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NIS EXPORT CONTROL Observer

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Letter from the Editors

The December 2003/January 2004 issue of the *Observer* provides an overview and analyses of some of the major export control developments in the NIS in 2003. The year saw the passage of comprehensive export control laws in Armenia, Kyrgyzstan, and Ukraine and new customs codes in Kazakhstan and Russia. Other NIS countries have also made significant amendments to their existing export control legislation. Regional efforts to improve export controls were notable, especially EURASEC's progress in moving towards a common economic space and the CIS resolution on man-portable air defense systems. The international supplier regimes made progress on several fronts, especially with regards to missile nonproliferation activities of the MTCR and the Hague Code of Conduct. International assistance programs continue to bring essential financial and technical support in the pursuit of stricter export controls in the NIS. The proliferation security initiative enters its second year with new members and some significant achievements, including the interdiction of a Libya-bound freighter carrying equipment that could potentially be used in a nuclear weapons program. The current issue summarizes and analyzes these changes and developments. In addition, we have included a detailed summary of 40 nuclear, radioisotope, and dual-use materials trafficking incidents involving the NIS during the year. We hope you find the first issue of 2004 informative.

NIS Export Control Observer editors

Recent Developments in the NIS

2003 Updates and Changes in NIS Export Control Legislation

From the perspective of WMD nonproliferation and export control, 2003 was an eventful year in the NIS with several countries adopting new export control legislation or amending existing legislation. Armenia, Kyrgyzstan, and Ukraine, for example, adopted new export control laws. Although neither Kyrgyzstan nor Armenia possesses large-scale enterprises producing military and dual-use goods, and neither has a large export volume, these new laws should play an important role in preventing the illegal transfer and transshipment of strategic goods to countries of proliferation concern that border Central Asia and the Caucasus. Ukraine on the other hand, has produced and exported significant quantities of arms in the past, sometimes resulting in international scandals. In this context, the adoption of the law *On State Control over International Transfers of Military and Dual-Use Goods* is an important step towards stricter export controls in Ukraine. Belarus is also showing signs that it is moving towards stricter export controls through the adoption of a presidential edict listing the categories of military goods and services subject to export controls and defining the principles governing state policy in the sphere of military technical cooperation.

In 2003, several countries also introduced amendments to their export control laws, clarifying the roles of the licensing authorities (Georgia, Kazakhstan) or bringing national legislation in conformity with European standards (Latvia).

Another significant development in the NIS concerns the adoption of regulations dealing with the transit of dangerous material through the region. Kazakhstan, for instance, joined the Basel Convention on Control of Transboundary Movements of Hazardous Wastes and their Disposal. Russia also advanced its regulation in this area, when Russian Prime Minister Mikhail Kasyanov signed the decree *On Transboundary Movement of Wastes*. The decree approves regulations regarding cross-border movements of waste and establishes import/export procedures for hazardous wastes. Moldova adopted a new law allowing the implementation of a 1997 agreement with Bulgaria, Russia, and Ukraine on the transit of nuclear material through their territories.

In 2003, both Kazakhstan and Russia adopted new Customs Codes. Kazakhstan's new Customs Code, which entered into force on May 1, 2003, assigns customs authorities the responsibility for conducting radiation controls on the border (a provision that became effective on January 1, 2004), as well as other

responsibilities, such as assisting in the development of future export control legislation. The new code and attendant reorganization of customs checkpoints are expected to significantly increase the effectiveness of the Kazakhstani Customs Control Agency in preventing the illegal export of strategic items. Several weeks later, on May 29, Russia's new Customs Code was signed into law. Similar to the new Kazakhstani code, the Russian code, which entered into force on January 1, 2004, is designed to simplify customs procedures while increasing the effectiveness of customs bodies. Both documents draw on provisions of the Kyoto Convention on the Simplification and Harmonization of Customs Procedures. [Editor's Note: Adopted on May 18, 1973, the International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention) is an important international instrument for improving customs procedures. The objective of the convention is to develop compatible national customs procedures in different countries as a means of encouraging and facilitating international trade.]

The following article provides a summary by country of the main legislative developments of 2003 that resulted in changes or improvements to the export control systems in the NIS and the Baltics.

Armenia

On October 21, 2003, President Robert Kocharyan signed the law *On Control of Export and Transit of Dual-Use Items and Technologies*. The new law outlines the principles of state export control policy, describes the obligations and responsibilities of exporters, and regulates relationships between exporters and state agencies.[1]

Belarus

On March 11, 2003, President Alyaksandr Lukashenka signed Edict No. 94 *On Measures Regulating Military and Technical Cooperation of the Republic of Belarus with Foreign States*. The new edict lists the categories of military goods and services subject to export controls and defines the principles governing state policy in the sphere of military technical cooperation.[2]

Estonia

In the summer of 2003, the Ministry of Foreign Affairs completed a draft of a new export control law that introduces general and individual licenses, provides more detailed information on brokering control, includes a catch-all clause, and establishes a brokering register.[3]

Georgia

On January 8, 2003, the government approved a bill proposing changes and amendments to the law *On Export Control over Armaments, Military Equipment, and Dual-Use Goods*. According to the document, the Ministry of Justice will be the licensing authority for export, import, re-export, and transit of weapons, as well as for services and activities related to the production of weapons.[4] President Shevardnadze subsequently signed the bill into law.

In September 2003, the Department of Bioterrorism Threat Reduction and International Relations of the National Center for Disease Control and Medical Statistics of Georgia located in Tbilisi completed the draft of the *Guidelines for Import to Georgia, Export from the Country, Transfer, Containment, and Work with Causative Agents of Infectious Diseases, Cultures of Mycoplasma, and Genetically Modified Materials, Toxins, and Poisons of Biological Origin* to regulate work with dangerous pathogens and their import and export.[5] The interagency review of the Guidelines for subsequent adoption is delayed due to the regime change in Georgia.

Kazakhstan

On May 1, 2003, a new Customs Code entered into force. According to the code, customs officials are responsible for export control and conducting radiation checks on the customs border.[6]

On September 30, 2003, Kazakhstan's law *On Export Control* was amended by the law *On the Amendment to the Law of the Republic of Kazakhstan on Export Control*. This new law removed a clause from the existing law *On Export Control* that created ambiguity regarding the respective responsibilities of the

licensing authority (Ministry of Industry and Trade) and government.[7] According to the amendment, the Ministry of Industry and Trade is the sole authority to issue licenses for export, import, and transit operations.[8]

Kyrgyzstan

On January 23, 2003, President Askar Akayev signed the law *On Export Control*. The law entered into force on February 23, 2003.[9]

Latvia

In January 2003, the Cabinet of Ministers amended *Regulations on Control of Strategic Goods*, bringing Latvia into conformity with the provisions of European Council Regulation No. 1334/2000 *Setting up a Community Regime for the Control of Exports of Dual-Use Items and Technologies*, adopted in June 2000. The amendment made intangible exports of dual-use technologies subject to controls and introduced a catch-all clause.[3]

Lithuania

On March 27, 2003, the government adopted Decree No. 380 *On Implementation of Export, Import, and Transit Control and Licensing Procedures*. The decree details the different types of licenses, the license application procedure, the licensing mechanism, as well as procedures for license suspension, cancellation, and revocation.[3]

Moldova

On March 28, 2003, the parliament adopted Law No. 152-XV ratifying the four-party *Agreement between the Government of the Russian Federation, Government of the Republic of Bulgaria, Government of the Republic of Moldova, and Government of Ukraine on Cooperation between the Russian Federation and the Republic of Bulgaria in the Transportation of Nuclear Materials through the Territory of Ukraine and the Territory of the Republic of Moldova*. The agreement was signed by Bulgaria, Moldova, Russia, and Ukraine in Sophia on November 28, 1997.[10]

Russia

On January 14, 2003, President Vladimir Putin signed Edict No. 36 *On Approval of the List of Dual-Use Equipment and Materials and Corresponding Nuclear Technology Subject to Export Controls*, updating Russia's list of nuclear dual-use equipment and materials.[11]

On May 29, 2003, President Putin signed the Customs Code of the Russian Federation.[12] The code entered into force on January 1, 2004.

On July 11, 2003, the government issued Decree No. 418 *On Regulations for Imports of Irradiated Fuel Assemblies of Nuclear Reactors to the Russian Federation*. The statute adopted by this decree establishes regulations for implementing foreign contracts for the import of spent nuclear fuel assemblies for temporary storage, both with subsequent mandatory return of these assemblies and with their subsequent reprocessing.[13]

On July 17, 2003, Prime Minister Mikhail Kasyanov signed Decree No. 442 *On Transboundary Movement of Wastes* to facilitate the implementation of the law *On Wastes from Production and Consumption*, which was signed by President Yeltsin on June 24, 1998,[14] and Russia's international obligations under the Basel Convention, which Russia joined in 1994.[15]

Ukraine

On December 24, 2002, President 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.[16]

On December 25, 2002, Ukraine's parliament, the Verkhovna Rada, amended the law *On Scrap Metal*. The amended law now prohibits the export of most scrap metal. According to the law, only specialized reprocessing metallurgical plants, which have internal quality control systems that satisfy ISO 9000 standards, can receive an export quality certificate issued by the government and are authorized to export ingots and pigs of nonferrous scrap metal that they produce.[17] [Editor's Note: The ISO 9000 series is among International Organization for Standardization's (ISO) most widely known standards. ISO 9000 standards are implemented by some 610,000 organizations in 160 countries. ISO 9000 has become an international reference for quality management requirements in business-to-business dealings.][18]

On March 13, 2003, President Kuchma signed the country's new export control law, No. 549-IV *On State Control over International Transfers of Military and Dual-Use Goods*. The law aims to promote the principles of Ukraine's export control policy, which include the following: protecting Ukraine's national interests; preventing the proliferation of weapons of mass destruction and means of their delivery; limiting the transfer of conventional weapons; and adopting measures to prevent the use of military and dual-use goods for terrorism and other illegal activities.[19]

Uzbekistan

On September 26, 2003, President Islam Karimov signed an edict *On Measures for Further Liberalization of Foreign Trade Activity in the Republic of Uzbekistan*. The decree aims to ease the existing administrative controls over export-import transactions and improve the efficiency of the current foreign trade regulation system.[20]

Sources: [1] "Export Control Law Adopted in Armenia," *NIS Export Control Observer*, October 2003, p. 2, <<http://cns.miis.edu/nis-excon>>. [2] "Lukashenko Signs Edict on Foreign Military Cooperation," *NIS Export Control Observer*, April 2003, p. 5, <<http://cns.miis.edu/nis-excon>>. [3] "The Baltic States Improve Their Export Control Systems to Join the EU," *NIS Export Control Observer*, October 2003, pp. 2-4, CNS website, <<http://cns.miis.edu/nis-excon>>. [4] "Georgian Government Approves Amendments to Export Control Law," *NIS Export Control Observer*, March 2003, pp. 3-4, <<http://cns.miis.edu/nis-excon>>. [5] "Georgia to Adopt Regulation on Import/Export of Biological Material," *NIS Export Control Observer*, September 2003, pp. 3-4, <<http://cns.miis.edu/nis-excon>>. [6] "New Customs Code Adopted in Kazakhstan," *NIS Export Control Observer*, June 2003, pp. 2-3, <<http://cns.miis.edu/nis-excon>>. [7] For detailed information, see "Kazakhstan's Lower House of Parliament Approves Draft Amendments to Export Control Law," *NIS Export Control Observer*, July 2003, p. 3, <<http://cns.miis.edu/nis-excon>>. [8] "Zakon Respubliki Kazakhstan 'O vnesenii izmeneniya v Zakon Respubliki Kazakhstan 'Ob eksportnom kontrole,'" [On the Amendment to the Law of the Republic of Kazakhstan On Export Control], *Kazhstianskaya pravda*, September 30, 2003, #280-281 (24220-24221), p. 1. [9] "Export Control Law Adopted in Kyrgyzstan," *NIS Export Control Observer*, March 2003, p. 2, <<http://cns.miis.edu/nis-excon>>. [10] "Transit of Nuclear Waste through Moldova," *NIS Export Control Observer*, May 2003, p. 2, <<http://cns.miis.edu/nis-excon>>. [11] "Russia Updates Nuclear Dual-Use Control List," *NIS Export Control Observer*, March 2003, p. 3, <<http://cns.miis.edu/nis-excon>>. [12] "Russia Approves New Customs Code," *NIS Export Control Observer*, June 2003, p. 2, <<http://cns.miis.edu/nis-excon>>. [13] "Russia Adopts New Statute for Regulating Imports of Irradiated Nuclear Fuel Assemblies," *NIS Export Control Observer*, August 2003, pp. 2-3, <<http://cns.miis.edu/nis-excon>>. [14] Federalnyy zakon Rossiyskoy Federatsii 'Ob otkhodakh proizvodstva i potrebleniya' [The Federal Law of the Russian Federation On Wastes from Production and Consumption], June 24, 1998, International Stock Exchange website, <<http://www.ecointernexchange.com/rus/04/07/index.php>>. [15] "Russia Adopts Decree on Cross-Border Waste Transportation," *NIS Export Control Observer*, September 2003, pp. 4-5, <<http://cns.miis.edu/nis-excon>>. [16] "Ukraine Tightens Controls on Dual-Use Transfers," *NIS Export Control Observer*, February 2003, p. 2, <<http://cns.miis.edu/nis-excon>>. [17] "Ukraine Amends Law On Scrap Metal," *NIS Export Control Observer*, March 2003, p. 2, <<http://cns.miis.edu/nis-excon>>. [18] See International Organization for Standardization website, <<http://www.iso.ch>>. [19] "New Law Regulating Military and Dual-Use Transfers Goes into Effect in Ukraine," *NIS Export Control Observer*, April 2003, pp. 3-4, <<http://cns.miis.edu/nis-excon>>. [20] "Uzbekistan Liberalizes Export/Import Control Procedures," *NIS Export Control Observer*, November 2003, p. 3, <<http://cns.miis.edu/nis-excon>>.

Ukrainian Export Controls: 2003 Highlights

The year 2003 was a remarkable one for Ukraine's export control system, because, for the first time since independence, the legislative branch adopted export control-related legislation.

Adoption of Export Control Law

The law of Ukraine *On State Control over International Transfers of Military and Dual-Use Goods*, which was approved by the Verkhovna Rada on February 20, 2003 and signed by President Leonid Kuchma on March 13, 2003, has become the first export control-related document adopted by Ukraine's legislative branch. For the past decade, all legal norms regulating export, import, and transit of military and dual-use goods and technologies were adopted by executive power—the president and the Cabinet of Ministers of Ukraine. To a certain extent, the new law is a summary of the provisions contained in numerous preceding

governmental decrees. Specifically, all the major provisions of the law originate from the 1998 presidential Edict 117/98 *On Procedures for Export Controls in Ukraine*, signed February 13, 1998. The new law, however, introduces three major features.

First, the document contains an entire section (Section IV. Preventing Export Control Violations and Sanctions, Articles 23–28) that specifies potential violations and respective civil sanctions. Civil sanctions include fines (from 150% of the price of goods that were the subject of international transfer to 1,000 times the non-taxable minimal monthly wage of 170 hryvnas, or \$34), cancellation or revocation of a license or international import certificate, and cancellation of a registration of an entity involved in foreign economic activities as an entity eligible for international transfers of goods. The law also mentions criminal sanctions that are specified in the country’s Criminal Code. These provisions of the new law add strong legal “teeth” to the Ukrainian export control enforcement mechanism, which were lacking before.

Second, Article 14 makes the establishment of internal compliance programs obligatory for certain entities. According to the article, “Establishment of internal compliance programs (ICP) is *obligatory* for entities involved in international transfers of goods desirous of obtaining authorization from the Cabinet of Ministers of Ukraine to export and import goods designated for military purposes and goods containing information pertaining to state secrets, or if they desire to obtain a general or open license.” The authorized state export control body (i.e., the State Service on Export Control, or SSEC) provides recommendations and assists in developing ICPs and “offers necessary information and methodological assistance” to companies. The law also provides for establishing a mechanism to certify the ICPs.

Third, Article 23 gives the SSEC the authority to conduct investigations, within its jurisdiction, of documentation fraud, end-use, and end-users, and any other operations involving military or dual-use goods subject to export control.

Reducing the Number of Arms-Exporting Companies

In another attempt to improve export controls, on December 10, 2003, Ukraine’s major state-owned arms trading concern Ukrspetseksport, disbanded two branches—Promoboroneksport and Spetstekhnoeksport. These two branches were the latest additions to Ukrspetseksport, which traditionally was comprised of three major arms trading firms—Progress, Ukroboronservis, and Ukrinmash. Promoboroneksport was created at the initiative of the Ministry of Industrial Policy with the intention of promoting the ministry’s products in foreign markets. The creation of Spetstekhnoeksport was initiated by the Ministry of Science and Technologies to expand exports of dual-use technologies. However, shortly after their creation, the two companies started leaning towards selling arms, military materiel, and services, which traditionally have been the domain of the original three Ukrspetseksport firms.

Disbanding the two smallest and least profitable branches of Ukrspetseksport was in line with the presidential decree of November 15, 2002, which ordered capitalization of the arms trade and reduction in the number of independent Ukrainian exporters and importers of military goods and technologies.

Russian Export Controls: 2003 Highlights

Russia’s export controls did not experience any dramatic changes in 2003. Throughout the year, Russian authorities concentrated their efforts on improving the efficiency of export control legislation and enforcement mechanisms. In spite of these efforts, the year ended with a speech delivered by President Putin at the December 3, 2003, meeting of the Russian Security Council, in which he criticized the country’s export control system and called for the elimination of duplication of work, a greater coordination of export control regulations among the NIS countries, and an in-depth and systematic analysis of the Russian government’s nonproliferation efforts.[1] In addition, the United States accused several Russian firms of exporting military items to Iraq in violation of the UN-imposed arms embargo, charges which the Russian government denied. This article lists some of the year’s events and provides a summary of the anticipated developments for 2004.

Legislation and Regulations

- On January 15, 2003, a revised and updated nuclear dual-use export control list was approved by President Putin.[2]
- In May 2003, President Putin signed the new Customs Code into law. The new code is intended to simplify rules and procedures with the goal of reducing red tape.[3]
- On December 8, 2003, President Putin signed law No. 164-F3 *On the Framework of State Regulation of Foreign Trade Activity*. Article 1, Part 3 states that the export and import of dual-use goods and technologies will no longer be regulated by the legislation currently governing in this sphere. Instead, it will be regulated by the law *On Export Controls*, while the export of military goods and technologies will be regulated by the law *On Military Technical Cooperation*. Prior to the adoption of the law *On Export Controls*, the law *On State Regulation of Foreign Trade Activity*, along with several decrees, resolutions, and regulations, provided the legal foundation for export control coordination.

Personnel Changes

- On July 21, 2003, Boris Aleshin replaced Aleksey Kudrin as head of the Commission on Export Control. Sergey Kislyak replaced Georgiy Mamedov as the deputy foreign minister in charge of overseeing export control issues.[4]
- On December 15, 2003, President Putin signed an edict *On Changes in the Commission on Export Control of the Russian Federation*. The edict provided for the replacement of representatives from the following agencies: Gosatomnadzor—Y. Vishnevskiy was replaced by A. Malyshev; Counterintelligence Service—S. Lebedev was replaced by Y. Demchenko; Russian Munitions Agency—Z. Pak was replaced by V. Kholstov; Foreign Ministry—G. Mamedov was replaced by S. Kislyak. The First Deputy Chairman of the Financial Monitoring Committee Y. Chikhanchin joined the Commission on Export Control as a new member.

Allegations of Export Control Violations

The United States government alleged that Tula Instrument Design Bureau sold antitank missiles to Iraq and that the Moscow-based company Aviakonversiya sold at least a half-dozen jamming devices to the Iraqis. The United States also alleged that a third Russian company exported night vision goggles to Iraq, but did not identify the entity. At the same time, U.S. officials stressed that there were no indications that the Russian government was involved in these transfers to Iraq. Russian government officials and facility management denied all allegations.[5]

Enforcement Issues

The Commission on Export Control met three times in 2003, with its last meeting on December 26, 2003. Problems related to enforcement dominated the discussion at the last session. Russian and Western officials consider enforcement to be the weakest element in Russia's export controls. Since 2000, about 90 cases of export control violations have been opened; only three cases resulted in criminal punishment, including the conviction of five criminals for illicit trafficking in nuclear materials (under Article 220 of the Criminal Code) in December 2002.[6]

Anticipated Developments

Since late 2003, the Department of Export Control at the Ministry of Economic Development and Trade and other relevant agencies have been working on updating the list of military and dual-use items in accordance with the Wassenaar Arrangement. The final approval of the new list by the president is expected to take place in early 2004.

Structural changes in the area of export control are also expected to take place after the presidential elections in March 2004. Some analysts foresee a merger of licensing bodies responsible for military and dual-use goods under the auspices of the Ministry of Economic Development and Trade. Other experts anticipate licensing for both munitions and WMD-related items falling to the Defense Ministry, or a stand-alone independent committee with licensing responsibilities.[6]

Sources: [1] Mike Nartker, "Putin Criticizes Russian Nonproliferation Approaches," Global Security Newswire, December 5, 2003, <http://www.nti.org/d_newswire/issues/2003_12_5.html>. [2] See "Russia Updates Nuclear Dual-Use Control List," *NIS Export*

Control Observer, No. 3, March 2003, p. 3, <<http://cns.miiis.edu/nis-excon>>. [3] See “Russia Approves New Customs Code,” *NIS Export Control Observer*, No. 6, June 2003, p. 2, <<http://cns.miiis.edu/nis-excon>>. [4] See “Prime Minister Kasyanov Redistributes Export Control Responsibilities,” *NIS Export Control Observer*, No. 8, August 2003, pp. 5-6, <<http://cns.miiis.edu/nis-excon>>. [5] See “U.S. Sanctions Imposed on NIS Companies,” *NIS Export Control Observer*, No. 1, January 2003, pp. 7-8; “Controversy over Russian Supplies of Military Equipment to Iraq,” *NIS Export Control Observer*, No. 5, May 2003, pp. 5-8; “United States Imposes Sanctions on Tula-Based Arms Producer,” *NIS Export Control Observer*, No. 10, October 2003, pp. 7-8, <<http://cns.miiis.edu/nis-excon>>. [6] Interview with official from the Export Control Department at the Russian Ministry of Economic Development and Trade, December 22, 2003.

NIS Regional Organizations and Export Control in 2003

In 2003, the NIS undertook a number of multilateral steps in the framework of regional organizations to better coordinate their export control and customs policies. Below is a summary of major events related to export control and customs cooperation that took place under the auspices of NIS regional organizations in 2003.

EURASEC: Agreement on a Common Order of Export Control

On October 28, 2003, at a Moscow meeting of the Interstate Council of the Eurasian Economic Community (EURASEC), the heads of government of the EURASEC member countries—Belarus, Kazakhstan, Kyrgyzstan, Russia, and Tajikistan—initiated the *Agreement on a Common Order of Export Control by EURASEC Member States*.^[1,2,3] The aim of the agreement is to create conditions conducive to the effective functioning of a common economic and customs space; support the development of balanced, mutually beneficial trade and scientific-technical ties among EURASEC member states; strengthen the nonproliferation regime; and guarantee the defense of national interests and security of member states.^[4,5,6]

According to the agreement, EURASEC members will establish common standardized export control norms, rules, and regulations covering raw materials, goods, equipment, technology, and services that can be used in the production of WMD and other types of military equipment and weapons, and means of WMD delivery. To accomplish this task, the EURASEC Integration Committee will develop common control lists of items and technologies subject to export controls within one year after the agreement’s entry into force. EURASEC member states also pledged to introduce catch-all clauses into their export control procedures, share information about the issuance, suspension, revocation, and denial of licenses, and adopt standard licensing documents. Export licenses issued by one of the member states will be valid in all member states.^[4,5,6,7]

A Commission on Interaction in the Sphere of Export Control was established under the EURASEC Integration Committee following the signing of the agreement. On November 25, 2003, the Commission convened in Moscow to discuss issues related to the implementation of the agreement, including the development of common lists of goods and technologies subject to export controls.^[8] As of January 2004, the EURASEC member states had yet to agree on the composition, structure, and content of the common control lists. According to Sagadat Bralin, head of the Kazakhstani Center for Export Control IVT-Astana, Russia insists on the adoption of its national control lists as the basis for the EURASEC harmonized control lists. Though Russian control lists are based on the lists of multilateral export control regimes, Russia uses its own codification of controlled items, which differs from international standards, for designating controlled items. The adoption of Russian control lists as the basis for the EURASEC lists may not be acceptable to Kazakhstan, which developed its control lists on the basis of the European Union’s control lists and uses internationally recognized codification of goods and technologies subject to export controls.^[9] The process of establishing unified export controls may also be hindered by the absence of clear mechanisms through which the national export control agencies of EURASEC member countries can coordinate their activities and share information.^[10]

CIS Heads of State: MANPADS Resolution

During their September 19, 2003 summit in Yalta, Ukraine, the CIS heads of state approved a resolution *On Measures to Control the International Transfer of Igla and Strela Man-Portable Air Defense Systems by Member States of the Commonwealth of Independent States* that commits CIS member states to

exchange information on international transfers of Iгла and Strela man-portable air defense systems (MANPADS).[11,12] The declared goal of the resolution is to strengthen the fight against terrorism and prevent terrorists from acquiring MANPADS.[12] The draft resolution was discussed by the Council of CIS Defense Ministers in Shchuchinsk (Akmola Oblast), Kazakhstan, on June 9, 2003, and reviewed by the Council of CIS Ministers of Foreign Affairs in Yalta on September 18, 2003.[13,14]

According to the resolution, each signatory state will authorize one of its government agencies to be responsible for mutual information exchange on international transfers of MANPADS. At the same time, according to Russian Minister of Defense Sergey Ivanov, the resolution does not prohibit the member states from selling or purchasing MANPADS and does not commit them to reveal information on their own stockpiles.[15] Of the CIS countries, only Turkmenistan refused to sign the document, citing the country's neutral status.[15] Azerbaijan, Georgia, and Ukraine initially had some reservations, but eventually decided to sign the resolution.[15,16] This step was a follow-up to the adoption of the *Enhance Transport Security and Control of Man-Portable Air Defense Systems (MANPADS): A G8 Action Plan* at the June 2003 G8 summit in Evian, France.[17]

CIS Council of Customs Services Heads: Agreements on Information Exchange and Interaction in Expert and Research Activities

The CIS Council of Customs Services Heads (CCSH) is a multilateral forum of heads of CIS customs agencies created in December 1993 to harmonize customs legislations, mechanisms, and procedures of the CIS members. The State Customs Committee of the Russian Federation serves as a CCSH Secretariat.[18]

The 37th meeting of the CCSH initially scheduled for December 2002 took place in Moscow on July 10, 2003. The meeting participants approved a draft agreement *On Information Exchange between the CIS Council of Customs Services Heads and the CIS Council of Security and Special Services Heads* as well as the implementation mechanism of the protocol on cooperation in ensuring internal security of customs agencies. The meeting also addressed such issues as proposals for developing joint measures aimed at identifying and preventing illegal export and import activities; amendments to the *Rules for Commodities' Country of Origin Identification*; proposals for adopting a standard customs control regime for vehicles and goods crossing the borders of the CIS countries; and recommendations for the creation of national communications centers within anti-smuggling units on the basis of the World Customs Organization Regional Communications Center on Law Enforcement for CIS Countries (Moscow), also known as the Regional Intelligence Liaison Office.[19,20,21]

On December 24, 2003, the day of its tenth anniversary, the CCSH held its 38th meeting in Moscow. The customs services heads signed an agreement *On Interaction of CIS Customs Services in Expert Evaluation and Research Activities on Commodity Identification and Diagnostics* initiated by Azerbaijan at the CCSH's 37th meeting. In accordance with the agreement, the parties commit to develop methodological guides designed to help detect false cargo declarations, adulterated commodities, counterfeited goods, and document forgeries. To facilitate the implementation of the agreement, CIS customs services will also create informational and referral databases, exchange information about new methods and technical means of expert examinations of commodities, and assist each other in training customs experts. The other issues discussed during the meeting included: cooperation in law enforcement; CIS customs legislation; creation of a common information space for CIS customs services; and interaction with the World Customs Organization on the Harmonized Commodity Description and Coding System.[18,22]

Sources: [1] "Strany-chleny EvrAzEs podpisali ryad soglashenii" [EURASEC member states signed a series of agreements], Rosbalt information agency, October 28, 2003, <<http://www.rosbalt.ru/2003/10/28/126426.html>>. [2] "Novyy vitok integratsii" [A new round of integration], *Kazakhstanskaya pravda*, October 29, 2003; in Integrum Techno, <<http://www.integrum.com>>. [3] "Strany YevrAzEs podpisali chetyre soglasheniya" [EURASEC countries signed four agreements], ITAR TASS, October 28, 2003; in Centran information agency, <http://www.centran.ru/cgi-bin/index.pl?text_id=11420&all=yes>. [4] "Pravitelstvo RF reshilo dorabotat proyekt soglasheniya o yedinom poryadke eksportnogo kontrolya gosudarstv-chlenov YevrAzEs" [The government of the Russian Federation decided to continue to work on the draft of the agreement on common export controls among EURASEC member states], PRIMETASS, July 10, 2003, <<http://mdm.prime-tass.ru/ns/7/20030710/351541.htm>>. [5] *Postanovleniye Pravitelstva Rossiyskoy Federatsii No. 423 O podpisanii Soglasheniya o Yedinom Poryadke Eksportnogo Kontrolya Gosudarstv-chlenov Yevraziiskogo Ekonomicheskogo Soobshchestva* [Decree No. 423 of the Government of the Russian Federation *On Signing the Agreement Regarding Unified Export Control Procedures of the Member States of the Eurasian Economic Community*], July 15, 2003; Referent.ru online Russian legal database, <<http://www.referent.ru:2005/security/1/58218/1>>. [6] Official text of the *Agreement* provided to CNS by the

Ministry of Foreign Affairs of the Republic of Kazakhstan, January 13, 2004. [7] "Podpisat soglasheniye o yedinom poryadke eksportnogo kontrolya gosudarstv-chlenov YevrAzEs rasporyadilsya Mikhail Kasyanov" [Mikhail Kasyanov ordered the signing of the agreement on common export controls among EURASEC member states], FK-News information agency, July 17, 2003, <<http://www.fcinfo.ru>>. [8] "Kommissiya Ispolkoma YevrAzEs obsudila voprosy realizatsii soglasheniya o yedinom poryadke eksportnogo kontrolya" [EURASEC Executive Committee Commission discussed issues of implementation of the agreement on a common order of export control], RIA "Novosti," November 25, 2003; in Integrum Techno, <<http://www.integrum.com>>. [9] CNS communication with Sagadat Bralin, director of the Center for Export Control IVT-Astana, January 24, 2004. [10] For more information on EURASEC and the Agreement, see: "Eurasian Economic Community (EURASEC) Discusses Export Control Issues; Additional Regional Grouping Launched," *NIS Export Control Observer*, No. 4, April 2003, pp. 4-5, CNS website, <<http://cns.miis.edu/nis-excon>>; "EURASEC Member Countries Harmonize Export Control Procedures," *NIS Export Control Observer*, No. 8, August 2003, p. 2, CNS website, <<http://cns.miis.edu/nis-excon>>; "Inter-State Cooperation in the NIS," *NIS Export Control Observer*, No. 9, September 2003, pp. 18-22, CNS website, <<http://cns.miis.edu/nis-excon>>; "Prime Ministers of EURASEC Member States Sign Agreement on Export Control," *NIS Export Control Observer*, No. 11, November 2003, p. 2-3, <<http://cns.miis.edu/nis-excon>>. Sources: [11] "Glavy gosudarstv SNG odobrili resheniya o merakh po kontolyu za prodazhey PZRK tipa 'Igla' i 'Strela' v stranakh Sodruzhestva" [CIS heads of state approved resolutions on measures to control sales of Igla and Strela MANPADS in Commonwealth states], RIA "Novosti," September 19, 2003; in Integrum Techno, <<http://www.integrum.com>>. [12] Official text of the resolution provided to CNS by the Ministry of Foreign Affairs of the Republic of Kazakhstan, January 13, 2004. [13] Nikolay Poroskov, "Rossiya sbivayet mechtu terroristov" [Russia dashes the dreams of terrorists], *Vremya novostey*, June 10, 2003; in Integrum Techno, <<http://www.integrum.com>>. [14] "Glavy MID SNG odobrili mery po kontolyu za prodazhey v stranakh Sodruzhestva PZRK 'Igla' i 'Strela'" [CIS foreign ministers approved measures to control sales of Igla and Strela MANPADS in Commonwealth states], RIA "Novosti," September 18, 2003; in Integrum Techno, <<http://www.integrum.com>>. [15] Olga Semenova, "Turkmeniya ne podpisala soglasheniye o merakh po kontolyu za prodazhey PZRK 'Igla' i 'Strela' v stranakh SNG—Sergey Ivanov" [Turkmenistan did not sign the agreement on measures to control sales of Igla and Strela MANPADS in CIS states], RIA Novosti, September 20, 2003; in Integrum Techno, <<http://www.integrum.com>>. [16] ITAR-TASS, June 10, 2003; "Defense Ministers of Five CIS Member States Fail to Sign SAM Systems Agreement," FBIS Document CEP20030610000118. [17] "Enhance Transport Security and Control of Man-portable Air Defence Systems (MANPADS): A G8 Action Plan," 2003 G8 summit website, <http://www.g8.fr/evian/english/navigation/2003_g8_summit/summit_documents/enhance_transport_security_and_control_of_manportable_air_defence_systems_-_manpads_-_a_g8_action_plan.html>. Sources: [18] "Sovet rukovoditeley tamozhennykh sluzhb gosudarstv SNG otmechayet 10-letiyu" [CIS Council of Customs Services Heads celebrates its tenth anniversary], State Customs Committee of the Russian Federation website, December 24, 2003, <http://www.customs.ru/ru/press/of_news/index.php?id305=2001>. [19] "37-ye zasedaniye Soveta rukovoditeley tamozhennykh sluzhb gosudarstv-uchastnikov SNG" [37th meeting of the Council of Customs Services Heads of CIS member-states], CIS Office of the World Road Transport Union website, July 10, 2003, <http://www.iru-cis.ru/news/2003/7/10_0.htm>. [20] Natalya Belova, "V Moskvu proydet zasedaniye Soveta rukovoditeley tamozhennykh sluzhb gosudarstv-uchastnikov SNG" [A meeting of the Council of Customs Services Heads of CIS member-states will take place in Moscow], RIA "Novosti," July 10, 2003; in Integrum Techno, <<http://www.integrum.com>>. [21] Natalya Belova, "Glava GTK RF Mikhail Vanin pereizbran predsedatelem Soveta rukovoditeley tamozhennykh sluzhb stran SNG" [Mikhail Vanin, head of the State Customs Committee of the Russian Federation, was reelected a chairman of the CIS Council of Customs Services Heads], RIA "Novosti," July 10, 2003; in Integrum Techno, <<http://www.integrum.com>>. [22] "Tamozhenniki SNG zaklyuchili soglasheniye o vzaimodeystvii v oblasti ekspertnoy i nauchno-issledovatel'skoy deyatel'nosti" [CIS customs officials signed an agreement on interaction in expert and research activities], RIA "Novosti," December 24, 2003; in Integrum Techno, <<http://www.integrum.com>>.

International Supplier Regimes

Developments in International Supplier Regimes

The four multilateral export control regimes—the Australia Group, Missile Technology Control Regime, Nuclear Suppliers Group, and Wassenaar Arrangement—held their annual plenary meetings in 2003 to review their progress and to discuss new initiatives. The article below summarizes the major decisions made by each regime.

Australia Group

During its June 7, 2002 plenary, the Australia Group (AG) adopted stricter controls over biological and chemical warfare-related materials and expanded its control list to include equipment and toxins that could be used by terrorist groups. The Group also adopted formal guidelines, which include a "catch-all" provision and a "no-undercut policy."

At the annual plenary meeting held in Paris on June 2-5, 2003, the AG further strengthened export controls on goods and technologies that could be used in CBW programs, by (1) adding 14 human pathogens that could potentially be used in WMD programs to the Biological Control List, (2) endorsing a cooperative program of action to engage countries in the Asia-Pacific region on CBW-related export control issues, (3) approving a practical guide for compliance and enforcement officers to help detect, identify, and prevent

illegal transfers of items controlled by the AG, and (4) developing new procedures for improving transparency and enhancing information-sharing among members.

Missile Technology Control Regime

At the 18th annual plenary meeting on September 19-26, 2003, in Buenos Aires, Argentina, Missile Technology Control Regime (MTCR) members agreed to add catch-all provisions to the regime's guidelines as a requirement for all member states, and enhance controls over intangible technology transfers. MTCR Chairman Ambassador Mariusz Handzlik visited a number of non-member states during his term (2002-2003), exploring the prospects for their joining the regime. For a detailed description of missile-related developments in 2003, see "Missile Nonproliferation Developments in 2003" below.

Nuclear Suppliers Group

The Nuclear Suppliers Group (NSG) held an Extraordinary Plenary Meeting in Vienna in December 2002 and agreed to several comprehensive amendments to strengthen its guidelines, intended to combat the threat of terrorists' using nuclear materials and technologies.

At the 13th annual plenary in Pusan, Republic of Korea, on May 19-23, 2003, the NSG members decided to step up international cooperation to prevent nuclear proliferation. They agreed to continue their dialogue with countries outside the Group to encourage these countries to be cautious and vigilant with respect to countries of proliferation concern and terrorist groups shopping for nuclear materials and technologies. Special emphasis was made on preventing North Korea from acquiring materials and components for its nuclear weapon program.

On October 15-17, 2003, the NSG held a Consultative Group Meeting in Vienna to discuss concerns about Iran's nuclear program and its acquisition of enrichment technology, as well as concerns about North Korea's nuclear program. Along with debating issues of information-sharing on transfers, denials, and nuclear programs of concern, the regime members also discussed potential changes to control lists and proposals to strengthen NSG guidelines. Member states proposed the introduction of catch-all provisions, common enforcement practices, and greater specificity in regime guidelines in order to harmonize nuclear licensing practices.

Wassenaar Arrangement

At the Wassenaar Arrangement plenary meeting on December 12, 2003, in Vienna, Austria, member states approved a number of major initiatives, including tightening controls over man-portable air defense systems, and agreeing to enhance transparency of small arms and light weapons transfers and to perfect national legislation with respect to arms brokering. Member states also revised control lists and tightened controls on certain types of microwave electronic devices, semiconductor lasers, navigation equipment, and other items.

Missile Nonproliferation Developments in 2003

The year 2003 built on the previous year's new-found interest in improving both supply- and demand-side strategies to control the spread of missiles capable of delivering WMD. Most notably on the supply side, in late 2002 the Missile Technology Control Regime's (MTCR) membership eliminated a longstanding loophole regarding the definition of a cruise missile's or unmanned air vehicle's (UAV's) true range. This change greatly reduced opportunities for suppliers to circumvent the MTCR's strong presumption to deny transfers of missiles with a range of at least 300 km and capable of delivering a payload of more than 500 kg.[1] Building on this momentum, during 2003, the MTCR members further strengthened the regime's controls on the export of equipment and technologies.

On the demand side of the missile nonproliferation ledger, 2002 saw 75 nations meeting in The Hague on November 25 to sign a politically non-binding International Code of Conduct against Ballistic Missile Proliferation. In 2003, the newly minted Hague Code of Conduct (HCOG) expanded its membership to 109 states and struggled with precisely how to fulfill its transparency obligations.

In addition to these developments, both the MTCR and Wassenaar Arrangement[2]—a group of 33 co-founding nations that strives to achieve transparency and a greater responsibility in transfers of conventional arms and dual-use goods and technologies (including UAVs) to specific states of proliferation concern—began in 2003 to examine ways of limiting the risk that controlled items or technologies might fall into the hands of terrorist groups or individuals.

MTCR Developments

Meeting in Buenos Aires in late September 2003, members of the MTCR agreed to add catch-all provisions to the regime's guidelines.[3] Catch-all provisions furnish a legal basis to control items that are not identified in the MTCR annex or national control lists. Such a circumstance would occur if the member state believes that an item is bound for a restricted missile program, specifically a Category I missile, *i.e.*, those exceeding the regime's 300 km and 500 kg range and payload thresholds. Thus, for example, an export license would be required for *any* trade with an organization involved in producing a Category I missile, such as a Pakistani entity known to be engaged in producing the Ghaury I missile or an Iranian entity supporting the production of the Shahab 3 missile. Before reaching consensus on making catch-all provisions a part of the regime's guidelines, 30 of the 33 member states had already incorporated such measures into their own national control systems. Making it regime-wide broadens the effectiveness of this important supply-side control measure.

Also agreed upon in Buenos Aires were restrictions on the transfer of so-called intangible technology, which might include the sending of missile blueprints via email or facsimile. As with catch-all provisions, many of the MTCR member states had already incorporated controls on intangible technology transfers into their own national control regulations. These controls will now become an MTCR-wide requirement. Both the catch-all and intangible technology transfer controls reflect the regime's vigorous attention of late to stanching the flow of equipment and technology integral to either developing a Category I missile or qualitatively improving its performance. Such attention is warranted because missile proliferators have found it difficult to transfer complete missile systems and have turned to transferring dual-use equipment and technology, much of which comprise the critical components of complete missile systems.

Finally, while the MTCR added numerous new members during the 1990s, more recently it has not added to the regime since South Korea became a member in March 2001. Some have argued that membership expansion increases the representational value of the MTCR and nominally broadens the international norm against missile proliferation. Others fear, however, that adding new members will make it more difficult for the MTCR to reach consensus on addressing emerging challenges, in particular, the need to control new underlying technologies that will enable the growth of missile proliferation in the next two decades. If it cannot keep pace with such technological changes, some argue, the regime risks becoming an institutional anachronism.[4] Improvements to the MTCR over the last two years suggest that the membership recognizes the need to adapt the regime to new technological realities. Nevertheless, although no new members were announced at the Buenos Aires plenary, according to the U.S. State Department, MTCR members during 2003 "actively considered" increasing the membership based on applications from an unspecified number of countries—more than likely states from Eastern Europe and the Baltic Sea region, which have recently become members of NATO, the European Union, or the European Space Agency.[5]

During 2003, critics of the Bush administration's missile defense policy raised concern about the long-term viability of the MTCR. The concern stemmed from the December 2002 issuance of National Security Presidential Directive 23 (NSPD-23), which addressed U.S. national policy on ballistic missile defense.[6] In addition to specifying the arrangements for President Bush's decision to deploy an initial set of limited missile defense capabilities in late 2004, NSPD-23 instructed the Secretary of Defense to "eliminate unnecessary impediments" to participation by friends and allies of the United States in missile defense activities.[7] Specifically, the presidential document mandated a governmental review of export control regulations and statutes that might restrict U.S. cooperation with its allies on missile defenses and called for the issuance of a report within six months. Critics expressed concern that this might result in the possible weakening of the MTCR by facilitating transfers of sensitive missile technology, including interceptors that could be modified to serve as Category I offensive missiles.[8]

The U.S. government's internal review of export control regulations has proven controversial, leading to a delay in its completion. It is important to note, however, that the MTCR is by no means the most restrictive roadblock to transferring or sharing U.S. missile defense systems and technologies with U.S. friends and allies.[9] To be sure, the MTCR does restrict the transfer of defensive interceptors because they have the potential to be transformed into offensive delivery systems. But the MTCR scrutinizes only the interceptor's propulsion system and whether or not the interceptor can propel a payload weighing at least 500 kg to a distance of at least 300 km. The truly advanced technologies that allow missile defense systems to work effectively are not propulsion systems, but radars, sensors, data links, and tracking and interception algorithms, none of which are covered under the MTCR. The export of these critically important technologies is instead covered by an array of highly classified review groups within the U.S. Department of Defense. In the past, these review groups have often denied transfers of such sensitive technologies because of fears that they might subsequently leak to U.S. adversaries. Thus, most of the controversy surrounding NSPD-23 has more to do with these critical non-MTCR-related technologies than with complete interceptor transfers covered by the missile regime.

One area of contention concerns the Israeli Arrow missile defense system, which incorporates significant U.S. technology. U.S.-Israeli cooperation in the development of this system, which qualifies as a Category I missile under MTCR guidelines, has limited Israel's prospects for exporting the Arrow to India, even though there is strong support for such a transfer within parts of the Bush administration.[10] Two U.S.-developed systems also qualify as Category I interceptors under the MTCR: the U.S. Navy's Standard Missile-3 (SM-3) (to be launched from *Aegis*-class cruisers) and the Ground-Based Interceptor (GBI), the primary exoatmospheric interceptor expected to be deployed in late 2004 as part of the initial U.S. national missile defense. Missile defense supporters argue that SM-3 transfers to very close allies could be justified as a "rare" exception under the MTCR current rules. GBIs are unlikely to be exported. In the near term, the system's intercept footprint is sufficiently large, when deployed in Alaska and California, to provide significant protection for U.S. friends and allies in northeast Asia, the area of greatest immediate concern to the Bush administration. Under circumstances where GBIs had to be deployed overseas to furnish adequate protection, they could be kept under U.S. control, thereby avoiding any transfer restrictions under current MTCR rules. Other, shorter-range U.S. missile defense systems, such as Patriot, MEADS, and THAAD—none of which qualify as a Category I missile under the MTCR—are likely to dominate the missile defense export market. Any restrictions on their export will not be affected by MTCR considerations, but rather concerns over the transfer of other sensitive component technologies governed by internal U.S. control mechanisms.

Hague Code of Conduct Developments

Although the HCOC originated within the MTCR membership, efforts were made during 2003 to move the Code closer to the United Nations and further away from the MTCR. This is the result of the HCOC's quest for universal membership as a demand-side political mechanism, in contrast to the MTCR's more narrowly focused supply-side objectives. Of course, the HCOC does not ban countries from possessing ballistic missiles; rather, it simply calls upon them to exercise "maximum possible restraint" in developing and deploying ballistic missiles and not to support or aid the ballistic missile programs of countries that might be developing WMD. Critics argue that the HCOC's failure to include cruise missiles and UAVs combined with the Code's loose definitions and principles, make it a decidedly weak nonproliferation instrument. Supporters counter by arguing that the HCOC should focus first on widening membership before turning to deepening the effectiveness of the instrument. The most notable states absent from Code membership include China, Egypt, India, Iran, Israel, North Korea, Pakistan, Saudi Arabia, and Syria.[11]

During 2003, while the HCOC did not succeed in adding any of these hold-out states to its membership list, it did manage to grow to 109 member states. Some 60 of the Code's subscribing states met at an intersessional meeting in Vienna on June 23-25, 2003, to discuss implementation of the Code's confidence building measures, ways to increase membership, and the Code's relationship to UN nonproliferation activities.[12]

The absence of prescriptive rules, together with the fact that most member states simply do not possess ballistic missiles or space-launch vehicles, probably explains why member states have been slow to comply

with the Code's transparency provisions calling for declarations of national policies on ballistic missiles and pre-launch notifications. Shortly after the HCOC's first annual meeting in New York on October 2-3, 2003, a press report criticized the fact that nearly a year after the HCOC's implementation, its members had failed to furnish an accurate accounting of ballistic missile inventories. By the September 30 deadline, only about 20 of 109 member states had provided the required declaration, which forced a change in the deadline to January 31, 2004.[13] Attempting to work more closely with the United Nations, the HCOC membership has explored the possibility and timing of introducing a resolution in the UN General Assembly related to the Code's principles and objectives. Another conceivable direction under consideration is the implementation of outreach activities with the UN General Assembly.[14]

Antiterrorism Activities

Even though both the MTCR and Wassenaar Arrangement seemed intent during 2003 on examining the risk of controlled items falling into the hands of terrorist groups, the two organizations made little progress in this area.[15] Nevertheless, the Wassenaar Arrangement began the year with a sense of urgency, as reflected in a U.S. "antiterrorism" proposal, which expressed concern about the possible terrorist use of kit airplanes and other manned civil aircraft as makeshift and lethal UAVs.[16] The proposal, submitted in January 2003, sought export control reviews and international notifications for all equipment, systems, and specially designed components that would enable airplanes to be converted into UAVs controlled by the Arrangements' provisions.[17] However, because the U.S. proposal lacked specificity with respect to precisely what was to be covered, it was opposed by a large majority of member states.[18] The most worrisome development related to the conversion of civil aircraft into terrorist UAVs is the recent availability of variable autonomy flight management systems,[19] which provide an easy path and complete solution to the conversion challenge. While both the Wassenaar Arrangement and MTCR should strive to control such systems in the future, the MTCR seems a more appropriate venue because of its strong denial rules and no-undercut provisions (if one state denies a transfer, others must also).

Sources: [1] The MTCR was established in 1987 by the United States and its Group of Seven (G-7) partners—Canada, France, Germany, Italy, Japan and the U.K. There are currently 33 member states and several "adherents," including Israel and China. The regime seeks to limit the proliferation of rockets, UAVs (including cruise missiles), and related technologies capable of carrying a payload of 500 kg for at least 300 km. In 1993, the Regime's guidelines were extended to include missile-delivery systems capable of carrying biological and chemical warheads. Politically binding and not part of a legal treaty regime, MTCR member states unilaterally implement the agreed export control standards. [2] For details on membership and recent activities, see the Wassenaar Arrangement official website: <<http://www.wassenaar.org/>>. [3] For details on the September 19-26 annual plenary meeting of the MTCR member states, see Mike Nartker, "MTCR Members Amend Missile Nonproliferation Guidelines; Include 'Catch-all' Provisions," Global Security Newswire, September 30, 2003, available at <http://www.nti.org/d_newswire/issues/2003/9/30/11s.html>. [4] See, for example, Dennis M. Gormley, *Dealing with the Threat of Cruise Missiles*, Adelphi Paper 339 (Oxford: Oxford University Press, 2001), pp. 87-91. [5] According to Richard Speier, in the early 1990s, MTCR members agreed to cover all members of these three institutions. See Mike Nartker, "MTCR Members Amend Missile Nonproliferation Guidelines; Include 'Catch-all' Provisions," Global Security Newswire, September 30, 2003, available at <http://www.nti.org/d_newswire/issues/2003/9/30/11s.html>. [6] National Security Presidential Directive—23/NSPD-23, "National Security on Ballistic Missile Defense," The White House, December 16, 2002, <<http://www.fas.org/irp/offdocs/nsdp-23.htm>>. [7] For a useful analysis of the Bush administration's missile deployment plan, see "Missile Defence After 11 September," in *Strategic Survey 2002/3* (Oxford: Oxford University Press for IISS, 2003), pp. 27-40. [8] See Amy Svitak and Gopal Ratnam, "Missile Defense Vs. Non-Proliferation," *Defense News*, July 14, 2003, p. 1. [9] On the delay in issuing a report, see Bradley Graham, "U.S. Controls Hamper Foreign Role in Missile Defense; Bush-Ordered Review of Restrictions Is Running Late and Into Disagreements on Exceptions," *Washington Post*, October 19, 2003, p. A27. [10] Aluf Benn, "U.S. Objects to Israel's Arrow Deal with India," *Haaretz*, September 7, 2003, <<http://www.haaretzdaily.com/hasen/spages/337364.html>>. [11] An updated list of HCOC subscribing states is located at <<http://www.minbuza.nl/icoc>>. [12] For details on the intersessional meeting in Vienna, see "Briefing on the HCOC Intersessional Meeting, Vienna, 23-25 June 2003," furnished by the Netherlands Ministry of Foreign Affairs via email on July 9, 2003. [13] Mike Nartker, "Missile Code of Conduct Nations Miss Reporting Deadline," Global Security Newswire, October 3, 2003, <http://www.nti.org/d_newswire/issues/2003/10/3/9s.html>. [14] "Briefing on the HCOC Intersessional Meeting, Vienna, 23-25 June 2003," furnished by the Netherlands Ministry of Foreign Affairs via email on July 9, 2003. [15] The Wassenaar Arrangement did succeed in 2003 in tightening controls on man-portable air defense systems (MANPADS), over which there is growing concern about terrorist use against large commercial airliners. See "Wassenaar Group to Tighten Export Controls on MANPADS," <<http://usinfo.state.gov/topical/pol/terror/texts/03121208.htm>>. [16] Concerning this threat, see Dennis M. Gormley, "UAVs and Cruise Missiles as Possible Terrorist Weapons," in James Clay Moltz, ed., *New Challenges in Missile Proliferation, Missile Defense, and Space Security*, Occasional Paper No. 12 (Monterey, CA: Monterey Institute's Center for Nonproliferation Studies, 2003), pp. 3-9, <<http://cns.miis.edu/pubs/opapers/op12/index.htm>>. [17] For more details, see Dennis M. Gormley and Richard Speier, "Controlling Unmanned Air Vehicles: New Challenges," *The Nonproliferation Review*, Vol. 10, No. 2 (Summer 2003), pp. 66-79, <<http://cns.miis.edu/pubs/npr/index.htm>>. [18] Based on background interviews with current and former government officials familiar with Wassenaar Arrangement activities. [19] By variable autonomy, it is meant that the converted airplane can either be controlled remotely by a ground operator or can fly fully autonomously by means of a pre-programmed flight path introduced into the UAV's flight management computer.

International Export Control and WMD Security Assistance Programs

International Nonproliferation Export Control Program in the Former Soviet Union

Throughout 2003, the *NIS Export Control Observer* reported on U.S.-sponsored assistance projects aimed at strengthening export control systems in the NIS. This article provides a detailed summary of the activities conducted in 2003 under the auspices of the the International Nonproliferation Export Control Program (INECP), administered by the Office of Export Control Policy and Cooperation at the U.S. Department of Energy's National Nuclear Security Administration (NNSA).

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INECP is designed to strengthen nonproliferation export controls by improving licensing procedures and practices, promoting industry compliance, and strengthening enforcement capabilities in other countries. The program has traditionally focused on Kazakhstan, Russia, and Ukraine, but since 9/11, INECP has expanded to include known or emerging supplier states, such as Argentina, China, India, Israel, Pakistan, and South Korea, as well as select transit states, including Armenia, Azerbaijan, Estonia, Georgia, Jordan, Latvia, Lithuania, Taiwan, the United Arab Emirates, Uzbekistan, and others. In many of these countries, a principal task is improving export control enforcement practices.

Armenia

INECP conducted a nuclear and nuclear-related commodity identification training for Armenia's customs and border guard organizations in June 2003. Based on INECP's threat assessment and the recommendation of the Export Control and Related Border Security (EXBS) advisor in Yerevan, INECP plans to focus commodity identification training on two key checkpoints: the air cargo terminal in Yerevan and at Meghri (Syunik region), the land border crossing between Armenia and Iran. INECP plans to leverage its core group of technical specialists in Georgia to assist with this training.

During meetings with Armenia's Governmental Dual-Use Goods Expert Team in June 2003, INECP received a request for programs on end-use and end-user analysis methodologies. INECP conducted the training in November. In addition, INECP used this opportunity to increase the number of technical specialists involved in the nuclear export analysis process.

Azerbaijan

In February 2003, INECP met with technical experts from Azerbaijan's Institute of Radiation Problems (IRP) to establish and develop their role in support of export control enforcement and to familiarize them with NNSA's nuclear and nuclear-related dual-use commodity identification training (CIT), and their role in training enforcement personnel. Following those meetings, INECP awarded a contract to IRP to develop a training plan for an indigenous version of the commodity identification course. In addition, in spring 2004, INECP will conduct a basic instructor course with assistance from IRP. An official letter from the State Customs Committee to the National Academy of Science officially designated IRP as a national training center for customs in the areas of nuclear and dual-use items.

INECP efforts in Azerbaijan are part of the U.S. Department of State-led EXBS program, and are designed to help Azerbaijan improve its ability to control commodities of proliferation concern.

Estonia

INECP provided training courses in nuclear-related commodity identification for border security and enforcement personnel and in licensing evaluation for licensing officials. In addition, INECP began contract talks with Tallinn Technical University to fund the development of a training course for Estonia's border guard, customs, and security police organizations.

Georgia

In February 2003, INECP met with technical experts from Georgia's National Academy of Science/Institute of Physics, including the deputy director, to establish and develop their role in support of export control enforcement, familiarize them with NNSA's nuclear and nuclear-related dual-use commodity identification training (CIT), and begin work in preparing an indigenous CIT program for enforcement personnel. During the February 2003 meetings, INECP and Argonne National Laboratory (ANL) established a basic ordering agreement with Georgia's Institute of Physics, and issued a contract for the development of a training plan for both the border guard and customs organizations.

In addition, ANL provided Georgia's Institute of Physics with both electronic copies and hard copies of DOE's dual-use guidebook as well as electronic copies of all presentation and instructional materials used in the CIT. INECP has also secured commitments from the managers of the Georgian Border Guard Training Academy to incorporate CIT into their regular curriculum.

Kazakhstan

In the area of licensing support, INECP continues to sponsor the System to Review Kazakhstan Exports (STORKE), a computerized automated licensing system now being used by the government of Kazakhstan to assign relevant nuclear export license applications to nuclear technical experts, thus enhancing their review.

Modest progress was made on industry outreach in Kazakhstan. After INECP's participation in the U.S. Department of Commerce (DOC)-led team that met with Kazakhstani interagency representatives in September 2002 to discuss internal compliance program (ICP) training for Kazakhstani industry, INECP contracted with the Nuclear Technology Safety Center (NTSC) to provide input to a DOC-sponsored ICP software tool. In meetings with NTSC and the Kazakhstani Atomic Energy Committee in April and June 2003, INECP agreed with its counterparts to identify the most appropriate nuclear exporter candidates for training, as well as a timeframe for the first nuclear export control training. This first workshop is expected early in 2004.

On September 22-24, 2003, INECP held a seminar on the new, more stringent export control requirements of Kazakhstan's forthcoming Additional Protocol to its International Atomic Energy Agency nuclear safeguards agreement for representatives from Kazakhstani government agencies and nuclear enterprises. It is expected that Kazakhstan will sign the Additional Protocol in 2004.

INECP's most significant achievement in Kazakhstan came in the area of commodity identification training (CIT) for enforcement agencies. In late March, INECP conducted a CIT demonstration for representatives of the Kazakhstani Customs Control Agency and Border Guard Service. The demonstration showed the participants how nuclear experts can familiarize customs inspectors and border guards with controlled dual-use nuclear commodities. Furthermore, the demonstration explained the benefits of creating an indigenous pool of such technical experts from Kazakhstan's own nuclear community. During this trip, INECP representatives were given a tour of the customs training facility in Almaty, which could serve as a facility for future CIT seminars. As a follow-up to this demonstration, INECP representatives, along with colleagues from the U.S. Department of State Office of Export Control Cooperation, returned to Almaty in June 2003 to obtain formal endorsement of CIT cooperation between NNSA and the government of Kazakhstan. Amaniaz Yerzhanov, first deputy chairman of the Customs Control Agency, and Major-General Tursyn Uazhanov, deputy director of the Border Guard Service, joined Timur Zhantikin, chairman of the Kazakhstan Atomic Energy Committee, in agreeing to support commodity identification training for customs officers and border guards. The NTSC was designated as the primary contractor for the planning, construction, coordination, and execution of CIT in Kazakhstan.

Latvia

INECP provided training courses in nuclear-related commodity identification for border security and enforcement personnel and in licensing evaluation for licensing officials. In addition, INECP began contract talks with the Radiation Protection Center and Riga Technical Institute to fund the development of a training course for Latvia's Customs and Border Guard organizations.

Lithuania

INECP provided training courses in nuclear-related commodity identification for border security and enforcement personnel and in licensing evaluation for licensing officials. In addition, INECP began contract talks with the Radiation Safety Center to fund the development of a training course for use in Lithuania's Customs Training Center.

Russia

INECP bases its work in Kazakhstan, Russia, and Ukraine upon the three elements crucial to a complete domestic nuclear export control program: licensing, industry outreach, and enforcement. In Russia, INECP continues its support of the U.S. Department of State's Export Control and Border Security Program's (EXBS) nonproliferation goals by focusing resources on cooperative projects in these three areas. Building on INECP's past accomplishments in the area of licensing, in 2003, INECP continued its support of the development of a dual-use technology guide (with the All-Russian Scientific Research Institute of Technical Physics, or VNIITF, in Snezhinsk) and a nuclear reactor guide (with the Institute of Physics and Power Engineering, or IPPE, in Obninsk) that will be used as a quick reference during license evaluations. INECP also came to terms with the Kurchatov Institute on development of a laser technology guide that will also be used in the Russian Federation's licensing process.

In the area of industry outreach during 2003, INECP sponsored four regional nuclear export control workshops for Minatom nuclear enterprises and institutes in Novosibirsk (June 2-6) and in Obninsk (September 29-October 1). INECP's greatest strides in industry outreach, however, were made with "site-specific" workshops. These workshops take place on-site at a single institute or nuclear enterprise, and provide focused export control training for all experts at those sites. In 2003, the four single-site workshops listed below drew between 36 and 57 representatives from each site.

- Gidropress Experimental Design Bureau and Luch Scientific Production Association, Podolsk, April 2003
- Moscow Engineering and Physics Institute (MEPhI), Moscow, April 2003
- Siberian Chemical Combine (SKhK), Seversk, April 2003
- Mining and Chemical Combine (GKhK), Zheleznogorsk, May 2003

A May 2003 meeting with representatives from the Russian Ministry of Economic Development and Trade led to an agreement on conducting nuclear export control workshops for representatives of non-Minatom nuclear institutes and enterprises in fiscal year 2004.

Ukraine

In Ukraine, the NNSA provided support to nuclear export licensing activities for both of the country's premier nuclear institutes—the Institute for Nuclear Research (INR) and the Kharkiv Institute of Physics and Technology (KIPT). Support continues for the Nuclear Export License Review System, a computer-based system designed to facilitate the technical review of license applications by technical experts at the nuclear institutes. A second automated system, the State Service on Export Control (SSEC) departmental database, is also being developed with INECP support. This database is used by the SSEC Nuclear Item Review Department to review past licenses and access reference materials.

INECP organized a workshop in July 2003, the purpose of which was to disseminate information related to the recently enacted export control law to Ukrainian nuclear enterprises.

In the area of enforcement, the George Kuzmycz Training Center, with the participation of several U.S. instructors, delivered the first course on identification of nuclear-related commodities and equipment to an

audience consisting of middle-level officials of the State Customs Service of Ukraine (mostly deputy directors of Ukraine's regional customs offices). The Kuzmycz Center also completed the instructional material for the second phase of training directed toward instructors of the customs training academies. This training will take place in early fiscal year 2004.

In June 2003, INECP organized a workshop in Crimea for technical experts and government officials involved in nuclear export control licensing and enforcement from Azerbaijan, Georgia, Kazakhstan, Russia, and the United States to discuss issues related to implementation of nuclear export controls and future directions of cooperation in this area.

Uzbekistan

INECP is working with the government of Uzbekistan to strengthen its export control licensing procedures. Part of the INECP mission is to provide officials responsible for licensing exports and transshipments the tools needed to evaluate information supplied in the license application by the exporting or transshipment companies. To this end, INECP offered a seminar in October 2003 on end-use and end-user analysis to a group of Uzbekistani government officials. The attendees included representatives from the Agency for External Economic Relations, the Cabinet of Ministers, Customs, Ministry of Defense, Ministry of Foreign Affairs, Ministry of Labor, Institute of Nuclear Physics, Committee of State Border Protection (Border Guards), and representatives from two state-owned freight forwarders, Urtaosiyatrans and Uzneshtrans. The seminar covered topics covering the Nuclear Suppliers Group and Zangger Committee and their role in formulating (nuclear) export control standards; methods for evaluating the end-use and end-user; and several case studies.

Illicit Trafficking in the NIS

Summary of Reported Nuclear, Radioisotope, and Dual-Use Materials Trafficking Incidents Involving the NIS during 2003

Each month the *NIS Export Control Observer* provides coverage of illicit trafficking incidents involving WMD materials. Most of the trafficking incidents reported in 2003 involved radioactive and nuclear material. In order to draw a complete picture of illicit trafficking in the NIS, this article provides a list of events reported in 2003 issues of the *NIS Export Control Observer* complemented with events tracked in the NIS Illicit Nuclear Trafficking Database maintained by the Center for Nonproliferation Studies. The database records open-source reports of illicit trafficking incidents involving nuclear and radioactive materials in the NIS. To see details of these and previous years' incidents, see the NIS Trafficking update page: <<http://nti.org/db/nistraff/update.htm>>. For details involving the two trafficking cases involving biological material that were reported by the *Observer* in 2003, see our July issue: <<http://cns.miis.edu/nis-excon>>.

There were 40 incidents of trafficking in nuclear and radioactive materials during 2003 tracked in the NIS Illicit Nuclear Trafficking Database. As in 2002, none of the 40 reported cases involved proliferation-significant quantities of highly enriched uranium (HEU), and only two cases involved very small amounts of plutonium (such as in smoke detector ionization sources). Five cases involved various types of uranium. Although incomplete reporting makes it difficult to precisely categorize the material involved, none of these incidents appears to involve material of proliferation significance.

The lion's share of the reported incidents—25—involved radioactive isotopes, some of which could potentially be used by terrorists to manufacture a radiation dispersal device (RDD). A majority of these cases involved industrial equipment containing radioactive cesium-137. Much more troubling were the three cases in 2003 that involved large radiation sources containing about 5 kg of strontium-90. These radiation sources—which could be used to build a large RDD—form the core of Soviet-era radioisotope thermal generators (RTGs). About 1,000 of these RTGs are reportedly still in place at remote locations in Russia and the NIS where they were deployed years ago as power sources for navigational beacons and

communications relay stations. In all three cases, thieves ripped apart the RTGs to steal the heavy metal shielding around the radiation source at the core, hoping to sell the metal for its scrap value. Although the thieves in these cases abandoned the radioactive cores, these incidents demonstrate that such large radiation sources remain vulnerable to theft by terrorists.

The geographical distribution of incidents demonstrates that Russia remains the focal point of illicit trafficking incidents. Seventeen incidents were reported in Russia. Ukraine has the second largest number of incidents—six, followed by Kazakhstan—five, and Georgia—four.

The following table presents the data sorted by reverse chronological order of incident report dates. Due to the vagueness of reports on trafficking incidents and seizures it is often difficult to accurately categorize the type of material involved. This table should be used as a guide to the approximate number and type of incidents reported during 2003. Entries in this table should not be taken as confirmation that a specific substance was in fact seized. No attempt has been made to verify the reports from which these summaries are drawn.

Date of Report	Date of Incident	Material(s) Seized or Diverted	Quantity of Material	Reported Origin of Material	Reported Destination of Material	Location Where Material Was Seized	Reported Perpetrator(s)
12/17/03	unspecified	radioactive tubes	unspecified	possibly stolen from Russian naval base at Vilyuchinsk, Kamchatka Oblast	Vladivostok, Russia	Petropavlovsk-Kamchatskiy, Kamchatka Oblast, Russia	no suspects yet identified
12/9/03	unspecified	radioactive scrap metal	unspecified	Chornobyl, Ukraine	unspecified	Kiev, Ukraine	six suspects
12/1/03	12/1/03	“radioactive waste” or contaminated material	unspecified	possibly Riga, Latvia	Moscow, Russia	Pskov Oblast, Russia, on Riga-Moscow train	no suspects yet identified
11/22/03	unspecified	cesium-137, curium-243, and curium-245	“a small amount”	unspecified, but probably stolen from an industrial facility	unspecified, suspect was trying to sell the material when arrested	Shymkent, South Kazakhstan Oblast, Kazakhstan	one suspect
11/17/03	unknown	strontium-90	two cores from RTGs weighing about 5 kg each	navigational beacons on the Kola Peninsula, Murmansk Oblast, Russia	unknown	cores were recovered a short distance from the beacons, where the thieves had abandoned them	unknown
10/24/03	10/23/03	parts containing radioactive strontium (probably strontium-90)	unspecified	unspecified	unspecified	Riga, Latvia	four suspects, names and nationalities not specified

Date of Report	Date of Incident	Material(s) Seized or Diverted	Quantity of Material	Reported Origin of Material	Reported Destination of Material	Location where Material was Seized	Reported Perpetrator(s)
10/3/03	8/28/2003	uranium (enrichment level unspecified) and radium-226 (some sources say other fission products were also present)	1 kg of powder (some sources say 1.1kg)	Russian State Enterprise Atomflot, Murmansk Oblast, Russia	unspecified	Murmansk Oblast, Russia	Anatoliy Tulyakov, Atomflot deputy director for administrative issues
9/26/03	unknown	industrial instrument containing cesium-137	unspecified	Kholmogorneft company, Noyabrsk, Yamalo-Nenets Autonomous District, Russia	unspecified	on 11/19/03, material was recovered	no suspects yet identified
9/24/03	9/23/03	unspecified radioactive material	unspecified	unspecified	material was in a package to be shipped on a flight to the United States	Borispol Airport, Kiev, Ukraine	one Ukrainian citizen
9/23/03	unspecified	depleted uranium	unspecified	unspecified	unspecified, suspect was attempting to sell material when arrested	Uralsk, West Kazakhstan Oblast	one Kazakhstani national
9/4/03	unknown, sometime in summer 2003	cesium-137 contained in an industrial instrument	unspecified	Sokol, Vologda Oblast, Russia	unspecified	material stolen, still missing	no suspects yet identified
9/3/03	unspecified	non-radioactive isotope cesium-133	“more than half a kilogram”	possibly Ukraine	unspecified	Rzeszow, Poland	six suspects
8/27/03	unspecified	plutonium-238, contained in an industrial instrument	unspecified	Chusov metal plant, Perm, Russia	unspecified	material stolen, still missing	no suspects yet identified
8/7/03	unspecified	americium-241	unspecified	unspecified	unspecified, suspects were attempting to sell material when arrested	Kiev, Ukraine	three suspects, names and nationalities not identified
7/31/03	unspecified	plutonium-239	“one ampoule,” weight unspecified, but probably a smoke detector ionization source	unspecified	unspecified, suspects were attempting to sell the material when arrested	Pavlodar, Kazakhstan	two Kazakhstani nationals and one Russian national

Date of Report	Date of Incident	Material(s) Seized or Diverted	Quantity of Material	Reported Origin of Material	Reported Destination of Material	Location where Material was Seized	Reported Perpetrator(s)
7/26/03	unspecified	cesium-137	“one container,” weight unspecified	unspecified	unspecified	Uralo-Kavkaz, Lyuganskaya Oblast, Ukraine	orphaned source, perpetrators unspecified
7/25/03	unspecified	“uranium-238,” enrichment level unspecified	4.5 grams	unspecified	unspecified	Ussuriysk, Primorskiy Kray, Russia	one suspect, name and nationality not specified
7/23/03	7/22/03	“radioactive cesium” probably cesium-137	“three containers,” weight unspecified	probably stolen from an aircraft depot	unspecified, suspect was peddling material at railway station	Spassk-Dalniy, Primorskiy Kray, Russia	one suspect, name and nationality not specified
7/17/03	6/13/03	cesium-137	initially reported as 30 kg, but probably much less; possibly <1 g	possibly Russia, possibly smuggled to Thailand via Laos. Suspect received materials from a Thai Air Force Marshal	undercover agents from the Royal Thai Police and the U.S. Bureau of Immigration and Customs Enforcement	parking lot of the Royal Pacific Hotel, Bangkok, Thailand	Narong Penanam, 44-year-old elementary school principal from Surin province, Thailand
6/27/03	6/26/03	uranium, enrichment level unspecified	“several boxes,” weight unspecified	suspect claimed to have acquired the material in Vladikavkaz, Russia	unspecified	Georgian-Armenian border	one suspect
6/25/03	June 2003	possibly cesium-137	“small cylinder”	“factory-made”	unspecified	car stopped at traffic checkpoint in Cherkassy, Ukraine	two occupants of car
6/17/03	5/31/03	cesium-137, strontium-90, and a canister of mustard gas	two containers with cesium and strontium	“abandoned construction site in Tbilisi”	possibly Turkey	trunk of a car in Tbilisi	two suspects
5/8/03	unspecified	cesium-137	three containers containing cesium capsules	abandoned factory building in suburbs of Tbilisi, Georgia	unspecified	recovered from abandoned factory building	no suspects identified

Date of Report	Date of Incident	Material(s) Seized or Diverted	Quantity of Material	Reported Origin of Material	Reported Destination of Material	Location where Material was Seized	Reported Perpetrator(s)
5/5/03	4/30/03	unspecified	container with radiation hazard markings	unspecified	unspecified	abandoned fish factory in Arman village, Magadan Oblast, Russia	no suspects identified
4/21/03	2002	unspecified radioactive isotopes	probably six containers	Belgium	Kaliningrad, Russia	discovered among rug manufacturing equipment by Customs officials at Bagrationovsk border checkpoint, Kaliningrad, Russia	no suspects identified
4/17/03	3/28/03	strontium-90	RTG core weighing 5 kg	lighthouse near Kurgolovo village, Leningrad Oblast, Russia, on the Gulf of Finland	discarded by scrap metal thieves	recovered from floor of the Gulf of Finland	unidentified scrap metal thieves, who stole 500 kg of stainless steel, aluminum, and lead shielding from the generator
4/16/03	unspecified	unspecified radioactive isotopes	originally 17 radiation sources	unspecified	unspecified	destroyed chemical plant in Zavod microregion, Groznyy, Chechnya	one source stolen by teenagers from Kirov village
4/15/03	4/14/03	ytterbium oxide	35 kg	Metallurgical Plant in Orlovka village, Kyrgyzstan	unspecified buyers	in possession of suspects	two former employees of Metallurgical Plant in Orlovka
4/4/03	unspecified	cesium-137	two small cylinders	unspecified	unspecified	discovered in deceased woman's shed, Akhtubinsk, Astrakhan Oblast, Russia	discovered by Nikolay Maslakov in his late mother's house

Date of Report	Date of Incident	Material(s) Seized or Diverted	Quantity of Material	Reported Origin of Material	Reported Destination of Material	Location where Material was Seized	Reported Perpetrator(s)
4/1/03	3/31/03	medical radioactive isotopes	unspecified	Radiopreparat, Institute of Nuclear Physics, Ulugbek, Uzbekistan	Izotop, private Kazakhstani firm that supplies medical and industrial radioactive isotopes	at Almaty airport, Kazakhstan, on an Uzbekistan Airways flight from Tashkent, Uzbekistan	no suspects identified
3/12/03	unspecified	mercury (marketed as a "powerful radioactive substance")	4 kg mercury	outside Tajikistan (mercury is not produced in Tajikistan)	unspecified	Ura-Tyube, Tajikistan	unspecified
3/2/03	unspecified	osmium-187 powder	1.33 g	unspecified	unspecified	Omsk, Russia	61-year-old resident of Omsk, a member of an unspecified international criminal group
2/26/03	2/25/03	radiation-contaminated measuring devices and lead containers	unspecified	China	lumber production factory in Bashkortostan, Russia	customs inspection in Bashkortostan	no suspects identified
2/17/03	unspecified	measuring devices containing cesium-137	three containers with measuring devices	Vaziani army base near Tbilisi, Georgia	unspecified	unspecified	no suspects identified
2/14/03	unspecified	unspecified radioactive material	unspecified	unspecified	unspecified	hotel room in Odessa, Ukraine	35-year-old unemployed Moldovan man and 43-year-old man from Kiev, Ukraine
2/13/03	unspecified	cesium-137	two containers	probably Russia	unspecified	Bobruysk, Belarus	Four Belarusian nationals
2/12/03	unspecified	unspecified radiation source	unspecified	The Netherlands	Kazakhstan	train car crossing Belarus-Poland border, at Zarechitsa border post, Belarus	unspecified

Date of Report	Date of Incident	Material(s) Seized or Diverted	Quantity of Material	Reported Origin of Material	Reported Destination of Material	Location where Material was Seized	Reported Perpetrator(s)
2/03	January 2003	europium oxide and silicon	nearly 500 kg europium oxide and 43 boxes of silicon	chemical metallurgical plant in Orlovka village, Kyrgyzstan	unspecified	Kemin microregion, Bishkek, Kyrgyzstan (only some material was recovered)	Zh. Chokchonov, M. Tynaliyev, and K. Abdrakhmanov
1/30/03	unspecified	uranium dioxide granules	glass flask 70 mm long and 25 mm in diameter	unspecified	unspecified	discovered on Kustanaysk Street in southern Moscow, Russia	unspecified
1/17/03		unspecified radioactive isotope	one measuring device used in metallurgy	Aktobe Oblast, Kazakhstan	China	discovered in train car carrying scrap metal	unspecified

Reported Nuclear, Radioisotope, and Dual-Use Materials Trafficking Incidents Involving the NIS in 2003, Categorized by Material Type

Substance	Number of Reported Cases
Plutonium	2*
Weapons-Grade Uranium	0
Highly Enriched Uranium (HEU)	0
Low Enriched Uranium (LEU)	0
Uranium (natural or form unidentified)	5
Thorium and other nuclear materials	0
Nuclear Related Dual-Use Materials	2
Radioactive Isotopes	25
Waste/ Scams/ Contaminated Materials	6
Total	40

*These two incidents both appear to have involved minuscule quantities of plutonium, as in smoke detector ionization sources, and are probably not of proliferation significance.

International Developments

Proliferation Security Initiative: Libyan Case Crowns First Year's Achievements

On December 19, 2003, Colonel Mu'ammur al-Qadhafi, Libya's leader, announced that Libya would eliminate all elements of its chemical, biological, and nuclear weapons programs, and destroy ballistic missiles that exceed the guidelines of the Missile Technology Control Regime (MTCR).[1] [*Editor's Note: The MTCR restricts transfers of missiles able to carry a 500 kg payload to a range of 300 km or more, but also extends restraints to shorter-range systems thought likely to be used with weapons of mass destruction.*][2] The breakthrough, which was announced after months of secret talks between Libyan, U.S., and British officials, came on the heels of a successful interdiction, conducted under the Proliferation Security Initiative (PSI), of a German ship carrying a large weapons materials shipment to Libya.

The U.S. and British intelligence services learned in late September that the freighter, *BCC China*, destined for Libya, was carrying thousands of parts for gas centrifuges—equipment used to enrich uranium, potentially for nuclear weapons.[3] The intelligence services alerted the German government, which contacted the ship's owner, BBC Chartering and Logistic, based in Leer, Germany. BBC Chartering and Logistic agreed to divert the freighter to the port of Taranto, in southern Italy, where the cargo was inspected and seized.[3,4,5] At the time the shipment, estimated to be worth tens of millions of dollars, was apprehended, Libya had not set a date for the U.S. and British intelligence services to visit its weapons sites.[3] Within two weeks after the seizure, however, the U.S. and U.K. officials were allowed to inspect dozens of Libyan weapons laboratories and military factories.[3,6] After a second inspection in December, Colonel Qadhafi announced that Tripoli would disclose and dismantle its stocks of WMD, along with its nascent nuclear program, and abandon its quest to build nuclear and other WMD.[6]

PSI, an initiative with a global reach designed to stop the proliferation of WMD, related materials, and means of their delivery to and from states of proliferation concern, was publicly launched by President George W. Bush on May 31, 2003, in a speech in Krakow, Poland.[7] The initiative has been implemented by its 11 original participants: Australia, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, Spain, the United Kingdom, and the United States. PSI participants held four plenary meetings during 2003 to work out PSI's operational details and strategic vision. The meetings took place on June 12 in Madrid, Spain; July 9-10 in Brisbane, Australia; September 3-4 in Paris, France; and October 10 in London, United Kingdom. At the plenary meeting in Paris, the participants adopted the *Statement of Interdiction Principles*. The text of the Statement can be found at the U.S. Department of State website: <<http://www.state.gov/t/np/rls/fs/23764.htm>>.[8] The next plenary meeting, to take place in Portugal, is planned for January 2004.[9] At an Operation Experts meeting in Washington, DC, in December 16-17, 2003, five new members joined PSI: Canada, Denmark, Norway, Singapore, and Turkey.[10] [*Editor's Note: Operation Experts meetings are devoted to discussion of operational and policy issues, such as legal authority for interdiction in specific cases, and are attended by military and law enforcement personnel and other officials with special credentials in the subjects to be discussed.*][9,11]

PSI members organized four interdiction exercises in 2003, starting with an Australian-led maritime interdiction exercise, dubbed "Pacific Protector," on September 13-14.[10,12] At the October 2003 plenary meeting in London, the participants agreed to hold five more interdiction exercises in 2004:

- U.S.-led maritime interdiction exercise in the Arabian Sea, January 2004;
- Polish-led ground interdiction exercise, early 2004;
- Italian-led maritime interdiction exercise in the Mediterranean, spring 2004;
- French-led air interception exercise, spring 2004; and
- German-led interdiction exercise at an international airport, March 2004.[11]

In an interview with the journal *Arms Control Today* on November 4, 2003, John Bolton, the U.S. Undersecretary of State for Arms Control and International Security, indicated that a number of actual interdictions under PSI have also taken place throughout the year, but refused to disclose any details, saying that doing so would compromise the aims of the initiative.[13]

An important hallmark of PSI, as it enters its second year, is its flexibility. Although the initiative enforces export controls established under existing nonproliferation regimes and reinforces those regimes, it is legally independent of them. According to the *PSI Statement of Interdiction Principles*, for example, the initiative is “consistent with and a step in the implementation of” the UN Security Council Presidential statement of January 1992, which asserted that WMD constitutes a threat to international peace and security. The *Statement of Interdiction Principles* also notes that because efforts by proliferators to circumvent the existing nonproliferation regimes have become “increasingly aggressive,” “new and stronger actions by the international community” are required.[14] Yet, even as successful interdictions take place, such as that of the Libyan cargo in October, disagreements linger among the core participants as to the legal authority for such actions. As the *NIS Export Control Observer* reported in October, at the plenary meeting in London, PSI members did not agree on acceptable phrasing for the Boarding Agreement, a document detailing the rules of engagement to which states will adhere in intercepting cargo aboard ships.[8]

Outside critics, notably China, have expressed strong reservations about the initiative’s legality. Kong Quan, a spokesman for China’s Foreign Ministry, stated in September that “quite some countries have doubts over the legality and effectiveness of the PSI.”[15] John Bolton, PSI’s principal advocate and spokesman, has said, however, that PSI interdiction efforts are “grounded in existing domestic and international authorities.”[16] According to Bolton, most interdictions will take place on national territories or in territorial waters, where the state powers are the strongest, thus giving PSI participants the authority required for interdiction.[13] Bolton admitted that “where there are gaps or ambiguities in our authorities, we may consider seeking additional sources for such authority, as circumstances dictate.” “What we do not believe,” he continued, “is that only the [UN] Security Council can grant the authority we need.”[16]

Although five new countries joined PSI in December 2003, as noted above, the core membership of the initiative is not likely to increase dramatically in 2004. “We’re not looking for large diplomatic meetings,” Bolton told *Arms Control Today*. “We’re looking for operational capabilities that actually increase the level of interdictions that are taking place.”[13,17] At the plenary meeting in London, PSI members agreed that the “broadest possible participation” of additional countries should be encouraged on an *ad hoc* basis in Operation Experts meetings, in interdiction exercises, and in actual interdictions, when their special expertise is required.[11]

Finally, PSI is likely to remain a central pillar of U.S. counter-proliferation efforts, as envisioned in the December 2002 U.S. *National Strategy to Combat Weapons of Mass Destruction*. [18] In the words of Secretary Bolton, speaking in November 2003: “Properly planned and executed, interdicting critical weapons and technologies can help prevent hostile states and terrorists from acquiring these dangerous capabilities.” “Our long term objective,” Bolton continued, “is to create a web of counterproliferation partnerships through which proliferators will have difficulty carrying out their trade in WMD and missile-related technology.”[16]

Sources: [1] “The President’s National Security Strategy to Combat WMD: Libya’s Announcement,” Fact Sheet, Office of the Press Secretary, The White House, December 19, 2003; U.S. Department of State website, <<http://www.state.gov/p/nea/rls/27462.htm>>. [2] “Changes in the MTCR Control List,” *NIS Export Control Observer*, January 2003, pp. 5-6, <<http://cns.miis.edu/nis-excon>>. For further information about the issues discussed at the September 2002 plenary meeting, see Dennis M. Gormley, “Closing Loopholes in Missile Controls,” *NIS Export Control Observer*, March 2003, pp. 6-7, <<http://cns.miis.edu/nis-excon>>. [3] Robin Wright, “Ship Incident May Have Swayed Libya,” *Washington Post*, January 1, 2004; in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [4] Carla Ann Robbins, “Cargo Seizure Fueled Libya Arms Shift; U.S.-Initiated Interdiction Led to Discovery of Parts Used in Uranium Enrichment,” *Wall Street Journal*, December 31, 2003; in ProQuest Database, <<http://www.il.proquest.com/proquest>>. [5] “U.S. Seized Shipload of Nuclear Equipment Bound for Libya in October,” *New York Times*, January 1, 2004; in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [6] Patrick E. Tyler and James Risen, “Secret Diplomacy Won Libyan Pledge on Arms,” *New York Times*, December 21, 2003; in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [7] For further information, see “United States Announces Proliferation Security Initiative to Interdict Shipments of WMD and Missile-Related Equipment and Technologies,” *NIS Export Control Observer*, June 2003, pp. 11-13, <<http://cns.miis.edu/nis-excon>>. [8] For further information, see “PSI Group Announces Interdiction Principles, Invites Others to Participate,” *NIS Export Control Observer*, October 2003, pp. 17-19, <<http://cns.miis.edu/nis-excon>>. [9] Andreas Persbo, “The Proliferation Security Initiative: Dead in the water or steaming ahead?” *BASIC Notes*, December 12, 2003, <<http://www.basicint.org/pubs/Notes/BN031212.htm>>. [10] “Proliferation Security Initiative,” Press Statement by Richard Boucher, December 17, 2003; U.S. Department of State website, <<http://www.state.gov/r/pa/prs/ps/2003/27365.htm>>. [11] “Proliferation Security Initiative: Chairman’s Conclusions at the Fourth Meeting,” Foreign and Commonwealth Office, London, United Kingdom, October 10, 2003; U.S. Department of State website, <<http://www.state.gov/t/np/rls/other/25373.htm>>. [12] For further information

about Exercise Pacific Protector, see "Pacific Protector," GlobalSecurity.org, <<http://www.globalsecurity.org/military/ops/pacific-protector.htm>>. [13] "The New Proliferation Security Initiative," *Arms Control Today* interview with John Bolton; *Arms Control Today* website, <<http://www.armscontrol.org/aca/midmonth/November/Bolton.asp>>. [14] "Proliferation Security Initiative: Statement of Interdiction Principles," Fact Sheet, September 4, 2003; U.S. Department of State website, <<http://www.state.gov/t/np/rls/fs/23764.htm>>. [15] "Foreign Ministry Spokesman Kong Quan's Press Conference," September 4, 2003; Ministry of Foreign Affairs of People's Republic of China website, <<http://www.fmprc.gov.cn/eng/xwfw/2510/2511/t25626.htm>>. [16] John Bolton, "'Legitimacy' in International Affairs: The American Perspective in Theory and Operation," Remarks to the Federalist Society, Washington, DC, November 13, 2003; U.S. Department of State website, <<http://www.state.gov/t/us/rm/26143.htm>>. [17] Matthew Lee, "US-led WMD Seizure Scheme Picks up Speed, New Exercises Planned," *Agence France Presse*, December 17, 2003; in Lexis-Nexis Academic Universe, <<http://www.lexis-nexis.com>>. [18] "National Strategy to Combat Weapons of Mass Destruction," the White House, December 2002; The White House website, <<http://www.whitehouse.gov/news/releases/2002/12/WMDStrategy.pdf>>.

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