



Wilton Park



Image: NASA Goddard Space Flight Center

Conference report

The Australia Group: challenges and future directions

Thursday 29 – Saturday 31 March 2012 | WP1143



Conference report

The Australia Group: challenges and future directions

Thursday 29 – Saturday 31 March 2012 | WP 1143

“Australia Group controls are regarded as the benchmark of export control on dual-use items relevant to chemical and biological weapons”

Introduction

1. In the 27 years since its original meeting at the Australian Embassy in Brussels, the Australia Group (AG) has expanded both its membership and its remit. The original membership of 15 has expanded to 41. From the starting control lists focusing on chemical weapon precursors, the AG lists controls now cover biological pathogens, chemical and biological production equipment, and related technology. They are regarded as the benchmark of export control on dual-use items relevant to chemical and biological weapons (CBW). The Group has set a global standard for best-practice export controls, evinced by the fact that many states adhere to AG-style guidelines and adopt the AG control lists even though they are not members. In this respect, therefore, there is good reason to suppose that the Group’s controls have made a substantial contribution to the decreased and inhibited CBW activities worldwide.
2. The AG’s combination of ‘soft law’ agreements, informal structure and like-minded membership has been a major factor in this success. However, questions remain about how it can continue to maintain effectiveness when technology is advancing and diffusing, and when many significant potential suppliers remain outside the Group. Should it reinvent itself in order to have a more geographically representative membership and a wider remit than maintenance of control lists, or stick to what it is good at and remain an international benchmark for best practice? The central question, and one that defines how we see the AG’s future, is how to achieve global best practice. At heart, this can be seen as a question of identity: whether the AG is fundamentally an export control coordination agreement with a therefore strictly technical remit, or a non-proliferation instrument with a broader political function, augmented beyond export controls. Different ways of grappling with this central question will produce different recommendations for the best way forward.
3. The Group does not of course work in isolation but is part of a global network, in that it sits within the international structure of non-proliferation instruments. The AG is interconnected with them not only in the sense that it has an overlapping remit, but also in the sense that its members also belong to the other constituent parts of that wider structure. A certain amount of ‘silo-isation’ is nonetheless evident here, which is possibly inevitable given the differing participation of member-country officials in the AG as opposed to the various other instruments. This presents difficulties for optimizing and rationalizing the activities of the various instruments, further complicated by the fact that some instruments like the AG have little or no institutional existence beyond their member states. Getting these instruments to cooperate and interact more with each other therefore probably starts and ends with encouraging their member states to do this.
4. Given this problem, if the AG is to pursue the aim of generating global adherence to its control lists, including on the part of states that are not AG members and unlikely to become members, then leveraging that adherence via UNSCR1540 and through like-minded members of the Global Partnership Against the Spread of Weapons and

Materials of Mass Destruction (GP) is worth pursuing. Many states are not yet fully implementing their obligations under UNSCR1540, and given that the AG represents the global benchmark of best practice on CBW export controls, its experience and expertise on this should be invaluable. If that is the AG's 'unique selling point', then that of the GP must be resources and the capacity to fund and implement concrete programs to address biological and chemical threats. Thus, leveraging the GP as part of AG outreach has the potential to help both the AG and GP meet respective objectives while at the same time going a long way to achieving successful implementation of 1540.

“The Group is confronted by trends in production and in scientific advance that require a response”

Trends and challenges

5. Although the requirement for traditional export controls remains, as does the AG's role in setting global standards on CBW controls, the Group is confronted by trends in production and in scientific advances that require a response. These trends are intimately connected with the normal advance in civil science and technology, and can be thought of as the challenges of horizontal spread and forward spread. That is to say, the spread of production capacity to new states, meaning that importers are becoming exporters; and the forward advances of science, producing new technology.
6. With respect to the former, the globalisation of the chemical and biological industries means that an increasing number of significant suppliers are NOW outside the formal membership of the AG. This in turn presents the Group with a choice between formal expansion of membership or what might be called 'soft expansion' whereby the AG helps non-members to implement its controls without the need to formally subscribe to membership. Each has political implications which are addressed below.
7. Regarding trends in scientific advances, the AG is, in common with all institutions engaged in CBW non-proliferation, facing a rapidly evolving technological environment. The growing convergence between chemistry and biology has blurred the distinction between chemical and biological warfare agents and their production processes, as has the emergence of non-traditional agents. Intangible transfers continue to grow in complexity, something evinced by the 'cloud', by which scientists working in Europe leave work at the close of the day and hand over electronically to colleagues in North America who are just arriving, who then hand over to colleagues in East Asia, and so on. Biological sciences in particular continues to advance dramatically, a trend that seems certain to continue and result in developments that are not only new to AG controls but may emerge below the sightlines of governments.
8. Helping the Group and its member governments better understand and cope with technological change and diffusion points to a need for better engagement with industry and academia in CBW non-proliferation. Moreover, it appears that industry does not always understand why the rules are in place, re-emphasising this need for improved engagement. Finding and appointing 'champions' within the industrial, academic and scientific communities is one option for doing this. Such individuals can work to help inform the AG and change awareness from within their own institutions rather than having this imposed by governments. Getting buy-in in this way can make for much more resilient and robust adherence in these communities.
9. These externally-driven challenges also draw attention to other, more internally-driven issues to be addressed, including information-sharing, burden-sharing, and how to maximise resources. Information-sharing is always important; the AG may only be as strong as the information that is collectively shared. The Group has a good track record here, probably because of its relatively small size and like-minded membership. Information does not always mean intelligence – it can also mean best practice and experience – and it may be that intelligence is not always the most important information shared. For example, the New and Evolving Technologies Technical Experts Meeting (NETTEM) can be improved in order to facilitate more effective sharing of information on future technology trends. It may be worth noting a potential

“Helping the Group and its member governments better understand and cope with technological change and diffusion points to a need for better engagement with industry and academia in CBW non-proliferation”

paradox at this point: wider formal membership may make it easier to get “the word” out to more countries, but the concomitant risk of diluting political like-mindedness may make sharing sensitive and otherwise worthwhile information – and agreeing to act on it – more difficult.

10. The ability to impede proliferation through AG export controls is being limited by the above factors. In responding, the Group can try to globalise export controls, but will need to augment them with other measures. Here, it should be possible to leverage the like-mindedness of AG members. One option is the possible development and promotion of best practice guidelines for the management of domestic security of dual-use materials, equipment and "know-how", to take account of the increasing concern about CBW-terrorism and the recognition that terrorists usually seek their materials and equipment from domestic suppliers, rather than from across international borders. Another option is for Group members to share information on visa vetting. It is important to look on the AG and its export controls in the wider context of a CBW non-proliferation enterprise, and look at what else can be done by AG members, including on the use of catch-all controls, risk assessment in licensing, interdiction-related cooperation, and external efforts to press outside countries to forgo CBW and the support of CBW programs. In many cases, this can be done by individual states with a common outlook and shared goals, as well as by the AG collectively.

“It is important to look on the AG and its export controls in the wider context of a CBW non-proliferation enterprise”

“the AG’s outreach programme needs to be more carefully calibrated to take account of the Group’s own objectives and the needs and priorities of the engaged states”

Evolution of outreach

11. These challenges, then, require a structured and focused programme of outreach. This must be done with non-state entities like relevant scientific and industrial communities, but also with states. The widest possible adherence to patterns of behaviour and procedures is a goal, although it appears generally accepted that, unlike the BWC or CWC, the AG’s ultimate goal is not universal membership in the formal sense. Therefore, the AG’s outreach programme needs to be more carefully calibrated to take account of the Group’s own objectives and the needs and priorities of the engaged states. That programme will require the AG to reach collective decisions about those objectives, and will also draw on resources from across the Group; it is unlikely that the Secretariat will be able to provide the necessary human and financial resources alone. Thus there will, it might be said, need to be ‘inreach’ before there can be properly-directed outreach that has a reasonable chance of success. That ‘inreach’ will need to decide on the objectives of engagement and on how to divide resources.
12. If, as indicated, this outreach process is to be tailored, then the tailoring has to take into account those cases where the Group can benefit from making engagement a two-way process: a dialogue with states that have something to offer the Group rather than just a lecture on export controls and how to implement them to states whose own implementation of controls is their primary ability to contribute to global CBW non-proliferation. Some producer states may be attractive potential members but are unable to do so (such as Taiwan); others will have decided against membership but will still be interested in AG-style controls and promoting CBW non-proliferation (such as Singapore); emerging producer states will require a capacity-building approach.
13. One proposal for initiating this tailored outreach is to hold a 1-day meeting immediately following the AG’s annual Plenary meeting in Paris: specific countries would be invited in advance, with specific experts requested to come from capitals. Such a meeting could be part of a heightened engagement programme that the AG should develop, that can better promote adherence to the AG, increase the value of outreach to the Group itself, and become more responsive to individual states’ requirements.
14. Turning to industry and academia, more effective engagement here is necessary. In industry, low awareness of export control regimes and their purpose is noticeable and appears to be quite widespread. As mentioned above, finding and appointing ‘champions’ from within industry itself may pay dividends in achieving buy-in. It will be important to emphasise government-industry partnership, which means developing

“the scope for collective AG engagement with industry is limited, and the onus for engagement probably lies with individual members”

“The control lists should be regarded as living documents and need to be responsive to new developments”

personal and institutional relationships so that governments become part of the network within which industry operates, and also to phrase the approach in ways that are likely to resonate with industry: for example, by emphasising corporate social responsibility as inclusive of non-proliferation. Encouraging CEOs to make statements on this ought to help awareness cascade further down into each firm.

15. In contrast to the outreach process on states, the scope for collective AG engagement with industry is limited, and the onus for engagement probably lies with individual members who will need to conduct outreach to their own domestic producers. This does not mean that the process will inevitably be limited to state borders, however. Governments are national, but industries are increasingly multinational, and developing a community of practice in each AG country’s domestic industry will spread internationally. Again, resources are likely to be important, as the costs of an engagement process can be high enough for some AG members to find it prohibitive.
16. Whatever lack of awareness exists in industry, industry does nonetheless have a consciousness of their operative effects because of the presence of export licensing laws. Even this partial consciousness does not appear to exist in academia, where individuals and institutions involved with dual-use chemical and biological materials and technology do not see themselves as potential targets of proliferators or even as engaged in inherently risky activity. In consequence they tend to be very resistant to these controls. One way to negotiate around this can be to ask line government departments such as public health agencies to relay the message about export controls and the need for dual-use awareness. The message will be more credible and thus more likely to find a receptive audience if it comes from a scientific colleague with a background in research.

Control lists

17. The role of information and intelligence sharing also arises when considering the future of AG control lists. The lists should be regarded as living documents and need to be responsive to new developments. Catch-all controls are one way of keeping up with such new or unforeseen developments. However, making catch-all controls work effectively generally requires sharing intelligence to spot dangers. This can be done more effectively between AG members, but it can become at once more pressing and more difficult when applied to non-AG members. More pressing because beefing up awareness of these controls is necessary with non-AG members, but more difficult because the intelligence required to really make them work is much harder to share outside the Group.
18. This role of intelligence in highlighting dangers and triggering better use of catch-all controls raises the prospect of how far it is possible to implement state-specific export controls. Proponents argue that the AG ought not to shy away from using its intelligence to identify states that pose particular proliferation risks, and target control lists to be especially effective against these countries. Such a strategy is not without risks however. The control lists are consensus documents and as a general rule generic and universally-applicable control are better. Moreover, few states have sufficiently prominent threat profiles to make country-specific controls politically feasible.
19. Although amendments to control lists are usually thought of in terms of new or alternative agents, production equipment or techniques, some have argued that the AG should be ready to remove items as well as add them given how widespread some pathogens or agents have become. It might be possible to employ a two-stage process here, involving transfer of such materials and production equipment into a ‘warning list’. Removal should however be done only on non-proliferation merits, and it is worth keeping in mind that the control lists are no longer only for Group members but for non-members as well.

“Expansion in the formal or soft sense has the technical rationale of improved global export controls, and the political one of improved image and legitimacy for the AG”

Membership and outreach

20. A common theme thus far has been the relationship between members and non-members of the AG. The question of whether, and to what extent, membership is the right vehicle for increasing the Group’s effectiveness is an important one, as is the corollary of whether formal expansion versus soft expansion is the right vehicle for expansion. The necessity for soft expansion appears to be widely agreed upon, however, leaving the question of when, how and why to expand formally, along with difficult and sensitive questions about the consequences.
21. The potential benefits of formal expansion are the inclusion of major producer states such as Russia, China and India, and the improvement of geopolitical balance in the AG and thereby the rectifying of the lingering claim that it remains a cartel or a rich/Western state’s club. Moreover, a number of states have formally requested membership, and keeping them waiting indefinitely could be a deterrent to them and to potential other members, as well as again reinforcing the perception of elitism.
22. Countering these arguments, those advocating caution on formal expansion tend to focus on the potential consequences for AG cohesion and ability to act collectively. They also point to the difficult choice between making the AG inclusive and thus politically non-controversial, and maintaining its effectiveness irrespective of accusations of elitism.
23. Any group that expands its numbers will almost inevitably find it harder to reach consensus, but concerns about AG expansion usually highlight its current likeminded membership as a source of cohesion and as something that should not be diluted without good reason. ‘Like-mindedness’ is hard to quantify, and even harder to use as a membership criterion. Nonetheless, the fact that something is more easily recognised than described is not a reason to dismiss it altogether. In the AG context, like-mindedness can generally be thought of as broadly-aligned views and priorities in the wider non-proliferation arena. Herein may lie problems with new members who may claim to share current AG member views on the relatively narrow topic of export controls, but diverge sharply when it comes to the BWC and CWC. This does raise the question of identity – of the AG as purely an export control mechanism or as a politically-allied group on non-proliferation – that is mentioned above.
24. Currently, formal expansion does not appear to be regarded as in need of imminent action for the AG to remain effective. At the same time it is generally recognised that some expansion could potentially be beneficial. One way forward is to take a phased approach, in which potential new members are engaged in ways that will stress-test their credentials for membership. This would possibly involve some decisions on the AG’s part about which producer states are potential members and which are only candidates for soft expansion.
25. Expansion in the formal or soft sense has the technical rationale of improved global export controls, and the political one of improved image and legitimacy for the AG. Strategies of outreach will be different according to the type of state being engaged: those that are viewed by the Group as desirable candidates (in the long or short term) for formal membership, those with a close relationship with the AG but not formal members, those with an interest in adopting AG controls and objectives without adopting formal membership, those that have little or no production capacity but are potential transshipment states, and so on.
26. Outreach to other states, then, needs to be prioritised, focused and calibrated. Equally important, it must be sustained. Achieving this will be facilitated if outreach proposals to the AG Plenary make clear the reason behind the proposal, how it would be implemented, and how it would be sustained. This will enable nuance to be built into the outreach strategy, and also help prioritisation. In turn, this should help the Chair

direct and rationalize the Australian resources spent on outreach. Although the AG Chair and Secretariat have hitherto generally taken the lead on outreach, this should not be automatic, especially if outreach is to be sustained and not just a series of one-off events. Australia has limited resources and moreover there may be strong political reasons, such as regional relationships and common languages, for other AG members to take the lead with and/or sustain relationships with some states. Again, this boils down to questions of calibrating the outreach strategy according to each subject state.

27. Therefore, in the run-up to the Plenary in June 2012, AG members can decide on which states they feel the AG ought to focus on in outreach, why, and how, and come to Paris prepared to make a case. Rather than simply asking for nominations, the Chair is requesting clearly-stated rationale and objectives, together with an indication of what AG members plan to contribute to a focused outreach strategy.

“Outreach needs to be at once more focused and more general”

Conclusions

Opportunities for action can be grouped into three ‘baskets’: outreach, substance and procedure.

Outreach

28. This needs to be at once more focused and more general. Better focus can be achieved by a process of prioritisation, beginning with AG members making a case for outreach, not just simply nominating states. This case needs to include the rationale and the objectives for outreach and how it is to be conducted and sustained, which should facilitate prioritisation and also help tailor the nature of approach.
29. Drawing up a matrix of each state’s export controls, identifying where capacity needs to be developed, will help here, both in terms of AG outreach and in terms of establishing principles for guiding states before they become formal members. The outreach process will also be helped by cooperation with the Global Partnership, the BWC ISU, OPCW and UNSCR1540 Committee, which can be helpful in planning how to engage with non-member states. Contact between the AG Chair and those institutions after Plenary and Intersessional meetings will be a good start.
30. Outreach needs to be more general in that the responsibility, in terms of action and in human and financial resources, needs to be divided among AG members rather than being the sole or principal responsibility of the Chair and Secretariat. This will not only spread the burden more equably, but may make outreach more effective if it is being done by, for example, members with a close relationship with states that are the subject of outreach.
31. It is mentioned above that universal membership is not the AG’s ultimate goal, and thus outreach has a wider remit than simply engaging with potential members. Nonetheless, it appears generally accepted the Group will take on some new members in the foreseeable future. This has implications for the outreach process, but there is also an internal dimension to this issue that should not be overlooked. Concerns are already being raised about the effect that expanded membership will have on AG coherence and ability to make decisions. Some concerns may prove unfounded, but others may not. A priority, then, should be given to an assessment of the likely impact of widened formal membership and how the Group’s structure can be best prepared to cope with them. There may be merit in pushing ahead on evolving the AG’s function and focus before other less ‘likeminded’ members are admitted, and putting in place a set of existing regime decisions that buffers the impact of adding new members who may be more reticent in agreeing to new such decisions in the future.

“Developments in science and technology present new ‘control points’

Substance

32. Developments in science and technology present new ‘control points’ that the AG lists, and those of other export control regimes, need to respond to. One is that of technology and equipment: low-tech workarounds are now capable of producing agents

that the AG lists, and those of other export control regimes, need to respond to”

that may not be high-grade but are good enough for some proliferators. Moreover, alternative approaches to identifying biological agents for control, for example by reference to virulence or pathogenicity rather than simple lists of names, may need to be explored to address advances in synthetic biology. This is something that the NETTEM could discuss at the Plenary in June.

33. AG states also need to beef up their participation in the IE and the EE. More countries need to contribute to the discussions and to actually make presentations. All members have experience with licensing, interdiction, visa vetting, outreach to industry/academia, and enforcement that would be of interest to the Group.
34. More fundamentally, the Group needs to compensate for the limits of export controls by identifying additional counter-proliferation measures that it can and should take beyond export controls to affect the real world CBW proliferation threat, which predominantly involves non-member countries with CBW programs obtaining most of their needed assistance from other non-member countries.

“There is clearly a need to monitor technology more effectively and regularly”

Procedure

35. There is clearly a need to monitor technology more effectively and regularly. The role for NETTEM can also be explored in this regard. A more informal structure with a workshop/seminar-style format would help, as would including more scientists and experts with industry experience. One option is to hold such a NETTEM meeting shortly before AG Plenaries, and limiting attendance to technical experts only. This would be more along the lines of the CWC’s Scientific Advisory Board. Another possibility is to run NETTEM meetings during intersessional periods, with a briefing to develop ideas for Plenaries.

Mark Smith

Wilton Park | April 2012

Wilton Park reports are brief summaries of the main points and conclusions of a conference. The reports reflect rapporteurs’ personal interpretations of the proceedings – as such they do not constitute any institutional policy of Wilton Park nor do they necessarily represent the views of the rapporteur.

Should you wish to read other Wilton Park reports, or participate in upcoming Wilton Park conferences, please consult our website www.wiltonpark.org.uk

To receive our e-newsletter and latest updates on conferences subscribe to <https://secure.wiltonpark.org/en/secure/subscribe?action=subscribe>