

12. Dual-use and arms trade controls

Overview

During 2023 a range of global, multilateral and regional efforts sought to strengthen controls on the trade in military and dual-use items relevant for conventional arms and chemical, biological and nuclear weapons and their delivery systems. Membership of the different international instruments that seek to establish and promote agreed standards for controls on the trade in military and dual-use items remained unchanged.

The Russia–Ukraine war continued to affect multilateral cooperation in the field of export controls. States in the West expanded the set of sanctions measures and associated arms embargoes designed to weaken the Russian Federation’s military capacity and modify Russian and Belarusian behaviour. In 2023 European states, the United States and other like-minded countries also intensified efforts to coordinate and strengthen the enforcement of the arms embargoes, for instance through continued cooperation between the European Union (EU) and the USA via the work of the Trade and Technology Council (TTC) and the establishment of the ‘Export Enforcement Five’ partnership in June.

Rising geopolitical tensions and rapid advances in key technological areas also led to ongoing increases in the use of export controls to pursue national economic and security objectives. One of the main examples has been the USA’s imposition of restrictions on transfers of semiconductors to China since the late 2010s. In early 2023 the Netherlands and Japan adopted national controls on transfers of semiconductors after close coordination with the USA. In June 2023 the European Commission published a draft European Economic Security Strategy which included a strong emphasis on adopting new and more harmonized controls on transfers of emerging technologies, thus signalling the growing importance that the EU is attaching to trade controls in its efforts to achieve a wider set of foreign policy and security objectives.

The extent to which key aspects of the existing multilateral export control architecture can survive in the worsening geopolitical context remains an open question, which will be largely determined by the course of the Russia–Ukraine war and the ways in which some states continue to use export controls to respond to Russia’s actions and manage their rivalry with China.

The Ninth Conference of States Parties (CSP9) to the Arms Trade Treaty (ATT) took place on 21–25 August 2023 under the presidency of South Korea (see section I). The role of industry in a responsible international arms trade was the main thematic focus. States parties discussed the revision of the ATT meetings

format and scope, as well as how to carry forward discussions on effective treaty implementation. The impact of the Russia–Ukraine war on ATT discussions was not particularly prominent at CSP9—aside from some statements, mostly from European and other Western states, calling for a cessation of arms transfers to Russia. Nonetheless, the treaty continued to experience shortcomings in terms of declining reporting and financial difficulties. Universalization is also slowing down, with no new state joining the ATT in 2023.

During 2023, 14 United Nations arms embargoes and 22 EU arms embargoes were in force (see section II). The Global Export Control Coalition (GECC), which was launched in 2022, includes 39 states imposing an arms embargo on Belarus and Russia. No new multilateral arms embargoes were imposed in 2023, although the UN embargo on Somalia was explicitly repurposed as an arms embargo that applies exclusively to the al-Shabab armed group. Besides this development, disagreements remained—mainly between China, Russia and several African states on one side, and the other UN Security Council members on the other—over the general use of sanctions and over the particular controls on arms procurement by government forces in South Sudan, Sudan and the Central African Republic. The effectiveness of UN arms embargoes continued to be under strain in 2023, amid widespread allegations that Russia procured weapons from North Korea and the continued ineffectiveness of the embargo on Libya.

The repercussions of the Russia–Ukraine war continued to have a significant impact on the work of the multilateral export control regimes—the Australia Group (on chemical and biological weapons), the Missile Technology Control Regime, the Nuclear Suppliers Group and the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-use Goods and Technologies (see section III). The latter three regimes, which include Russia as a participating state, continued to experience difficulties in achieving consensus on key decisions, such as plenary statements, the appointment of chairs and the adoption of new control list categories. However, they were still able to function effectively, make incremental updates to the control lists, and advance technical discussions.

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, to a certain extent, military items (see section IV). The adoption of measures to implement the new version of the EU dual-use regulation, such as the development of guidelines on the implementation of controls on cybersurveillance items and reporting obligations, was still under way in 2023. The EU also conducted a targeted consultation on the evaluation and revision of the Foreign Direct Investment Screening Regulation. In 2023 the European External Action Service and EU member states continued preparation for the review of the EU common position on arms exports, which is due to be completed in 2024.