Emergence of an export control regime

*The Rabta CW factory as a case study*

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*Challenges of Scientific and Technological Evolution for Export Control Systems*

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Constituents of an export control regime

- List as many elements as possible that make up an export control regime
- Identify as many government agencies involved in export control as possible
- What international treaties, legal instruments or arrangements inform export control regimes?
- Who are the partners in a technology transfer process?
- How would you know that an illicit technology transfer is taking place?
  - Is taking place?
  - Is being prepared?
What was the ‘Rabta affair’?

- **A chemical weapons (CW) factory in Libya**
  - Constructed in second half of 1980s
  - Rabta = town about 85km south of Tripoli
  - Libya claimed it was a pharmaceutical plant

- **A network for technology transfers**
  - 1984: **Imhausen Chemie** (FRG) manufactures chemicals and buys equipment from several German companies for Project Pharma 150
    - Pharma 150 = ‘official’ pharmaceutical project in Hong Kong
    - Pharma 150 = is also name of the project in Rabta, Libya
  - 1985: **Ishan Barbouti International (IBI) Engineering** purchases technologies for Libya and set up a purchasing network in Europe
  - 1985: Belgian trading company **Crosslink** begins transhipment of commodities from Germany to Hong Kong (in reality: Libya)
  - Many other companies **unwittingly** involved is the supply network
Rabta facility - 1st public impression (from Imhausen trial, 1990)
Rabta facility – Satellite picture (end 1990s)
Intelligence collection

• Early indications
  • 1980: First FRG intel concerning Libya’s CW activities
  • 1983: Identification of Bu Kemmesh as site (west of Tripoli); mustard agent production as of 1981.
  • 1987: 1st FRG intel citing Rabta; believed to start up sarin production in September (1-3 tonnes/day)
  • 1988: FRG retracts intel assessment about Bu Kemmesh

• Crisis and confirmation
  • 1989: More detailed information about Rabta and more precise public accusations against Libya and specific German companies
  • 1989: Crosslink owner arrested in Belgium for falsifying documents for IBI Engineering
  • 2/1990: US escalated accusations of German involvement in Rabta
  • 3/1990: US alleges Rabta produces small amounts of mustard agent and sarin; FRG intel agency rejects the sarin claim
  • 8/1990: CEO of Imhausen Chemie condemned of fraud
Intelligence: various locations cited

1. Tripoli
2. Garjan
3. Rabta
4. Bu Kemesh
5. Tajura
6. Sahha
7. Sarra
8. Benghazi

Scale: 300 km
Export control framework - domestic

• Iran – Iraq war (1980 – 88)
  • Iraqi CW use
  • Many companies in Europe and USA assisted with Iraqi CW programme (chemical precursors; equipment; plant designs)
  • No CW-specific export controls until 1984
    • Very small list with some agents and their precursors

• Rabta crisis (1989 – 91)
  • Broad expansion of the chemical control lists
  • Adoption of common nomenclature (to avoid confusion about different commercial names for a compound)
  • Gradual adoption of CW-specific legislative measures (before the lists functioned in conjunction with existing arms export laws)
  • Individual responsibility of companies (e.g., via catch-all principle)

• Post-Rabta
  • More than 60 chemicals today under export control
  • International coordination of national export control policies
  • Specific criminal and penal law
  • Closing of loopholes discovered during Rabta crisis (e.g. end-user certificate: ‘open sea’)
  • Still issues remaining (e.g., chlorine, isopropanol, etc.)
Export control framework – international

- Iran – Iraq war (1980 – 88)
  - Initially nothing
  - 1985: Establishment of Australia Group:
    - adoption of common control lists for chemicals (to be included in national legislation)
    - Adoption of specific country lists (Iran, Iraq, countries under international sanctions, ...)

- Rabta crisis (1989 – 91)
  - Australia Group: Broad expansion of the chemical control lists
  - Adoption of CAS numbers (to avoid confusion about different commercial names for a compound)
  - Became applicable to wider categories of countries
  - Adoption of the no-undercut principle (to avoid one country authorising an export after another Australia Group member had refused authorisation)

- Post-Rabta
  - Conclusion of negotiation of Chemical Weapons Convention in 1992 and entry into force in 1997
    - Article VI: reporting and monitoring of transfers of scheduled chemicals
  - Technology transfers to terrorists and criminals after Aum Shinrikyo
  - Sanctions
Aftermath

- 4/1997: Entry into force of Chemical Weapons Convention
- 12/2003: Libya announced its intention to eliminate all its non-conventional weapon programmes, in collaboration with the USA and several other countries
- 2/2004: Libya acceded to the CWC
  - Submitted initial declaration.
  - It had produced 20-25 tonnes of mustard agent and sizeable volumes of precursor chemicals.
  - Rabta is the only declared production facility; as well as Ruwagha storage facility (SE Libya)
- 1/2014: Completion destruction Cat. 1 CW
- 1/2018: Completion destruction Cat. 2 CW,
  - with international assistance, and
  - after evacuation from territory due to internal war
Review your answers to questions

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Recalling where science, industry and military art converged
Challenging entrenched positions

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