



**9TH INTERNATIONAL
EXPORT CONTROL
C O N F E R E N C E**

Cavtat • Croatia • 2008

Licensing Discussion Group

Co-facilitators: Spencer Chilvers & Anne-Charlotte Wetterwik

Licensing: Extraterritoriality

- ▶ Questions were raised regarding the utility of adding extra-territorial provisions to national strategic export controls.
- ▶ Attention was drawn to the difficulties of providing effective enforcement of extraterritorial provisions particularly in terms of gathering evidence, securing convictions or applying penalties against non-resident nationals.
- ▶ It was suggested that in the absence of other penalties national authorities could withdraw or refuse to renew passports.

Licensing: Brokering

- ▶ Some countries have provisions for the registration of brokers with national authorities while others do not. Additional countries are considering adopting brokering controls.
- ▶ Should license applications for brokering activities require the same grounds for refusal as traditional export licenses?
- ▶ Outreach to brokers is important for the success of trade control efforts and should be increased wherever possible. However, it was acknowledged that this is difficult to achieve.
- ▶ The adoption of brokering controls is frequently driven by concerns over trade in SALW. However most adopters of these controls extend them to all forms of conventional weapons.
- ▶ The adoption of UNSCR 1540 has increased pressure for the extension of brokering controls to dual-use items.
- ▶ When adopting brokering controls it is important to focus laws and regulations on the activity rather than the individual engaged in the activity.

Licensing: MANPADS

- ▶ The potential for certain weapon types usually traded in small numbers, such as MANPADS to have disproportionately high security impacts justify special efforts to ensure their effective control in terms of both licensing and enforcement.
- ▶ From a licensing perspective it is essential to coordinate the activities of all affected agencies along with maintaining effective stockpile control.

Licensing: Export Control Lists

- ▶ A particular concern was how countries could go about incorporating regime control lists into their national legislative, regulatory and enforcement structures and practices.
- ▶ It became clear that there is wide international interest in the EU control lists which many nations have, or are considering incorporating into their national systems of trade control.
- ▶ The need for more training and outreach to interested parties in the public and private sectors was highlighted.
- ▶ There was interest in input on how best to ensure that changes in regime control lists are incorporated into national control systems in a timely fashion.
- ▶ The question of how non-members of international control regimes can provide input to the technical discussions underpinning changes in regime control lists was raised.
- ▶ With the new tool available that in UNSCR 1540 the way may open in the future for the establishment of international guidelines and control lists.

Licensing: Export Control Lists 2

- ▶ There is a need for the ongoing provision of tools to assist countries that have recently adopted or implemented new national strategic trade control systems.
- ▶ How are national control lists to be maintained and kept up-to-date?
- ▶ The a-la-carte menu of outreach possibilities is being further enabled by new technologies such as online seminars, websites, “training room” and even youtube.
- ▶ A frequent observation drew attention to the availability of items similar or equivalent to those subject to national strategic trade control regimes in other countries.

Licensing: E-Licensing 1

► Implementation

- It is essential to get early buy-in from industry partners.
- Existing systems should be used or adopted wherever possible.
- All associated national customs and licensing agencies should be part of the system.
- Systems should have robust requirements for retention of all original documentation by exporters.

Licensing: E-Licensing 2

► Adoption

- It is important to make a cost-benefit assessment prior to pursuing e-licensing. Some countries may not have sufficient relevant activity to justify the costs of adopting systems of this type.
- How are we to assist customs enforcement officers using systems primarily designed for revenue collection in identifying items on regime control lists?
- US DOE is providing the SCORE tool which will enable customs enforcement officers to better identify controlled items.
- There is a need to ensure that all training information is adequately secured.
- It would be helpful if the legitimate non-WMD uses of controlled dual-use items could be identified in training materials.