
SECDIV International Seminar on Strategic Export Control

REGIONAL AND INTERNATIONAL COOPERATION –
TRANSIT AND TRANSSHIPMENT CHALLENGES

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Overview

- **Big picture – Challenges – Diversion**
- **Transit and trans-shipment**
- **Transport sector is key - Domains of Maritime Circulation**
- **Gaps, risks and opportunities**
- **Information sharing**
- **Regional and International Cooperation**
- **Potential ways forward**



Big pictures

- **New security situation** has an impact on export control as relevant a nuclear power is involved in the conflict?
- IS a **new model of barbaric terrorism without state borders** and a sound financial background?
- **Growing WMD proliferation challenges - Diversion – greatest challenges for trade**
- **Risk of dissemination of biological and chemical items** in conflict-ridden countries
- **Globalisation and the increasing levels of interdependence between nations** have transformed the nature of power. Call for a **regional approach**?
- **Global supply chains and R&D and the increasing availability of certain dual-use items in other countries** mean export controls have become an important factor in competitiveness.

Diversion – greatest challenges for trade

- one of the **greatest challenges to the responsible regulation of the international trade** in arms and dual-use goods
- diversion of **dual-use goods is known to have contributed to illicit and clandestine weapons of mass destruction (WMD) programmes** as well as supporting military programmes in states that are subject to United Nations (UN) Security Council sanctions, including arms embargoes.
- Preventing the **diversion of dual-use goods would significantly limit the scope of such programmes** and could **help to reduce tensions and to build confidence among states in potentially unstable regions.**
- Compounding these problems are the **challenges associated with controlling transfers of arms and dual-use technologies.**
- **transfer of technology by intangible means** (i.e. electronically) poses further oversight and enforcement challenges.
- developing international norms around **preventing unauthorised technology transfer**

Challenges for export control


- **Export control is an exception to international free trade principle** established by the WTO Organised by GATT, GATTS; Derogations to this principle are exceptional and strictly defined; Founded on economic reasons
- **Lack of international norms** (not for the Custom code but for trade control system).
- **For trade control the difference between transit and trans-shipment is not necessary obvious and does not match the custom understanding;**
- **Industries supply chain doesn't allow/match with transit control principles. For instance trade routes are not necessary know in advance and therefore transit authorities are not necessary informed;**
- **Increasing complexity of both legal and illegal trading patterns** involving an increasing range of items, activities and actors other than the traditional 'exporter'.
- **Export controls it is of critical importance for high-tech industries** and a countries innovation capacity. Industry associations from a range of sectors (e.g. semiconductors, chemicals, nuclear, aerospace); integrated research and development = important competitive factor for a global level-playing field;

Transit/Transshipment Definitions and Obligations

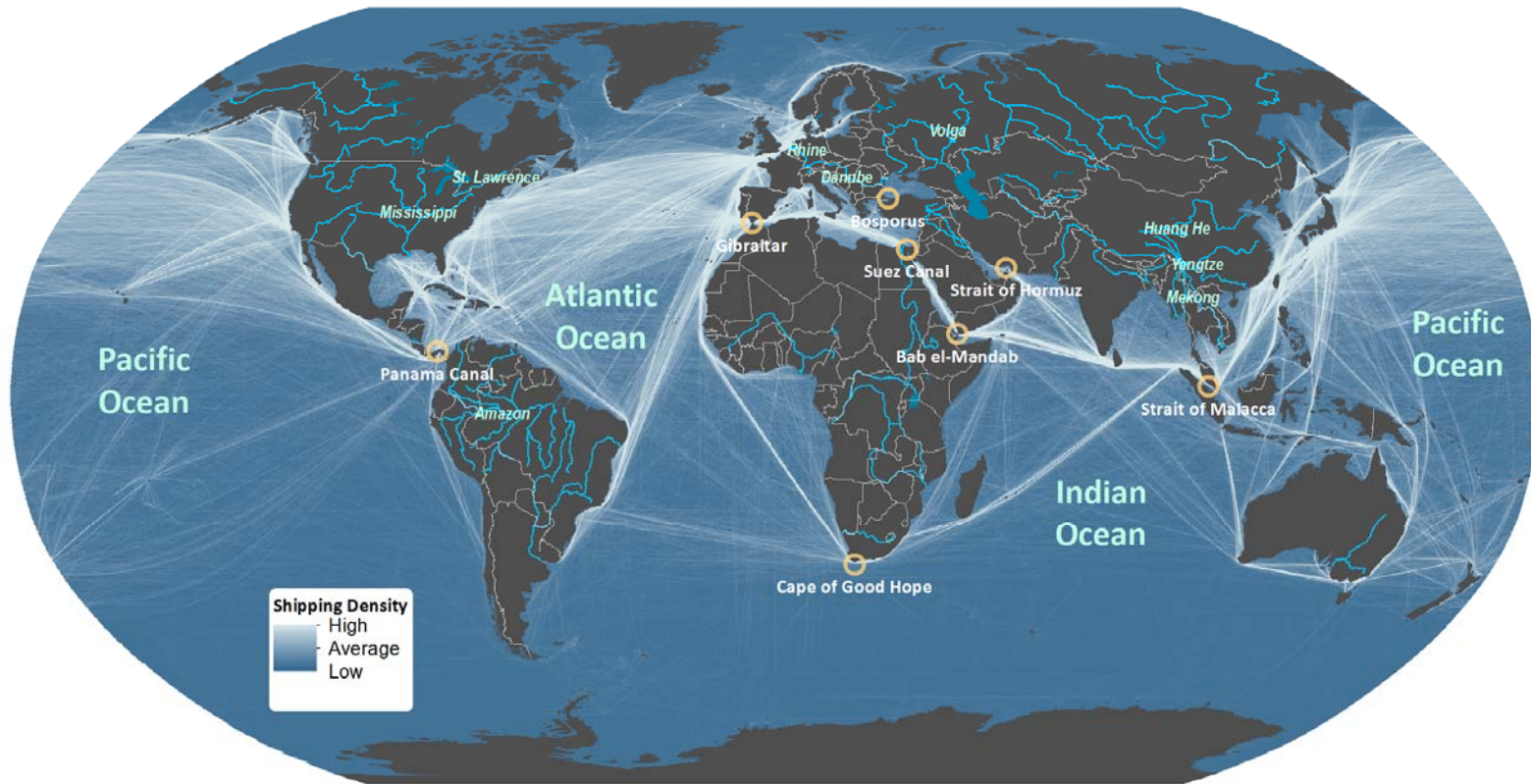


- **UNSCR 1540 (2004)** - 'Establish, develop, review and maintain appropriate effective national export **and trans-shipment controls** over such items, including appropriate laws and regulations to control export, **transit, trans-shipment** and re-export and controls on providing funds and services related to such export and **trans-shipment** such as financing, and transporting that would contribute to proliferation...'
- **Revised Kyoto Convention** - A **trans-shipment** is the transfer of consignments from the 'importing means of transport to the exporting means of transport within the area of one Customs office which is the office of both importation and exportation.'
- A **transit** occurs when a consignment passes through a customs territory without being unloaded from the means of transport

Transport systems - driving force of the global economy

- **Capacity of transport systems** to ship large quantities of freight and to accommodate vast numbers of passengers.
 - The **world has become interconnected** at several scales.
 - Fundamentally being **redefined by global, regional and local issues**.
 - **Transport sector is also an economic factor** in the production of goods and services.
 - **Contributes to the value-added of economic activities, facilitates economies of scale, influences land** (real estate) value and the geographic specialization of regions.
 - **Transport is a factor shaping economic activities**, but is also shaped by them.
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Domains of Maritime Circulation



Supply-chain issues and E-commerce

- **Trading via the internet – or e-commerce** – has expanded substantially in recent years;
- leading to questions about the **implication of this expansion for traditional export controls**.
- **Internet and e-commerce platforms** sells to an overseas customer, it would be expected to **seek an export licence to do so**.
- **Such firms are typically not exporters**: they do not ship goods to the customer. Instead,
- **these firms act to link potential buyers and sellers**. Such firms, while usually not physically handling the goods, have the potential to transform supply chains.
- **Traditionally, customers would connect with potential suppliers through recognised distribution chains and agents**. Since the advent of this ecommerce, **potential suppliers can link with potential consumers as never before**.
- **Role of e-commerce platforms in export compliance** thus varies depending on the nature of the business model.

Technological and Scientific Evolution

- There is an ever-present risk that some new technology will emerge that could cause mass destruction, aid proliferation, or otherwise undermine the existing controls.
- necessary to monitor the evolution of technology and to consider potential application to proliferation.
- -Additive manufacturing (3D printing) capabilities, which have the potential to fundamentally change the nature of existing supply chains. The technology could thus have implications for the effectiveness of controls which should be understood.
- Nano-technology, for which the proliferation implications are not yet understood.
- Intangible technology and cloud computing, through which vast amounts of data can be rapidly transferred.
 - DNA Sequencing

Gaps, risks and opportunities


- **Gaps**

- Common understanding, standards and application
- Adequate controls and enforcement

- **Risks**

- Very high thresholds for action
- Diversion in conjunction with inadequate transit and trans-shipment legislation/controls and/or free port/zone legislation/controls

- **Opportunities**

- To interdict consignments of proliferation concern
 - A second line of defense
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Information sharing


- A pre-requisite for **countering proliferation risks**
- **Fundament to** meaningful risk management
- Multidimensional
 - **Inter- and intra-governmental**
 - **Transport sector**
- Similar **information should be available to enforcement authorities** all over the supply chain




Potential ways forward

- Better understand and use of the **information environment associated with controlled goods and supply chains**
- Extend **partnerships with transport sector**
- **Develop a common strategic objective:** optimise controls while reducing costs – for both government and the transport sector
- Develop, **implement and enforce global standards**
 - GuidelinTransit and trans-shipment
 - Informaes tion, declarations and reporting
- **Full and continuous disclosure along the full-length of the supply chain**
- Transport Sector as Counterproliferation Partner
- **Compliance by design**

Challenges in Implementing Transit and Transshipment Controls

- **Coordination between licensing and enforcement officials**
 - **An interagency task force or working group bringing together licensing and enforcement officials can help create formal processes and channels** for managing coordination and communication
 - **Short timeline for Customs officials to review paperwork, complete risk assessment, and detain cargo for inspection**
 - **It is critical to require advance submission of paperwork for transits and transshipments in advance of the cargo arriving** at a point of entry to ensure enough time to assess risk
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Challenges in Implementing Transit and Transshipment Controls

- **difficult for frontline officials to identify strategic trade goods quickly**
 - **Training of frontline officers on identification and risk factors for transits and transshipments of strategic trade cargo is critical**
 - **Cross-walk of Harmonized Tariff System (HTS) commodity codes and more narrow item classification definitions is valuable**
 - **It is important to establish the ability to rapidly communicate between frontline officials and product classification experts**
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Opportunities

- **Important to find the right balance between security and competitiveness** and called on business, academia and partners to engage constructively.
- **Enforcement –more coordination and necessity for information exchange** and a closer risk assessment within the Union useful;
- **Industry Actors and roles in within transit and transshipment:** the main issue is to keep most benefit of the internal market and also to set export control standards – as industries are not anymore rely on national borders' incentives for information exchange and industry would be highly beneficial.
- **Need for partnership between Government and Industry** – facilitation of procedures and need to cooperate more focused with own industry.
- **Strengthen the transnational Security Governance** approach which also includes “relations between actors that are internationally organised” remain a challenge in the set-up of new export control systems.
- **Unlisted items: need for more sensibility as semi-finished products shipments increased.**

Concluding Points

- **The best counter to proliferators' use of complex transactions is the use of overlapping domains of control by the international community**
- **Need to adjust the export control system to changing political objectives and rapid technological progress** - such as cloud computing, 3-D printing, cyber tools and the dissemination of information and communication technologies (ICTs) or life sciences research with potential dual-use
- **Transit and transshipment controls promote both national and international security**
- **Implementing effective transit and transshipment controls requires efficient regulations and interagency coordination**
- **Partnerships with third countries and develop commonalities to ensure benefits** (access to markets, technology, economic growth)
- **Balance between economic and security priorities**
- **Proliferation of WMD can't be prevented only by international Treaties or Export Control Regimes unless nations found wide political agreement, they implemented and enforced effectively.**