

WISCONSIN PROJECT ON NUCLEAR ARMS CONTROL

March 12, 2007

U.S. Department of Commerce
Bureau of Industry and Security
Regulatory Policy Division
Room H2705
14th Street and Pennsylvania Avenue, NW
Washington, DC 20230

Attention: RIN 0694-AD93

RE: Comments on Advance Notice of Proposed Rulemaking – Country Group C: Destinations of Diversion Concern

Dear Sir or Madam,

The Wisconsin Project on Nuclear Arms Control submits the following comments in response to the Bureau of Industry and Security's February 26, 2007, Advance Notice of Proposed Rulemaking (72 Fed. Reg. 8315), which proposes to designate Country Group C in the U.S. Export Administration Regulations for countries that are "Destinations of Diversion Concern."

The Project is a non-profit organization that conducts outreach and public education to stop the proliferation of mass destruction weapons and their means of delivery. For more than twenty years, the Project has pursued its mission by advocating strong and effective export and transit controls worldwide. The Project commends the Commerce Department for considering whether to designate countries that are of diversion concern, and endorses such designations in principle.

There is no question that diversion of sensitive items compromises the effectiveness of U.S. export controls, undermines international counterproliferation efforts, and could help terrorists and their state sponsors. Particularly dangerous are transit hubs that do not check adequately what passes through their territory – through negligence or willful disregard. A stark example of this danger was provided recently by the revelations that the A. Q. Khan nuclear proliferation network trafficked its wares mostly through the United Arab Emirates (U.A.E.), which is one of the largest transit points in the world. The Wisconsin Project has documented more than two decades of diversions through the U.A.E. to India, Iran, Pakistan and other proliferant countries. This history is detailed in an article the Project published in the *New York Times* and in a chronology from the Project's *Risk Report* database, both of which are enclosed. These diversions from the U.A.E. continue to the present day.

The Bureau of Industry and Security (BIS) should use Country Group C to designate countries of diversion concern. In addition to the designation criteria listed in its notice, BIS should officially

consider the volume and proportion of trade between the potential designee and countries of concern for proliferation and/or terrorism, such as Iran. Licensing policy for designated countries should require license applications for more items, it should subject applications to more stringent review, it should add license restrictions, and should require more frequent and thorough end-user/end-use checks.

The Wisconsin Project recommends that the United Arab Emirates be among the first countries designated in Country Group C. Such a listing, accompanied by effective U.S. export restrictions, may prompt the U.A.E. to move toward implementing export and transit controls.

We are grateful for the opportunity to present our views.

Respectfully submitted,

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General Counsel
Wisconsin Project on Nuclear Arms Control



Nukes 'R' Us

By Gary Milhollin and Kelly Motz

The New York Times
March 4, 2004, p. A31

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WASHINGTON - America's relations with Pakistan and several other Asian countries have been rocked by the discovery of the vast smuggling network run by the Pakistani nuclear scientist Abdul Qadeer Khan. Unfortunately, one American ally at the heart of the scandal, Dubai in the United Arab Emirates, seems to be escaping punishment despite its role as the key transfer point in Dr. Khan's atomic bazaar.

Dubai's involvement is no surprise to those who follow the murky world of nuclear technology sales. For the last two decades it, along with other points in the emirates, has been the main hub through which traffickers have routed their illegal commerce to hide their trails. Yet the United States, which has depended on the emirates as a pillar of relative stability in the Middle East and, since 1991, as a host to American troops, has done little to pressure it to crack down on illicit arms trade.

In the wake of the Khan scandal, Washington has at least acknowledged the problem. President Bush singled out SMB Computers, a Dubai company run by B. S. A. Tahir, a Sri Lankan businessman living in Malaysia, as a "front for the proliferation activities of the A. Q. Khan network." According to the White House, Mr. Tahir arranged for components of high-speed gas centrifuges, which are used to enrich uranium so it can be used in nuclear weapons, to be manufactured in Malaysia, shipped to Dubai and then sent on to Libya. (In its investigation, the Malaysian government implicated another Dubai company, Gulf Technical Industries.)

American authorities say that Mr. Tahir also bought centrifuge parts in Europe that were sent to Libya via Dubai. In return for millions of dollars paid to Dr. Khan, Libya's leader, Col. Muammar Qaddafi, was to get enough centrifuges to make about 10 nuclear weapons a year.

Why ship through Dubai? Because it may be the easiest place in the world to mask the real destination of cargo. Consider how the Malaysian government is making the case for the innocence of its manufacturing company. "No document was traced that proved" the company "delivered or exported the said components to Libya," according to the country's inspector general of police. The real destination, he said, "was outside the knowledge" of the producer. One can be certain that if the Khan ring's European suppliers are ever tracked down, they will offer a similar explanation.

Dubai provides companies and governments a vital asset: automatic deniability. Its customs agency even brags that its policy on re-exporting "enables traders to transit their shipments through Dubai without any hassles." Next to Dubai's main port is the Jebel Ali free trade zone, a haven for freewheeling international companies. Our organization has documented 264 firms from Iran and 44 from

rogue regimes like Syria and North Korea.

With the laxity of the emirates' laws, there is simply no way to know how many weapon components have passed through. But consider some incidents that our organization has tallied - based on shipping records, government investigations, court documents, intelligence reports and other sources - over the last 20 years.

. In 1982, a German exporter and former Nazi, Alfred Hempel, sent 70 tons of heavy water, a component for nuclear reactors, from Sinochem in China to Dubai. The shipping labels were then changed to mask the transaction, and 60 tons of the heavy water were forwarded to India, where it enabled the government to use its energy-producing reactors to create plutonium for its atomic weapons program. The other 10 tons went to Argentina, which was interested in atomic weapons at the time.

. In 1983, Mr. Hempel sent 15 tons of heavy water from Norway's Norsk Hydro, and 6.7 tons from Techsnabexport in the Soviet Union, through the emirates to India.

. In 1985 and 1986, Mr. Hempel sent 12 more tons of Soviet heavy water to India that were used to start the Dhruva reactor, devoted to making plutonium for atomic bombs. (The details of these transactions come from German and Norwegian government audits, but Mr. Hempel, who died in 1989, was never convicted of a crime.)

. In 1990, a Greek intermediary offered Iraq an atomic-bomb design (probably of Chinese origin) from Dr. Khan in Pakistan, with a guarantee that "any requirements or materials" could be bought from Western countries and routed through Dubai. Iraq has said it rejected the offer and suspected it of being part of a sting operation, although a more likely explanation is that the impending 1991 Persian Gulf war precluded the deal.

. In 1994 and 1995, two containers of gas centrifuge parts from Dr. Khan's labs were shipped through Dubai to Iran for about \$3 million worth of U.A.E. currency.

. In 1996, Guide Oil of Dubai ordered American-made impregnated alumina, which can be used for making nerve gas ingredients, and tried to pass it along to an Iranian purchasing agent, Drush Jamshidnezhad, in violation of American export control laws. A sample was delivered before the deal foundered when middlemen were caught by American officials in a sting operation.

. Also in 1996, the German government listed six firms in Dubai as front companies for Iranian efforts to import arms and nuclear technology.

. From 1998 to 2001, several consignments of rocket fuel ingredients shipped to Dubai by an Indian company, NEC Engineers, were sent to Iraq, in violation of Indian law and the United Nations embargo on Saddam Hussein's regime.

. In 2003, over Washington's protests, emirates customs officials allowed 66 American high-speed electrical switches, which are ideal for detonating nuclear weapons, to be sent to a Pakistani businessman with longstanding ties to the Pakistani military. American prosecutors have indicted an Israeli, Asher Karni,

for allegedly exporting the switches through Giza Technologies in New Jersey to South Africa and then to Dubai.

The pattern is terrifying, and those examples are most likely a small part of the overall picture. So, will the Bush administration, with its focus on fighting terrorism and the spread of weapons of mass destruction, start cracking down on the emirates? The first signs are not promising. President Bush has warned of interrogations in Pakistan and actions against the factory in Malaysia that supplied Dr. Khan, but has given no hint of any penalties against Dubai. Lockheed Martin is about to send 80 F-16 fighters to the emirates, and a missile-defense deal may be in the offing.

The lesson of the Khan affair is that instead of focusing solely on "rogue regimes," we have to shut down the companies and individuals that supply them with illicit arms and technology. The United States and its allies have to put pressure on the countries that allow the trade to flourish - even if it means withholding aid and refusing arms sales. Unless Dubai cleans up its act, it should be treated like the smugglers it harbors.

*Gary Milhollin is director of the Wisconsin Project on Nuclear Arms Control.
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United Arab Emirates Transshipment Milestones - 1971-2005

The Risk Report

Volume 11 Number 4 (July-August 2005)

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1971: The United Arab Emirates is formed by the following states: Abu Dhabi, Ajman, Dubai, Fujairah, Sharjah, and Umm al Quwain. Ras Al Khaimah joins the U.A.E. in 1972.

1972: The U.A.E. signs the Biological Weapons Convention.

1972: Port Zayed opens in Abu Dhabi.

1972: Port Rashid opens in Dubai.

1976: The U.A.E.'s first container terminal opens in Port Khalid, Sharjah.

1977: Saqr Port opens in Ras Al Khaimah.

1979: Jebel Ali Port, asserted to be the largest man-made harbor in the world, opens in Dubai.

1982: Fujairah Port opens.

1982: Alfred Hempel of West Germany sends 70 tons of heavy water from China to Dubai, from where 60 tons are forwarded to India and 10 tons to Argentina. At this time India is pursuing and Argentina is interested in atomic weapons.

1983: Hempel delivers to India, via the U.A.E, 15 tons of heavy water from Norway and 6.7 tons from the Soviet Union.

1983: Hank Slebos, of the Netherlands, reportedly tries to export a high-speed oscilloscope without a license to the U.A.E.'s Assaf Electrical Establishment. The ultimate destination is believed to be Pakistan, and in 1985 Slebos is reportedly jailed for one year for exporting strategically sensitive material.

1985: Jebel Ali Free Zone is established in Dubai. Companies are exempt from all domestic capital and ownership requirements, import and export duties, and personal and corporate taxes.

1985: According to documents from Germany's customs investigation unit, employees of Leybold-Heraeus manufacture uranium enrichment components that are sent to Dubai via Switzerland and France. French investigators reportedly allege the final recipient is Pakistan.

1987: Fujairah International Airport opens.

1987: Fujairah Free Zone is established adjacent to Fujairah Port and near to Fujairah International Airport. Companies in the zone are exempt from all

domestic ownership requirements and import duties on goods for re-export.

1987: Iranian officials reportedly meet associates of Abdul Qadeer (A.Q.) Khan, a Pakistani citizen, in Dubai. Iran is reportedly offered a phased supply of centrifuge drawings, as many as 2,000 centrifuges and auxiliary items, including casting equipment for manufacturing the bomb core.

1988: Ajman Free Zone is established. Companies in the zone are exempt from all domestic capital and ownership requirements, income and corporate taxes, and import and export duties.

1988: Ahmed Bin Rashed Free Zone is established in Umm Al Quwain. Companies in the zone are exempt from corporate taxes as well as import and export duties.

March 1989: A firm owned by the Indian government reportedly ships 60 tons of thionyl chloride, which can be used to manufacture mustard gas and nerve agents, to Iran via Dubai.

May - June 1989: 100 metric tons of centrifuge-grade maraging steel are reportedly delivered from Belgium through Dubai to Iraq. The supplier thought the steel was destined for Pakistan.

June 1989: Rheineisen Chemical Products arranges for 257 tons of thionyl chloride, a mustard gas and nerve agent precursor, to be shipped from India to Dubai's Shatif Trading Company for transshipment to Iran. Rheineisen, a West German firm owned by an Iranian family, cancels the contract amid concerns about its legitimacy, and the chemical is returned from Dubai to India. Seyed Kharim Ali Sobhani, an Iranian diplomat who had brokered three shipments of thiodiglycol (a precursor of mustard gas) from the U.S to Iran between 1987 and 1988, is reportedly implicated in the deal.

1990: A Greek intermediary claiming to represent A.Q. Khan offers Iraq an atomic bomb design, promising that any required materials could be procured from Western countries and shipped via Dubai.

1991: The management of Port Rashid and Jebel Ali Port is combined under Dubai Ports Authority. Dubai Ports Authority is the sixteenth busiest container harbor in the world, with a capacity of over one million TEU (Twenty-foot Equivalent Units).

1993: The U.A.E. signs the Chemical Weapons Convention.

1993: A third berth is commissioned for Sharjah's Khorfakkan Container Terminal.

1994 - 1995: Bukary Syed Abu (B.S.A.) Tahir, a Sri Lankan based in Dubai, allegedly organizes the transshipment of two containers of centrifuge components from Dubai to Iran, on behalf of A.Q. Khan, for \$3 million.

1995: Sharjah Airport International Free Zone (SAIF-Zone) is established. Companies in the zone are exempt from all domestic ownership and capital requirements, import and export duties, and personal and corporate taxes.

September 1995: The U.A.E. signs the Nuclear Nonproliferation Treaty.

October 1995: Seven persons are indicted by the United States for conspiring to export, without the required license, \$500,000 of sensitive U.S. electronics to Iran between 1991 and 1994. Controlled goods, including encryption devices, were allegedly shipped via Hanofeel General Trading Est. of Dubai to Iran's Tak Neda Co. Ltd. Elham Abrishami, of Afshein, Inc. in the U.S., pleads guilty in 1997.

November 1995: Hamriyah Free Zone is established in Sharjah. Companies in the zone are exempt from all domestic ownership and capital requirements, import and export duties, and personal and corporate taxes.

1996: Ajman Free Zone is granted autonomous status by the ruler of Ajman.

1996: Dubai Airport Free Zone is established near the Dubai Cargo Village. Companies in the zone are exempt from all domestic capital and ownership requirements, import and export duties, and personal and corporate taxes.

1996: The German government warns its exporters that Iranian companies active in procurement for weapons programs are present in Dubai. Among the entities that arrange and finance technology transfers via front companies in Dubai are Iran's State Purchasing Organization, and Bonyad Mostazafan and Janbazan Foundation.

June 1996: Dubai's Guide Oil Equipment Company is identified in a U.S. court as a corporation that ships impregnated alumina, which can be used in the manufacture of nerve gas, through Dubai or the United Kingdom to Iran. In 1998 Abdol Hamid Rashidian and Henry Joseph Trojack are convicted for conspiring to ship impregnated alumina to Iran.

July 1996 - March 1998: IGI, Inc. sold \$400,000 of poultry vaccine from the U.S. to Iran via Dubai, violating the U.S. embargo on Iran.

1997 - 1998: Pars Company Inc. of the U.S. exports two STX gas monitors to the U.A.E. and transships them to Iran. Pars Company did not obtain the required license for the monitors, which can be used in chemical and biological weapons production, and is fined \$10,000. The U.S. Department of Commerce subsequently imposes a nine year denial of export privileges in 2002. The U.S. firm Industrial Scientific Corporation is also implicated, and pays a \$30,000 fine.

1998: According to the U.S. Department of Commerce, Jabal Damavand General Trading Company of Dubai transfers U.S.-origin ferrography laboratory equipment to Iran without authorization. In 2002 the U.S. bans Jabal Damavand for ten years from engaging in any activity subject to the Export Administration Regulations.

March 1998: According to the U.S. government's Iraq Survey Group (I.S.G.), the Iraqi Intelligence Service uses bribes to circumvent customs inspections in Dubai, which is a transshipment point for military equipment being sought from Romania.

May 1998: A new Sun Ultra Enterprise 1 Work Station is located in Iraq's National Computer Center, which was involved in Iraq's nuclear weapons program. Iraq claims to have imported workstations from the U.A.E. and Jordan.

May 1998 - June 1999: According to the U.S. Department of Commerce, Dubai's Ibn Khaldoon Drug Store Est. participates in the unauthorized export of medical equipment from the U.S. to Iran, in contravention of the U.S. embargo. Ibn Khaldoon is ordered in 2004 to pay a \$40,000 fine.

May 1998 - May 2002: Biocheck Inc. of the U.S. allegedly exports medical diagnostic kits without authorization to Iran via Italy and the U.A.E. Biocheck is later fined \$32,000 by the U.S. Department of the Treasury, and pays the U.S. Department of Commerce \$22,500.

September 1998 - February 2001: NEC Engineers of India allegedly sends 10 shipments of materials used in the manufacture of rocket propellant and missiles to Dubai and Jordan without the required export license. Indian court documents state that the consignments, shipped for \$791,343, "appear to have been diverted to Iraq for assisting their weapon building programme," violating the U.N. embargo. NEC Engineers is accused of mis-declaring goods and attempting to export consignments in the name of associated companies. The Dubai companies Target General Land Transport and Indjo Trading are reportedly involved.

November 1998 - February 2000: Mohammad Farahbakhsh, co-owner and managing director of Dubai's Diamond Technology LLC, allegedly tries to export U.S. computer items to Iran via Diamond Technology. The alleged purchaser is Shahid Hemmat Industrial Group, which is a branch of the Iranian Ministry of Defence and subject to U.S. sanctions for its involvement in cruise and ballistic missile development.

1998 - 2000: Mazyar Gavidel and his company Homa International Trading Corp. violate the U.S. trade embargo against Iran by illegally transferring approximately \$2 million of laundered money through Dubai. Gavidel and Homa International are convicted by the U.S. in August 2002.

January 1999: Abu Bakar Siddiqui, a British exporter of Pakistani origin and an alleged procurement agent for A.Q. Khan, allegedly attempts to ship special aluminum sheets to Dubai.

May 1999: British customs authorities reportedly seize up to 20 tons of components, including high-grade aluminum, believed to be ultimately destined for Pakistan. The cargo arrived from the U.S. and was allegedly about to be shipped to Dubai. The exporter is allegedly Siddiqui, who is convicted in the United Kingdom in 2001 for illegally exporting strategic materials to Pakistan, including high-strength aluminum bars.

2000: Ras Al Khaimah Free Trade Zone is established near Saqr Port. Companies in the zone are exempt from all domestic ownership and capital requirements, as well as income and corporate taxes.

2001: U.A.E. companies act as intermediaries in the partial delivery of fiber-

optic and military communications contracts from South Korea to Iraq, according to the I.S.G.

2001: Dubai's Ports, Customs & Free Zone Corporation is established to take over customs operations from the Dubai Ports Authority and Jebel Ali Free Zone Authority.

June 2001: Bef Corp. allegedly exports photo finishing equipment to SK of Dubai, which transships the equipment to Iran, in violation of U.S. sanctions.

September 2001: The U.A.E.'s Advance Technical Systems purchases \$16,000 of military radar components from the U.S. and transships them to Pakistan after declaring that they were for the Bangladeshi Air Force. Following guilty pleas delivered in June 2003 for the illegal export of parts for howitzers, radars and armored personnel carriers, two U.S. citizens and one Pakistani are imprisoned.

October 2001: A U.A.E.-based firm acts as an intermediary to facilitate the trade in ballistic missile-related goods from China to Iraq, according to the I.S.G.

May 2002: The German government warns its exporters that since 1998 Iraq has been increasingly engaging in procurement activities through Dubai. Germany believes that North Korea has also increased its operations in Dubai.

August 2002: The U.S. firm Mercator, Inc. agrees a \$30,000 settlement with the U.S. Department of Commerce, which had alleged that Mercator had exported chemicals to Dubai with the knowledge that they would be re-exported to Iran without prior authorization.

December 2002: The U.S. Navy accuses Dubai's Naif Marine Services of smuggling to Iraq polymers that could be used to manufacture explosives.

2003: Ajman Port, which is adjacent to Ajman Free Zone, now serves over 1,000 ships a year.

January 2003: Spare parts for Mirage F-1 aircraft and Gazelle attack helicopters are transferred to Iraq. U.S. intelligence reportedly believes that parts were purchased from France by Dubai's Al Tamoor Trading Co., and then smuggled to Iraq through a third country, reportedly Turkey.

May 2003 - February 2004: U.A.E.-based Diamond Technology LLC and its managing director Mohammad Farahbakhsh allegedly export a U.S. satellite communications system to Iran without the required license.

June 2003: 311 companies attend the third U.A.E. Trade Exhibition in Iran. Trade with Iran exchanged through Dubai's ports was 12 billion dirhams in 2001, an increase from 4.3 billion in 1997.

October 2003: 66 triggered spark gaps, which can be used to detonate nuclear weapons, are shipped without the required license from the United States to Top-Cape Technology in South Africa. They are subsequently transshipped via Dubai to AJMC Lithographic Aid Society in Pakistan. In 2004 Asher Karni, an

Israeli living in South Africa, pleads guilty to conspiring to export controlled commodities to Pakistan without validated export licenses. In 2005 the U.S. indicts Humayun Khan of the Pakistani company Pakland PME for violating export restrictions and being the ultimate purchaser.

October 2003: Five containers of centrifuge components, sent by B.S.A. Tahir and shipped through Dubai, are seized en route to Libya. The items are part of four shipments made by Malaysia's Scomi Precision Engineering (SCOPE) between 2002 and 2003 to Dubai's Aryash Trading Company. One of the four consignments lists the addressee as Gulf Technical Industries, but is diverted to Desert Electrical Equipment Factory, also based in Dubai.

October 2003: According to B.S.A. Tahir, the BBC China, the ship carrying the seized centrifuge components, was also transporting an aluminum casting and dynamo for Libya's centrifuge workshop. The consignment was allegedly sent via Dubai by TUT Shipping on behalf of Gunas Jireh of Turkey.

October 2003: Two weeks after the seizure of the centrifuge components, B.S.A. Tahir arranges the transshipment to Libya, via Dubai, of an electrical cabinet and power supplier-voltage regulator on behalf of Selim Alguadis, an associate of A.Q. Khan.

December 2003: Hamid Fathaloomy, principal of Dubai's Akeed Trading Company, allegedly attempts to export U.S. pressure sensors to Iran.

2004: Over 400 companies are operating in the Ras Al Khaimah Free Trade Zone, 38% of which are Indian.

2004: Dubai Ports Authority's capacity passes six million TEU.

April 2004: The U.A.E. freezes the accounts of SMB Computers as part of its investigation into B.S.A. Tahir, who is the Group Managing Director.

April 2004: Elmstone Service and Trading FZE is sanctioned for two years by the United States for transferring to Iran equipment and/or technology of proliferation significance since 1999.

June 2004: 1383 companies are operating in SAIF-Zone.

August 2004: The U.S. indicts Khalid Mahmood, of Dubai, for breaking the U.S. embargo to Iran. Mahmood allegedly attempted to arrange the sale of forklift radiators from the U.S. to Iran, by concealing the final destination in the sale.

September 2004: The I.S.G. lists 20 U.A.E. firms that are suspected of having acted as intermediaries or front companies for Saddam Hussein's Iraq, and says that the U.A.E. was a transit location for prohibited goods, with companies using deceptive trade practices. The I.S.G. also concludes that the U.A.E. and Iran were the most frequent destinations for Iraqi smuggled oil and owned the majority of smuggling vessels involved.

December 2004: The U.A.E. agrees to join the U.S.' Container Security Initiative (C.S.I.), becoming the first country in the Middle East to do so. U.S.

customs officials will be stationed in Dubai to help target and screen suspect cargo bound for the United States.

2005: More than 300 Iranian companies are known to have operated in Dubai's Jebel Ali Free Zone.

2005: Over 300 companies operate in the Fujairah Free Zone.

2005: Dubai is the sixth largest port in the world for container traffic.

February 2005: The Jebel Ali Free Zone Authority launches an expansion project to develop its manufacturing in industry specific sectors, including medical products, food processing and the chemicals sector.

March 2005: Dubai's participation in the C.S.I. becomes operational.

May 2005: Dubai signs a Memorandum of Understanding with the U.S. to join the Megaports Initiative. Dubai will be the first government in the Middle East to participate in the scheme, which is intended to detect and seize shipments of radioactive material.

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