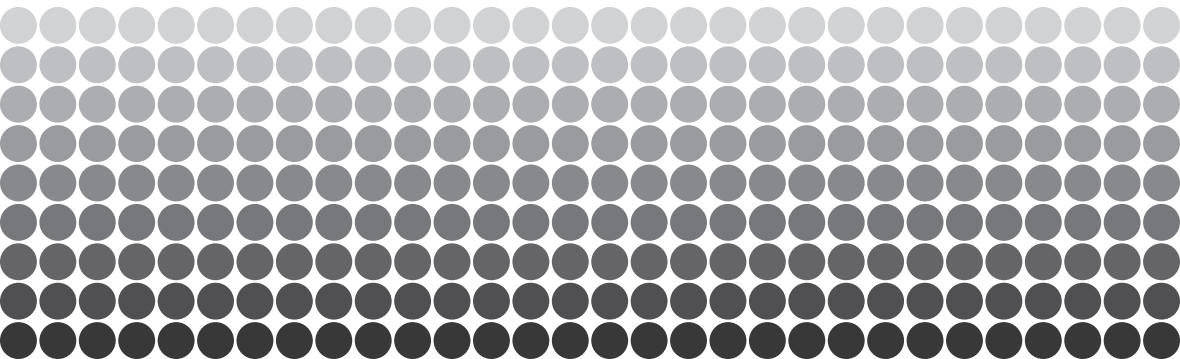


# **SIPRI YEARBOOK 2013**

Armaments, Disarmament and International Security

## Export control regimes

SIBYLLE BAUER AND ANDREA VISKI



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## IV. Export control regimes

SIBYLLE BAUER AND ANDREA VISKI

In 2012 four informal, consensus-based export control regimes—the Australia Group, 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—worked within their specific fields to strengthen trade control cooperation.<sup>1</sup> One cross-regime trend throughout the year involved ongoing efforts to expand the scope of discussions and guidelines about activities and items to be subject to controls, in particular regarding brokering, transit and trans-shipment, intangible transfers of technology, and proliferation financing. Although export controls remain the regimes' main organizing principle, associated trade activities are increasingly becoming the focus of control efforts.

### The Australia Group

The Australia Group was established in the light of international concern about the use of chemical weapons in the 1980–88 Iran–Iraq War.<sup>2</sup> The 41 participating states now seek to prevent the intentional or inadvertent supply of materials, equipment and technology to chemical or biological weapon programmes.

During its annual plenary in Paris in June 2012, the Australia Group took a specific step towards strengthening controls of brokering services by amending the group's guidelines.<sup>3</sup> For the past decade the international debate, policy decisions and legal provisions regarding strategic trade controls have gradually been expanded to include a range of activities related to export controls—notably brokering, transit, trans-shipment and financing. Before 2012, however, international export control regimes had not moved beyond discussions and exchanges of experience on these issues. The Australia Group's amendment of its guidelines, therefore, marks a significant step towards it becoming a trade control regime, rather than a regime limited to export controls. According to the new wording,

Australia Group members should have in place or establish measures against illicit activities that allow them to act upon brokering services related to items mentioned

<sup>1</sup> For brief descriptions and lists of participating states of each of these regimes see annex B, section III, in this volume.

<sup>2</sup> Australia Group, 'The origins of the Australia Group', [n.d.], <<http://www.australiagroup.net/en/origins.html>>.

<sup>3</sup> Australia Group, 'Media Release 2012 Australia Group Plenary', Paris, 15 June 2012, <[http://www.australiagroup.net/en/media\\_june2012.html](http://www.australiagroup.net/en/media_june2012.html)>.

in the Australia Group control lists which could contribute to CBW activities. Australia Group members will make every effort to implement those measures in accordance with their domestic legal framework and practices.

In addition, the group amended the assessment criteria for evaluating export applications to include

the role of distributors, brokers or other intermediaries in the transfer, including, where appropriate, their ability to provide an authenticated end-user certificate specifying both the importer and ultimate end-user of the item to be transferred, as well as the credibility of assurances that the item will reach the stated end-user.<sup>4</sup>

The group also made several changes to its control list at the plenary.<sup>5</sup> In particular, five pathogens were added to the List of Plant Pathogens for Export Control, and the List of Biological Agents for Export Control was amended.<sup>6</sup> In December 2012 an inter-sessional meeting convened in Bonn, Germany, made further recommendations, including suggestions to strengthen the language on agitators, impellers and blades; clarify the scope of the *Clostridium perfringens* toxin entry; and strengthen controls on single-use bioreactors.<sup>7</sup>

At the plenary, the Australia Group also discussed new areas that may warrant attention in the future, such as the relevance of life sciences and nanotechnology to the control list, intangible transfers of technology and threats posed by non-state actors.<sup>8</sup> States noted the possibility of the use of biological or chemical weapons by the Syrian Government and the methods used to import control list items and other dual-use items for proliferation purposes. Participants agreed to exercise increased vigilance with regard to dual-use exports to Syria.<sup>9</sup>

Another outcome of the plenary was an agreement to enhance cooperation within the group in a number of areas, through the sharing of information on 'enforcement capabilities, approaches to visa vetting, [and] experience in the implementation of catch-all provisions'.<sup>10</sup> The group reiterated its commitment to outreach, having conducted outreach briefings for over 50 countries in 2012, as well as visits to China, Colombia,

<sup>4</sup> Australia Group, 'Guidelines for transfers of sensitive chemical or biological items', June 2012, <<http://www.australiagroup.net/en/guidelines.html>>.

<sup>5</sup> Tilemann, J., 'Preventing CW and BW proliferation: the Australia Group', 20th Asian Export Control Seminar, Tokyo, 26–28 Feb. 2013, <[http://www.simul-conf.com/outreach/2012/asian\\_ec/](http://www.simul-conf.com/outreach/2012/asian_ec/)>.

<sup>6</sup> The 5 plant pathogens are *Peronosclerospora philippinensis* (*P. sacchari*), *Sclerophthora rayssiae* var. *Zeae*, *Synchytrium endobioticum*, *Tilletia indica* and *Thecaphora solani*. Australia Group, 'List of plant pathogens for export control', June 2012, <<http://www.australiagroup.net/en/plants.html>>.

<sup>7</sup> Tilemann (note 5).

<sup>8</sup> On dual uses of nanotechnology see Eggleston, K., 'Dual-use nanoresearch of concern: recognizing threat and safeguarding the power of nanobiomedical research advances in the wake of the H5N1 controversy', *Nanomedicine: Nanotechnology, Biology and Medicine*, vol. 9, no. 3 (Apr. 2013), pp. 316–21.

<sup>9</sup> Australia Group (note 3).

<sup>10</sup> Australia Group (note 3).

Malaysia, Pakistan, Thailand and Viet Nam in 2012 and early 2013.<sup>11</sup> Furthermore, the group noted the importance of increasing awareness of intangible transfers and brokering in relevant sectors, such as academia.

In March 2012, a Wilton Park conference on the Australia Group discussed the group's membership, the challenges of constant scientific advancement, and engagement with non-government actors.<sup>12</sup> Recommendations from the conference were considered at the Australia Group annual plenary.<sup>13</sup> This demonstrated the Australia Group's ongoing efforts to explore ways to engage with non-participating states, industry and academia. However, no new states were admitted in 2012, although applications and expressions of interest from several countries remain pending. The last countries to have been admitted to the Australia Group were Ukraine (in 2005) and Croatia (in 2007).<sup>14</sup>

### The Missile Technology Control Regime

The MTCR, which celebrated its 25th anniversary in 2012, was created to prevent the proliferation of unmanned systems capable of delivering weapons of mass destruction (WMD).<sup>15</sup> Its 26th plenary meeting was held in October 2012 in Berlin, with Germany assuming the rotating chair.<sup>16</sup> Approximately 250 representatives from the 34 partner states participated.<sup>17</sup> At the opening of the plenary, Guido Westerwelle, the German Foreign Minister identified several key issues that the MTCR needs to address, including advanced delivery systems and new technologies such as lighter-than-air vehicles; as well as concerns about the missile programmes of Iran, the Democratic People's Republic of Korea (North Korea) and Syria.<sup>18</sup>

Westerwelle also referred to membership expansion, mentioning that 'important technology supplier states that are not yet in this group are

<sup>11</sup> Tilemann (note 5).

<sup>12</sup> 'The Australia Group: challenges and future directions', Wilton Park, 29–31 Mar. 2012, <<http://www.wiltonpark.org.uk/conference/wp1143/>>.

<sup>13</sup> Australia Group (note 3).

<sup>14</sup> See Anthony, I. and Bauer, S., 'Transfer controls', *SIPRI Yearbook 2006*, pp. 780–81; Anthony, I., Bauer, S. and Wetter, A., 'Controls on security-related international transfers', *SIPRI Yearbook 2008*, p. 494; and Bauer, S., Dunne, A. and Mičić, I., 'Strategic trade controls: countering the proliferation of weapons of mass destruction', *SIPRI Yearbook 2011*.

<sup>15</sup> For further detail see the MTCR website, <<http://www.mtcr.info>>.

<sup>16</sup> Missile Technology Control Regime, 'Chair's statement on the plenary meeting of the Missile Technology Control Regime', Berlin, 24–26 Oct. 2012, <<http://www.mtcr.info/english/press.html>>. No plenary statement was issued in 2012. Argentina held the chair in 2011. Italy will chair the MTCR and host its plenary in 2013 and Norway will do so in 2014.

<sup>17</sup> German Foreign Office, 'Verbreitung von Raketentechnologie verhindern' [Preventing proliferation of missile technology], 24 Oct. 2012, <<http://www.auswaertiges-amt.de/DE/Aussenpolitik/Aussenwirtschaftsfoerderung/121024-MTCR-Plenum.html>>.

<sup>18</sup> German Foreign Office, 'Speech by Foreign Minister Guido Westerwelle to open the Missile Technology Control Regime (MTCR) meeting', 24 Oct. 2012, <[http://www.auswaertiges-amt.de/EN/Infoservice/Presse/Reden/2012/121024-BM\\_MTCR.html](http://www.auswaertiges-amt.de/EN/Infoservice/Presse/Reden/2012/121024-BM_MTCR.html)>.

knocking at the door, for example India' and stating that admission of the eight EU member states that remain outside the regime was 'long overdue'.<sup>19</sup> The USA publicly stated its support for Indian membership.<sup>20</sup> Despite this, no membership decisions were taken at the 2012 plenary, although individual applications were discussed.<sup>21</sup> However, the MTCR engaged in outreach activities in a range of non-participating countries to increase transparency of the regime and to promote its objectives, including visits to United Arab Emirates (UAE) and Pakistan in early 2013.<sup>22</sup> The engagement with the UAE indicates the importance of trans-shipment hubs, not just producing and exporting countries. Furthermore, MTCR members reiterated their willingness to assist other countries in applying MTCR guidelines and control lists. Westerwelle also discussed missile issues more broadly, stating that MTCR 'efforts must also include encouraging more countries to sign up to the Hague Code of Conduct'.<sup>23</sup>

As usual, three expert groups met in advance of the plenary: the Licensing and Enforcement Experts Meeting (LEEM), the Information Exchange Meeting (IEM), and the Technical Experts Meeting (TEM).<sup>24</sup>

At the 2012 plenary, partner states agreed on updates to the MTCR control list that were designed to keep up with technological changes in the equipment, materials, software and technology needed for missile development, production and operation. In addition, the plenary discussed a number of issues relating to missile proliferation, including rapid technological change; intangible transfers of technology, including transfers by parties with access to sensitive scientific knowledge; catch-all controls for unlisted items based on end-use; and brokering, transit and trans-shipment. However, since no new documents were added to the MTCR website, it appears that these discussions did not lead to any agreements on new guidelines or principles.

The MTCR plenary discussed concerns about missile programmes in the Middle East, North East Asia and South Asia, including Iran and North Korea. The chair's statement at the conclusion of the plenary highlighted

<sup>19</sup> German Foreign Office (note 18). The 8 EU member states outside the MTCR at the end of 2012 were Cyprus, Estonia, Latvia, Lithuania, Malta, Romania, Slovakia and Slovenia.

<sup>20</sup> Davenport, K., Horner, D. and Kimball, D. G., 'Missile control: an interview with Deputy Assistant Secretary of State Vann Van Diepen', *Arms Control Today*, vol. 42, no. 6 (June/Aug. 2012).

<sup>21</sup> Missile Technology Control Regime (note 16).

<sup>22</sup> Ranau, J., 'Arms Trade Treaty und internationale Entwicklungen' [Arms trade treaty and international developments], Presentation at Exportkontrolltag (Export Control Day), Münster, 1 Mar. 2013.

<sup>23</sup> German Foreign Office (note 18). As of 1 Jan. 2013 there were 134 signatories to the Hague Code of Conduct against Ballistic Missile Proliferation (HCOC). For a list of signatories and a summary of the HCOC see annex B, section III, in this volume; and the HCOC website, <<http://www.hcoc.at/>>. South Korea took over the chair from Romania at the 11th regular plenary meeting, held from 31 May to 1 June 2012. Japan was elected as chair for the period 2013–14. The Republic of the Congo and Singapore both subscribed during Romania's chairmanship.

<sup>24</sup> Missile Technology Control Regime (note 16).

the relevance of United Nations Security Council resolutions 1874 and 1929—which imposed sanctions on North Korea and Iran, respectively, in response to their nuclear and missile programmes—to the MTCR’s activities.<sup>25</sup>

### *Unmanned aerial vehicles*

The issue of unmanned aerial vehicles (UAVs) has been contentious within the MTCR for a number of years, primarily because many larger UAVs are capable of delivering WMD. The UAV dilemma—which also applies to other regimes and to national trade controls more broadly—reflects the difficulties inherent in seeking to keep up with changing proliferation-related trends while protecting trade and market competitiveness.

Unmanned UAVs have been defined by the US Department of Defense as ‘powered aerial vehicles sustained in flight by aerodynamic lift over most of their flight path and guided without an onboard crew’.<sup>26</sup> While UAVs have widely recognized civilian applications, their use for military applications such as intelligence gathering and reconnaissance has grown in recent years. UAV technology is also part of the development of unmanned combat air vehicles (UCAVs), which are seen as a probable future replacement for manned combat aircraft and other aircraft.<sup>27</sup> The MTCR does not differentiate between reconnaissance UAVs and UCAVs because the restrictions are based on the assumption that a UAV payload (conventional ammunition or reconnaissance equipment) could be replaced with a WMD payload.

The scope of the MTCR was expanded in 1992 to include UAVs in the MTCR’s Category I of most sensitive items. Regardless of their purpose, Category I items can only be authorized for export on rare occasions and under specified conditions. Further, the transfer of Category I production facilities is not to be authorized at all.<sup>28</sup> Category I items include systems capable of delivering a payload of at least 500 kilograms to a minimum range of 300 kilometres, as well as the production facilities and major subsystems for such items. For their export, ‘particular restraint’ is to be exercised and a ‘strong presumption to deny’ applies based on MTCR guidelines. In contrast, Category II systems, which are items capable of flying at least 300 km but below Category I’s payload size parameters, require an

<sup>25</sup> Missile Technology Control Regime (note 16).

<sup>26</sup> US Department of Defense, ‘Introduction of the unmanned aerial vehicle’, 3 June 2003, <<http://www.defense.gov/specials/uav2002/>>.

<sup>27</sup> The MTCR Annex Handbook includes cruise missile systems in the UAV category but also states that, unlike a cruise missile, a UAV will return and can be re-used. Missile Technology Control Regime, *MTCR Annex Handbook*, 23 Oct. 2012, MTCR/TEM/2012/Annex, <<http://www.mtcr.info/english/annex.html>>.

<sup>28</sup> Missile Technology Control Regime, ‘Guidelines for sensitive missile-relevant transfers’, [n.d.], <<http://www.mtcr.info/english/guidetext.htm>>, para. 2.

export licence based on criteria specified in the guidelines, but are not subject to Category I's presumption to deny.<sup>29</sup>

In the early 1990s UAVs were only used in small numbers, had very limited capabilities and played a minor role compared to manned military aircraft. This situation has changed considerably. UAVs are now widely used, and it is generally expected that they will increasingly replace manned aircraft. There is also growing interest in using UAVs for civilian surveillance and earth observation roles. Additionally, the development of long-range UAVs is expensive and technologically challenging, meaning that states have sought international partnerships to develop them, as well as export deals to achieve economies of scale.<sup>30</sup>

The growth in the acquisition and use of UAVs and associated technology has led to increasing military and economic pressures to re-evaluate the current MTCR restrictions on transfers of larger UAVs. Many exporting companies see MTCR controls as a market obstacle and, therefore, design systems for exports that are just below the minimum threshold to be designated as a Category I item. Companies have also been lobbying governments to favour changing the MTCR guidelines in order to reclassify some Category I UAV goods as Category II, which would facilitate UAV export.<sup>31</sup>

In the period 2008–12 non-MTCR partners ordered large numbers of UAVs from MTCR states. However, most of these vehicles have ranges of less than 300 km and potential payloads of much less than 500 kg and therefore fall outside the scope of the MTCR. The only UAVs falling within the MTCR were 11 MQ-9s transferred from the USA to the UK; 4 MQ-9s transferred from the USA to Italy; and 5 RQ-4E Euro Hawks transferred from the USA to Germany. Several other countries, including non-MTCR partners, have shown an interest in the MQ-9 and the RQ-4. In addition, Canada has supplied engines to Israel (which is not an MTCR partner) for the Israeli-produced Heron-TP, which also has a range and payload far above the MTCR limits.<sup>32</sup>

A 2012 report by the US Government Accountability Office (GAO) refers to approximately 70 diplomatic cables that the US Department of State sent to 20 governments and the MTCR in the period 2005–11 addressing UAV-related concerns. Over 75 per cent of these cables were in response to 'efforts by a small number of countries of concern to obtain controlled and uncontrolled technologies for use in their UAV programs'.<sup>33</sup> The GAO con-

<sup>29</sup> Missile Technology Control Regime (note 28), para. 3.

<sup>30</sup> See e.g. Jackson, S. T., 'Key developments in the main arms-producing countries', *SIPRI Yearbook 2012*, pp. 224–27.

<sup>31</sup> British Parliament, 'Arms export controls 2013: written evidence from Drone Wars UK', 22 Oct. 2012, <<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmquad/writev/689/m01.htm>>.

<sup>32</sup> SIPRI Arms Transfers Database, <<http://www.sipri.org/databases/armstransfers>>.

<sup>33</sup> US Government Accountability Office (GAO), *Nonproliferation*, GAO-12 536 (GAO: Washington, DC, July 2012), p. 22.



cluded that ‘although UAV proliferation poses risks, the U.S. government has determined that selected transfers of UAV technology can further national security objectives’.<sup>34</sup> The USA has sponsored six UAV-related proposals in the MTCR, of which one was adopted. The other five would have moved some UAVs from Category I to Category II, but no consensus was reached, and the proposals were taken off the agenda after 2008.<sup>35</sup>

In the wake of North Korea’s test of the Unha-3 rocket on 12 December 2012, the US Government offered to sell reconnaissance UAVs to the Republic of Korea (South Korea).<sup>36</sup> In 2008 the US Secretary of Defense had mentioned the need to overcome issues related to obligations under the MTCR in order to make such a sale to South Korea.<sup>37</sup>

### The Nuclear Suppliers Group

The NSG aims to prevent the proliferation of nuclear weapons by controlling transfers of nuclear and nuclear-related material, equipment, software and technology.<sup>38</sup> NSG members are also able to access information on best practices and specific data that can be put into the risk-management systems of licensing and customs authorities. The group’s June 2012 plenary in Seattle, USA, brought together the 46 participating states, as well as the European Commission and the Chair of the Zangger Committee (both of which are permanent observers).<sup>39</sup> The USA took over the NSG chair from the Netherlands, a position it will hold until the 2013 plenary.

At its 2010 plenary meeting in Christchurch, New Zealand, the NSG initiated a fundamental review of its control lists, an ongoing process that is being undertaken in order to keep up with technological developments. The 2012 plenary agreed changes to the control lists in relation to nuclear

<sup>34</sup> US Government Accountability Office (note 33), p. 19.

<sup>35</sup> US Government Accountability Office (note 33), pp. 20–21.

<sup>36</sup> South Korean experts concluded that the North Korean rocket did not contain any items violating the MTCR guidelines, although some components had been imported. The expert team also concluded that this test had served to test North Korea’s intercontinental ballistic missile programme. Kim, E., ‘Rocket debris reveals N. Korea’s intention to test ICBM technology’, Yonhap News Agency, 23 Dec. 2012, <<http://english.yonhapnews.co.kr/national/2012/12/22/99/0301000000AEN20121222002300315F.HTML>>. See also chapter 6, section IX, and chapter 7, section II, in this volume.

<sup>37</sup> ‘U.S. moves to sell advanced spy drones to South Korea’, Reuters, 25 Dec. 2012; and Hardy, J., ‘New eyes in the Asian skies’, *The Diplomat*, 4 Jan. 2013. An official request for the Global Hawk UAV had also been made in 2005.

<sup>38</sup> On the NSG see Bauer, S., ‘Developments in the Nuclear Suppliers Group’, *SIPRI Yearbook 2012*, pp. 376–86; Viski, A., ‘The revised Nuclear Suppliers Group guidelines: a European Union perspective’, Non-proliferation Papers no. 15, EU Non-proliferation Consortium, May 2012, <<http://www.nonproliferation.eu/activities/activities.php>>; Anthony, I., Ahlström, C. and Fedchenko, V., *Reforming Nuclear Export Controls: The Future of the Nuclear Suppliers Group*, SIPRI Research Report no. 22 (Oxford University Press: Oxford, 2007); annex B, section III, in this volume; and the NSG website, <<http://www.nuclearsuppliersgroup.org/>>.

<sup>39</sup> For a brief description of the Zangger Committee see annex B, section III, in this volume; and the Zangger Committee website, <<http://www.zanggercommittee.org>>.

reactors, heavy water production, lithium isotope separation and uranium enrichment. However, the participating states agreed to wait until the completion of the review process before issuing revised versions of the control lists.<sup>40</sup>

The plenary approved an amendment to part I of the NSG Guidelines in relation to access to nuclear material for peaceful purposes:

Suppliers should, in accordance with the objective of these guidelines, facilitate access to nuclear material for the peaceful uses of nuclear energy, and encourage, within the scope of Article IV of the [1968 Non-Proliferation Treaty], recipients to take the fullest possible advantage of the international commercial market and other available international mechanisms for nuclear fuel services while not undermining the global fuel market.<sup>41</sup>

A paper approved by the plenary to guide the NSG's outreach programme noted the importance of engaging industry and 'approved revising the guidance on such efforts'.<sup>42</sup> The group further discussed establishing closer links with other bodies such as the UN Security Council's 1540 Committee, the World Institute for Nuclear Security and the World Nuclear Association.<sup>43</sup> While brokering and transit were discussed, no decisions were announced on these issues. As usual, information and best practices on licensing and enforcement were discussed and exchanged. As in 2011, the plenary statement mentioned proliferation concerns raised by the nuclear programmes of Iran and North Korea.<sup>44</sup>

Mexico and Serbia were invited to the 2012 plenary as observers.<sup>45</sup> Mexico was admitted to the NSG in November 2012 after gaining the unanimous approval of the 46 participants. In 2011 Mexico exported over \$1 billion worth of goods on the NSG control lists.<sup>46</sup> By joining the NSG Mexico can now contribute to discussions and help shape consensus-based decisions. Throughout the year, India continued to seek support for its membership bid via diplomatic channels.<sup>47</sup> Several NSG members—

<sup>40</sup> Nuclear Suppliers Group (NSG), 'NSG public statement', NSG Plenary, Seattle, 21–22 June 2012, <[http://www.nuclearsuppliersgroup.org/A\\_test/01-eng/10-docu.php](http://www.nuclearsuppliersgroup.org/A_test/01-eng/10-docu.php)>; and Nuclear Suppliers Group, 'NSG Fundamental List Review', June 2012, <<http://www.nuclearsuppliersgroup.org/Leng/08-list.htm>>.

<sup>41</sup> International Atomic Energy Agency, 'Communication received from the Permanent Mission of the United States of America to the International Atomic Energy Agency regarding certain member states' guidelines for the export of nuclear material, equipment and technology', INFCIRC 254/Rev.11/Part I, 12 Nov. 2012, para. 12.

<sup>42</sup> Nuclear Suppliers Group, 'NSG public statement', (note 40).

<sup>43</sup> Stratford, R., 'Nuclear Suppliers Group: Evolution, transformation and future outlook', 20th Asian Export Control Seminar, Tokyo, 26–28 Feb. 2013.

<sup>44</sup> Nuclear Suppliers Group, 'NSG public statement' (note 40).

<sup>45</sup> Nuclear Suppliers Group, 'NSG public statement' (note 40).

<sup>46</sup> Mexican Ministry of Foreign Affairs, 'Mexico formally enters the Nuclear Suppliers Group (NSG)', Press release, [n.d.], <[http://www.sre.gob.mx/en/index.php?option=com\\_content&view=article&id=1740](http://www.sre.gob.mx/en/index.php?option=com_content&view=article&id=1740)>.

<sup>47</sup> 'India seeks South Korean support for NSG bid', Zee News, 15 Sep. 2012, <<http://zeenews.india.com/news/nation/india-seeks-south-korean-support-for-nsg-bid-766062.html>>.

including Australia, Belgium, France, Russia and Ukraine—expressed support for India’s membership in 2012.<sup>48</sup> Countries that have previously expressed support include the UK and the USA.<sup>49</sup> At the 2011 plenary, the US delegation circulated a ‘food for thought’ paper arguing against conditioning India’s NSG membership on its accession to the 1968 Non-Proliferation Treaty (NPT).<sup>50</sup> However, while the paper was discussed further at the 2012 plenary, the group’s public statement remained unchanged from that of the 2011 plenary, which noted continued consideration of Indian membership.<sup>51</sup> This suggests implications for cooperation with other countries suspected of having nuclear weapon programmes.

While the ongoing issue of China supplying two more reactors to Pakistan without asking for an NSG waiver was also discussed at the plenary, no progress seems to have been made.<sup>52</sup>

### The Wassenaar Arrangement

While the Australia Group, the MTCR and the NSG focus on WMD and their delivery systems, the Wassenaar Arrangement promotes transparency and the exchange of information and views on transfers of conventional arms and related dual-use goods and technologies.<sup>53</sup> It encourages responsible behaviour and seeks to prevent ‘destabilising accumulations’ of such items.<sup>54</sup>

The December 2012 Wassenaar Arrangement plenary was held, as usual, in Vienna, Austria, with Germany as the chair. (Denmark became the new chair on 1 January 2013.) In preparation for the plenary, the General Working Group discussed policy matters; the Experts Group discussed control list-related issues; the annual Licensing and Enforcement Officers Meeting (LEOM) was held; and the ad hoc Group of Security and Intelligence

<sup>48</sup> Dikshit, S., ‘India, Ukraine ink defence cooperation agreement’, *The Hindu*, 10 Dec. 2012; ‘Belgium backs India for NSG, seeks economic cooperation’, *SME Times*, 9 Aug. 2012, <<http://www.smetimes.in/smetimes/news/indian-economy-news/2012/Aug/09/belgium-backs-India-NSG-seeks-economic-cooperation74194.html>>; Dhasmana, I., ‘Russia supports India’s membership in NSG’, *Business Standard* (New Delhi), 21 June 2012; and ‘Australia commits NSG support for India’, *New York Daily News*, 3 May, 2012.

<sup>49</sup> Bauer (note 38).

<sup>50</sup> US State Department, ‘United States communication—“food for thought” paper on Indian NSG membership’, 23 May 2011, <<http://www.armscontrol.org/system/files/nsg1130.pdf>>. For a brief description and other details of the 1968 Treaty on the Non-Proliferation of Nuclear Weapons (Non-Proliferation Treaty, NPT) see annex A, section I, in this volume.

<sup>51</sup> Horner, D., ‘NSG still mulling Indian membership’, *Arms Control Today*, vol. 42, no. 6 (July/Aug. 2012).

<sup>52</sup> Dahl, F., ‘West worried by China–Pakistan atomic ties: sources’, *Reuters*, 27 July 2012; and Bauer (note 38).

<sup>53</sup> For a brief description of the Wassenaar Arrangement see annex B, section III, in this volume; and the Wassenaar Arrangement website, <<http://www.wassenaar.org/>>.

<sup>54</sup> Wassenaar Arrangement, ‘Guidelines and procedures, including the initial elements’, Dec. 2011, <<http://www.wassenaar.org/guidelines/>>.

Experts met. The plenary statement welcomed Philip Wallace Griffiths from New Zealand as the new head of the Wassenaar Secretariat. Sune Danielsson from Sweden had held this position for 10 years up until June 2012.<sup>55</sup>

As in 2011, the plenary agreed to continue outreach to non-member states, industry and other interested groups during 2013 through post-plenary briefings, interaction and bilateral dialogue with non-participating states, and to offer a technical briefing on recent control list changes to a number of non-participating states. The aim of the technical briefing is to promote the Wassenaar Arrangement and encourage voluntary adherence to its standards by non-participating states.<sup>56</sup> While regime outreach activities have in the past focused on generic presentations or obtaining countries' voluntary commitments to regime guidelines and principles, there have been some efforts to add more technical elements.

Mexico became the 41st Wassenaar Arrangement member in January 2012.<sup>57</sup> This was the first expansion of the group since South Africa joined in 1996. Applications from several other states are pending.

The Wassenaar Arrangement control list was amended in a number of areas including spacecraft and passive counter-surveillance equipment of mobile telecommunications.<sup>58</sup> As a result, the control list now covers transfers of off-the-air interception devices, such as international mobile subscriber identity (IMSI) catchers.<sup>59</sup> Controls for gas turbine engines and machine tools were relaxed, and the cryptography note was revised. Participating states decided to conduct a comprehensive and systematic review of the dual-use and munitions list.<sup>60</sup> They also agreed to 'make further use of the Regional Views exercise, implementing a rotating focus on geographic regions'.<sup>61</sup>

An updated version of the compilation of all Wassenaar Arrangement documents was made available in January 2013.<sup>62</sup>

<sup>55</sup> Wassenaar Arrangement, 'Wassenaar Arrangement public statement', Vienna, 11–12 Dec. 2012, <[http://www.wassenaar.org/publicdocuments/index\\_PS\\_PS.html](http://www.wassenaar.org/publicdocuments/index_PS_PS.html)>.

<sup>56</sup> Wassenaar Arrangement (note 55).

<sup>57</sup> Wassenaar Arrangement (note 55); and US State Department, 'US congratulates Mexico on accession to Wassenaar Arrangement', Media note, PRN: 2012/122, 25 Jan. 2012, <<http://www.state.gov/r/pa/prs/ps/2012/01/182499.htm>>.

<sup>58</sup> On export controls for surveillance technology in the EU see section V below.

<sup>59</sup> On the types of technology involved see Privacy International, 'Surveillance Industry Index: Cobham', [n.d.], <<https://www.privacyinternational.org/sii/cobham/>>.

<sup>60</sup> Wassenaar Arrangement (note 55). On the agreed Experts Group amendments see Wassenaar Arrangement, 'Summary of changes, list of dual-use goods and technologies and munitions list', 12 Dec. 2012, <<http://www.wassenaar.org/controllists/>>.

<sup>61</sup> Wassenaar Arrangement (note 55).

<sup>62</sup> Wassenaar Arrangement, 'Basic documents: compilation', Jan. 2013, <[http://www.wassenaar.org/publicdocuments/index\\_BD.html](http://www.wassenaar.org/publicdocuments/index_BD.html)>.