



Closing the Nonproliferation Gap
Toward the Universalization of
Strategic Trade Controls in the Asia-Pacific

**A Conference Report of the
Workshop on Strategic Trade Controls
By Carl Baker, David Santoro, and John K. Warden**

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Pacific Forum CSIS

Based in Honolulu, the Pacific Forum CSIS (www.pacforum.org) operates as the autonomous Asia-Pacific arm of the Center for Strategic and International Studies in Washington, DC. The Forum's programs encompass current and emerging political, security, economic, business, and oceans policy issues through analysis and dialogue undertaken with the region's leaders in the academic, government, and corporate areas. Founded in 1975, it collaborates with a broad network of research institutes from around the Pacific Rim, drawing on Asian perspectives and disseminating project findings and recommendations to opinion leaders, governments, and members of the public throughout the region.

Institute of International Relations (IIR) of the National Chengchi University

Founded in 1953, IIR is Taiwan's leading research institute of International Relations and China Studies, with 40 research fellows specializing in Taiwan-China relations, Chinese politics, Asian regionalism, European integration, China-US relations, East Asian security, and international law. The Institute publishes four top-rated academic journals, including *Issues & Studies*, *Wenti yu Yanjiu* (Chinese), *Mainland China Studies* (Chinese), and *Montai to Kenkyu* (Japanese).

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The views expressed here represent personal impressions and reflections of the program participants as interpreted by the rapporteurs; they do not necessarily represent the views of the relevant governments, or the co-sponsoring or parent organizations and institutes. Comments regarding specific presentations reflect the rapporteurs interpretations of actual comments made. As such, they should not be directly attributed to the individual presenters.

Key Findings and Next Steps

The Pacific Forum CSIS, in partnership with National Chengchi University's Institute of International Relations, and with support from the US Department of State's Export Control and Related Border Security (EXBS) program, held a workshop on strategic trade controls in Taipei, Taiwan, on September 2-3, 2014. The group included approximately 35 participants and observers from 13 countries, all attending in their private capacity. Discussions focused on UN Security Council Resolution 1540 implementation and the four multilateral export controls regimes, the role of control lists and the interagency process in managing trade of strategic goods, regional organizations, implementation of strategic trade controls in free trade zones, good practices in detection and enforcement of strategic trade controls, and the economic impact of strategic trade controls. Key findings include:

There is growing acceptance throughout the Asia-Pacific that adopting strategic trade controls allows states to gain broader acceptance as legitimate trading partners. In particular, such controls are seen as a means to increase participation in high-tech manufacturing sectors.

UN Security Council Resolution 1540 has helped develop a powerful nonproliferation norm and has encouraged states to adopt and implement strategic trade controls. Momentum for implementation is likely to become self-sustaining, for two reasons. First, governments are beginning to recognize the value of trade controls for promoting high tech trade and integration into the global supply chain. Second, as companies implement internal compliance programs, they appreciate the value of these controls as a risk-management tool.

Continental Southeast Asian states continue to lag behind on implementing strategic trade management programs in comparison with their Asia-Pacific counterparts. Suspicions remain in these states about the limits such controls may place on trade. Representatives from Cambodia, Myanmar, Thailand, and Vietnam stressed that officials in their respective countries, however, are interested in learning more about such controls, however.

A better understanding of programs designed to provide assistance to states interested in adopting strategic trade controls is needed. More work should be done to improve coordination among such programs to avoid duplication of efforts and take advantage of economies of scale and comparative advantages of each.

CSCAP Memorandum No. 14 on "Guidelines for Managing Trade of Strategic Goods" outlines the baseline for regional states interested in developing such controls. More specific guidelines are needed to assist states in implementing strategic trade controls. Recommendations were made for the drafting of national status reports on implementation efforts in order to benchmark progress.

Adoption and implementation of strategic trade controls needs a national champion. The Malaysian experience suggests that a single point of contact or dedicated agency is invaluable to coordinate organizations involved in the process of adopting and implementing such controls, foster understanding and trust among them, ensure effective communication and information exchange, and secure commitment at all levels.

The EU Control Lists are becoming the reference for implementation of strategic trade controls. While adoption of the lists by states saves considerable time and energy, work is constantly needed to integrate periodic updates and changes. Participants also noted that delays in finalizing translation of the lists have been a persistent problem. The European Union could distribute the lists prior to finalizing them in all EU languages to expedite implementation outside the European Union.

The control lists of the four multilateral export-control regimes can help states implement their obligations under UN Security Council Resolution 1540. Although the regimes and Resolution 1540 were not designed to work in tandem – the former are closed groups meant to control sensitive technology transfers while the latter is required of all states and intended to limit transfer to non-state actors – they have both contributed to improving the control of trade in strategic goods.

In addition to relying on the control lists of the four multilateral export-controls regimes, states can use the standards developed by the World Customs Organization (WCO) to implement strategic trade controls. While complete linkage between the WCO Harmonized System (HS) codes and the Export Control Numbers (ECN) developed to control strategic goods is unlikely, it is possible to use both systems to better detect suspicious shipments.

Better detection and enforcement of strategic trade controls requires more synergy between the WCO's SAFE Framework of Standards to Secure and Facilitate Global Trade and strategic trade management principles. This is particularly important for promoting better information on trans-shipment and transit cargo.

Greater public-private partnerships are critical to enhance detection and enforcement of strategic trade controls. As exporters, freight forwarders, and brokers develop a better understanding of the principles of managing strategic goods, they can quickly identify trusted partners and recognize unusual patterns in movement of goods.

Integrating principles for managing strategic goods into the ASEAN Economic Community (AEC) should be a priority for ASEAN members. While 2015 implementation of the AEC is a work in progress, integrating these principles into its agenda will facilitate broader implementation within the member economies and promote standardization across the community.

Previous academic research suggests that strategic trade controls do not have a negative impact on trade. Yet, skepticism remains. Results of the pilot survey assessing *perceptions* in the Asia-Pacific suggest that controls are seen in a positive light. Significantly, international prestige is cited as a primary benefit. Results also show that both political and institutional/technical barriers are thought to hinder progress toward adoption and implementation. Meeting participants believe the pilot survey should be expanded and administered to a wider audience. One participant suggested that an expanded version be administered to participants at the annual Asian Export Control Seminar, while another said that it would be beneficial to poll individual at companies that regularly comply with strategic trade controls.

Conference Report

By Carl Baker, David Santoro, and John K. Warden

The bedrock of the nonproliferation regime is the Nuclear Nonproliferation Treaty, the Biological and Toxin Weapons Convention, and the Chemical Weapons Convention. Along with other associated agreements and arrangements, these instruments constitute the framework through which the proliferation of weapons of mass destruction (WMD) is addressed. In combating proliferation, states can respond in many different ways. One important aspect of the regime is the control of the trade of strategic goods, technologies, and materials. Adoption and implementation of such controls, in fact, has become an essential component of an effective nonproliferation regime in the Asia-Pacific and beyond.

Building upon its extensive experience in strategic trade management in the Asia-Pacific, the Pacific Forum CSIS, in partnership with National Chengchi University's Institute of International Relations, and with support from the US Department of State's Export Control and Related Border Security (EXBS) program, held a workshop on strategic trade controls in Taipei, Taiwan, on Sept. 2-3, 2014. The group included approximately 50 participants and observers from 13 countries, all attending in their private capacity. Discussions focused on UN Security Council Resolution (UNSCR) 1540 implementation and the four multilateral export controls regimes (the Wassenaar Arrangement (WA), the Nuclear Suppliers Group (NSG), the Australia Group (AG), and the Missile Technology Control Regime (MTCR)), the role of control lists, the interagency process for managing trade of strategic goods, regional organizations, implementation of strategic trade controls in free trade zones, good practices in detection and enforcement of strategic trade controls, and the economic impact of strategic trade controls. The report that follows reflects the views of the organizers. While it has been reviewed by all participants, it is not a consensus document.

UN Security Council Resolution 1540 Implementation and the Four Multilateral Export Controls Regimes

Chin-Hao Huang (University of Southern California) focused on the relationship between UNSCR 1540 and the four multilateral export controls regimes. Both UNSCR 1540 and the regimes seek to deny particular actors access to WMD and the means to develop them by controlling movement of relevant items, while minimizing the impact on legitimate trade. However, it is important to recognize two fundamental differences. First, UNSCR 1540 is primarily concerned with preventing the transfer of WMD and their means of delivery to nonstate actors, while the regimes are concerned with limiting the transfer of WMD and the means to develop them to other states. Second, the regimes were developed by a limited number of states with significant manufacturing capabilities for sensitive materials and technologies that had an interest in limiting trade of WMD-related technologies, whereas UNSCR 1540 applies to all UN member states.

Despite these differences, the regimes and UNSCR 1540 are quite compatible. The regimes have established control lists and best practices that can help non-member

states to implement their UNSCR 1540 obligations. Non-members of the regimes can also rely on the work of groups such as the European Union, which has developed its own control lists based on the standards of the regimes. Ultimately, however, developing effective strategic trade controls requires efforts at the national level, including the establishment of an adequate legal and regulatory framework that controls licensing, ensures detection of violators, and provides a legal basis for enforcement. It also requires the development of a strong strategic trade control culture among government agencies and relevant industries.

Rajiv Nayan (Institute for Defense Studies and Analyses, India) further highlighted the differences between the multilateral export controls regimes and UNSCR 1540. The regimes are informal in nature, taken by consensus among member states (most of which are from the West), and their decisions, which often remain opaque, are usually highly specific but not legally binding. In contrast, UNSCR 1540 applies to all UN member states and its provisions, which are more broad and vague, are legally binding.

While there is no direct linkage between the regimes and UNSCR 1540, regime members all promote full implementation of the Resolution. There are several other points of convergence. Both are multilateral instruments intended to address the challenge of WMD proliferation and terrorism, and both contribute to building norms against these threats. Plainly, while they are distinct mechanisms, the regimes and UNSCR 1540 work in harmony to help promote the internationalization of strategic trade controls.

During the discussion, one participant noted that the regimes and UNSCR 1540 do not share the same history. First developed in the 1970s and 1980s, the regimes institute controls of exports among high-technology exporting states, which is why membership is limited and decisions tend to be made behind closed doors. UNSCR 1540 was established after the attacks of September 11, 2001 in an effort to prevent terrorist groups from acquiring WMD, which explains why it applies to all member states and focuses on nonstate actors. By design, the regimes and UNSCR 1540 are not intended to work in tandem. The only operational linkage is the use of control lists to promote accountability of trade activities involving strategic goods.

While some stressed that the 1540 Committee could better coordinate assistance, there was general agreement that UNSCR 1540 has helped develop a powerful nonproliferation norm and has incentivized states to adopt and implement strategic trade controls. Momentum for implementation is likely to become self-sustaining for two reasons. First, governments are beginning to recognize the value of trade controls for promoting high-tech trade and integrating the global supply chain. Second, after companies implement internal compliance programs, they appreciate their value as a risk-management tool. Other standards, notably those developed by the World Customs Organization (WCO) and to a lesser extent by the European Union, have also helped promote the importance and value of strategic trade controls.

The Role of Control Lists in Managing Trade of Strategic Goods

Jay Nash (State University of New York) discussed the role of and trends associated with strategic trade control lists and the implications for the Asia-Pacific. The international basis for control lists is contained in UNSCR 1540 and the multilateral export control regimes. Control lists serve as the cornerstone of the licensing component of a national strategic trade control system and are one of the strongest links between national systems and international standards. “Are my goods on a control list?” is the first-order question in making an export control decision.

There are several challenges, however. For starters, different countries have different items included on their national control lists. Countries also have different item coding and classification systems, and the process of updating lists is not uniform. As a result, licensing agencies and traders encounter frequent identification and classification challenges.

As a general rule, using the EU “List of Dual-Use Goods” and “Common Military List” structure and coding technique (if not the entire lists themselves) is the best way for countries interested in developing an initial strategic trade controls system to proceed. Having classification expertise within the licensing agency is an advantage, as is the dissemination of control lists to industry to ensure awareness of licensing requirements.

In the Asia-Pacific, several countries follow the EU system, both in terms of structure/coding and updating. While no state is fully current with the control lists of the multilateral export controls regimes, several Asia-Pacific states are ahead of the European Union in terms of updating their lists. There are some discrepancies in coverage and control entries intra-regionally, however.

Joachim Wahren (Federal Office of Economics and Export Controls, Germany) gave a presentation on the Export Control lists of the European Union. There are two lists: the Consolidated Dual-Use List (Annex I to the EU Dual-Use Regulation), based on the dual-use controls of the four multilateral export controls regimes, and the Common Military List, based on the Munitions List of the WA. The Dual-Use List identifies ten categories of items. Each control item consists of a “Category” (0 to 9), a “Subcategory” (A for “Systems, equipment, and components,” B for “Test, inspection, and production equipment,” C for “Materials,” D for “Software,” and E for “Technology”), and a three-digit number with its first digit showing the regime origin. The Dual-Use List is updated as the four multilateral export controls regimes update their lists. The Common Military List, for its part, serves as the reference list to the EU Code of Conduct on Arms Export (as agreed in 1998); it consists of 22 categories.

There are several advantages to adopting the EU lists. First, they are synchronized with the lists of the four multilateral export controls regimes and are periodically updated according to changes agreed within these regimes. Second, national controls can be easily added into the existing list structures.

A key takeaway of the discussion is that the EU Control lists are becoming the reference for implementation of strategic trade controls. While adoption of these lists by states saves considerable time and energy, states must still work to integrate periodic updates and changes. This can be time-consuming and resource-intensive. Participants also noted that delays in finalizing translation of the EU lists have been a consistent problem. One recommendation was that the European Union should distribute the lists prior to finalizing them in all EU languages to expedite implementation outside the European Union.

Participants also discussed the inherent discrepancy between shipping documentation and strategic trade controls lists and the possibility of streamlining these different systems. However, all agreed that complete linkage between World Customs Organization's Harmonized Commodity Description and *Coding* System generally referred to as Harmonized System (HS) codes and Export Control Numbers (ECN) is unlikely. HS codes include broad categories of goods, such as batteries, while strategic trade control ECNs focus on only goods that might contribute to WMD programs, which is only an extremely small subset of batteries. However, it *is* possible to use both systems to better identify and detect suspicious shipments. One participant stressed that, at a minimum, states should adopt the WCO's shipping templates, which help arrange relevant information in useful categories.

The Role of the Interagency Process in Managing Trade of Strategic Goods

Mohamad Shahabar Kareem (Ministry of International Trade and Industry, Malaysia) focused on Malaysia's experience in interagency cooperation in the management of trade of strategic items. In Malaysia, implementation of the 2010 Strategic Trade Act has involved collaboration among several government agencies. Licensing is coordinated by the Ministry of International Trade and Industry, the Malaysian Communications and Multimedia Commission, the Pharmaceutical Services Division, and the Atomic Licensing Board. Enforcement is done by the Royal Malaysian Customs, the Royal Malaysian Police, the Malaysian Maritime Enforcement Agency, and the Malaysian Communications and Multimedia Commission. The Attorney General's Chambers and the Royal Malaysian Police are responsible for prosecution of violators. Meanwhile, the Strategic Trade Secretariat acts as the focal point for implementation and is responsible for overall strategic trade management. It maintains an online system, issues licensing guidelines, conducts outreach to industry, and leads audit and interdiction teams.

While Malaysia's model has worked well, there are challenges associated with a multi-agency approach to strategic trade management. It is difficult to foster understanding of the role and work of other agencies, and perhaps even more challenging to ensure effective communication and information exchange among these agencies. Developing effective leadership to solve these problems, therefore, is critical. Leaders must have the big picture in mind, avoid working in silos, and establish common goals among agencies.

Karla Pabelina (Center for International Relations and Strategic Studies, Philippines) discussed the role of the interagency process in managing trade of strategic goods in the Philippines. At the moment, there is no dedicated national authority overseeing and synchronizing all the controlling measures necessary to administer internationally-conforming strategic trade activities in the Philippines. The Philippines has not yet passed a comprehensive strategic trade act. Instead, multiple government agencies are exercising authority for enforcement, licensing, regulatory activities, and industry coordination.

The Philippines is, however, discussing the establishment of a Strategic Goods and Services Management Council. The council would serve as the governing and policy-making body for the management of strategic trade in the Philippines. It would formulate, develop, implement, coordinate, monitor, and evaluate policies, programs, plans, and activities. In the meantime, Manila has convened Technical Working Groups to lay the groundwork for the development of a national strategic trade control system.

During the discussion, participants generally agreed that adoption and implementation of strategic trade controls requires a national champion. Plainly, top-down leadership is critical to success. The Malaysian experience suggests that a single point of contact or dedicated agency is invaluable in coordinating the organizations involved in adopting and implementing such controls, fostering understanding and trust among them, ensuring effective communication and information exchange, and securing commitment at all levels. While countries will make different decisions as to which agency should be the focal point of contact to implement strategic trade controls, many participants pointed out that, ideally, it should be trade agencies rather than licensing agencies because it helps convey to industry that the goal of strategic trade controls is secure trade *facilitation*.

Regional Organizations and Managing Trade of Strategic Goods

George Tan (Centre for Asia-Pacific Trade Compliance and Information Security) gave an overview of strategic trade management in ASEAN. Singapore and Malaysia have developed comprehensive strategic trade control programs. In Singapore, the lead government agency is the Ministry of Trade and Industry, which coordinates activities with the Defense Science and Technology Agency, the Singapore Police, and the Immigration and Checkpoints Authority. Singapore Customs, for its part, is the enforcing agency and the focal point for enquiries and strategic goods permit applications; it also registers/audits arms brokers and conducts industry outreach and public awareness programs. In Malaysia, the organizational authorities are the Ministry of International Trade and Industry and the Malaysian Royal Customs, which coordinate activities with other relevant government agencies to implement the 2010 Strategic Trade Act.

Southeast Asian states in the process of formulating strategic trade management programs include Indonesia, the Philippines, Thailand, and Vietnam. Indonesia is a signatory to the Nuclear Nonproliferation Treaty and the Biological and Chemical Weapons Conventions as well as other relevant international nonproliferation

instruments, but does not have a strategic trade control program. The Philippines has drafted a strategic trade management bill, but it has not been approved by Congress. Thailand has established a Committee on Dual-Use Control under the auspices of its Ministry of Commerce, but a comprehensive strategic trade controls structure is still a work-in-progress. Meanwhile, the development of strategic trade controls program has not begun in Vietnam.

Chungly Lee (National Chengchi University) and Charles Chou (Chinese Taipei APEC Study Center) focused on the APEC program “Secure Trade in the APEC Region” (STAR). Established in 2003, STAR is a response to the risk posed to the trade process by terrorist and criminal activities. Specifically, it aims to develop policies and procedures to enhance port and airport security, shipping container security, coastal patrol, capacity-building, financial assistance, and private-sector initiatives in seaports, airports, and other access points. Over time, STAR has been updated to include efforts to strengthen supply-chain security, the secure and efficient flow of people, and transportation security. Although a core question within APEC has been whether the organization should get involved in security issues, STAR has managed to strike a balance between efficiency and security in trade.

The discussion following the presentations began with a focus on continental Southeast Asian states, notably Cambodia, Myanmar, Vietnam, and Thailand. These states, compared to the rest of the Asia-Pacific, continue to lag behind on implementing strategic trade management programs. There is underlying suspicions in these states about the limits such controls may place on trade. Representatives from Cambodia, Myanmar, Thailand, and Vietnam, however, stressed that officials in their respective countries are interested in learning more about such controls, which is why they are cooperating with various governments and organizations. One participant said: “Before moving forward, we want the relevant agencies to understand what strategic trade controls are, how they work, and the implications that they may have on our economy.”

Several participants stressed that CSCAP Memorandum No. 14 on “Guidelines for Managing Trade of Strategic Goods” outlines the baseline for regional states interested in developing such controls. Others suggested that more specific guidelines are needed to assist states in implementing strategic trade controls. It was recommended that governments draft national status reports on implementation efforts in order to benchmark progress. Others made the case that a better understanding of the international and regional programs that provide assistance to states interested in adopting strategic trade controls is needed. More work should be done to improve coordination among such programs to avoid duplication of efforts and take advantage of economies of scale and the comparative advantage of each.

Implementation of Strategic Trade Controls in Asian Free Trade Zones

Carl Baker (Pacific Forum CSIS) explained that there are different types of free trade zones. As a general rule, free trade zones are defined as fenced-in duty-free areas offering warehousing, storage, and distribution for trade, transshipment, and re-export of

products. A Freeport area accommodates all types of activity to promote overall economic growth through relaxed customs duties and/or controls over transit and transshipment facilities. Meanwhile, traditional export-processing zones are industrial areas focused on assembly and manufacturing aimed primarily at foreign markets. This type of zone would include individual warehouse facilities that focus on exports. Finally, hybrid export-processing zones combine traditional export-processing zones with non-export activities.

All these zones focus on trade facilitation. Transshipment can occur in these zones in four different ways: with licensing and the option of customs inspections, with licensing and customs exemptions, without licensing and the option of customs inspections, and without licensing and with customs exemptions. The problem is that there is often a lack of oversight, creating risks that sensitive goods, technologies, or materials will fall into the wrong hands. That is why adoption of specific guidelines for brokering, transit, and transshipment facilities in strategic trade management regulations is paramount. Also critical are the systematic use of the WCO's Cargo Targeting System and the registration of compliant brokers and transshippers.

Chun-Fang Hsu (Chinese National Federation of Industries) discussed the development of strategic trade controls in Taiwan. Taiwan's strategic trade controls system dates back to 1993, when Taiwan established the Foreign Trade Act, which provides the legal basis for managing trade of Strategic High-Tech Commodities (SHTC). Coordinated by the Bureau of Foreign Trade (BOFT), the SHTC system was launched in 1995 and has developed ever since, including the incorporation of the control lists of the four multilateral export controls groups (1998), the adoption of a "catch-all" measure (2004), the development of a Sensitive Commodities List (2006), and the endorsement of the EU lists (2009). Taiwan's experience in strategic trade management shows that there is no conflict between the promotion of free trade and its control, including in free trade zones.

The discussion revealed that there is still much confusion about how strategic trade controls are implemented in free trade zones. While some participants suggested that controls are lax in these zones, others asserted that there is no difference in detection and enforcement. One participant highlighted that, until recently, customs did not apply to free trade zones in Malaysia; the laws have since been changed, however, to allow customs to conduct inspections in these zones as well. In Singapore, all transit and transshipment have to be declared in advance, and this is a process conducted by regular customs. Still, there are many challenges, in particular because the goal of these zones is to expedite processing time. It was suggested that better detection and enforcement of strategic trade controls require more synergy between the WCO's SAFE Framework of Standards to Secure and Facilitate Global Trade and strategic trade management principles. This is particularly important for promoting better information on transshipment and transit cargo. Clearly more work remains in this area.

Good Practices in Detection/Enforcement of Strategic Trade Controls

Mi-Yong Kim (End-User Review Committee, USA) stressed that there are several detection methods in strategic trade management. Detection can occur at borders (air, land, or sea). It can also occur through the use of targeting and risk management tools, through communication and coordination among law-enforcement and licensing authorities, and through engagement with key industry stakeholders.

Enforcement of strategic trade controls includes both criminal and administrative penalties. They serve as a deterrent (noncompliance cases are usually publicized) and help strengthen institutions and the rule of law, build public confidence in the system, and foster industry cooperation. To enhance both detection and enforcement of strategic trade controls, good practices include strong public-private partnerships, regular personnel training, sophisticated information-technology systems, constant information-sharing between government agencies, and effective enforcement authorities.

Yu-Ning Hwang (National Chengchi University) discussed detection and enforcement of strategic trade controls, focusing on Taiwan. Article 27 of Taiwan's Foreign Trade Act provides for criminal sanctions, including imprisonment for up to five years and a fine of up to NT\$1,500,000 (US\$50,000). Article 27-1 provides for an administrative fine ranging from NT\$30,000 to NT\$300,000 (US\$10,000), the suspension of trading rights for 1-2 month(s), or possibly even the cancellation of the liable party's exporter/importer registration.

Good practices in detection and enforcement of strategic trade controls include industry outreach, which the Taiwanese government conducts on a regular basis. Significantly, Taiwan has developed a comprehensive internal-compliance-program (ICP) system and set up a dedicated webpage on the BOFT website that provides models and search tools that businesses can use. The introduction of e-customs has also improved information-sharing among the relevant government agencies, facilitating detection and, ultimately, enforcement of strategic trade controls.

During the discussion, the importance of greater public-private partnerships to enhance detection and enforcement of strategic trade controls was highlighted. As exporters, freight forwarders, and brokers develop a better understanding of the principles of managing strategic goods, they can quickly identify trusted partners and recognize unusual patterns in the movement of goods. Significantly, the US National Targeting Center has created "red profiles" that address specific types of proliferation challenges. This is a good resource for exporters. Several participants stressed that the goal of enforcement is not to punish violators, but to educate and, indirectly, to act as a deterrent to future violations. That is why voluntary self-disclosure of violations by companies is welcomed and usually leads to reduced or possibly no penalties.

The Economic Impact of Strategic Trade Controls

Anupam Srivastava (Center for International Trade and Security) pointed out that when they are designed and operated judiciously, strategic trade controls are viable trade-enabling and security-maximizing tools. The 2010 study “Assessing the Economic Impact of Adopting Strategic Trade Controls” conducted by the University of Georgia’s Center for International Trade and Security (accessible at: http://www.nti.org/media/pdfs/off_us_dept_21.pdf?_=1316466791) examined trade controls from both importing and exporting perspectives with particular sensitivity to imports as a measure of technology transfer. Using several case studies, it found that strategic trade controls legislation marginally increased imports of high-technology items by providing assurances to exporting governments, supply chains, and investors. More generally, it found that robust strategic trade controls facilitate the import of licensed commodities, promote the export of dual-use products and services, stimulate research and development, fabrication, and prototypes, and assist in meeting security and anti-terrorism goals.

Osamu Fujimoto (Center for Information on Security Trade Controls) explained that violating strategic trade control regulations negatively impacts a company’s reputation. It is thus critical for a company to have a robust risk management system to implement these controls, balancing their benefits, costs, and risks.

John K. Warden (Pacific Forum CSIS) presented the findings of a pilot survey of expert opinions about strategic trade controls (see Appendix A). The survey was submitted to 16 experts from throughout the Asia-Pacific, who were asked to answer from the perspective of their country. It found that an equal number of survey respondents agree or are neutral as to whether limiting the transfer of high-technology items to certain actors and countries is an important goal (see Appendix B). Moreover, the majority of survey respondents believe that strategic trade management would benefit their respective countries, although the primary benefit mentioned by respondents is international prestige, not economic growth. Respondents emphasized both the political and the institutional/technical barriers to adoption and implementation of strategic trade controls.

Overall, the survey found that there is a strong feeling throughout the Asia-Pacific that effective strategic trade controls would allow for more high-technology imports for countries that have not fully implemented such controls. One participant suggested that an expanded version of the pilot survey be administered to participants at the annual Asian Export Control Seminar. Another said that it would be beneficial to poll individuals at companies that regularly comply with strategic trade controls to get a better understanding of how the private sectors views strategic trade control mechanisms.

Conclusions and Next Steps

In summarizing the meeting’s key findings, Carl Baker and David Santoro (Pacific Forum CSIS) highlighted that there is growing acceptance throughout the Asia-

Pacific that strategic trade controls allow states to gain broader acceptance as legitimate trading partners. In particular, such controls are increasingly seen as a means to increase participation in high-technology manufacturing sectors. However, there are vast differences between Asia-Pacific states: some have developed strategic trade controls and are satisfied with what they have (e.g., Malaysia, Singapore, and Hong Kong), while others are becoming interested in developing such controls, but face important political and technical barriers (as is the case in continental Southeast Asian states). Engaging key regional governments and the private sector is important. More generally, integrating principles for managing strategic goods into the ASEAN Economic Community (AEC) should be a priority for ASEAN members. While 2015 implementation of the AEC is a work-in-progress, integrating these principles into its agenda would facilitate broader implementation within the member economies and promote standardization across ASEAN.

Lastly, George Tan (Centre for Asia-Pacific Trade Compliance and Information Security) presented the “CAPTCIS” initiative. Located in Singapore, CAPTCIS aims to serve the business community on trade compliance and information security. It seeks to create and maintain a safe, compliant, and secure trading environment by acting as a single platform on trade compliance services and engaging the regulatory authorities in Asia-Pacific states on behalf of the private sector. For more information, visit www.captcis.com

APPENDIX A

Pacific Forum CSIS Strategic Trade Management Survey

GENERAL INFORMATION

COUNTRY: _____(optional)

What is your career experience with strategic trade management?

- 1 – Significant (More than five years)
- 2 – Modest (2-5)
- 3 – Minimal (less than 2 years)
- 4 – None

COUNTRY STRATEGIC TRADE MANAGEMENT BACKGROUND

My country has implemented a strategic trade management regime.

- 1 – Fully
- 2 – Partially
- 3 – Not at all

What specific steps has your country taken to implement a strategic trade management regime?

What are planned future steps? And when will they be implemented?

EVALUATION OF STRATEGIC TRADE MANAGEMENT

To the best of your ability, please fill out this section from the perspective of the government of the country you are representing. There are additional questions about your personal opinion in the next section.

My country is a major exporter of high-technology items.

- 1 – Strongly Agree
- 2 – Agree
- 3 – Neutral/No Opinion
- 4 – Disagree
- 5 – Strongly Disagree

My country would benefit from substantially increasing its imports of high-technology items.

- 1 – Strongly Agree
- 2 – Agree
- 3 – Neutral/No Opinion
- 4 – Disagree
- 5 – Strongly Disagree

The main obstacle to fully implementing strategic trade management in my country is political (eg., lack of legislation or political will to pass legislation).

- 1 – Strongly Agree
- 2 – Agree
- 3 – Neutral/No Opinion
- 4 – Disagree
- 5 – Strongly Disagree

The main obstacle to fully implementing strategic trade management in my country is institutional/technical (eg., lack of expertise or resources for enforcement).

- 1 – Strongly Agree
- 2 – Agree
- 3 – Neutral/No Opinion
- 4 – Disagree
- 5 – Strongly Disagree

If my country fully implemented strategic trade management, it would likely experience significant declines in exports of high-technology items.

- 1 – Strongly Agree
- 2 – Agree
- 3 – Neutral/No Opinion
- 4 – Disagree
- 5 – Strongly Disagree

If my country fully implemented strategic trade management, it would likely import substantially more high-technology products from more technologically advanced countries.

- 1 – Strongly Agree
- 2 – Agree
- 3 – Neutral/No Opinion
- 4 – Disagree
- 5 – Strongly Disagree

For my country, limiting the transfer of high-technology items to certain actors and countries is an important denial goal.

- 1 – Strongly Agree
- 2 – Agree
- 3 – Neutral/No Opinion
- 4 – Disagree
- 5 – Strongly Disagree

On balance, fully implementing a strategic trade management regime would benefit my country.

- 1 – Strongly Agree
- 2 – Agree
- 3 – Neutral/No Opinion

4 – Disagree

5 – Strongly Disagree

PERSONAL OPINION OF STRATEGIC TRADE MANAGEMENT

In your opinion, has your country done enough to implement strategic trade management? If not, what additional steps should be taken?

In your opinion, how important is strategic trade management? How does it compare to other policy goals?

Is there any other information you would like to provide?

APPENDIX B

Presentation on Pacific Forum CSIS Strategic Trade Management Survey

Expert Opinions about Strategic Trade Controls

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Workshop on Strategic Trade Controls
Taipei, Taiwan | September 2-3, 2014

Survey Methodology

- 16 surveys submitted anonymously by strategic trade management (STM) experts
- Participants were asked to answer from the perspective of the country they are representing
- Results are sorted by countries that have fully, partially, or not at all implemented STM regimes

Survey Questions

GENERAL INFORMATION

- What is your career experience with strategic trade management?

COUNTRY STRATEGIC TRADE MANAGEMENT BACKGROUND

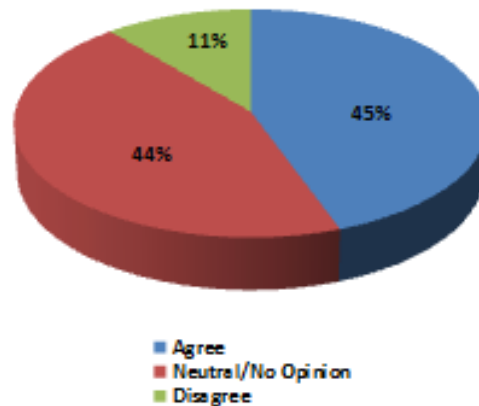
- My country has implemented a strategic trade management regime.

EVALUATION OF STRATEGIC TRADE MANAGEMENT

- My country is a major exporter of high-technology items.
- My country would benefit from substantially increasing its imports of high-technology items.
- The main obstacle to fully implementing strategic trade management in my country is political (eg., lack of legislation or political will to pass legislation).
- The main obstacle to fully implementing strategic trade management in my country is institutional/technical (eg., lack of expertise or resources for enforcement).
- If my country fully implemented strategic trade management, it would likely experience significant declines in exports of high-technology items.
- If my country fully implemented strategic trade management, it would likely import substantially more high-technology products from more technologically advanced countries.
- For my country, limiting the transfer of high-technology items to certain actors and countries is an important denial goal.
- On balance, fully implementing a strategic trade management regime would benefit my country.

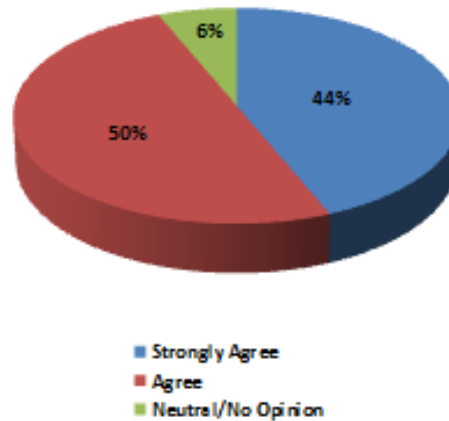
For my country, limiting the transfer of high-technology items to certain actors and countries is an important denial goal.

- An equal number of survey respondents agree or are neutral
- These results are for countries that have partially or not at all implemented a STM regime
- For countries who have fully implemented a STM regime: 29% strongly agree, 57% agree, and 14% neutral/no opinion



On balance, fully implementing a strategic trade management regime would benefit my country.

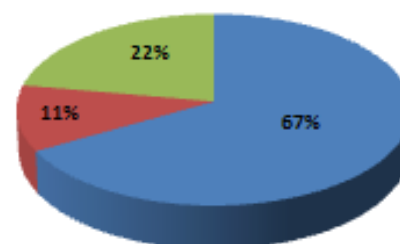
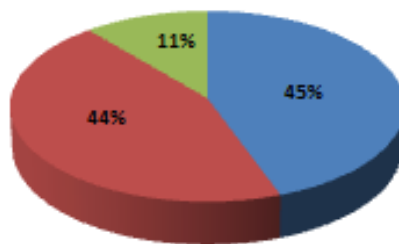
- Of all the survey respondents, the vast majority believe that strategic trade management would benefit their respective countries
- For countries who have fully implemented a STM regime: 71% strongly agree, 29% agree
- For countries who have partially or not at all implemented a STM regime: 12.5% strongly agree, 75% agree, 12.5% neutral/no opinion



The main obstacle to fully implementing strategic trade management in my country is...

- political (eg., lack of legislation or political will to pass legislation)

- institutional/technical (eg., lack of expertise or resources for enforcement)



■ Agree/Strongly Agree
 ■ Neutral/No Opinion
 ■ Disagree

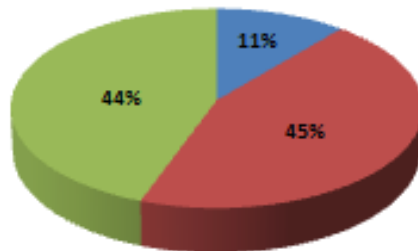
■ Agree/Strongly Agree
 ■ Neutral/No Opinion
 ■ Disagree

* These results are for countries that have partially or not at all implemented a STM regime

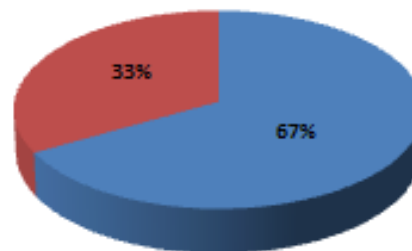
If my country fully implemented strategic trade management, it would likely...

- experience significant declines in exports of high-technology items.

- import substantially more high-technology products from more technologically advanced countries.



■ Agree
■ Neutral/No Opinion
■ Disagree



■ Agree
■ Neutral/No Opinion
■ Disagree

* These results are for countries that have partially or not at all implemented a STM regime

Preliminary Conclusions

- On balance, almost all participants say that STM would be beneficial for their country. In most of the surveys, international prestige was cited as the primary benefit, not economics.
- Most participants say STM is an important goal for their country, but many answered neutral/no opinion. Only one participant says STM is not an important goal for his or her country.
- There are a mix of responses about the main barriers to STM: political or institutional/technical. Relatively more participants express concern over the latter, but many say both are issues.
- There is a strong feeling that effective STM would allow for more high-tech imports for countries that have not fully implemented a STM regime. But uncertainty about whether STM would lead to a decline in high-tech exports. Most say they don't know or have no opinion; one participant says it would lead to a decline.

APPENDIX C

Conference Agenda and Participant List

Workshop on Strategic Trade Controls Taipei, Taiwan | September 2-3, 2014

Agenda

September 1, 2014

18:30 Opening Reception and Dinner

September 2, 2014

8:45 **Opening Remarks**

9:00 **Session 1: UN Security Council Resolution 1540 Implementation and the Multilateral Export Controls Regimes**

This session will look at the relationship between UN Security Council Resolution (UNSCR) 1540 and the four multilateral export controls regimes (Nuclear Suppliers Group, Australia Group, Missile Technology and Control Regime, and Wassenaar Arrangement). What are the linkages between UNSCR 1540 and these regimes? How are the linkages articulated? How can these linkages help states implement the Resolution? What other components of a strategic trade management system can be used to facilitate implementation of UNSCR 1540?

Chin-Hao Huang
Rajiv Nayan

10:30 **Coffee Break**

10:45 **Session 2: The role of Control Lists in Managing Trade of Strategic Goods**

This session will focus on the development and maintenance of national control lists and the role of the European Union Control List, which has become the de facto standard for categorizing strategic goods and the principal starting point for developing strategic trade controls. How does the national control list fit into the broader scope of a state's trade management system? What are the key components of the EU Control List? How was the EU control list developed and how is it kept current? How do European states use the EU Control List in developing national control lists? How have states in the region used the EU control list in developing their national control lists? What are the lessons?

Jay Nash
Joachim Wahren

12:15 **Lunch**

13:45 **Session 3: The Role of the Interagency Process in Managing Trade of Strategic Goods**

This session will focus on the importance of establishing an effective interagency process to manage the components of an effective system to manage trade of strategic goods. What are the key agencies involved in the licensing, detection, enforcement, and outreach components of a strategic goods trade management system? What are the key factors that

determine the composition of the interagency group involved in the coordination process? How have states managed the coordination process required to establish and maintain currency of their control lists? How have states managed the coordination process required to ensure cooperation between detection of violations and enforcement of penalties? What are the lessons?

Hu Yumin
Mohamad Shahabar Kareem
Karla Pabelina

15:15 **Coffee Break**

15:30 **Session 4: Regional Organizations and Managing Trade of Strategic Goods**

This session will examine the role of regional organizations in managing trade of strategic goods. What programs have regional organizations developed that have relevance to managing trade of strategic goods? Which programs have the most significance to the establishment and maintenance of a control system for managing trade of strategic goods? What could regional organizations do to facilitate better regional coordination among states in managing trade of strategic goods? This session will also focus on what needs to be done to integrate strategic trade management into the ASEAN National Single Window programs and the ASEAN Single Window Initiative. The session will also evaluate the APEC Secure Trade Initiative as a mechanism for developing and maintaining an effective strategic trade management system.

George Tan
Chungly Lee and Dr. Chou

17:00 **Session Adjourns**

18:30 **Dinner**

September 3, 2014

9:00 **Session 5: Implementation of Strategic Trade Controls in Asian Free Trade Zones**

This session will focus on implementation of strategic trade controls in Asian free trade zones. What types of free trade zones exist in Asia? What are their similarities and differences in terms of licensing and Customs-clearance requirements? What are the challenges to developing effective oversight of strategic goods being processed in and through these zones? What can be done to address these challenges?

Carl Baker
Chun-Fang Hsu

10:30 **Coffee Break**

10:45 **Session 6: Good Practices in Detection/Enforcement of Strategic Trade Controls**

This session will focus on the role of detection and enforcement of strategic trade controls. What is the World Customs Organization doing to promote nonproliferation in the Asia Pacific? What are the most common violations being detected? What are the primary mechanisms used to detect violations of strategic trade controls and what enforcement measures are available to deal with violators? What is the relationship

between detection and enforcement? What good practices have been identified in implementing such measures? What are the lessons?

Mi-Yong Kim
Yu-Ning Hwang

12:15 **Lunch**

13:45 **Session 7: The Economic Impact of Strategic Trade Controls**

This session will focus on the economic impact of strategic trade controls. Is there an objective way to evaluate the economic impact of controls on strategic goods? Is there a gap between perception and reality regarding the economic impact of restrictions placed on trade of strategic goods? What are the areas where strategic trade management has been seen as positive, negative, or where had no affect? Given the general perception that controlling trade of any goods conflicts with the principle of enhancing trade, what can be done to change the perception that controlling strategic goods is necessary?

Anupam Srivastava
Osamu Fujimoto
John K. Warden

15:15 **Coffee Break**

15:30 **Session 8: Wrap-Up and Next Steps**

This session will summarize the meeting's key findings and discuss next steps for future research.

17:00 **Meeting Adjourns**

18:30 **Farewell Dinner**

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Participant List

Tun Tun AUNG

Deputy Director
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Eang UNG

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International Affairs
National Defense University