

14. Dual-use and arms trade controls

Overview

Global, multilateral and regional efforts continued in 2019 to strengthen controls on the trade in conventional arms and in dual-use items connected with conventional, biological, chemical and nuclear weapons and their delivery systems. Membership of the different international and multilateral instruments that seek to establish and promote agreed standards for the trade in arms and dual-use items remained stable. At the same time, there were growing signs that the strength of these instruments is being increasingly tested by stretched national resources and broader geopolitical tensions. This could be seen in the shortfalls in compliance with mandated reporting and funding obligations under the 2013 Arms Trade Treaty (ATT), the various reported violations of United Nations arms embargoes, and differences both within and among groups of states about how the obligations generated by these different instruments should be implemented. At the same time, states continued to make substantive progress on reaching agreement on expanding and developing many of the technical aspects of these agreements. For example, states continued to outline in more detail how key obligations under the ATT should be implemented and made a number of additions to the set of good practice documents and control lists connecting the various export control regimes.

The Fifth Conference of States Parties (CSP) to the ATT took place in Geneva in August 2019 (see section I). Despite tensions and disputes, CSP5 made progress on articulating how the treaty's provisions should be implemented, particularly those on gender-based violence (GBV). The ATT remains the only international agreement in the field of arms or arms transfer controls that includes explicit provisions on GBV, and states' attempts to specify what they mean in practice could have significance for other instruments. Perhaps the most important developments in terms of the long-term health of the ATT took place outside of the CSP. During 2019 the United States announced its intention to 'unsign' the ATT while China stated that it was taking steps towards acceding to the treaty. These contrasting moves will no doubt have implications for efforts to expand the membership of the ATT but the way in which this will happen remains hard to predict.

During 2019 13 UN embargoes were in force, 21 European Union (EU) embargoes and 1 League of Arab States embargo (see section II). No new embargo was imposed and none was lifted. Ten of the EU arms embargoes matched the scope of ones imposed by the UN, three were broader in terms of duration, geographical scope or the types of weapon covered, and eight had no

UN counterpart. The single Arab League arms embargo, on Syria, had no UN counterpart. As in previous years, investigations by the UN revealed numerous reported cases of violations of varying significance. Particular problems were noted in connection with the implementation of the UN arms embargo on Libya, which has done little to halt the flow of arms into the conflict. During 2019 some instances of arms transfers raised questions about which types of activities and goods are covered by EU arms embargoes, and also highlighted the potential need for improved mechanisms of national reporting and independent monitoring.

Each of the four multilateral export control regimes—the Australia Group (on chemical and biological weapons), the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group and the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-use Goods and Technologies—reviewed its respective control lists and guidelines in 2019 (see section III). None of the four regimes admitted any new participating states (or partners) during 2019, despite a number of pending applications in several regimes. Geopolitical tensions continued to affect the work of the regimes, particularly work of a politically sensitive nature, such as information sharing on procurement efforts. In contrast, progress continued on the more technical aspects of the regimes' work, such as control list amendments, including ones on cyber-surveillance and cyber-warfare tools by the Wassenaar Arrangement. Several regimes engaged more substantially with each other on specific overlaps in control lists and potential overlaps in coverage of emerging technologies.

To implement these four regimes in its common market, the EU has established a common legal basis for controls on the export, brokering, transit and trans-shipment of dual-use items and, to a certain degree, military items (see section IV). The EU is the only regional organization to have developed such a framework. During 2019 the EU's two main instruments in this area—the EU Common Position on Arms Exports and the EU Dual-use Regulation—were the subject of review processes. The process of reviewing the EU Common Position was completed in September 2019 and led to limited changes to both the text of the instrument and its accompanying User's Guide. However, the review of the EU Dual-use Regulation, begun in 2011, was still ongoing at the end of 2019. While substantive progress was made in 2019, the discussions also highlighted differences among the parties—the European Commission, European Parliament and the Council of the EU—about the overall purpose of the regulation.

MARK BROMLEY