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Chapter 1. Export control regimes

Section 1 Overview and present status of export control regimes

The export control regimes are non-legally-binding frameworks for export control coordination, which consist of countries capable of supplying weapons and related dual-use goods and committed to non-proliferation (primarily industrially advanced countries). There are now four export control regimes as listed below which respectively correspond to nuclear weapons, chemical and biological weapons, missiles, and conventional arms.

1. Nuclear Suppliers Group (NSG: Nuclear weapons) and Zangger Committee (Nuclear weapons)
2. Australia Group (AG: Chemical and biological weapons)
3. Missile Technology Control Regime (MTCR: Missiles)
4. Wassenaar Arrangement (WA: Conventional arms)

Japan is a member of all four export control regimes. Export control is a framework to control those who try to obtain weapons of mass destruction and related materials such as countries of concern or terrorist groups from the suppliers’ side. Japan intends to contribute to strengthening these export control regimes while making good use of them.

In each of these export control regimes, participating governments share common understanding on dual-use goods and technologies which could contribute to the development of weapons covered by the relevant regime (e.g. rocket systems itself, high-performance computers, engineering machinery, advanced materials, and software), and these are set out in a detailed list. The participating governments conduct strict national export control over listed items based on their national laws and regulations. Furthermore, in these regimes, information on the activities of states of concern is exchanged. These regimes are also trying to promote stringent export controls in non-participating countries.
On the other hand, the coordination of export control in the export control regimes is effective but is not necessarily perfect, and there are loopholes such as procurement from countries that neither participate in these regimes nor conduct strict export control. In addition, some developing countries show opposition against these export control regimes by saying that the export control regimes are discriminative clubs made up of developed countries that prevent technology transfer. Therefore, it is important for Japan to encourage those countries to participate in efforts for non-proliferation as well as to firmly maintain its own export control. From this viewpoint, Japan emphasizes on the strengthening of non-proliferation mechanisms in the Asian region, and thus has been making efforts to increase the understanding of the importance of export control among countries that do not participate in the export control regimes by actively holding export control seminars with the participation of working-level persons invited from Asian countries and seminars for non-proliferation of missiles, as well as calling for thoroughly strengthening the export control mechanisms.

The four export control regimes mentioned above are explained respectively below.

Section 2 Nuclear Suppliers Group (NSG) and Zangger Committee

1. Nuclear Suppliers Group (NSG)

(1) Overview

The issue of nuclear proliferation was first recognized as the real problem when India conducted a nuclear test (“a peaceful nuclear explosion” according to India) in 1974, although India was under the international system to secure peaceful use of nuclear energy by the IAEA (Safeguards). This event raised awareness of the necessity of attaching conditions to the export of nuclear-related materials and equipment in order to avoid the risk of nuclear proliferation to the greatest extent possible. Based on this recognition, the Nuclear Suppliers Group (NSG) was established in 1978 to coordinate the conditions for their export
among the countries that are capable of supplying nuclear-related materials and equipment.

As of the end of October 2003, 40 countries including Japan participate in the NSG and conduct export control in accordance with the so-called “London Guidelines,” which provide a set of conditions on the export of items used for nuclear energy activities (i.e. “items exclusively for nuclear use”) and related technologies. The subject of export control was subsequently expanded to materials and equipment that are used not only for nuclear energy activities (i.e. dual-use goods) and related technologies as well as for general industries.

Such export control is not exercised as an obligation of NSG participating governments under international law but is implemented in accordance with the national laws and regulations of each member in deference to a guideline that is a gentleman’s agreement.

(2) London Guidelines Part 1

Each NSG member exercises export control of nuclear materials and equipment (items exclusively for nuclear use) and related technologies in accordance with the guidelines called “London Guidelines Part 1.” Under these guidelines, in exporting items placed under export control (such as nuclear materials such as plutonium and uranium, nuclear reactors and their auxiliary equipment, heavy water and reactor-grade graphite, and reprocessing plants and enrichment plants) to a non-nuclear-weapon state, the receiving state is obliged to fulfill the following four conditions: (a) the government of the receiving state shall give formal assurance to the extent that it will not use such items for a nuclear test or other nuclear explosion; (b) the receiving state shall apply the IAEA full-scope safeguards; (c) the receiving state shall take measures to protect nuclear materials from intrusion and contact from the outside; and (d) the receiving state shall receive the same assurance as that which it has given to the original supplying state, from a third country in the case of transferring an imported item to the third country.
(Note) Full-scope safeguards

Full-scope safeguards mean measures such as accounting and control, containment, supervision, and inspection that are implemented for all nuclear materials within the country to verify that the nuclear materials are used only for peaceful purposes and not for nuclear weapons or nuclear explosive devices.

(3) London Guidelines Part 2

The unveiling of the Iraqi covert nuclear development programs after the end of the Gulf War brought awareness of the necessity to include a wider range of items than those stipulated in the conventional London Guidelines in the subject of control. Therefore, the guidelines prepared in 1992 of which negotiations started at the initiative of the United States (London Guidelines Part 2) include nuclear-related dual-use goods and related technologies subject to export control. Hereby, industrial machinery, materials, uranium isotope separation equipment, equipment related to heavy-water production facilities, and equipment related to the development of inner-explosion systems, etc. were newly added to the controlled items. The London Guidelines Part 2 stipulate that exports of nuclear-related dual-use goods and related technologies should not be authorized (a) for use in a nuclear explosive activity in a non-nuclear-weapon state, or in an unsafeguarded nuclear fuel cycle activity, or (b) in general, when the transfers of subject items are contrary to the objective of averting the proliferation of nuclear weapons.

(4) Activities of the Nuclear Suppliers Group (NSG) and Japan’s efforts

The NSG has been holding plenary meetings once a year since 1991, and has been seeking to improve and strengthen the system for controlling exports of nuclear-related materials, equipment, and technologies. The NSG holds the Consultative Group (CG) meeting and several other meetings on an annual basis,
in addition to the annual Plenary Meeting.

The NSG aims to contribute to nuclear non-proliferation through the international export control of nuclear-related materials, equipment, and technologies, but it has recently been expanding its activities beyond coordination of export control among participating governments, as an organization that flexibly deals with various challenges for nuclear non-proliferation. For example, the NSG revised the guidelines to include anti-nuclear terrorism measures in 2002, and expressed concern about suspicion of recent nuclear development in Iran and North Korea by issuing statements at the Extraordinary Plenary Meeting in December 2002 and the Plenary Meeting in May 2003. In addition, the NSG called on countries concerned to exercise strict export control so as to prevent nuclear-related materials, equipment, and technologies from being transferred to those countries.

Japan possesses highly advanced nuclear technologies and is actively promoting the peaceful use of nuclear energy. At the same time, Japan assumes responsibility for strict control of nuclear-related materials, equipment, and technologies that are exported from Japan, in order not to contribute to the development of nuclear weapons by any other country. Therefore, Japan is actively engaged in nuclear non-proliferation efforts through the NSG, and making active contributions to the NSG. One example is that the Permanent Mission of Japan to the International Organizations in Vienna is serving as the Point of Contact for the NSG.

2. Zangger Committee
   (1) Overview

   Article III (2) of the Treaty on the Nonproliferation of Nuclear Weapons (NPT) that entered into force in 1970 stipulates that the Parties to the NPT shall exercise export control over specific nuclear-related materials and equipment. However, it describes subject items only in a considerably general form. Therefore, in July 1970, a consultative body was established at the suggestion of
Professor Zangger in Switzerland in order to discuss the specific scope of nuclear materials, facilities, and equipment subject to export control stipulated in Article III (2) of the NPT, and it is called the Zangger Committee.

As of the end of October 2003, 35 states including Japan participate in the Zangger Committee, and two meetings have been held annually. Items subject to export control are on the Zangger List that was agreed upon in 1974, and export control has been exercised over items on this list.

The Zangger Committee was not established under the provisions of the NPT but is based on the voluntary participation of each state, and the Parties to the NPT are not required to participate in the committee. In addition, as with the NSG, export control according to the Zangger List is not exercised as an obligation of the members under international law but is implemented by the government of each member in accordance with its national law and in deference to the arrangements.

(2) Details of export control

Items subject to export control include nuclear materials such as plutonium and uranium, nuclear reactors and their auxiliary equipment, heavy water and reactor-grade graphite, and reprocessing plants and enrichment plants. When exporting these items to a non-nuclear weapon state that is not a Party to the NPT or re-exporting such items from an importing country, the following conditions must be attached: to apply the IAEA Safeguards to the subject nuclear materials and to nuclear materials processed, used, or produced by using nuclear-related materials and equipment exported.

3. Major differences between the Nuclear Suppliers Group (NSG) and the Zangger Committee

While the NSG and the Zangger Committee have a common objective of contributing to nuclear non-proliferation through international export control, they are different in the following points.
(1) The NSG has been functioning to deal with various challenges against nuclear non-proliferation promptly and flexibly without being restrained by the framework of the NPT. On the other hand, the Zangger Committee is a voluntary meeting that interprets Article III (2) of the NPT, and its activities consistently remain within the framework of the NPT.

(2) In terms of specific activities, export control by the NSG covers items exclusively for nuclear use, dual-use goods and related technologies, while export control by the Zangger Committee covers items exclusively for nuclear use only. In addition, while the NSG requires the application of full-scope safeguards in the receiving country as one of the four conditions for export, the Zangger Committee only requires the application of safeguards to nuclear materials, etc. to be transferred.

In addition, the Zangger List of the Zangger Committee and the Trigger List of the NSG Guidelines Part 1 shall be consistent with each other in the contents, and in the event that either one of the lists is revised, the other list shall be revised to reflect that revision after due consideration.

Section 3 Australia Group (AG)

1. Overview

The UN investigation teams revealed that chemical weapons were used by Iraq in 1984 during the Iran-Iraq War. Many of the materials used for the development of chemical weapons by Iraq were so-called dual-use goods, which were widely used in private chemical industries, acquired through ordinary trade transactions. This fact made countries recognize the need to enhance export control on chemical agents usable for chemical weapons development in order to prevent their own chemical industries from being abused by other countries for chemical weapons development. However, as long as there are differences amongst countries in terms of the scope and the degree of implementation of export controls, countries that seek to develop chemical weapons will continue to procure such goods from other countries that have loose regulations. Therefore,
Australia proposed that the export control policies of countries that have the capability of producing chemical agents should be coordinated. Such countries met in Brussels, Belgium in June 1985 to convene the first meeting.

This framework has come to be called the “Australia Group (AG)” as it was proposed by Australia. Since the first meeting, Australia has acted as the chair and the secretariat. The Australia Group has subsequently expanded the subject of control to chemical weapons-related dual-use goods and technologies and biological weapons-related dual-use goods and technologies, and has been working to prevent the proliferation of chemical and biological weapons to the states of concern through the coordination of export controls of such subjects. As of October 2003, 33 countries participate in the group, and the group holds the annual Plenary Meeting and several other meetings.

2. Coordination of export control in the Australia Group

(1) Overview

The participating states of the Australia Group aim to make their national export control more effective by reflecting the information exchange and policy coordination carried out within the Australia Group in its domestic export control system, for the purpose of achieving the common goal of non-proliferation of chemical and biological weapons.

(2) Items subject to control

Items subject to control as agreed in the Australia Group are:

(a) 54 items of chemical precursors (chemical agents)
(b) 10 items that can be used in chemical weapons production facilities (reactor, storage container, etc.) and their related technologies
(c) 96 types of biological agents related to biological weapons (viruses and toxins against human, animals and plants)
(d) 7 items that can be used in biological weapons production facilities and their related technologies.
In the licensing process of export of controlled items, the governments of participating states conduct careful examination so that these items will not be used for the development of chemical or biological weapons.

3. Japan’s efforts and the AG’s future prospects

Chemical and biological weapons are called the “poor man’s nuclear weapon” since these weapons can be developed and produced relatively cheaply compared to nuclear weapons. Their proliferation is currently considered a serious concern for the international community. Despite the fact that the Chemical Weapons Convention (CWC) and the Biological Weapons Convention (BWC) exist with regard to a comprehensive ban on chemical and biological weapons, concerns over the development of chemical and biological weapons still remain even after the entry into force of these conventions since there are non-party states to the conventions and possibly non-compliant states parties. Therefore, the presence of the Australia Group is significant in complementing those conventions and making the chemical and biological weapons non-proliferation mechanism effective. Japan attaches great importance to coordinating policies and exchanging information with the AG member states regarding export control on chemical and biological weapons-related dual-use goods and technologies through the Australia Group, as one of the pillars of Japan’s efforts in the non-proliferation of chemical and biological weapons.

The Australia Group is an informal gathering that mainly consists of developed countries capable of supplying chemical and biological weapons-related materials. There are persistent criticisms, therefore, from non-participating states including developing countries that the group is exclusive and discriminatory and impedes the development of the biotechnology and chemical industries of developing countries. Thus, the group has been making efforts, including establishing a website and offering explanation to non-participating states, to clarify its purpose and outline of its activities.

Although the efforts for non-proliferation of chemical and biological weapons
have been mostly focused on preventing states from developing, manufacturing and possessing these weapons, the sarin attacks on the Tokyo subway in Japan in 1995 and the anthrax attacks in the United States in 2001 clearly showed that the development, acquisition and actual use of chemical and biological weapons by non-state actors such as terrorist groups is a real threat. In response to such situation, states participating in the Australia Group are unanimous in recognizing the necessity of strengthening measures to prevent the proliferation of chemical and biological weapons-related materials and technologies to non-state actors, and they are further strengthening the functions of the group through expansion of the scope of control.

Section 4 Missile Technology Control Regime (MTCR)

1. Background of its establishment

The Missile Technology Control Regime is an international framework designed to control the export of missiles capable of delivering weapons of mass destruction and related dual-use goods and technologies that can contribute to the development of such missiles. It was established by the G7 in April 1987, encompassing missiles capable of delivering nuclear weapons and related dual-use goods and technologies, and it was expanded in July 1992 to include missiles capable of delivering not only nuclear weapons but also weapons of mass destruction, including chemical and biological weapons, and related dual-use goods and technologies. As of November 2003, there are 33 participating governments including Japan, the EU countries, the United States, Canada, Australia, the Republic of Korea, Argentina, Brazil, and South Africa.

2. Overview

(1) The MTCR is not an international regime based on legally binding international agreements. In the MTCR, participating governments list missiles (including space rockets) and related dual-use goods and technologies (navigation systems, software, etc.) as items subject to export control, and
control export of the listed items through export licensing in accordance with their domestic laws (in Japan, these are the “Foreign Exchange and Foreign Trade Law” as well as the “Export Trade Control Ordinance” and “Foreign Exchange Ordinance” based on the said law, etc.).

(2) Major items controlled under the MTCR are as follows:
Category I items (subject to a strong presumption of denial regardless of purposes):
Systems capable of delivering weapons of mass destruction at least a 500 kg payload to a range of at least 300 km (missiles, space launch vehicles, and unmanned aerial vehicles), etc.
Category II items (subject to careful case-by-case review; but subject to a strong presumption of denial if the system is intended for delivering weapons of mass destruction):
Systems capable of delivering a payload of less than 500 kg to a range of at least 300 km, propellants, structural materials, jet engines, accelerometers, gyroscopes, unmanned aerial vehicles with an aerosol dispensing system (of a certain capacity) (subject to control regardless of the range), etc.

3. MTCR’s activities and Japan’s efforts
Japan has been emphasizing the non-proliferation of missiles from the viewpoint of its own security as well as regional and international peace and security. Therefore, Japan has participated in the MTCR since its establishment and strived for strict export control. Major recent activities are as follows, and Japan intends to contribute to MTCR-based activities in the future.
(1) In addition to export control based on the conventional list of items subject to control, the MTCR has recently recommended the introduction of a system in which an export license is required for export of a non-listed item if the item is likely to contribute to missile development (catch-all control system). (Japan introduced the catch-all control system in April 2002.) At the MTCR Plenary Meeting in Buenos Aires in September 2003, Japan, the United
States, the EU, and Russia submitted a joint proposal to include the implementation of the said system in the MTCR Guidelines, and the proposal was approved.

(2) Furthermore, the MTCR has been appealing to non-participating states at the initiative of the chair, based on the recognition that it is important for not only MTCR participating states but also non-participating states to exercise export control on missile-related materials and technologies. As one of the few MTCR participating states in Asia (Japan and the ROK), Japan has emphasized appeal to Asian countries. Japan hosted the Asian Export Control Seminar in February 2003 to provide an opportunity for the MTCR Chairman who participated in the seminar and ASEAN members to exchange opinions about the non-proliferation of missiles.

**Section 5 Wassenaar Arrangement (WA)**

**1. Background of its establishment**

The Coordination Committee for Multilateral Strategic Export Controls (COCOM), whose purpose was to control the export of strategic materials by the Western states to the Communist states, finished its duties and was dissolved in March 1994 due to the end of the Cold War. On the other hand, frequent occurrence of new regional conflicts such as Iraq’s invasion of Kuwait became a problem. Therefore, the necessity of establishing an export control regime was strongly recognized in order to deal with the new challenge, i.e. preventing the excessive transfer and stockpiling of conventional arms (such as warships and tanks, excluding weapons of mass destruction such as nuclear, chemical and biological weapons) that would threaten regional stability, and the dual-use goods and technologies required to manufacture such weapons. As the result of consultations for more than two and half years amongst the former COCOM states together with Russia, the establishment of a new export control regime was agreed upon in Wassenaar, the Netherlands in 1995, and the “Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods
and Technologies” began operation at the founding meeting in July 1996.

2. Overview

The Wassenaar Arrangement is, so to speak, a gentleman’s agreement without legal binding force. Thirty-three states including Japan are party to the arrangement, and all of these countries are capable of producing and supplying conventional arms and related dual-use goods. These states are committed to taking action to prevent the proliferation of such weapons and dual-use goods. While the targeted area of COCOM was limited to the Communist bloc, the scope of the Wassenaar Arrangement covers all non-participating states and regions as well as non-state actors such as terrorists without targeting any specific countries or regions.

The objectives of the Wassenaar Arrangement is (1) to contribute to the security and stability of regions and the international community by preventing destabilizing accumulations of conventional arms and related sensitive dual-use goods and technologies, and (2) to prevent terrorist groups, etc. from acquiring conventional arms and related sensitive dual-use goods and technologies as part of the global fight against terrorism.

3. Activities

The Wassenaar Arrangement aims to achieve its objective as mentioned above by (1) defining arms and dual-use goods subject to the export control and their performance levels (specifically, by preparing and revising the lists of goods subject to export control along with progress in technologies) through consultations among the participating states, and (2) identifying how many weapons and other dual-use goods are stockpiled through the exchange of various information indicating what arms and/or dual-use goods have been transferred to which countries, etc. The participating states are required to conduct export control based on the lists of goods subject to control as agreed within the Wassenaar Arrangement, and to provide a range of relevant information.
4. Recent developments

In the 2001 Plenary, the basic document or Initial Elements defining the roles and objectives of the Wassenaar Arrangement was revised to highlight the intention to strengthen counter-terrorism efforts. In the 2002 Plenary, the Best Practice Guidelines for Exports of Small Arms and Light Weapons was adopted. Regarding the transfer of dual-use goods usable for military purposes, the Wassenaar Arrangement covers a wide range of goods as subject to export control, and it has developed various notification systems, in addition to transfer notifications, such as the notification system of export denial in which participating states exchange information on denial of transfers to non-WA-participating countries. However, regarding weapons that directly affect regional stability, it has been pointed out that the level of transparency is not sufficient because the weapons subject to transfer notification are mostly limited to the seven items contained in the UN Register of Conventional Arms such as tanks, fighter planes, warships, etc. (see Chapter 4, Part V), and an obligatory notification regime was applied only to transfer notifications but not to denial notifications.

A fundamental review of the Wassenaar Arrangement to strengthen its function has been carried out once every four years to alleviate such problems. In the Plenary in 2003, the year of the second review of function since its establishment, efforts were made to deal with various problems.

First of all, regarding further enhancement of transparency of arms, which is a longstanding concern, small arms and light weapons were added to the lists of goods subject to export control in 2004. Although an agreement could not be reached on the introduction of the notification of denial of arms transfer, discussions will continue to be held towards its introduction. Furthermore, in the wake of simultaneous multiple terrorist attacks in the Unites States on September 11, 2001 and terrorist attack in Bali in October 2002, the role of the Wassenaar Arrangement as part of global counter-terrorism measures came to be valued. Consequently, since 2004, discussion has been held on how the Wassenaar Arrangement can exercise export control of the selected weapons and dual-use
goods, etc. that are considered to be procured or used by terrorists.

Since the start of 2003, US jet fighters have been shot down frequently by Man-Portable Air Defence Systems in Iraq. Against such situation, it has become increasingly important to strengthen the export control of Man-Portable Air Defence Systems (MANPADS). In the Wassenaar Arrangement, “Elements for Export Controls of MANPADS” (agreed in 2000) was revised in 2003 to further strengthen the export control of MANPADS (see Chapter 4). In addition, an agreement was reached on the introduction of the export control regime for items that are not on the lists (catch-all system for conventional arms), enhancement of outreach activities to non-WA-participating countries, and strengthening of control of arms brokering.

5. Japan’s efforts

Japan adheres to the purpose of the Wassenaar Arrangement from the standpoint of maintaining both national security and global peace and stability, and has been actively involved in the establishment process of the Wassenaar Arrangement. Internally, Japan has enacted the related laws and regulations including “Foreign Exchange and Foreign Trade Law,” the “Export Trade Control Ordinance,” and the “Foreign Exchange Ordinance,” and has been implementing strict export control on the dual-use goods and technologies that are subject to the scope of the Wassenaar Arrangement. Japan in principle does not export arms and it strongly advocates the enhancement of transparency of arms transfer in the Wassenaar Arrangement and the UN Register of Conventional Arms. Japan is determined to continue to actively pursue the prevention of conflicts through the enhancement of transparency.
Chapter 2 Non-proliferation of missiles

Section 1 Present status of issue of missile proliferation

The revolutionary invention of V1 and V2 rockets by Germany during World War II drastically changed the nature of warfare. Manned aircraft had formerly been the only means for conducting attacks from the air, but the advent of missiles made it possible to strike targets using highly destructive bombs (missile warheads) launched from a safe distance and cause heavy damage. Through advances in missile technology, missiles have been able to carry not only smaller conventional bombs but also larger ones, even nuclear weapons. The nuclear bombs dropped on Hiroshima and Nagasaki were delivered by B29 bombers, but ballistic missiles are the most effective means of delivering nuclear weapons. Ballistic missiles can reach targets in a very short time once launched, and they are difficult to track by normal radar, as their warheads are much smaller than bombers. Ballistic missiles would cause an enormous catastrophe, even if their accuracy is somewhat low, if nuclear weapons or chemical/biological weapons are delivered.

Therefore, the imposition of restrictions on missiles, which are effective means of delivering weapons of mass destruction including nuclear weapons, is important as a complement to international agreements that prohibit or restrict the manufacture and possession of weapons of mass destruction including nuclear weapons. Yet there are no international agreements that restrict the manufacture or possession of missiles.

In an attempt to prevent the proliferation of missiles, the Group of Seven (G7) established the “Missile Technology Control Regime (MTCR)” in 1987. The MTCR has been making efforts to prevent the spread of missile-related technologies through strict export control, and is also playing an important role today with the participation of 33 states as of November 2003.

However, it is becoming difficult to completely block the proliferation of
missile technologies solely by preventing the transfer of technologies from the advanced industrial countries, as some countries are developing their own missile technology or are receiving cooperation from countries other than MTCR participating states that already possess missiles. The fact that a ballistic missile based on Taepodong 1 launched by North Korea leaped over Japan and landed in the Pacific Ocean in 1998 freshly indicated that missiles may pose a serious threat to Japan. Other than this, India, Pakistan, and Iran have also repeated missile launch tests. Like this, quite a number of countries have come to possess missile technologies. In particular, the Nodong missiles of North Korea constitute a grave threat to peace and stability in Northeast Asia.

Countries concerned about this situation have made efforts to formulate the “International Code of Conduct (ICOC)” in which more states participate. The code aims at establishing norms to confirm the common understanding that ballistic missile proliferation poses a threat to world peace and to have self-restraint regarding the development of ballistic missiles and to ensure that space rocket technologies will not be diverted into ballistic missile development. The “Hague Code of Conduct against Ballistic Missile Proliferation (HCOC)” was successfully launched with the participation of 93 states in The Hague, the Netherlands in November 2002.

As for other international activities, the “UN Panel of Governmental Experts on Missiles” (see Section 5, Chapter 1, Part VII) was convened over the period from 2001 to 2002 to deliberate on the missile-related issues faced by the international community today. After a total of three sessions, a report was submitted to the 57th United Nations General Assembly of 2002. In addition, Russia is advocating the Global Control System (including a pre-launch notification system).

The proliferation of ballistic missiles is an important issue for Japan from the security point of view. It is necessary for Japan to pursue active diplomatic efforts for non-proliferation of ballistic missiles at both bilateral and regional levels and to pursue the formulation of multilateral norms along with defensive measures such as missile defense.
Section 2 Hague Code of Conduct

1. Background of adoption

The Missile Technology Control Regime (MTCR) established by the G7 in 1987 has succeeded, to a certain extent, in preventing or deferring the acquisition of advanced missile capabilities including ballistic missiles by countries that have not adequately committed themselves to international disarmament and non-proliferation efforts, through cooperation in export control of missiles and related dual-use goods and technologies (see Section 4, Chapter 1). The said regime still plays an important role. Nevertheless, as mentioned above, it has become difficult, in fact, to prevent the proliferation of missile technologies solely through advanced countries’ efforts to prevent the transfer of technologies since the proliferation of missiles seems to have become a global trend and the autonomous development of such technology by states of concern is also advancing.

In these circumstances, deliberation on the global framework was started at the initiative of the MTCR. Discussion within the MTCR ended at its plenary meeting in Ottawa in September 2001, and after the universalization process open to all states (Paris meeting in February 2002 (with 78 states) and Madrid meeting in June 2002 (with 96 states)), the “Hague Code of Conduct against Ballistic Missile Proliferation (HCOC)” was adopted in The Hague, the Netherlands in November 2002, with the participation of 93 states.

2. Overview of the Hague Code of Conduct

(1) Legal nature of the HCOC

The HCOC is not a legally binding international agreement but, rather, a document indicating political commitment. Therefore, the development and possession of ballistic missiles by any subscribing state is not legally prohibited or restricted by this document. However, the subscribing states demonstrate publicly their political intention to restrain these activities and refrain from supporting any ballistic missile programs.
(2) Contents of the HCOC

The HCOC mainly includes the principle of the non-proliferation of ballistic missiles, self-restraint regarding the testing, development and deployment of ballistic missiles, the principle that space rocket programs should not be used to conceal ballistic missile programs, the principle of not supporting ballistic missile development programs of states that are likely to be developing weapons of mass destruction in contravention of the obligations and norms of international disarmament and non-proliferation treaties, and confidence-building measures (such as pre-launch notification for ballistic missiles and space rockets, and annual policy reports), though these confidence-building measures do not legitimate ballistic missile activities.

In the process of formulating the contents of the HCOC, Japan made various concrete proposals keeping North Korea’s ballistic missile activities in mind. These proposals are reflected in the principles that space rocket programs should not be used to conceal ballistic missile programs and that the implementation of pre-launch notification does not serve as justification for the launch of ballistic missiles.

3. Future objectives of the Hague Code of Conduct and Japan’s efforts

The future objectives of the Hague Code of Conduct are its further universalization and smooth implementation. Japan intends to contribute to making the HCOC serve as universal and effective norms for non-proliferation of ballistic missiles, for the purpose of its own security as well as regional and global peace and security.

(1) Universalization of the HCOC

As of November 2003, the number of subscribing states to the HCOC increased to 109. For further universalization of the HCOC, subscribing states will continue to urge non-subscribing states to subscribe the HCOC at the
initiative of the Chair of the HCOC (Chile serves as the chair from October 2003 to the fall of 2004).

In cooperation with Australia and the ROK, Japan carried out explanatory meetings about the HCOC to ASEAN members. Japan has encouraged ASEAN members to understand and participate in the HCOC through various opportunities, such as seminars and explanatory meetings hosted by itself and a dispatch of officials concerned (see Section 3 for details). At present, the Philippines is the only ASEAN member that participates in the HCOC, and Japan will continue to encourage other ASEAN members to participate.

(2) Implementation of the HCOC

Japan started to give pre-launch notifications of space rockets for peaceful purposes ahead of other states and submitted the annual report on space rocket policy at an early timing, from the viewpoint of contributing to smooth implementation of the confidence-building measures of the HCOC. This positive attitude toward implementation has been valued by other subscribing states to the HCOC.

Section 3 Japan’s efforts

The issue of ballistic missiles proliferation is one of the most important issues for Japan’s security. There are several ways to tackle the issue such as diplomatic efforts for the state of concern, export control and the creation of a multilateral framework. Japan has been attaching great importance to international coordination within the framework of the Missile Technology Control Regime (MTCR), and has actively participated in the discussions on the International Code of Conduct. Japan has also conveyed its concern to those countries engaged in missile activities of concern on various occasions. In particular, Japan has been strongly urging North Korea to stop the development, testing, deployment, and export of ballistic missiles as North Korea’s ballistic missile activities, including its deployment of Nodong missiles (with range covering
most of Japan’s territory), constitute a grave threat not only to Japan’s security but also to international peace and security.

Seeking to enhance international efforts in the area of ballistic missile non-proliferation, Japan held an informal meeting to exchange views and a seminar with other Asian countries in March 2001 and March 2002 in Tokyo, with the aim of developing a common view on the issue of proliferation of ballistic missiles and promoting more independent-minded efforts. Ahead of adoption of the HCOC, Japan carried out three explanatory meetings about the significance of the HCOC to ASEAN members in cooperation with Australia and the ROK. After adoption of the HCOC, Japan urged non-subscribing states to subscribe the HCOC at the Asian Export Control Seminar in February 2003 and the explanatory meeting for persons in charge at the Embassies of ASEAN members, etc. in Japan in June 2003. In addition to these efforts, Japan has made practical contributions. For example, it brought up the issue of disarmament and non-proliferation in multilateral talks, such as the ARF and ASEM, and joint declarations on disarmament and non-proliferation of weapons of mass destruction and missiles proposed by Japan were adopted. Japan has so far worked to tackle the missile issue on various occasions, such as the MTCR (Section 4, Chapter 1) and the UN Panel of Governmental Experts on Missiles (Section 5, Chapter 1, Part VII). Japan has to reinforce its efforts on the regional and global level, while bearing in mind the security environment of the Asian region where missile proliferation has become a real problem. Japan intends to play an active role in addressing ballistic missile issues in the future through the abovementioned efforts.
Chapter 3 Proliferation Security Initiative (PSI)

Section 1 Background of its establishment and overview

1. On May 31, 2003, U.S. President George W. Bush made an address during his visit to Krakow, Poland and announced the Proliferation Security Initiative (PSI) as a new arrangement to stop proliferation.(Note)

   (Note) Excerpt related to the PSI from the President’s speech
   “When weapons of mass destruction or their components are in transit, we must have the means and authority to seize them. So today I announce a new effort to fight proliferation called the Proliferation Security Initiative. The United States and a number of our close allies, including Poland, have begun working on new agreements to search planes and ships carrying suspect cargo and to seize illegal weapons or missile technologies. Over time, we will extend this partnership as broadly as possible to keep the world’s most destructive weapons away from our shores and out of the hands of our common enemies.”

2. The Bush administration has attached emphasis to the issue of proliferation of weapons of mass destruction and missiles since its inauguration, and has been strongly concerned about the development and transfer of weapons of mass destruction and missiles by states of proliferation concern, including North Korea, Iraq, and Iran especially since the September 11th terrorist attacks in the Unites States in 2001. In December 2002, President George W. Bush announced the “National Strategy to Combat Weapons of Mass Destruction” in which he advocated the necessity of a comprehensive approach to stop proliferation ((1) Counterproliferation, (2) Non-proliferation, and (3) WMD consequence management).

   It can be said that PSI was concretized from the concept of “Interdiction” in “Counterproliferation,” a concept set out in this National Strategy.

3. It has been widely recognized in the international community that the proliferation of weapons of mass destruction and related materials has been a threat to global peace and security since the end of the Cold War. Eleven countries including Japan
(the United States, Japan, the United Kingdom, Italy, the Netherlands, Australia, France, Germany, Spain, Poland, and Portugal) participate as of now in the PSI, which is an initiative to consider possible measures that can be taken collectively by participating states so as to further strengthen efforts to stop proliferation.

Section 2 Past movements

Efforts by the PSI to establish a cooperation framework for preventing proliferation have progressed at a very high speed so far.

1. At the First PSI Plenary Meeting convened in Madrid, Spain on June 12, less than two weeks after the announcement by US President George W. Bush, 11 participating governments affirmed that they would play an active role in promoting this initiative. At the Second PSI Plenary Meeting in July in Brisbane, Australia, the participating states in principle agreed that they would take measures to interdict proliferation consistent with domestic and international legal frameworks and that they would concretize the concept of interdiction exercises and conduct such exercise as soon as practicable.

2. At the Third PSI Plenary Meeting convened in September in Paris, the “Statement of Interdiction Principles” was adopted. The statement describes the principles for achieving the objective of the PSI and preventing proliferation, including participating governments’ cooperative efforts to prevent proliferation of weapons of mass destruction, their means of delivery and related materials to states and non-state actors. In addition, participating states could not begin urging non-participating states to take part in the PSI in the expectation that all states that share concern about the proliferation would support the PSI (outreach activities).

3. In the wake of such decision at the Third Plenary Meeting, the first maritime interdiction exercise was conducted from September 12 to 14 hosted by the Australian Government in the Coral Sea off the coast of Australia. Japan contributed to the successful exercise as a participating state in line with the United States and the host Australia. The success of this interdiction exercise resulted in the planning and implementation of various interdiction exercises around the world. (Note)
4. At the Fourth PSI Plenary Meeting convened in October in London, the participating states affirmed, based on the results of the Paris Meeting, that all states and non-state actors of proliferation concern shall be subject to interdiction activities, and that the PSI shall be open to all states and international institutions that support the Statement of Interdiction Principles and are capable of making effective contributions. In this way, as a result of discussion in a series of meetings, the following directions were clearly presented as the characteristics of the PSI: (1) It is a framework to tackle the proliferation, which is a threat to the entire international community, and is not against a specific state of concern; (2) Membership not limited to the current participating states; (3) It is an activity based on the existing international law and domestic law of each participating state, and does not prevent proliferation through activity beyond the legal authority.

<table>
<thead>
<tr>
<th>Meetings</th>
<th>Exercised by</th>
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<tr>
<td>May 31, 2003</td>
<td>Advocated by US President George W. Bush in Krakow (Poland)</td>
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<tr>
<td>June 12</td>
<td>First Meeting (Plenary Meeting only) (in Madrid, Spain)</td>
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<tr>
<td>July 9 and 10</td>
<td>Second Meeting (Plenary Meeting and Experts Meeting; same in the following) (in Brisbane, Australia)</td>
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<tr>
<td>July 30</td>
<td>Operational Experts Meeting (at Henlow RAF base, United Kingdom)</td>
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<tr>
<td>September 3 and 4</td>
<td>Third Meeting (in Paris, France)</td>
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<tr>
<td>October 9 and 10</td>
<td>Fourth Meeting (in London, United Kingdom)</td>
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<tr>
<th>Exercises</th>
<th>Exercised by</th>
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<tr>
<td>September 12-14</td>
<td>Maritime interdiction exercise led by Australia (Pacific Protector) (in the Coral Sea)</td>
</tr>
<tr>
<td>October 8 and 9</td>
<td>Aerial command post exercise for interdiction led by the United Kingdom (in London, United Kingdom)</td>
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<tr>
<td>October 14-17</td>
<td>Maritime interdiction exercise led by Spain (Sanso03) (in the Mediterranean)</td>
</tr>
<tr>
<td>November 24-28</td>
<td>Maritime interdiction exercise led by France (Basilic03)(in the Mediterranean)</td>
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Section 3 Japan’s efforts

Japan has actively participated in the meetings and activities of the PSI, recognizing that the PSI is in line with Japan’s efforts hitherto for non-proliferation of weapons of mass destruction and missiles.

Japan has participated in all of the meetings since the launch of the PSI, and has been actively engaged in it since the drafting stage of the Statement of Interdiction Principles so that the PSI would be accepted by many countries as a global activity.

In addition, as mentioned above, the Australia-led maritime interdiction exercise “Pacific Protector” was implemented in the Coral Sea off the coast of Australia from September 12 to 14, as the first interdiction exercise by the PSI. The following is a scenario for the exercise: In response to information that a Japanese-registered ship loaded with chemical weapon-related materials is sailing offshore in the Coral Sea, the Japan Coast Guard patrol vessel “Shikishima” and the special forces conduct an on-site inspection of the suspected ship and seize the suspected materials with support from the troops of the United States and Australia. In the exercise, Japanese forces played a central role in interdiction activities. The Japan Defense Agency dispatched observers to the said exercise, showing Japan’s positive attitude toward non-proliferation.

Japan will continue to actively encourage many countries, especially neighboring Asian countries, to support the principles of the PSI and participate as well as cooperate in its activities. (For approach by the PSI to Asian countries, see Section 2, Chapter 4, Part VII, “Asian Senior-level Talks on Non-Proliferation.”)
Special Forces descending from a helicopter, in the PSI maritime interdiction exercise (September 2003; off the coast of Australia; provided by the Japan Coast Guard)

Japan Coast Guard personnel transferring from a boat loaded on Shikishima, in the PSI maritime interdiction exercise (September 2003; off the coast of Australia; provided by the Japan Coast Guard)
Chapter 4 Man-Portable Air Defense Systems (MANPADS)

Section 1 Background and present situation

Man-Portable Air Defense Systems as typified by US-made Stinger are missiles that can be carried and launched by one or a few persons. Their range is short, around a few kilometers, and their targets of attack are limited to visible low-flying helicopters and aircrafts. They are easily concealed and relatively easily operated, yet capable of potentially catastrophic destruction to flying aircrafts. Therefore, as weapons that especially terrorists, etc. strive to acquire and use, MANPADS have recently recognized as a significant threat to the safety of civil aviation. For example, weapons used in the failed attack on an Israeli civil aircraft occurred in Mombasa, Kenya in November 2002 are also believed to be MANPADS made by the former Soviet Union. In addition, not only civil aircrafts but also US military helicopters stationed in Iraq were shot down by missile attacks possibly used MANPADS made by the former Soviet Union after the Iraq War.

MANPADS are manufactured in many countries, including China, Egypt, and Pakistan, in addition to major exporting countries such as Russia, the United States, and France. Those exported in the past are proliferating around the world without any appropriate control, thus it is urgent for the manufacturing and export of MANPADS by each country to be strictly controlled in order to prevent them from falling into the hands of terrorists, etc. to be used as a means for attacks against civil aviation.

Section 2 Efforts of international community and Japan

“Conclusions of G8 Foreign Ministers, Birmingham Summit Conference” in 1998 mentioned the threat by criminal use of MANPADS and called for “further work to be done to address this problem.” Subsequently, the “Elements for Export Controls of Man-Portable Air Defense Systems (MANPADS)” was agreed upon at the Plenary of the Wassenaar Arrangement (WA) in 2000. In terms of exporting MANPADS, the said document stipulates that MANPADS should be exported after
assuring that the recipient government is able to implement sufficient control to prevent unauthorized use and theft of MANPADS and to transport and store missiles and firing mechanisms separately, in order to avoid their loss after export.

Afterward, the urgent need for stronger counter-terrorism measures has come to be recognized more strongly due to the simultaneous multiple terrorist attacks in the United States on September 11, 2001, the attempted shooting down of an Israeli civil aircraft mentioned above, and other incidents. Thus, the “Enhance Transport Security and Control of Man-Portable Air Defence Systems (MANPADS): A G8 Action Plan” was adopted at the Evian Summit in June 2003. In the said action plan, G8 countries promised to reduce the proliferation of MANPADS in circulation around the world, and agreed that they would cooperatively promote the application of the “Elements for Export Controls of MANPADS,” which was agreed in 2000 in the Wassenaar Arrangement, in more countries other than those participating in the Wassenaar Arrangement and would prevent MANPADS from falling into the hands of terrorists by taking measures such as support for collecting surplus MANPADS, strict export control of MANPADS and their parts, and prohibition of their export to non-state actors.

Furthermore, an agreement was reached on the strict stockpiling and export control of MANPADS, as well as the establishment of national regulations on their manufacture, transfer, and brokering, and the prohibition of their transfer to non-state actors, in the APEC Leaders’ Declaration in October 2003. In order to prevent the proliferation of MANPADS to terrorists, etc., not only manufacturing countries and exporting countries but also importing countries must exercise strict control. Therefore, it is said to be of significant importance that states in the Asia-Pacific region agreed on a declaration to strengthen control of MANPADS.

In the Wassenaar Arrangement, the revision of the “Elements for Export Controls of MANPADS” for its reinforcement was accelerated in the wake of the G8 Action Plan adopted at the Evian Summit mentioned above, and the following were newly added: (1) A decision by a responsible high-level government official is required when deciding to export MANPADS; (2) If a participating state exports MANPADS
to a state other than those participating in the Wassenaar Arrangement, it shall notify
the other participating states of such; (3) Participating states shall exchange
information about compliance of each state with regulations for the export and control
of MANPADS stipulated in this document. Such strengthening of the document was
agreed on at the Plenary convened in Vienna in December 2003.

Moreover, under the UN Register of Conventional Arms (see Chapter 4, Part V),
MANPADS were newly added as a sub category under one of the categories of
weapons subject to the register “missiles and missile launchers.”

Japan has been advocating the importance of stronger control of MANPADS based
on the recognition that the proliferation of MANPADS to terrorists, etc. will constitute
a significant threat to civil aviation. Although MANPADS are also manufactured in
Japan, Japan does not export MANPADS and their essential parts. In addition, all
MANPADS manufactured are delivered to the Japan Defense Agency and placed
under strict control.