La révision de la politique de Contrôle européen des biens double-usage – tendances et dévelopments

3eme Forum des exportateurs de biens à double usage
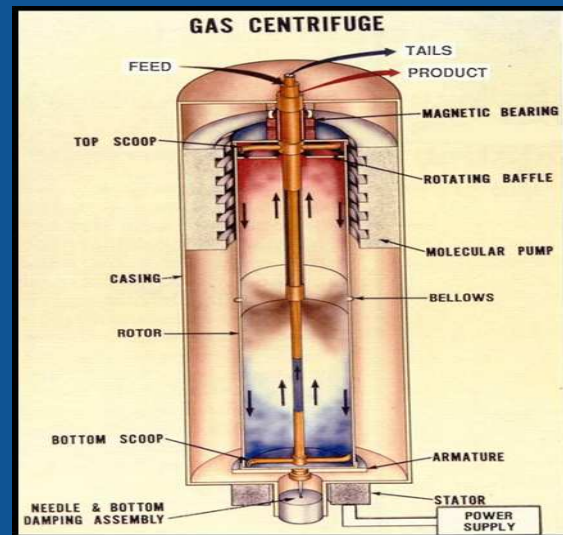
Stéphane CHARDON   **Commission Européenne**

EU export controls: introduction & definition

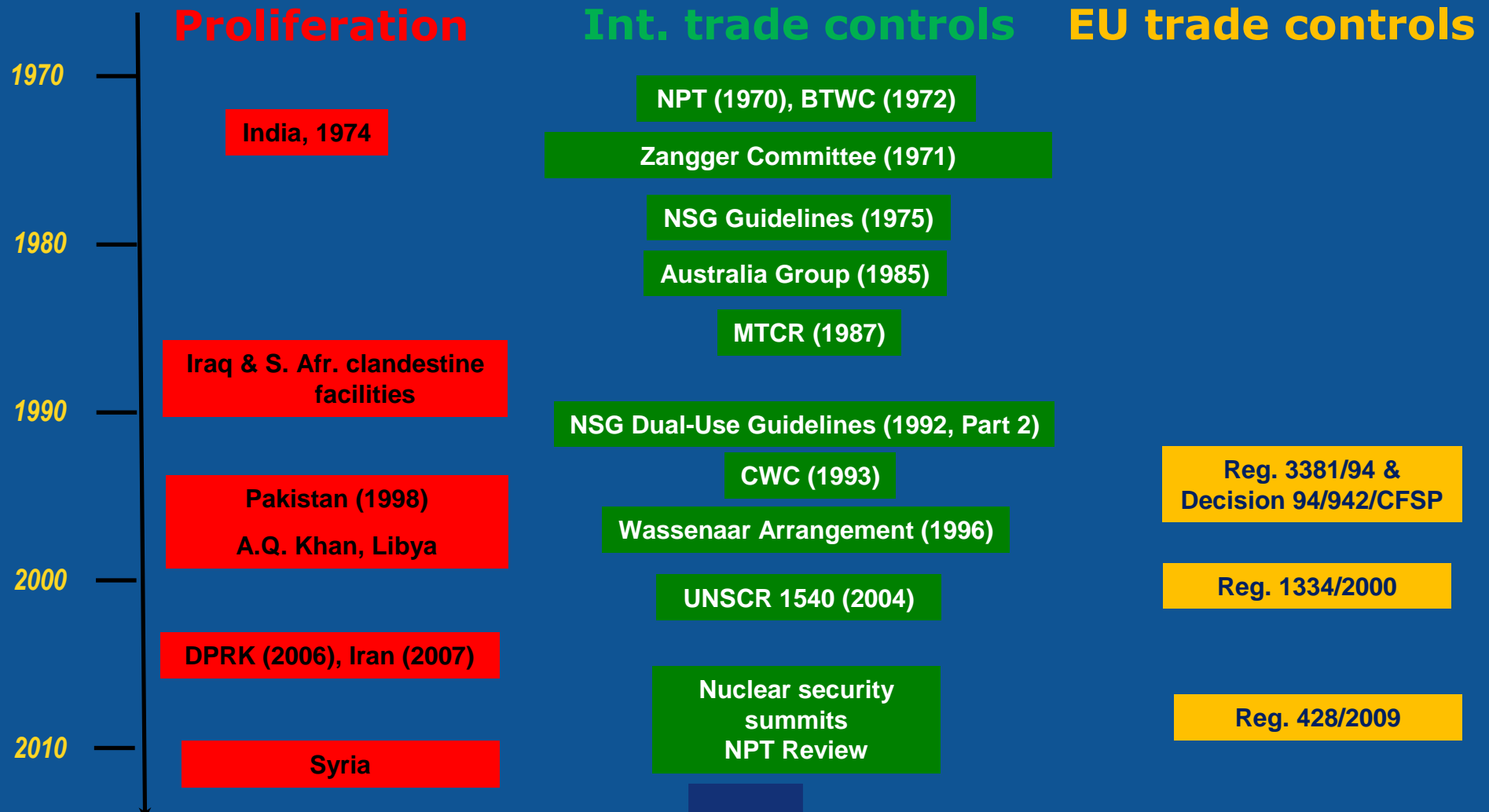- Dual-use items: "items including software& technology, which can be used for both civil and military purposes"

Source
MTCR

EU export controls: a historical perspective

	Proliferation	Int. trade controls	EU trade controls
1970		NPT (1970), BTWC (1972)	
	India, 1974	Zangger Committee (1971)	
1980		NSG Guidelines (1975)	
		Australia Group (1985)	
		MTCR (1987)	
	Iraq & S. Afr. clandestine facilities		
1990		NSG Dual-Use Guidelines (1992, Part 2)	
	Pakistan (1998)	CWC (1993)	Reg. 3381/94 & Decision 94/942/CFSP
	A.Q. Khan, Libya	Wassenaar Arrangement (1996)	
2000		UNSCR 1540 (2004)	Reg. 1334/2000
	DPRK (2006), Iran (2007)		
		Nuclear security summits NPT Review	Reg. 428/2009
2010	Syria		

EU export controls: risks and threats

EU export controls: Policy & legal framework

- International treaties (NPT, CWC, BTWC) & UNSCR 1540 (2004)

- Multilateral arrangements (AG, NSG, MTCR, WA)

- European Security Strategy & Strategy against WMD Proliferation (2004-2008)

- Art. 207 TFEU, Regulation (EU) No 408/2009 & national regulations

EU export controls: institutional aspects

- The Council & European Parliament – the co-legislators

- The European Commission – legislative proposals and support to implementation of EU Regulation

- The European Court of Justice

- Member States administrations

- Industry and other stakeholders

Basic features: a common set of rules

- Free circulation of dual-use items on EU territory
- Common export control list: compilation of export control lists of multilateral regimes (Annex I)
- Common control / authorisation criteria
- Possibility to control non-listed items ("catch all") if WMD-related or military end-use
- Possiblity of additional national controls for public security / human rights considerations
- Transit through EU territory and brokering also controlled if WMD-related
- Controls over intangible / technology transfers

Basic features: a common set of rules (2)

- Possiblity of additional national controls for public security / human rights considerations

- Transit through EU territory and brokering also controlled if WMD-related

- Controls over intangible / technology transfers

Basic features: a common set of licenses

- 4 types of licenses:
  - EUGEA
  - National General Export Authorisations
  - Global Export Authorisations
  - Individual Export Authorisations

- Common licensing simplification for least sensitive goods to most reliable destinations (EU general authorisations – 6 EUGEAs)

- Additional licensing simplifications possible at national level (in addition to EUGEA)

Basic features: national licensing under the common EU framework

- Export licenses granted & deniedby Member States' export control authorities, on a case-by-case basis

- Administrative cooperation, sharing of information, consultations and denials ('no undercut policy') – an EU network

- IT infrastructure to support exchange of information

- EU Pool of Experts

Basic features: coordination of implementation and enforcement

- Customs coordination (TARIC, risk assessment)
- Joint meetings with customs
- Enforcement by national enforcement authorities and penalties in cases of breaches
- Development of EU Guidelines: exchange of implementation & best practices
- Peer visits/common training

Recent developments: EU General Export Authorisations

- EU001 has been in force for several years – concerns only limited number of destinations (7)

- In Nov. 2011, Regulation 1232/2011 introduced 5 new EU GEAs
  - EU002: export of certain DU items to certain destinations
  - EU003: Export after repair / replacement
  - EU004: Temporary export for exhibition or fair
  - EU005: Telecomunications and information security
  - EU006: Chemicals
  - ✓ Specific conditions and requirements (registration, reporting)

Recent developments: Update of Control List (Annex I)

- Regulation (EU) n°388/2012 of 19 April 2012: revised Annex I including all 2009 and 2010 regime changes

NUCLEAR SUPPLIERS GROUP (NSG)

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

The Australia Gro

MTCR   Missile Technology

Chemical Weapons Convention

Recent developments: new procedure to update EU control list

- New proposal (COM 2011/0704) to introduce an accelerated procedure to amend Annex I

- The new procedure, if accepted, would allow the Commission to update the EU control list as often as necessary with a minimum of delay

Recent developments: Publication of MS implementation measures

- Art. 5, 6, 8, 9, 10, 17 and 22 of Reg. 428/2009 allow for measures to be implemented on a national basis;

- Practical information e.g. regarding national authorities, specially empowered customs offices etc

- Publication in the Official Journal (all official languages) - Notice C67/01, OJEU of 6 March 2012

- Important source of information for national administrations and business throughout the EU

New perspectives: EU export policy review

- Art. 25 of Regulation 428/2009: regular reporting on the application of the Regulation and proposals for amendments

- Green Paper (2011) launched a broad public consultation to initiate a review process concerning the functionning of the EU export control regime

- Commission Staff Working Document (2013)7 – report on stakeholders' responses to the Green Paper consultation

SWD (2013)7: a report on stakeholders' ideas on the review of EU export controls

- Public consultation – 100 stakeholders (MS, industry associations, economic operators, academia, MEP, lawyers and consultants)
- Dual-use sector key to innovation and competitiveness
- Risks and opportunities of a 'changing, global and multipolar world'
- Strengths and weaknesses of the EU export control system
- Ideas for improvement and review of export control parameters

Next steps: EU export policy review: ensuring security and competitiveness in a changing world

- Implementation and impact assessment report to European Parliament and Council

- Export control conference, 26 June 2013 (http://trade.ec.europa.eu/doclib/events/index.cfm?id=893)

- Commission Communication

For more information:

DG Trade dual-use website:
http://ec.europa.eu/trade/creating-opportunities/trade-topics/dual-use/index_en.htm

Contact info:
stéphane.chardon@ec.europa.eu