

14. Dual-use and arms trade controls

Overview

Global, multilateral and regional efforts continued in 2020 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. The global Covid-19 pandemic limited in-person meetings for most of the year, testing the resilience of the instruments and the capacity of states to take decisions and address technological and political challenges in such exceptional circumstances. In addition, 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 mandatory reporting—coupled with a decline in public reporting—under the 2013 Arms Trade Treaty (ATT); the various reported violations of United Nations arms embargoes; and unilateral efforts by the United States to impose a UN arms embargo on Iran beyond 2020. At the same time, states continued to make progress on reaching agreement on expanding and developing technical aspects of these controls.

The Sixth Conference of States Parties (CSP6) to the ATT was conducted on 17–21 August 2020 through written procedure with no in-person meeting (see section I). The Covid-19 pandemic limited the decision-making capacity of the CSP6, participation and open debate among different stakeholders, and the provision of international assistance to implement the ATT. Some problems that the ATT was already experiencing persisted, particularly a decline in reporting levels and an increase in the submission of reports that are not made public. One of the most significant developments was the establishment of the Diversion Information Exchange Forum, which will allow for ‘informal voluntary exchanges between States Parties and signatory States’ on ‘concrete cases of suspected or detected diversion and for sharing concrete, operational diversion-related information’. A second important development was the accession of China to the ATT.

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 multilateral arms embargo was imposed and the UN embargo on the supply of major arms to Iran and exports of any arms from Iran expired, although other aspects of the embargo remained in place. 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. The year 2020 tested multilateral arms embargoes in a quite remarkable way. First, the USA sought to unilaterally extend the UN arms embargo on Iran beyond October 2020. Second, as in previous years, investigations by the UN revealed numerous reported cases of violations. Particular problems were noted in connection with the implementation of the UN arms embargo on Libya, where some states, such as Russia and the United Arab Emirates, pledged to abide by the embargo while reportedly continuing to violate it. Finally, the 2020 combat between Armenia and Azerbaijan in Nagorno-Karabakh raised questions about the implementation and enforcement of the Organization for Security and Co-operation in Europe's voluntary arms embargo on Nagorno-Karabakh.

None 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—was able to hold its annual plenary due to Covid-19 pandemic restrictions (see section III). The pandemic also severely limited the regimes' ability to take major decisions and discuss political and technical topics, such as amendments to the regimes' control lists. Much of the regimes' work continued through information exchange functions or in smaller groups of states. Several regimes put in place measures or expedited processes to improve resilience in addressing the types of challenges raised by Covid-19. Steps in this direction included upgrading the information-sharing system of the NSG, the launch of an MTCR newsletter, and increased participation of regimes' representatives in virtual meetings organized by third parties. None of the four regimes admitted any new participating states (or partners) during 2020.

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, 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 2020 the EU reached a provisional agreement on the final text of a new version of the EU dual-use regulation, concluding a review and recast process that started in 2011. Major areas of debate and revision during the recast process included creating greater harmonization of member states' controls, simplifying controls on less sensitive items, strengthening controls on cybersurveillance items, and responding to challenges posed by emerging technologies. The review of the EU common position on arms exports concluded in 2019. In 2020, the EU improved the level of transparency and accessibility of the EU annual report on arms exports, by launching an online database that includes data from the 2013–19 EU annual reports.