

12. Dual-use and arms trade controls

Overview

During 2022 a range of global, multilateral and regional efforts sought to strengthen controls on the trade in military items and in dual-use items relevant for 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. However, Russia's invasion of Ukraine in February 2022 significantly disrupted or affected states' efforts in the field of coordinated export measures. Export controls were a key tool through which states in the West sought to limit the capacities of Russia's military and to influence both Russian and Belarusian decision-making. The international tensions arising from the invasion also significantly affected the functioning of the systems of multilateral export controls. The extent to which key aspects of the existing architecture can survive the current crisis remains an open question which will be largely determined by the course of the conflict and the ways in which states continue to use export controls to respond to Russia's actions.

The eighth conference of states parties (CSP8) to the Arms Trade Treaty (ATT) took place from 22 to 26 August 2022 under the presidency of Ambassador Thomas Göbel of Germany, with post-shipment controls as the main thematic focuses of the CSP8 cycle (section I). At CSP8 the Diversion Information Exchange Forum was convened for the first time. As in previous years, levels of reporting declined. There were also ongoing challenges created by, and disagreements about how to respond to, the failure of many states to provide the funds needed to support the ATT Secretariat and the annual cycle of conferences and preparatory meetings. Despite the steady but slow growth in the number of states parties, significant gaps in membership remain, particularly among states in Asia and the Middle East.

During 2022, 14 United Nations embargoes, 22 European Union (EU) embargoes and 1 League of Arab States embargo were in force (section II). A partial UN arms embargo imposed on Haiti, initially proposed by China, was the only new multilateral arms embargo in 2022 and the first new UN arms embargo since the embargo on South Sudan in 2018. The level of international consensus around decisions to lift or extend UN arms embargoes deteriorated in 2022, with disagreements between, on the one hand, China, Russia and several like-minded African states, and mainly Western powers on the other. This was evident in discussions about extending the systems of notification and authorization for transfers to governmental forces that are attached to the UN arms embargoes on the Central African Republic, the Democratic Republic of

the Congo, Somalia, South Sudan and Sudan (Darfur). Western states argued in favour of their maintenance while those opposed argued that they impacted these states' ability to improve their security forces.

Together with the United States and 10 like-minded states, the EU put in place a set of security-focused trade restrictions on Russia and Belarus—implemented via member states' domestic export control systems—that were the most significant and wide-ranging ever imposed on a major industrialized state in the post-cold war period (section III). The restrictions clearly disrupted the flow of parts and components to Russia's defence industry, including many that were not previously captured by export control measures and which the Russian defence industry is unable to procure domestically. Nonetheless, there were indications that Russia continued to acquire many of these items in states that are not part of the group that adopted these controls, raising questions about the effectiveness of these measures.

The increased geopolitical tensions precipitated by Russia's invasion of Ukraine significantly affected 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 (section IV). Despite these challenges, the regimes all returned to holding in-person plenary meetings, exchanged experiences and good practices, adopted small numbers of changes to their respective control lists and continued their technical deliberations—including on various emerging technologies. Some, mainly US-based, experts questioned the effectiveness of the multilateral export control regimes during the current crisis and reiterated longstanding calls for potential reforms or new mechanisms.

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 transshipment of dual-use items, software and technology and some military items (section V). The EU is the only regional organization to have developed such a framework. During 2022 the EU took steps to implement a new version of the dual-use regulation which entered into force in 2021. However, the adoption of guidelines required by the new regulation was delayed. The EU and its member states also reported on steps taken to implement the foreign direct investment screening regulation, including its implementation vis-à-vis Russian and Belarussian transactions, and continued to expand its coordination with the USA on export control issues, particularly via the work of the Trade and Technology Council established in 2021. The EU also began work on a review of the common position and discussed how exports of military materiel funded by the European Peace Facility will be managed.