

## Cutting through the transatlantic tangle of defence equipment export controls



Moderated by

Giles Merritt, Director, Security & Defence Agenda

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Rapporteur: John Chapman



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PROGRAMME OF THE DAY

CUTTING THROUGH THE TRANSATLANTIC TANGLE  
OF DEFENCE EQUIPMENT EXPORT CONTROLS

Between guidelines and regulations: What hopes for a unified  
Rulebook for Europe?

Session I 12:00-13:30

Defence companies have always struggled with myriad export controls, whether from CoCom in Cold War times to today's conflicting US and national-level European ones. But with cutting edge technologies creating ever-larger dual-use grey areas, what is the outlook for clearer export rules that would unify EU member state regulations and create a level playing field for all?

Moderator: Giles Merritt, Director, Security & Defence Agenda

- § Ian Anthony, Project Leader on Nonproliferation and Export Controls, SIPRI
- § Dennis Burnett, Vice President of Trade and Export Controls, EADS North America Defense Company
- § Ambassador John Duncan, Ambassador for Multilateral Arms Control and Disarmament, UK Permanent Representation to the Conference on Disarmament
- § Jean-Luc Vo Van Qui, Director of Strategic Controls, General Secretariat for National Defence, Office of the Prime Minister, France
- § Matthijs Wolters, Head of Arms Control and Arms Export Policy Division, Ministry of Foreign Affairs, the Netherlands

SDA Members' Lunch  
13:30-14:30

Is two-way defence industry investment across the Atlantic softening  
rigid EU and US export controls?

Session II 14:30-16:00

Politicians on both sides of the Atlantic are tempted to cite 'national security' when moving to protect their domestic defence industries. But how relevant are controls on technology transfer and export licensing when two-way investment flows across the Atlantic are creating an increasingly unified EU-US defence sector?

Keynote Speech by KARL VON WOGAU,  
Chair of the Subcommittee on Security and Defence, European Parliament

Moderator: Giles Merritt, Director, Security & Defence Agenda

- § Ambassador Sune Danielsson, Head of Secretariat, Wassenaar Arrangement
- § Steven Grundman, Vice President, Head of the Aerospace & Defense Practice, CRA International
- § Dominique Lamoureux, Vice President, Ethics and Corporate Responsibility, Thales
- § Jan-Erik Lövgren, Deputy Director General, Swedish Inspectorate of Strategic Products

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SECURITY & DEFENCE AGENDA

## *Executive summary*

### *The Gordian Knot of Exports Controls remains unbroken*

There was hardly any room for optimism at the end of the latest SDA roundtable on export controls. One firm conclusion was that there had been a lack of progress – in industry's eyes - on both sides of the Atlantic. In Europe in particular, the chances for a unified export control rulebook seemed as far away as ever.

Within the EU, there was no agreement on whether a community solution was required or whether it should be left to the six arms-manufacturing Member States to drive reform of exports controls in the defence market. Over in the United States, there was said to be widespread industry agreement that ITAR was broken, but the internal political scene meant that no action was likely in the immediate or medium-term future.

Arguments were made about the need for a common transatlantic security policy. While no one disagreed with that notion, it seemed far away given the fragmented views and wishes of the defence communities within the EU. Other calls were for business and regulators to work closely together in partnership but whether that would be nationally, EU-wide or on a transatlantic basis remained an open question. The General Secretary for National Defence at the Office of the French Prime Minister, Jean-Luc Vo Van Qui, had achieved little with his attempts to introduce Global Project Licenses (GPLs) within the LOI, and he put the blame on industry. However he admitted that his government's controls could be seen as cumbersome, while insisting that defence remained the exclusive responsibility of the Member States.

The Dutch Ministry of Foreign Affairs' Matthijs Wolters stressed the need for multinational interoperable forces and was of the opinion that trust and transparency between EU Member States is an essential condition for export controls that contribute to that objective. There were, however, two positive calls for future action. The European Parliament's Karl Von Wogau wanted a common evaluation of the threats and a consistent application of rules across the 27 Member States and between the EU and the US. He argued strongly that movements towards these objectives had to be done in parallel if a common transatlantic internal market was ever to be achieved.

On the industry side, Thales' Dominique Lamoureux wanted a straightforward certification process. He also wanted trust between the parties and greater collaboration, including an agreement from industry to be audited as required. In other words, he wanted greater trust. That was missing – at the political, business and regulatory levels. As the SDA's Giles Merritt concluded, there was a lack of leadership, and a clear need for in-depth analysis and greater dialogue between all of the interested parties.

## **DEBATE HIGHLIGHTS**

### **RECOMMENDATIONS FOR THE FUTURE**

- Increased trust between Member States, industry and controllers, as well as between the EU and the US, is essential to ensure a reform of current export controls.
- Trust can only be gained through increased transparency, such as voluntary industry standards, less regulation or clearer definitions.
- An internal European defence market, with a genuine common external security policy, would facilitate negotiations with the US on a transatlantic defence equipment market.
- Restricting the usage of article 296 to include only basic security, without increasing red-tape, is essential for the true development of an internal European defence market.
- Greater leadership is needed on the issue, as well as a comprehensive in depth analysis and a greater dialogue between all interested parties.

### **SESSION 1 HIGHLIGHTS**

- The short to medium-term probability of developing a unified export control rulebook for the EU is distant, due in part to a lack of trust between Member States and a preference for domestic control systems.
- Dual-use items are an area where reform is needed, with legislative definitions proposed for the US and a more restricted use of Article 296 in Europe.
- A proposed UN Arms Trade Treaty gained initial backing at the UN, promising to advance a more responsible global arms trade which might benefit industry, if eventually implemented.
- ITAR is considered dead by industry in the US, although a new system is not yet in sight due to domestic political reasons.
- A partnership between industry and regulators, based on common objectives, would build trust and reduce the need for extensive controls.

### **SESSION 2 HIGHLIGHTS**

- The US has a genuine home defence market, valued at €196 bn, with a common security policy, while Europe suffers from a fractured defence market, with many currencies, valued at only €37 bn.
- A transatlantic defence equipment market remains a distant goal, despite increased capital flows, as there has been no clear progress on facilitating the flow of defence equipment in recent years.
- The Wassenaar Arrangement is the only export control forum focussing on conventional weapons and dual-use technologies, and its 40 member states have in recent years taken steps to strengthen control of ITT and SALW.
- The relevant actors disagree on whether reform should be implemented on a European, national or transatlantic level.
- Industry currently has an incentive to abide by export controls in a transparent manner, as any misconduct would result in a loss of reputation and financial consequences.

## Session 1: Between guidelines and regulations: What hopes for a unified Rulebook for Europe?

### EADS NORTH AMERICA

Dennis Burnett, EADS North America's Vice President of Trade and Export Controls, opened the debate by describing the problems his company faced in the realm of export controls, relating to the differences between military items and dual-use goods. Burnett saw three types of problems, with confusion on both sides of the Atlantic:

1. *Identifying what is military and what is dual-use:* this is not decided by legislation (except for commercial communication satellites) but by the US's Department of Commerce; the debate on what is considered a military item is said to be never-ending and Burnett saw the need to find a balance.
2. *Dealing with change:* as technology and military applications are evolving rapidly, it is difficult for regulations to keep pace with change
3. *Modification of civil items:* where civil items are modified for military use, these items become part of the military domain – Burnett said he was against this strict rule.



Dennis Burnett, EADS North America

“US industry believes that the ITAR process is broken.”

Dennis Burnett

### UK PERMANENT REPRESENTATION TO THE CONFERENCE ON DISARMAMENT

Ambassador John Duncan, Ambassador for Multilateral Arms Control and Disarmament, UK Permanent Representation to the Conference on Disarmament, reviewed the proposed UN Arms Trade Treaty. The UK, together with six other countries<sup>1</sup> has called for a legally-binding treaty for the trade on conventional weapons. Ambassador Duncan reported that this had been backed by 153 countries at the UN<sup>2</sup> and that businesses and their governments had until the end of April to give their views to the UN Secretary-General. The Ambassador said such a treaty was required for a number of reasons:

- Some countries do not have effective export controls
- Increasing globalisation weighs against export controls being based on a purely national basis, due to extensive outsourcing etc.
- It would make clear when exports were not allowed, due to existing UN embargoes
- It would ensure that the trade would not exacerbate existing conflicts and human rights abuses
- There would be effective monitoring and enforcement.

<sup>1</sup> Argentina, Australia, Costa Rica, Finland, Japan and Kenya.

<sup>2</sup> Including France, Spain, the Balkan countries and South Africa.



Ambassador John Duncan, UK Permanent Representation to the Conference on Disarmament

The Ambassador insisted that the aim was not to end the arms trade, but rather to make sure that it was conducted in a responsible manner. He added that it would aid business, as it would make the arms trade run more smoothly and that companies would be better placed to enter into collaborative ventures with responsible partners.

“The Arms Trade Treaty will not end the arms trade, but it will make it more responsible.”

John Duncan

#### FRENCH GENERAL SECRETARIAT FOR NATIONAL DEFENSE

Jean-Luc Vo Van Qui, Director, Technology and Strategic Controls, General Secretariat for National Defence, Office of the Prime Minister, France, wanted the simplification of transfers of non-sensitive items between some EU Member States. However, he insisted there could be no indiscriminate review of defence equipment exports as they were covered by article 296<sup>3</sup> and were the exclusive responsibility of the Member States.

<sup>3</sup> Article 296 - under which the defence equipment market is exempt from the rules of the single market.



Jean-Luc Vo Van Qui, General Secretariat for National Defence, France

Vo Van Qui argued that, even so, the transfer of such non-sensitive items could only be done on the basis of mutual confidence between countries and the willingness for participants to delegate the re-export responsibilities. As Chair of the LOI<sup>4</sup> Export Controls Sub-Committee, he was not optimistic as there had been no take-up in the past four years of the Global Project Licenses (GPLs<sup>5</sup>).

#### DUTCH MINISTRY OF FOREIGN AFFAIRS

Matthijs Wolters, Head of Arms Control and Arms Export Policy Division, at the Netherlands Ministry of Foreign Affairs, wanted to look at the bigger picture and examined Europe's defence needs. As Europe needed multinational interoperable forces, it was essential that export controls played their part in meeting that objective. However, Wolters saw a landscape where national priorities predominated and that was limiting the diffusion of technology.

<sup>4</sup> In July 1998, the defence ministers of Europe's six major arms producing countries (France, Germany, Italy, Spain, Sweden, and the UK) signed a Letter of Intent (LoI) aimed at facilitating cross-border restructuring of their defence industries.

<sup>5</sup> Concerning 'transfers' within the framework of an intergovernmental program, the LOI nations agreed to use Global Project Licenses (GPLs) as the necessary authorisation, when the transfer is (a) needed to achieve the program, or (b) intended for national military use by one of the Parties.





Matthijs Wolters, Ministry of Foreign Affairs, the Netherlands

He also saw the need for Europe's forces to be modernised and that would undoubtedly lead to specialisation within Member States (e.g. communications and maritime sensor technologies in the Netherlands). However, such developments would not succeed without economies of scale, as it was pointless building up a business that was limited to national trade only. If national priorities were not reduced, Wolters argued that there would be 27 Member States all developing similar products that would eventually not be interoperable. He favoured a restricted interpretation of article 296<sup>6</sup>, that would take into account the basic security of nations and not increase red-tape.

National issues are predominating and limiting the diffusion of European technology

Matthijs Wolters

Wolters thought the system of global licenses was worth investigating but the quality of export controls had to be guaranteed and partners had to be trusted. He therefore welcomed the adoption of the EU's code of conduct on arms exports as an EU Common Position and the moves towards a UN Treaty on Arms Trade. He concluded that trust could

<sup>6</sup> The Commission has recently issued an Interpretative Communication (on article 296) to prevent its possible misuse and misinterpretation. Explaining the principles governing the use of Article 296 in the light of the Court's case law, it gives guidance to contract awarding authorities for their assessment of which procurement contracts can be exempted from Internal Market rules.

only be gained by transparency, and that the Netherlands practiced this by publishing the details of all licenses on the Ministry of Economic affairs website.

#### STOCKHOLM INTERNATIONAL PEACE RESEARCH INSTITUTE

Ian Anthony, SIPRI's Project Leader on Nonproliferation and Export Controls, wanted the current system of export control to be replaced by one based on a partnership between industry and regulators. To this end, Anthony listed the common (for industry and the regulators) objectives for the export controls mechanism.



Ian Anthony, Stockholm International Peace Research Institute

Looking at a complex security landscape, Anthony argued that export controls were just one method of meeting a whole range of security challenges. He warned of the danger of fragmentation and non-compatible solutions that would result in a worse-case scenario, with industry needing to meet the multi-reporting requirements of the different regulators. Looking at his proposed arrangement between business and the regulators, Anthony spelled out the responsibilities and advantages for both.

#### Objectives for the export control mechanism

- stopping the proliferation of WMDs and their delivery systems
- assisting in counter terrorism
- stopping the unauthorised diversion of civilian items for military use



“We need a new system (for export controls) based on a partnership between industry and regulators.”

Ian Anthony

On the business side, industry would ensure that internal mechanisms are in place to show its actions do not compromise security, and that it can meet legislative requirements. In return, “trusted companies” would be relieved of regulatory requirements (e.g. less inspection, not so tight regulations). A logical next step would be the inclusion of internal voluntary standards for the compliance of regulatory requirements within the International Standards Organisation (ISO) and the European Committee for Standardisation (CEN) processes. That would enable business to build trust.

On the regulatory side, Anthony suggested cooperation between the various agencies, so that reporting requirements would be consolidated, simplified and channelled through one window to the regulatory system. As a further step, he could see the need for consolidation of the regulatory bodies. Anthony also recommended a risk approach, whereby “safe” transactions would be entirely taken out of the regulatory process. If regulators did not intervene, the default action would be to let the transaction proceed.

### *The first session debate*

As a preface to the debate, EADS’s Arnaud Idiart introduced the Export Controls Laws and Regulations Handbook, which he co-authored and which will be published by Kluwer in February 2007. The book analyses and comments the laws and regulations that trans-national enterprises must follow in 10 jurisdictions around the world (including the international regimes) as well as in the European Union. Idiart said it was intended to present “practical and basic” rules. Its audience could be exporters (especially SMEs), people who needed to understand the rules of law themselves but also the compliance methodologies to be followed, and students (and others) who needed a reference book.



Arnaud Idiart, EADS

### INTRA-COMMUNITY TRANSFERS

BAE Systems’ Bill Giles noted that industry generally considered reform of export controls in regard to intra-community transfers long overdue. However, ASD did not support the Commission’s favoured approach and considered that matters needed to be directed by Member States, perhaps via the LOI or the EDA. Giles observed that a Community regime would face a number of difficulties - for example, not all Member States necessarily saw one another as equal, and outsiders (such as the US) did not see the EU as a single entity for defence trading purposes.

On the same issue, the Assembly of the Western European Union’s Paulo Brito asked if the EDA could become the European regulator and how this could be achieved. In response, Wolters thought that the EDA was too young to take on added responsibilities, but that so far it looked promising.

On the subject of LOI, Marshall Aerospace Ltd’s Laurence Carey reported her own experiences, whereby all nations had preferred their own (“better and quicker”) systems rather than adopting a GPL. Vo Van Qui identified the problem – it was a matter of re-export, and a lack of trust in that area between Member States. He saw no evidence of the desire to change, and Vo Van Qui was experimenting to try and reach a workable solution. On the issue of GPLs, he argued that the lack of success had been due to obstacles placed in their way by industry.

Safran group’s Jacques Cipriano could not understand why Italy kept export licenses to potentially veto the Swedish Government from purchasing helicopters. He called for the removal of these licenses and considered arms exports (through EU’s external borders) not to be a common interest between the 27 Member States.



Jacques Cipriano, Safran

#### REFORM IN THE US

Brito put the focus on the International Traffic in Arms Regulations (ITAR)<sup>7</sup> and asked if that system needed reform as it was perceived very negatively in Europe. Burnett responded that US industry was unanimous in feeling that the ITAR process was broken. However, he did not see such reform taking place for a number of reasons, the majority of them being political.

#### VOLUNTARY CERTIFICATION

Referring to Anthony's recommendation for a voluntary system of certification standards, Carey felt that this could lead to a two-tier export control process that would have disadvantages for the smaller players. Wolters agreed with Carey that SMEs had to be protected. He was more in favour of reviewing existing systems and seeing if global project licenses could be improved and used in some way. Wolters did not want a new certification process to be introduced if there was any risk that it would bring in additional red tape.

Anthony agreed that the process may not be suitable (or required) by SMEs and that he was really thinking about companies that were involved in significant international intangible transfers.

#### OUTSIDE OF THE TRANSATLANTIC ARENA

Mahmoud Karem, Egypt's Ambassador to the EU, argued that the third world and non-aligned countries see the need for effective control and legislation on an international

basis – achieved via a multinational approach. The Ambassador did not want that approach to be either isolated or selective in its methods, and this meant that a number of challenges had to be faced. These included questioning if the international export controls would widen the technological gap between the developed and developing worlds, how the controls would deal with the primacy of the peaceful use of materials (said to be at the heart of the Iran discussions), how controls would keep in mind the root causes of political conflicts and how the process could be made more transparent. The Ambassador saw no interoperability between the export control regulations under discussion and national standards in the developing world. He therefore wanted greater sharing of information and experience, together with a more inclusive multilateral approach.



Ambassador Mahmoud Karem, Mission of Egypt to the EU

Brito picked up the point, noting that the arms trade was not an EU-US monopoly. With Russia and China involved, it was necessary to engage with all nations and Brito asked how this could be done. Ambassador Duncan listed the many issues that the proposed Arms Trade Treaty covered and argued that this approach was different as it involved both consumers and suppliers. In addition, it proposed a real dialogue with the business world. The Ambassador felt the approach was working as China had not opposed the proposal in the UN, as it had understood the need for countries to maintain a reputation for responsible arms trading.

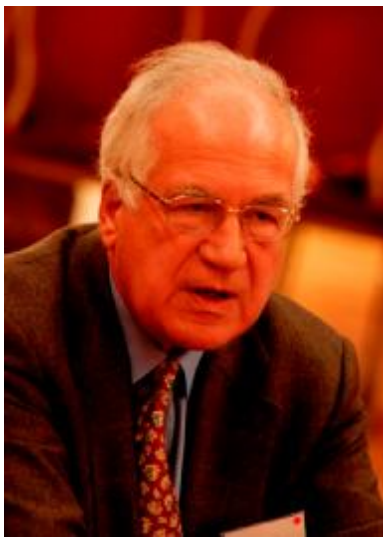
<sup>7</sup> ITAR is a set of US government regulations that control the export and import of defence-related articles and services on the United States Munitions List.

([http://www.access.gpo.gov/nara/cfr/waisidx\\_99/22cfr121\\_99.html](http://www.access.gpo.gov/nara/cfr/waisidx_99/22cfr121_99.html))

*Session 2: Is two-way defence industry investment across the Atlantic softening rigid EU and US export controls?*

**KEYNOTE ADDRESS – KARL VON WOGAU**

Chair of the Subcommittee on Security and Defence, European Parliament



Karl Von Wogau, European Parliament

Von Wogau looked at the defence markets on both sides of the Atlantic. He saw a genuine “home market” in the US, with a common currency and a common foreign policy, whereas Europe’s market was incomplete, with defence excluded from the internal market and fragmented approaches across the Member States.

Transatlantic defence markets

US – a “genuine home market”

- 196 billion euros
- 0.3 % of purchases by Europeans
- R&D investment – 53 billion euros
- Internal market with a common currency and common foreign policy

EUROPE – an “incomplete market”

- 37 billion euros
- 26% of purchases by US companies
- R& D investment – 9 billion euros
- An incomplete internal market, a common currency for 12 Member States and defence policy is a work-in-progress.

However, Von Wogau also looked to the future, and the possibility of a transatlantic internal market for defence.

Such a market should have free movement of goods, people, services and capital. He saw this as a future direction for the EU and the United States, and he referred to a recent speech by Germany’s Chancellor Merkel at the World Economic Forum in Davos. The Chancellor had defined the key elements of a transatlantic internal market, saying that it required:

- *common technical standards*: as they were an important method in which protectionism could be limited; Von Wogau also saw scope in using the ISO and NATO in the defence domain
- *intellectual property protection*: no community patents exist, and there is a need for more uniformity across the EU
- *protection of know-how and security of supply*: everyone needs access to all the relevant technical details when exports are completed, and Von Wogau referred to major problems in recent years
- *more uniformity in export controls*: with different interpretations of the code of conduct across the EU’s 27 Member States.

However, he saw some encouraging signs as there was common investment on both sides of the Atlantic and there were joint ventures, e.g. Allied Ground Surveillance (AGS) important for NATO and the ESDP in the future. This could be a model for future projects.

“We must first open up the EU markets in order to develop a genuine internal EU-US market.

Karl Von Wogau

Von Wogau concluded that certain basic principles had to be followed, including the development of a common security strategy. Differences between the US and EU existed, and both sides had to get closer to each other. Their values were similar, and Von Wogau was confident of the future.

## Session II Panel

### WASSENAAR ARRANGEMENT

Ambassador Sune Danielsson, Head of Secretariat, Wassenaar Arrangement, introduced his organisation as the only export control forum focussing on conventional weapons and related dual-use goods and technologies. The Ambassador explained that within the Wassenaar context, export control meant that a participating state had issued a valid export license prior to the export of items on the control lists – i.e. the Munitions List<sup>8</sup> and the Dual-Use List<sup>9</sup>.



Ambassador Sune Danielsson, Wassenaar Arrangement

Stressing the importance of information sharing on the countries of the Wassenaar Arrangement, the Ambassador said best practice guidelines had been developed to serve as guides for national legislation and procedures. Recently, a first attempt in a new area had been added, one dealing with intangible transfers of technology (ITT), a category covering transfer of technology by email, telephone, fax and other intangible methods.

<sup>8</sup> The Munitions List has 22 categories from small arms to naval vessels, software and technology. The list defines conventional arms as well as goods and technologies specially designed for military application.

<sup>9</sup> The Dual-Use List - nine categories, almost 1000 items. Includes: electronics, computers, telecommunications, information society, marine etc. The latter covers good and technologies which have civilian applications but could also be used for the production of arms or other military purposes.

### Wassenaar Agreement

- Purpose: to promote transparency and greater responsibility in the transfer of conventional weapons and dual-use goods
- Created 1996, now with 40 participating members
- Committed to imposing effective national export controls on conventional weapons
- Committed to reporting to other participating states on transfers and denials of certain controlled items

Moving to another vital area, Ambassador Danielsson noted that Small Arms and Light Weapons (SALW) had been added in 2003 and that this included Man-Portable Air Defence Systems (MANPADS<sup>10</sup>), weapons that posed particular danger for civilian aviation. The Ambassador explained that participating states had adopted a document entitled “Elements for Export Controls of MANPADS”, with the aim of tightening security in this area.

### CRA INTERNATIONAL

Steve Grundman, CRA International's Vice President and Head of the Aerospace & Defense Practice, looked at what had changed in recent years in the trade of goods and services. He had spoken at the SDA in 1999, and sadly, Grundman saw the same inefficiencies in export control regimes. There was too much focus on details and too much attention to rules instead of principles. Agreeing with Burnett's earlier comments, he did not see much opportunity to change the situation in the future, again for internal US political reasons. He also saw a need for more focus from business on the need to make export controls a core competence of business – “more professionalism needed there”.

<sup>10</sup> Man-portable air defence systems (MANPADS), commonly described as shoulder-fired anti-aircraft missiles, are short range surface-to-air missiles that can be carried and fired by a single individual or carried by several individuals and fired by more than one person acting as a crew. (<http://www.state.gov/t/pm/rls/fs/53558.htm>).





Steve Grundman, CRA International



Dominique Lamoureux, Thales

Turning to foreign direct investment, Grundman introduced the Committee on Foreign Investments in the United States (CFIUS), a committee that had played a major part in the debates resulting from Dubai Ports World's takeover of P&O (security at Baltimore, Miami, Newark, New Orleans, New York City and Philadelphia ports had been operated by P&O). Grundman argued that this uproar did not mean that the foreign investment in the domain of defence, security and aerospace industries was more restrictive.

Backing this conclusion, Grundman said the rules had remained the same, with the bipartisan internationalist posture towards investment remaining and that the "mitigation measures" introduced by CFIUS and the Department of Defense were seen to be working effectively.

#### THALES

Dominique Lamoureux, Thales' Vice President for Ethics and Corporate Responsibility, reasoned that actions were needed to face the new security challenges. There had been a huge transformation (technological and geopolitical) together with the globalisation of the defence industry and changes at the community level. Lamoureux also questioned the effectiveness of borders, when technology could be transferred at the push of a button.

So what could be done if trade was to be efficient? Referring to Ambassador Duncan's remarks, Lamoureux reminded the audience that misconduct in the field of export controls could lead to a loss of reputation (compliance was essential as there was enormous risk in non-compliance) and severe financial difficulties. So increased transparency was essential for all companies across the globe. Lamoureux's answer was that "industry should not be a target of control but a partner of the controllers".

“Industry should not be the target of control but more part of the control process itself.

Dominique Lamoureux

However, he saw a huge lack of trust across the board. Therefore Lamoureux wanted a straightforward certification process, one that ensured that companies had internal control programmes and accepted to be audited. It was the only way to build trust so that technology could be transferred without security risks. Walls had to be broken down so that there was greater collaboration between the US and the EU.

## SWEDISH INSPECTORATE OF STRATEGIC PRODUCTS

Jan-Erik Lövgren, Deputy Director General of the Swedish Inspectorate of Strategic Products, stressed the importance of a continuing transatlantic link. Looking at his home defence industry, it had seen much more foreign ownership – some from the US and some from within the EU. Lövgren still saw national issues predominating, especially in the area of IPR, seen as an important national asset. Lövgren did see administrative burdens on Swedish industry due to the United States strengthening its export controls. This meant that Swedish industry was looking for alternative sources of supply – which Lövgren argued went against the concept of dual-use products. However, the Swedish Agency (Inspectorate of Strategic Products) was said to be organised so that it handled both military and dual-use products, leading to quicker licensing times.



Jan-Erik Lövgren, Swedish Inspectorate of Strategic Products

## The second session debate

### THE COMMISSION'S STORY

The Commission's Françoise Herbouiller reported on a communication and legal framework on export control adopted by the Commission last December. She explained that it had been presented to the Council on January 25<sup>th</sup> and to industry on the following day (after an impact assessment study in 2005). These proposals were now to be studied in the remainder of the year, with a proposal to reform the legal framework planned for 2008. Herbouiller added the

communication recognised the need for enhanced dialogue with the US, hopefully leading to recognition agreements with the US.



Françoise Herbouiller, European Commission

### HOW TO MOVE FORWARD

Brito asked for details of the priorities for reform - should they be at a national, European or transatlantic level? Defence News' Brooks Tigner felt that the total lack of progress might signal the need for a genuine internal European defence market, with an external policy aspect. On that aspect, Carey had seen many companies trying to replace US components by European ones in order to avoid US export restrictions. This moved Grundman to warn of the dangers of US parts being replaced and that, in turn leading to an increased lack of interoperability between US and EU forces.

Von Wogau agreed that there had to be progress in parallel in two areas – the European internal market (to bring the 27 Member States together) and on the transatlantic market. If that did not happen, there would be many bilateral agreements between the US and several Member States. There had to be a common evaluation of the threats and consistent application of the rules across the 27 Member States and between the EU and the US.

Grundman wanted more government action (on both sides of the Atlantic) to prevent further restriction of capital flowing into the aerospace industries. Here, he saw more problems in Germany and France, as Grundman argued that the United States had a good record in the field of FDI.

Lamoureux wanted a task force of government and business representatives to work together – from scratch – to find the most efficient ways of enhancing legitimate trade in the transatlantic defence industry.



## MANPADS

Burnett wanted more information about Counter-MANPADS, an important issue is export control in the future. Danielsson agreed that MANPADS had focussed industry thinking, especially situations where civilian aircraft landed in a country equipped with Civil Aircraft Missile Protection Systems (CAMPS). There were ongoing discussions as to whether such an aircraft would need a license for the CAMPS, and Lövgren reported that no agreement had been reached at the time of the roundtable meeting.

## NATO

Frank H. J. Hye, SACT Representative in Europe, Allied Command Transformation (ACT) NATO, described a de-facto market that existed between ACT and the US Joint Forces Command – which are both under the same command. These organisations had been created to define capability requirements, and Hye admitted that there was criticism that this work was duplicating the EU's activities in the same domain. He therefore gave his full support to Von Wagou's comment that NATO and the EU needed to share the same security strategy. There had been a lot of

interest from industry in ACT's work, and Hye wondered if export controls could facilitate its future operations.

## SUMMING UP

SDA's Giles Merritt had heard discussions that flowed from regulations about dual-use equipment to nuclear proliferation and from the illegal arms deals to European rules vis-à-vis ethical trade. He had been surprised to hear recommendations to strengthen the hand of national regulators if a European defence market was ever to be established. Merritt had also been surprised by a lack of leadership. There was a clear need for in-depth analysis and more dialogue between interested parties. The whole subject of export control was shrouded in mist and someone was needed to bring clarity to an unclear situation.

A reform of export controls is urgent but industry sees the Member States driving this forward, rather than the (EU) community.

Giles Merritt

CUTTING THROUGH THE TRANSATLANTIC TANGLE OF DEFENCE EQUIPMENT EXPORT CONTROLS  
SDA ROUNDTABLE REPORT



*SDA Director Giles Merritt and Ambassador John Duncan, UK Permanent Representation to the Conference on Disarmament*



*The Bibliothèqu Solvay*



*The second session panel*



*Speakers and participants discussing during lunch*



*Participants at Bibliothèqu Solvay*



*Arnaud Idiart, EADS, and Karl Von Wogau, European Parliament*



*Bill Giles, BAE Systems, and Michel Troubetzkoy, EADS*



*The first session panel*

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**CUTTING THROUGH THE TRANSATLANTIC TANGLE OF DEFENCE EQUIPMENT EXPORT CONTROLS**  
**SDA ROUNDTABLE REPORT**

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SDA ROUNDTABLE REPORT**

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THE SECURITY & DEFENCE AGENDA (SDA) IS THE ONLY SPECIALIST BRUSSELS-BASED THINK-TANK WHERE EU INSTITUTIONS, NATO, NATIONAL GOVERNMENTS, INDUSTRY, SPECIALISED AND INTERNATIONAL MEDIA, THINK TANKS, ACADEMIA AND NGOs GATHER TO DISCUSS THE FUTURE OF EUROPEAN AND TRANSATLANTIC SECURITY AND DEFENCE POLICIES IN EUROPE AND WORLDWIDE.



Stefan Zollar and Gen Harald Kujat



Günter Verheugen and Karl von Wogau



Vecdi Gönül and Jaap de Hoop Scheffer

BUILDING ON THE COMBINED EXPERTISE AND AUTHORITY OF THOSE INVOLVED IN OUR MEETINGS, THE SDA GIVES GREATER PROMINENCE TO THE COMPLEX QUESTIONS OF HOW EU AND NATO POLICIES CAN COMPLEMENT ONE ANOTHER, AND HOW TRANSATLANTIC CHALLENGES SUCH AS TERRORISM AND WEAPONS OF MASS DESTRUCTION CAN BE MET.

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A *Security & Defence Agenda* Report

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Photos: Frédéric Remouchamps

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<http://en.wikipedia.org/wiki/Image:Typhoon.f2.zj922.ff2006.arp.jpg>

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