

The international setting: NPT, MTCR & Wassenaar Arrangement

Frans G. von der Dunk

University of Nebraska-Lincoln, College of Law



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Introduction

- Most space technology = high-key technology ('dual use')
- ➔ ***Non-proliferation*** (international level)
 - Treaty law – Non-Proliferation Treaty
 - Voluntary arrangements – MTCR & Wassenaar
- & ***Export controls*** (national level)
 - Domestic law & regulation
 - Europe: EU effort to 'harmonize' & streamline



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The historical baseline

- Developing Cold War → CoCom, 1947
 - = Coordinating Ctee. Multilateral Export Controls
 - ◆ Trying to assert embargo Western exports of sensitive technology to Cold War opponent(s)
 - Voluntary & informal *international* arrangement
 - Lists of items to be subjected to *national* export controls
 1. International Atomic Energy List
 2. International Munitions List
 3. Industrial List (covering dual-use equipment)
- All: adding / removing item required unanimity



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Non-Proliferation Treaty

- Exclusively on *nuclear* technology
- 1968/1970; 189 parties
 - **Not:** only India, Israel, NKorea, Pakistan, SSudan
- Three pillars
 1. Non-proliferation obligation
 - ◆ 5 NWS (Art. I) *versus* all NNWS (Artt. II, III)
 2. Right peaceful use nuclear technology (Art. IV)
 - & Attendant obligation support NNWS therein (Art. V)
 3. Obligation to strive for disarmament (Art. VI)



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Meanwhile ...

- 1980s: new threats to global security
 - From Cold War to multi-polarization
 - Including spread of WMD & delivery systems
 - ➔ Nuclear Suppliers Group
 - ➔ Australia Group (chemical & biological WMD)
 - ➔ **Missile Technology Control Regime** (1987)
 - ➔ **Wassenaar Arrangement** (1996)
- ... All following general CoCom approach using relevant lists of sensitive items



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MTCR (1)

■ Established 1987 – not a treaty

- Original parties: Canada; France; Germany; Italy; Japan; UK; USA
- Desire to counter unwanted proliferation by maintaining / establishing control over & transparency on transfer to third states of missile equipment, material & related technologies usable for ***systems capable of delivering WMD***

Note: Originally focus only on nuclear weapons; as per 1993 also chemical & biological weapons



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MTCR (2)

■ Participating states (34)

- Argentina; Australia; Austria; Belgium; Bulgaria; Brazil; Canada; Czech Republic; Denmark; Finland; France; Germany; Greece; Hungary; Iceland; Ireland; Italy; Japan; Luxembourg; Netherlands; New Zealand; Norway; Poland; Portugal; Russia; SAfrica; SKorea; Spain; Sweden; Switzerland; Turkey; Ukraine; UK & USA

■ Cornerstone: MTCR Guidelines on ...



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MTCR (3)

... “Sensitive Missile-Relevant Transfers”

- Set of common export policy guidelines applied to common list of controlled items: MTCR Equipment, Software & Technology Annex
- Decisions on guidelines & contents Annex taken by consensus & partner states regularly exchange information on export licensing issues
- ***Incl. rocket & other delivery systems, related equipment, material & technology***
 - ◆ Threshold: 300 km / 500 kg payload capability



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Wassenaar (1)

- Established 1996 – not a treaty either
 - To promote transparency & greater responsibility in transfers of conventional arms & dual-use goods & technologies
- Parties seek to ensure transfers do not enhance destabilizing capabilities
 - Decision transfer / no transfer remains national decision – national policies & laws decide
 - Secretariat & meetings in Vienna



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Wassenaar (2)

■ Participating states (41)

- 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; Romania; Russia; Slovakia; Slovenia; SAfrica; SKorea; Spain; Sweden; Switzerland; Turkey; Ukraine; UK & USA



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Wassenaar (3)

- Political agreement to:
 - Maintain national export controls on listed items
 - Report transfers & denials specified controlled items to destinations outside Arrangement
 - Exchange information sensitive dual-use goods & technologies
 - Develop & use Best Practices, Guidelines & Elements



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Wassenaar (4)

1. Munitions List & reporting 'obligations'

- Small arms, light weapons & ammunition
 - ◆ Incl. Man Portable Air Defence Systems
- Tanks & other military armed vehicles
 - ◆ Incl. large calibre artillery systems
- 'Combat vessels' (surface & submarine)
- Armoured & protective equipment
- Aircraft, helicopters, UAVs, engines & related equipment – *incl. missiles / missile systems*



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Wassenaar (5)

2. List Dual-Use Goods & Technologies

- Nine categories:
 - ◆ *Advanced materials*; Material processing; *Electronics*; *Computers*; *Telecommunications & information security*; *Sensors & lasers*; *Navigation & avionics*; Marine; *Propulsion*
- Annex I: Sensitive items
 - ◆ States suggested to refuse transfers outside
- Annex II: Very sensitive items
 - ◆ States strongly suggested to refuse such transfers



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National export controls ...

- Political obligations to implement international arrangements ↔ national sovereignty in security realm
 - System of various lists
 - In US also two-pronged approach: 'munitions' (= ITARs) ↔ 'dual-use technology' (= EARs)
- Europe
 - Additional Q of involvement ESA & EU in security realm → EU Reg. 1334/2000 & beyond



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➔ The Programme

- Experts from various stakeholders in the European space industry addressing:
 - How do current export controls impact their particular space 'business'?
 - How to ensure proper carve-outs from export controls otherwise justified, security-wise?
 - Prospects and/or needs/desirability (further) international harmonization?



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