India-Wiesbaden Conference 2018 'Securing Global Supply Chains through Government-Industry Partnerships towards Effective Implementation of UNSC Resolution 1540' April 16-17, 2018

India-Germany Joint Outcome Document on Experiences and Lessons learnt

The UN Security Council Resolution 1540 (2004) establishes legally binding obligations on all States to adopt and enforce appropriate and effective measures to prevent the proliferation to non-State actors of nuclear, chemical, and biological weapons and their delivery systems. It requires, therefore that States implement appropriate and effective measures to prevent non-State actors such as terrorists from obtaining access to Weapons of Mass Destruction (WMD)

- Industry is an important stakeholder and partner to governments in combating the proliferation of WMD, as they produce and deal with so called dual-use materials that could be used for proliferation purposes. Adherence by industry to the relevant national laws and regulations is essential. Industry therefore has to abide by the relevant national laws and regulations. An effective partnership between States and industry is hence vital for industry to act as the first line of defence against proliferators.
- UN Security Council Resolution 1977 (2011) "encourages the 1540 Committee, at its discretion, to draw also on relevant expertise, including, from civil society and the private sector, with, as appropriate, their State's consent". The Wiesbaden Process is a contribution initiated by the government of Germany in 2012 and focuses on strengthening government-industry partnership in the implementation of UNSCR 1540 (2004).
- iv. Specific regions of the world and industry sectors have been facing distinct challenges in implementing UNSCR 1540. In particular, global supply chains of dual-use items and technologies are increasingly becoming inter-connected, underscoring the need for industry to be cognisant of these inter-dependencies. Previous Wiesbaden conferences have also reflected on the importance of ensuring clearer legislation, export control lists and transparent procedures that are standardised and harmonised internationally whenever possible.
- v Countries within the same region often show varying levels of maturity of export control systems and industry involvement in dual-use trade.
- vi. The UNSCR (1540) in Para 9, calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by the proliferation of nuclear, chemical, or biological weapons, and their means of delivery.
- India has established a robust, legally-backed export control system to support its long-standing international commitment to non-proliferation of weapons of mass destruction and their means of delivery In furtherance of its international commitments, India, supported by the government of Germany & the United Nations Office for Disarmament Affairs (UNODA), hosted the India-Wiesbaden Conference on April 16-17, 2018. The aim was to adapt the Wiesbaden Process to specificities of the region while being mindful of global inter-dependencies. The title of the Conference was 'Securing Global Supply Chains through Government-Industry Partnerships towards Effective Implementation of UNSC Resolution 1540'

VIII The Conference attracted more than 85 participants from 29 countries namely, Afghanistan, Algeria, Bahrain, Bangladesh, Bhutan, China, EU, France, Germany, India, Japan, Jordan, Kuwait, Malaysia, Maldives, Mauritius, Myanmar, Nepal, Oman, Pakistan, Philippines, Republic of Korea, Russia, Spain, Sri Lanka, Thailand, UAE, UK, USA Experts from UNSC 1540 Committee and UNODA also participated.

The agenda was covered through interactive panel discussions by regulators and industry that enabled sharing of national experiences including on intangible transfers, identification of the need for legal & technical assistance, action plans & challenges in national implementation of UNSCR 1540 and how governments can support industry by balancing trade and export controls.

x India and Germany through this joint outcome document wish to share some of the experiences and lessons learnt from the India-Wiesbaden Conference for being used by other States on a voluntary basis in the implementation of UNSC Resolution 1540.:

I. Importance of Industry Outreach in Export Controls

- Export control outreach contributes to making industries reliable partners in legitimate trade in the global supply chain of dual-use items of relevance to WMD,
- It trains industry to be able to recognise WMD proliferation threats;
- It lowers the number of licensing denials that arise from lack of completeness in export applications and gaps in required end user statements;
- Outreach saves resources during the licensing process for both industry and government,
- Outreach aims to inform industry before penalising,
- Outreach can help highlight the need for due diligence through Know Your Customer(KYC)/Internal Compliance Programs (ICPs), as exporters bear the primary responsibility along the supply chain vis-à-vis other business partners, such as freight forwarders, distributors and financial service providers,
- Governments may adopt multi-channel industry outreach through webinars, emails, FAQs, seminars, providing decision tools, model ICPs, compliance visits, telephone counselling, etc,
- International cooperation through such outreach events help in sharing best practices.

II. Regulators Panel: Key Elements Advantages of export controls

- Countries with strong implementation mechanisms for export controls are seen as reliable destinations for high technology transfers;
- Export control promotes foreign investment in high technology development and manufacturing;
- It is important that regulations be complemented by appropriate incentives including penalties, otherwise it is mere advice;
- Negative incentives should be commensurate with violations;
- Some countries also issue warning letters to industry in case of noted violations

Need for opening up communication channels between industry and government

- In establishing export controls systems to implement UNSCR 1540 obligations, governments should begin communicating with industry at the stage of drafting export control acts, legislations, policies,
- There is a need for governments to develop simplified export control policies and procedures keeping documentation for industry at a necessary minimum,

- There is also a need for improved communication between industries and government on evolving proliferation risks;
- ICPs act as a signal that industry is taking its responsibilities in exporting dual-use items seriously, minimising risks of unintentional illicit transfers for WMD purposes;
- Employee monitoring, internal/safety audits are to be an integral part of industry compliance;
- Inadequate disclosure by industry cause delay in processing licence applications-

Strengthen inter-agency coordination mechanisms within government

- An all-of government approach to licensing and enforcement was highlighted as key to efficient and effective implementation of UNSCR 1540,
- Absence of correlated lists of HS codes for items controlled on export control regime lists was a common challenge identified by many countries in enforcement of export controls

Importance of international cooperation in implementing UNSCR 1540

- International cooperation, e.g. in the form of the India-Wiesbaden Conference, was welcomed by participants as a means to share various approaches on how countries are implementing Resolution 1540 and on the common challenges that governments and industries face in implementing UNSCR 1540,
- Several approaches to implementing UNSCR 1540 were presented during the conference,
- It was highlighted that UNSCR 1540 is not just about export controls but also about border controls in general, transit, transhipment, re-exports, brokering controls and providing funds and services for such activities,
- Outreach events help improve national reporting on the implementation of UNSCR 1540;
- International cooperation between national licensing and enforcement agencies supports international non-proliferation efforts through sharing experiences and information on emerging proliferation trends;
- India expressed its readiness to provide technical assistance to interested governments in drawing up export control acts, policies and procedures in line with the unique requirements of requesting member States,
- The UNSC 1540 Committee may inform countries of India's ability to provide technical assistance requirements to any member state, in the above mentioned areas,
- Two countries requested technical assistance from UNSC 1540 Committee in the following areas:-
 - > Assessing existing regulatory system,
 - > Automated licensing and customs enforcements,
 - Affordable technology for identification of commodities requiring licence;
 - > Capacity building for regulators,
 - > Tools for interdiction of WMD items
- Governments are encouraged to submit national reports and UNSCR 1540 matrices regularly and in time for the comprehensive UNSCR 1540 Review to take place in 2021;
- To enable industry to identify the scope of controls in other countries, governments were requested to place export control policies and procedures on their respective export control systems in English in the public domain

III. Key Elements from Industry Panels

• Some industries across different regions have adopted ICPs to demonstrate reliable internal mechanisms on export controls, more industries need to adopt the same,

- There is a need for commodity identification tools or relevant assistance for identification of controlled items to be provided to industry by governments at low cost;
- IT start-ups could be encouraged to set up customised Internal Compliance Programs (ICPs) and commodity identification tools for strategic goods industry;
- A need for employee training, audit and record keeping by industry was highlighted;
- India informed of the forthcoming unveiling of an ICP template at the national conference on export controls on 18th April 2018 in New Delhi;
- Industries with established ICPs can support other industries through peer training initiatives,
- Some industries participating in global supply chains find it challenging to obtain end user certificates, especially for parts and components supplies;
- Lack of standardised EUCs across countries for dual-use items is a common challenge identified by industry,
- Flexibility in end-use statements was requested by some industry representatives;
- Inordinate long delays in the issuing of licences can end up with the cancellation of export orders,
- A need for greater interaction between governments and research organisations and industries working on emerging dual-use technologies was identified.

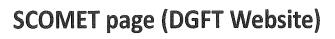
IV. Governments and industries can help strike the right balance between export controls and trade

A common challenge often faced by export control authorities is how to strike the right balance between economic interests and security interests

Importance of Internal Compliance Programs

- Some countries make ICPs mandatory for granting bulk/global licences in order to ensure they are made available only to reliable companies. ICPs require registration with the government in some countries;
- Some countries informed regime partners about general, global and country-specific licensing exceptions. These are generally based on commercial availability of that item in the country of export and the credentials of the end use(r). Based on international practices, Indian industry sought the granting of general, global licences export to regime members,
- One government follows a 'one-transaction/ one-licence system' to ensure that legitimate trade interests are not impeded upon,
- Some governments issue global licenses to trusted companies, which can give end-toend details of the supply chain and are capable of conducting due diligence checks such as end-use monitoring by themselves,
- Some countries grant general licences for export of strategic items to some countries based on the recipient's end user credentials. In such cases, exporter does not have to apply for a licence but can export on the basis of self-declaration,
- Some governments also grant licence exceptions for low value items, temporary exports as also for previously authorised exports up to a certain period subject however, to revocation by the government, on the basis of foreign policy and/or national security considerations,
- The control of exports of software and technology is an important part of UNSCR 1540. The same sets of licensing conditions apply to both tangibles and intangibles. The criteria for identification is whether the item is listed or unlisted or falls under catch-all provisions,
- Electronic systems on export licensing and intra-agency consultations reduce the time-cost of export controls considerably,

For information on India's export control system may please visit the following web link.





Directorate General of Foreign Trade Ministry of Commerce & Industry

Next IMWG Meeting (No 10/2017-18) for SCOMFT Applications is scheduled on 17 01.2018 at Udyog Bhawan, New Delhi

10	little	Description
1	Vertication Ver 22015 2020 dated 24 04 2017	Amendment in Table 4 of Schedule 2, and Appendix 3, of ITC(HS) Classification of Export and Import Items
2	Public Notice No. 4 2015, 2020, dived 24 04 2017	Amendments in Paras 2 "2, 2 "3, 2 "4,2 81 & 2 82 and Appendix 28 of the Handbook of Procedures, 2015- 2020
3	Public Notice No. 7 2015-2020 dated 17 05 2017	SCONET Export permission for Stock & Sale purpose
4	Notific rison No. 13,2015-2020 dated 28 06 2017	Amendment in export policy for export of chemicals listed under SCONET Category 1C of Appendix 3 o Schedule 2, ITC(HS) Classification of Export and Import Rems
5	Public Napre No. 11 2015 2020 disted 26 0" 201"	Amendment in p may 2 16 2 20 2 51 2 74 2 79 and 2 80 of the Handbook of Procedures (HBP) of Foreign Trade Police (FTP) 2015 20 preg
0	Notification No. 29 2015-2020 dated 21 89 2017	Amendment in Appendix 3 (SCOMET items) to Schedule -2 of ITC(HS) Classification of Export and Import Irems, 2012 - reg
7	Public Notice 27 2015 2020 dated 21 09 2017	Amendment to Purngruph 2 2 (b) of the Hundbook of Procedures of the Foreign Trude Policy (FTP) 201 20 -teg
8	Lighted M OMEX List as on 10 10 201" NEW	Appendix 3 continuing the list of SCOMET stems
9	A for consuming a Cital of possible	NF 2 O for export of SCOMFT items high dan Appendix 3 and ANE 2 O(1) for re-export to transfer of atoms from the stocker entry to the ultimate user
10	Tell control due:	The format of EFC is provided in the Appendix 28(1) Appendix 28(11) and Appendix 28(11)
11	SE OMET Guidelines	The FAQs and Guidelines on India 5 export control policy clarity the basic questions related to Policy and Procedures
12	I AQS on N OMET Changes	The document contains FAQs and the consolidated list of th urges made in the SCOVIET list vide Sotification no 5 2015-2020 dated 24 04 2017
13	IMNG Meeting for SCOMET items	Minutes of IVIVG Meetings for SCOMET items

http://dgft.gov.in/exim/2000/scomet/2017/scomet2017.htm

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