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UNITED STATES OF AMERICA

EXPORT CONTROLS AND THE CHEMICAL WEAPONS CONVENTION

1. Background

- 1.1 Certain Chemical Weapons Convention (CWC) States Parties object to the application of national export controls on trade in chemicals and are pushing to undercut or abolish informal nonproliferation groups, claiming that chemical export controls hamper economic and technological development in the chemical field in developing countries.
- 1.2 The United States disagrees that national chemical nonproliferation export controls and informal nonproliferation groups hamper legitimate economic or technological development. National export controls aimed at critical precursor chemicals and key items of chemical equipment provide a mechanism for governments to review exports and deny such items to proliferation programs. Such controls also inform industry what items and technology should be handled particularly carefully to prevent diversion to CW purposes. Furthermore, export controls are envisaged in the CWC, Article I, which states that States Parties will neither "transfer, directly or indirectly, chemical weapons to anyone" nor "assist, encourage or induce" anyone to engage in prohibited activities.
- 1.3 National chemical nonproliferation export controls do not restrict legitimate trade and, as noted above, they are integral to States Parties' Article I obligations. Nothing in the CWC obligates the United States or any other State Party to accept any modification, change in scope, or weakening of such national export controls. Informal nonproliferation groups allow countries to share experiences in implementing and enforcing national export nonproliferation and export control measures.

2. Export Controls, International Cooperation, and the CWC

- 2.1 CWC Article I states that States Parties will neither "develop, produce, otherwise acquire, stockpile or retain chemical weapons or transfer, directly or indirectly, chemical weapons to anyone" nor "assist, encourage or induce" anyone to engage in prohibited activities.

- 2.2 Article VII, paragraph 1, requires that each State Party "adopt the necessary measures to implement its obligations under this Convention" (including Article I).
- 2.3 National chemical nonproliferation export controls and multilateral nonproliferation groups support Articles I and VII, as well as the object and purpose of the CWC by:
- a) providing a review mechanism to help governments prevent chemicals and materials from being used for purposes prohibited by the CWC;
 - b) providing a means of implementing Article I and prohibiting persons from undertaking prohibited activity with respect to such chemicals and materials;
 - c) making chemical exporters aware of their nonproliferation responsibilities and thus less likely to engage in a transfer to a CW program; and
 - d) providing a means to deal with transfers to terrorist-related entities.
- 2.4 CWC Article XI states that the CWC "shall be implemented in a manner which avoids hampering the economic or technological development of States Parties, and international cooperation in the field of chemical activities for purposes not prohibited under this Convention including the international exchange of scientific and technical information and chemicals and equipment for the production, processing or use of chemicals for purposes not prohibited under this Convention..."
- 2.5 National chemical nonproliferation export controls do not violate Article XI because:
- a) export controls and other such "necessary measures" are envisaged in Article I and Article VII;
 - b) they only impede export or diversion of materials to CW programs and do not constitute a ban or embargo; and
 - c) they do not hamper the trade of goods for legitimate purposes of harm legitimate industry, including in the developing world.

3. U.S. CW Export Controls

The United States' national chemical nonproliferation export controls require exporters to obtain a license for exports of key items of chemical production equipment if the items are destined to any of 36 countries in regions of tension. Exports of 54 controlled chemicals require a U.S. export license for most countries. The United States also controls the precursor chemicals and agents listed on the CWC schedules according to the trade restrictions mandated in the CWC. Finally, the United States has "catch-all" controls that provide a legal basis to control any individual export if that export is destined for a CW program anywhere in the world.

4. Effect of National Chemical Nonproliferation Export Controls on Legitimate Trade

National CW export controls do not hamper the trade of goods for legitimate purposes or hamper legitimate industry, including in the developing world. This is clearly and objectively demonstrable using, for example, an analysis of applications to the United States for the export of 54 controlled precursor chemicals and key items of chemical equipment. In 1998, the U.S. required a license for only 1.5 percent of its \$65.5 billion worth of chemical exports. Specifically, in 1998, the U.S. received 824 applications to export chemical materials valued at \$987 million. Of these applications, the U.S. denied two -- or 0.24 percent -- valued at \$420,000. In other words, the percentage of total dollar value of controlled chemical goods not allowed to be exported in 1998 was 0.05 percent. This, in turn, was only 0.000064 percent of the total U.S. chemical goods exported in 1998. Similarly, from 1995-1998, the U.S. rejected 21 (worth \$13.5 million) out of 3722 (worth \$3.28 billion) chemical license applications, or 0.5 percent. These rejections comprised only 0.4 percent of the total dollar value of all applications to export controlled chemical goods.

5. Conclusion

National chemical nonproliferation export controls and informal nonproliferation groups make it more difficult for proliferators and terrorists to acquire materials for CW programs. Such controls and groups do not hinder peaceful legitimate trade. Both national chemical export controls and informal nonproliferation groups are fully supportive of and consistent with the obligations, object, and purpose of the CWC. The United States continues to fully support national export controls and informal nonproliferation groups.

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