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"September 11 and U.S. Nonproliferation Policy"

Remarks of Kenneth I. Juster Under Secretary of Commerce For Export Administration

at The Ninth Asian Export Control Seminar

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I am pleased to be here in Tokyo at the Ninth Asian Export Control Seminar. I want to thank the Japanese Ministry of Foreign Affairs and the Ministry of Economics, Trade, and Industry for hosting this event. In the aftermath of the terrorist attacks of September 11, the issues that this Conference will address are as important as ever.

The attacks of September 11 have had a profound effect on all of us. Although the attacks took place on American soil, the damage and fallout were not confined to the United States. People from over 80 different countries were killed in the attacks on the World Trade Center. But beyond the immediate physical and human toll, the events of September 11 were an assault on our shared values of freedom, tolerance, social diversity, political pluralism, and modernization.

Within the U.S. Government, September 11 has caused a widespread reevaluation of policies and practices related to the protection of our national security. One key element of this process has been our heightened focus on stemming the proliferation of weapons of mass destruction and the missiles to deliver them, as well as the proliferation of advanced conventional weapons. Indeed, with the end of the Cold War, weapons proliferation has become the most significant challenge not only to U.S. national security, but to world stability.

I would like briefly to discuss the proliferation threat that we all face today and the nonproliferation policy that the United States is pursuing in response to this threat. I also will highlight some of the specific nonproliferation initiatives in which the U.S. government will be directly involved during this next year. We are hopeful that we can build upon the support that your countries have provided in response to the events of September 11 to achieve a significant strengthening of international efforts to stop terrorists and countries of concern from acquiring weapons of mass destruction and advanced conventional weapons.

The Proliferation Threat

I do not believe that the nature of the proliferation threat facing the world fundamentally changed as a result of September 11. Rather, it is our perception of that threat and its immediacy that changed significantly. There can be no question now that the threat posed by proliferation is diverse, unpredictable, dangerous, and increasingly difficult to counter.

During the Cold War, our primary proliferation concerns were state-sponsored weapons programs. Although serious, such programs were limited to a relatively small number of states and, hopefully, could be addressed among sovereign nations in the international system, with countries held accountable for their actions.

In recent years, however, the proliferation threat has become much more diverse. Although state-sponsored weapons programs remain an important concern, an equally significant concern is the acquisition of weapons of mass destruction by non-state actors and terrorist groups. Such groups often are difficult to identify and often are not subject to pressure exerted through diplomatic or economic channels. Yet, intelligence reports confirm that Osama bin Laden and al-Qaeda actively were – and still are – seeking nuclear, chemical, and biological weapons for use in attacks on the United States and elsewhere. Indeed, plans for a rudimentary nuclear weapon were found on a computer located in an al-Qaeda safehouse in Kabul.

The threat currently posed by proliferation also is much less predictable than ever before. As a result of the collapse of the Soviet Union and advances in information technology, the know-how required for the development and production of weapons of mass destruction has become increasingly available to those who seek it. And we are very concerned that several countries that have been actively seeking weapons of mass destruction are now becoming "secondary proliferators" by providing sensitive technology and assistance to other states or terrorist groups, and thereby adding to regional and, potentially, global instability.

September 11 also opened our eyes to the dangers posed by a new breed of terrorists who are motivated not just by political goals, but by religious extremism. These terrorists do not identify themselves or seek credit for their actions. They make no demands and seek no negotiations. They recognize no red lines and they have no reservations about taking their own lives as they inflict their terror. This level of violence and depravity far exceeds that of previous terrorists, and has scuttled any doubts that such terrorists would use weapons of mass destruction were they to have the opportunity to do so.

Finally, the proliferation threat facing the world is becoming increasingly difficult to counter. As a result of increased economic interaction and advances in information and communications technology, it is now easier than ever to transfer sensitive technology and know-how to the far reaches of the globe, and more difficult than ever to monitor or control such transfers. Changes in the nature of technological development also are contributing to the increased difficulty of stemming weapons proliferation. Militaries around the world are increasingly relying on the commercial sector for technological innovation, and weapons systems often incorporate

"commercial off-the-shelf" components. As a result, technologies with sensitive military applications frequently have legitimate commercial applications as well.

In light of all of these considerations, the international community faces the enormous challenge of devising a nonproliferation agenda designed to keep sensitive technologies out of the hands of adversaries and potential adversaries, while also supporting legitimate international trade. Yet that is precisely what we must do if we are to preserve global security.

U.S. Nonproliferation Strategy

Stemming the proliferation of weapons of mass destruction remains one of the top national security priorities of the United States. President Bush strongly reinforced this point recently when he declared in his State of the Union Address that the United States would "work closely with our coalition to deny terrorists and their state sponsors the materials, technology, and expertise to make and deliver weapons of mass destruction." To halt proliferation in this changing environment, we must bring to bear a wide array of diplomatic, political, economic, and legal tools.

First, we are using diplomatic and economic tools to engage with countries involved in proliferation activities and urge them to constrain, halt, or reverse those activities. This includes, for example, efforts to persuade India and Pakistan to constrain their nuclear and missile competition.

Second, the United States is pursuing cooperative threat reduction programs to secure or eliminate sensitive weapons materials and technologies. These programs are increasingly important in Russia, which still has a substantial amount of nuclear materials, chemical and biological weapons, and missiles that are not properly secured and, thus, are vulnerable to theft or sale on the black market. These threat reduction programs also strive to provide economic incentives to prevent scientists and others with technical know-how from transferring their knowledge to terrorists or countries of concern.

Third, we are working to strengthen existing international nonproliferation treaties, support new instruments that promote our interests, and strive to upgrade the means to verify treaty compliance. This includes efforts to strengthen compliance with the verification requirements of the Nuclear Nonproliferation Treaty and the Chemical Weapons Convention, as well as work to implement a series of new measures that would strengthen the Biological Weapons Convention.

Fourth, the United States is intensifying its work to deny proliferators access to necessary equipment, materials, or technology and to constrain transfers of advanced conventional weapons to countries of concern. We do this primarily through export controls. You might think that controls on exports are the antithesis of free trade. Export controls are – to be sure – a form of limited government intervention in the marketplace. But rather than viewing export controls as *imposing restrictions* on the free flow of goods, I would suggest that they be viewed as *supporting conditions* for a safe and secure global economy – conditions that are an important ingredient to sustaining free trade. The events of September 11 – and the concern that the next terrorist attack might involve weapons of mass destruction – leave no doubt that

effective export controls are vital to the preservation of the international trading system. Effective export controls help insure that markets are not destabilized by regional arms races or by the proliferation of weapons of mass destruction.

We are working hard to enact a new, comprehensive Export Administration Act in the United States that would address the rapid pace of technological change in today's world and enhance our own export control and enforcement authorities. We also are continuing to provide export control cooperation on a bilateral basis to assist other countries in strengthening their export control laws and regulations and their enforcement efforts. In addition, we are taking steps to strengthen the administration and effective enforcement of export controls on a multilateral basis through the nonproliferation regimes – an issue on which I would like to expand a bit.

Specific Export Control Initiatives

In order to be effective, we firmly believe that export controls must be maintained multilaterally. Sensitive dual-use items and technologies simply cannot be controlled effectively unless there is broad cooperation among exporting and transit countries. Without such cooperation, foreign purchasers denied a critical item by one country often are able to obtain the same item from another country that does not control its exports as stringently. In order to put in place effective export controls that accomplish their intended purpose of denying sensitive items to known or suspected proliferators or terrorists, *all* countries possessing such items must work together.

It is for this reason that the multilateral export control regimes are vital to the success of our nonproliferation efforts, and we will continue to take steps to increase the effectiveness of the various multilateral regimes. I realize that not all of your countries are members of these regimes. However, many of your countries adhere to the principles and control lists established in the regimes, and any steps to increase the effectiveness of the regimes are likely to have a positive effect on stemming proliferation and increasing security for all countries, not just regime members.

In our view, the multilateral regime that is in most need of strengthening is the Wassenaar Arrangement. As you know, Wassenaar was created to prevent the destabilizing effects caused by the spread of advanced conventional weapons to countries or regions of concern. Although Wassenaar is not focused on weapons of mass destruction, it plays an important role in U.S. nonproliferation strategy. We were successful last December in achieving consensus to change the Initial Elements so that all members commit to avoid transfers of controlled items to terrorists. We hope to achieve other important changes this year.

We will push again this year for the adoption of a formal denial consultation procedure in Wassenaar. Such a procedure would allow for bilateral consultations *prior* to a proposed export in situations where one member already has denied a license for essentially an identical export. Denial consultation procedures already exist in the other multilateral regimes, and are essential for preventing proliferators or terrorists from "shopping" among various countries until they can find one that is willing to export sensitive items or technologies that others will not.

To be frank, I can see no rational basis for any country to oppose the adoption of

formal denial consultation procedures. Such procedures do not impose upon or restrict the "national discretion" upon which the regime is based. All that would be required is the opportunity to discuss a potential export and, possibly, share information *before* one member undercuts another member's denial. In many instances, it may be that the undercutting member would not approve the license if it had access to the same information as the denying member. Greater cooperation and information exchange are essential to the effective operation of Wassenaar, and these are the very ideals that denial consultation procedures would facilitate.

In addition to a denial consultation procedure, we will renew our efforts to secure consensus within Wassenaar for a conventional arms "catch-all" control. Such a control would impose an export licensing requirement based on the known or suspected end-use of an item for military purposes rather than its identification on the Wassenaar control list. In our view, "catch-all" controls are vital to ensure the effectiveness of an export control regime because they can be targeted directly at end-users involved in proliferation or other activities of concern. "Catch-all" controls provide a legal basis for countries to license the export of items that may fall just outside of control list parameters, but that still would make a material contribution to proliferation activities or other activities of concern.

During the 2001 Plenary, there appeared to be widespread support for adoption of a "catch-all" control within Wassenaar. In order to secure consensus on a "catch-all" control at the 2002 Plenary, we will continue to build upon this support, and look forward to working with other countries to address particular issues that may be connected to "catch-all" controls, such as the lack of domestic legislation authorizing these controls.

Finally, we will continue our push on other proposals, such as improving the timeliness and content of required reporting and seeking mandatory reporting of all transfers of small arms and light weapons to non-members. To the extent that resistance to our denial consultation and "catch-all" proposals is based on a perceived need for more transparency in arms transfers, we are willing to entertain proposals that would strengthen the arms pillar of the regime. In the aftermath of September 11, we see no good reason why any country that claims to be serious about nonproliferation and anti-terrorism would not support these proposals to strengthen the credibility and effectiveness of the Wassenaar Arrangement.

Enforcement and Transshipment Initiatives

In addition to efforts to stem proliferation through the multilateral regimes, we will be seeking to strengthen the enforcement of export controls laws. The multilateral regime principles and control lists are meaningless unless licensing requirements are effectively and vigorously enforced by all member countries. Accordingly, we will be taking steps to expand and enhance our international enforcement efforts, particularly with regard to transshipment countries.

The U.S. government is leading an initiative to ensure that major transshipment points are not being used to circumvent export controls and aid proliferation efforts. Since September 11, there has been a heightened awareness that terrorists and countries of concern may take advantage of lax controls at transshipment points to

acquire sensitive items and technologies for weapons programs. Our goal, therefore, is to encourage major transshipment centers to establish procedures for examining cargo, to administer licensing requirements that meet the standards of the multilateral regimes, and to enforce strategic trade control laws to prevent illegal diversion of sensitive items and technologies. We will be working closely with transshipment countries to raise the level of compliance with export control requirements and avoid a race to the bottom with respect to export control standards.

In November 2000, many of your countries met in the United States and agreed to a set of export control and enforcement principles for transshipment countries. As a result of September 11, it is now even more important that we all take steps to implement these principles as soon as possible.

Conclusion

Although September 11 has not altered the fundamental orientation of U.S. nonproliferation efforts, it has underscored the importance of being vigilant and taking the necessary steps to halt the proliferation of deadly weapons. By undertaking several policy initiatives – some of which I have highlighted – we hope to enhance global security by denying terrorists and countries of concern access to sensitive technology required for the development or production of advanced conventional weapons as well as weapons of mass destruction and the missiles to deliver them.

As you know, however, we cannot accomplish this goal alone. All countries that are suppliers of sensitive technologies, or that are key transshipment points, must work together to stem proliferation. It is clearly in everyone's best interest to prevent terrorists and others from acquiring the means to launch devastating attacks that could kill hundreds or thousands of innocent civilians. The cooperation and assistance that each of your countries has provided in the campaign against terrorism in Afghanistan has been tremendous and is much appreciated. We now hope to move forward by building on that cooperation and obtaining your assistance in strengthening multilateral nonproliferation efforts in order to protect global security and prevent the type of terrorism that we witnessed on September 11.

Thank you very much.

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