

# THE INTERNATIONAL CONTROL OF THE ARMS TRADE

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## INTRODUCTION

The international arms trade is worth of billions of dollars annually, and contributes significantly to many nations' international trade balances. The great powers dominate global arms sales. During much of the Cold War the Soviet Union was the world's largest arms seller. In recent years, however, the United States has replaced the former Soviet Union as the leading seller to both developed and developing countries. The Cold War fostered the development of complex and long-term supplier-recipient relationships in arms sales. Put most simply, the transfer of arms was used to communicate resolve, political alignment, and to enhance the credibility of security guarantees. These supply relationships are important because they set the overall framework for post-Cold War developments. The selective breakdown of these stable supplier-recipient pairs has created a much more varied and complex international arms transfer system. International arms sales are now much more subject to competitive market pressures than was true in the past. In addition, where before political or foreign policy considerations were preeminent in ensuring that controversial transfers took place, of late transfers — even of avowedly conventional systems — are now attacked as contributing to the proliferation of violent means throughout the world.

Traditional non-proliferation thinking — deriving from concerns with weapons of mass destruction — is now asserting itself in the conventional arms area (1). It is doing so, however, with only limited success. Quite simply, there is no international norm against the trade in conventional

(1) In accordance with this trend, October 20 1993 saw the release by the UN Secretary General of the first UN Register of Conventional Arms. This report — with the participation of 80 nations — indicates an attempt to increase the level of transparency present in the arms trade.

While not officially designed as a control measure, the Register sets a precedent of official statements on weapons trade, which may in future serve as the basis for discussions on regula-

arms The economic importance of defense trade is increasing, as domestic markets in the developed world continue to shrink In turn, states continue to enjoy the legitimated right to procure defensive weapons in order to protect their sovereign independence. While modified in particular cases, this right serves as a basic constitutive element in the international system of sovereign states (2). This situation differs from that of nuclear weapons, where an international regime — the Nuclear Non-Proliferation Regime — enshrines a norm *against* the spread of nuclear weapons. That regime also articulates differential rights for weapons and non-weapons states, something which many developing countries continue to find objectionable. In conventional arms and military equipment, however, developed states remain both the leading producers and the leading innovators. Because this is the case, national export controls — and multilateral coordination of these regulations — constitute the chief framework for controlling the trade in conventional arms.

#### EXPORT CONTROLS AND THE ARMS TRADE

Each of the major suppliers has laws that govern the sale of weapons by firms based within their borders. Because much of the arms trade is generated by political decisions made during bilateral discussions between states, agreements defining special procedures for payment, systems integration and the provision of maintenance and training are negotiated between governments These framework agreements, or Memoranda of Understanding (MoUs) establish the *requirements*, for which weapons are procured. The agreements commonly set up expected levels of offset benefit for recipient states. In these arms transfer agreements, defense contractors interact with both supplier and recipient governments. Nonetheless, umbrella agreements of this type reduce the levels of business risk for defense firms. Frequently export insurance and concessionary state financing are a part of these arrangements. Recipients may also prefer to negotiate with foreign defense firms through such agreements, as they mean that transferred weapons systems will include the experience and systems integration capabilities of the supplying state's armed forces (3).

tion of the trade in destabilizing or dangerous weapons systems. See Malcolm CHALMERS and Owen GREENE, *The United Nations Register of Conventional Arms: An Initial Examination of the First Report*.

(2) The cases of UN-imposed arms embargoes against South Africa, the belligerents in the Bosnia-Herzegovina Conflict, and of course Iraq, are of chief importance here.

(3) An example of this type of agreement is the Al Yamamah arrangement signed by the United Kingdom and Saudi Arabia in 1986. Valued at over 12 billion pounds, this arrangement satisfies the recipient requirement for rapid and robust systems design and integration, and the suppliers desire for certainty in medium-term production planning. See Robert SHRIMSLEY, '19000 Jobs Secured by Saudi Jets Deal', *The Daily Telegraph*, 29 January 1993.

Arms export controls are generally based around lists of proscribed items (i.e., weapons, dual-use technologies, military equipment), proscribed destinations (country lists) and end-use certification. For the arms trade the most important list was that maintained by the COCOM (Coordinating Committee for Multilateral Export Controls). The COCOM International Munitions List consists of proscribed ammunition, precursor systems, and explosive materials that are subject to regulated transfer (4). COCOM was aimed at preventing the transfer of these items to the Soviet Union or its Warsaw Pact Allies (5). In the last few years, however, discussion has turned towards preventing the spread of certain technologies to potential proliferator nations in the South. This trend is further evidenced by the plans for a successor to COCOM which will have an explicitly anti-proliferation mission (6). Two things are important in this situation. First, COCOM was made up of the NATO nations (plus Japan and Australia and minus Iceland), and thus was designed to police an embargo aimed at containing the Soviet Union and its allies. This means that the convergence of national controls items lists toward the COCOM norm was a product of a shared threat consensus, *and* the persistent superiority of the United States as the leading weapons supplier to almost all of the COCOM nations. US superiority itself had material, technological and political aspects. As the only superpower within the COCOM group, the United States exercised a key role in reinforcing collective guidelines with coercive (and sometimes punitive) measures against member states who adopted weaker controls regulations (7). Most recently, this pattern is exemplified in the Missile Technology Control Regime (MTCR). This regime, founded in April 1987, regulates the transfer of technologies applicable to ballistic and cruise missiles. Two categories of items are regulated : whole systems, and associated support equipment ; and subcomponents and materials associated with missile manufacture. US legislation — variously the Missile Technology Control Act of 1991, and the special Enhanced Proliferation Control Initiative of February 1991, both mandate sanctions against countries which trade in ballistic missile-related technologies in ways which contribute to the proliferation of these systems. More narrowly still, the Helms Amendment

(4) Stuart MACDONALD, *Technology and the Tyranny of Export Controls : Whisper Who Dares*, (London : MacMillan, 1990), p. 12.

(5) In addition, China, Albania and Cuba were also targets of COCOM regulations.

(6) See David MUSSINGTON, « Defense Exports Seek New Framework », *International Defense Review*, 3/1994.

(7) The US reaction to the Toshiba-Japan export of precision machine tools to the Soviet Union (which aided the Soviets in more precise machining of submarine propellers, thus making these vessels considerably quieter and more difficult to detect), provides a case in point. US Congressional opinion wished to prevent Toshiba from exporting any products to the US for a period of years. While this threat was not carried through, US law continues to discriminate against those foreign destinations that do not adopt COCOM-comparable regulations on the retransfer of US-origin technology. It is these US re-transfer regulations that constitute the back-bone of the COCOM system of technology export controls.

to the 1990 Arms Export Control Act stipulates that the President of the United States is obligated to impose sanctions on any state contributing to the proliferation of ballistic missiles. This law led to sanctioning of the Indian Defense Research Organization (IDRO) and the Russian Glavkosmos enterprise in 1993. The potential transfer of cryogenic engine technology from Russia to India triggered this situation — which was eventually resolved through negotiations between the US and Russia. The application of such regulations to Western nations would undoubtedly produce considerable controversy. The potential for such clashes of interest is considerably greater now that the Soviet threat no longer exists to discipline the behaviour of the NATO allies.

Secondly, and more importantly, the Cold War inflated the size of NATO-area defense procurement budgets. The Soviet threat justified very large defense expenditures, and provided markets for defense industries of appreciable size in most NATO nations. The disappearance of this threat means that the economic viability of many national defense industries is now under threat. Even industries in the former bloc leader, the United States, face a wrenching adjustment to a smaller domestic defense marketplace (8). Smaller domestic markets have increased the relative importance of foreign markets to defense industries throughout the West. In turn, an industry that was previously the least export-dependent, the United States, is now more dedicated than ever to increasing its international market share. This means that aggressive competition among the Western allies is rapidly eroding prospects for a coordinated policy on conventional arms transfers (9). Where previously the conflict between the Soviet Union and the United States provided a political framework that effectively divided the global conventional arms market into two halves, the new situation is one of much more varied and aggressive competition. Western nations now compete among themselves for arms sales overseas. This competition involves both price and non-price elements, as is explained below.

(8) Robert HOLZER, « US Navy Boosts Conversion Efforts », *Defense News*, August 9-15, 1993, (vol. 8, no. 31), p. 31.

(9) The most high profile attempt at achieving supplier consensus regarding arms transfers was the abortive P-5 process, launched in the aftermath of the 1991 Persian Gulf War. The Permanent Five Members of the UN Security Council failed to agree on concrete guidelines for prior consultation on arms transfers, but did set up largely « empty » categories which described transfers which were to be avoided. These included transfers to regions of ongoing conflicts, arms transfers which constituted a form of economic intimidation, and « destabilizing transfers » which threatened to transform a regional military balance. The process finally foundered after China withdrew from the consultations in protest at the US agreement to sell 150 F-16 attack aircraft to Taiwan. This arms transfer agreement was quickly followed by France's agreement to transfer 60 Mirage 2000-5 combat aircraft, in addition to a quantity of air-to-air missiles. Again, the economic costs of eschewing a weapons order were apparently unbearable.

THE FORMER SOVIET UNION  
AND CONVENTIONAL ARMS SALES

The major victim of the end of the Cold War — in terms of diminished arms sales — has been Russia and the other newly independent states of the former Soviet Union (FSU). The bulk of defense industries in that country were located in Russia, Belarus, Ukraine and Kazakhstan. Of these countries, Ukraine and Russia possess the lions' share of the heavy industrial capacity in tank and truck production. The aerospace and rocket/space-launch vehicle assembly capabilities are dispersed within Belarus, Ukraine and Russia. These latter capabilities have suffered a particularly severe downturn due to the disappearance of markets among the nations of the former Warsaw Pact. Faced with disappearing domestic procurement, and the collapse of foreign markets, the defense industries of the FSU have pressed their governments for concessionary financing for defense conversion, and for export financing — in pursuit of foreign markets. Thus far, little success has been evident from these efforts. Russia and Ukraine in particular, remain intent on turning what they see as a strategic asset — their prowess in defense production — into a generator of foreign exchange income. This means that defense markets in the developing world are under assault by a «new entrant» with competitive technologies in many areas, but with dubious reliability in terms of longer-term supply (10). Prices from these countries are invariably lower than those of Western nations. Similarly, however, concerns with interoperability with previously imported Western systems is a significant barrier to the adoption of Soviet-designed systems.

(10) It seems legitimate to treat Russia, Ukraine and some of the other new states of the former Soviet Union as new entrants for the following reasons. Under the old Soviet Union arms sales were more frequently political transactions, involving barter and counter-trade, or long-term stretchouts of payments for transferred weapons. Under the current system, hard cash (or something close) is the *sine qua non* of their defense trade. These countries are also using arms transfers as a means to pay down foreign debt obligations, though some countries are unwilling to accept such arrangements. In 1992, for example, South Korea refused to accept MiG-29 aircraft and other defense equipment in repayment of more than \$ 1 billion owed to them by the Russian government. Within East-Central Europe and the FSU, however, these arrangements have been more successful. One such case was the swap of MiG-29 aircraft for debt between Hungary and Russia in early 1992. See «Weapons Systems», *Atlantic News*, no. 2359, 30 June 1993, p. 3.

**TABLE 1**  
**Arms Transfer Agreements with Developing Nations,**  
**By Supplier 1988-92**  
**(in millions of constant 1992 US Dollars) (11)**

	1988	1989	1990	1991	1992
United States	10058	8361	19485	13965	13565
Russia	14130	11676	10665	5920	1300
France	1506	4448	3232	2756	3800
UK	811	1112	1616	2041	2400
China	2896	1779	2262	408	100
Germany	232	445	323	1021	700
...	...	...	...	...	...
Italy	232	222	215	0	400
All Other European	2201	2224	2478	1531	800
All Others	3359	1890	1939	919	800
<i>Total</i>	35423	32157	42215	28562	23865

As is clear from Table 1 the international market is quite depressed, having peaked in 1990 after a decline in the two previous years. The US share of this declining market has also risen. Its 1992 total still shows, however, that the days of ever increasing developing world arms acquisitions are probably over for good. The figures thus verify that the increased competitiveness of the international arms marketplace is occurring at the very same time that the market itself is shrinking after a short increase in arms transfer agreements immediately following the Gulf War (12). The system for regulating arms transfers thus faces a considerable challenge. None of the major suppliers has an independent interest in reducing its exports. At the same time, defense sector employment in these countries is probably going to fall throughout this decade. The restructuring of defense industries in the United States and Westert Europe is but one result of these changing market conditions.

#### DEFENSE SECTOR READJUSTMENT AND ARMS TRANSFERS

The rapid pace of mergers and acquisitions in the defense sector in the West is producing a much more export-oriented global defense market. In the United States, firms which previously sold much of their production to the Department of Defense are now seeking to exploit foreign markets. As

(11) Richard GRIMMETT, *Conventional Arms Transfers to the Third World, 1985-92*, (Washington DC : Congressional Research Service, July 13, 1993), p. 50.

(12) Philip FINNEGAN, « Economic Lull Slows Gulf Nations Buying Spree », *Defense News*, December 13-19, 1993, (vol. 8, no. 49), p. 32.

such, systems integrators such as Lockheed and McDonnell Douglas in aerospace, as well as subsystem manufacturers such as E-Systems, Loral and Litton, seek to maintain their current corporate structures through sales of US-designed products to new customers. Historically, European defense industries were much more export-oriented than their North American counterparts. Because this was the case, the design of individual weapon systems in Europe often more readily reflected the different market requirements of developing countries than did US defense products (13). US weapons systems are typically designed for the DoD, and then exported to customers with similar specifications. French systems, for example, have generally been more readily optimized for developing country customers than has been true of US defense products. This historical reality is suggestive of an area of competition between European and US defense firms, the customization of defense products for particular customers. While European firms may enjoy some advantages here, there is little reason to believe that US firms will not quickly adapt to the new market conditions. In turn, the provision of offset benefits to potential customers provides another area where the post-Cold War arms trade will reflect its historical origins. During the Cold War, defense trade offsets — industrial and economic benefits associated with arms transfer arrangements — were used by suppliers to reduce the net cost of transferred weapons to recipients. Under current conditions, recipients are able to demand considerable benefits from arms suppliers. For our purposes, the most important of these offsets are those which involve the construction of industrial facilities in the recipient country, which then are subcontracted by the supplier defense firm for business under an umbrella arms transfer agreement. These links between suppliers and recipients actually expand the level of defense industrialization in developing countries. While none of the major arms transfer recipients are likely to obtain independence from their original suppliers due to accumulated industrial offsets, they *may* obtain selective immunity from embargoes — a measure that the UN has found especially efficacious of late.

More generally, supplier manipulation of recipient defense equipment holdings has produced an equal and opposite response by many developing countries. These countries are now seeking to diversify their supplier base to ensure against cutoffs by a single supplier (14). This behaviour obviously opens new opportunities for suppliers to «raid» each other's historic customers. This creates another potential conflict between major suppliers, and shifts the balance of bargaining power between buyers and sellers heavily against the latter.

(13) Giovanni DE BRIGANTI, « French Await Hugo Saudi Arms Buy », *Defense News*, November 22-28, 1993, (vol. 8, no. 46), p. 18.

(14) Yuri LASKIN and Alla GLEBOVA, « Russian Defence Sales : The Insiders' View », *Military Technology*, 12/93, p. 55.

The arms trade of the 1990s is thus more challenging than ever for those interested in regulating its technology and munitions flows. The major suppliers do not share an interest in sales restraint. The supply-side of the arms market has rarely been as competitive as it is at present. Significant readjustment difficulties are present in the defense sectors of each of the major defense equipment and weapons suppliers. These readjustments are themselves a challenge to policymakers intent upon maintaining significant domestic defense-technology bases, while at the same time ensuring that diminishing defense budgets do not price important weapons research and development out of their reach. This highly inhospitable environment for overall regulation of the international arms trade is evidenced in the failure of the only attempt made to date to adopt informal « rules of the road » in arms transfers — the abortive P-5 discussions on transparency in arms sales. These talks fell apart over three issues : (a) the feasibility of prior consultation among the leading suppliers on arms transfers to areas of ongoing tension ; and (b) disagreement over the definition of « destabilizing » weapons transfers ; and (c) sales of aircraft and naval vessels to Taiwan by France and the United States (among others) (15). These issues, two of which are emblematic of the conflicting interests of suppliers, illustrate of the lack of a developed norm against the transfer of « conventional » weapons. The buyers market that exists at present will continue to array suppliers against one another in developing country markets.

#### SECOND-TIER SUPPLIERS AND INTERNATIONAL CONTROL OF THE ARMS TRADE

If these problems were not enough, Cold War transfers of weapons and production capabilities have created a new class of arms exporting countries. These countries, known in the literature as « second tier » exporters, include Israel, South Korea and Brazil. Together they manufacture versions of prior-generation weapons systems and military equipment for lower prices than the market leaders. More recently, the states of the FSU and East-Central Europe have been added to this category of producers, further exacerbating a problem which had been the product of a more generalized process of technology diffusion.

Countries such as the Czech Republic, Slovakia, Hungary, Poland and Bulgaria each possess — to varying degrees — the ability to manufacture Soviet-era weapons and military equipment. More important, however, are the inventories of surplus weapons possessed by these countries. Reports of arms transfers to belligerents in the Bosnia — Herzegovina Conflict, and

(15) Natalie GOLDRING, « Keep Weapon Transfers in Check », *Defense News*, October 11-17, 1993, (vol. 8, no. 40), pp. 19-20.



to ongoing conflicts in the former Soviet Union, exemplify the unregulated nature of second-tier export activities. For states such as Israel, some residual re-export control is exercised by the original Western suppliers of subsequently upgraded systems. Again, the US habit of extra-territorial application of domestic law on US-origin technology transfers provided one of the few regular and defined limits on the chaos of these sales. In turn, unilateral demarches by the US and other Western nations may succeed in halting particular transfers, but are an uncoordinated response to an increasingly unregulated traffic in surplus weapons.

The second tier exporters now face competition from the traditional market leaders for their cheaper, less advanced versions of proven systems. Where previously these countries were able to specialize in custom « knock-offs » of first-tier systems, they now confront more aggressive non-price interventions into market niches by producers such as the US and France. Sales of surplus aircraft from the US Air Force, for example, could severely impact the marketing of upgrade packages for former Soviet systems in parts of East-Central Europe and in the developing world (16). Marketing of upgrade packages by former WTO (Warsaw treaty Organization) members and Israel threatens to further impede Russian and Ukrainian sale of combat aircraft. On the other hand, both Russia and Ukraine possess considerable inventories of systems which they seek to exchange for rapid hard-currency earnings. All of this behaviour is the logical target of a multilateral regulatory system for conventional arms transfers. That no *single* system has yet emerged to coordinate responses to these phenomena is symptomatic of the lack of interest most governments display in new controls.

#### POLICY RESPONSES TO REGULATORY CHAOS

The foregoing discussion highlighted the structural problems which lie in the way of any regulated control of the arms trade. Existing institutions are seeking to adapt to the new situation through an expansion in their membership, and a reform of restricted items and proscribed destinations. The central difficulty of this approach is the absence of an international consensus on which weapons systems should be regulated, and on which countries should be added — or subtracted — as proscribed destinations. Predictably, attempts at crafting a new system for regulating transfers are based in existing organizations. The most concrete design thus far derives

(16) In fact, the most significant transfers of conventional weapons in the last 2 years have been the « cascaded » transfer of systems within NATO — where Turkey and Greece have been the largest recipients of surplus US and Western European hardware. See Malcolm CHALMERS and Owen GREENE, *The United Register of Conventional Arms : An initial Examination of the First Report*, (West Yorkshire : Bradford University, October 1993), p. 7.

from reform proposals regarding the COCOM system of multilateral export controls. Its East-West focus now superseded, COCOM has of late focused on a proliferation control agenda. Potential proliferators of chemical, biological and nuclear weapons are the new targets. COCOM faced problems in refocusing its attention on a new task. Countries such as Bulgaria, Poland and Russia remained targeted as suspect destinations, while at the same time they were receiving economic and technical assistance in their transitions to market-based democracies. Since Western nations wished to integrate these countries into global export controls regimes, COCOM's continuing existence was an anachronism, and prolonged a political barrier to broadened technical collaboration.

The technology-denial — or strategic embargo — character of COCOM lies in stark contrast to the strong interest shared by developed and developing states in expanding technology trade. Economic incentives to trade dual-use items — and conventional arms — increasingly run contrary to security concerns over transfers. In the absence of the Cold War consensus on controls, developed states are unlikely to expand controls to increasingly important markets in the developing world. COCOM's demise thus exemplifies this lesser consensus on multilateral export controls. A new basis must be found for collaboration on export controls. COCOM's successor organization will seek to balance economic and national security interests in controls. These regulations will be aimed at stemming the proliferation of technologies important to weapons of mass destruction, and to the spread of delivery vehicles (i.e., ballistic and cruise missiles) to proliferation risk states. Disagreement among leading suppliers on the identity of « dangerous » states will likely inhibit coordination of new controls within the new group. Ironically, the post-COCOM multilateral controls organization will probably be weaker than its predecessor.

#### US LEADERSHIP AND EXPORT CONTROLS REFORM

The United States has been the key player in the redesign of COCOM. The election of US President Bill Clinton produced a sea-change in the institutional preferences of the Department of Defense (DoD) that has removed a critical barrier to the redesign of controls. Previously DoD regularly opposed the de-control of items from national and multilateral controls lists; it did this because it was concerned about potential adversaries diminishing US (and Western) technical superiorities in weapons. Other agencies were predictably more interested in preventing damage to US firms that eventuated from the retention of stringent controls. The Department of Commerce was the main advocate of a selective relaxation in controls, with the Department of State wishing to use foreign policy controls as diplomatic levers in relations with particular countries. The inter-

agency debates in export controls policy in Washington are thus frequently complicated by disagreements over basic priorities. DoD preferences are now radically altered, with a focus on tight controls around a drastically reduced number of dual-use technologies. In turn, the new Nuclear Security and Counter Proliferation position in DoD centralizes planning for export controls reform together with military planning for post-proliferation responses. Many of the ideas driving the new multilateral export controls organization derive from DoD principals' shaping of US negotiating positions.

Legislative guidance for export controls has frequently been incoherent, with the Export Administration Act — a law with its origins in the late 1940s — still providing the fundamental basis for controls activities. In the face of differences between the Reagan and Bush Administrations and the US Congress over controls policy, *ad hoc* extensions of controls authority took place under subsidiary legislation, such as the Intertational Economic Emergencies Act. Former US President George Bush used this law for his Enhanced Proliferation Control Initiative (EPCI) in the aftermath of the Gulf War. In the last fiscal year, the Export Administration Act received a one year extension, pending a comprehensive redrafting the law scheduled for completion in June of 1994

At present, more than 12 legislative initiatives for the relaxation of export controls laws have been tabled in the US House of Representatives and the senate (17). In turn, business lobbies with advocates within the Clinton Administration are united in their opposition to the continuation of what they term « unilateral denial » in export controls. This means that the US is increasingly unwilling to maintain its historically more broad export controls regulations. Instead, it will seek to harmonize its regulations with those of its Westert allies. A danger thus exists that controls may « cascade downward » to those of the weakest Westert European COCOM member — as economic competitiveness concerns begin to outweigh non-proliferation objectives in multilateral controls regimes.

Proposals ascendant in the US Congress symbolize significant dissatisfaction with the Administration's leadership on export controls reform. The Departments of State and Commerce are widely criticized for their slowness in reducing unilateral limits on US firms' exports. Ironically, the Commerce Department now has a new ally in the battle for relaxed controls — the new National Economic Council (NEC). This council is charged with coor-

(17) Examples of these proposals include : H.R. (House of Representatives) 3412, sponsored by Representative Toby Roth, and designed to rationalize export controls, and reduce regulation in license processing; Bill S.1055 sponsored by Senator Glenn, designed to overhaul nuclear export controls and contribute to organizational reform at DoE; and, Bill S.1496 submitted by Senator Diane Feinstein, which amends the Export Administration Act (EAA) — the principal US law in export controls, with a view to indexing standards for emerging technologies relative to the commercial state of the art.

minating policies to increase the export opportunities available to US firms. Export controls were long-ago identified as a significant impediment to US trade expansion in the developing world. The NEC raises the political profile of industry objections to expanded controls, and should increase the influence of economic factors in export controls decisions. The Department of State remains, however, the target of considerable criticism on these and other issues (18). In the absence of an increase in activism within the State Department, its importance in export controls reform shifts to that of the chief obstacle to fundamental changes in policy. The centre of decision on policy changes thus shifts away from State and toward other institutional actors — most notably the Department of Defense.

#### THE POST-COCOM ORGANIZATION OF MULTILATERAL CONTROLS

Negotiations among the 17 COCOM member states began in the fall of 1993 on the structure and objectives of COCOM's successor. A decision has been made that COCOM itself will cease to exist on March 31, 1994. It will be succeeded by an organization — as yet unnamed — with a broader membership and a changed mandate. Instead of administering a strategic embargo directed against an agreed enemy, the new grouping will seek to regulate the transfer of dual-use technologies important to the spread of weapons of mass destruction and their delivery vehicles to potential proliferant nations. COCOM's proscribed items lists will apparently be replaced by an enhanced «super-core» list of 8-to-10 technologies, which will be proscribed for transfer to an agreed list of «dangerous countries».

Proscribed countries are likely to be those most frequently identified as «threshold» or «opaque» proliferators — such as Iraq, Libya, North Korea, Iran, India and Pakistan. Disagreement among the leading suppliers on limiting technology trade to these and other countries leads to another aspect of the new organization, the departure from consensus rules on approving transfers. For items not on the «super-core» list, national discretion will determine whether particular transfers go forward. No COCOM-like veto will exist for other members of the multilateral export control regime. Instead, prior consultation on *deliveries* of technologies of concern will be instituted in both the dual-use and munitions areas (19). Inter-

(18) The Under Secretary of State for international Affairs Lynn Davis, is a particular target for bipartisan criticism. Davis is frequently cited as failing to provide leadership in refocusing US non-proliferation policy. This task has, of late, fallen to the counterproliferation initiative deriving from the Department of Defense under Secretary William Perry.

(19) It is anticipated that the Munitions List from COCOM's controls will be retained almost unchanged, it remains to be seen whether the Atomic Energy List will be carried over to the new organization. This particular regulatory structure may be transferred to the Nuclear Suppliers' Group for administration.

estingly, if they develop in anticipated directions, consultations of this type will represent a breakthrough beyond those achieved in either the abortive P-5 arms transfer consultations of 1992, or the UN Arms Transfer Registry.

The new multilateral organization will be much more informal than COCOM. Rather than representing a supra-regime replacing institutions such as the Missile technology Control Regime (MTCR) and the Australia Group, the new organization will have *as criteria for membership* adherence to each of the major non-proliferation regimes — the MTCR, the Australia Group, the Nuclear Suppliers Group (NSG) and importantly, accession to the Nuclear Non-Proliferation treaty. In addition, national export controls systems must meet a minimum standard similar to that required of COCOM-member nations. This requirement will present near-term difficulties for many countries in the former Warsaw treaty Organization. Most importantly, Russia — a founding member of the new organization — may not meet its requirements for a robust export controls system. Thus from the outset, the new organization will confront a weakened set of coordinated controls than existed in the old COCOM system. Assistance to states in the former Soviet Union and east-central Europe in export controls administration was forthcoming in both the COCOM-coordination forum and the NATO Cooperation Council (NACC). These efforts will likely continue, as the export controls of these former adversaries come to constitute the weakest link in the redesigned Western framework of export controls.

#### THE IMPLICATIONS OF THE NEW SYSTEM

The new multilateral export control system will probably be weaker than the system it replaces. This is true primarily because of the absence of a consensus on target-nations equal to that present in COCOM. The diffuseness of the proliferation threat — with disagreement on tactics and strategy among the leading supplier nations — inhibits the multilateral coordination of export controls. The participation of the former Soviet Union also complicates controls efforts. In particular, the under-developed export controls frameworks of these nations represent a critical new weakness in an expanded Western technology control system. In the short-run, this weakness will likely slow the relaxation of intra-regime (within the COCOM-successor) controls, thus exacerbating disagreements among regime members on controls implementation.

The increasing importance of economic issues in export controls debates also poses a challenge to the new system. This fact emerges in two areas, the expansion of technology trade with developing countries, and in the provision of assistance to the states of the former Warsaw Pact. For developing countries, the new multilateral organization may appear as a

plot by industrial countries to limit their access to conventional arms and dual-use technologies. Even beyond its ethical dimensions, this perspective is likely to seriously complicate North — South diplomacy in related proliferation control areas — especially in the light of the 1995 Npt Review and Extension Conference. The opening of the Chemical Weapons Convention (CWC) for signature in 1993 also increases the likelihood of controversy over export controls reform. In particular, the continuing application of Australia Group controls on dual-use materials transfers to CWC signatories may reduce the incentives for developing countries to accept constraints on their behaviour (20).

States in the former Soviet Union wish to export conventional weapons and dual-use technologies as a way to finance defense conversion. The new multilateral export controls may inhibit their ability to trade with developing states — the states with whom they enjoy their most significant comparative advantages in trade. The economic losses to already depressed industries could be quite severe. This may produce political obstacles to technology trade restraint similar to those present among the Westert allies. The absence of robust export controls systems in the FSU adds another complication to the new system. What, for instance, is to prevent the cascading reduction in export controls barriers as an economic competition measure among these countries? In the absence of appreciable Westert economic assistance this danger — which exists in weaker form for entire multilateral export controls effort — may seriously weaken non-proliferation regimes.

This last point draws particular importance from an institutional peculiarity of COCOM. COCOM's regulations were implemented in national export controls legislation. Variation in controls among member countries was mediated by the existence of COCOM controlled-items lists, and consensus decision-making on grey-area transfers. The new «super-core» list will maintain restrictions on the most important items. On more ambiguous dual-use items, however, increasing variation in controls is likely. Economic competition among technology suppliers will likely promote competitive reductions in controls coverage, thus expanding the diffusion of dual-use technologies. This fact alone exemplifies the broader tension between economic and security imperatives which the new organization will be forced to reconcile. In the absence of US leadership, it is unclear whether the international community will be able maintain a uniform approach to regulating dual-use technology trade. Economic factors are now critical determinants of government policies in arms and dual-use technology transfers, further complicating the operation of international controls efforts.

(20) A similar point can be made with respect to NSG limits on dual-use transfers to NPT Non-nuclear weapons states.

More broadly, the difficulties of consensus management will likely increase in the future. Differences among the Western allies, and the predictable «teething pains» of collaboration with former adversaries in the former WTO, will almost certainly inhibit the emergence of a multilateral regime to regulate arms transfers. The UN Arms transfer Register is, perhaps, the only concrete measure at increasing the transparency — and potential for restraint — in international arms transfers. This measure is not, however, control of the arms trade. Instead, it is what some hope is a first step to an agreed upon database for UN action. A less charitable view is that the Register represents all that could be agreed, signifying the limits, rather than the first step, in agreement on regulating the arms trade. The reform of the COCOM organization points in a slightly less cynical direction, signifying as it does an attempt to increase routinized international discussion on arms and dual-use technology transfers. It is, perhaps, not too much to say that events may swing either toward or against international arms transfer restraint depending upon the states involved in the discussions. Until structural barriers to collaboration recede somewhat, continuing dialogue among some of the major arms exporters is, perhaps, the only positive element in the current international setting.