9th International Export Control Conference

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Australia Group: Regime Update

It is a pleasure to be in Cavtat to talk about recent developments in the Australia Group.

The Australia Group aims to prevent the proliferation of chemical and biological weapons through states and non-state actors exploiting differences in national export control systems. Australia Group participants do this by harmonising their export controls on dual-use chemicals, biological agents and chemical and biological equipment and technology.

The Group has achieved, and continues to achieve, practical gains in the fight against proliferation. The Australia Group's control lists continue to be an international benchmark for best practice controls on chemical and biological agents and equipment. The control lists are also increasingly being used as a guide for international action in this area, including in the support and application of relevant UN Security Council resolutions.

As well as developing comprehensive lists to control trade in dual-use chemicals and equipment, since the threat of biological weapons became apparent in the early 1990s, the Australia Group has also developed lists to prevent the diversion of relevant materials, equipment and technology to biological weapons programs.

The Australia Group control lists cover chemical precursors, viruses, plant and animal pathogens, as well as various bacteria, toxins and relevant dual-use chemical and biological equipment. Each year Australia Group members discuss at their plenary meeting additions and deletions to the control lists and how to make the lists more effective.

Harmonisation of these standards between Australia Group participants has significantly restricted opportunities for proliferators to source through normal trade channels the chemical and biological components required for making chemical and biological weapons.

These same measures have also protected Australia Group members from inadvertently allowing dual-use materials to fall into the wrong hands.

I have mentioned that the Group's export control lists are being constantly reviewed. For example, in response to terrorist interest in dispersal devices for biological agents, aerosol sprayers suitable for dispersal of biological agents have been added to the biological equipment control lists; and revised controls have been placed on such items as pumps and genetically modified organisms to assist exporters and licensing authorities to identify controlled items more easily.

At the plenary meeting of the Australia Group in Paris in April this year, the Group's participants agreed to form a synthetic biology advisory body as a means of ensuring the Group is kept abreast of, and can respond quickly and appropriately to, technological developments in this area.

In the absence of a verification body for the Biological Weapons Convention, the Australia Group's development of control lists covering materials and technology relevant to the production of biological weapons represents the only harmonised form of control over these items.

Increased trade and technology transfers in the chemical and biotechnology sectors are in the economic interests of all countries. Australia Group participants take seriously their obligations under the Chemical Weapons Convention and the Biological Weapons Convention not to inhibit fair and transparent trade for peaceful purposes.

It has become increasingly apparent that the well-balanced and harmonised export controls implemented by Australia Group participants have brought increased security to this trade, without restricting legitimate trade.

In view of this, many non-Australia Group members have recognised the real value of the Australia Group's comprehensive control lists in preventing chemical and biological weapons-relevant items and technology falling into the hands of proliferators.

The success of the Group in promoting balanced and consistent national export controls is well demonstrated by its expanded participation – from 16 participants in 1985 to 40 countries plus the European Commission today.

Outreach by Australia Group members to non-participants to promote robust export control standards has contributed to this expansion.

Consequently, an increasing number of non-participating countries are looking to Australia Group control lists and measures in the formulation of their own export controls.

And Australia Group standards are increasingly being seen as the international benchmark for export controls in the field of chemical and biological materials and equipment.

At the Group's plenary meeting in April strategies were endorsed to improve the focus of outreach activities and better coordinate efforts. Encouragingly, there is growing receptiveness to outreach efforts amongst non-Australia Group countries. Every year Australia Group participants conduct outreach to over 50 countries. In addition, Group participants recognise the importance of informative and cooperative outreach to their own domestic industry and academic sectors.

As part of these outreach efforts, the Australia Group's public website has been enhanced and a new booklet on the Australia Group has recently been published. The Australia Group website is accessible in English, Arabic, Chinese, French, German, Russian and Spanish.

The work of the Australia Group is now entering a new phase. There is a new emphasis on identification of practical ways to deepen the implementation and enforcement of export controls, including in the area of intangible export controls, and in making an appropriate response to rapid technological advances in the field of biology.

We must not become complacent. The international security environment has changed markedly over recent years and the global threat posed by chemical and biological weapons is in many respects more challenging today.

Several countries continue to actively pursue weapons of mass destruction programs in defiance of international non-proliferation norms.

The sarin gas attacks in the Tokyo subway in 1995 and the anthrax attacks following the tragic events of September 11 2001 are clear reminders of the devastating impact that chemical and biological weapons terrorism can have.

Proliferators are resorting to ever more sophisticated methods for procuring the materials they require to manufacture chemical and biological weapons. The same trend was amply demonstrated in the nuclear area by the vast procurement network established by Dr AQ Khan.

I would like to discuss now a few specific challenges – not limited to the Australia Group – that we currently face. These are transhipment and re-export, brokering and intangible technology transfers.

Strategies employed by proliferators such as the transhipment and re-export of items make illicit trade particularly difficult to detect and to combat.

Sensitive goods which transit or are transhipped through an intermediary country are at an increased risk of being diverted to an unauthorised end-user. Transhipped goods, in particular, are vulnerable to being re-packaged or altered in some way to disguise the origin and/or content and forwarded (or re-manifested) to another destination. This process, which may also involve the use of front companies, can effectively disguise both the country of origin and the true destination of the goods.

Transited goods are not vulnerable to being re-packaged and re-manifested in the same way, but can be subject to interference on board the transporting vehicle.

The most effective way to prevent the diversion of sensitive goods during transit or transhipment is to apply the same level of control to transhipped goods as would be applied to goods originating from that country. Enforcing controls over transit cargo is more difficult, as this cargo is not always required to be reported to border control agencies. To address this issue, the Australia Group has amended its guidelines so that participants will take into account the strength of the export controls applied to transit/transhipped items by any intermediary country through which the goods will pass when evaluating an export licence application.

Brokering can also serve to mask the true end-use of dual-use exports and makes the enforcement of export controls more difficult.

For most countries, controlling the activities of brokers is a relatively new field. Historically, efforts to control brokering activities have focused

mostly on small arms. It has become increasingly clear in the current security environment, however, that controls on brokering activities involving conventional, military and WMD-related dual-use goods have an important role to play in preventing proliferation. Again, the exposure of the AQ Khan procurement network highlighted how extensive and dangerous a proliferation threat brokering activities can pose.

National legislation is an essential requirement for controlling brokering activities. Ideally, this legislation should provide a clear framework for regulating and licensing legitimate brokering activities. In a first for the export control regimes, in 2007 the Australia Group agreed that its participants should consider, where appropriate, the activities of brokers and intermediaries as factors in determining whether an export license should be granted.

Brokering controls can also usefully cover services (such as financing or transportation) which might relate to the procurement of controlled items, and intangible technology transfers.

This year Australia and the Republic of Korea are sponsoring the first ever UN resolution specifically focused on brokering.

Globalisation, with advances in telecommunications and ease of international travel, has made it easier to transfer technical data and "know-how" through intangible means, particularly through the internet and/or through educational and academic contacts. Such transactions cannot be monitored by traditional means.

The control of intangible technology transfer has become one of the most challenging problems to export control and non-proliferation in the current age of information technology. Such transfers can include, but are not limited to, research, papers, seminars, conferences, instructions (written or recorded), working knowledge, design drawings, models, operational manuals, skills training, catalogues and so on.

The problem is how to control the spread of potentially harmful information and find the right balance between academic freedom, right to privacy and security objectives. It is clear that some form of control of sensitive intangible technology is essential and has to be placed on the same terms and conditions as the control of "tangible" goods and technologies.

The issue is what combination of legal basis and practical measures will work best for the effective implementation of controls on sensitive intangible technology transfers. Clearly cooperation with business and research institutions will be essential to arriving at a solution that will work. And such a solution will have to include potential suppliers of intangible technology being made aware of their own responsibilities towards the prevention of proliferation.

At the Australia Group plenary in Paris, members agreed to enhance their cooperative measures to deal with Intangible Technology Transfers and adopted an "ITT Best Practice Guide" to assist in the implementation and

enforcement of effective national controls on Intangible Transfers of Technology.

I would like to conclude by re-emphasising that there is no doubt that increased trade, and technology transfers, in the chemical and biotechnology industry sectors are in the economic interests of all countries.

At the same time, the physical and economic costs from an attack using chemical and biological weapons – and the panic resulting from that attack and its affect on global markets – will impact on all countries. For the sake of all our physical security and economic well-being, preventing chemical and biological weapons-relevant items and technology from falling into the hands of proliferators demands the utmost vigilance.

The question is how we can balance these two worthwhile goals of expanding trade and ensuring our security.

A well-administered and carefully implemented export control system, with likeminded countries working purposefully and harmoniously for a common goal, can achieve this balance of trade and security without restricting legitimate trade. The Australia Group is an example of such a system.