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“Updates from the Wassenaar Arrangement”

Ambassador Philip Griffiths, Head of Secretariat, Wassenaar Arrangement
on Export Controls for Conventional Arms and Dual-Use Goods and Technologies

- *Multilateral cooperation in promoting transparency and responsibility in defence-related trade*
- *Working to prevent undesirable exports without impeding bona fide civil transactions*
- *Refining and encouraging more user-friendly munitions and dual-use control lists*
- *Keeping pace with international security developments, advances in technology and market trends.*

Introduction

Thank you to the organisers for inviting me back to this valuable conference, taking place for a second time in Italy, a founding Participating State of the Wassenaar Arrangement.

The Wassenaar Arrangement (WA) is widely recognised as a core reference point in the defence exports sector. Although exporters may sometimes see its work as a complicating factor, I think it is fair to say that defence-related trade would be much more challenging and unpredictable without the shared understandings and standards that result from multilateral cooperation on export controls for conventional arms and sensitive dual-use goods and technologies. The WA has been the primary broadly-based intergovernmental forum in this field over nearly 22 years.

Effective operation and development of the WA depends on, among other factors, engagement with industry. This engagement is a two-way process. It is important that governments of WA Participating States understand the impact of arms control on the legitimate arms trade and avoid impeding that trade, while tackling the threat to stability and peace posed by the illicit trade and destabilising accumulations. Equally, the legitimate arms industry needs to be encouraged to recognise that effective export controls and an international rules-based system not only help to promote regional and international stability, but also create a stable operating environment and level playing field for industry. Both can learn from each other's expertise and benefit from a better understanding of each other's concerns, priorities and methods of operation. As part of this process, the UK, as 2018 WA Plenary Chair, hosted an industry outreach event during a recent WA technical outreach briefing.

Since I spoke at last year's conference, the WA has continued its focus on maintaining the Control Lists, exchanging information and further refining export control standards. India has joined the process this year, further enhancing the WA's effectiveness in achieving its goals.

As we all know, the risks being addressed by export controls continue to grow and become more complex. Warfare and instability associated with conventional military threats have not gone away. Small arms and light weapons continue to be used with the most devastating consequences around the world, including by terrorists. At the same time, other challenges have gained in importance resulting from rapid technological advances, now more often than not driven by the civilian sector, as well as increasingly sophisticated proliferation and diversion risks, including through intangible transfers of technology. With growing security challenges in domains beyond land, sea, and air, WA Participating States continue to review export controls relevant to activities in outer space as well as cyberspace, at the same time adjusting or eliminating controls made redundant due to changes in the marketplace. For example, the rapid development of electronics using information security for consumer protection requires a regular reassessment of the purpose and feasibility of export controls in this area.

The need to respond rapidly and coherently to the evolving international trade and security landscape will remain a key priority for the WA.

Background

Briefly by way of background, the WA's primary purpose, since being formed after the end of the Cold War, has been to promote transparency and responsibility in transfers of conventional weapons and sensitive dual-use goods and technologies, thus preventing destabilising accumulations. After 9/11, preventing the acquisition of these items by terrorists was added to the WA's core mission.

From 33 founding Participating States, the membership has expanded to currently 42 from every continent, among them major producers and exporters of relevant items. According to SIPRI data for 2017, WA Participating States were responsible for 91% of world arms exports. As has recently again been demonstrated, the WA is open to new memberships. Several applications are under consideration, while the number of regular outreach partners has grown in the last few years. More and more countries are basing their export controls on the WA Munitions and Dual-Use Lists and taking a close interest in the WA's work, with or without seeking to become a member.

When it became operational, the WA was the first global multilateral arrangement focused on the risks associated with conventional arms transfers. The aim was to complement, without duplicating, other export control regimes concerned with weapons of mass destruction and their means of delivery. More recently the WA has been joined in its part of the international architecture by the Arms Trade Treaty (ATT), reflecting wider international recognition of the need to regulate international trade in conventional arms.

I believe it is fair to say that there is growing international acceptance that effective export controls also support a country's economic interests – by facilitating trade, building confidence and enhancing access to sensitive imports and foreign direct investment.

WA members go to considerable lengths to ensure that their work does not impede *bona fide* civil transactions.

Basic Commitments

The WA represents a political rather than treaty-based undertaking and works by consensus.

WA Participating States commit, on joining, to apply fully effective export controls at the national level based on the WA Control Lists; and to exchange information and views about the risks associated with transfers of these items, as well as reporting of their own transfers or denials in certain cases. This transparency helps to build shared understandings and to assess the scope for coordinating national export control policy and practice. It also serves to promote greater consistency in transfers of these items, which is important to exporters.

All decisions, whether to grant an export licence for a particular item to a particular destination, or to deny an application, are taken by each WA Participating State in accordance with its national legislation and policies. As I see it, the WA's role is to “set the standard” against which Participating States manage and measure their national export control systems.

This balance between collective agreement on key principles, and the preservation of national discretion in matters related to implementation, is an essential feature of the WA's work.

There are accordingly no verification or enforcement mechanisms in the WA. Reliance is placed on frank exchanges in a diplomatic setting and on an element of "peer review" - any Participating State may, if it wishes, follow up by seeking further discussion, in the WA forum or bilaterally, as to the rationale behind a particular national transfer decision.

Key Areas of Work

Turning to the three key areas of the WA's work, with a focus on developments over the last year.

WA Control Lists

Keeping the WA Control Lists up-to-date and relevant is core to the WA's work.

As many of you know, the WA Munitions List has close to 300 entries in 22 categories, covering all types of conventional arms, as well as ammunition, parts and components, related production equipment, technology and software. The key selection criterion is whether the item is a major or key component for a military capability.

The WA List of Dual-Use Goods and Technologies contains over 1,000 items in 9 categories, ranging from special materials and related equipment to electronics, computers, telecommunications, information security, sensors and lasers, navigation and avionics, marine, aerospace and propulsion. Controlled dual-use goods and technologies include those which are major or key elements for the indigenous development, production, use or enhancement of military capabilities.

The selection of dual-use items is evaluated against four criteria: foreign availability outside the WA; the ability to control their export effectively; the ability to make a clear and objective specification of the items; and non-duplication with other export control regimes.

Within the WA Dual-Use List, 170 items are classified as "sensitive" and 80 as "very sensitive", requiring a more vigilant approach.

A "catch all" principle, agreed in 2003, provides for the control of unlisted dual-use items when they are intended for destinations that are subject to UN or other binding arms embargoes, and are intended entirely or in part for military end-use, including for the manufacture or repair of military equipment.

Other licensing requirements may be applied at the national level going beyond what is agreed in the WA.

Recent List Changes

The process of reviewing and updating the WA Munitions List and Dual-Use List involves highly technical collaboration among Participating State experts with assistance from their industry specialists.

They meet as the WA Experts Group for on average six weeks a year to consider possible additions to, modifications of, or deletions from the WA Control Lists, in order to stay in step with technological developments and changes in the international security situation, taking into account market trends. Each entry in the Control Lists needs to be set precisely to focus licensing decisions on items of security concern while allowing other items to be traded freely. Special efforts are taken to make the Control Lists text as readable and user-friendly as possible, both for exporters and for licensing authorities.

Once the Control List changes are approved by the annual WA Plenary in early December, they are published on the WA website and WA Participating States, and an increasing number of other countries, incorporate them into national regulations and procedures as appropriate.

Looking at some of the recent List changes and areas of focus: In 2017, the Experts Group considered some 104 national proposals and 165 further technical papers on 90 different topics. Around 80% of the proposals were agreed. In the current 2018 Lists Review, some 81 national proposals and 7 non-papers are being considered. Let me illustrate some of the changes recently agreed.

By way of context, between 2012 and 2015, as many of you will know, the WA intensively analysed the relevance of export controls on goods and technologies related to mobile communications interception, intrusion software and Internet network surveillance tools which, under certain conditions, may be detrimental to international and regional security and stability. New controls were introduced in 2013 in these areas.

New export controls were also agreed in relation to spacecraft equipment, while controls relating to machine tools were substantially revised, and technical parameters for Unmanned Aerial Vehicles (UAVs) were further refined to better differentiate UAVs of concern, taking into account market evolution.

In 2017, building on earlier work, understandings were refined in relation to cyber issues and terrestrial equipment for satellites. Further work was undertaken in respect of electronic forensics equipment. New controls for dynamic wavefront sensors used in the development of high-resolution observation satellites were introduced. Some controls were relaxed, such as for civil-use riflescopes and high-performance digital computers, or were deleted, such as for analogic high-speed cameras, which are no longer used in the development of military capabilities.

WA Participating States, among them leading producers and exporters in relevant areas, increasingly see the WA as the appropriate forum in which to address trade and security issues related to emerging technologies, including 3-D printing, advanced sensors, robots and artificial intelligence, as well as cyber.

Transparency and Information-Sharing

Turning to information-sharing, WA Participating States are continuing what is called a general information exchange designed to focus at least three times a year on transfer risks in specific regions, suspicious acquisition/brokering activities, projects and programmes of concern, as well as terrorism-related issues. These exchanges are a kind of collective risk assessment bringing together perspectives from different parts of the world.

In practice, an individual Participating State may draw to the attention of its partners any matter that it considers relevant to achieving the WA's purposes.

Specific information shared includes ongoing regular reporting of Participating States' conventional arms transfers, as well as transfers and denials of certain dual-use goods and technologies, to destinations outside the WA. WA arms transfer notifications are submitted more frequently (i.e. every six months) and include more information than is required under the UN reporting system and the ATT.

Reporting of transfer denials brings to the attention of partners efforts to obtain access to a controlled item or technology that one Participating State considers to be contrary to the WA's purposes. Such reporting is therefore an important and timely warning mechanism that also helps to avoid inadvertent undercuts. Moreover, should an export licence nevertheless be issued in respect of a controlled item previously denied by a WA partner, WA Participating States are required to notify such an approval.

Information exchange is facilitated through the WA's dedicated secure electronic network (WAIS), to which all Participating States have 24/7 access. This is being constantly refined.

In addition, WA Participating State licensing and enforcement officers come together in Vienna once a year and network intersessionally to share national export control implementation experiences, including case studies and practical lessons learned. Topics discussed this year ranged from general licences, re-export controls, ITT licensing and compliance, to Government and industry cooperation, end-user verification and check procedures and transit and trans-shipment. Participating States have, on occasion, organised events on the margins of such meetings to facilitate a dialogue with industry.

Standard-Setting Work

The third area of focus, as I see it, lies in the WA's standard-setting work. WA Participating States have agreed to collaborate in producing export control implementation guidance drawing on their practical experience.

Over the years they have built up a comprehensive library of some 25 non-binding best practices, elements and procedures for effective export control implementation.

These guidelines relate to such issues as export assessment, re-export controls for conventional weapons systems, end-user/end-use controls for military list equipment, catch-all controls, intangible transfer of technology controls, internal compliance programmes (ICPs) for industry and the research sector, and transit or trans-shipment, among others.

Since 2016, WA Participating States have undertaken to ensure the regular review and where appropriate updating of existing guidance documents, given the passage of time since their original adoption in some cases and ongoing developments in many areas.

Other WA Work in 2017

At their latest Plenary meeting in December 2017, WA Participating States continued to discuss ways of enhancing information-sharing, paying particular attention to proliferation risks related to small arms and light weapons (SALW), as well as means to strengthen export control implementation, including in the fight against terrorism.

The Plenary also reaffirmed the priority of export controls outreach and awareness-raising and approved a number of activities to promote the WA's standards, e.g. to encourage their wider voluntary application by non-member countries. Activities include, inter alia, annual

collective policy and technical briefings, as well as bilateral dialogue (visits/meetings) with interested non-Participating States.

In other outreach activities, this year the WA participated in, for example, a meeting of the governing bodies of international instruments working to combat proliferation of small arms and light weapons hosted by Mexico. The WA also presented at an International Seminar on Strategic Trade Controls in Islamabad at the invitation of Pakistan. On the technical side, WA Participating States agreed to continue informal contacts with the Nuclear Suppliers Group (NSG) and the Missile Technology Control Regime (MTCR) on specific Control List issues to better understand respective concerns, share technical expertise and avoid duplication. With regard to the ATT, the WA Secretariat has continued to monitor opportunities for the WA, consistent with its purposes, to contribute to international cooperation, including by observing the ATT Fourth Conference of States Parties in Tokyo last month.

Conclusion

In closing, the importance of effective national export controls underpinned by multilateral cooperation continues to be reinforced by current security challenges. These include destabilising accumulations of conventional arms, regional conflicts and the proliferation and diversion of increasingly sophisticated strategic goods and technologies to non-state actors, including terrorists.

Working together with one's partners sharing a similar commitment to vigilance and restraint builds confidence, supports security and facilitates international trade. Raising awareness in the private sector of increasingly sophisticated proliferation and diversion risks, including through ITT, and promoting cooperation and self-regulation are integral to implementing robust export controls. Active outreach to other countries and relevant international and regional organisations is also key to achieving overall objectives.

I think it is fair to say that the trust and collaboration built up through the WA's work have been an important stabilising factor in the international trade and security environment over the last nearly twenty-two years.

I believe that WA Participating States can be expected to continue their efforts, notwithstanding the challenges, to ensure that the WA remains well-placed to address the risks related to transfers of conventional arms and related strategic items, without impeding legitimate trade.

The WA public website contains all the key WA documents, including the latest Control Lists and the Best Practices Guidelines.

I would be happy to provide further information or answer any specific questions. I look forward to further conversations on the margins of this conference.

Thank you for your attention.