

Testimony

Peter Lichtenbaum

Assistant Secretary of Commerce for Export Administration

Before the

Senate Committee on Governmental Affairs

Subcommittee on Financial Management, the Budget, and International Security

“International Smuggling Networks: Weapons of Mass Destruction

Counterproliferation Initiatives”

June 23, 2004

Chairman Fitzgerald, Senator Akaka, and Members of the Committee:

Thank you for the opportunity to testify today on the U.S. efforts to address the threat posed by the international smuggling of weapons of mass destruction (WMD) technologies.

As you know, the mission of the Commerce Department’s Bureau of Industry and Security (BIS) is to advance U.S. national security, foreign policy, and economic interests through the implementation of U.S. export control policy on dual-use commodities, software, and technology. In addition, BIS is charged with enhancing compliance with and enforcement of

U.S. export controls worldwide, and endeavors to promote the development of effective export and transit control systems in key countries and transshipment hubs.

Implementing Effective U.S. Export Controls and Strengthening International Controls

Export controls provide the first line of defense against the proliferation of WMD technologies. Dual-use items subject to BIS regulatory jurisdiction have predominantly civilian uses, but also have military, proliferation, and terrorism-related applications. BIS's principal objective is to ensure that direct exports from the United States and reexports of U.S.-origin items from third countries are consistent with national security and foreign policy interests, without imposing unnecessary regulatory burdens on U.S. exporters or impeding the flow of legitimate trade. The ultimate goal is to prevent U.S.-origin items from falling into the hands of rogue nations, terrorists, and those who would use the goods and technologies against us and our allies.

However, controlling the release of U.S. technologies alone is not sufficient. Many of the most sensitive items are available in countries throughout the world. Therefore, it is imperative that the U.S. government work with international suppliers in order to effectively control the export of sensitive items. Our focus is on improving and implementing the controls agreed to in the four multilateral export control regimes: the Nuclear Suppliers Group (NSG), the Missile Technology Control Regime (MTCR), the Australia Group (AG) (chemical and biological

nonproliferation), and the Wassenaar Arrangement (WA) (conventional arms and dual-use goods and technologies).

The United States continues to lead efforts to strengthen the multilateral regimes by modifying the control lists and refining existing control entries to ensure that they address current technological developments. In addition, the multilateral export control regimes have acknowledged the importance of controlling the export of any item intended for use in a WMD program or delivery system – so-called “catch-all” controls – and addressing the threat of international terrorism. Although export controls cannot solve the threat of terrorism alone, they play a critical role in denying terrorists and proliferators some of the critical tools they need for their hostile operations. Thus, the fight against terrorism must include adding new items to the multilateral control lists to focus on the threats posed by terrorist and sub-national groups, rather than exclusively on military programs of potentially hostile states.

The international community increasingly recognizes the need to strengthen export controls globally, *i.e.* beyond the existing multilateral arrangements. The most forceful expression of this concern is the recent United Nations Security Council Resolution 1540 (2004), enacted after President Bush proposed it last fall. Resolution 1540 calls on all states to adopt and enforce effective export controls to prevent the proliferation of WMD, their means of delivery, and

related materials. In addition, the following statements demonstrate this high-level political commitment:

- 2004 G-8 Action Plan on Nonproliferation;
- the 2003 joint U.S.-EU statement on WMD proliferation;
- Commitments made by Asia-Pacific Economic Cooperation (APEC) member economies to strengthen their national export control systems in the October 2003 APEC Leaders' Bangkok "Declaration on Partnership for the Future"; and
- the 2003 "Basic Principles for an EU Strategy against Proliferation of Weapons of Mass Destruction" and the associated Action Plan, where the EU Council decided to include non-proliferation commitments that contain export controls requirements in its Association Agreements and other economic or assistance accords with non-EU members.

BIS, as the lead U.S. licensing and enforcement authority for dual-use export controls, participates in U.S. government efforts to build a more effective international system of export controls, by assisting other countries to develop effective export controls.

Commerce's Role in Assisting Other Countries to Develop Effective Export Controls

Export Control and Related Border Security (EXBS) Program

As part of the Department of State's Export Control and Related Border Security Assistance (EXBS) Program, BIS conducts an active program of technical exchanges with more than thirty countries that need assistance in developing an infrastructure for effective national export controls. In April 2004, BIS transformed its ten year-old Nonproliferation Export Control

Cooperation (NEC) program into the Office of International Programs, which plays the leading role in the Bureau's role in cooperative assistance programs.

BIS has developed a Model Country Plan to guide its technical exchange work. The Plan currently identifies 57 outcomes in five functional areas to support the development of an effective national system of dual-use export controls. The five functional elements of the Model Country Plan are:

- the legal basis and framework for non-proliferation and anti-terrorism export controls;
- export control licensing procedures and practices;
- export enforcement;
- industry-government relations; and
- program administration and export control system automation.

Working with other U.S. agencies in the EXBS program, BIS designs a specific program to meet the dual-use export control needs of each country, and then employs an appropriate set of customized training from 54 regularly updated courses.

During Fiscal Year 2003, for example, BIS organized or coordinated 74 bilateral technical exchange workshops and one multilateral conference as part of and in conjunction with the EXBS program, as well as participated in several other exchanges organized by other agencies. The 75 total activities completed in Fiscal Year 2003 represent an increase of 42 percent over

Fiscal Year 2002.

Examples of the activities undertaken during Fiscal Year 2003 ranged from assisting foreign nations draft legislation to helping companies in those countries adopt effective compliance programs. BIS led cooperative bilateral export control workshops with Armenia, Azerbaijan, Bulgaria, the Czech Republic, Georgia, Hungary, India, Kazakhstan, the Kyrgyz Republic, Moldova, Poland, Romania, Russia, Slovakia, Slovenia, Tajikistan, and Ukraine, and participated in other multilateral EXBS program activities, such as the Global Transshipment Controls Enforcement Workshop in Sydney, Australia. As a function of these and prior exchanges, BIS helped remedy 39 targeted deficiencies in the infrastructure of dual-use export control systems of cooperating countries. This is an increase of more than 50 percent over the number of deficiencies remedied in Fiscal Year 2002.

In addition to the legal, regulatory, and enforcement expertise that the Bureau provides to the EXBS program, BIS has developed several sophisticated software training tools now in use in several key countries. The Internal Control Program (ICP) software tool, created in 1998, provides companies with self-paced training, searchable databases, and procedure development assistance related to their respective national export control systems. So far, the Bureau has – with EXBS program coordination and funding – made the ICP software available to over 5,000 overseas-based organizations that export dual-use items in Russia, Ukraine, Poland, Hungary, Romania, Kazakhstan, and elsewhere. Several countries now include ICP requirements in their

national laws as a result of this program.

Most recently, BIS, under the auspices of the EXBS program, developed the Product Identification Tool (PIT), which provides training components, a search engine, aids for developing procedures manuals, and an extensive database of controlled items (including photographs) that allow officials in the field to match such items with key trade document information and distinguish between legitimate commerce and suspect transactions. After fitting the baseline PIT to new Russian export control laws, regulations, and procedures, the Government of Russia has begun deploying the PIT in its regional customs centers in preparation for deployment to more than 150 customs posts. A similar project has begun in the Ukraine.

International Export Control Outreach Seminars

BIS also conducted four International Export Control Outreach Seminars in 2003 with the goal of providing key export control related information beneficial to companies that use U.S.-origin parts and components for manufacturing and assembly; companies that use U.S. origin systems, software or technology to develop foreign-made products; and companies that reexport these items. Over 1,000 participants attended the BIS conferences in Japan, South Korea, Singapore, and the People's Republic of China, and came away with a better understanding of U.S. export and reexport control policies and procedures.

Transshipment Country Export Control Initiative (TECI)

In 2002, Commerce launched its Transshipment Country Export Control Initiative (TECI) to increase cooperation and dialogue on export controls and transshipment trade with government and industry in nine major transshipment hubs: Cyprus, Hong Kong, Malaysia, Malta, Panama, Singapore, Taiwan, Thailand, and the United Arab Emirates. Although some of these countries have developed good export control systems, none of them participate in all four of the export control supplier arrangements, all are major hubs for high-technology products, and they all operate near countries of concern.

Under TECI, BIS already has made significant progress toward creating a new public-private partnership on “Best Practices” for export controls with entities engaged in shipping, air cargo, freight forwarding, port operations, and other aspects of transshipment trade facilitation, and created new guidance on re-export controls for U.S. dual-use items. BIS has also oriented more of its efforts to conduct industry outreach and preventive enforcement toward TECI economies, such holding recent seminars on U.S. export controls in Singapore (as well as Tokyo and Seoul) and placing export control attachés in Hong Kong and Abu Dhabi (as well as Moscow, Beijing, and soon New Delhi). It also established a new confidentiality arrangement to enable more effective exchanges of licensing and enforcement information with Hong Kong authorities.

In Fiscal Year 2004, as part of the State Department’s EXBS program, BIS has begun to increase the number of technical exchanges and start new technical bilateral exchange programs with Pakistan, Thailand, and Turkey. It also has begun to deploy new Web-based training tools.

All of these BIS efforts provide countries with the knowledge, skills, and abilities to fulfill their commitments under UNSC Resolution 1540 (2004) and various treaty obligations to deter and prevent the proliferation of WMD, their means of delivery, and related items to countries of concern or terrorists. Ultimately, these programs protect against terrorists and others who would threaten our country's national security.

Commerce's Role in the Proliferation Security Initiative (PSI)

Finally, BIS has been an active participant in the President's Proliferation Security Initiative (PSI). Although the Departments of State and Defense have provided most of the policy and operational leadership, BIS has participated in the interagency committee that has had the task of practical development and implementation of the PSI.

In particular, BIS contributed to the development of the PSI Statement of Interdiction Principles, the strategies for outreach to other governments to support the PSI, and has had the lead in developing an industry outreach strategy. BIS anticipates that its role in PSI activities will increase as we work with industry and the law enforcement communities worldwide.

Conclusion

Through the important initiatives I have just described, BIS is actively working with other U.S. agencies to counter the proliferation of WMD technologies by strengthening export controls

both at home and abroad, working with foreign countries to develop effective export control systems, conducting international outreach seminars, addressing transshipment concerns, and implementing the President's Proliferation Security Initiative.

Thank you.