

14. Dual-use and arms trade controls

Overview

During 2021 a range of global, multilateral and regional efforts took place that were aimed at strengthening controls on the trade in conventional arms and in dual-use items connected with conventional, chemical, biological 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 unchanged. The global Covid-19 pandemic continued to limit in-person meetings for most of the year, although a growing willingness to replace these with online or hybrid meetings did allow some plenaries and intersessional processes to take place. The election of President Joe Biden in the United States saw a reversal of some of the policies adopted by the previous administration on the United Nations sanctions on Iran and the Arms Trade Treaty (ATT) and a return to greater engagement in international and multilateral export controls instruments and processes. However, the Biden administration continued to seek allies' support for the USA's use of national and multilateral export controls measures to restrict transfers of dual-use items to China. This has led China to seek international support for its opposition to what it views as the misuse of export control measures for national economic and security purposes. Divisions between the USA and China may weaken the increasingly fragile international consensus concerning the use of multilateral export controls as non-proliferation tools.

The seventh conference of states parties (CSP7) to the ATT was conducted under the presidency of Ambassador Lansana Gberie of Sierra Leone (see section I). The theme of the conference was 'Strengthening efforts to eradicate the illicit trade in small arms and light weapons (SALW) and ensure efficient stockpile management'. The meeting was held in a hybrid format with some delegates participating in person in Geneva and others joining online, making it more interactive than CSP6 which was held under a written procedure. However, Covid-19 restrictions meant that work in the newly established Diversion Information Exchange Forum (DIEF) could still not begin. Negative trends in the number of states submitting required initial reports on treaty implementation and annual reports on arms transfers, and in the number of states not making reports publicly available, persisted in 2021. Of the 105 annual reports on transfers in 2020 that were due by the end of 2021, 63 were either not submitted (45) or only made available to states parties (18).

During 2020, 13 UN embargoes, 21 European Union (EU) embargoes and 1 League of Arab States embargo were in force (see section II). No new multi-

lateral arms embargo was imposed. Ten of the EU arms embargoes matched the scope of those 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. The level of international consensus around decisions about lifting and extending UN arms embargoes was greater in 2021 than in 2020. Examples include the Biden administration abandoning the Trump administration's unilateral attempt to reimpose UN sanctions on Iran; and China and Russia voting in favour of the arms embargo on South Sudan, after having abstained in previous years. However, as in previous years, investigations by UN-appointed panels and groups of experts revealed numerous reported cases of violations, particularly in connection with the embargoes on Libya and non-governmental forces in Yemen. Also of concern were reports of states—including China and Russia—seeking to block the release of the reports produced by panels and groups or to influence their work.

Covid-19 pandemic restrictions continued to affect the work 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 (NSG), and the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-use Goods and Technologies (WA)—but the nature and extent of the disruption varied (see section III). The annual plenaries of the AG and the WA could not be held but the NSG and MTCR plenaries did go ahead, albeit with a smaller participation of state representatives. The pandemic continued to limit the regimes' ability to take major decisions and to discuss political and technical topics, such as amendments to their control lists. It also contributed to reduced levels of transparency and outreach activities. However, unlike in 2020, small amendments were made to the control lists of the MTCR and the WA.

To implement these four regimes in its single market, the EU has established a common legal basis for controls on the export, brokering, transit and trans-shipment of dual-use items, software and technology and, to a certain degree, military items (see section IV). The EU is the only regional organization to have developed such a framework. In 2021 the EU adopted a new version of the EU dual-use regulation and began work on clarifying how its new provisions will be implemented. The review and recast was dominated by debates about whether EU-level processes should play a more prominent role in decision-making concerning the content and implementation of member states' export controls. Developments in the European Parliament indicate these debates look set to continue. The EU and the USA deepened their cooperation on export control issues in 2021, but underlying differences within the EU and between the EU and the USA may limit their eventual impact.