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and International Relations of the House of Representatives
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Mr. Chairman, members of the committee, thank you for the opportunity to appear before you today to discuss the General Accounting Office's assessment of the Department of State's controls on the export of cruise missiles, unmanned aerial vehicles (UAV) and related technologies. As stewards of the nation's defense exports, we have no higher priority than ensuring that the recipients of U.S. defense articles and services comply with U.S. export control laws and regulations. We are also very mindful in the post 9/11 environment of our responsibility for preventing the proliferation of weapons of mass destruction (WMD) and the systems for their delivery as well as the ease with which rogue states and non-state actors can acquire these systems and technologies. With so much at stake, therefore, we welcome the scrutiny of our performance and practical suggestions on how to improve our system of export controls over such defense articles.

We are grateful to the GAO for focusing attention on some of the means we use to verify the end-use of cruise missiles and UAVs, in particular the role of the Blue Lantern program as a post-shipment check, and we accept many of the report's conclusions and observations. We wholeheartedly agree, for example, that cruise

missiles and UAVs in the hands of our adversaries pose a threat to U.S. national security. We also agree that effective export controls are an important tool in combating the proliferation of these capabilities.

At the same time, however, I would like to draw attention to several critical aspects of the Department's approach to controlling these weapons and technologies that the report overlooks – in particular the rigorous review and screening process that each export receives as part of the licensing system and the essential role this process plays in our end-use check program. By looking at the Blue Lantern program in isolation from these other tools -- and our broader response to the threat of cruise missiles and UAVs falling into the hands of rogue states or non-state actors -- the GAO paints an incomplete and fuzzy picture of our end-use check program and the level of controls over these exports. Today, I'd like to fill in some of the details missing from the GAO study to put our end-use check program into the proper context.

The Cruise Missile/UAV Threat and the U.S. Response

Although ballistic missile proliferation continues to grab most of the headlines, we remain vigilant about the growing threat of cruise missile and UAV proliferation. Today, as you will hear in subsequent presentations, there is increasing interest by both state and non-state actors in acquiring cruise missiles and UAVs for the delivery of both non-conventional and conventional payloads.

The UAV proliferation threat: The same attributes of UAVs that are so useful for the U.S. military – for example, the ability to strike targets with

precision, substantial protection from interception, and capabilities for real-time intelligence collection – make UAVs in the hands of our adversaries a threat to the United States and to our friends and allies. Moreover, UAVs are potential delivery systems for Chemical and Biological Weapons (CBW). In the past, most of our concern about the use by adversaries of WMD-armed UAVs focused on nation-states. Since 9/11 however, we have been much more conscious of the potential for terrorist groups to produce or acquire small UAVs and use them for CBW delivery. It is important to note, however, that because of MTCR controls the biggest threat of proliferation does not come from the United States and its allies, but rather from other countries that produce UAVs indigenously.

The Cruise Missile Proliferation Threat: As noted in previous National Intelligence Estimates, in some scenarios cruise missiles can provide a better alternative than ballistic missiles when launched from forward areas. Adversaries could therefore see these missiles as advantageous in attacking the United States, our forward-deployed forces, or our friends and allies. Indeed, the U.S. Intelligence Community estimates that one to two dozen countries probably will possess a land-attack cruise missile (LACM) capability by 2015 through indigenous development, acquisition, or modification of such other systems as anti-ship cruise missiles or UAVs. The most plausible means for a forward-based launch against the U.S. homeland would be a covertly equipped commercial vessel.

While acknowledging the threat posed by proliferation of these weapons to rogue states or non-state actors, it is equally important that we have the ability to provide appropriate systems to allies and friends, while

maintaining adequate protections to prevent further proliferation. In this regard, it is important to note several salient characteristics of the emerging cruise missile/UAV proliferation threat.

- First, while cruise missiles and UAV capabilities have multiplied around the world, the United States and our allies in Europe and the Pacific are not significant contributors to this problem. U.S.-origin systems have not been exported to the threat countries about which we worry. Nor do we see indications that our friends and allies are engaged in the unauthorized re-export of U.S.-origin cruise missiles and UAVs. We expect these trends to continue because of, among other things, the strength of the U.S. export control system and improved multilateral export controls, both of which make foreign suppliers more attractive to proliferant countries as sources of cruise missiles, UAVs and associated technologies.
- Second, much of the cruise missile/UAV proliferation that has occurred to date has posed a limited threat to the U.S. homeland. The vast majority of cruise missiles and UAVs in the inventory of problem countries are battlefield models with short range and limited payload capacity – not longer-range land attack variants. We are concerned about the growing threat to U.S. forces deployed overseas from non-U.S. origin weapons, particularly long-range anti-ship cruise missiles. Overall, however, the United States' overwhelming conventional military superiority will limit the military utility of these weapons to our opponents for some time to come.

- Third, cruise missiles and UAVs vary widely in their capabilities and operational requirements and thus lumping these systems together under one label creates a distorted picture of the threat. As discussed in more detail below, making distinctions among these systems is important in assessing U.S. export controls because most of the cases the GAO highlighted involved the sale of the U.S. Navy's Harpoon anti-ship missile and related supplies, a short-range system (60-150 miles) with a limited conventional payload and land attack capability.

None of this should be seen as complacency in the face of a growing threat. To the contrary, this administration, as the GAO acknowledges, has taken several steps in response to the worldwide proliferation of cruise missiles and UAVs.

- **U.S. Defense Trade Controls:** We need to assure that our controls are clear and well-defined. To this end, we currently are engaged in a review of the United States Munitions List (USML), which lists the goods and services subject to State Department licensing authority. We are seeking to clarify the controls on UAVs by incorporating into the USML the range/payload parameters for UAVs outlined in the Missile Technology Control Regime (MTCR). This change, which we intend to publish shortly, reflects our own increased attention to this potential threat.
- **Other Tools:** Our own export controls are only one of many tools the United States employs to impede cruise missile and UAV proliferation and mitigate its impact. For example, through the

MTCR, the Wassenaar Arrangement (WA), and our export control assistance programs, we work cooperatively with friends and allies to ensure that sensitive technologies are not transferred to missile programs of concern. Indeed, during the past two years the Wassenaar Arrangement has formulated and implemented new controls on its dual-use list for UAVs and associated technologies, and the MTCR has added controls to UAVs capable of dispensing aerosols (such as chemical and biological weapons). In addition, we have a longstanding effort to identify and interdict individual shipments of equipment and technology to such programs, particularly foreign shipments, which has now been bolstered by President Bush's Proliferation Security Initiative. Finally, U.S. law mandates sanctions against foreign entities involved in various acts of missile proliferation, which act as a deterrent. Put simply, the GAO's focus on the use of export controls to curb proliferation, and U.S. exports controls in particular, represents only one aspect of our efforts to ensure that these systems and technologies do not fall into the wrong hands.

Defense Export Controls and Risk Management

The effectiveness of export controls in advancing U.S. national security and foreign policy goals can best be understood within our broader regulatory philosophy. The concept of risk management is central to the U.S. system of regulating defense trade. We want to get selected weapons and technologies into the hands of allies and friends, and we want to enhance our defense industry's ability to provide the U.S. armed forces the tools they need and

deserve. Arms and defense technology transfers, when regulated judiciously, are an integral part of the United States' ability to help meet legitimate security needs of friends and allies, deter aggression, and foster regional stability. Friends and allies with modern capabilities are better coalition partners for the United States in both winning wars and securing the peace, and their participation in these situations reduces the cost in American lives and dollars and confers international legitimacy on the use of force. They are also better able to preserve stability and security in vital regions, easing the burden on our overstretched military forces. In short, we achieve much more security when we work with our friends than if we act alone.

Equally important, however, we want to keep U.S. weapons and technology out of the hands of our enemies – and preventing proliferation is more important than ever when the intersection of military technologies and WMD terrorism poses such a major threat to our security. In addition, we also worry about the proliferation of less glamorous low-tech weapons, such as small arms and light weapons, including man-portable air defense systems (MANPADS), to unstable regions, to failed or failing states wracked by violence and disorder, and to countries on our list of prohibited destinations.

The only sure way to eliminate the proliferation risk of U.S. defense exports is to never allow U.S. defense articles and services to leave our shores. This is an untenable policy and it would not make us more safe and secure. What we try to do, therefore, is to manage these risks in a responsible and prudent manner. Balancing these competing considerations has become increasingly complex and challenging in today's environment: the boundary between

technologies that have military applications and those that don't is harder to fix precisely. It's harder to know which subcomponents within complicated machines can be reverse-engineered for military purposes. And it's growing increasingly difficult to counter the shadowy network of front companies, middlemen, and organized crime networks that engage in illegal arms trade with the benefit of modern information technology, porous borders, and corrupt foreign customs officials.

In reviewing the controls over cruise missile and UAV exports, the GAO report focuses on only one of the tools we use to mitigate the risks that defense exports will be diverted -- post-shipment checks. In view of the serious consequences of the proliferation of dangerous weapons and technologies, however, we employ an array of tools to mitigate these risks, most notably a comprehensive and rigorous licensing process of "front-loaded" end-use checks and extensive compliance and enforcement activities. Our coordination with other agencies that share responsibility for controlling trade in defense and dual-use commodities is also a key to the success of our end-use check program.

Review and Screening of Export Licenses

I wish to emphasize here the importance of the procedures and screens embedded in the licensing process. The licensing process incorporates a number of controls to enforce end-use restrictions -- only one of which is the Blue Lantern program of pre- and post-license checks -- and therefore plays a critical role in ensuring the appropriate end-use of U.S. defense exports. A singular focus on the post-license end-use checks in the Blue Lantern

program may easily give the mistaken impression that an export not subject to a specific post-shipment Blue Lantern check would not have been scrutinized by the Department and was therefore a high risk export. As a result of this narrow focus, the GAO significantly understates the overall effectiveness of our end-use check program.

Under the Arms Export Control Act (AECA) the Department strictly controls the export of all defense articles and services. The International Traffic in Arms Regulations (ITAR) are the key implementing regulations. This legal and regulatory framework provides strict standards for the licensing of defense exports (including defense technology), requiring, for example, that all persons engaged in the business of manufacturing, brokering or exporting defense articles to first register with the Department of State. The regulations have stringent rules on who is eligible to participate in defense trade, include significant criminal and administrative penalties for non-compliance, and recognize the critical role that other Departments such as Defense, Homeland Security, Commerce, and Justice play in this effort.

These legal and regulatory safeguards, which the GAO report did not address, come into play in the licensing process and are critical to our efforts to ensure licenses are issued to legitimate, reliable entities and for specified programs or end-uses that support U.S. national security and foreign policy goals. We also require end-use and retransfer assurances from the companies receiving these defense articles or technology as well as, in most cases, the country where the companies are located. Additionally, pre-license checks are a crucial element in building the history of the reliability

(or unreliability) of foreign parties, particularly those that repeatedly appear in a variety of license transactions, and thus in establishing the legitimacy of the parties involved and the end-use of the export. Let me highlight briefly the key elements of this screening process.

- Every exporter must be registered with the Department and each company and its principal officers are vetted with law enforcement officials.
- Every end user and every applicant -- indeed every party to every export -- is run against a comprehensive watchlist maintained by the Department that includes over 50,000 names from law enforcement, intelligence, the Department of Homeland Security, and other sources. The U.S. Intelligence Community also plays an important role in identifying potential or actual unauthorized use or diversion of U.S. origin defense articles.
- Licensing officers are trained to look for suspicious transactions – unusual quantities, new or suspicious end-users, unusual shipping or payment arrangements, and discrepancies between the export and the inventories of the end-user country.
- Sensitive cases are staffed to the Department of Defense for their input on both the technical releasability of the articles and its impact on their war fighting interests and capabilities.

- Missile related cases are vetted through an interagency working group called the Missile Technology Export Control group that specifically assesses and makes recommendations on certain missile related exports and helps ensure these exports are in compliance with our international commitments as well as our nonproliferation policies.
- Many of the significant UAV and cruise missile related exports are also subject to international safeguards commitments obtained through government-to-government agreements negotiated to obtain additional assurances on the end-use and controls over these items and technology.
- Industry also plays an important role in this effort. The Department works extensively with industry on self-compliance and the need to watch for suspicious transactions. The significant criminal and administrative penalties provide a powerful incentive to full cooperation in this area and I am happy to report that U.S. industry is a critical ally in preventing, detecting, and reporting the diversion of U.S. defense articles.

Controls on UAV and Cruise Missile Exports

Against this backdrop, I would like to specifically address the cases highlighted in the GAO report of UAV and cruise missile exports to foreign weapons programs that did not receive a Blue Lantern post-shipment check. First and foremost, let me underscore that U.S. armaments cooperation with friends and allies is important to our national security and foreign policy

interests and our level of involvement provides us with confidence that the export supports U.S. interests. The one export of a whole UAV system mentioned in the report was for a key NATO ally and longtime friend of the United States, and was part of a larger cooperative program important to improving coalition warfare capabilities. Moreover, the risk of diversion was small. In addition, I would stress that the majority of exports discussed in the report were:

- (1) made to government end-users who provided government-to-government assurances, including no retransfers or changed end-use without USG approval;
- (2) destined to well-known programs with a significant amount of U.S. industry and defense cooperation that helps to ensure control and accountability of U.S.-origin defense articles; and
- (3) in support of FMS cases and involved licenses for marketing, spare parts, and supplies rather than the end-items themselves.

The GAO report suggests that pre- and post-shipment checks do not verify the conditions placed on exports of defense articles although it neglects to specify what types of conditions it believed required special monitoring. This concern needs to be put in perspective. The most important and fundamental condition on any authorized export is that it is delivered to the identified end-user for the end-use that has been approved. Post-shipment checks do verify this by establishing delivery and end-use on specified programs and pre-checks help establish a high confidence of compliance.

Many export licenses or other export approvals will include technical provisos limiting the capability or type of article that may be exported. Many of these conditions are not susceptible to overseas post-shipment verification because they are typically applicable to the U.S. exporter, not the foreign recipient, or by their nature are not susceptible to physical inspection or verification. For example, a frequent proviso will prohibit the exporter from offering any comparison of the exported system to similar items in the U.S. inventory. A violation of such conditions is a criminal violation of the AECA and would fall under the investigative jurisdiction of Immigration and Customs Enforcement (ICE) at the Department of Homeland Security and possible prosecution by the Department of Justice. In short, while post-shipment checks may not be sufficient to monitor highly technical provisos applied to certain transactions, the problems and risks identified in the GAO report, such as diversion to unauthorized entities or illegal retransfers of U.S. technologies, are detectable and more importantly can be deterred by both pre- and post-license checks.

Compliance and Enforcement

Before turning to a discussion of the Blue Lantern program, I would like to underline the importance that the Directorate of Defense Trade Controls (DDTC) places on our overall compliance and enforcement activities. Like the licensing process, these efforts play a critical role in the success of our end-use check program. Accordingly, compliance and enforcement is one of our highest priorities, and the administration's commitment in this area is

reflected in the many actions taken to improve the defense trade controls we administer. Let me highlight some of our accomplishments to date:

- In January 2003, to enhance the capabilities of what was then the Office of Defense Trade Controls, we created separate offices for the licensing and compliance functions to focus attention and resources on these critical missions.
- The Department has increased the resources devoted to compliance and enforcement. For example, personnel over the past few years for this mission has increased roughly 20 percent.
- The Department has launched a new automated export licensing system called “D-Trade” that will strengthen our compliance regime in three ways. First, it will improve our ability to track, monitor, and audit defense trade. Second, by making the processing of routine cases more efficient, those responsible for scrutinizing licensing applications will have more time to focus on the tough cases. Third, D-Trade will make DDTC’s cooperation with colleagues in the Defense and Commerce Departments more efficient and effective.
- In 2003, the Department joined with the Department of Homeland Security in rolling out the Automated Export System (AES). This system provides greater automation and visibility to defense exports by requiring exporters to file electronically information on all their defense exports. As we gain experience with assimilating this data, we expect AES to provide information never before available to our

licensing staff, our compliance staff, and to law enforcement officials enforcing our export laws. This system will not only allow tracking and analysis within DDTC of what defense goods are actually being exported, but will also give our licensing officers direct access to information that will enhance our targeting and screening of suspect exports. In particular, it will provide for the first time better information on actual shipments that can be used to more quickly trigger and target post-shipment checks.

- Later this year, we will be standing up compliance inspection teams to visit certain companies for inspection on compliance related issues such as record-keeping, evidence of recurring violations, and other issues. These inspection visits will not only improve our understanding of industry practices of concern but will also send a strong message that the Department is stepping up our commitment to company compliance.

The Blue Lantern Program

The Blue Lantern program is a long established system of pre-license and post-shipment checks conducted by staff from our embassies. The program is used to help licensing officers by providing them additional information to verify the specific end-use and end-user of commercial defense exports and transfers. The goal is to prevent U.S. defense exports from falling prey to diversion, including from the gray arms network, which uses fraudulent export documentation to acquire defense articles through legitimate channels for end-users inimical to U.S. interests.

The Blue Lantern program of pre- and post license checks is an integral part of the licensing process. While the Blue Lantern program clearly provides a specific check on the bona fides of a particular export transaction, equally important is that these checks over time help provide a record on the reliability of the parties to an export. For example, licensing officers often request a pre-license check on unfamiliar end users. The response from our embassy overseas is often positive with a full explanation of the history of the company and its role in a particular project or the relationship of the company to the Ministry of Defense. Given this information, the licensing officer usually does not need to seek another pre-license check on this party in the next application. In short, the previous check, coupled with the other information available with the new application and all the other checks that are run, is usually sufficient for the licensing officer to make a determination on whether to approve that license.

Blue Lantern checks are targeted based on a well-developed selection process designed to identify for our licensing and compliance officials transactions that are most vulnerable to diversion or misuse so that the most efficient use is made of the finite resources available for pre and post-shipment verification. Over the past three years, the Department has improved and refined this targeting system and the program results demonstrate this. We have conducted over 1200 checks over the past three years and developed derogatory information in almost 200 cases. In FY2003 alone, DDTC initiated 413 checks that resulted in 76 unfavorable cases.

The most prevalent commodities involved in unfavorable determinations are firearms and ammunition, which accounted for almost half of unfavorable cases in FY2003. (Just last month a pre-license check blocked hundreds of 9mm pistols from going to Colombian rebels). The percentage of unfavorable checks involving aircraft spare parts at risk of diversion to prohibited countries such as China and Iran jumped from 18 percent in 2002 to 24 percent in 2003. Electronics and communications equipment represented 17 percent of the unfavorable cases last year, while the remaining unfavorable checks involved commodities such as tactical missile spare parts, military training equipment, and night vision equipment.

The Blue Lantern program has strengthened export controls and has proven to be a useful instrument in: 1) deterring diversions; 2) aiding the disruption of illicit supply networks used by rogue governments and international criminal organizations, and 3) helping the Department make informed licensing decisions and ensuring compliance with the AECA and the ITAR. End-use checks performed under the Blue Lantern program have significantly encouraged compliance with legal and regulatory requirements and have proven particularly effective in addressing the growing problem of gray arms trade. These checks also support broader U.S. policy goals related to legitimate defense trade. These goals include:

- Impeding access to military items and technologies by persons and organizations that do not have the best national security interests of the United States or our friends and allies in mind, including those which contribute to the proliferation of weapons of mass destruction;

- Preserving continued technological advantages enjoyed by U.S. military forces and our friends and allies over potential adversaries; and
- Encouraging foreign government support for U.S. principles, laws, regulations, and practices concerning the responsible sale, retransfer, and end use of defense equipment and services.

The profile of the Blue Lantern Program has been raised over the past few years by DDTC's outreach efforts to U.S. embassies, U.S. exporters, and foreign governments. In FY 2003, DDTC officers presented Blue Lantern briefings at various U.S. embassies through Asia and Central America to provide additional guidance to posts on the implementation of end-use checks. Briefings were also given to relevant host government officials to make them aware of the goals and purposes of the program as well as to facilitate its implementation abroad. In addition, DDTC officers also attended conferences in the United States and abroad in order to increase understanding of the program by foreign governments and U.S. exporters and to emphasize the utility of end-use monitoring in fighting the gray arms trade. And we continue to encourage NATO and EU governments to adopt Blue Lantern-type programs to ensure that their exports are not inadvertently entering the gray arms market. DDTC plans to continue outreach efforts in the future.

Conclusion

In closing, I'd like to underscore the importance of viewing our end-use check program within the broader framework of our multifaceted approach to regulating defense trade and the numerous end-use controls that are embedded within the licensing process and many of our other compliance and enforcement activities. Seen within this context, it is not surprising that GAO found no evidence of misuse or diversion of UAV or missile-related technologies authorized for export by the Department of State – a conclusion that speaks volumes about the effectiveness of our export licensing system and end-use check program.

Nevertheless, we are not standing still in the face of the growing threat posed by the increasing efforts of unfriendly nations to acquire cruise missiles, UAVs, and related technology. We are committed to improving all aspects of the licensing process including the Blue Lantern program and our overall compliance effort. The weaknesses of the GAO report notwithstanding, we agree with its basic findings and accept many of its recommendations. In particular, we agree on the need for more Blue Lantern checks and indeed our program plan for this year includes a 25% increase in the number of checks to be conducted. This increase will be done concurrent with our ongoing effort to continually improve the targeting and effectiveness of the end-use checks we conduct. Part of our work plan for increasing the number of checks is to target select industries, technologies or countries for intensive review. As I have said, because the Department shares GAO's observation of the importance of controlling cruise missiles, UAVs, and related technologies, we will include these items as part of this year's effort. In sum, on this issue GAO and the Department of State are both singing from the same sheet of music.

