

# 15. Dual-use and arms trade controls

## Overview

*This chapter reviews international, multilateral and regional efforts to strengthen controls on the trade in conventional arms and dual-use items—items that can be used for both civilian and military purposes. A landmark event in the control of the trade in conventional arms took place in December 2014 when the Arms Trade Treaty (ATT) entered into force. Multilateral efforts in the area of dual-use trade controls were not marked by similar milestones, but followed the incremental development path of recent years.*

*Section I reviews aspects of the ATT, focusing on its entry into force and the ongoing process of preparing for the First Conference of States Parties, which will take place on 24–27 August 2015. Although the ATT was negotiated under the auspices of the United Nations General Assembly First Committee, which focuses on disarmament issues, it is mainly centred on issues related to controls on the trade in conventional arms. While the ATT represents a significant achievement, doubts remain over the impact it will have, particularly given the vague nature of some of its provisions and the number of important arms supplying and recipient states that have yet to sign it. In 2014 discussions focused mainly on procedural issues, particularly the location and financing of the ATT Secretariat and the level of access to negotiations that should be afforded to non-signatories and to non-governmental organizations opposed to the content of the treaty. A successful outcome to these discussions will not necessarily ensure that the treaty improves standards in the trade in conventional arms but is of central importance to its long-term development. These discussions will also have implications for future negotiations in other areas of arms control and disarmament, since the standards agreed in relation to the ATT may be applied elsewhere.*

*Section II examines developments in multilateral arms embargoes, focusing on restrictions imposed by the UN, the European Union (EU) and other regional bodies. Discussions on imposing a UN arms embargo on South Sudan reached an advanced stage during 2014 without leading to a final decision. Reports indicated that the United States, in particular, was reluctant to agree to an embargo. In February 2014, EU member states agreed to suspend exports to Ukraine of any equipment that might be used for internal repression. This embargo was lifted in July. In the same month the EU imposed an arms embargo on Russia. Several violations of UN embargoes were again reported in 2014, highlighting some of the difficulties of enforcing multilateral arms embargoes.*

*Section III analyses the latest developments in the multilateral export control regimes: the Australia Group, the Missile Technology Control Regime, the Nuclear Suppliers Group (NSG) and the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-use Goods and Technologies. Each regime sought to strengthen and revise its trade controls on goods and technologies that have uses in connection with chemical, biological, nuclear and conventional weapons. There were ongoing discussions—particularly within the NSG—on agreeing common standards for expanding the scope of activities subject to controls to include brokering and transit/trans-shipment, among other things. Another theme in 2014 was the expansion of each regime’s coverage through engagement with non-participating states. Regimes also kept up their efforts to address the challenge of emerging technologies through amendments to the common control lists. The issue of chemical weapons was a key focus of attention in 2014 on the basis of clear evidence of the use of such weapons in Syria, while nuclear weapons maintained their prominent position on the non-proliferation of weapons of mass destruction agenda. Discussions also continued on India’s participation in the regimes, in particular the NSG.*

*Section IV examines export control developments at the EU level in 2014. The review of the EU Common Position defining common rules governing control of exports of military technology and equipment (EU Common Position) continued. Final outcome documents are expected in 2015. The process is unlikely to result in major changes to the instrument but some adjustments to certain export criteria are expected—partly to take account of the adoption of the ATT—along with improvements to the accompanying systems of information exchange. EU member states moved ahead with the implementation of the EU Intra-Community Transfer Directive (ICT Directive), although its impact appears uneven and is difficult to measure. Developments in the EU Common Position and the ICT Directive indicate a certain reduction in EU member states’ interest in the process of harmonizing their national controls on arms exports, which has been ongoing since the early 1990s. EU level controls on the export, transit and brokering of dual-use items are currently subject to a review process, with resulting changes expected from late 2015. The review process represents an important opportunity for the EU to demonstrate its ability to continue to be a lead actor in the creation and implementation of effective export control mechanisms. This is particularly the case with regard to controls on transfers of surveillance technologies, which have become a key component of the review process. This discussion may lead to a fundamental revision of the dual-use concept beyond the dichotomy of military versus civilian applications.*