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Special Report

Development of Moldova’s Export Control System 18
by Sergiu Spataru, Director of the Department of Export Control, Ministry of Economy, Moldova

Recent Developments in the NIS

Ukraine Tightens Controls on Dual-use Transfers

On December 24, 2002, the President of Ukraine, Leonid Kuchma, signed an edict, *On Additional Measures to Improve Control in the Area of International Military and Technical Cooperation*. The edict is aimed at enhancing military cooperation with foreign countries while simultaneously increasing control over international transfers of military and dual-use goods.

One of the main changes introduced by the edict concerns the implementation of UN sanctions. The State Service for Export Control (SSEC) and other executive agencies are now authorized to implement UN sanctions on foreign countries as soon as such sanctions are announced by the Ministry of Foreign Affairs. Previously, the SSEC and executive agencies had to wait for an official ruling from the Cabinet of Ministers before implementing UN sanctions.[1,2]

Another important modification deals with the development and implementation of Ukraine's export control strategy. For instance, the edict requires draft presidential edicts on military and technical cooperation and export control to be submitted for consideration to the Presidential Committee on Military and Technical Cooperation and Export Control (CMTCEC). Previously the Committee did not review draft edicts. In addition, under the December 24 edict, responsibility for the implementation of state policy for international military and technical cooperation and export control falls under the presidential administration's Main Directorate for Judicial Reform. However, the edict also modified the membership of the CMTCEC by adding representatives from the Security Service and the Ministry of Defense, suggesting that it is the intention of the Kuchma Administration to rely more on the special services for implementing state policy on military and technical cooperation and export control.[3]

Important changes were also introduced to the licensing process. Both the time period in which agencies are to provide recommendations to the SSEC regarding license applications and the time period for the SSEC to grant or reject license applications have been reduced. In addition, the SSEC must submit quarterly reports on exports of weapons and dual-use goods to the president, the Customs Service, and the State Committee for Statistics. The SSEC is also to submit quarterly reports and proposals for improving its performance to the president and the Council for National Security and Defense.[1,2]

Sources: [1] "Prezident Ukrainy podpisal Ukaz 'O Dopolnitelnykh merakh po usovershenstvovaniyu kontrolya v sfere mezhdunarodnogo voyenno-tekhnicheskogo sotrudnichestva,'" President of Ukraine website, <<http://www.president.gov.ua/rus/activity/122420436.html>>. [2] Interfax, December 27, 2002; "Ukraine tightens controls in military cooperation," BBC Worldwide Monitoring, December 27, 2002; in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [3] Defense-Express Website, December 26, 2002; in "Ukraine's special services gain greater role in arms trade," BBC Worldwide Monitoring; in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>.

Developments in Ukraine's Export Control Legislation in 2002

On November 15, 2002, President Kuchma signed Edict No. 1040/2002 *On Terminating the Validity of Some Decrees of the Cabinet of Ministers of Ukraine*, which reduces the number of independent Ukrainian arms exporters that can sell their products to Russia without involving Ukraine's arms export agency, "Ukrspetsexport," as a mediator. The edict points out that large numbers of Ukrainian producers and loose state control over the sales of military goods produced jointly by Ukraine and Russia was not in Ukraine's interest. Moreover, the decree states that all contract negotiations with foreign customers will be the sole responsibility of "Ukrspetsexport."

On October 22, 2002, President Kuchma signed an edict that shifts control over arms exports directly to the president's administration. A special department within the administration will be created to supervise all weapons sales, and the president is presumed to personally authorize all exports of Ukrainian military goods and services.[1] This decree has not yet been published.

In mid-October 2002, the draft of the export control law passed the first reading in the parliament. After an interagency review that began nearly two years ago, the draft of the *Law of Ukraine on State Control over*

International Transfers of Military and Dual-Use Goods was submitted to the parliament in the summer of 2002. The second reading and adoption of the law are expected to take place in early 2003.

On August 5, 2002, President Kuchma signed Edict No. 688/2002 *On Amendments to the Decree of the President of Ukraine No. 117 of February 13, 1998 (Provisions on Export Controls in Ukraine of February 13, 1998)*. Amendment a) states that internal compliance programs from now on are necessary prerequisites for granting licenses; amendment b) describes the interagency process of creating and amending control lists (the process is the same as in previous years but the edict puts in writing the review process); and amendment c) more clearly describes the types of licenses granted by Ukraine's licensing agency, the State Service for Export Control (SSEC).

On April 17, 2002, President Kuchma signed Edict No. 342/2002 *On Issues Related to the State Service on Export Control*, which states that the SSEC is no longer subordinate to, and a part of, the Ministry of Economy and European Integration Issues. From now on, the SSEC is a "central component of the executive authority with a special status," which means that it, basically, has the status of a ministry.

For more information on these decrees, see the official website of the Ukrainian Rada. [<http://www.rada.kiev.ua/>]

Source: [1] Anton Dzyubachenko and Ivan Prikhodko, "Prezident zaymetsya oruzheynym biznesom lichno?" *Zerkalo Nedeli*, October 26 – November 1, 2002, <<http://www.zerkalo-nedeli.com/ie/show/416/36562>>.

Lithuania Amends Export Control Legislation, Expands List of Embargoed Countries

According to a report presented at the [Fourth International Conference on Export Controls](#) held September 30 - October 3, 2002 in Warsaw, Poland, the Lithuanian government introduced key changes to its national export control legislation in 2002.

Prior to 2002, the country's export control system operated under Law No. I-1022 *On Control of Import, Transit, and Export of Strategic Goods and Technologies* of July 5, 1995, and several pieces of supporting legislation. On July 5, 2002, Law No. I-1022 was amended by Law No IX-1051 to include the following major elements: control of services related to dual-use goods and military equipment; control of intangible transfers; control of brokering activities; a catch-all provision; a list of embargoed countries; a list of strategic goods; and additional restrictions on granting export licenses. Under the amended law, Lithuania's Ministry of Economy is responsible for export controls over dual-use goods and military equipment. Export, import, and transit licensing decisions are made by a Group of Experts, consisting of representatives of various state agencies.

Government Decree No. 1390 *On Approval of Lists of Controlled Strategic Goods and Technologies*, adopted on November 20, 2001, entered into force on June 20, 2002. This Decree approved the following two control lists: the List of Dual-use Goods and Technologies, which is a close translation of Annex I of EU Council Regulation No. 1334/2000 (June 22, 2000); and the List of Military Equipment, which is a close translation of the EU list of military equipment covered by the European Union Code of Conduct on Arms Exports.[1]

More recently, in January 2003, the Foreign Ministry of Lithuania expanded the list of countries to which Lithuanian companies may not export controlled strategic goods. Previously, exports of controlled goods were banned to seven countries by a 1997 parliamentary decree. The expanded list now includes 14 states, the terrorist group al-Qaeda, and groups related to the Taliban regime. The 14 countries are Afghanistan, Armenia, Azerbaijan, Bosnia and Herzegovina, China, Congo, Iraq, Liberia, Myanmar, Sierra Leone, Rwanda, Somalia, Sudan, and Zimbabwe.[2] In addition, in summer 2002, Lithuania introduced a new procedure, whereby the list of embargoed countries/non-state organizations may be amended without parliamentary approval. Lithuanian Foreign Minister Antanas Valionis said that the new list follows the lists of the UN Security Council and the Organization for Security and Cooperation in Europe.[2]

Sources: [1] The Fourth International Conference on Export Controls, "Changes in Lithuania's Export, Import and Transit Control System," ICXC 2002 Website, <<http://www.exportcontrol.org/home/conference/index.htm>>. [2] "Lithuania Expands List of Countries to which Strategic Goods' Exports is Banned (Corrected)," Baltic News Service, January 10, 2003; in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>.

Belarus Publishes Report on Export Control

In October 2002, the Belarussian Ministry of Foreign Affairs issued a report on the country's export control system in an effort to alleviate international concerns that Belarus was failing to control exports of arms and sensitive dual-use items. Belarus came under scrutiny in 2002 for allegedly supplying arms to countries under UN arms embargoes, including Iraq.[1,2]

Belarus denied the allegations and stated that it "does not sell weapons to nations to which arms sales are banned by resolutions of the UN Security Council." [3] The Belarussian Ministry of Foreign Affairs subsequently published a report on export control and exports of weapons and military hardware in 2001-2002. The report describes the country's export control legislation, export control licensing procedures, and the role of various government agencies. According to the report, Belarus complies with international export control norms and has an effective export control system. The report points to a number of license denials and highlights Belarus's submission of information to the UN registry as evidence of an export control system that is working.[4] It does not, however, discuss alleged violations of export control regulations by Belarussian enterprises, or illicit transfers, nor does it elaborate on implementation of enforcement procedures.

Sources:[1] Mark Lenzi, "Europe's Armory for Terrorism," *The Washington Post*, January 3, 2002; Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [2] Natalya Khmelik, "Voyennyiye Podstavki," *Sovershenno Sekretno*, August 5, 2002; in Integrum Techno, <<http://www.integrum.com>>. [3] "The Embassy of Belarus Responds," *The Washington Post*, January 22, 2002; Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [4] *Belarus National Assessment of Export Control Policies, Arms and Military Equipment Export in 2001-2002*, Ministry of Foreign Affairs, Republic of Belarus.

Minatom Outreach Activities

In 2002, the Russian Ministry of Atomic Energy (MINATOM) in cooperation with the U.S. Department of Energy held several regional and single-site nuclear export control training seminars. These seminars were designed to educate personnel from Russia's nuclear complex on their domestic and international nuclear export control licensing obligations. Regional workshops were held in St. Petersburg in June 2002 and Snezhinsk in September 2002. Single-site training seminars were organized at five locations in 2002: Troitsk (Troitsk Institute of Innovative and Thermonuclear Research—TRINITI), Novouralsk (Urals Electrochemical Combine—UEKhK), Nizhniy Novgorod (Afrikantov Experimental Machine Building Design Bureau—OKBM), Sarov (All-Russian Scientific Research Institute of Experimental Physics—VNIIEF), and Dmitrovgrad (All-Russian Scientific Research Institute of Atomic Reactors—NIAR).

The single-site seminars were organized by two recently established Export Control Methodological Laboratories, one based at the Institute of Physics and Power Engineering (IPPE) in Obninsk, the second based at the All-Russian Scientific Research Institute of Technical Physics (VNIITF) in Snezhinsk. The single-site seminars offer curricula that relate specifically to the expertise of the particular nuclear facility whose personnel are receiving the training. The training seminars in Troitsk, Dimitrovgrad, and Nizhniy Novgorod were organized by specialists from the laboratory at IPPE. The two other seminars in Novouralsk and Sarov were organized by specialists from VNIITF. In 2003, IPPE and VNIITF will conduct seven additional nuclear export training seminars.

In 2003, with the support from the U.S. Department of Energy, the Export Control Methodological Laboratories at IPPE and VNIITF are also planning to offer export control training to educational institutions in Russia. These seminars address growing concerns regarding the potential transfer of sensitive information by educational institutions.[1]

Sources: [1] Interview with Marina Belyayeva, Head of the Office on International Cooperation and Nonproliferation at MINATOM, December 6, 2002.

Center for Export Controls Outreach Activities

The Moscow-based Center for Export Controls (CEC) also provides training to Russian industry on export control compliance practices and product identification. These seminars are designed for major industrial centers throughout Russia and are supported by the U.S. Department of Commerce Bureau of Industry and Security. The focus of the CEC seminars has shifted from assisting exporters in developing Internal Compliance Programs (ICPs) to ensuring that exporting enterprises have the skills to identify their

products, e.g., determining whether products and services require a license. The CEC has also updated its export control reference book for Russian exporters, which includes all relevant Russian export control regulations.[1]

Source: [1] Copies of the CEC reference book may be purchased from the CEC. See <<http://www.expcn.ru>>.

Ukraine under Pressure for Iraq Deal

President Kuchma's ex-bodyguard, Nikolay Melnichenko, fled Ukraine in late 2000 with hundreds of hours of recordings that suggest that President Kuchma has committed an array of high crimes, including illegal arms sales. One of the recordings allegedly documents a conversation between Kuchma and Valeriy Malev, then the director of Ukraine's arms export agency, "Ukrspetsexport," who died in a mysterious car accident in March 2002.[1]

In the recorded conversation, Malev reportedly tells President Kuchma that Iraq wants to buy four "Kolchuga" passive radar stations for a total of \$100 million through a Jordanian intermediary. Malev suggests that the stations be disguised to look like legitimate civilian cargo, and that Ukrainians with forged passports be sent to Iraq to oversee their installation. President Kuchma is reportedly heard approving the illegal sale to the embargoed country. In late September 2002, the U.S. State Department declared the tape authentic, and accused the Ukrainian leader of approving illegal arms sales. Kuchma denied the accusation.[1]

In mid-October 2002, a U.S.-British team of experts arrived in Ukraine for a one-week investigation. The experts concluded that they were unable to prove that Ukraine transferred radar systems to Iraq "under openly declared contracts," but that "covert or illegal arms trade, particularly with the complicity of third parties, remains a credible possibility." [2] U.S. State Department officials argued that "They [the Ukrainians] failed to provide our U.S.-U.K. team with satisfactory evidence that the transfer to Iraq did or could not have taken place. So the question is still open." [3]

In response to the incident, the Omnibus Appropriations Act for Fiscal Year 2003, which was signed into law by President Bush on February 20, 2003, states that no assistance under the Act may be provided to Ukraine "unless the Secretary of State determines and certifies to the Committees on Appropriations that, since September 30, 2000, the Government of Ukraine has not facilitated or engaged in arms sales or arms transfers to Iraq...." [4] The provision states that this ban shall not apply to U.S. assistance to combat infectious diseases, nuclear safety programs and activities, assistance for victims of trafficking in persons, and to nonproliferation and disarmament programs. In 2002, the State Department also suspended \$54 million of aid to Ukraine as part of a wider review of U.S. policy towards that country. In addition, the "Kolchuga" scandal has negatively affected Ukraine's progress towards NATO and EU membership.

Sources: [1] Victor Zaborovsky, "Pressure mounts on Ukraine to reveal arms trade details," *Jane's Intelligence Review*, December 2002. [2] "U.S., Britain seek more answers after arms experts' visit to Ukraine," *The Kiev Post*, November 7, 2002, online at <<http://www.thepost.kiev.ua/displaypr.php?arid=12209>>. [3] "U.S. dissatisfied with Ukrainian cooperation on Iraq radar flap," *The Kiev Post*, November 7, 2002, online at <<http://www.thepost.kiev.ua/displaypr.php?arid=12208>>. [4] Consolidated Appropriations Act for FY2003, Div. E, Title III, Assistance for the Independent States of the Former Soviet Union, section (f).

Changes in NIS Export Control Personnel

Changes in the State Commission on Export Control of the Republic of Kazakhstan

In late October 2002, the government of Kazakhstan issued a decree (No. 1155 of October 31, 2002) that introduced amendments to Government Decree No. 1917 of December 14, 1999, *On Improving the Export Control System of the Republic of Kazakhstan*. The changes primarily reflect new appointments at the State Commission on Export Control (SCEC), which now includes the following members:

Karim Kazhimkanovich Masimov	Deputy Prime Minister, Chairman of State Commission on Export Control
Omarhan Nurtayevich Oksikbayev	Secretary of the State Security Council, Deputy Chairman of the State Commission on Export Control
Nartay Nurtayevich Dutbayev	Chairman of National Resources Committee
Vladimir Sergeyevevich Shkolnik	Minister of Energy and Mineral Resources
Berdibek Mashbekovich Saparbayev	Chairman of Customs Control Agency
Mazhit Tuleubekovich Esenbayev	Minister of Industry and Trade
Azamat Aytkaliyevich Nurseytov	Deputy Head of External Relations Department of the Prime Minister's Secretariat, Secretary of the State Commission on Export Control
Georgiy Vladimirovich Kim	Minister of Justice
Mukhtar Kapashevich Altynbayev	Minister of Defense
Kayrat Khuatovich Abuseitov	First Deputy Minister of Foreign Affairs

The decree also made changes to Section 5 of the Commission Statute on *Organization of Work of the Commission*. Specifically, paragraph 7 was modified to transfer the duty of chairing Commission meetings in the absence of the chairman, from the first deputy chairman, as previously stated, to the deputy chairman of the SCEC.

In addition, the two SCEC subcommissions—the Subcommittee on Export, Import, and Transit Operations Involving Goods Subject to Export Control and the Subcommittee on Improvement of the Export Control System—were disbanded (paragraph 8).

Government Decree No. 1155 of October 31, 2002 also confirmed a list of legislation that is no longer in force, including Government Decree No. 338 of March 24, 1995, *On Measures for the Further Development of the Export Control System in the Republic of Kazakhstan*, which laid the foundation and provided legal framework for export controls in Kazakhstan.

International Supplier Regimes

Reports Assess Multilateral Export Control Regimes

Two reports recently published in the United States conclude that the four major international export control regimes—the Nuclear Suppliers Group, the Australia Group, the Missile Technology Control Regime, and the Wassenaar Arrangement—are not working as effectively as they should.

A report released in September 2002 by the University of Georgia's Center for International Trade and Security (CITS) concludes that the regimes were designed to coordinate export control policies among a small number of countries and are not equipped to address current challenges. According to the report, the four regimes have been weakened by the inclusion of several countries that lack effective export control systems. "In some cases, countries seeking membership have done little more than copy regime control lists and issue export control regulations, afterward paying little or no attention to implementation and enforcement," it says. In addition, consensus-based rules that characterize the regimes often require unanimous votes to change policies. "Because of consensus rules, efforts to further enhance the effectiveness of these regimes can be effectively blocked by any member, and unfortunately, this is not uncommon," the report says.

The report recommends that the regimes be combined into an overarching Multilateral Nonproliferation Export Control Regime, with improved decision-making procedures, strong enforcement measures, information-sharing requirements, agreement on countries seen to be proliferation concerns, and a demonstration by member states that they are committed to implementing and enforcing export controls.[1,2]

A report released in October 2002 by the U.S. General Accounting Office (GAO), which conducts investigations and studies for the U.S. Congress, cited several problems with the current regimes. First, members do not adequately share information about approval and denial of exports. Second, members fail to implement regime decisions consistently and in a timely manner. It takes some members as much as one year to implement agreed-upon changes to control lists, the report notes. This lapse in time might allow proliferators to take advantage of disparities in members' lists. Third, several member countries lack effective export control systems, making it difficult to consistently apply broad export rules.

The GAO report urged the United States to press for increased information-sharing among regime members, to work for more consistent implementation of export controls, to assess ways to improve organizational decision making, and to consistently report U.S. export denials.[3,4]

Sources: [1] Mike Nartker, "International Response I: Merge Export Control Regimes, Experts Say," Global Security Newswire, September 26, 2002, <http://www.nti.org/d_newswire/issues/2002/9/26/1p.html>. [2] Center for International Trade and Security (CITS), Strengthening Multilateral Export Controls: A Nonproliferation Priority, (Athens, GA: September 2002), <http://www.uga.edu/cits/publications/regime_report.pdf>. [3] Wade Boese, "GAO Says Multilateral Export Control Regimes Too Weak," Arms Control Today online edition, November 2002, <http://www.armscontrol.org/act/2002_11/gaonov02.asp>. [4] U.S. General Accounting Office, Strategy Needed to Strengthen Multilateral Export Control Regimes, (Washington, DC: October 2002), <<http://www.gao.gov/new.items/d0343.pdf>>.

Multilateral Export Control Regimes

The four multilateral export control regimes were established to regulate international trade in dangerous materials by harmonizing national export controls. Member countries voluntarily commit to adhere to regime guidelines.

- The Nuclear Suppliers Group addresses transfers of nuclear and nuclear-related materials, equipment, and technologies.
- The Australia Group addresses chemical and biological weapons-related goods and technologies.
- The Missile Technology Control Regime regulates exports of missiles and related technologies.
- The Wassenaar Arrangement restricts exports of conventional weapons and sensitive dual-use items.

International Export Control and WMD Security Assistance Programs

STORKE Automated Licensing System

A ribbon-cutting ceremony held in May 2002 at the Kazakhstan Atomic Energy Committee (KAEC) celebrated the launch of a new "System TO Review Kazakhstan Exports" (STORKE). STORKE, which was developed between 2000 and 2002 by software specialists at the National Nuclear Center of Kazakhstan (NNC), is a technical analysis database and secure e-mail system designed to support the review of nuclear-related and nuclear dual-use license applications.

STORKE allows KAEC licensing officials in Almaty and technical experts at the Institute of Atomic Energy (IAE) in Kurchatov City to securely communicate electronically. KAEC is responsible for reviewing export license applications that are forwarded by the Ministry of Industry and Trade (MIT) in Astana. When KAEC licensing officers require additional expertise to evaluate a license, they refer it to the IAE, one of the four institutes of the NNC, using the STORKE secure e-mail system. IAE experts are able to provide input regardless of where they are physically located. STORKE has been designed to readily support expansion to other parts of the country. In the future, STORKE information may be exchanged with other institutes and independent experts.

The system itself was developed using Lotus Notes software and comprises two technical analysis databases that aid in the processing of licenses. One of these is a reference document database that allows full-text searches of technical reference manuals, as well as national and international laws, regulations, and control lists. The second component uses Lotus Notes to track license applications and search previous licenses for related information.

The project is being funded by the U.S. Department of State. Efforts to support and enhance the system are ongoing, and day-to-day assistance is being provided by staff members at Los Alamos National Laboratory.

\$50 Million for Nonproliferation Assistance Programs in Central Asia

At the [Sixth Central Asia and Caucasus Nonproliferation Forum](#) of April 2002 in Tashkent, U.S. State Department officials announced that the United States will provide a total of \$50 million in nonproliferation assistance to the states of Central Asia and the Caucasus over several years. Of this sum, \$26 million is from regular Fiscal Year 2001 and 2002 funds and \$24 million is from nonproliferation funds made available through the Counter-Terrorism Emergency Supplemental passed by U.S. Congress in late September 2001.[1] These funds are allocated to programs that help prevent trafficking of weapons of mass destruction (WMD) and related materials, equipment, and expertise. Of the total, approximately \$20 million will be devoted to help strengthen border security in Uzbekistan over several years.[2] As of January 2003, all funds have been obligated but some remain unexpended.[1]

Sources: [1] Correspondence with U.S. Department of State official, January 2, 2003. [2] "U.S. Aid for Nonproliferation," RFE/RL Newswire, <<http://www.rferl.org/newswire/2002/04/160402.asp>>, April 16, 2002.

Embargoes and Sanctions Regimes

Japanese Firm Suspected of Exporting Dual-use Technology to North Korea, Iran

A Japanese machinery company is suspected of exporting to North Korea and Iran a type of dual-use equipment that could be employed for the production of missile propellant and for milling dried biological warfare agents. Tokyo-based Seishin Enterprise Company Ltd. exported a jet mill grinding machine to North Korea in 1994 and several more of the machines to Iran between 1987 and 2000, according to sources quoted by Kyodo News Service.[1] [Editor's note: Jet mill grinders, which employ a high-pressure stream of air current to break up solid objects, are mainly used in the manufacture of pharmaceuticals, chemicals, and toner for copiers, but can also convert solid missile propellant into ultra-fine particles, thereby increasing a missile's thrust. Such devices could also conceivably be used to mill certain dry biological agents into particle sizes of 0.2 to 3 microns in diameter, optimal for dissemination as an infectious aerosol.] The export of jet mill machines is restricted by the Japanese Foreign Exchange and Foreign Trade Control Law and controlled by the Missile Technology Control Regime, of which Japan is a member. Japanese exporters must obtain a license from the Ministry of Economy, Trade, and Industry before exporting jet mill machines.[2,3]

The Tokyo Metropolitan Police Department and Tokyo Customs raided Seishin headquarters, its Nagoya branch, and the home of its president in late 2002 and early 2003 in connection with allegations that Seishin illegally exported jet mill machines to an Iranian military goods company and to a rocket science laboratory at an Iranian university.[4] Seishin exported a jet mill unit to Iran for the first time in 1987 and subsequently exported several more machines and related equipment, Kyodo News Service reports, quoting government sources.[1] Seishin also allegedly trained employees of the Iranian importers, sources said.[5] Furthermore, according to sources close to the Seishin case, the company is also suspected of having sold a jet mill machine to North Korea in 1994 that may have been used by the North Korean military.

The investigation into Seishin's alleged exports to Iran and North Korea is ongoing. However, there are limits on what can be prosecuted in the case as the statute of limitations for violating the Foreign Exchange and Foreign Trade Control Law is five years.[3]

Sources: [1] "Firm allegedly exported gear illegally to Iran from 1987," Kyodo News Service, February 6, 2003; in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [2] "Firm raided over military exports to Iran," *Mainichi Daily News* online edition, <<http://mdn.mainichi.co.jp/news/archive/200212/12/20021212p2a00m0dm008000c.html>>. [3] "Japan firm exported illegal equipment to N. Korea: sources," Kyodo News Service, February 4, 2003; in Lexis-Nexis Academic Universe, <<http://www.lexis->

nexis.com>. [4] "Japanese firm exported missile-related equipment to NKorea: reports," Agence France Presse, February 5, 2003; in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [5] "Firm raided over missile-fuel mill /Company said to have trained Iranians on use of illegal device." *The Daily Yomiuri* online edition, <<http://www.yomiuri.co.jp/newse/20030205wo25.htm>>, February 5, 2003.

U.S. Companies Run Afoul of Export Control Laws

Silicon Graphics, Inc.

On January 7, 2003, the Department of Commerce Bureau of Industry and Security announced that California-based Silicon Graphics, Inc. (SGI) had pled guilty to two felony charges that the company violated export control regulations by illegally exporting high-performance computers to the All-Russian Scientific Research Institute for Technical Physics, Snezhinsk, in 1996. SGI agreed to pay \$1 million in criminal fines. In a related administrative case, SGI agreed to pay \$182,000—the maximum penalty authorized by the Export Administration Regulations—to settle civil charges arising from the same exports to the Russian nuclear laboratory, as well as additional charges relating to illegal computer exports to Israel and for failure to meet reporting requirements for exports to China, Qatar, and the United Arab Emirates. SGI will also be prohibited from making exports to Russia for a period of three years. The export ban will not be enforced, however, as long as SGI does not violate U.S. export control regulations during the suspension period.[1]

Sources: [1] "Silicon Graphics Settles Criminal and Civil Charges that computer Shipments Violated U.S. Export Controls," Bureau of Industry and Security Press Release, January 7, 2003, BIS Website, <http://www.bxa.doc.gov/press/2003/SiliconGraphics1_7.html>.

Infocom

In December 2002, a federal grand jury indicted Texas-based Infocom and five of its employees with making illegal exports and making false statements on export declarations. The indictment alleges that Infocom sold computers and computer parts to Libya and Syria in violation of the International Emergency Economic Powers Act (IEEPA). Both countries are designated by the U.S. Department of State as state sponsors of terrorism. IEEPA makes it unlawful to export certain U.S.-origin technologies, goods, and commodities, including computers, to Libya and Syria without a license. According to the indictment, Infocom attempted to conceal the ultimate destination of the Libya-bound shipments by routing the goods through a shipping company in the countries of Malta and Italy, and falsely declared that the shipments to Syria did not require a license.[1] If convicted, the defendants face ten years in prison for making illegal exports, five years for making false statements, and millions of dollars in fines.[2]

Sources: [1] "Senior Leader of Hamas and Texas Computer Company Indicted for Conspiracy to Violate U.S. Ban on Financial Dealings with Terrorists," U.S. Department of Justice Press Release, December 18, 2002, BIS Website, <<http://www.bxa.doc.gov/press/2002/DOJInfoComPressRelease>>. [2] "Prepared Remarks of Attorney General John Ashcroft News Conference," December 18, 2002, BIS Website, <<http://www.bxa.doc.gov/press/2002/InfocomAshcroftRmks.html>>.

Sigma-Aldrich

On November 4, 2002, the U.S. Department of Commerce announced that Missouri-based Sigma-Aldrich Corporation and two of its corporations agreed to pay a \$1.76 million fine to settle charges involving illegal exports of biological toxins to Europe and Asia. A company that Sigma-Aldrich acquired in 1997 had made unauthorized exports of controlled biological toxins on numerous occasions prior to the acquisition and had continued the unlicensed exports for more than a year after the acquisition. Assistant Secretary of Commerce for Export Enforcement Michael J. Garcia said that this case sets "an important precedent that when acquiring another firm, a company should scrutinize the export control practices of the acquired company in order to avoid the risk of incurring substantial liability. . . ." The penalty is one of the largest ever paid to the Department of Commerce for export control violations.[1]

Source: [1] "Sigma-Aldrich Pays \$1.76 Million Penalty to Settle Charges of Illegal Exports of Biological Toxins," Bureau of Industry and Security Press Release, November 4, 2002, BIS Website, <<http://www.bxa.doc.gov/press/2002/SigmaAldrichPays4Acquisition.html>>.

Hughes/Boeing

On December 26, 2002, the U.S. Department of State filed a letter on its website charging Hughes Electronics Corporation and Boeing Satellite Systems (formerly Hughes Space and Communications) with illegally sharing sensitive space technology with China in the 1990s. The letter detailed 123 charges involving violations of the Arms Export Control Act and International Traffic in Arms regulations in

connection with misconduct of these corporations in the aftermath of failed launches of U.S. manufactured satellites from China in 1995 and 1996. Boeing and Hughes face fines of up to \$500,000 per charge.[1] Boeing released a statement noting that the charges relate to events that occurred before its 2000 acquisition of Hughes Space and Communications and that Hughes retains responsibility for paying fines or penalties on China matters.[2] Both companies have said that their activities in China were covered by looser Department of Commerce regulations at the time and that there was no wrongdoing.[3] In a similar case, Loral Space & Communications Ltd. agreed to pay \$14 million in fines in January 2002 to settle U.S. government charges that Loral had provided sensitive rocket data to China.[4]

Sources: [1] Hughes Boeing Charging Letter, December 26, 2002, <<http://foia.state.gov/HughesBoeing.pdf>>. [2] "Statement from Randy Brinkley, President of Boeing Satellite Systems, Regarding Department of State Allegations," Boeing Press Release, January 2, 2003, Boeing Website, <http://www.boeing.com/news/releases/2003/q1/nr_030102s.html>. [3] "United States: U.S. Firms Face Charges of Aiding Chinese Missile Program," Global Security Newswire, January 2, 2003, <http://nti.org/d_newswire/issues/2003/1/2/6p.html>. [4] Reuters; "US: Boeing, Hughes Helped China Illegally," <http://biz.yahoo.com/rb/030101/china_usa_technology_2.html>.

Jet Info Systems International

On December 4, 2002, Acting Assistant Secretary of Commerce for Export Enforcement Lisa Prager announced that Jet Info Systems International located in Dallas, Texas, will pay a \$40,000 civil penalty to settle allegations that it re-exported computers from Germany to the All-Russian Scientific Research Institute of Experimental Physics (VNIIEF) in Sarov in violation of U.S. export control requirements. According to the U.S. Department of Commerce's Bureau of Industry and Security (BIS), on two occasions in 1996, Jet Info Systems transshipped computers from Germany to VNIIEF via the Netherlands without the required BIS re-export authorization. In addition to the civil penalty, a two-year denial of export privileges was imposed on Jet Info Systems in connection with the settlement agreement. The denial of export privileges will not be enforced provided that Jet Info Systems does not commit any export control violations during the two-year suspension period. Mr. Alexander Zinsman, a Russian national, who organized the transportation of one shipment from Germany to VNIIEF via the Netherlands will pay a \$20,000 civil penalty and be denied export privileges for five years.[1] The president of the Russian branch of the Jet Info Systems, Yevgeniy Maratovich Shabligin, commented on the imposition of the fines: "Our company, without denying or admitting the existing facts, agreed to pay the fine and negotiated that the department will impose the fine and the matter will be closed." [2]

Sources: [1] U.S. Department of Commerce, Bureau of Industry and Security. "Texas Company Fined for Illegal Transshipment of Computers to Russia," December 4, 2002, <<http://www.bxa.doc.gov/press/2002/JetInfoSysFined.html>>. [2] "Shtraf v polzu 'Dyadi Sema,'" *Pravda* online edition, Pravda.ru, December 11, 2002, <http://science.pravda.ru/science/2002/6/19/52/4176_.html>.

Illicit Trafficking in the NIS

Summary of NIS Trafficking Incidents, September – December 2002

Despite elevated concerns about nuclear terrorism, during the last four months of 2002, there were no reported trafficking incidents involving highly enriched uranium (HEU) or plutonium in the Newly Independent States of the former Soviet Union (NIS). There were two cases involving low-enriched (LEU) or natural uranium. In one of these, a Russian citizen was arrested in Ukraine while reportedly trying to sell uranium metal plates weighing about 400g.[1] In the other, as a result of an error in the customs declaration, Russian customs officials briefly seized 27 metric tons of LEU being shipped to Kazakhstan for processing into nuclear fuel. The shipment was later determined to be legal and allowed to proceed.[2]

Continuing the trend of recent years, the majority of reported trafficking incidents during this period involved radioactive material (rather than nuclear materials relevant to nuclear weapons), principally "orphaned" and stolen commercial radiation sources. From September to December 2002 the [NIS Illicit Trafficking Database](#) maintained by the Center for Nonproliferation Studies (CNS) tracked reports of 14 incidents involving the seizure or recovery of such radioactive materials (one of which was in Bulgaria, not the NIS), four cases involving scrap metal contaminated with radiation, and one attempted nuclear smuggling scam.[1]

While the increased focus on the threat of nuclear terrorism has not led to an increase in reported cases of nuclear smuggling, it has triggered a number of exaggerated and inaccurate media reports about the issue. In September 2002, for example, media reports from Turkey claimed that police had arrested two men with about 30 pounds of weapons-grade uranium. Analysis later revealed that the seized material was a small quantity of powder consisting of zinc, manganese, iron, and zirconium. In another case of distorted reporting, there was considerable Russian press coverage during late 2002 of the alleged threat of nuclear terrorism posed by trafficking in the rare-earth metal osmium, which has no known nuclear weapons applications. See the January issue of the *NIS Export Control Observer* for more details on these cases.

Sources: [1] NIS Nuclear Trafficking Database, <<http://nti.org/db/nistraff/index.html>>. [2] "LEU Erroneously Detained on Kazakhstani Border", *NIS Export Control Observer*, No. 1, January 2003, <<http://cns.miis.edu/nis-excon>>.

Summaries from the NIS Press

Georgian Nuclear Physicists and Aircraft Engineers Working in Iran

On January 11, 2003, the independent Georgian TV station Rustavi-2 reported that the U.S. Ambassador to Georgia, Richard Miles, informed Georgian authorities that aircraft engineers from the 31st Aircraft Assembly Plant Tbilaviamsheni were refurbishing Soviet-made SU-25 fighter jets in Iran. According to evidence gathered by the U.S. Department of State and U.S. intelligence services, in May 2002, 50 Georgian aircraft specialists traveled to Iran to prepare five SU-25 planes for combat flights.[1] After the report was aired on Rustavi-2, the Georgian Ministry of State Security launched an investigation into the allegations.[2]

In Soviet times, the 31st Aircraft Assembly Plant in Tbilisi produced SU-25 fighter planes and employed about 15,000 workers.[1,3] The dramatic deterioration of socio-economic conditions that followed the collapse of the USSR brought the factory to a virtual standstill and forced 10,000 employees to quit.[1] The last time the plant sold an SU-25 was in 1998.[4] Commenting on the Georgian aircraft engineers in Iran, Vazha Tordia, the chairman of the supervisory board of the factory, said, "It is no longer our [the factory administration's] prerogative to find out where the 10,000 skilled specialists are and what they are doing at present. I cannot rule out the possibility of Georgians working there [in Iran]."[1]

On January 13, 2003, in his traditional weekly radio address to the nation, President Shevardnadze confirmed the fact that there were some Georgian aircraft engineers in Iran, and added that Iran was also hosting a group of nuclear physicists from Sukhumi Institute of Physics and Technology (SIPT). This research facility reportedly once housed weapons grade uranium that has been unaccounted for since the region of Abkhazia became de facto independent, following the successful bid for secession by Abkhazian separatists in 1993.[5] According to various reports, the amount of missing material varies between 655 grams and 2 kilograms, far short of the 25 kilograms that would be needed for a nuclear device, according to standards used by the International Atomic Energy Agency (IAEA).[6]

In his remarks, President Shevardnadze also stated, "We have informed the previous American [Clinton] administration that several former workers of the Tbilisi aircraft factory are working in Iran on the repair of SU-25s. The Americans also knew that former specialists from Sukhumi research institute worked in Iran." [3] The president emphasized that the Georgian specialists were working in Iran on private contracts that had not been authorized by the government, and that the Georgian authorities' capability to monitor private contacts of individual Georgian citizens was "limited." [3] President Shevardnadze also added that Georgia will not sell SU-25s to Iran because, as a matter of state policy, Georgia refrains from selling military equipment to countries "suspected of possessing or seeking to acquire atomic bombs." [7] In conclusion, Shevardnadze stressed that the issue of Georgian aircraft engineers in Iran should be resolved in such a way so as "not to spoil relations with Iran, but also to satisfy the legitimate concerns of the United States." [3]

Shevardnadze's public admission of the presence of Georgian nuclear scientists in Iran generated speculations in Georgian media regarding their possible contribution to the development of an Iranian nuclear weapons program. However, on January 15, 2003, Georgian Minister of State Security Valeriy

Khaburdzania dismissed these speculations as exaggerated. He noted that the Georgian intelligence services were verifying reports about the presence of researchers from SIPT in Iran. Khaburdzania admitted that in conducting these investigations it was difficult to establish the purpose of Georgian citizens' visits to Iran.[8]

On January 15, 2003, Iranian Minister of Defense, Rear Admiral Ali Shamkhani, publicly confirmed that Georgian aircraft engineers were in Iran "to maintain and repair SU-25 fighter jets," but he categorically denied that Georgian nuclear experts were in Iran.[9] Iranian Foreign Ministry spokesman Hamid-Reza Asefi echoed this statement during a weekly press conference on January 19, 2003. He rejected the reports on Iran-Georgia nuclear cooperation as "exaggerated and inaccurate." [10]

It must be noted that in the late 1990s, the Iranian government showed considerable interest in the plant. In 1997, the then-manager of Tbilaviamsheni, Mr. Tordia, visited Iran three times.[1] Furthermore, it appears that in the late 1990s, Tehran approached Tbilisi with a \$120 million proposal to jointly produce SU-25s, but as the deal was nearing completion it was blocked by President Shevardnadze at the request of the U.S. government.[1,11]

Sources: [1] "Georgian aircraft factory accused of helping Iran to build fighter aircraft," Transcript of Rustavi-2 TV broadcast, January 11, 2003, BBC Monitoring International Reports, January 12, 2003, available through Lexis Nexis database. [2] "Georgia Probes Report on Alleged Repairing of Iranian SU-25," Civil Georgia, January 13, 2003, <<http://www.civil.ge>>. [3] "Georgia not selling warplanes to Iran, says Shevardnadze," ITAR-TASS, January 13, 2003, BBC Monitoring International Reports, January 15, 2003, available through Lexis Nexis database; and "Georgia: Shevardnadze Says Experts Working In Iran," RFE/RL, January, 13 2003, <<http://www.rferl.org/nca/features/2003/01/13012003142857.asp>>. [4] "Aircraft Factory No 31 Awarded With International Certificate," Civil Georgia, December 3, 2001, <<http://www.civil.ge>>. [5] For more information on SIPT and on the theft of HEU see the NIS Country Profiles Database, <<http://www.nti.org/db/nisprofs/georgia/vekua.htm>>. [6] "Georgian scientists working in Iran," The Associated Press, January 14, 2003, *The International Herald Tribune*, <<http://www.iht.com>>. [7] "Shevardnadze says Georgian nuclear experts are in Iran," Agence France Press, January 14, 2003, Lexis Nexis Academic Universe, <http://www.lexis-nexis.com>. [8] "Georgian official denies his country helping Iran to build nuclear bomb," Prime-News news agency, January 15, 2003, FBIS Document ID CEP20030115000282. [9] "Iran Denies Presence of Georgian Nuclear Experts," Civil Georgia, January 17, 2003, <<http://www.civil.ge>>. [10] "Iran rejects nuke cooperation with Georgia," Islamic Republic News Agency (IRNA), January 19, 2003, <<http://www.ima.com/en/head/030119124505.ehe.shtml>>. [11] "Officials Say Government Did Not Send Georgians To Work in Iran," *Mtavari Gazeti*, January 13, 2003, FBIS Document ID CEP20030113000167.

Europium Oxide Stolen in Kyrgyzstan

A break-in occurred in the early morning of January 8, 2003 at a finished goods warehouse of the Kyrgyz Chemical Metallurgical Plant in Orlovka, Chuy Oblast, RIA Novosti reports. Several masked men armed with clubs beat and disarmed the guards and stole twenty-three 20 kg-boxes containing europium oxide in plastic bags (460 kg total). According to Kyrgyzinfo News Agency, the assailants may have been acting on orders from a third party who planned and organized the break-in.[1]

According to Colonel Dzhanibek Keldybayev, who heads the local ROVD (district police office) and is in charge of the investigation, "Europium oxide has been stored at the chemical plant in Orlovka since Soviet times, when the plant worked at full capacity" and the town was a "closed" location. He emphasized that the plant in Orlovka is now "virtually at a standstill, ransacked of many valuables, and has weakened security."

Depending on its level of purity, europium costs from a few dollars to more than \$1,500 per kilogram. Russian Minister of Atomic Energy Aleksandr Rumyantsev, commenting on the event, noted that "europium cannot be used for any weapons-making or terrorist activities." [2] Europium metal for commercial use is not radioactive and cannot be used as an explosive. It is used as a neutron absorber in the production of nuclear equipment, such as control rods for nuclear reactors.[3] It is also used in steel production, optics, X-ray equipment, and color television screens. Although all but two of the more than a dozen isotopes of europium are radioactive, most of the radioactive europium isotopes have relatively short half-lives—less than a few months; therefore, they would not be useful in a radiological dispersal device or a dirty bomb. Some of these radioactive europium isotopes are typically used as tracer material in chemical reactions, as well as for medical diagnostic and treatment of some forms of cancer. The four europium radioactive isotopes that are long-lived with half-lives ranging from 5 to 34 years pose external and internal health hazards; however, these isotopes are rare in occurrence and mainly present a health concern at nuclear waste storage locations, such as the Hanford site in the United States.

Sources: [1] Vladimir Mukhin, "Pokhititeli dragmetallov byli vooruzheny dubinkami," Strana.Ru Website, <<http://www.strana.ru/stories/01/11/05/1951/168499.html>>, January 9, 2003. [2] "Komu ponadobilsya kirgizskiy yevropiy?" RTR-Vesti.Ru Website, <http://www.vesti.ru/news_print.html?pid=23444>, January 9, 2003. [3] "V Kirgizii pokhishcheno yadernoye syre," RTR-Vesti.Ru Web Site, <http://www.vesti.ru/news_print.html?pid=23421>, January 9, 2003.

Scrap Metal Returned to Kazakhstan

Shipments of Kazakhstani scrap metal to China have been returned on an increasing number of occasions due to China's complaints regarding its radioactivity. The returns have become a bone of contention between the two countries, as they mean substantial financial losses for Kazakhstan. Kazakhstan, however, denies the accusations of shipping radioactive scrap to China. Kazakhstani businessmen also allege that some scrap metal is missing in returned train cars, which are filled with garbage instead.

Since the beginning of 2002, 225 train cars with Kazakhstani scrap metal have been returned from the Druzhba-Alashankou railway station on the Kazakhstani-Chinese border, as the Chinese claimed their radiation levels exceeded the safety standards. From 5 to 20 metric tons of scrap metal were missing in each returned car as against the original dispatching weight, the total deficit being almost 2,250 metric tons.[1]

Over the second half of 2002, only one of the cars returned to a scrap supplier in the Pavlodar Region was confirmed to emit dangerous levels of radiation. However, experts believe that the radioactive metal—a stainless steel pipe—was planted in the car, since it was found among lower-grade metal, while suppliers always sort scrap metal by value.

Starting from 2001, all Kazakhstani freight cars carrying scrap metal have been checked for radioactivity in the presence of the sender before they are dispatched to China. However, physical protection of the cars en route is far from perfect, which makes it possible for smugglers to use the cleared cars for their own purpose.

Another reason for the scrap-related controversy, according to Kazakhstani authorities, lies in the lack of uniformity of the radiation-measuring instruments used by the monitoring agencies of the two countries.[2] Experts of the Kazakhstani Sanitary and Epidemiological Service believe the situation may be resolved by installing special equipment on the border to check the level of radioactivity of scrap metal in the presence of representatives of the Kazakhstani sender and the Chinese side before it is dispatched. These experts say that, in order to avoid possible technical differences, the equipment should be identical to that used by the Chinese. Kazakhstani Prime Minister Imangaliy Tasmagambetov has already ordered the accelerated installation of the necessary equipment at the border crossing. He also instructed border authorities not to permit the return of rail cars with Kazakhstani scrap metal rejected by Chinese border guards to the original senders, at least until they are cleared by Kazakhstani Health Ministry experts.[1]

Sources: [1] Natalya Baygozhina, "Na povyshennyh fonah," *Ekspress K*, No. 218 (15131), November 16, 2002, p. 1. [2] Svetlana Alina, "Druzhba na fone," *Izvestiya-Kazakhstan*, No. 192 (26271), October 22, 2002, p. 9.

Nuclear Traffickers Convicted in Russia

On December 6, 2002, the Russian newspaper *Kommersant* reported that the trial of a group of six people involved in a nuclear trafficking incident had resulted in five convictions.

Five of the six suspects were members of the Balashikha organized crime group. Among them, two were former members of the law enforcement community—41-year old Nikolay Panin, a former officer of the Russian Internal Troops (MVD), and 39-year old Sergey Zaytsev, a former police officer and mastermind of the operation.[2,3] The sixth suspect was a 25-year old active officer of the FSB—Roman Yurasov.[1,3]

The perpetrators were arrested on December 4, 2001 in Balashikha, located 19 km from Moscow, when they attempted to sell 1,068 grams of uranium, transported in a home-made lead container, for \$30,000 to undercover officers of the Moscow Oblast Main Directorate for Combating Organized Crime and the Federal Security Service (FSB).[1,2]

The analysis performed by the Ministry of Atomic Energy indicated that the material was uranium-235 enriched to 2.44% in the form of uranium pellets used as fuel for VVER-1000 nuclear power reactors. This material cannot be used to produce nuclear weapons or radiological dispersal devices.[1] According to Russian Minister of Atomic Energy Aleksandr Romyantsev, the material seized in Balashikha was stolen from a nuclear fuel fabrication plant in Elektrostal.[4] However, after an independent analysis of the material, the management of the plant declared that the material did not originate from their facility. Because of this, the court file stated that “the uranium was stolen by an unknown person from an unidentified facility.”[3]

After their arrest, five of the perpetrators were charged with violation of Article 220, paragraph 1 (Illicit Transfer of Radioactive Material) of the Criminal Code of the Russian Federation. In addition, two of them—Artur Kozlov (40) and Nikolay Kabanov (34)—were charged with illegal possession of arms, as both suspects possessed guns when they were arrested.[3] The sixth suspect, Roman Yurasov, was released after convincing the investigators that he was merely accompanying his father-in-law, Panin, and was not aware of the nature of the operation.[3] No charges were filed against him, although *Moskovskaya pravda* reported on December 8, 2001, that it was the “FSB officer” who kept the material at home.[2]

The verdict of the Balashikha court resulted in one-year probations for each of the organizers of the operation—Panin, Zaytsev, and Dmitriy Rublev (39)—and two and a half years in a penal colony for Kabanov and Kozlov due to illegal possession of arms.[3]

Sources: [1] CNS Illicit Trafficking database <<http://www.nti.org/db/nistraff/2001/20010640.htm>>. [2] For a detailed account of the events see CNS Illicit Trafficking database, <<http://www.nti.org/db/nistraff/2002/20020750.htm>>. [3] Andrey Salnikov, "Militsionery kupili uran u svoikh," *Kommersant*, December 6, 2002. The text of the article is available on the PIR Center website: <<http://www.pircenter.org/english/nrt/article.htm>>. [4] “Sprosite Romyantseva,” online Interview with Minister of Atomic Energy Aleksandr Romyantsev, *Gazeta.Ru*, <<http://www.gazeta.ru/roumiantsev.shtml>>, December 21, 2001.

International Developments

China Issues Missile, Chemical, and Biological Export Control Laws

On August 22, 2002, Chinese Premier Zhu Rongji signed new legislation (*Regulations of the People's Republic of China on Export Control of Missiles and Missile-related Items and Technologies*) governing the export of missile components and technology. Under the new regulations, Chinese entities must obtain a license for exports of ballistic and cruise missiles, rockets, and unmanned aerial vehicles, as well as related technologies included on a control list, which was also released. The importer must guarantee that the items will be used for their stated purpose and will not be retransferred to another party without the consent of the government of China.[1]

In October 2002, Beijing issued two additional export control regulations covering dual-use biological agents, chemical precursors, and production equipment that could be employed to manufacture chemical or biological weapons. *Regulations of the People's Republic of China on Export Control of Dual-Use Biological Agents and Related Equipment and Technologies* and *Measures on Export Control of Certain Chemicals and Related Equipment and Technologies* were signed into law on October 14 and 18, 2002, respectively. Under the new measures, Chinese companies must obtain a license from the government before exporting items specified in the revised export control lists.[2]

The new regulations and corresponding control lists largely bring Chinese export controls into line with those of the Missile Technology Control Regime (MTCR) and Australia Group, though there are a few potentially significant omissions and differences with the MTCR Annex text. For example, the Chinese export control list omits some chemical constituents with missile/rocket propellant applications, high-acceleration gyros, and accelerometers and does not specifically include GPS receivers and range instrumentation radars, among others.[3] Although China is not a member of the MTCR, it has pledged to abide by the MTCR guidelines.

The new regulations include catch-all provisions and close loopholes that have previously been exploited by Chinese companies. However, the Chinese government retains the right to issue licenses based on its own assessment of the risks associated with specific technologies and end-users. The effectiveness of the new regulations in stopping Chinese exports of WMD-related technologies will ultimately depend on how stringently the controls are implemented and enforced.[4]

Sources: [1] Xinhua News Agency, August 25, 2002; "Full text of China's regulations on export control of missiles, missile-related items and technologies," Lexis Nexis Academic Universe, <<http://www.lexis-nexis.com>>, August 25, 2002. [2] Xinhua News Agency October 19, 2002; "Xinhua carries 'text' of China's measures on export control of certain chemicals," Lexis Nexis Academic Universe, <<http://www.lexis-nexis.com>>, October 19, 2002. [3] Phillip C. Saunders, "Preliminary Analysis of Chinese Missile Technology Export Control List," CNS Website, <http://cns.mii.edu/research/china/pdfs/prc_msl.pdf>, September 6, 2002. [4] Jingdong Yuan, Phillip C. Saunders, and Stephanie Lieggi, "Recent Developments in China's Export Controls: New Regulations and New Challenges," *The Nonproliferation Review*, Vol. 9, No. 3 (Fall-Winter 2002), pp. 153-167.

CIA Releases Latest Assessment of Global WMD Acquisition

On January 7, 2003, the CIA released a report assessing efforts by foreign countries to acquire dual-use equipment and material and other technologies that can be used for the development or production of weapons of mass destruction (WMD) and missile delivery systems. The [unclassified semiannual report](#), which covers the period from July 1 through December 31, 2001, lists Russia, North Korea, China, and unspecified Western countries as key global WMD and missile proliferators.

According to the report, "Russia's cash-strapped defense, biotechnology, chemical, aerospace, and nuclear industries are eager to raise funds via exports and transfers." The report adds that "some Russian universities and scientific institutes have shown a willingness to earn much-needed funds by providing WMD or missile-related teaching and training for foreign students." As examples of Russian proliferation, the report specifically cites Russia's involvement in Iran's Bushehr Nuclear Power Plant project, its supply of material to India's civilian nuclear program in 2001, provision of ballistic missile-related goods and technical know-how to Iran, India, and China, and provision of chemical and biological technology, information, and equipment to Iran.

Although Russia has made strides in improving its export control system by passing new legislation, updating control lists, and reorganizing its bureaucracy, lax enforcement and insufficient penalties remain a serious concern, according to the report. The report recommends that top officials in Russia make a sustained effort to convince exporters and export control officials that nonproliferation is a top priority.[1]

Editor's note: Russia has long disputed U.S. allegations that its firms are the source of WMD and missile technology transfers to countries of concern, and the issues raised in the CIA report remain the subject of continuing bilateral discussions.[2]

Sources: [1] Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions, 1 July Through 31 December 2001, CIA Website, <http://www.cia.gov/cia/publications/bian/bian_jan_2003.htm> [2] Andrey Akhvatkin, "Russia dismisses US accusations of 'sensitive technology' leaks," ITAR-TASS, January 15, 2003; Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>.

Significant Gap Found in U.S. Export Licensing Rules

A report entitled "[Commercial Radioactive Sources: Surveying the Security Risks](#)," published in January 2003 by the Center for Nonproliferation Studies (CNS), finds that only a small fraction of the millions of radioactive sources used throughout medicine, industry, and scientific research pose an inherently high security risk. The concern is that these materials could end up in radiological dispersal devices (RDDs)—one type of which is known as a "dirty bomb." Only seven reactor-produced radioisotopes are in the highest security risk category mainly because of their radiological properties and of the prevalence of their worldwide use. These isotopes are americium-241 (Am-241), californium-252 (Cf-252), cesium-137 (Cs-137), cobalt-60 (Co-60), iridium-192 (Ir-192), plutonium-238 (Pu-238), and strontium-90 (Sr-90).

Importantly, the CNS study identifies a significant gap in U.S. export licensing rules. Except for Pu-238, the above radioisotopes are not classified as "special nuclear material" or "special fissionable material." Thus, these isotopes are subject to less rigorous export controls. Shipments of these materials can be made under "general licenses." According to U.S. Nuclear Regulatory Commission (NRC) regulations, "General

license means an export or import license effective without the filing of a specific application with the Commission or the issuance of licensing documents to a particular person.”[1] In effect, under a general license, the U.S. government is given no opportunity to conduct a review of the credentials of importers or end-users of the radioactive materials. In contrast, specific licenses require an applicant to file a form listing the details of the individual export. For these licenses, after the application is submitted, both the NRC and the U.S. Executive Branch conduct reviews to ensure that the export would not be “inimical to the common defense and security.”[2]

An NRC general license is subject to some restrictions, however. In particular, embargoed countries (Cuba, Iran, Iraq, Libya, North Korea, and Sudan) are not permitted to receive shipments. The absence of any need for an exporter to report exports of radioactive sources to the government, however, makes this rule difficult to enforce. Additionally, U.S. regulations limit the quantity of shipments of certain special byproduct materials that can be exported annually to any individual country. These special materials include americium, neptunium, polonium, and tritium, which have potential relevance for nuclear weapons development. Exporters are required to file annual reports specifying the exported amounts of these special materials.[3] However, without having a procedure in place to license such exports individually, the U.S. government cannot confirm the amounts exported or check on the legitimacy of the recipient of these radioactive sources. Finally, because Pu-238 is considered special nuclear material, it is subject to separate regulations. Nonetheless, common practice has allowed the export of small quantities of Pu-238 to non-restricted countries.[4]

Such gaps in export licensing rules can be found in many developed countries. Several of these countries have been working with the International Atomic Energy Agency (IAEA) to strengthen the export control provisions of the Code of Conduct on the Safety and Security of Radioactive Sources, a nonbinding code that many IAEA member states have pledged to follow. In the United States, because the NRC is trying to coordinate any new export regulations with the guidelines in the revised Code of Conduct, it has been slow to change the regulations on export licensing. Indeed, although the NRC has issued informal advisories to domestic licensees who possess radioactive sources to encourage them to enhance security over these materials in the United States, it has not similarly advised licensees exporting radioactive sources to check on the legitimacy of recipients. In contrast, Canada has recommended that its major exporters undertake such precautions.

Sources: [1] 10 Code of Federal Regulations (CFR) 110.2 “Definitions.” [2] 10 CFR 110.41 “Executive Branch review.” [3] 10 CFR 110.23 “General license for the export of byproduct material.” [4] 10 CFR 110.21 “General license for the export of special nuclear material.”

Workshops and Conferences

Workshop on “Improving Multilateral Export Controls and Technology Access for the Developing World”

On December 12, 2002, the Stanley Foundation and the Henry L. Stimson Center co-hosted a discussion in Washington, D.C. on “Improving Multilateral Export Controls and Technology Access for the Developing World.” This discussion focused on whether global efforts to enhance nonproliferation through multilateral export controls are adversely impacting international development, trade, and technology transfer.

The event addressed the perception among many in the developing world that current multilateral export control mechanisms are becoming a growing impediment to international technology transfers that are essential to economic development. At the same time, many in the West feel the multilateral control regimes are too weak and increasingly unable to deal with the challenges posed by globalization. The dialogue highlighted ideas for enhancing the regimes’ effectiveness, transparency, and international support. The suggested areas for improvement include better information sharing among members of the regimes, as well as across regimes; timely and full reporting of licensing decisions; harmonization of control lists and licensing processes; and a possible merger of the regimes. These and other issues are addressed in a summary of the discussion available at <http://www.stimson.org/exportcontrol>.

Meeting of the CIS Council of Customs Services Heads (CCSH)

The 37th meeting of the CIS Council of Customs Services Heads (CCSH) took place in Moscow on December 19, 2002.[1] In preparation for this meeting, a working group of experts of customs services of the CIS countries met in Moscow on December 17-18, 2002.[2]

The participants of the working group recommended supporting a proposal made by the then-CCSH chairman Mikhail Vanin, who is also the chairman of the State Customs Committee of the Russian Federation, to sign a comprehensive framework agreement on cooperation between the CIS customs services and the security bodies and special services of the CIS member-states.

According to the Department of Trade and Customs Policy of the CIS Executive Committee, discussions during the 37th CCSH meeting addressed a variety of issues, including proposals for developing joint measures aimed at identifying and preventing illegal export-import activities; proposals for adopting a standard customs control regime for vehicles and goods crossing the borders of the CIS countries; the proposed agreement on information exchange between the CCSH and the Council of Security and Special Services Heads of CIS States; the creation of a World Customs Organization regional training center at the Russian Customs Academy; and the election of the secretary and chairman of CCSH for 2003.[1]

Editor's note: The CIS—the Commonwealth of Independent States—is a community of independent nations comprised of all the republics of the former Soviet Union, except the Baltic States.

Source: [1] "37-e zasedaniye SRTS proydet v Moskve," RIA Novosti, December 16, 2002, the official website of the Cargo Black Sea Ways Corporation: <<http://www.cbsw.ru/cgi-bin/cbnews.cgi?func=gettext&idx=3506>>. [2] "Spetsluzhby SNG budut vzaimodeystvovat," RIA Novosti, December 20, 2002, Information Agency of Union of Russia and Belarus website, <<http://www.sinfo.ru/main.php?trid=66104>>.

Russian Legislators Visit Washington, D.C. for Discussions on Nonproliferation and Export Control

From January 27 to February 2, 2003, the University of Georgia Center for International Trade and Security (CITS) hosted a delegation of Russian legislators and executive branch officials in Washington, D.C. as part of their program to engage U.S. and Russian legislators in a dialogue on nonproliferation and export control issues. In April 2002, the University of Georgia helped establish a U.S.-Russian Legislative Working Group on Nonproliferation to facilitate this dialogue. The Russian delegation was comprised of Deputies from the Fatherland, Communist, and Agrarian parties, staff members from the Federation Council and Duma, a representative of the Ministry of Economic Development and Trade, and nongovernmental experts. As a result of this recent exchange, the Working Group issued a joint statement on strengthening U.S.-Russian cooperation on export control and assistance to Russia. In particular, it proposed providing additional detection equipment and training for the Russian Customs Service, additional efforts to promote industry compliance with export controls, and the implementation of an automated export licensing system in Russia.

The January 2003 meeting also included private consultations and a roundtable discussion hosted by U.S. Senator Michael Enzi (R-WY). Discussions centered on bilateral solutions to security problems, such as the destruction of Russian chemical stockpiles, control of biotechnologies by the United States and Russia, and terrorism. The Russian delegation of legislators and executive officials also met with officials from the Department of State, Department of Energy, Department of Defense, and the National Security Council in order to share views on strengthening bilateral cooperation on nonproliferation and export controls. Members of the delegation also offered their views on a range of technology, trade, and proliferation issues during an open forum with nongovernmental organizations at the Brookings Institution. Members of the Russian delegation highlighted the economic hardships that impede the implementation of export controls and cooperative threat reduction programs in Russia. Members of the delegation also pointed to chemical weapons destruction as a top priority for Russia this year. A report on the visit will be available on the CITS website. [<http://www.uga.edu/cits/home/index.htm>]

IAEA Conference on Security of Radioactive Sources

The IAEA, the United States, and Russia will host a conference in Vienna on March 10-13, 2003, to promote the security of radioactive material, with sessions focused on preventing threats posed by radiological dispersal devices, or so called “dirty bombs.” The conference is co-sponsored by the governments of the Russian Federation and the United States, in cooperation with the European Commission, European Police Office (EUROPOL), International Criminal Police Organization (ICPO–Interpol), and World Customs Organization (WCO). Attendance is restricted to representatives of governments and international organizations. For additional information, visit the IAEA website. [<http://www.iaea.org/worldatom/Meetings/2003/infcn113.shtml>]

Special Report

Development of Moldova’s Export Control System

The first legal act pertaining to export controls in Moldova was Government Decision No. 283, *On licensing the import and export of special goods and scientific dual-use goods, transfer of special shipments and military goods crossing the territory of the Republic of Moldova* (May 10, 1995). This document was temporary and focused on weapons, munitions, and corresponding delivery systems. This law however did not cover nuclear technology. A 1993 law, *On Protecting the Environment*, prohibits the import and transit of nuclear weapons, spent nuclear fuel, and other radioactive materials.

In 2000, the Ministry of Economy developed a more comprehensive law, in cooperation with other Moldovan ministries and agencies, and with the assistance of the U.S. Department of Commerce. Law No. 1163-XIV, *On Export, Re-export, Import and Transit Control of Strategic Goods* was approved by the Parliament on July 26, 2000. This law establishes the legal foundation for the control of strategic goods (dual-use goods and technologies, weapons, and munitions), defines the purview of the Parliament and Government, identifies controlled goods, and clearly articulates the main principles underlying export controls (protection of national security interests, fulfillment of international commitments and agreements, verification of end use of strategic goods, to name a few). The law also includes a “catch-all” provision.

In August 2001, the Division of Dual-use Goods Trade Control was created within the Ministry of Economy to serve as the licensing authority. The main responsibility of the Division is to develop an efficient export/import licensing procedure by coordinating the examination of license applications with other government agencies and by holding specialized consultations with exporters.

In October 2001, the Interagency Commission on Control of Export, Import, and Transit of Strategic Goods was created. The Commission is headed by the Deputy Prime-Minister, who is also the Minister of Economy, and includes representatives, at the deputy minister level, from the Ministries of Foreign Affairs, Internal Affairs, and Defense, as well as from the Service of Information and Security and the Customs Administration. The Commission reviews proposals regarding Moldova’s participation in international agreements, implements controls on fulfilling international obligations, makes decisions regarding the issuance of export, import, and transit licenses, and has the authority to suspend licenses in case of violations.

On May 15, 2002, Government Decision No. 606 was passed to ensure the implementation of Law No. 1163-XIV by approving the following:

- The Statute of the Interagency Commission (Annex I);
- The Statute on the Process for Controlling the Export, Re-export, Import, and Transit of Strategic Goods (Annex II); and
- The National Control List of Strategic Goods (Annex III).

The National Control List was based on the list of dual-use items developed by the European Union as part of its dual-use export control system and the military list developed by the European Union to which the EU code of conduct is applied. The National Control List is composed of two parts: the first includes dual-use goods and technologies; the second lists weapons and munitions.

Recently, export control documents issued by the Division of Dual-use Goods Trade Control under the Ministry of the Economy have been standardized by Order No. 40 of August 6, 2002. The Division now uses standard forms for license applications, licensing of strategic goods for export/import/transit, international import certificates, delivery verification certificates, and end-user certificates.

In 2003, the Government of Moldova plans to further develop its export control system by approving new amendments to the Criminal Code and Administrative Code to increase the severity of sanctions for the violation of export control regulations.

To facilitate implementation of export control regulations, the Ministry of Economy will create an official website on export controls in Moldova designed for government officials and exporters/importers. The website will include the national control list and full-text of all export control regulations. Parts of the website will be password-protected to allow the members of the Interagency Commission to find on-line all the documents required for the Commission's sessions. In addition, a brochure listing Moldova's export control regulations and control list will be published for government officials and exporters/importers. Finally, in cooperation with the U.S. Department of Commerce, a seminar on Moldova's licensing procedures and national control list will be organized for customs officials and industry representatives in spring/summer 2003.

In the future, the Moldovan government wishes to further improve its export control system by establishing an industry internal compliance program; creating an automated licensing system; and adhering to multilateral control regimes (currently Moldova is not a member of any regime, but the goods controlled according to these regimes are already included in its National Control List). Moldova also plans to reinforce its position in the international community by participating in international events in the field of nonproliferation and export control and establishing closer relations with export control and customs authorities in neighboring countries through information exchange and joint training projects.

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