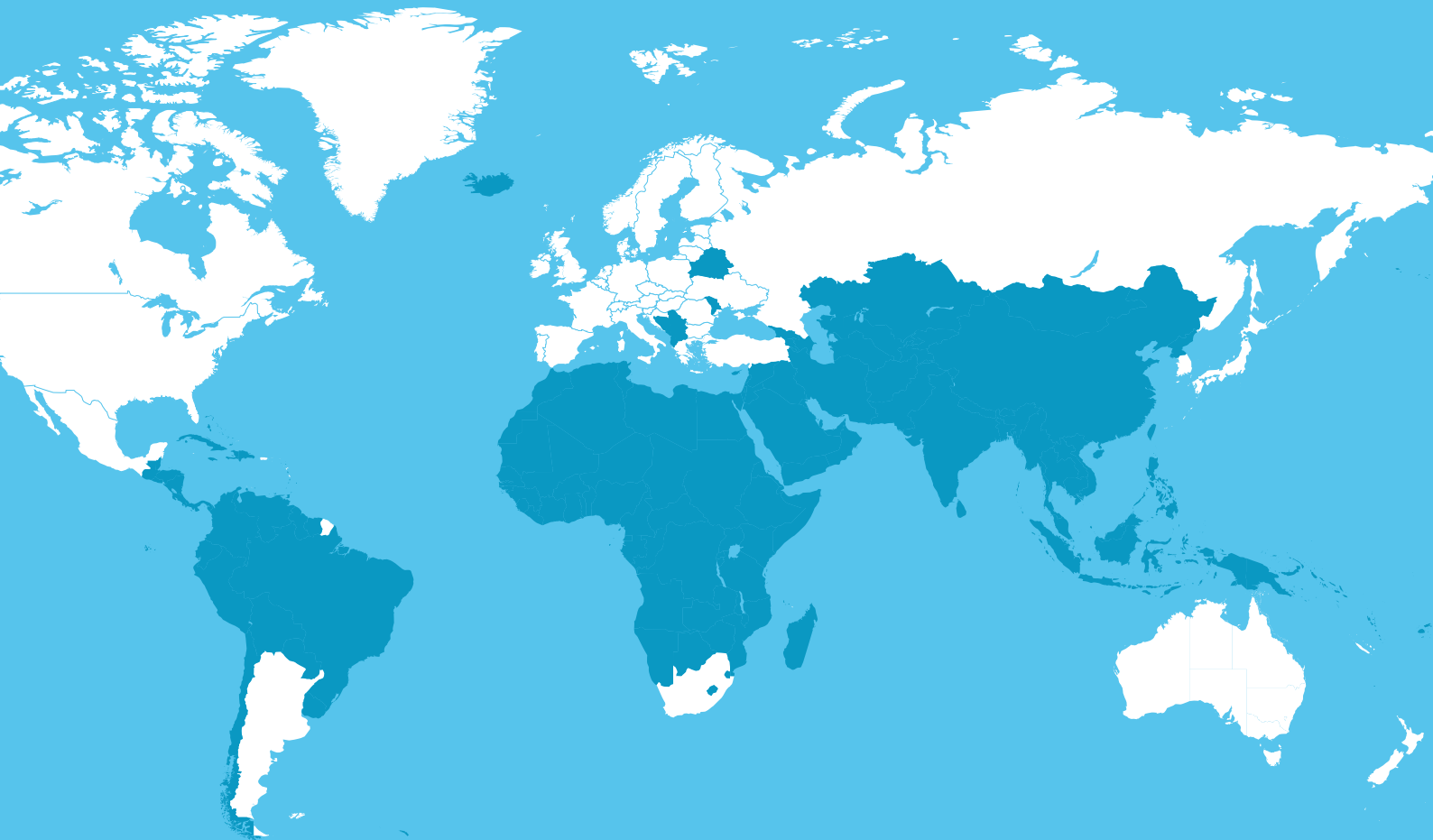




**SAFERWORLD**  
PREVENTING VIOLENT CONFLICT. BUILDING SAFER LIVES

# Expanding and sustaining dialogue between China and the Wassenaar Arrangement



January 2015

**Saferworld is an independent international organisation working to prevent violent conflict and build safer lives. We work with local people affected by conflict to improve their safety and sense of security, and conduct wider research and analysis. We use this evidence and learning to improve local, national and international policies and practices that can help build lasting peace. Our priority is people – we believe that everyone should be able to lead peaceful, fulfilling lives, free from insecurity and violent conflict.**

**COVER MAP:** The map shows in white the 41 participating states of the Wassenaar Arrangement (Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States of America).



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Expanding and  
sustaining dialogue  
between China and the  
Wassenaar Arrangement

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## Disclaimer

There exists a wide spectrum of opinion and perspective within China and WA participating states on past, present and possible future dialogue between China and the WA. As such, Saferworld's China Programme has strived to gather and represent the views of officials and experts from China and WA participating states in an accurate and balanced way. Any errors or inaccuracies are the authors' own.

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# Introduction

**CHINA'S RISE AS A POLITICAL AND ECONOMIC POWER** means that the country is now widely viewed as an important actor in the fields of international security and politics. This is especially true in relation to the global arms trade, where China's market share has risen in step with its growing economic and military capabilities. As China becomes more engaged abroad, and as it increases its exposure to international norms and institutions, its ability and willingness to comply with prevailing international commitments on conventional arms and transfer controls will serve as an important indication of the type of power and influence that China will exert in the coming decades.

Starting in the late 1980s China initiated a number of administrative measures to govern and limit the export of sensitive military-related products, chemicals, biological agents, and missile-related technologies. In the 1990s, its decision makers began to introduce laws and regulations strengthening export controls. During this time, China's concept of national security gradually evolved allowing its support for, and participation in, multilateral discussions. Sustained international pressure, a growing normative consensus on curbing the illicit trade of WMD-related products, and an increasing concern with its own image, status and international reputation, all contributed to the Chinese Government's decision to improve its export control regulations and practices.<sup>1</sup> These measures were reflected in the revamping of administrative structures related to non-proliferation and arms control and Chinese officials' growing recognition of the importance of multilateral and regional commitments as well as bilateral ones.

Notwithstanding the measured progress that has been achieved in the last two to three decades, there are still some gaps between China's arms and dual-use transfer control policies and the priorities and standards of multilateral export control regimes such as the Wassenaar Arrangement (WA), Missile Technology Control Regime (MTCR), and the Australia Group (AG). Despite China's absence from these regimes, dialogue regarding its future membership is ongoing. For example, in 2002, China introduced export control regulations that are reportedly roughly parallel to the strictures on missile-related exports within the MTCR; while it has applied for admission to the regime, China has yet to be formally invited. In 1998, the expansion of China's chemical control list was meant to signal a commitment to tightening export controls on dual-use chemicals, but it remains outside the AG. Likewise, while China has indicated that it will curb and more strictly monitor the export of conventional arms and dual-use goods and technologies, it does not belong to the WA. It should be noted, however, that China has endorsed and is committed to the UN Security Council Resolution 2117,

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<sup>1</sup> "Bridging the gap": Analysis of China's export controls against international standards", 25 May 2012, [www.gov.uk/government/publications/analysis-of-chinas-export-controls-against-international-standards](http://www.gov.uk/government/publications/analysis-of-chinas-export-controls-against-international-standards)

which brings together a broad range of tools and actions – including arms embargoes and peacekeeping operations to conduct disarmament programmes – for the Security Council to use to prevent the destabilising accumulation, illicit transfer and misuse of small arms and light weapons.<sup>2</sup> China also regularly updates its national report on the implementation of the UN Programme of Action on small arms and light weapons.

To help understand how the gap can be bridged between China's export controls and those of the member states of the WA and other regimes it is important to undertake a thorough analysis of China's evolving export controls policies and priorities. There is currently no updated and comprehensive assessment of the Chinese Government's complex decision-making structure related to export controls. This means that the way in which China's control lists, regulations, and policies compare with internationally accepted standards (as benchmarked by the multilateral export control regimes) is unclear to almost all external actors. To fully explore the future prospects (and challenges) for China's entry into the export control regimes, it is critical then to understand the scope and scale of its current export control mechanisms and capabilities.

Section 1 of this report provides an overview of recent dialogue between Chinese officials and their counterparts at the WA. Section 2 gives an overview of the key government agencies, laws, and regulations that underpin the decision-making process in China regarding export controls. Section 3 offers an overview of China's export control for military products, followed by an assessment of its export control policies for dual-use items and technologies in Section 4. Lastly, the report concludes with an analysis of the policy implications and recommendations for moving the China-WA dialogue forward.

The purpose of this report is to further strengthen understanding of China's evolving approach to conventional arms control, with a particular focus on how to engage effectively to enlist China's support and adherence to one of the key multilateral export controls regimes that it currently remains outside of – the Wassenaar Arrangement – and to help identify future prospects for achieving concrete, near-term progress in strengthening China's export control commitments. It is hoped that the findings of this report will serve as a basis for contributing to the reinvigoration of future China-WA dialogue at the official level.

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<sup>2</sup> For more on the UN Security Council Resolution 2117 and China's position, see: [www.un.org/press/en/2013/sc11131.doc.htm](http://www.un.org/press/en/2013/sc11131.doc.htm) and <http://controlarms.org/en/news/first-ever-united-nations-security-council-resolution-on-small-arms-adopted-today/>

## 1

# China–Wassenaar Arrangement relations

**BETWEEN 2004 AND 2007** there were several rounds of interaction between Chinese policymakers and WA officials in Vienna, culminating in a WA visit to Beijing in November 2008.

The interaction between China and the WA began at a particularly interesting time. WA membership expanded from 33 to 40 countries in 2004–2005, with South Africa being the first African member among them. In August 2005, the Chinese Government issued an updated and more comprehensive white paper entitled *China's Endeavors for Arms Control, Disarmament and Non-Proliferation*.<sup>3</sup> China had also just gained admission to the Nuclear Suppliers Group (NSG).

The China–WA outreach also followed on the heels of Beijing's application to be part of the MTCR in 2004. China's application was met with scepticism, and to date MTCR has declined to issue a formal indication on the application, rendering it an informal rejection. Chinese interlocutors and experts expressed a sense of disappointment that Beijing's gesture of goodwill to apply for and sign up to the regime has not been reciprocated. Since 2004, China's export control lists have broadened to include and reflect most of the standards upheld by the international regimes and agreements (as will be discussed below), and Chinese policy elites further note the strengthening of domestic enforcement of regulations and export control lists; regardless, it appears that the MTCR–China membership dialogue remains stalled.

In 2008, the WA Plenary Meeting noted that the regime continued to expand its outreach dialogue with non-members, with the goal of promoting and sharing the WA's best practices related to export controls, and raising awareness of the regime's work. This included post-plenary briefings, interaction with industry and bilateral outreach to a number of key countries, including China, Israel and Belarus.

In recent years, the WA has continued to indicate interest in organising a further bilateral outreach meeting with China. In June 2014, an international seminar entitled 'Contributing to International Security and Stability: Strengthening Dialogue between China and the Wassenaar Arrangement' was convened in Vienna. The seminar, co-organised by Saferworld, brought together scholars, experts, and government officials from China and WA participating states, as well as representatives from the

<sup>3</sup> [www.china.org.cn/english/2005/Aug/140343.htm](http://www.china.org.cn/english/2005/Aug/140343.htm)



WA Secretariat, to strengthen mutual understanding of policies and practices of the WA and China regarding arms trade and dual-use goods and technologies transfers.<sup>4</sup>

That several rounds of both formal and semi-official meetings have taken place since 2004 indicates some degree of interest between China and the WA to deepen and broaden their discussion and interaction, particularly in the context of China's potential future admission to the WA as a participating state. However, there is a general sense among Chinese policy elites that until China gains admission to MTCR, the prospects of China signing up to the WA remain slim. In private, Chinese officials point to the fact that China's export control policies for conventional arms are more or less aligned with the existing international arrangements and there is little to gain from being part of the WA. Nevertheless, China's experience with its failed attempt to join MTCR continues to be a source of concern and frustration and prevents Chinese decision makers from further considering whether to apply.

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<sup>4</sup> "Strengthening International Dialogue and Understanding on Non-Proliferation and Export Controls", 10 June 2014, [www.saferworld.org.uk/resources/view-resource/825-strengthening-dialogue-between-china-and-the-wassenaar-arrangement](http://www.saferworld.org.uk/resources/view-resource/825-strengthening-dialogue-between-china-and-the-wassenaar-arrangement).

## 2

# Overview of China's export control regulations and agencies

**BEGINNING IN THE 1990S**, China gradually created the legal basis for export controls on munitions, military products and other sensitive dual-use goods and technologies. An important part of this process involved the issuing and promulgation of national regulations that have helped to institutionalise China's international, multilateral and bilateral non-proliferation and arms control commitments. In so doing, Chinese officials have been learning from other countries' export control policies and incorporating many of the international standards for non-proliferation including: a registration and licensing system; control lists of equipment, materials, and technologies; end-user and end-use certifications; catch-all principles; customs supervision; and punishments and penalties for violations of export control policies and regulations.

The legal foundation for export controls on sensitive goods in China is based largely on the *Foreign Trade Law*, promulgated in 1994 (and revised in 2004). The law provides the state with the explicit power to regulate imports and exports and specifies how this will be done, making the processes more transparent. Under Articles 16 and 17 of the *Foreign Trade Law*, for example, the state can restrict or prohibit the import and export of goods for reasons of "safeguarding national security and public interests" and "under the international treaties or agreements signed or acceded to by the People's Republic of China", Article 18 requires the creation of control lists, and Article 19 provides for licensing authority of items "whose import and export is restricted". These stipulations and control lists were then detailed in subsequent regulations that appeared in later years.

The *Customs Law* is another major development related to export control in China. It establishes the legal basis of China's system of customs inspection and verification for import and export trade controls, and provides the foundation for export control enforcement including the *Administrative Punishments Law* and the 2001 *Amendments to the Criminal Law*.

Additionally, there are several sets of regulations that further formalise and legalise China's export control system. For example, in December 2003, the Ministry of Commerce (MOFCOM) and the General Administration of Customs (GAC) jointly issued a circular specifying the procedures for examination of export certificates in customs clearance of sensitive items and technologies, where the obligations of

exporters in meeting customs inspections requirements were outlined. Moreover, in January 2004, MOFCOM issued the *Provisional Measures on the Administration of the Export License on Sensitive Items and Technologies*, which specifies the procedures for companies involved in applying for and gaining authority to export controlled goods. In 2004, MOFCOM and the GAC also jointly issued a catalogue of sensitive goods that require an export licence. The issuance of these new procedures and legal instruments is part of the government's effort to establish a firm legal basis for effective export control administration on sensitive goods and technologies.

#### Core list of China's export control regulations and ministerial decrees:

- **1994** Foreign Trade Law (Revised in 2004)
- **1995** Regulation on Administration of Controlled Chemicals
- **1997** Regulation on Nuclear Export Control
- **1998** Regulation on Export Control of Nuclear Dual-use Items and Related Technologies
- **1998** Regulation on Arms Export (Revised in 2002)
- **2002** Regulation on Export Control of Missiles and Missile-Related Items and Technologies
- **2002** Regulation on Export Control of Dual-Use Biological Agents and Related Equipment and Technologies (Amended in July 2006)
- **2002** Measures on Export Control of Certain Chemicals and Related Equipment and Technologies
- **2002** Measures on the Administration of Export Registration for Sensitive Items and Technologies
- **2003** Provisional Measures on the Administration of Export Licenses on Sensitive Items and Technologies
- **2005** Measures for the Administration of Licenses for the Export of Goods (MOFCOM Order No. 28 [Revised in 2008])
- **2005** Reform of the Administrative Approval System for the Import and Export of Sensitive Items and Technologies (MOFCOM Circular No. 548)
- **2006** Measures for the Administration on Import and Export License for Dual-Use Items and Technologies (MOFCOM and GAC Order No. 29)
- **2006** Notice No. 50 on Nuclear Dual-Use Items
- **2006** Regulation on Export Control of Dual-Use Biological Agents and Related Equipment and Technologies of PRC (MOFCOM Notice No. 61)
- **2006** Management of Civil Aviation Parts Export Classification (MOFCOM and GAC Order No. 6)
- **2006** Regulation on the Management of Verification of Import and Export of Precursor Chemicals (Public Security Bureau, MOFCOM Order No. 8)

The government's decrees and regulations provide the legal framework for enforcing export controls in China. These normative and regulatory mechanisms also include administrative and criminal penalties. The implementation of China's export controls requires a large degree of coordination, cooperation, and communication among various government offices. Specifically, the primary stakeholders involved in the process of drafting, formulating, and implementing export control laws and regulations include:

- **MOFCOM:** The export of nuclear dual-use items, dual-use biological agents, certain chemicals, and the missile-related dual-use items and technology for civilian use falls under MOFCOM's portfolio.
- **State Administration of Science, Technology and Industry for National Defense (SASTIND):** SASTIND is the main licensing body for administering military products and other conventional arms export controls.
- **Ministry of Foreign Affairs (MFA):** The export of sensitive items and related equipment and technologies that have an impact on China's foreign policy and international commitments and obligations is the key role for the MFA.
- **GAC:** is responsible for the supervision of controlled items and technologies during the export process, as well as the investigation of illegal exports.

There have been two important developments in China's export control system in recent years. An ad-hoc inter-agency consultation mechanism was established in 2004 to manage transactions that draw significant internal disagreements. The mechanism allows all of the key agencies involved to voice their concerns and to submit their deliberations to the State Council and the Central Military Commission (CMC) for further review and final adjudication. MOFCOM and SASTIND take the lead on providing their perspective and rationale for a particular licensing decision, depending on whether the issue at stake is a dual-use good or a military product, respectively. Each of these two agencies reviews the licence application and processes the initial paperwork, making sure the proposal is in accordance with domestic legislation.

The approval for such applications, however, is a joint process where the other two key actors are involved, namely the MFA and the People's Liberation Army (PLA) General Armaments Department (GAD). The MFA provides additional intelligence and information on how the transaction may be deemed to have an impact on the domestic situation of the recipient state and/or China's foreign policy interests and priorities. The MFA tends to be more concerned about China's image, reputation, and global standing, as well as providing a consistent message about China's international commitments towards non-proliferation. It also helps ensure that the export licence conforms to international regulations and the transaction is not in violation of any UN Security Council resolution.

In April 2014, MOFCOM reorganised a number of offices involved in the processing of export controls on dual-use items and technologies and established a new, centralised office known as the Bureau of Industry Security, Import, and Export Control. Prior to 2014, MOFCOM's Export Control Division (ECD) was the primary licensing and regulatory body for dual-use export controls. In 2003, MOFCOM restructured the ECD into two sections in an attempt to increase efficiency. ECD I assumed the specific duties of responding to other states' requests for end-user certificates and end-use guarantees, as well as other matters relating to foreign countries' export control requirements (as they relate to Chinese imports). ECD II, on the other hand, retained all of the regulatory functions for licensing exports of controlled goods from China.

The newly established Bureau of Industry Security, Import, and Export Control is a further and more recent attempt by MOFCOM to streamline the decision-making process and to strengthen its overall export control system, from legislation to licensing review and policy enforcement. Its responsibilities and goals include: formulating and implementing existing national policies and rules on import and export control; issuing import and export licences for dual-use goods and technologies; and conducting investigations and evaluating industry security. The Bureau has six divisions:

- Safety Review Division
- Policy and Regulation Division
- License Division
- Enforcement Division
- Industrial Competitiveness Division
- Administration Office

The Bureau's Director-General, Gu Chunfang, noted in a recent interview that some of the main priorities for the Bureau include placing greater emphasis on management and technical assessment of the export control lists – a core part of effective export control – and forging closer international exchange and cooperation with the relevant counterparts.<sup>5</sup> Experts on Chinese export controls add that as part of the institutional reorganisation, the Bureau will work on updating the control lists for dual-use goods and technologies and better manage end-use and end-user inspection and verification.

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<sup>5</sup> <http://ft.people.com.cn/directList.do?fid=1881>

Please also see <http://aqygzj.mofcom.gov.cn/article/gywm/201405/20140500598590.shtml>

And <http://english.mofcom.gov.cn/article/newsrelease/press/201404/20140400556114.shtml> for further information

## 3

## China's export control for military products

**AMONG THE KEY FEATURES** of China's export control mechanisms for conventional arms is the 1997 *Regulation on the Administration of Arms Exports* and its subsequent 2002 amendment the *Administrative List of Export of Military Products*, which listed for the first time the specific military goods controlled under the regulations. The regulations cover the scope and parameters of military products, decision-making structures and management procedures for export controls.

The export control list for military products is comprised of the following 14 defence items that are subject to the licensing requirement:<sup>6</sup>

- Light weapons
- Artillery and other launching devices
- Ammunition, landmines, aquatic mines, bombs, anti-tank missiles and other explosive devices
- Tanks, armoured cars and other military vehicles
- Military engineering equipment and facilities
- Military vessels and their special equipment and facilities
- Military aircraft and their special equipment and facilities
- Rockets, missiles, military satellites and their auxiliary facilities
- Electronic products for military purposes and devices for fire control, range finding, optics, guiding and controlling
- Explosives, boosters, incendiary agents and the related compounds
- Training aids
- Protective equipment and facilities against nuclear, biological and chemical weapons attacks
- Logistic equipment, military supply and other auxiliary equipment
- Other products

Chinese specialists note that the above list of conventional arms and military products reflects the basis of the categories in the WA's Munitions List which itself contains 22 main entries. Every six months, WA members exchange information on deliveries of

<sup>6</sup> "The Evolution of EU and Chinese Arms Export Controls", March 2012, joint report published by China Arms Control and Disarmament Association (CACDA) and Saferworld. For more information, see [http://news.xinhuanet.com/zhengfu/2002-11/25/content\\_640103.htm](http://news.xinhuanet.com/zhengfu/2002-11/25/content_640103.htm)

conventional arms to non-members that fall broadly under the following categories: battle tanks; armoured combat vehicles; large-calibre artillery; military aircraft and unmanned aerial vehicles; military and attack helicopters; warships; missiles/missile systems; and small arms and light weapons.<sup>7</sup>

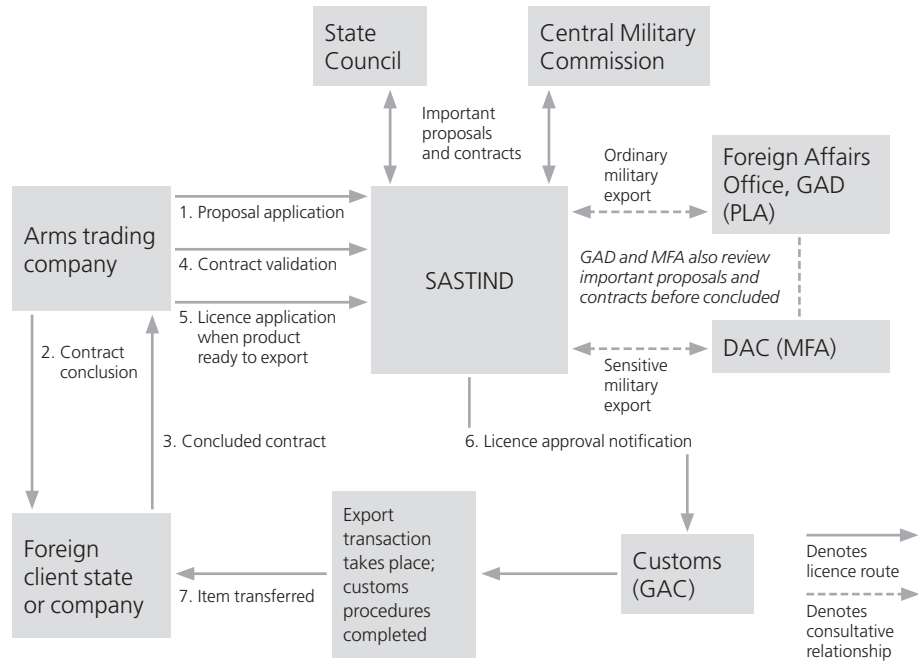
The following is a summary and overview of the application and licensing review process for conventional arms and military products exports in the Chinese system:

1. There are currently only 12 companies authorised by the Chinese Government to engage in the export of military products. Any one of these companies may submit proposals and applications for arms exports directly to SASTIND for review and approval:
  - China Electronics Technology Corporation International
  - China National Aero-Technology Import and Export Corporation
  - China North Industries Corporation
  - China Shipbuilding Trading Company
  - China Shipbuilding and Offshore International Company
  - China Precision Machinery Import-Export Corporation
  - Poly Technologies
  - China Xinxing Import and Export Corporation
  - China Jing An Import and Export Corporation
  - China Electronics Import-Export Corporation
  - Aerospace Long-March International Trade Company
  - Jihua Group Corporation Limited
2. The proposals are reviewed by SASTIND, in joint consultation with CMC and MFA. In addition, when the item to be exported could affect China's own military capability the GAD is consulted to assess the impact on China's national security interests and foreign policy.
3. Once the proposal is approved the export programme proceeds and the company can finalise the sales contract. A contract for arms export becomes effective only after it is approved by SASTIND. When the Chinese company files the application with the contract, valid certification documents from the recipient country are necessary, such as the end-use certificate.
4. Before exporting military products, an arms trading company applies to SASTIND for an arms export licence on the basis of the approval document for the arms export contract.
5. The GAC examines the licence and gives customs clearance for the export to proceed.

In recent years there have been internal disagreements on how to proceed with a number of controversial conventional arms deals. In 2008, for example, a Chinese cargo vessel was en route to Zimbabwe carrying small arms and ammunition. The political sensitivity in Zimbabwe at the time prompted the MFA to raise concerns about the transaction. The Chinese Government initially denied that there was a Chinese arms shipment en route, but when the news broke that the ship was denied entry into Durban, South Africa, Beijing subsequently explained that the provision of arms to the government of Zimbabwe was a 'normal' transaction between the two governments. Citing humanitarian concerns and the atrocious human rights record of the Zimbabwean government, a number of governments as well as civil society and grassroots organisations in Africa and around the world criticised the transaction and dubbed the Chinese cargo the 'ship of shame'. Several port cities denied the ship entry and dockworkers refused to unload the cargo.

<sup>7</sup> The WA operates on a consensus basis; all 41 members must agree to any amendments to the Munitions List. For more, see: [www.wassenaar.org/controllists/index.html](http://www.wassenaar.org/controllists/index.html)

**Figure 1: Overview of decision-making and licensing process in China's export control for military products.**



The MFA cited the possible violations of UN sanctions that were in place on Zimbabwe at the time, the deteriorating human rights and political situation on the ground in Zimbabwe, and the negative repercussions such a transaction would have on China's image and status, particularly in the lead up to the Summer Olympic Games in Beijing in 2008 as reasons to recall the ship. The State Council and the CMC, the highest and final authorities on the adjudicating process, agreed and cancelled the transaction, ordering the ship to return to China.

The Chinese Government's risk assessment is largely based on five key principles:<sup>8</sup>

- international obligations and commitments to other countries
- compliance with international non-proliferation efforts and China's foreign policy
- whether the recipient country is under a UN arms embargo
- whether the recipient country supports terrorist activities or has contact with terrorist groups
- whether the recipient country has an effective export control system.

From these principles China's risk assessment criteria include some but not all of the elements covered by the WA guidelines. The WA's risk assessment for arms transfers guidelines are based on, *inter alia*, the influence of transactions on: civil armed conflicts; the risk of diversion to illicit trade; the recipient state's foreign and military policy; and the export controls standards and weapons storage adequacy in the recipient state.

In addition, the Chinese export control system maintains a 'catch-all' principle to ensure that questionable exports of non-listed items, especially those with potential proliferation concerns, are monitored, tracked, further reviewed by the relevant agencies and/or with the recipient government, or even denied an export licence. Such incidents are reviewed on a case-by-case basis. Likewise, the WA participating states agreed in 2003 to apply a broad but rigorous 'catch-all' principle to the control of non-listed dual-use items. The principle is applied when such items are intended for destinations subject to UN arms embargoes or other binding embargoes and/or have a military end-use.

<sup>8</sup> Wu Jinhui, "Military Products: China's Export Control Mechanism and Practices", 10 June 2014, presented at an international seminar on 'Contributing to International Security and Stability: Strengthening Dialogue between China and the Wassenaar Arrangement' in Vienna, Austria.

## 4

# China's export control for dual-use items and technologies

**CHINA'S EXPORT CONTROL** on dual-use items and technologies has been evolving in recent years. In November 1998, the State Council issued the first set of export control regulations covering 183 dual-use goods and technologies. In 2002, an amendment was made to broaden the regulations' coverage to include the majority of the WA's list of dual-use goods and technologies. In 2009, MOFCOM and the GAC jointly issued the *Index of Management of Import and Export Permits of Dual-Use Items and Technologies*, which came into effect on January 2010 and covers nuclear, biological, chemical and missile-related dual-use items and technologies. The newly established Bureau of Industry Security, Import, and Export Control has indicated that a new, consolidated control list for conventional arms and dual-use goods and technologies is currently under consideration and development, with an expected release by MOFCOM in 2015.

The Chinese control list of dual-use items and technologies is periodically updated; at the time of writing, its list of sensitive items and technologies contains 816 items, of which 71 per cent have classification numbers and coding.<sup>9</sup> By comparison, the WA's *List of Dual-Use Goods and Technologies* comprises over 1,000 items in nine categories. The WA list includes two nested subsections, 'Sensitive' (for key elements directly related to advanced conventional military capabilities) and 'Very Sensitive' (for key elements essential for the most advanced conventional military capabilities). The scope of the latter subsection includes such items as stealth technology, equipment that could be used for submarine detection, advanced radar, and jet engine components, among others.<sup>10</sup>

The following is a summary and overview of the application and licensing review process for dual-use goods and technologies:

1. A registered Chinese exporter submits an application to MOFCOM for export of a controlled item. The application must include the standard set of certifications and documents.

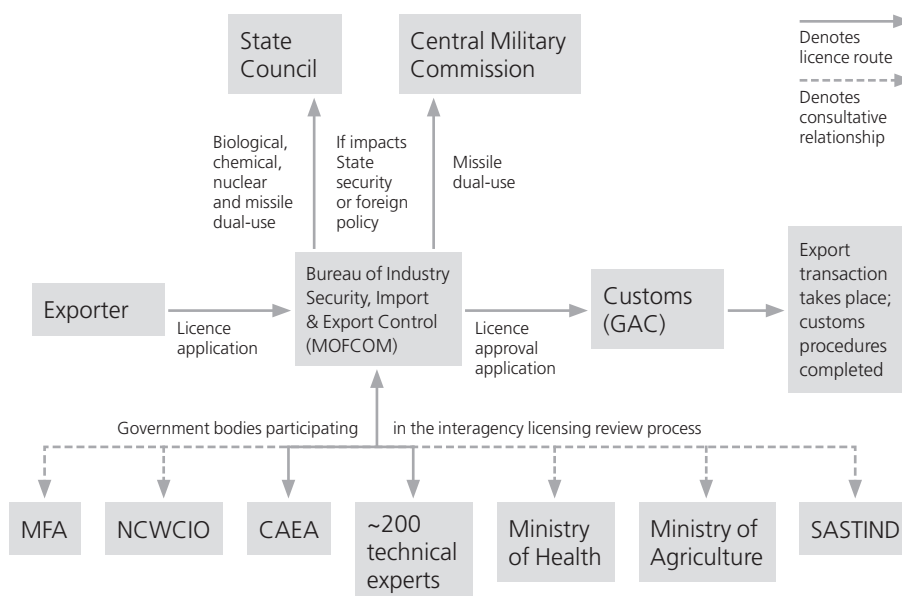
<sup>9</sup> "Dual-Use Export Control in China", 10 June 2014, presented at an international seminar on 'Contributing to International Security and Stability: Strengthening Dialogue between China and the Wassenaar Arrangement' in Vienna, Austria. For more on the Chinese control list, see: [www.mofcom.gov.cn/article/b/c/201312/20131200446729.shtml](http://www.mofcom.gov.cn/article/b/c/201312/20131200446729.shtml).

<sup>10</sup> For more on the WA control list, see: [www.wassenaar.org/controllists/index.html](http://www.wassenaar.org/controllists/index.html).



2. MOFCOM reviews the application within 45 days. MOFCOM can consult with the MFA and the military depending on the nature of the export and the recipient.
3. If the export entails significant impact on China's national security interests or its social and public interests, then the application is submitted directly to the State Council and CMC for further review.
4. When the application is approved, an export licence is issued by MOFCOM. MOFCOM also notifies the GAC after issuing the licence.
5. The exporter presents the licence to the GAC. After customs inspection and verification, the export can proceed. Any change to the original application requires another full review through MOFCOM.

**Figure 2: Overview of China's decision-making and licensing process in China's export control for dual-use items and technologies.**



To strengthen its enforcement mechanism for dual-use items and technologies, the Chinese Government has taken a number of steps in recent years. First, it established in late 2002 a 'watch list' of companies that have engaged in illegal transactions of sensitive items and technologies to help the relevant authorities monitor companies with such a record more carefully in any ongoing or future licence applications for the export of sensitive goods.

Second, in January 2004, MOFCOM and the GAC jointly launched a computer-based control system for the export of sensitive items and technologies. For the first time, the relevant agencies involved in the export control of dual-use items and technologies were connected and linked in the same network and database, increasing overall accuracy and efficiency in the review process. Customs officials, for example, can now better track the entire licence application review, approval, and issuance procedure.

Third, in its approval process MOFCOM has reached out to a wider number of experts and specialists beyond the realm of governmental agencies. It established a national expert support system for export control that engages scholars and experts from the nuclear, biological, chemical and missile-related technologies sectors to enhance MOFCOM's decision-making process on certain licence applications that require additional and more in-depth technological and scientific knowledge of specific dual-use items.

With the number of companies and firms engaged in the import and export of sensitive, high-tech goods proliferating across the country, the Chinese Government has sought to increase outreach to industry as one of its key priorities for strengthening

export control enforcement, with a particular focus on internal compliance programmes (ICP).<sup>11</sup>

MOFCOM's 2007 guidance on the establishment of ICPs for companies engaged in the export of dual-use items and technologies highlighted the following aspects:

- formulation of a policy statement
- establishment of an institutional framework
- establishment of an export review procedure
- compilation of an export control handbook
- launch of training programmes
- record keeping.<sup>12</sup>

The China North Industries Corporation (NORINCO), a major state-owned enterprise, has been highlighted by Chinese export control specialists as one of the first companies in the country to establish an ICP.<sup>13</sup> NORINCO's institutional framework includes the establishment of an ICP Committee, which has final decision on all sales orders. With regards to its management systems, NORINCO has implemented an internationally accepted enterprise resource planning (ERP) system. NORINCO has also in recent years reached out to international partners to further standardise its ICP. In making its ICP 'automatic and electronic', the company has moved towards establishing a computerised order screening procedure, with software acquisition from Price Waterhouse and implementation training and assistance from export control experts at the University of Georgia. It is also creating a database of 'sensitive clients and products' by combining the Harmonized Tariff System with a commodity classification system developed by officials at the GAC. Internally, NORINCO also screens the transactions against a list of sensitive countries, although there is no publicly available documentation regarding the content of the list. NORINCO has indicated that it will examine carefully all relevant information relating to the recipient and end-use/user in order to prevent diversion of exported items or technologies.

MOFCOM has also attempted to reach out to industry to help raise industry awareness of export control. Specifically, its priorities are to help firms better understand national policies and regulations and how to abide by them in the licensing application process. It is also encouraging and helping firms to establish ICPs. Here, MOFCOM has enlisted the support of NORINCO to help Chinese firms establish and implement ICP. NORINCO employees have established an ICP consulting firm – Beijing Long-Lat Consulting Company – to set up training programmes for MOFCOM's industry outreach. The consulting firm also plays an expert advisory role that provides guidance and expert opinion to MOFCOM on the export of sensitive dual-use commodities.

MOFCOM has also engaged with Chinese firms through a number of seminars with technical experts and think tanks to provide the firms with a fuller understanding of the technical aspects and broader political implications of export controls. MOFCOM officials make visits to firms, with the purpose of better understanding industry's concerns as well as making recommendations for a more efficient and streamlined export control mechanism to help promote their competitiveness and compliance. It has also co-hosted export control seminars with the U.S. Department of Commerce (in 2000 and 2003, for example).

<sup>11</sup> An industry expert estimates the number to be as high as 800,000 throughout China.

<sup>12</sup> <http://exportcontrol.mofcom.gov.cn/article/tz/200709/20070905071699.shtml>

<sup>13</sup> Examples of recent dialogue and programmatic exchanges on export controls include: [www.norinco.com/GB/61/62/324.html](http://www.norinco.com/GB/61/62/324.html); <http://cits.uga.edu/programs/china>.

## 5

## Policy implications and recommendations

**EFFECTIVE EXPORT CONTROLS** and the broader non-proliferation agenda can only be realised if there is greater international cooperation and coordination. Countries like China have a legitimate rationale for engaging in commercial transactions of conventional arms and dual-use goods and technologies. As China becomes an increasingly important global supplier of such strategic goods, it needs to be a partner to multilateral export control regimes like the WA rather than an outsider.

There are valid concerns that, because the WA operates by consensus where a single country can block any proposal, membership is only conferred sparingly and following the greatest scrutiny. Additionally, for a voluntary regime that places an onus on the participating states upholding certain standards, transparency, and accountability, the strengths (and weaknesses) lie within the regime's emphasis on collective action.

How then can the WA, as well as other governmental and non-governmental actors, deepen and sustain the encouraging trends Chinese officials have initiated by aligning their national export control regulations to the guidelines established by the regime, while moderating and positively influencing China's reluctance and caution?

An effective strategy needs to respond to China's emergence in a way that assures regional and global stability and increasingly integrates the country as a partner, or at least not an outlier, in achieving a safer and more secure world free from illicit trade in weapons of mass destruction, conventional arms and dual-use goods and technologies. **To uphold and sustain these important norms and to have an effective global conventional arms control regime, WA participating states and other members of the international community should continue to reach out, encourage and assist China to further develop, implement and enforce its conventional arms transfer controls in line with high international common standards.** In doing so external observers should recognise the constraints on such international influence but not accept this as an excuse for inaction.

Several key points are worth keeping in mind in engaging with Chinese counterparts on arms and export control issues. First, where an international consensus on a particular issue is clear, Beijing has tended to become more supportive of or acquiesce to it, rather than being an active opponent and spoiler. By and large, Beijing does not wish to be seen as an outlier on critical global and regional issues as it is increasingly concerned with its image, status and reputation. **The WA participating states should solicit support and membership from additional countries from the global South as it**

would help broaden the regime's representativeness and help to convince China that membership is not exclusively reserved for advanced, industrialised economies.

Second, there is a need to understand that Beijing's choices to take more positive measures towards full WA membership will first and foremost derive from its own realisation that it is in China's interest to do so. Hence, **an effective engagement strategy by the WA must make a convincing case that China's adherence to the highest standards for conventional arms export control is not only in the interests of the international community but is equally, or even more so, in China's interests.** This appears to be China's understanding as demonstrated by its recognition of the value of multilateral security and confidence-building measures, its conforming to regional and global norms and its taking measured steps to convince others of its constructive intentions.

There remains significant work ahead for WA participating states and other international community actors to convince China to commit to and comply with the WA's principles and standards given the enhanced requirements for accountability and transparency. There are also conservative and nationalist voices within China that have strong ties with the Chinese defence industry and continue to harbour sceptical views of export control regimes such as the WA. Moreover, China's experience with its MTCR application continues to fuel scepticism that WA–China dialogue will eventually meet the same fate. **How Chinese decision makers balance and reconcile these conflicting interests is thus critical and merits continued observation by arms export control specialists and sustained engagement by the WA and other international actors with the Chinese policy community.**

Third, it is worth re-emphasising that China's export control system mirrors some of the earlier and more nascent phases that Western industrialised countries once experienced. Effective export control regimes take time to evolve. It is not unusual that the actual implementation and enforcement of national export control policies may lag behind declared policies. In the process of developing and implementing export control policies, occasional breaches of international standards and regime guidelines can occur. As such, normative compliance on export controls takes time and sustained dialogue. China's export control policies and practice are thus not unique, but they are at an earlier stage of development than the members of the WA.

The institutionalisation of China's export control policies has taken decades to develop, but it is also worth noting that the legislation and control lists already in place by and large reflect key international export control standards and practices, such as those of the WA. **The next major challenge for China is to ensure that these rules, regulations, practices, and decision-making standards are implemented and enforced consistently throughout the country. Of equal importance, it is critical that the relevant government agencies encourage Chinese firms to establish and implement ICPs and to define more clearly the penalties for deviation from export control standards and processes.**

**Looking ahead, expanding and sustaining the WA–China dialogue should focus on capacity-building activities between experts, practitioners, and officials from both sides, with a focus on the technical and operational aspects of export controls implementation.** Such capacity-building activities can help inform, educate, and train the relevant personnel (e.g., especially those working in MOFCOM's newly established Bureau of Industry Security, Import and Export Control as well as the GAC and SASTIND).

To facilitate and operationalise such goals, **it is recommended an informal technical Working Group is established that will help create opportunities for more focused and in-depth dialogue between China and the WA. The composition of such a Working Group should be kept relatively small but representative of the key constituencies in China and WA participating states, including arms export licensing and enforcement officers, defence industry representatives, as well as technical and policy advisors on export controls.**

The Working Group would be tasked with the implementation of training, outreach, and other capacity-building activities, and with exploring practical approaches to export controls by WA participating states and China. There could be a series of workshops conducted in Beijing and in select WA participating states, with each workshop focusing on one of the following recommended areas:

- Exchanging views and best practices on licensing procedures, including ways to better implement and integrate ‘catch-all’ principles and risk assessment;
- Comparing and contrasting national inter-agency decision-making processes and recommending a practical plan that would help institutionalise a more accountable and transparent procedure;
- Updating databases and risk profiles across MOFCOM, SASTIND, and the GAC that would allow for faster and more accurate identification of high-risk shipments and transshipments;
- Raising awareness and developing specialised training, exercises, and risk management systems for frontline licensing and enforcement officials to help better track, monitor, and detect suspicious strategic goods, technologies, and activities at land borders, sea ports, free trade zones and airports;
- Training frontline enforcement officials on export control investigation and prosecution of violations of national laws and international agreements;
- Reaching out to state-owned enterprises and private Chinese firms to compare ICP practices and strengthen their implementation.

Prioritising engagement between WA and Chinese experts and frontline officials along these issue areas would help shift the discussion and debates towards greater professionalism and bridge the disconnect and gaps between China’s policy goals and actual implementation of a more effective and compliant export controls system. The lessons learnt and exchanges of best practices that result from such topical discussions and capacity-building programmatic activities would further enhance the prospects for China’s meaningful presence and constructive participation at multilateral export control regimes like the WA in the near future.