

Presentation to the 13<sup>th</sup> International Export Control  
Conference

*Role of Regimes in International Nonproliferation Partnerships*

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Wassenaar Arrangement on Export Controls  
for Conventional Arms and Dual-Use Goods and Technologies

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Let me start by thanking the Government of the United States, the European Union, BAFA and the Government of Slovenia for inviting me to take part in this 13<sup>th</sup> International Export Control Conference. During the past ten years, I have participated in many of the previous editions of this Conference, and I have seen it develop from an inward-looking meeting of regime members to an outward-looking event involving close to 100 countries. I have also seen this conference develop into a forum for building partnerships, not only between the organisers of this conference but also between different countries and organisations. And I have seen it develop into an opportunity for learning from each other and building capacity to help us all do a better job.

In other words, this conference has become an important meeting place for all who work with export controls in one form or another.

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Last year was an Assessment Year for the Wassenaar Arrangement. Every four years, we take a look at all aspects of our operations and consider how we can improve. This was our fourth Assessment, and it concluded with our Plenary in mid-December. It will be a great pleasure for me to introduce to you some of the major achievements of this process. I will also inform you about some other decisions that have been taken after the Plenary.

Let me start with a few general comments.

I believe it is important to recognize that export controls are not optional. All countries have an obligation to implement export controls in order to meet their national obligations under UN Security Council Resolution 1540. That resolution deals with WMD and their means of delivery, but it establishes a principle. Although the WA deals with conventional weapons, that principle is also of relevance to the Arrangement.

Effective national controls on sensitive exports are important not only for security reasons -- because a sensitive item that ends up in the wrong hands can be used against you - - but also because export controls are an important means of ensuring that transfers of arms and dual-use goods do not lead to the destabilisation of a country or a region or cause or aggravate armed civil conflict.

But there is also another reason why export controls are important. Effective national export controls can demonstrate that a country is a reliable commercial partner. A country's access to technology and foreign investment can be enhanced when potential

suppliers of these items have confidence in the recipient country's ability and willingness to meet its commitments relating to re-export of sensitive goods and technologies.

What is the role of the WA in this context?

To answer that question, I think it is useful to recall some basic facts about the Wassenaar Arrangement, what it is and what it is not.

First, our membership. I can inform you that a new country – Mexico – joined the WA in January this year. So now the WA has 41 Participating States.

The Arrangement is not based on a legally binding treaty, but on the political commitment of “like-minded” countries. They have made two basic commitments. The first commitment is to impose fully effective national export controls on conventional weapons and dual-use goods. The second commitment is to report to the other Participating States about one's own transfers and denials of certain items.

Let me emphasize that the Arrangement does not represent an attempt to introduce collective decision-making into the national export control practices of member states. Quite the contrary. The preservation of national discretion on all matters relating to the implementation of export controls is a fundamental principle of the WA's work. All decisions whether to grant a license or to deny an application are taken by the WA states themselves. The Wassenaar Arrangement's role is limited, but critically important. It is to “set the standard” against which countries make these decisions. Yet, because Participating States must notify their partners about certain transfers and denials, these decisions are open to scrutiny.

The first step in controlling exports effectively is the identification of the items that should be subject to national control. As you know, the WA does this in the form of

our two Control Lists, the Munitions List and the Dual-Use List. These lists have to be kept up to date continuously to keep pace with rapid technological development, changes in the international security situation, and market trends. This does not happen by itself, but is a resource-consuming and highly technical task to which WA Participating States devote substantial resources. A lot of work goes into this process.

Let me give you a few examples of **list changes adopted in 2011** to illustrate the challenges in keeping these lists up to date. The control text on Coordinate Measuring Machines was revised to provide greater clarity. These machines permit three-dimensional measurement of complex shapes to a tolerance of less than 2 micrometers and are indispensable for the production of sophisticated weaponry and other sensitive products.

A new entry to the telecommunications part of the Dual-Use List is aimed at controlling systems and equipment designed to intercept and process mobile telecommunications. Failure to control such equipment could compromise military communications capabilities.

Finally, a decontrol. During 2011, older types of head-up display software used by pilots were decontrolled. Newer generations use liquid crystal displays and light-emitting diode technology, and thus older cathode-ray systems are no longer controlled.

Now, what happens when the Arrangement has approved the changes in the Control Lists?

Each Participating State is responsible for incorporating the control changes into its national legislation. For countries in the European Union, I think it is of particular importance to note that the Wassenaar Arrangement Dual-Use List forms part of the EU Dual-Use Regulation, which is legally binding on EU members. Every year, this

regulation is amended to reflect changes in the Dual-Use List that we have agreed on. The Wassenaar Munitions List is included in the EU Common Military List to which the EU Common Rules on Arms Exports apply. As with the Dual-Use Regulation, changes in the Arrangement's Munitions List are reflected in the EU Common Military List.

I mention this since some non-EU countries have decided to implement national export controls on the basis of the EU Control Lists.

Another pillar of the WA is our Best Practice documents, which have been developed to be used as guidance for the national legislation and practices of the Participating States.

The WA achieved some major successes last year by adopting three new Best Practice documents. These cover Internal Compliance Programmes for industry, Re-export of conventional arms and Transportation of conventional arms.

Let me first introduce you to the Best Practice document on **Internal Compliance Programmes** or ICPs. In controlling exports, industry represents the first line of defence. Exporters of sensitive goods and services must ensure that they abide by their government's applicable export controls. The consequences of not doing so might be very costly, not only in the form of legal sanctions, but also – perhaps even more important – reputational damage.

A key element in the new ICP document is that the Participating States agree to encourage exporters to develop and implement ICPs, e.g., making an ICP a condition for the granting of a general license.

The new document contains a very rich annex of basic and additional elements for ICPs. These include:

- A commitment to compliance;

- Organizational structure, emphasizing senior-level responsibility;
- Export screening procedures;
- Shipment control;
- Performance review and audit procedures;
- Training;
- Record keeping; and
- Reporting and corrective action.

The second new document adopted last year is the **Best Practice Guidelines on Subsequent Transfer (Re-export) Controls for Conventional Weapons Systems** contained in Appendix 3 to the WA Initial Elements. Appendix 3 covers battle tanks, armored combat vehicles, large caliber artillery systems, military aircraft/UAVs, military and attack helicopters, warships, missile or missile systems and small arms and light weapons including MANPADS.

In this document, the Wassenaar Participating States have agreed to ensure that government-to-government agreements, end-use and end-user assurances, and/or export licenses will contain a re-export clause which requires prior authorization from the original exporting government before re-export. Furthermore, Participating States have agreed to ensure that re-export to third parties of weapons systems produced under license from another country is consistent with government-to-government agreements, end-use assurances, and the export license under which the production technology was transferred.

The third new document is entitled **Elements for Controlling Transportation of Conventional Arms between Third Countries**. As you will understand from the title, it concerns transportation between third countries. In this document, the WA Participating States are encouraged to consider the need for legislation to prevent their nationals, e.g., shipping companies, from transporting arms in violation of UN Security Council

embargoes, and from transporting arms in violation of the licensing requirements in the exporting and importing countries.

We have a number of other Best Practice documents and, because of recent events in some parts of the world, I would like to remind you of our Best Practice document on **Man-Portable Air Defense Systems or MANPADS**. Because of their especially lethal characteristics, it is essential that transfers of MANPADS be subject to the most rigorous controls.

Let me mention one more Best Practice document that I think is quite important. It concerns **Intangible Transfers of Technology [or ITT]**.

The WA Control Lists cover not only weapons, production equipment, materials, etc., but also related technology. When technology is controlled, a transfer of this technology requires a license, regardless of how it is transferred, i.e., by tangible or intangible means. The ITT document underlines the importance of making industry and academic institutions aware of the need for ITT controls and for self-regulation and internal controls, such as ICPs. Records should be kept so that export control authorities can check compliance, e.g., through inspections.

I have been asked by the organisers to inform you about what we do on **outreach**. The goal of the Wassenaar Arrangement outreach program is **not** to recruit new members for the Arrangement. Rather, it is to encourage non-member states to establish and implement robust and effective export control programs. This is how I believe the WA can make a contribution toward strengthening the barriers to proliferation of weapons and sensitive technologies.

The WA Participating States have put a lot of time and resources into developing and updating our Control Lists and Best Practice documents. The results of their hard

work is freely available on our website ([www.wassenaar.org](http://www.wassenaar.org)) for the use also by non-member countries. I believe that making our standards available and continuously updating them is an important outreach effort which can contribute to building partnerships for responsible exports.

We have had bilateral dialogues with a number of non-Participating States. During the last few years, we have also provided a Post-Plenary briefing in January and a Technical Briefing on Changes to the Control Lists in June to interested non-member states. Our outreach efforts also include regular presentations to industry-focused conferences held in various parts of the world.

Implementing effective export controls is not always easy. What we try to do in our outreach is to provide information about the tools and standards that we have developed to make a responsible decision. And applying the same standards will contribute to a more secure world and a more level playing field for exporters.

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Let me close by saying that this will be the last time that I participate in this conference representing the WA. My tenure as Head of Secretariat will end on 1 June 2012. The WA Plenary has appointed Ambassador Philip Griffiths of New Zealand as my successor, and I trust that you will receive him in the same cordial manner which you have accorded to me. It has been an honor to contribute to the International Export Control Conference over the years. I have enjoyed our discussions tremendously, and I

will long remember the colleagues whom I have had the privilege to meet. My lasting impression will be the partnership that has developed between all of us.

Let me wish you all success in the future.

Thank you.