

Developing EU Co-operation with third Countries in the Export Control of Dual Use Goods and Technologies

Objective

The aim of this paper is to provide a progress report on the EU's activities in the area of export control outreach and assistance. The financial resources are now in place to fund EU export control activities with third countries over the 2007 to 2013 period.

Background

The genesis of the EU's export control programme was set out in the paper delivered by the Commission at the Stockholm conference in 2005. To recap, since the adoption of the EU Dual Use Regulation 1334 in 2000 the EU has had a common approach to the export control of dual use goods and technologies. The EU's successive enlargements have meant acceding states have had to meet the EU's single market requirements. Consequently exchanges and training have been undertaken for this purpose.

In parallel the EU has developed its collective security policy culminating in the European Security Strategy (ESS) of December 2003 which identified the proliferation of Weapons of Mass Destruction (WMD) as potentially the greatest threat to Europe's security. It notes that export control has had a beneficial effect in slowing the spread of WMD.

The EU Strategy against the proliferation of WMD, adopted at the same time as the ESS, addresses the practical measures to be taken in response to the threat. It articulates a clear commitment to strengthening export control policies and practices within EU borders and beyond in co-ordination with partners. It identifies the need to set up a programme of assistance to States requiring technical knowledge in the field of export control. It builds on the EU's previous decision (November 2003) to mainstream non-proliferation into the EU's relations with third countries, inter alia through a non proliferation clause in all new third country agreements. This clause makes clear, amongst other things, that the parties agree to co-operate and contribute to countering the proliferation of WMD by: *“the establishment of an effective system of national export*

controls controlling the export as well as transit of WMD related goods, including WMD end-use control on dual use technologies.” Thus the EU has identified sound national export controls as a core part of its relationship with partner countries. Outreach and assistance to help strengthen third country capacities in dual use export controls are now an integral part of EU non-proliferation policy.

UNSCR 1540

In implementing its, WMD strategy, the EU had already anticipated some of the elements of UNSCR 1540. However adoption of the resolution gave the EU’s work further momentum and, together with the WMD strategy, has helped set the framework for export control activities.

UNSCR 1540 recognises that some countries will require assistance in implementing the resolution and calls upon those States, in a position to do so, to help. With EU Member States increasingly favouring a common European approach to third country outreach and assistance the European Commission has been encouraged to do more.

And the European Commission is well placed to help. The Commission already works closely with neighbours and partners around the world and is involved in strengthening state capacities. Increasing this means helping in security related areas. A good example is support for Counter Terrorism capacities (UNSCR 1373); here we have programmes valued at over 400m euros with around 80 states.

The EU Implementation Team

EU work on export control is very much a team effort. The European Commission works together with representatives of the Office of the EU’s Personal Representative for Non-Proliferation and Member States in implementing a common export control outreach and assistance policy. Member States’ efforts are at the core – the programme is built on the availability of their expertise. And Member States’ diplomatic efforts are often crucial to get cooperation started.

Export control has high visibility in the EU. The EU High Representative Javier Solana's Personal Representative on Non-Proliferation, Annalisa Giannella, is directly involved. Priorities for outreach and assistance are discussed and agreed collectively. The delivery of a strong and unified message on the importance of export control from all EU representatives is clearly understood.

Outreach and Technical Assistance

Export control outreach is an instrument to persuade countries of the need to change and strengthen their practices. Outreach has a high political factor and would normally fall under the direction of the Office of the Personal Representative on Non-proliferation of WMD. This can be supported by the Commission's role as a negotiator of trade and association agreements with countries which also provides political leverage.

The Commission provides the structure for technical assistance. By technical assistance we mean the provision of training and knowledge by EU Member States experts that will allow recipient countries to meet international export control standards. Obviously the resources needed for this are quite different from outreach. The EU can provide the full range of legislative, licensing, enforcement and industry related assistance. Programmes are tailored to each country's requirement; they can comprise a complete revision of a country's export control system or target one or more areas of need. One benefit of the EU's diversity is that it now has 27 examples of implementing dual-use controls and has a wealth of practical experience to pass on to partners. An effective combination of outreach and assistance can be tailored to the individual country's position on non-proliferation and the maturity of their export control system.

The EU is a good partner on export control because it has experience both of doing things right and doing things wrong and the understanding that this knowledge can benefit others. And EU recognises that in true reciprocal exchanges both sides learn from the exchange.

Progress to-date

In developing a common EU approach to export control outreach and assistance and expanding co-operation with third countries, the Commission has launched a range of projects since 2004. These Pilot Projects with selected countries, funded under a European Parliament initiative, aim to prove the EU's ability to deliver export control assistance as part of the longer term programme of technical assistance planned for 2007-2013. Parallel export control work with Russia is carried out under the Commissions Technical Assistance to Commonwealth of Independent States (TACIS) programme. To summarise:

a. Pilot Project 2004 (the first of three) was launched on "Reinforcing EU Cooperative threat Reduction Programmes: Community action in support of the EU Strategy against Proliferation of Weapons of Mass destruction". This contained a Field Validation Exercise (FVE) on export control assistance (on which some 800K euros was spent). The target area was the Balkans (Croatia, Serbia Montenegro, Bosnia and Herzegovina). The project was implemented by the Stockholm International Peace Research Institute (SIPRI). This work was completed in December 2006.

b. A project for comprehensive cooperation with the Russian Federation (with a 3M euros budget and implementation over three years) placed under the Commissions TACIS programme started early in 2006. It is being implemented by the Federal Office of Economics and Export Control (BAFA).

c. The second Pilot Project 2005 (with a 1.5 M euros budget and two year duration) which also started early in 2006. BAFA is again the implementing agent and with the support of other Member States export control authorities is engaging with five partner countries (China, Ukraine, United Arab Emirates, Serbia and Montenegro).

d. The third and final Pilot Project (with a 1.5 M euros budget and two year duration) was placed, also with BAFA, at the end of 2006. It aims to ensure sustainability, predictability and credibility of EU action. The Project aims to build upon the existing experience, ensure continuity and

follow-up of activities initiated during the Pilot Projects 2004 and 2005 (it will continue work with all the countries identified in those projects). It aims to develop a more effective training structure to enhance the implementation of EU assistance particularly in view of the long term programme. This project will add Albania, FYROM and Morocco to the countries already being covered.

All these programmes depend on Member State expertise. Their provision of licensing and enforcement experts makes all this possible. The European Commission is particularly indebted to Germany's Federal Office of Economics and Export Control - BAFA for their leading role in this work. Given the complexity of the task, requiring internal government co-ordination (particularly with Foreign Affairs), with other EU Member States, with other donors and the recipient governments a professional and sophisticated organisation is required. BAFA meets these demanding requirements. Together we are developing a strategy to use EU resources in the most effective way possible.

Initial results

Only the limited scope FVE work is complete. However the results were promising. The FVE was carried out in a set of countries with strong links to the EU and aspirations of EU Membership. They bought in to the project objectives and were enthusiastic partners. As well as developing national dual-use export control, it stimulated regional awareness and communication between export control officials in the different countries. This work involved close co-operation with our US EXBS colleagues whose work in the region long predates ours. Cooperation on the ground ensured our efforts were focused and avoided duplication.

Pilot Projects 05 and the work with Russia are perhaps at too early a stage to make any conclusive judgement. The countries are less homogenous, going beyond the immediate EU neighbourhood and therefore more challenging. BAFA, with Member States' expert assistance has made a good start with programmes tailored to each country's needs based on in-country training and inward visits to the EU to exchange experience. However with very different countries, progress has to be judged on a country-by-country basis and Pilot Project 05 can not be seen in isolation. Taking into account the subsequent Pilot Project 06, it is possible to see the begins of a strategic approach: comprehensive

coverage of a key region of EU interest, the Balkans; engagement with major neighbours (Ukraine, Russia); cooperation with strategic trading partners (China) and engagement with a vital transit and trans-shipment hub, the United Arab Emirates.

Developing an EU Centre of Competence

The EU wants to deliver assistance but recognises better structures are required to ensure consistent delivery of a high standard product. Thus Pilot Project 2006 will also develop and test new instruments to better meet the requirements for EU outreach and assistance. BAFA is tasked to create an EU training centre for export control. This is necessary to ensure the more comprehensive EU assistance programme is fully effective. It will test implementation structures (for example aimed at improving the modalities for drawing on EU expertise), and prove training programmes (on enforcement, licensing etc) and additionally seek to address any gaps in the effectiveness of EU work. This should lead to the establishment of an EU centre of competence for export control assistance.

Future Challenges

The EU programme has made a promising start but it is still at an early stage of its development. The effectiveness of EU work remains subject to certain constraints.

The most important is access to Member States' experts. There are not enough of them and more focus needs to be put on maintaining and expanding the pool. In this context the European Commission has put forward some ideas to Member States on possible ways to help increase the available resources. For the EU a "Peer" approach is important. The EU sees reciprocal exchanges between EU and third country export control officials as a way of building confidence and mutual understanding. This is particularly important with would-be future EU members but also with long term trade partners. This means the programme needs to have access to suitable EU Member State experts. We have to increase our capacities both across the board but particularly focused on key areas, such as enforcement.

Given the constrained resources the EU must decide a realistic geographical scope for its work. The EU has agreed criteria for deciding on country priorities but there remains the risk that the available human resources could be spread too thinly or utilised ineffectively. In this regard there are occasional problems with harmonising the collective EU programme and individual Member States export control efforts. Deciding focused regional and country priorities will ensure the EU delivers where it has a comparative advantage. This means co-ordination with partners in a systematic and structured way so as to maximise our collective impact.

A proven system to monitor and continually evaluate the impact of EU export control activity is also necessary to ensure that lessons are learnt and performance is strengthened where necessary. As the EU expands its export control activities it needs to build on sound precedent.

Conclusion

The EU is committed, as part of its non-proliferation policy, to delivering export control assistance over the long term. The programme will be developed, step by step, building on experience. Whilst at an early stage the programme shows considerable promise.

John Mattiussi
European Commission
Directorate General External Relations