

As the European Union (EU) begins the process of expansion into East and Central Europe, numerous challenges will need to be confronted regarding the development of a common foreign and security policy (CFSP) and a common approach to non-proliferation and export controls.

In the nonproliferation field, the problems posed by expansion are probably most obvious in the missile area, because only one of the 11 candidates<sup>1</sup> is a member of the Missile Technology Control Regime (MTCR). As it stands now, all current EU member states belong to the MTCR. If any of the candidates join the EU without joining the regime first, their entry into the single market will increase the danger of missile technology being transshipped from the EU's MTCR member states, via the Union's non-MTCR member states, to missile projects in countries of proliferation concern. The situation is complicated further because several of the candidates possess offensive Category I-restricted missile systems, the most tightly controlled items on the MTCR annex. Under current U.S. policy on admitting new members to the regime, all candidates are required to give up such systems before joining.

This essay considers these problems as well as a potential EU strategy to negate the missile proliferation risks posed by enlargement. Before considering why it is important that all EU states also become members of the MTCR, it is worth looking briefly at the EU position on nonproliferation and export controls more generally.

### THE EU AND NONPROLIFERATION

In November 1993, the Treaty on European Union entered into force and set the implementation of a CFSP as an EU objective. As a result, the EU member states began according greater importance to achieving consensus on external policy issues, including nonproliferation and export controls. Indeed, several notable steps have since been taken by the EU to establish a common approach to nonproliferation and export controls.

In 1994, the first Joint Action adopted by the EU in the security field involved the 1995 Review and Extension Conference for the Treaty on the Non-Proliferation

of Nuclear Weapons (NPT).<sup>2</sup> This action underlined the importance of the treaty as a cornerstone of the international legal order, the international nonproliferation regime, and European security.<sup>3</sup> In doing so, the EU established in advance its position on NPT extension with the aim of securing the treaty's indefinite extension.<sup>4</sup>

## VIEWPOINT: THE MTCR AND EU EXPANSION

by Wyn Bowen

Perhaps the most significant step was the adoption by the Council of the European Union, in December 1994, of a common system of export controls on dual-use goods and technologies. The aim of this system is to establish an effective nonproliferation

mechanism by ensuring the uniform implementation of export controls between the member states, while minimizing restrictions on internal trade in dual-use items.<sup>5</sup> The system took effect on July 1, 1995, and provides for the control of specific dual-use items with potential applications for nuclear, biological, and chemical weapons and ballistic missiles. Under the system, a license is required to export items included on the common EU list of dual-use goods.<sup>6</sup> According to the European Commission, this system represents an initial step towards the establishment of a complete and consistent EU regime for controlling exports of dual-use goods. It also serves to ensure that the international nonproliferation commitments of member states, and hence the EU, are complied with.<sup>7</sup>

More recently, on March 4, 1998, the Council of the European Union adopted a Common Position in support of progress towards the establishment of a legally binding protocol to strengthen compliance with the Biological and Toxin Weapons Convention and the intensification of work in the *Ad Hoc* Group to that end. On March 6, the associated countries of Central and Eastern Europe and Cyprus, as an associated country, declared that they shared the objectives of this Common Position. Under this declaration, each country is committed to ensuring that its national policies conform to this Common Position.<sup>8</sup>

The European Commission stated recently that the member states have been "working more and more to-

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gether” in international supplier groups such as the MTCR, the Nuclear Suppliers Group, and the Australia Group with an emphasis on reaching “common understandings” with partners and establishing a dialogue with non-partners.<sup>9</sup> As enlargement negotiations proceed, the EU needs to build on this progress by ensuring that all prospective members participate in these supplier groups. Indeed, the issue of export controls on sensitive goods was featured in the “Opinions,” regarding new membership in the EU, issued by the European Commission in July 1997.<sup>10</sup> As a result, the pre-accession strategy of each candidate country makes specific reference to its nonproliferation and export control commitments and goals.<sup>11</sup>

There can be little doubt, then, that the EU attaches great importance to ensuring that both current and future member states subscribe to a common position on export controls. This has been most apparent in the missile field.

### THE EU AND THE MTCR

It is no coincidence that currently all EU member states are members in the MTCR. In December 1989, a campaign was initiated to expand the regime’s membership in Western Europe beyond the original European founder countries of France, Italy, West Germany, and the United Kingdom.<sup>12</sup> This initiative was driven primarily by the Bush administration’s concern regarding the role played by numerous entities in non-MTCR West European states—such as Austria, Denmark, Switzerland, Sweden and Spain—in supplying and/or transshipping missile technology and assistance to countries such as Iraq and Argentina in the mid-to-late 1980s.<sup>13</sup>

A particular emphasis was placed on gaining the membership of all the remaining European Community (EC) member states by the end of 1992, when the community’s internal trade barriers were scheduled for removal. The administration was concerned that unless all EC countries joined the regime by this date, the community’s MTCR members might not be able to prevent exports of missile technology to the community’s non-MTCR members. It was feared that this technology might then be transshipped through these non-MTCR countries to missile projects in the developing world.

The accession of Denmark is a good example of the rationale for including all EC member states. The Danish government announced its membership in the MTCR

in November 1990 by stating that its decision to join was based on the increasing proliferation of missile technology: a phenomenon that it said had been highlighted by the Gulf crisis. Although Denmark was not a major source of missile technology, the Danish government was concerned that it might become a major transshipment point for such items.<sup>14</sup> Indeed, the Danish government had asked the Bush administration, in early September 1990, to send an expert witness to strengthen its case against a company wanting to export “high purity graphite cylinders” to Libya’s Al-Fatah missile project. The items involved had originated in West Germany.<sup>15</sup> This case exemplified the type of transshipment incident that it was hoped would be prevented by expanding the regime’s membership to include all EC countries.

Austria, Belgium, Denmark, Finland, Greece, Ireland, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, and Switzerland all joined the MTCR between November 1989 and June 1992.<sup>16</sup> Prior to the removal of internal trade barriers, EC membership in the MTCR had risen from the original four to encompass the remaining eight member states: Belgium, Denmark, Greece, Luxembourg, the Netherlands, Norway, Portugal, and Spain. When the EC expanded to incorporate Austria, Finland, and Sweden in January 1995, the issue of MTCR membership was moot because each country had already joined the regime. However, the re-initiation of the enlargement process in March 1998 brought the issue of MTCR membership to the fore once again.

### THE CHALLENGE OF EU ENLARGEMENT

In order to join the regime, current EU candidate countries will need to prove their commitment to international nonproliferation standards and to establish and enforce effective export controls. Moreover, they will have to give up any offensive Category I-restricted missile systems. For example: under current U.S. criteria for admitting new members, Washington supports the “prudent expansion” of the regime to include additional countries that “subscribe to international nonproliferation standards, enforce effective export controls,” and “abandon offensive ballistic missile programs.”<sup>17</sup>

Of the six countries currently in fast-track negotiations with the EU, only Hungary is a MTCR member (see Figure 1). Poland, the Czech Republic, Slovenia, Estonia, and Cyprus are not. Hungary joined the MTCR in 1993 and in order to qualify for membership, pledged to destroy its Category-I-restricted Scud-B missiles.

Figure 1: Fast-Track EU Candidates

EU Candidate	MTCR Status	Category-I Systems
Czech Republic	Non-member	Scud-B
Cyprus	Non-member	
Estonia	Non-member	
Hungary	Member	
Poland	Non-member	
Slovenia	Non-member	

These missiles had been decommissioned following the collapse of communism in Central and Eastern Europe.<sup>18</sup> The United States financed the destruction of the missiles.<sup>19</sup>

Only one fast-track candidate possesses Category-I-restricted missiles, the Czech Republic. Although the Czech Republic destroyed (in 1996) the 500 kilometers (km)-range SS-23 missiles it inherited after the break-up of Czechoslovakia,<sup>20</sup> it still possesses Category-I-restricted 300 km-range Scud-B missiles.<sup>21</sup> In order to join the MTCR, the Czech Republic will have to give up these missiles.

None of the five additional countries with which the EU has speeded up pre-negotiation preparations (slow-track) are MTCR members (see Figure 2). Furthermore, three of the five possess Category I-restricted missile systems. Bulgaria, Romania, and Slovakia all own Scud-B missiles. Bulgaria and Slovakia also possess SS-23 missiles. Again, these countries will need to forfeit these systems in order to join the regime. The United States has asked both Slovakia and Bulgaria to destroy their nuclear-capable SS-23 missiles, but no progress has been reported on this issue yet.<sup>22</sup>

In addition to establishing effective export control systems, all of the prospective members will need to strengthen their transshipment controls. The countries of Central and Eastern Europe and Cyprus have all been targeted by transshippers at one time or another and to varying degrees. For example, in March 1996, what were

thought to be guidance systems for either missiles or torpedoes were intercepted in Austria en route to India after being transshipped from Moldova through Romania and Hungary.<sup>23</sup> In December 1995, the Cypriot port of Limassol was used as a transshipment point for Russian chemical weapons material bound for Syria, according to U.S. and Israeli intelligence sources. It was reported that this material might have been destined for use in Scud-type warheads.<sup>24</sup> In 1993, a Russian company was foiled in its attempt to ship 80 tons of ammonium perchlorate (used in the manufacture of solid rocket fuel) through Ukraine and Bulgaria to Libya.<sup>25</sup>

In short, the missile proliferation challenge posed by EU enlargement is to formulate an effective strategy to minimize the risk that sensitive technology might be transshipped through member states in an expanded union to missile projects of concern. Such a strategy would be consistent with the EU aim of establishing common policies that are "preventive rather than reactive."<sup>26</sup>

#### THE WAY AHEAD: A MISSILE NONPROLIFERATION STRATEGY FOR THE EU

To minimize the future risk of transshipment, the EU applicants should be encouraged and assisted to:

1. establish effective missile technology export controls, including transshipment controls;
2. give up any offensive Category I systems;

Figure 2: Slow-Track EU Candidates

EU Candidate	MTCR Status	Category-I Systems
Bulgaria	Non-member	SS-23, Scud-B
Latvia	Non-member	
Lithuania	Non-member	
Romania	Non-member	Scud-B
Slovakia	Non-member	SS-23, Scud-B

3. subscribe to relevant nonproliferation agreements; and
4. apply to join the MTCR.

Priority should initially be given to encouraging and assisting the fast-track candidates to meet these goals. They are almost certain to join the EU prior to other candidates, some of them possibly by 2003. Also, as outlined above, they present fewer problems and, as a result, will be easier to assimilate into the regime. Whether dealing with fast- or slow-track candidates, the EU should pursue the above goals through three main channels.

First, the pre-accession negotiations should be used to monitor each candidate's progress towards meeting these criteria. Starting at the end of 1998, the European Commission is scheduled to make regular reports reviewing the progress of each applicant state towards accession, in particular regarding the speed at which it is adopting the union *acquis* (the rules and regulations of the EU).<sup>27</sup>

Second, the newly established European Conference should be used as a forum for the prospective members to consult the current members on the issue of MTCR membership. The conference was created for two main reasons: to bring together current EU members and the European states aspiring to join the EU; and to establish a multilateral forum for political consultation and cooperation for addressing issues of general concern on a pan-European basis.<sup>28</sup> The inaugural meeting of the European Conference was held in London on March 12, 1998, and addressed the following issues: foreign and security policy, drugs and transnational organized crime, the environment, economic issues, and regional cooperation.<sup>29</sup>

Third, the EU member states should ensure that the EU-MTCR issue be given due consideration by all MTCR members, in particular the United States. It should be noted that under the Joint EU-U.S. Action Plan of December 1995, the EU and the United States agreed to "coordinate on the prudent extension of the MTCR to non-participating countries in order to control the spread of missile technology."<sup>30</sup> MTCR members have every incentive to facilitate the enlargement of the regime in this way. Expanded membership will help promote the missile nonproliferation "norm" and will imbue the regime with greater international legitimacy. More importantly, it will help to address the issue of transshipment, which has been accorded growing importance by the MTCR in recent years. For example: the members have

provided key non-MTCR countries targeted by transshippers with practical assistance to implement transshipment controls on missile technology.<sup>31</sup> The next MTCR Plenary Meeting is scheduled to take place in Budapest, Hungary, in the fall of 1998. Given that Hungary is the only prospective EU member that already belongs to the regime, Budapest would be a symbolic location to begin addressing the issue of EU-MTCR membership. In particular, Hungary could serve as a good example because it had to forfeit Category I-restricted Scud-B missiles to join the regime. Four of the EU candidates will have to do the same prior to joining the MTCR.

The EU could use the above strategy to begin demonstrating more leadership in the missile nonproliferation field. Such a leadership role would be a prudent step in the establishment of a CFSP, given the EU's likely vulnerability to the expanding missile arsenals of the Middle East and North Africa. Indeed, EU enlargement will only hasten this vulnerability.

<sup>1</sup> On March 30, 1998, the European Union (EU) launched bilateral pre-accession negotiations with Cyprus, Hungary, Poland, Estonia, the Czech Republic and Slovenia on the conditions for their entry into the organization. At the same time, the EU speeded up preparation for negotiations with Romania, Slovakia, Latvia, Lithuania, and Bulgaria on their future memberships.

<sup>2</sup> Joint Actions commit the member states to acting in certain ways in support of common positions.

<sup>3</sup> The EU made its position well known in advance and the Joint Action was mandatory for all member states and the European Commission. Pablo Benavides, *Safeguards and Non-Proliferation in the EU: Reflections on 40 Years of EURATOM Safeguards and Some Thoughts Concerning Future Developments*, European Commission, undated (<http://europa.eu.int>).

<sup>4</sup> *Ibid.*

<sup>5</sup> Ian Anthony, Susanna Eckstein, and Jean Pascal Sandevs, "Multilateral Military-related Export Control Measures," in *SIPRI Yearbook 1997: World Armaments, Disarmament and International Security* (Oxford: Oxford University Press, 1997), p. 360.

<sup>6</sup> Basically, the export control system consists of two parts. First, there is the CFSP Joint Action aimed at protecting member states' essential security interests and meeting their international commitments. This includes a common list of dual-use goods that are subject to control when exported from the EU. Second, there is a Regulation based on article 113 (common commercial policy). The core element of this regulation is that for all dual-use goods listed in the common list, a license is required for export from the EU. Each member state is responsible for authorizing such exports and a license issued by the relevant authorities in one member state is valid throughout the rest of the Union. Benavides, *Safeguards and Non-Proliferation in the EU: Reflections on 40 Years of EURATOM Safeguards and Some Thoughts Concerning Future Developments*.

<sup>7</sup> *Ibid.*

<sup>8</sup> Once a common position has been defined by the Council, member states must ensure that their national policies conform to it. See, *Decla-*

ration by the European Union and the associated countries of Central and Eastern Europe, the associated country of Cyprus and the EFTA countries members of the European Economic Area on progress towards a legally binding protocol to strengthen compliance with the Biological and Toxin Weapons Convention (BTWC) and the intensification of work in the Ad Hoc Group to that end, Council of the European Union, March 6, 1998 (<http://ue.eu.int>). *EUR-Lex, Official Journal of the European Communities*, L 75, Volume 41, March 12, 1998 (<http://europa.eu.int>).

<sup>9</sup> Benavides, *Safeguards and Non-Proliferation in the EU: Reflections on 40 Years of EURATOM Safeguards and Some Thoughts Concerning Future Developments*.

<sup>10</sup> *Ibid.*

<sup>11</sup> *Luxembourg European Council 12 and 13 December 1997 Presidency Conclusions*, DN: DOC/97/2414, Luxembourg European Council, December 14, 1997 (<http://europa.eu.int>).

<sup>12</sup> The administration secured the agreement of its MTCR partners to expand the regime's membership at the regime's second Plenary Meeting in London in December 1989. See the testimony of Richard Clarke, Assistant Secretary of State for Politico-Military Affairs, before the House Committee on Foreign Affairs and its Subcommittee on Arms Control, International Security and Science on July 11, 1990. U.S. Congress, House of Representatives, Committee on Foreign Affairs, Subcommittee on Arms Control, International Security and Science, *Proliferation and Arms Control*, 101st Congress, 2nd Sessions, May 17, July 11, 1990, p. 151.

<sup>13</sup> Transshippers target certain countries because of the large volume of trade that passes through them without entering the local economy.

<sup>14</sup> Deborah A. Ozga, "A Chronology of the Missile Technology Control Regime," *The Nonproliferation Review* 1 (Winter 1994), p. 77.

<sup>15</sup> Answer to a question posed to Henry Sokolski, Deputy for Nonproliferation Policy, Department of Defense, before the Senate Committee on Governmental Affairs on October 9, 1990. U.S. Congress, Senate, Committee on Governmental Affairs, *Proliferation and Regional Security in the 1990s*, 101st Congress, 2nd Session, October 9, 1990, p. 85.

<sup>16</sup> Australia and New Zealand also joined the MTCR during this period. Ozga, "A Chronology of the Missile Technology Control Regime," p. 71.

<sup>17</sup> The White House, Office of the Press Secretary, *Fact Sheet: Nonproliferation and Export Control Policy*, September 27, 1993.

<sup>18</sup> MTI (Budapest), May 2, 1995; in FBIS-EEU-95-085-A (2 May 1995). Karoly Levai, Kossuth Radio Network (Budapest), May 20, 1995; in FBIS-EEU-95-098 (20 May 1995).

<sup>19</sup> "USA Steps Up Missile Control In Central Europe," *Jane's Defence Weekly*, August 27, 1997, p. 6.

<sup>20</sup> "The Czech Republic Has Destroyed..." *Baltic Times*, August 1-7, 1996, p. 7.

<sup>21</sup> *The Military Balance 1995-1996* (London: International Institute of Strategic Studies, October 1995), pp. 281-285.

<sup>22</sup> *Post Soviet Nuclear and Defense Monitor*, August 25, 1997, p. 10; *Jane's Defence Weekly*, August 27, 1997, p. 6; *The Military Balance 1995-1996*, pp. 281-285.

<sup>23</sup> R. Stroehle, *Kurier* (Vienna), p. 13, March 5, 1996; in FBIS-TAC-96-005 (5 March 1996).

<sup>24</sup> *Le Nouvel Observateur* (Paris), October 12-18, 1996, p. 39; in FBIS-WEU-96-181 (18 October 1996).

<sup>25</sup> "Ukraine Says Libya-Bound Cargo Detained," *Reuter*, April 13, 1993. "Ukrainians Seize Libya-Bound Russian Chemicals," *Agence France Presse*, April 12, 1993.

<sup>26</sup> *The Union's Policies: Common Foreign and Security Policy (CFSP)*, European Union, undated (<http://europa.eu.int/pol/cfsp/en/info.htm>).

<sup>27</sup> *Luxembourg European Council 12 and 13 December 1997 Presidency Conclusions*, DN: DOC/97/2414, Luxembourg European Council, December 14, 1997 (<http://europa.eu.int>).

<sup>28</sup> U.K. Foreign and Commonwealth Office, *UK Presidency of the European Union: European Conference London*, March 12, 1998 (<http://presid.fco.gov.uk/meetings/euroconf/>).

<sup>29</sup> *Luxembourg European Council 12 and 13 December 1997 Presidency Conclusions*, DN: DOC/97/2414, Luxembourg European Council, Decem-

ber 14, 1997 (<http://europa.eu.int>).

<sup>30</sup> *Joint EU-US Action Plan*, European Union, undated (<http://europa.eu.int>). The White House, Office of the Press Secretary, *Conference by the President and Leaders of the European Union*, December 3, 1995.

<sup>31</sup> U.S. Department of State, *Missile Technology Control Regime Holds Plenary Meeting in Bonn*, October 12 1995). "MTCR Expands," *Arms Sales Monitor*, December 5, 1995, p. 4. The White House, *Press Release: Text Of A Letter From The President To The Speaker Of The House Of Representatives And The President Of The Senate*, November 12, 1996 (<http://library.whitehouse.gov>). U.S. Arms Control and Disarmament Agency, *Missile Technology Control Regime Holds Plenary Meeting in Tokyo*, November 6, 1997.