cooperation, control lists, strengthened enforcement, and capacity building.

## ENFORCEMENT GROUP

### Enforcement Breakout Session I: Risk Assessment, Profiling and Targeting

The first breakout session of the Enforcement group addressed risk assessment, profiling and targeting, anti-corruption and integrity awareness, and technical reach back and electronic commodity identification. The presentations included national and international organization perspectives on the issues under consideration. Turkish Customs explained their risk management and assessment procedures and system; Singapore Customs presented their efforts at both maintaining and improving their risk management techniques; and the U.K. Defence Academy highlighted the complexities of developing effective risk management practices and sharing intelligence within and among governments. The session was moderated by Ms. Leanne Wilson of Australian Customs.

The first presentation was by Mr. Yasam Cicek of the Turkish Undersecretariat of Customs. Before focusing on how Turkish customs conceptualized and managed risk, Mr. Cicek provided a general overview of the Turkish customs system, noting that there are 18 regional customs directorates and 167 customs authorities with a staff of over 8,750 customs personnel. Mr. Cicek then defined risk management as “a systematic application of management policies, procedures and practices to the task of identifying, analyzing, assessing, treating and monitoring risks,” a definition endorsed by several breakout participants. The most important aspect of risk management and mitigation is predicated on constant risk monitoring and review. This concluding remark resulted in several comments of how other customs agencies are similarly trying to adapt their risk management systems to the ever-changing threat environment at a time when all enforcement agencies are being asked to do more with fewer resources.

The second presentation was made by Ms. Fauziah Sani, the Head of Strategic Goods Control of Singapore Customs. Ms. Sani began by outlining the key elements

of effective enforcement: implementing legislation, licensing regime, penalties, and enforcement cooperation. Thereafter she explained how each component was operationalized in the Singaporean trade control system. She also provided a detailed update on legislative changes over the past year. In January 2008, Singapore amended its export control legislation and implemented the following regulations and orders: Strategic Goods (Control) (Amendment) Regulations, Strategic Goods (Control) Order 2007, and the Strategic Goods (Control) (Brokering) Order 2007. The amended SGCA and Regulations will facilitate future export control updates or changes, and amend the time period for record-keeping and permit submission requirements. The new control lists are now listed under the Strategic Goods (Control) Order 2007 and the Strategic Goods (Control) (Brokering) Order.

Ms. Sani also stressed the importance of both domestic and international enforcement cooperation, such as the Inter-Ministry Committee on Export Control, as a key to effective export control implementation in Singapore. On the international front, she noted how customs will make license verification requests and enquiries. She additionally identified the key elements of risk management: risks criteria and profiling, data gathering systems, product/technical and commercial knowledge, and risk assessment. Common to all elements was the importance of focused data collection and information sharing, particularly at the pre-shipment and post-shipment stages of trade control efforts.

The last issue in her presentation was the important role played by robust investigations and industry outreach and compliance. On the latter issue, she explained how Singapore has developed a Secure Trade Partnership (STP) program. Launched on May 25, 2007, STP is a voluntary certification program designed to enhance supply chain security in Singapore. It is open to all Singapore-based enterprises who are involved in supply chain activities. It is also consistent with the World Customs Organization (WCO) Framework of Standards to secure and facilitate global trade.

Mr. Andrew Dolan of the U.K. Defence Academy provided the session’s final presentation. He examined the role of intelligence in risk assessment and management,

and posed several far-reaching questions on how current proliferation challenges can be effectively addressed both within and between governments. Mr. Dolan began by asking whether proliferation was a law enforcement or national security issue. How that question was answered, he maintained, would largely determine what type and how intelligence was collected and shared. He highlighted some of the difficulties of sharing national security intelligence between enforcement agencies in the same government and across national capitals. Yet, not sharing this type of data could have serious effects on overall nonproliferation enforcement efforts.

National security institutions often have access to SIGINT ("Signals Intelligence:" intelligence-gathering by interception of signals, whether between people or between machines) that could meaningfully contribute data to other enforcement agencies. However, there are major legal and procedural obstacles. One tentative solution includes data management techniques such as data mining and intelligence fusion. In conclusion, Mr. Dolan determined that a major paradigm shift was needed in how data is conceptualized and used data for nonproliferation purposes. Such a shift, moreover, would require significant political will.

**Enforcement Breakout Session II:  
Anti-Corruption/Integrity Awareness**

The second Enforcement breakout focused on the challenges and costs of corruption and its ramifications for effective export controls. WCO provided a stark picture of the costs of corruption, which include exacerbating the proliferation threat. Organizations such as the WCO have developed integrity awareness campaigns and training tools and resources for national authorities. At the national level, both Croatia and Turkey provided examples of how their respective customs organizations are institutionalizing anti-corruption campaigns. Kevin Cummings, EXBS Advisor to the government of Turkey and former U.S. Customs official, moderated the panel.

Mr. Cummings began by noting that corruption, until fairly recently, has been discussed only reluctantly in public. Presently, the subject is being comprehensively

addressed by national authorities and international organizations such as the WCO, World Bank, and the UN. Mr. Cummings made a brief presentation on U.S. integrity training programs. He focused on the need for national integrity programs to ensure that customs organizations are free from corruption. He also identified some of the negative effects of a corrupt customs organization, noting how international efforts, such as the Arusha Declaration, are helping to shape integrity programs around the world. He concluded by reviewing the principles of ethical conduct for U.S. Customs officials.

The first presentation of the second Enforcement breakout session was conducted by Ms. Patricia Revesz, Executive Officer of the Capacity Building Directorate, WCO. She began with an examination of the impact of



corruption in terms of lost lives and revenue, and erosion of public trust in a government. For example, approximately \$110 million in customs duties were not collected by Moldovan officials for goods from Ukraine heading to Moldovan markets. Also, particularly in the poorest countries, corruption exacerbates the effects of the financial crisis. The WCO is working to help its member administrations overcome this critical situation.

In 1993, the WCO it issued the Arusha Declaration that outlines the key principles a customs administration should apply in the integrity domain. The Revised Arusha Declaration was designed to be non-prescriptive in

nature. It provides a comprehensive conceptual framework, but its actual implementation is up to individual customs administrations. The Revised Arusha Declaration includes such elements as leadership commitment, regulatory framework, transparency, automation, reform and modernization, audit and investigation, code of conduct, human resources development, morale and organizational culture, and relationships with the private sector. Other “integrity” tools include: the Integrity Development Guide, the WCO Compendium of Integrity Best Practices, the Model Code of Conduct, Capacity Building Diagnostic Framework, SAFE Framework of Standards, Integrity e-Learning Module and WCO Workshops and Seminars. Ms. Revesz concluded by demonstrating the Integrity e-Learning Module.

Following the WCO presentation, Ms. Ljiljana Lepotinec, Head of Section, Service for Customs Tariff, Value, Origin and Laboratory, Customs Directorate of the Croatian Ministry of Finance, provided a working example of a successful anti-corruption implementation program. After explaining the current structure and functions of Croatian Customs, Ms. Lepotinec outlined the specifics of the 2006 “Stop Corruption” campaign. The three-fold objectives of the campaign included: raising public awareness of the negative impact of customs corruption; data collection (by phone and e-mail), with possible online reporting of corruption cases; and a self-assessment of the customs service integrity.

Ms. Lepotinec also reviewed the current anti-corruption campaign, covering the 2007-2009 period. The objectives of this campaign were to reduce corruption and to increase the overall efficiency of the customs service. Croatian law reflected both international and domestic legal efforts against corruption, citing, for example, the 2006-2008 national program for the fight against corruption. The anti-corruption efforts include: human resource management, legal and administrative framework, cooperation with citizens and companies, information and informatics systems, and enhanced surveillance and transparency. Future anti-corruption plans in Croatia include: implementation of best practices, continuous integrity training for customs officials, cooperation with other enforcement bodies, as

well as the private sector, and further modernizing customs technical resources.

The last presentation was by Mr. Ender Gürleyik, the Head of Department of Customs Enforcement of the Turkish Undersecretariat of Customs, who provided an overview of Turkish Customs export control enforcement agencies and procedures. He began with an overview of the Turkish export control enforcement agencies. From the Undersecretariat of Customs, the lead export control enforcement body is the Directorate General of Customs Enforcement; and from the Ministry of Interior: the Turkish National Police, Gendarmerie, and Coast Guard. He then detailed the primary means by which Turkish enforcement agencies implement their export control responsibilities. These tools include various national and international databases, interagency and intergovernmental cooperation, security systems and customs modernization, risk analysis and human resources. He cited various examples of interagency and international cooperation.

Much of the presentation was devoted to an exposition of the GÜMSİS system. GÜMSİS, or Project of Security Systems at Customs Border Posts, has been developed to monitor and prevent illicit trafficking of goods, vehicles and travelers. It is composed of several modules, which are coordinated by the Undersecretariat of Customs. The central module is the System Control Center. At the SCC, all security systems located at the customs border posts are controlled by Directorate General of Customs Enforcement. The controls consist primarily of a Closed Circuit TV (CCTV) System. The computerized CCTV System uses real-time images from various customs posts. The system is capable of zooming in and processing and storing images, all of which can be examined at Customs Headquarters in Ankara.

In order to share and save data, GÜMSİS deploys comprehensive Network Security. The transmission of all data is relayed through a special cryptographic system. In addition, the GÜMSİS system integrates a vehicle and container inspection system. The system has been established for inspection of all manner of vehicles and containers. For example, mobile x-ray systems are in operation at the Kapikule and İpsala customs border posts.

To combat the threat of nuclear proliferation, the GÜMSIS system also contains a nuclear detection system. The system uses fixed, mobile and handheld sensors in order to prevent unauthorized trafficking of the nuclear materials. Lastly, GÜMSIS is able to monitor transit vehicle traffic via a transit vehicle tracking system, in operation since 2004. The system operates on the basis of a GPS system, allowing customs officials to track the movement of transit cargo within the borders of Turkey.

As evidence of the system's effectiveness, Mr. Gürleyik presented information on recent seizure statistics, base lining recent seizures against the introduction of GÜMSIS in 2003. Heroin seizures, for example, are consistent with seizure rates within the European Union.

### **Enforcement Breakout Session III: Technical Reachback/Electronic Commodity Identification**

The final Enforcement breakout group highlighted the importance of developing technical identification capabilities in order to ensure effective export control enforcement. Presentations were made by Moroccan customs, reviewing their customs modernization efforts, and by the U.S. Department of Energy (DOE). Ms. Naima Ettiji, Head Manager of the Moroccan Customs Export Department in the Port of Casablanca provided an overview of the role of Moroccan Customs in export controls. Ms. Ettiji explained that Morocco supports the SAFE Framework of Standards of the WCO, as the goal of SAFE is to both facilitate and secure international trade. In terms of technical enhancements to customs controls, Mr. Ettiji explained that since the early 1990s, Morocco has worked to establish a computerized risk management system at all border posts. Morocco also operates a computerized clearance process and has opted for cargo container sealing means in accordance with the international technical standards as outlined in the Kyoto Convention. Lastly, Ms. Ettiji noted that Customs has the ability to conduct non-intrusive inspections with ten scanners, both mobile and semi-stationary, distributed throughout the country.

The DOE presentation demonstrated its program to assist countries in developing the technical expertise to

properly identify dual-use items. Dr. Perry, a Program Manager for the International Nonproliferation Export Control Program (INECP) at the U.S. Department of Energy, overviewed INECP's Commodity Identification Training (CIT). CIT familiarizes enforcement officers with the materials, components, and equipment sought by WMD procurement programs.

Dr. Perry explained that electronic CIT, or eCIT, provides a secure, online full-text search of the CIT information and all relevant export control lists through a simple user interface to enhance the ability to control strategic trade. In response to user queries, the system will display information and pictures drawn from CIT course materials and offer multiple printable outputs to ensure ease of use in the field, including a Field Guide of commodities from CIT and single commodity Inspector Reports with full product and control language information. The eCIT system is designed to be easily customizable and adoptable by interested countries. Built on open source software development tools and server software, eCIT includes full documentation of server applications and utilities to facilitate the importation of new and revised control lists and commodity data, including multilingual "localizations." Three deployment options are envisioned: partners can access INECP's system online; use INECP's platform to host a version in their own language, requiring content management but no software or database development; or partners can implement their own private copy.

### **PLENARY SESSION ON REGIONAL COOPERATION**

Day Two concluded with a set of presentations focused on regional export control cooperation.

O'Neil Hamilton, UNSCR 1540 Coordinator for CARICOM, began the panel with a presentation emphasizing specific challenges faced by the Caribbean states in implementation of UNSCR 1540. He first noted that the Caribbean nations' recent independence, small size, and limited capacity to comply with the nonproliferation obligations imposed by the UNSCR 1540 presented implementation challenges. However, Mr. Hamilton

pointed to a range of areas where implementation efforts have been advanced.

In particular, he observed that September 11<sup>th</sup>, 2001 terrorist attacks on the United States have served as a graphic illustration of terrorist and proliferation threats for the Caribbean nations and have led them to upgrade regional preparedness mechanisms to respond to such threats. He noted that prior to 9/11, the focus of the Caribbean community was on economic development and on meeting diverse asymmetric threats, such as terrorism, illegal narcotics trafficking, and small arms and light weapons smuggling, while in the aftermath of the attacks, regional cooperation mechanisms have been retooled to meet the new WMD proliferation threats.

Increasing CARICOM member states' recognition of the need to prevent and mitigate the possibility of chemical, biological, or nuclear attacks resulted in the creation of a CARICOM inter-ministerial committee on resource mobilization for crime and security, development of regional information and intelligence-sharing networks, and enhanced cooperation with U.S., U.K., and Canada on issues of mutual strategic importance. Mr. Hamilton noted that the regional threat assessment of port and border security, conducted between July 2006 and January 2007, revealed significant vulnerabilities of regional security. This led to the emergence of a new regional security architecture with a CARICOM regional intelligence committee; a standing committee of customs commissioners; a regional intelligence fusion center in the Port of Spain, Trinidad; and a joint regional coordination Center in Barbados. In addition, Mr. Hamilton noted that the implementation of advanced passenger information system has facilitated monitoring of people transiting the Caribbean.

Mr. Hamilton argued that these examples illustrate the seriousness with which the Caribbean nations take their security responsibilities, but stressed that significant challenges remain: implementing of effective maritime security measures, harmonizing regional export control legislation, adopting and enforcing new procedures, and developing indigenous capacity through training. In conclusion, Mr. Hamilton noted that the gap between "hard" security (nonproliferation) and "soft" security (economic development) objectives in the Caribbean

could be bridged by establishing relationships with key donor states, and developing a scalable nonproliferation model appropriate for the CARICON member countries.

The second presentation featured a perspective from the East African Community. Mr. Peter Maina of Kenya said that exporting goods in the region is governed by the 2004 East African Community Customs Management Act. Sources of exported items within the East African Community, he said, include among other things, locally produced agricultural and horticultural goods, as well as locally manufactured industrial goods. In order to discourage mass exportation of certain raw materials, with the view to protect local industries and protect the national heritage, some exported goods are taxed.

Decisions with regard to how and what goods to be controlled are made based on, *inter alia*, applying a quota system, considerations for endangered agricultural and wildlife species and consideration for the promotion of tourism in the area, Mr. Maina said. Restricted goods includes items that are regulated under aforementioned East African Community Customs Management Act, such as waste and scrap of ferrous cast iron, fresh unprocessed fish from the Nile, wood charcoal and sugar. Under the same Act, items including ivory and some animal products are prohibited from export.

Turning to the major export control challenges in the East African Community, the region has inadequate information flow from agencies and stakeholders. Scanner equipment to detect prohibited goods and enhance the export control system is also lacking. Additionally, Mr. Maina noted that as some African countries weak governments, when goods are exported to such a country they are diverted back to the country of origin causing a revenue risk. Finally, enforcement of transshipments may also be a challenge, since it depends on how reliably the ships' manifests are documented.

The third presentation was given by Ms. Luciana Leão of the Brazilian Office of Coordination-General for Sensitive Items, Ministry of Science and Technology, who discussed the Common Market of the South's (MERCOSUL) export control cooperation initiatives in the Southern Cone. Ms. Leão began with a brief overview of the Brazilian export control system, noting the critical

role played by the Inter-ministerial Commission for Control of Sensitive Items (CIBES), which establishes policy guidelines for export controls and publishes and updates the control lists. The Coordination-General for Sensitive Items (CGBE) is the Executive Secretariat of CIBES and the principal Brazilian agency leading export control cooperative efforts.

Ms. Leão then highlighted examples of regional cooperation, such as Commodity Identification Training (CIT) with the U.S. Department of Energy, conducting an advanced course for officials of National Authorities responsible for implementing the Chemical Weapons Convention (CWC), and leading a UN Workshop in November 2008 on the Implementation of Resolution 1540 (2004) for MERCOSUL states. In addition to ad hoc training events, Ms. Leão also noted the increasingly prominent coordinating role played by MERCOSUL.

MERCOSUL recently created the “Specialized Working Group on Illicit Traffic of Nuclear and Radioactive Material” to complement the General Plan of Reciprocal Cooperation and Coordination for regional security between Member States and Associates. The objective of the General Plan is to maximize the security levels between member states. The Working Group is responsible for planning several operational and coordination actions to prevent the illicit trafficking of nuclear and/or radioactive material in the MERCOSUL region.

In terms of Brazil’s export control contribution to MERCOSUL, Ms. Leão mentioned two areas: implementation of export control lists using MERCOSUL customs codes, and industry outreach. The Common Mercosur Nomenclature (NCM) is an 8-digit numerical trade code. The first 6 digits are based on Harmonized Tariff Codes (HS). The seventh and eighth digits give a more detailed specification to meet the interests of MERCOSUL States. In Brazil’s system, it is possible to add two extra digits for export/import control purposes. Currently, an inter-ministerial group is working on the classification of all control list items so they can be properly identified by licensing and customs officials.

With respect to industry outreach, Brazil has developed the National Program for the promotion of dialogue between the Private Sector and the Government in matters related to Sensitive Assets (Pronabens). The program was jointly developed by the Ministry of Science and Technology (MCT) and the Brazilian Intelligence Agency (ABIN). Pronabens conducts outreach activities, such as technical visits and seminars, involving industry, research centers and governmental bodies involved in sensitive and/or dual-use assets and technologies. Like the proposed HS numbering system for sensitive items, Pronabens could serve as a regional model for MERCOSUL states.

The final presentation of the panel focused on a cross-border exercise between Serbia and Croatia. Mr. Petrovic Dragan of the Serbian Border Police Directorate and Mr. Stipica Kuna of the Croatian Border Police Directorate provided successive presentations addressing capacity building and cross border cooperation on Serbia/Croatia border. Mr. Petrovic noted that the Serbia-Croatia border is the main route of illegal migration into the EU via Croatia and Hungary and described Serbia’s efforts to increase its border security capacity facilitated by assistance, including provision of equipment and technical training, from the International Organization for Migration (IOM) and the U.K. The assistance resulted in establishment of several mobile border security teams and promoted development of cross-border cooperation with corresponding border security agencies in Croatia.

Mr. Kuna described Croatian experience in border management, highlighted by a case-study of a border-security exercise designed to test coordinated apprehension of illegal immigrants and stolen vehicles on the Serbian-Croatian border. He highlighted Croatia’s efforts to strengthen EU border management standards through adoption of bilateral cross-border cooperation and border surveillance agreements with neighboring countries, including exchange of information, education, joint operations, technical cooperation and risk analysis; participation in a regional early warning system; and establishment of the National Border Management Information System for automatic control of documents, vehicles, and passengers.



## DAY THREE

*On the morning of the conference's third day, the plenary reconvened for presentations on recent export control developments in the EU, the role of NGOs in supporting national export control efforts, and export control outreach efforts in Australia, the EU/Germany, Japan, the United Kingdom, and the United States. The session also reviewed the work of the three discussion groups and heard closing remarks from the Director of the U.S. Department of State Office of Export Control Cooperation, Ms. Yvette Wong and from Ms. Elif Çomoğlu Ülgen of the Turkish foreign ministry.*

### EXPORT CONTROL DEVELOPMENTS IN THE EU

The first panel focused on recent export control developments in the EU. Provided by Mr. Nicholas Organ

of the EU Commission and Mr. Spencer Chilvers of U.K.'s Department for Business, Innovation and Skills (BIS), the presentations highlighted how a regional organization is further developing its trade control system for both dual-use and military items.

Mr. Chilvers of the U.K. provided an update on changes taking place in the EU dual-use regime. Specifically, he addressed the adoption of the re-cast EU Regulation No. 428/2009, which will replace existing EU Regulation No. 1334/2000 on August 27, 2009. Mr. Chilvers stressed that the adoption of the re-cast regulation was designed to address EU member states' obligation under UNSCR 1540 for the control of transshipment and brokering, and illustrated major regulatory changes introduced by the new regulation – including new mandatory controls on transit and brokering in Annex 1 items when the items are or may be intended for WMD-use. Mr. Chilvers also highlighted other changes advanced by the new regulation, including provisions to facilitate the use of general (bulk) licensing; to introduce electronic licensing in all EU member states; to set up a secure encrypted EU-wide system of information sharing on export controls; and to conduct periodic review of member states' license denials. Additionally, the European Commission's Directive 2009/43/EC was designed to facilitate the movement and transfer of defence goods within the EU in an effort to improve the competitiveness of the EU defence industry. Mr. Chilvers noted that the Directive, which went into force on June 30, 2009, also envisages wide use of general licensing, and the introduction of a certified company scheme. In conclusion, Mr. Chilvers stressed that both of these developments underscored increasing harmonization of EU member states' export control practices with regard to export of dual-use and munitions items.

Mr. Nicholas Organ, Policy Desk Officer for Nonproliferation at the European Commission (EC) reported to the plenary on EU's export control regime for dual-use items. The objectives of the EU regime, Mr. Organ said, is to provide a legal basis for the control of external trade in dual-use items that is in force in all EU member states and to enable member states to fulfill their commitment under international nonproliferation treaties and arrangements.

Mr. Organ explained the different roles within the EU; the EC has the exclusive right to propose export control legislation, and functions as a facilitator for discussion and monitor of member state implementation. The EC also interacts with EU industry, prepares the union for enlargement, and ensures that EU candidates are aligned with EC law. With regard to member states' responsibility, each country implements EC legislation and adopts additional legislative measures as needed. Member states also participate in the various export control regimes and have enforcement responsibility within their national jurisdiction.

Mr. Organ informed conference delegates of an upcoming legislative development within the EU: the imminent enforcement, beginning in August 2009, of Regulation 428/2009, which will set the rules for export controls and establish the framework for administrative cooperation between EU member states. The new regulation will impact many areas of the EU export control system. For example, the new regulatory framework contains an annex with the list of items controlled, which will be updated annually. The new regulation also expands the requirements of the previous guiding principles from 2000 insofar as Regulation 428/2009 ensures full EU member states' compliance with UN Security Council Resolution 1540 regarding transit and brokering. He noted that Regulation 428/2009 will also enhance the efficiency of the dual-use control regime.

Turning to an assessment of export control applications, Mr. Organ said that this was a duty of the member states. Industry is responsible for classifying items and submitting the application to the national authority, which in turn can find criteria to assess export applications in article 12 in Regulation 428/2009. There is also the opportunity for member states to cooperate in assessing certain license applications.

Finally, Mr. Organ said that in the case of controlling items not on the regulation's list or in national legislation, it is the national government's role to inform industry. The role of industry is to report to the home government any ambiguous transactions. Mr. Organ concluded by providing the plenary with some references to EU policy

vis-à-vis countries under embargo and various EC informational sources open to all states.

## ROLE OF NGOs IN SUPPORTING NATIONAL EXPORT CONTROL EFFORTS

The next session was a panel of representatives from the nongovernmental community. Mr. Leonard Spector of the Monterey Institute of International Studies, Mr. Hiroshi Nakao of the Center for Information on Security Trade Control, Mr. Karen Gasparyan from the Armenian Research Center for the problem of non proliferation of WMD, and Dr. Scott Jones of the University of Georgia's Center for International Trade and Security, delivered presentations on the role of NGOs in supporting national export control efforts.

Mr. Leonard Spector highlighted his Institute's programs and publications, among them the "Visiting Fellows Program," which has trained over 100 junior and mid-level diplomats and academics from countries such as Russia, the former Soviet Republics, China and officials from Non-Aligned States. The program includes 10-12 weeks of academic training in Monterey, CA as well as a 5-day visit to Washington, DC, where fellows meet with members of various governmental agencies and nongovernmental organizations. The Institute, Mr. Spector said, also carries out export control seminars and workshops in Central Asia and the Middle East. Topics have included the implementation of United Nations Security Council Resolution 1540.

Mr. Spector also highlighted some of the Monterey Institute's most prominent recent publications, including a major study on the role of regional organizations in implementing UNSCR 1540. In the chemical and biological sphere, the Monterey Institute is currently working on a project on how to manage emerging dual-use technologies.

Mr. Hiroshi Nakao of the Center for Information on Security Trade Control (CISTEC) began by noting that CISTEC is the only non-profit, non-governmental organization in Japan dealing with export control issues. CISTEC was established in 1989 to provide export control

information and assistance to Japan's exporters and to the international community. In terms of assisting industry, Mr. Nakao explained that CISTEC provides consultations to establish internal compliance programs and certification programs. CISTEC also provides training seminars and conferences, manuals, and other export control resources. In terms of regional export control support, CISTEC supports the annual Asian Export Control Seminar and Overseas Export Control Seminars.

Karen Gasparyan, Director, Research Center for the Problem of the Nonproliferation of Weapons of Mass Destruction (NPC), Armenia, described the work of the NPC. He explained that, given its geography, Armenia is a "transit state" through which sensitive goods and technologies could be transferred to countries of concern. The country is landlocked, sharing borders with Azerbaijan, Georgia, Iran, and Turkey. In this regard, NPC assists the Armenian government in implementing its export control system. The main activity of the NPC is conducting examination of dual-use items. Because of its technical expertise, NPC developed the Armenian Control list based on the EU control list. In addition, other NPC activities include coordinating training programs for the Armenian government and industries; searching for and removing abandoned radioactive sources in the territory of Armenia; and calibrating the radioactive detectors established at the ports of entry of Armenia, a program financed by the U.S. Government.

Dr. Scott Jones explained that the Center for International Trade and Security is a university-based, non-governmental organization established at the University of Georgia in 1989. He then overviewed the Strategic Trade Control Program at the Center, which focuses on studying and recommending ways both states and the private sector manage proliferation-related trade. The strategic trade control program includes research, outreach, and training projects aimed at strengthening export controls internationally. Dr. Jones noted that the Center has developed export control system methodology that allows scholars and government officials to target export control development priorities. To date, the Strategic Trade Control Program has conducted evaluations and deployed training events in over 75 countries. Center

assessments are used by the U.S. and foreign governments, the private sector and other research organizations to assist efforts to develop and augment national strategic trade control systems and corporate compliance efforts. It is also working to promote strengthened corporate security standards, and to encourage corporations to exercise greater oversight over exports of strategic technologies. The Center is currently investigating the role of exporters in monitoring and screening end-users and fulfilling nonproliferation obligations. Outreach efforts include educating strategic exporters in key countries about export control requirements. Much of the Center's outreach is currently focused on educating exporters in China, India, South Korea, and other Asian countries, and it is beginning to develop similar outreach activities in the European Union and North America.

Dr. Jones concluded by noting that a key component of the Center's work is outreach. In the area of strategic trade controls, the Center has developed a unique contribution to the field: the Export Control Academy (XCA). The XCA, a two-week course, is conducted three times per year and hosts visiting scholars and government and industry officials who undertake directed study and instruction drawing upon the Center's expertise and extensive export control and nonproliferation research material. With support from the U.S. Department of Energy, the Center also conducts specialized training programs for strategic trade control officials from South, Southeast and East Asia.

## RAPORTEURS' SUMMARY OF BREAKOUT GROUP DISCUSSIONS

The rapporteurs next provided summaries of the preceding day's breakout sessions. Mr. Johan Bergenas of the James Martin Center for Nonproliferation Studies at the Monterey Institute of International Studies, Ms. Julia Khersonsky and Dr. Scott Jones of the Center for International Trade and Security at The University of Georgia reviewed, respectively, the breakout groups on Policy, Licensing, and Enforcement.

The Policy breakout group featured three sessions: Benefits of Multilateral Regime Adherence and Regional

Organizations Adopting Multilateral Regime Commitments; Government-Industry Outreach; and a panel on Investigations/Prosecutions of export control cases. During the first session, delegates heard presentations from representatives of the WA, the MTCR, the AG and the EC. The presenters reported and answered questions on the current state of affairs of the export control regimes and commented on potential future developments. Panelists stressed the high level of expertise that regimes possess in their respective areas resulting in a high level of confidence in the control lists. The presenters suggested that the increased interest by non-members to adopt control lists into their national legislation is an evidence of trust in the lists. Because they are available to all states (members and non-members), they are a cost effective, time saving, security enhancing, common global security good. The Policy group in the first session also discussed options for widening regimes' membership and the importance of accelerating inclusiveness. Several delegates suggested that ideally, the regimes would be UN conventions, but the regimes are the best arrangement in the current environment. It was also noted that regimes could benefit from further coordination resulting in resources being used more effectively.

Presenters and delegates in the second breakout session stressed the importance of effective government outreach to industry, and the group discussed tools that can be used to that end. Presentations were made by delegates from Turkey, Australia, Germany, the United Kingdom and the United State. The session also heard a perspective on the subject matter from a member of a Japanese nongovernmental organization. *Inter alia*, the second session featured discussions on the importance of thinking critically about what actors to reach out to for the most effective outcome. It was suggested that targets should include industry decision-makers, such as senior level management and company lawyers. The group also recognized that penalties for industry export control non-compliance is heavily emphasized, but that positive reinforcement should also be available for industry with a good export control record.

The third session focused on how national authorities' law enforcement agencies and judicial systems can be improved to combat transnational criminals in the 21st century. Presentations were made by a U.S. District Court Judge, representatives of the U.S. Department of Justice, the U.S. Department of Homeland Security, and by a delegate from Germany's Customs Criminological Institute. The group discussed how today's organized criminals use a 21st century globalized business model and that the antidote to transnational criminality is wider and deeper regional and international cooperation.

The Licensing group attended presentations on risk assessment in licensing, development and application of automated licensing systems, and effective use of brokering and dual-use controls for strategic items. Issues that attracted particularly intense discussion were tools and methods of risk assessment in the pre-licensing stage; information sharing with industry participants and use of positive incentives to facilitate industry compliance; establishment of the internal compliance systems at strategic enterprises; control of intangible technology transfers; advantages of electronic licensing; use of on-line self-classification modules; and interagency coordination.

The Enforcement group addressed issues associated with Risk Assessment, Profiling and Targeting, Anti-Corruption and Integrity Awareness, and Technical Reachback and Electronic Commodity Identification. The presentations included a mixture of national and international organizations' perspectives on the issues under consideration. In the day's opening session, Turkish Customs explained its risk management and assessment procedures and system; Singapore Customs presented its efforts at maintaining and improving their risk management techniques; and a the U.K. Defence Academy highlighted the complexities of developing effective risk management practices, and sharing intelligence within and between governments. The second Enforcement breakout focused on the challenges and costs of corruption and the corresponding ramifications for effective export controls. The World Customs Organization (WCO) provided a stark picture of the costs of corruption, which include exacerbating the

proliferation threat. Organizations like the WCO have developed integrity awareness campaigns and training tools and resources. At the national level, both Croatia and Turkey provided examples of how their respective customs organizations are institutionalizing anti-corruption campaigns. The final Enforcement breakout group underscored the importance of developing technical identification capabilities in order to ensure effective export control enforcement. Presentations were made by Moroccan Customs, reviewing their customs modernization efforts, and by the U.S. Department of Energy (DOE). The DOE presentation demonstrated its program to assist countries in developing technical expertise involved in properly identifying dual-use items.

## EXPORT CONTROL COOPERATION AND OUTREACH

The final panel focused on the Export Control and Outreach efforts of Australia, the European Union, Germany, Japan, the United Kingdom, and the United States Export Control and Related Border Security (EXBS) program.

In his presentation, Mr. Michael Kourteff of Australia offered an overview of Australia's international cooperation and outreach efforts to advance the goals of combating terrorism and upholding the norms of global arms control, non-proliferation, and disarmament. Mr. Kourteff began his presentation by stating that President Obama's ambitious international security agenda created exciting opportunities to expand work on export control and non-proliferation. He observed that Australia's outreach strategy targets implementation of measures designed to advance regional and international security in five broad issue areas: treaty framework and related instruments; UN measures, including sanctions; export controls, including multilateral export control regimes; dialogue and ad-hock initiatives, such as the Proliferation Security Initiative; and targeted advocacy on nuclear non-proliferation and disarmament. Mr. Kourteff noted that the focus of Australia's outreach is in Asia Pacific and offered several concrete examples of Australia's international cooperation and outreach activities – including cooperation with IAEA on security of radioactive sources, support for implementation of

UNSCR 1540 and the Global Initiative to Combat Nuclear Terrorism, efforts to implement the UN Programme of Action on Small Arms and Light Weapons, and activities undertaken in the context of Australia's role as the MTCR and Australia Group Chair.

Ms. Sandra Raca of the Federal Office of Economics and Export Control (BAFA) provided an overview of the EU's export control outreach efforts. BAFA was mandated to implement the EU Pilot Projects in 2005 and 2006, involving experts from other EU Member States, aimed at enhancing co-operation with third-party countries in the field of export control. The other outreach projects include Russia (under the TACIS program) and a long-term program. Since the inception of the pilot program, outreach has been expanded to 14 countries: Albania, Bosnia and Herzegovina, Croatia, FRY of Macedonia, Georgia, Malaysia, Morocco, Moldova, Montenegro, the People's Republic of China, Serbia, Tunisia, Ukraine, and the United Arab Emirates (U.A.E.). The five areas of outreach activities include: legal, licensing, awareness, enforcement, and customs training. In terms of licensing outreach, for example, training efforts are focused on incorporating legal provisions into the licensing mechanisms. Training for licensing authorities also includes: enforcement of laws and regulations; processing of applications; the license decision-making process and its criteria; application of control lists and catch-all clauses; the identification of controlled dual-use items; and the practical aspects of interagency cooperation.

Mr. Makoto Horiguchi of the Security Export Control Policy Division of Japan's Ministry of Economy, Trade and Industry provided an outline of his government's Export Control Cooperation and Outreach efforts. Mr. Horiguchi began his presentation by reviewing the current proliferation threat, noting the increasing sophistication of procurement efforts, the developing threat of WMD terrorism, and the wider of availability of dual-use items and technologies. An international, coordinated export control response is necessary to ensure the effectiveness of both national and international nonproliferation efforts. International export control cooperation helps establish common awareness of the latest proliferation concerns, introduces the key aspects of an effective legal

framework, and fosters the development of best practices for strict border controls and effective export screening procedures. However, countries new to export controls are limited in their ability to acquire the latest information on both emerging threats and export control best practices. In this regard, export control cooperation and outreach is essential for global nonproliferation efforts.

Mr. Horiguchi explained that export control outreach is one of the most important activities toward achieving nonproliferation goals. Export control outreach can facilitate the introduction of appropriate legislation, implement effective licensing procedures, and improve inter-agency and government-industry cooperation. Outreach brings benefits to both providers and recipients by collectively diminishing the risk of proliferation and by creating mutual trust which supports enhanced international trade.

Japanese outreach is focused on countries in the Asian region. Many of these countries have experienced rapid growth in their economies and trade volumes, are still developing their export control systems, and are possible targets of nations and/or entities of proliferation concern. As the lead licensing agency in the Japanese export control system, the Ministry of Economy, Trade, and Industry (METI) also leads the Japanese government's outreach activities in the region. Mr. Horiguchi provided three examples of this outreach. For the past sixteen years, METI has hosted the annual Asian Export Control Seminar in Tokyo for countries in the Asia region. Since 2004, Japan has conducted a regional Industry Outreach Seminar. And in November 2008, Japan sponsored the Program to Improve Implementation of Export Control, which was attended by five countries. In conclusion, Mr. Horiguchi remarked that Japan would continue its regional, as well as international, export control outreach activities.

Mr. Spencer Chilvers of the U.K.'s Department for Business, Innovation and Skills (BIS), began by reviewing the outreach activities provided by BIS and other U.K. agencies. He explained the bilateral cooperation of political and technical exchanges and workshops. At the EU level, the U.K. participated in both dual-use and

conventional arms related export control assistance. The U.K. is also a participant in the U.S. Department of State's EXBS Program. At the regime level, the U.K. is an active member of regime outreach to non-member governments, particularly in the Wassenaar Arrangement. Lastly, he cited the current export control conference as another example of the types of the outreach activities pursued by the U.K. In terms of specific activities, he mentioned that they typically include seminars and visits covering such topics as: industry awareness, capacity building, customs procedures, and assistance with drafting legislation. Officials from all the government departments in the export licensing community are routinely involved in outreach work. Mr. Chilvers emphasized that the outreach was not only one-way; outreach also includes the exchange of experience with other states, benchmarking their own performance, and assessing different ways of implementing export controls.

He then explained the underlying rationale in developing and delivering an effective export control outreach program as part the U.K.'s National Security Strategy. With respect to non-proliferation, the National Security Strategy requires the government to dissuade states from acquiring, developing and contributing to the spread of WMD; detect attempts by states and terrorists to develop or acquire this capability; and to deny access to WMD and the necessary material, equipment, technology and expertise to develop them. Mr. Chilvers noted that the U.K. government strongly believes promoting effective export controls is an extremely important tool in the fight against proliferation.

Ms. Yvette Wong, Director of the U.S. Department of State's EXBS program, briefed delegates on the program she directs in the Office of Export Control Cooperation (ECC) in the Bureau of International Security and Nonproliferation. Ms. Wong said that the EXBS program's history traces back to export control assistance provided under the U.S. Department of Defense Cooperative Threat Reduction Program in the early 1990s. In 1996, the program was transferred to the Department of State and in the beginning of the 21<sup>st</sup> century the State Department significantly expanded

export control assistance and began providing related border security assistance under the auspices of the EXBS program.

Today, EXBS assistance is designed to help countries strengthen their export control systems and border control capabilities to improve capabilities among countries to interdict trafficking in items of proliferation concern. EXBS also facilitates information exchange and sharing best practices. After the terrorist attacks on September 11, 2001 the EXBS program increased its width from covering the former Soviet Union and Eastern European countries to include states around the globe. Since the passage of UNSC resolution 1540 in 2004, the EXBS program also contributes to countries' efforts to implement the resolution obligations.

Ms. Wong discussed the EXBS program's activities in the last dozen years saying that the program has been active in over 60 countries around the world, delivering technical training and inspection and interdiction equipment to export control officials. The program sponsors also conferences such as the annual International Export Control Conference that bring leading export control decision-makers together.

In order to ensure implementation success of the EXBS program, EXBS partners with, and draws upon expertise from the private sector, NGOs and other U.S. government agencies. The program seeks to establish and strengthen five objectives, or "pillars," of export control and border security, including comprehensive legal/regulatory frameworks; effective licensing procedures and practices; enforcement techniques and equipment; government outreach to industry; and interagency coordination. To that end, EXBS offers courses and specialized trainings and seminars, and the program works closely with international partners and through U.S. interagency collaboration to identify areas that can be most improved. Highlighting successes under the first pillar, Ms. Wong said that EXBS workshops and courses had recently supported export control laws development in countries such as the Philippines, Thailand, Vietnam, Mexico, India and Pakistan.

Progress in other areas, Ms. Wong said, includes the creation of an online industry compliance training

system, which EXBS will make available through its website within the coming months. Additionally, the ECC has overseen the development of an automated export licensing system called "Tracker." The system is to date operational in 19 countries and an updated version of Tracker will be released in July 2009. Under the enforcement pillar, EXBS offer courses and work with enforcement agencies to, *inter alia*, establish modern border crossing points, improve border and customs capabilities to detect and interdict smuggling activities, and carry out WMD Investigations. EXBS has also provided equipment, such as x-ray screening systems, to countries in order for them to detect and interdict hidden contraband.

In recent years, the EXBS program has enjoyed multiple successes stemming from supplying equipment, training officials and cooperating with partner countries. Ms. Wong highlighted interdictions, contraband seizures, confiscation and interceptions made of illegal goods in numerous Balkan states.

In addition to bilateral programs the EXBS program hosts regional and international seminars and conferences to help increase the nonproliferation dialogue within neighborhoods. Recent conferences include the International Transshipment Conference in May 2008, in Morocco, the Ninth Annual International Conference on Export Controls in October 2008 in Croatia, and the current conference in Istanbul.

To conclude, Ms. Wong provided a preview of the trajectory of future EXBS activities. The program hopes to assist in building indigenous capabilities and is, for example, currently working on projects to assist in the development of customs academy curriculums and train-the-trainer training. EXBS also looks to increase international coordination on resolution 1540 implementation by working with Australia, the EU, Japan, and other donors. EXBS will also continue to support UN-led regional 1540 workshops and host harmonized export control law workshops.

## CO-CHAIRS' SUMMARIES AND CLOSING REMARKS

The conference concluded with a set of brief remarks delivered by Ms. Elif Çomoğlu Ülgen, and Ms. Yvette Wong. On behalf of Turkey, Ms. Ülgen thanked conference participants and expressed her belief that the conference was a success in terms of expanding the global network of export control specialists through the exchange of best practices, identification of new risks, and intensive discussions on how to enhance cooperation within and between governments, the private sector and international organizations. She also thanked the U.S. government, EXBS in particular, for their longstanding support and cooperation.

Ms. Wong thanked Turkey for co-hosting the conference and all delegates for attending and contributing to a successful outcome. Summarizing key themes and topics, Ms. Wong noted the transnational nature of the WMD proliferation threat as a result of criminals becoming more technically sophisticated. She stressed the importance of interagency cooperation, intelligence sharing and coordination of efforts across borders in order to respond to this threat. Seeking partnerships and promoting awareness among programs and industry are also key aspects to combat WMD proliferation, and non-

governmental organizations can play a critical role toward that end. She also noted the discussion about export control regimes' lists becoming an increasingly international legal obligation, as UNSC has on several occasions referenced the regimes lists in resolutions. A consequence of this new development could be that member states are hesitant to update and include new items, fearing that they will become internationally binding obligations.

Ms. Wong stressed the conversations throughout the conference about the potential for merging, and to harmonize the regimes to better take advantage of their resources. In the process of harmonizing export control laws across borders and regions, she pointed to the necessity for greater regional cooperation. Finally, Ms. Wong acknowledged the challenges of fighting a transnational threat with outdated judicial and enforcement mechanisms, and highlighted the need to develop new and better tools to combat these transnational criminals. In the final analysis, she said, it is important to continue to educate and build a community of national and international professionals in the field of export controls.