

DSEI Japan Conference

Intellectual Property – Export Management

Panel Discussion

1110–1200

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Export controls and China: starting point

- The Western arms embargo on exports to China
 - designed and put in place in very different circumstances to those of today
 - loosely defined, and does not address dual-use goods
 - no surprise different OECD states have different approaches
 - UK has a narrow interpretation
 - Leaving scope for freedom of action

UK Government website

- The UK interprets the scope of the China embargo as outlined in the written parliamentary answer given on 3 June 1998, to include:
 - lethal weapons, such as machine guns, large-calibre weapons, bombs, torpedoes, rockets and missiles
 - specially designed components of the above and ammunition
 - military aircraft and helicopters, vessels of war, armoured fighting vehicles and other weapons platforms
 - **any equipment which might be used for internal repression**

What do governments and companies see first regarding China?

A major, even essential economic partner of increasing growing potential?



A growing threat to international order and national security?

Embargoes and unintended consequences?

- Capable states that are denied technologies may make extraordinary efforts to develop their own:
 - South Africa under apartheid
 - North Korea
 - China
 - Iran
 - Saudi Arabia
- Implication: export restrictions should be considered strategically
 - bearing in mind the potential reactions of the target government

and become exporters

Defence systems and commercial technology

- Defence systems rely increasingly on enabling technologies developed in the civil, commercial world
 - the centrality of electronics, computing, artificial intelligence applications?
 - the 90:10 ratio regarding global R&D spending?
- Implications
 - intellectual and government (intelligence) effort should be focussed on dual-use export controls
 - issues that quickly become emotionally prominent are familiar if difficult politically
 - restrictions on Saudi Arabia

Dual-use technologies in defence

- Present an import control as well as an export control problem

1500 'Top Tier'
suppliers



Tens of
thousands of
components
and raw
materials

Dependencies and
vulnerabilities?

- Including
- fake parts issue
 - cyber risks

British practice: supply chain mapping and management
as a prime contractor not government role

Dual-use technologies in defence

- Present an import control as well as an export control problem

1500 'Top Tier' suppliers

Implication
Governments must take supply chain mapping and management out of their 'too difficult' drawer

the components and raw materials

- Including
- fake parts issue
 - cyber risks

British practice: supply chain mapping and management as a prime contractor role

The scope and effectiveness of controls

- Export control laws address
 - the physical transfer of controlled goods and information
 - Information also covered by laws and regulations on the release of classified information
- However
 - Controls only as good as enforcement machinery
 - Incentivise espionage & theft?
 - The re-export domain



Implication: greater government efforts especially on re-export of dual-use material

The scope and effectiveness of controls

- Western controls do not address the free movement of personnel with knowledge and skills
- Western controls don't cover management expertise

WORLD NEWS SEPTEMBER 18, 2019 / 2:11 PM / 2 MONTHS AGO

German government extends arms export moratorium for Saudi Arabia



Implication: controls on where people can work!

SAMI CEO Andreas Schwer
Ex Rheinmetall

The scope and effectiveness of controls

- Education and technology and management transfers
- The difficulty of controlling access to 75-year old technologies relating to weapons of mass effect
 - Relevant material ingrained in curricula?
- Implication
 - Build into and enforce export control legislation
 - Transfer of a listed dual use technology to a foreign national within your borders constitutes an export and requires a licence

Conclusion: if prioritise controls effectiveness

- Hesitate before applying controls to take account of possible/likely target reaction
- Focus more control attention on dual-use technologies and their significance
- Defence ministries should take responsibility for supply chain visibility and management
- More government resource for end-use monitoring
- Stronger controls on freedom of movement for employment
- Stronger controls on university syllabuses

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- Hesitate before applying controls to take possible/likely target reaction
- Focus more control significance

- All have costs, disadvantages and risks
- So:
 - The more international cooperation the better, perhaps outside Wassenaar
 - Maintain impetus of innovation and improvement within advanced democracies

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No escape
'For every complex problem there is an answer that is clear, simple, and wrong'
H. L. Mencken.