

**The Wassenaar Arrangement  
Testimony of Under Secretary William A. Reinsch  
Before the  
Senate Government Affairs Committee  
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Thank you for this opportunity to testify on the Wassenaar Arrangement, its strengths and weaknesses, and actions that can be taken to improve multilateral export controls. The Committee has identified a topic that is both timely and central to our efforts to reform our national export control system. Understanding the Wassenaar Arrangement and its problems lies at the heart of understanding what contribution export controls can make to our national security now that the Cold War is behind us.

The Wassenaar Arrangement is the basis for multilateral controls on the items that have dominated the export control debate for the past several years -- computers, machine tools, satellites, encryption. For this reason alone it is worthy of our attention, and it is a fitting place to begin any effort to improve export controls.

The Wassenaar Arrangement has enhanced the security of the United States. Still, there is a sense shared by all of us that it could do more. The task of strengthening multilateral export controls will be difficult, and much will depend on our ability in this country to reach agreement on what needs to be done and how to do it. I will have some specific comments later on this matter.

### **How Did We Get Here**

The efforts that led to Wassenaar date from the first days of the Clinton Administration. The context for developing the Arrangement was the end of the Cold War and the increased prominence of new threats to regional stability around the globe. The U.S. no longer confronted a single, massive military threat to its national security but instead faced a range of threats to its regional interests. Looming over this was our then-recent experience in the Persian Gulf. Although U.S. and allied forces had performed effectively in defeating the Iraqi military, the ability of Iraq to assemble powerful forces and develop extensive programs for weapons of mass destruction posed a serious challenge for multilateral arms control and nonproliferation regimes.

Iraq built its forces with purchases of arms, chiefly from Russia and France, and with purchases of industrial equipment from around the world. One of our realizations was that the COCOM regime, which targeted the Soviet Union, did not control exports of either arms or industrial equipment to Iraq. It controlled exports only to the Warsaw Pact and other communist countries and did not address the new dangers to regional stability.

At the same time, our closest allies questioned the need to continue COCOM and its controls. The Cold War was over, and the threat COCOM addressed no longer existed. The challenge for the U.S. was to find a way to preserve multilateral controls on exports of industrial equipment, to expand the application of those controls from the Warsaw

Pact to a global basis, and obtain multilateral cooperation in preventing future Iraqs from acquiring destabilizing accumulations of conventional arms. In these areas, the Wassenaar Arrangement has proven to be a success.

## **What Do We Have**

After two and a half years of difficult negotiations, during which time the United States managed to ensure that our allies continued to control the items on the COCOM control lists, 33 countries agreed to establish a new, global regime for multilateral export controls. In contrast to COCOM, where membership was based on NATO, Wassenaar=s membership has a much broader base. One of the major successes of the Arrangement is that Russia, Ukraine, and other former Warsaw Pact countries are members and have committed to develop effective export controls and to end destabilizing arms sales to Iran. Wassenaar=s members also include countries that had been outside of NATO during the Cold War, such as Austria, Sweden and Switzerland, and new industrial powers such as the Republic of Korea and Argentina. This broad membership must also be considered one of the successes of Wassenaar.

Wassenaar has two control lists - the Munitions List and the Basic List (for industrial equipment) and a set of Initial Elements which lay out the obligations of the members. Chief among these elements -- and a significant expansion in scope over COCOM -- is a commitment to prevent destabilizing accumulations of conventional arms@ in any country or region around the world. Each member country chooses how it will achieve this goal through its national policies, but Wassenaar provides the vehicle for coordination and information exchange. There is also an understanding in Wassenaar, although it is increasingly under pressure, not to sell dual use equipment to military end users in Iran, Iraq, Libya and North Korea.

1999 was the first opportunity to review and strengthen these Initial Elements. Although there was strong support from most countries, a few blocked significant progress. We will press again this year for various measures to strengthen the regime.

Wassenaar members have also committed to promote transparency in exports of arms and related dual use items. In practice, this takes the form of reporting on arms transfers and dual-use exports. Dual use reporting, which is more extensive than the reporting on arms, provides information on exports and denials of certain sensitive items. One area in which we hope to make progress is expanding transparency by increasing reporting on arms and dual-use exports.

Wassenaar operates on the basis of consensus, meaning that all 33 members must agree to any change. While this is cumbersome and at times frustrating, it is the standard practice for many multilateral organizations. The other nonproliferation and export controls regimes -- the Missile Technology Control Regime, the Nuclear Suppliers Group and the Australia Group -- operate on the same basis of consensus. It is important to bear this consensus principle in mind when considering how to move ahead with strengthening multilateral export controls.

## **The Legacy of COCOM**

In retrospect, some COCOM-era legacies are apparent. First, we inherited from COCOM a long list of goods to be controlled whose selection had been based on preventing the Soviet Union from improving its weapons and its high-tech industries. This list is out of date and needs much work. In addition, we inherited some mistrust that had arisen as a result of debates in COCOM, and this was an obstacle to progress in building a new regime. Most importantly, COCOM permitted the U.S. and the other COCOM members to share a common approach to export controls. As we found in Iraq, this changed after the collapse of the Soviet Union. Our export control policies and those of our allies differ widely in some respects. The Europeans have made clear, for example, that they have no intention of adopting our unilateral sanctions.

The Wassenaar Arrangement, covering as it does conventional arms and related dual-use equipment, also does not have the same degree of consensus we find in the other regimes. This is because there is much legitimate trade in the items controlled by Wassenaar, so the kind of blanket denial policies found in MTCR or NSG for weapons of mass destruction or the Aembargo@ approach found in COCOM will not work. The U.S. itself is a major exporter of arms and military technology and considers its ability to make such transfers a necessary tool of foreign policy. Many of the items controlled by Wassenaar are also becoming widely available as we see the continuing globalization of technology and production. One of the challenges for Wassenaar is developing a consensus, and the U.S. could play an important role in the process of building common understandings of what should be controlled and where exports should be denied.

## **The Veto - Gone but Not Forgotten**

One thing our Wassenaar partners have consistently made clear for the last seven years is that they will never submit to the kind of consensus arrangement for export approval -- known as the Aveto@ -- that was found in COCOM. The military threat to European security that justified a veto no longer exists. In addition, as the Europeans have made clear in other contexts, they have no intention of adopting our unilateral sanctions, such as those against Iran or Cuba, or our sanctions against India and Pakistan, and they believe that if they accepted a veto we would attempt to use it to enforce such sanctions. No other export control regime has a veto rule for export decisions, and we would be sadly mistaken if we think we can get Wassenaar or any other export control regime to adopt such a constraint.

It is also worth noting that one forgotten aspect of the veto debate is that some transfers we make to our allies and security partners would likely trigger a veto from other Wassenaar members. Unlike any other Wassenaar Arrangement member, the U.S. has global security commitments, and I am not sure we would want Russia or others to sit in judgement of our exports to our security partners in Asia or the Middle East, and there is skepticism among our partners as to how we would react to a veto when we believed our national interests were at stake.

## **China**

Our Wassenaar partners have consistently made clear that China is not a target of the regime. Many Wassenaar members wish to see China join the Arrangement. For the most advanced industrial economies in Wassenaar, China is an important market, not a threat, and they have told us that it is a market they will service.

The most salient examples are in machine tools and semiconductor manufacturing equipment. We often hear criticism of sales of five-axis machine tools to China. The U.S. has approved only two in recent years, but in the same period, our Wassenaar partners have approved more than twenty. In fact, exports to China of the most advanced machine tools more than doubled in the last year. For semiconductor manufacturing equipment, another technology the U.S. has sought to deny to China, we have been told by the other major producers -- Japan, Netherlands and Germany -- that they will sell to China even if we will not. A good example of that is China's Project 909, where Japan approved a joint venture using the most advanced chip making equipment before the U.S. had even finished debating whether to allow its companies to apply for a license.

## **The European Union**

One issue that has at times complicated work in Wassenaar but which offers opportunity for progress in the future is the role of the European Union. All EU members are also members of Wassenaar. On occasion, we have seen the coordination of positions among EU members, providing a bloc of votes. Since the establishment of Wassenaar, the EU has also developed as a multilateral vehicle for coordination of dual use and arms exports, and this offers both challenges and opportunities for the Wassenaar Arrangement and for the U.S. The European Union has been given responsibility for dual-use export controls. The Commission publishes a common control list, based on Wassenaar and other regimes, and members work to develop common standards for dual-use transfers, although decisions to authorize an export are made by the individual member state. In addition, the European Union has also adopted a code of conduct for arms exports, including some information exchange on denials of licenses.

These are positive steps, reflecting efforts to develop a common security and foreign policy among EU members. We would like to see similar progress in Wassenaar, especially in the field of arms exports. That said, in the larger context of preserving cooperative transatlantic defense trade and the strengthening of multilateral export controls, there is some risk that if Wassenaar falters or if our own policies move in directions the international community will not support, the competitive tensions that sometimes mark U.S.-EU trade issues would arise in export controls. We have already seen such tensions emerge in the areas of arms cooperation and the satellite industry, and managing the growing divergence between U.S. export control policies and those pursued by our allies in a way that reinforces our national security will be a major challenge for this Administration and the next.

## **Where Do We Go Next**

The Wassenaar Arrangement has a strong record of success in bringing new parties to observe the international norms of export controls and nonproliferation and in reducing sales of arms to dangerous places. Wassenaar provides the structure that could let us address the export control issues that have proved the most troubling over the past several years. I would like to conclude by listing a few issues and actions which the U.S. could consider as we move ahead in this difficult area.

First, we need to recognize that much of the debate in the United States over export controls is out of sync with the rest of the industrialized world. This reflects in part larger differences over security policies, threat perceptions or transatlantic cooperation, but it forms a crucial backdrop to improving multilateral controls, but I hope we all agree that unless controls are multilateral they will have, except in a very few cases, questionable benefit for national security while putting our economic strength at risk.

Second, we need to continue to consult with our allies and with other regime members on the scope for cooperation in improving controls. For conventional arms and related dual-use equipment, it may be less than we would wish. In particular, we must bear in mind that others will not adopt our sanctions policies. Related to that, we should continue our efforts to promote adoption of Acatch-all@ controls by our regime partners in order to ensure that adequate authority exists for controlling a wide range of technology to specific end users of concern.

Third, in the context of Wassenaar, we need to refocus the list of dual-use controlled items on those that are controllable and critical to advanced military capabilities. The globalization of technology poses new challenges for U.S. security and limits the utility of export controls. Both the Wassenaar Arrangement and our own national export controls need to be adjusted in light of this, and this adjustment would put us in a better position to seek foreign cooperation with our national licensing decisions. We need to do a better job reconciling our domestic and multilateral controls.

Fourth, we need to give up the myth of COCOM. COCOM was a valuable tool for NATO in the Cold War, but it is gone and cannot be resurrected.

Fifth, we need to continue efforts to get China to participate in multilateral regimes such as Wassenaar. To do this, China will need to make progress in adhering to the international norms for nonproliferation and arms sales.

We must continue our efforts to encourage non-members to adhere to regime standards. The Department of Commerce, working closely with the State Department, has worked with the countries of the former Soviet Union and Warsaw Pact to develop comprehensive and effective export control systems. We have often found that even in cases where these governments are willing to take hard steps to keep items out of the hands of unreliable parties, they do not have the practical means or legal basis to do so. We have had some success encouraging them to take all the necessary steps, including adopting the control lists of the multilateral regimes, to allow them to adhere to the objectives of the regimes, but more needs to be done.

Finally, we need to continue to work towards a national consensus, or as close as we can get to consensus, in our own national discussions over export controls. The recent legislative debate revealed the differences among us are wide, and these differences do not provide a firm basis for U.S. leadership at this time.

The Wassenaar Arrangement is good place to start this effort and a good place to test our chances for success. If we can make the Wassenaar Arrangement work better, we will enhance both national and international security.