Part VI

Non-Proliferation Regimes

Chapter 1. Export Control Regimes

Section 1. Overview and present status of export control regimes

The export control regimes are frameworks of export control coordination, which consist of countries, mainly, industrialized countries, capable of supplying weapons and related dual-use goods and committed to non-proliferation, but without any obligation derived from international treaties. There are 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. Wessenaar Arrangement (WA: Conventional arms)

Japan participates in all four export control regimes. Export control is a framework to impose suppliers' side restrictions on those who try to export and proliferate weapons of mass destruction or related materials to states of concern or terrorist groups. Japan has been contributing to strengthening these export control regimes and utilized them.

In each of these export control regimes, participating governments share common understanding concerning dual-use goods and technologies which could contribute to the development of weapons covered by respective regimes (e.g. rocket systems, high-performance computers, engineering machinery, advanced materials and software) These items are set out in detailed lists. The participating governments implement strict national export control over the items listed in the above-mentioned lists based on their national laws and regulations. Furthermore, in these regimes, information on the activities of states of proliferation concern is exchanged. These regimes have also urged stringent export controls to non-participating countries.

While the coordination of export control through the export control regimes is very effective as a basis for ensuring non-proliferation, it is not necessarily perfect for fully achieving the non-proliferation goals. There are loopholes especially in the form of procurement from countries that neither participate in these regimes nor conduct strict export control. In addition, some developing countries are hostile to these export control regimes, claiming that the regimes constitute a "discriminatory' club" composed of developed countries to hamper technology transfers. Therefore, it is important for Japan to encourage those countries to participate in the efforts for non-proliferation while firmly maintaining its own export control. From such viewpoint, Japan attaches importance to the strengthening of non-proliferation systems in the Asian region and thus has been making efforts to facilitate understanding of the importance of export control among non-participating countries in the export control regimes by actively offering various opportunities, such as the Asian Senior-level Talks on Non-Proliferation (ASTOP), to which officials in charge of non-proliferation policy in Asian countries are invited, the Asian Export Control Policy Dialogue in which officials in charge of export

control policy in Asian countries participate, Asian Export Control Seminar, and seminars for non-proliferation of missiles, as well as calling for thoroughly strengthening the export control mechanisms.

Section 2. Nuclear Suppliers Group (NSG) and Zangger Committee

1. Nuclear Suppliers Group (NSG)

(1) Overview

The issue of nuclear proliferation first surfaced as a relevant issue when India conducted a nuclear test (claiming it "a peaceful nuclear explosion") in 1974, despite being under the international system, namely, the IAEA safeguards, to secure peaceful use of nuclear energy. This event raised awareness of the necessity that certain conditions should be maintained on 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 export of nuclear-related materials and equipment among the countries that are capable of supplying those items..

Since the establishment of the NSG, participating governments have been implementing export control in accordance with the NSG Guidelines Part 1 (also referred to as "London Guidelines") which identify a set of conditions concerning the export of items especially designed or manufactured for the use for nuclear activities and related technologies. Subsequently, such control was expanded to nuclear-related dual-use equipment, materials, software and related technologies. As of July, 2005, there are 45 participants including Japan.

Export control is not, however, a legally binding obligation of NSG participating governments. Instead, it is implemented in accordance with the national laws and regulations of each participating government in deference to the guidelines ,a gentleman's agreement.

(2) NSG Guidelines Part 1

Each participating government of the NSG exercises export control on those items especially designed or manufactured for nuclear activities and related technologies in accordance with the "NSG Guidelines Part 1." Under these guidelines, when any of the items placed under export control (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) are exported to a non-nuclear-weapon state, the recipient state is obliged to comply with the following four requirements: (a) the government of the recipient state shall give formal assurances to exclude uses which would result in any nuclear explosive device, (b) the recipient state shall have an agreement brought into force with the IAEA requiring the application of full-scope safeguards, (c) the recipient state shall take measures to protect nuclear materials from any intrusion and contact from outside, and (d) the recipient state shall receive the same assurances as those required by the original supplying state from a third country in retransferring an imported item to that country.

(Note) Full-scope safeguards

Full-scope safeguards consist of such measures 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) NSG Guidelines Part 2

The Iraqi covert nuclear development programs unveiled after the end of the Gulf War raised the awareness of the necessity to extend the range of control on relevant items. Accordingly, the NSG, with the US initiative, started negotiations to elaborate new Guidelines. The NSG Guidelines Part 2, agreed upon in 1992, are intended to control exports of nuclear-related dual-use equipment, materials, software and related technologies, such as industrial machinery and materials, devices and components for uranium isotope separation, devices related to heavy-water production facilities, and test and measurement equipment for the development of nuclear-explosive devices. The basic principle of the NSG Guidelines Part 2 is not to authorize exports of nuclear-related dual-use equipment, materials, software, or related technologies:

- for use in a non-nuclear-weapon state in a nuclear explosive activity or an unsafeguarded nuclear fuel cycle activity, or
- in general, when there is an unacceptable risk of diversion to such an activity, or when the transfers are contrary to the objective of averting the proliferation of nuclear weapons, or
- when there is an unacceptable risk of diversion to acts of nuclear terrorism.

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

The NSG holds plenary meetings annually since 1991 to improve and strengthen the export control system on nuclear-related materials, equipment and technologies. As of July 2005, the NSG holds Consultative Group (CG) meetings and related meetings several times a year, in addition to the above mentioned plenary meetings.

The NSG aims to contribute to nuclear non-proliferation through the international export control of nuclear-related materials, equipment and technologies. Further, it has recently been expanding the scope of its activities, in addition to activities related to the coordination of export control among participating governments, to flexibly deal with various challenges concerning nuclear non-proliferation. One example is that the NSG revised its guidelines to include anti-nuclear terrorism measures in 2002, and expressed concern over the suspected nuclear activities in Iran and North Korea by issuing its statements at the Extraordinary Plenary Meeting in December 2002 and the Plenary Meeting in May 2003, respectively. In addition, the NSG called on countries concerned to exercise strict export controls so as to prevent nuclear-related materials, equipment and technologies from being transferred to Iran and North Korea. Also, in response to the proposal of new measures to counter the threat of WMD announced by U.S. President George W. Bush in February 2004, the NSG has been continuing active exchange of opinions concerning restrictions on the transfer of materials, equipment or technologies relevant to enrichment or reprocessing. In the Plenary

Meeting of June, 2005, the NSG achieved an agreement to modify the Guidelines for the purpose of suspending nuclear transfers to the countries in breach of its obligations to comply with its safeguard agreements.

Japan, on one hand, actively promotes peaceful use of nuclear energy, with its highly advanced nuclear technologies and, therefore, assumes a responsibility to implement strict export control on nuclear-related materials, equipment and technologies on the other, so that they will not lead to the development of nuclear weapons of other countries by any means. Therefore, Japan has redoubled its nuclear non-proliferation efforts through the NSG and has greatly contributed to the NSG; the Permanent Mission of Japan to the International Organizations in Vienna provides facilities as the Point of Contact of 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 undertake export control over specific nuclear-related materials and equipment. However, its description is relatively general. Professor Zangger of Switzerland consequently suggested discussions in July 1970, to determine the items which were to be controlled by the provision of the Article 3 paragraph 2 of NPT. In 1974, a list of specific items subject to export control was finalized and agreed upon as the "Zangger List," which has been the basis for the export control of the listed items since then. As of July 2005, a total of 35 countries including Japan participate in the Zangger Committee. It meets twice a year.

The establishment of the Zangger Committee is not explicitly stipulated by the provisions of NPT but is based on the voluntary participation of each state, and the Parties to the NPT are not obliged to participate in the Committee. In addition, as is the case with the NSG, export control based on the Zangger List is not a legally-binding obligation of the participating governments but is implemented by the government of each member in accordance with its national laws, respecting the arrangements.

(2) Export control by the Zangger Committee

The items listed in the Zangger List are 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. There are three basic principles of the Zangger List, which are,

a) not to allow any diversion of directly transferred nuclear materials or those produced, processed or used by the facilities in which the transferred items are used, to the development of nuclear weapons or other nuclear explosive devices of a non-nuclear-weapon state not party to the NPT, or,

b) not to export nuclear materials mentioned in (a) and transferred items unless the export is subject to IAEA safeguards when it comes to export to a non-nuclear-weapon state not party to the NPT, or

c) to oblige a recipient country not party to the NPT to accept the application of the IAEA safeguards to the items which are to be re-exported.

3. 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 manner.

(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 remain within the framework of the NPT.

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

The Zangger List of the Zangger Committee and the Trigger List of the NSG Guidelines Part 1 are required to be consistent with each other in the contents, and in the event that either one of the lists is revised, the other list will 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 and were 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 unintentionally helping other countries develop chemical weapons . 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 those countries that have looser regulations. To close such loophole, 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 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. As of July 2006, 39 countries participate in the Group, holding the Plenary Meeting on an annual basis.

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 exchanges and policy coordination carried out within the Australia Group in its national 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) 63 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) 109 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. Recent developments

At the Plenary Meeting in 2004, the participating states agreed to add five pathogenic bacteria affecting plants to the list of controlled items and also to welcome five countries, Lithuania, Slovenia, Malta, Estonia and Latvia as new AG member states. At the following Plenary Meeting of 2005, the participating states agreed to add aerosol sprayers to the biological equipment control list, addressing concerns over terrorists' interest in dispersal devices for biological agents. They also welcomed Ukraine as a new AG member.

4. 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 as a serious concern for the international community. Despite the fact that the Chemical Weapons Convention (CWC) and the Biological Weapons Convention (BWC) exist for 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 non-compliant states parties may come out. Therefore, the presence of the Australia Group is important 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 nonparticipating 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 unanimously recognize 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 exports of missiles capable of delivering weapons of mass destruction and related dual-use goods and technologies that could contribute to the development of such missiles. It was established by the G7 in April 1987, targeting missiles capable of delivering nuclear weapons and related dual-use goods and technologies. Then, the regime was expanded in July 1992 to control 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 August 2005, 34 governments including Japan, the EU countries, the Unites States, Canada, Australia, the Republic of Korea, Argentina, Brazil and South Africa participate in MTCR.

2. Overview

(1) MTCR participating governments make a list of missiles and space rockets as well as related dual-use goods and technologies (navigation systems, software, etc.) as items subject to its export control, and control exports of the listed items by export licensing in accordance with their domestic laws, ordinances and regulations (in the case of Japan, “Foreign Exchange and Foreign Trade Law”, as well as “Export Trade Control Order” and “Foreign Exchange Order” both enacted by virtue of the provisions of the Foreign Exchange and Foreign Trade Control Law)

(2) Examples of items controlled by the MTCR are as follows:

Category I items (their exports are, in principle, prohibited regardless of their purposes):

Systems capable of delivering weapons of mass destruction at least a 500kg payload to a range of at least 300 km (missiles, space launch vehicles and unmanned aerial vehicles), etc.

Category II items (subject to careful examination on a case-by-case basis, albeit their exports are, in principle, prohibited when considered to be used for the delivery of weapons of mass

destruction):

Systems capable of delivering weapons of mass destruction of less than 500kg with 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 attaching great importance to the non-proliferation of missiles for its own security and regional and international peace and safety. Therefore, Japan is a participant in the MTCR since its establishment and strives for strict export control. Examples of recent activities are as follows and Japan is determined to continue to contributing to MTCR-related activities.

(1) In addition to export control related activities based on the list of items, the MTCR recently encourages the introduction of a system which requires an export license for export of a non-listed item if the item is likely to contribute to missile development (catch-all control system). Japan introduced catch-all 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, which was approved.

(2) Furthermore, under the initiative of the MTCR Chair, the MTCR has been working with non-participating states with the recognition that it is important for not only MTCR participating states but also non-participating states to implement export control on missile-related materials and technologies. Japan and the ROK are the only MTCR participating states from Asia, and Japan has accordingly been working on Asian countries. Japan hosted the Asian Export Control Seminar in February 2003 to provide an opportunity for the MTCR Chair and ASEAN members to exchange opinions about the missile non-proliferation issues.

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 from the Western states to the Communist states, lost its roles 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 accumulations 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 conventional arms. 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 WA is, in effect, a gentleman's agreement without legal binding force. Forty states, capable of producing and supplying conventional arms and related dual-use goods and committed to taking action to prevent the proliferation of conventional arms and dual-use goods, including Japan, participate in the Arrangement. While the target of COCOM was limited to the Communist bloc, the scope of the WA covers all non-participating states and regions as well as non-state actors, and does not target any specific countries or regions.

The objectives of the WA is (1) to contribute to regional and international security and stability by preventing destabilizing accumulations of conventional arms and related dual-use goods and technologies, and (2) to prevent non-state actors such as terrorist groups from acquiring conventional arms and related dual-use goods and technologies as part of the global fight against terrorism.

3. Activities

The WA aims to achieve its objectives as mentioned above by (1) defining arms and dual-use goods and their performance levels subject to the export control, specifically, by preparing and revising the lists of goods subject to export control taking into account the progress in technologies, through consultations among the participating states, and (2) identifying the state of accumulation of 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. The participating states are required to implement export control based on the lists of goods subject to control as agreed by the WA, and to provide a range of relevant information.

4. Recent developments

The 2001 Plenary Meeting revised the Initial Elements defining the roles and objectives of the WA to highlight the intention to strengthen counter-terrorism efforts. The 2002 Plenary adopted the Best Practice Guidelines for Exports of Small Arms and Light Weapons.

Regarding the transfer of dual-use goods usable for military purposes, the WA lists a wide range of goods to be 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 states. 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 5, Part V), and only transfer notifications are obligatory while denial notifications are not.. 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 second Assessment Year of WA 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 transfer notifi-

cation in 2004. Although an agreement could not be reached on introducing denial notification of arms transfer, discussions will continue towards its introduction. Furthermore, after the simultaneous multiple terrorist attacks in the United States on September 11, 2001 and the terrorist attack in Bali in October 2002, the role of the WA as a global counter-terrorism measure was recognized. Consequently, after 2004, the WA participating governments started discussions concerning identifying arms and dual use items procured or purchased by terrorists and how to control them.

After the conclusion of US and British military actions against Iraq in 2003, numerous U.S. Forces aircraft have been shot down by Man-Portable Air Defense Systems in Iraq. Against such background, it becomes increasingly important to strengthen the export control of Man-Portable Air Defense 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 introducing the export control system for items that are not on the lists (catch-all system for conventional arms), enhancing outreach activities to non-WA-participating countries, and strengthening arms brokering control.

The 2004 Plenary agreed on the participation of Slovenia, and also an implicit consent was reached on the commencement of authorization procedures for new participation in the WA of Estonia, Latvia, Lithuania, Malta and Croatia. These five countries officially became WA participating states after the due procedures.

5. Japan's efforts

Japan supports the objectives of the WA from the standpoint of maintaining both national security and global peace and stability, and was actively involved in the establishment process of the WA. Internally, Japan has enacted related laws and regulations including "Foreign Exchange and Foreign Trade Law," "Export Trade Control Order" and "Foreign Exchange Order," and has been implementing strict export control on dual-use goods and technologies that are subject to the scope of the WA Japan, as a principle, does not export arms and strongly advocates the enhancement of transparency of arms transfer in the WA 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 acquired abilities 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 today. 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. Together with nuclear weapons or chemical/biological weapons, ballistic missiles would cause catastrophe, even if their accuracy is somewhat low.

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 is no international agreement that restricts 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 plays an important role today with the participation of 34 states as of August 2005.

However, it is becoming more and more difficult to completely block the proliferation of missile technologies solely by preventing the transfer of technologies from the industrial countries; some countries have developed their own missile technology or have received 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 would constitute a serious threat to Japan. Furthermore, India, Pakistan and Iran have also repeated missile launch tests; quite a number of countries have come to possess missile technologies. In particular, the Nodong missiles of North Korea have significant impacts on peace and stability in Northeast Asia. Countries concerned about this situation have made efforts to formulate an 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 self-restraint regarding the development of ballistic missiles as well as to ensure that space rocket technologies will not be diverted to 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.

Other international activities include the re-establishment of the U.N. Panel of Governmental Experts on Missiles in 2004 for promoting multilateral discussions on missile issues, where

Japanese experts participated and played an active role by discussing the significance of the international efforts to address missile issues.

The proliferation of ballistic missiles is an important issue for Japan from the security point of view. Japan has been making active diplomatic efforts for non-proliferation of ballistic missiles at both bilateral and regional levels and also for the formation 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 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 of Chapter 1). The 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 industrial 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. During the MTCR Ottawa Plenary meeting in September 2001, its internal discussion on the framework concluded 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 of 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). (N.B. Implementation of these confidence-building measures does not serve as jus-

tification for ballistic missile activities.)

In the process of formulating the contents of the HCOC, Japan made various specific proposals keeping North Korea's ballistic missile activities in mind. These proposals are reflected in the principles such as 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. 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

The number of subscribing states to the HCOC has increased to 123 as of October 2005. For further universalization of the HCOC, subscribing states will continue to urge non-subscribing states to subscribe to the HCOC at the initiative of the Chair of the HCOC (the Philippines serves as the Chair from November 2004 to June 2006).

In cooperation with Australia and the ROK, Japan carried out a joint presentation 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 presentations hosted by itself and a dispatch of officials and experts (see Section 3 for details). At present, only the Philippines and Cambodia participate in the HCOC as ASEAN members, 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 also swiftly submitted the annual report on space rocket policy, from the viewpoint of contributing to smooth implementation of the confidence-building measures of the HCOC. In November 2005, Japan invited international observers from HCOC member countries to a space center in Japan as part of efforts to promote confidence-building measures. Such efforts have been highly appreciated by other HCOC subscribing states.

(3) UN General Assembly resolution on the HCOC

During the 59th plenary meeting of the U.N. General Assembly held in December 2004, the U.N. General Assembly resolution on the HCOC was adopted with the support of 161 countries. This resolution welcomes the establishment of the HCOC and intends to encourage the international community to participate in the HCOC. Japan was one of the co-sponsors of the resolution, and actively worked on non-HCOC-subscribing states to support the resolution in cooperation with the chair of the HCOC.

Section 3. Japan's efforts

The issue of ballistic missiles proliferation is an important issue in the context of Japan's security. There are several means to address the issue, such as diplomatic efforts toward states of concern, export control and the creation of multilateral frameworks. 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 the Nodong missile (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 informal meetings to exchange views and seminars 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 encouraging their own voluntary efforts. Ahead of the adoption of the HCOC, Japan carried out three joint presentations about the significance of the HCOC to ASEAN members in cooperation with Australia and the ROK. Since the adoption of the HCOC, Japan has been making efforts to increase the number of HCOC-subscribing states through the Asian Export Control Seminar, ASTOP meetings, etc. In addition, Japan raised the issue of disarmament and non-proliferation at multilateral talks such as the ARF and ASEM, and also proposed a joint declaration on disarmament and non-proliferation of weapons of mass destruction and missiles, which was adopted. Japan has been actively grappling with missile issues in various fora such as the MTCR (Section 4, Chapter 1) and the UN Panel of Governmental Experts on Missiles. Japan further finds it necessary to strengthen its commitment on regional and global level, bearing in mind the security environment of Asia where missile proliferation has become a real problem. Japan intends to play an active role in addressing ballistic missiles issues in the future through the above-mentioned efforts.

Chapter 3. Proliferation Security Initiative (PSI)

Section 1. Background of its establishment and overview

1. As part of international efforts for the non-proliferation of weapons of mass destruction, missiles and their related materials, which are threats to global peace and security, various international export control regimes as well as international conventions such as the Treaty on the Non-proliferation of Nuclear Weapons (NPT) play an important role. However, while these international frameworks are of much significance, complete prevention of proliferation of weapons of mass destruction, missiles, and their related materials is actually quite difficult, largely because there are countries of proliferation concern that do not observe the relevant international conventions, and non-state actors such as terrorists.

   In light of such circumstances, the Bush administration of the United States 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 United 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) Counter-proliferation, (2) Non-proliferation and (3)WMD consequence management).
2. On May 31, 2003, President Bush made an address during his visit to Krakow, Poland and announced the "Proliferation Security Initiative (PSI)" as a new arrangement to stop proliferation, while asking ten countries, including Japan, to participate in the PSI. (see Note) It can be said that PSI is the embodiment of the concept of "interdiction" in "counter-proliferation," set out in the National Strategy to Combat Weapons of Mass Destruction.

> **(Note) Excerpt from the President's speech related to the PSI**
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> "When weapon of mass destruction or their component 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."

3. PSI intends to design and implement measures that can be readily used by participating states to interdict the transfer and transport of weapons of mass destruction, missiles and their related materials within the scope of international laws and national laws of respective states, for the purpose of interdiction of proliferation of weapons of mass destruction, missiles and their related materials that are a threat to peace and security of the international community. At present,

more than 60 countries worldwide, including the 15 countries (see Note), namely, Japan, Australia, Canada, France, Germany, Italy, Netherlands, Norway, Poland, Portugal, Russia, Singapore, Spain, U.K., and U.S. support the "Statement of Interdiction Principles," that prescribes the fundamental principles of PSI activities, and participate in and cooperate in PSI activities.

(Note) These 15 countries played the central role as a "Core Group" in developing the PSI during the early stage of the PSI following its inauguration.

Section 2. Past experiences

1. Efforts for increasing the number of participating states and cooperative states (outreach activities)

In order to promote activities to interdict proliferation of weapons of mass destruction, missiles and their related materials under the PSI, it is essential to combine efforts of multiple countries. Therefore, it is important to increase the number of participating states and cooperative states so that the web of interdiction efforts will become stable and extensive. At the time of the inauguration of the PSI, there were only 11 participating states, but they have increased to exceed 60 today as a result of vigorous outreach activities.

2. Examination of the contents of activities through various meetings

During the first two years since its inauguration, the PSI actively held gatherings such as plenary meetings of director-general-level officials and experts meetings of deputy director-general-level officials. As a result of the in-depth discussions on PSI activities in these meetings, it has been confirmed that (1) the PSI is a framework to counter the proliferation of weapons of mass destruction, missiles and their related materials that are threats to the entire international community, and it does not intend to target specific states of concern, (2) membership is not limited to the current participating states, and (3) PSI activities are conducted on the basis of the existing international law and domestic laws of respective participating states and shall not go beyond legal authority. During the 3rd Plenary Meeting in September 2003 (in Paris), the "Statement of Interdiction Principles" was adopted, which lays down the objectives of the PSI and fundamental principles of PSI activities to prevent proliferation.

3. Active implementation of interdiction exercises

A total of 17 interdiction exercises have been carried out worldwide since the inauguration of the PSI in various styles including land, maritime and air exercises, in order to ensure that actual operations to interdict proliferation of weapons of mass destruction, missiles and their related materials would be successful. Major achievements from these exercises include (1) improvement of the capability and skills of relevant organizations of respective countries to interdict proliferation of weapons of mass destruction, missiles and their related materials, (2) enhancement of mutual cooperation among relevant national agencies of the participating states, such as mili-

tary organizations, authorities to enforce maritime laws, customs authorities, etc. and (3) outreaching effects where PSI exercises fulfilled a tutorial function for non-participating states.

(Note) [PSI meetings and interdiction exercises] (as of the end of August 2005)

[Meetings]

[2003]

May 31 : Advocated by U.S. President George W. Bush in Krakow (Poland)
June 12 : First Plenary Meeting (in Madrid, Spain)
July 9 and 10 : Second Plenary Meeting (in Brisbane, Australia)
July 30 : Operational Experts Group Meeting (at Henlow RAF base, the United Kingdom)
September 3 and 4 : Third Plenary Meeting (in Paris, France)
October 9 and 10 : Fourth Plenary Meeting (in London, the United Kingdom)
December 16 and 17 : Operational Experts Group Meeting (in Washington D.C., the United States)

[2004]

March 4 and 5 : Fifth Plenary Meeting (in Lisbon, Portugal)
April 16 and 17 : Operational Experts Group Meeting (in Ottawa, Canada)
May 31 to June 1 : Plenary Meeting to celebrate the first anniversary (in Krakow, Poland)
August 3 and 4 : Container Security Workshop (in Copenhagen, Denmark)
August 5 and 6 : Operational Experts Group Meeting (in Oslo, Norway)
November 30 to December 2 : Operational Experts Group Meeting (in Sydney, Australia)

[2005]

March 21 and 22 : Operational Experts Group Meeting (in Omaha, the United States)
July 6 and 7 : Operational Experts Group Meeting (in Copenhagen, Denmark)

[Interdiction exercises]

[2003]

September 12 to 14 : Maritime interdiction exercise led by Australia (Pacific Protector) (in the Coral Sea)
October 8 and 9 : Command post exercise for air interdiction led by the United Kingdom (in London, the United Kingdom)
October 14 to 17 : Maritime interdiction exercise led by Spain (Sanso 03) (in the Mediterranean)
November 24 to 28 : Maritime interdiction exercise led by France (Basilic 03) (in the Mediterranean)

[2004]

January 11 to 17 : Maritime interdiction exercise led by the United States (Sea Saber) (in the Arabian Sea)
February 19 : Air interdiction exercise led by Italy (Air Brake) (in Sicily)
March 31 to April 1 : Interdiction exercise at an international airport led by Germany (Hawkeye) (in Frankfurt)
April 13 to 22 : Maritime interdiction exercise led by Italy (Clever Sentinel) (in the Mediterranean)
April 19 to 21 : Land interdiction exercise led by Poland (Safe Borders) (in Poland)
June 23 and 24 : Command post exercise for air interdiction led by France (ASPE 04) (in Paris)
September 27 to October 1 : Table-top exercise for maritime interdiction led by the United States (PSI Game) (at U.S. Naval Academy)
October 25 to 27 : Maritime interdiction exercise led by Japan (Team Samurai 04) (in the sea off Sagami Bay and in the Port of Yokosuka)
November 10 to 18 : Maritime interdiction exercise at a chokepoint led by the United States (in Key West)

[2005]

April 8 to 15	: Maritime interdiction exercise led by Portugal (NINFA 2005) (in Lisbon and the sea off Portugal)
May 31 to June 2	: Land interdiction exercise led jointly by the Czech Republic and Poland (Bohemian Guard) (in Ostrava, Czech)
June 7 and 8	: Air interdiction exercise led by Spain (Blue Action 2005) (in the Western Mediterranean area and at the Zaragoza Air Base)
August 15 to 19	: Maritime interdiction exercise led by Singapore (Deep Sabre 2005) (in Singapore and its surrounding ocean area)

Kazunori Tanaka, then Parliamentary Secretary for Foreign Affairs, giving a speech at the PSI Plenary Meeting to celebrate the first anniversary (May 2004, in Krakow, Poland)

Section 3. Japan's efforts

Japan considers it necessary to strengthen non-proliferation efforts in all stages encompassing not only export/import control procedures and domestic control processes but also at transportation stages. Japan has been actively involved in PSI activities including the following, with the recognition that the PSI is consistent with Japan's past efforts for non-proliferation of weapons of mass destruction, missiles and their related materials and contributes to the improvement of the national security of Japan.

1. Active outreach activities

As part of efforts to strengthen the non-proliferation regime in Asia, and with the recognition that Asian countries' cooperation and collaboration with Japan in activities to interdict proliferation of weapons of mass destruction will contribute to the national security of itself, Japan has

been actively promoting outreach activities aiming to raise the level of understanding of Asian countries on the PSI and expand their participation. Japan will continue to actively encourage non-PSI countries, especially neighboring Asian countries, to support the principles of the PSI and participate in as well as cooperate with its activities. (For approaches to Asian countries, see Section 2, Chapter 4, Part VII "Asian Senior-level Talks on Non-proliferation.")

2. Active participation in PSI interdiction exercises (exercises led by other countries as well as hosting of an exercise)

In October 2004, Japan hosted the maritime interdiction exercise "Team Samurai 04" carried out in the sea off Sagami Bay and in the Port of Yokosuka. Japanese vessels and aircrafts belonging to the Japan Maritime Self-Defense Force and the Japan Coast Guard were deployed in this exercise, where a total of 22 countries participated, including the countries that sent observers.

Japan sent observers to all 16 PSI exercises hosted to date by other countries (excluding the one led by Japan). Japan's contribution was especially conspicuous in the following exercises, in which Japanese assets such as vessels took part in the exercises.

Japanese patrol vessel "Shikishima" of the Japan Coast Guard and its special teams participated in the maritime interdiction exercise led by Australia. The exercise, titled "Pacific Protector," was carried out on September 12 to 14, 2003 in the Coral Sea. Japanese observers from the Defense Agency also participated in the exercise.

In the maritime interdiction exercise "Deep Sabre 2005" led by Singapore and carried out on August 15 to 19, 2005 in Singapore and its surrounding ocean area, Japan, Singapore, Australia, New Zealand, the United States and the United Kingdom sent their assets including vessels. Japan actively participated in this exercise by sending an escort vessel and aircrafts of the Self-Defense Forces of the Defense Agency as well as a patrol vessel of the Japan Coast Guard.

Exercise "Team Samurai 04," a PSI maritime interdiction exercise led by Japan (October 2004, carried out in the sea around Sagami Bay and in the Port of Yokosuka)

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 of flying aircrafts. Therefore, as weapons that especially terrorists strive to acquire and use, MANPADS have recently been 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. MANPADS targets have not only included civil aircrafts. After the termination of military actions against Iraq by the United States, United Kingdom and other states in 2003, US military helicopters were believed to have been shot down in Iraq by MANPADS produced by the former Soviet Union.

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 strict control on MANPADS manufactured and exported by each country is a critical issue to prevent terrorism, etc. from using them for attack on civil aviation.

Section 2. Efforts of international community and Japan

"Conclusions of G8 Foreign Ministers" at the G8 Forum Ministers' Meeting 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 once exported. Afterward, the urgent need for strengthened counter-terrorism measures has come to be recognized more strongly due to the terrorist attacks in the Unites States on September 11,2001, the attempted shooting down of Israeli civil aircraft mentioned above, and other incidents. Thus, the "Enhance Transport Security and Control of Man-Portable Air Defense Systems (MANPADS): A G8 Action Plan" was adopted at the Evian Summit in June 2003. In the Action Plan, G8 countries promised to reduce the proliferation of MANPADS around the world and agreed that they would cooperatively promote more non-WA participating states adhere to the "Elements for Export Controls of MANPADS," which was agreed in 2000 in the WA. It was also agreed to make efforts to prevent terrorists from acquiring MANPADS by such means as support for collecting excess and/or obsolete MANPADS, strict export control of MANPADS and their components and prohibition of these exports, to non-state actors.

Furthermore, in the APEC Leaders' Declaration in October 2003, an agreement was reached on

the strict stockpiling/export control of MANDAPS as well as the establishment of national regulations on their manufacturing, transfer and brokering and the prohibition of their transfer to non-state actors. In order to prevent the proliferation of MANPADS to terrorists and other non-states actors, not only manufacturing or exporting countries but also importing countries must exercise strict control. Therefore, it is of significance that states in the Asia-Pacific region agreed on the Declaration to strengthen control of MANPADS.

In the WA, the revision of the "Elements for Export Controls of MANPADS" for its reinforcement were 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 for the export of MANPADS, (2) when a WA participating state exports MANPADS to a non-WA participating state, the exporting state will notify the other WA participating states of such export, and (3) WA participating states will exchange information on whether they have observed the regulations on export control of MANPADS stipulated therein. These revisions of the document were agreed upon at the 2003 Plenary.

Moreover, under the UN Register of Conventional Arms (see Chapter 5, Part V), MANPADS were newly added to the listed weapons subject to the register, as a subcategory under the category of "missiles and missile launchers."

Also during the Sea Island Summit in 2004, the "G8 Secure and Facilitated International Travel Initiative (SAFTI)" was adopted, introducing the following 6 MANPADS threat reduction actions: to accelerate efforts to destroy excess and/or obsolete MANPADS and provide assistance to do so where needed, to enhance export controls, to establish a best practices document on optimal methods for securely storing MANPADS, to develop a methodology to assess airport vulnerability to the MANPADS threat and effective countermeasures, and to improve methods for enhancing MANPADS identification techniques and countermeasures against smuggling. Follow-up works have been made for all of these six actions so far, in which a methodology to assess airport vulnerability to MANPADS has been developed and a guideline has been prepared for identifying components or related materials of MANPADS that would be effective to prevent smuggling.

Japan has been advocating the importance of stronger control of MANPADS based on the recognition that the proliferation of MANPADS to terrorist and other non-state actors will constitute a significant threat to civil aviation. Although MANPADS are being manufactured in Japan, Japan does not export MANPADS nor their essential parts. In addition, all MANPADS manufactured are delivered to the Japan Defense Agency and placed under their strict control.