
'CATCH-ALL' AND END USE CONTROLS

Project Alpha

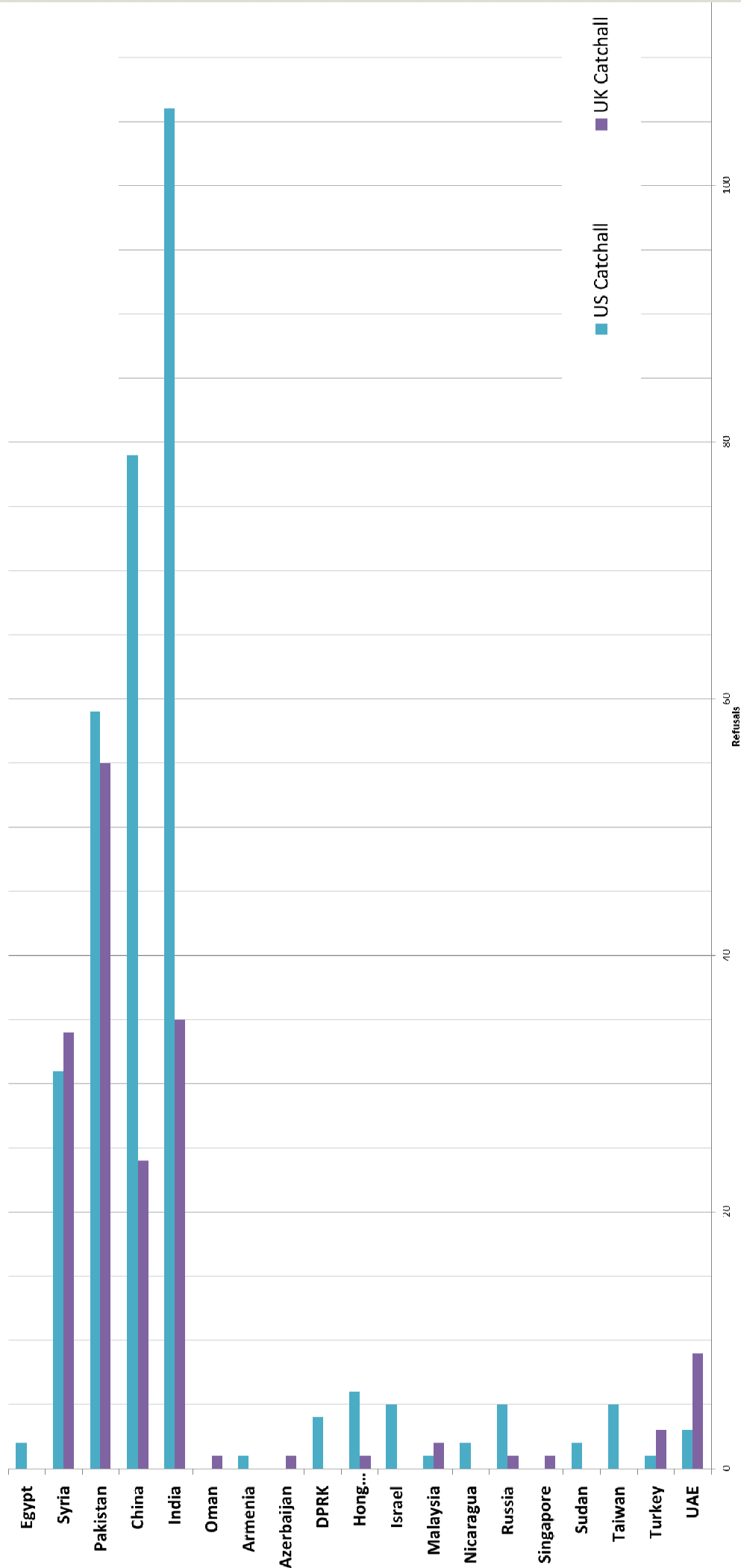
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Introduction

- HISTORY OF UK END USE CONTROL
- LESSONS FOR GOVERNMENT
- LESSONS FOR EXPORTERS
- WHAT HAS IT ACHIEVED?
- INFORMATION SHARING
- CHALLENGES

UK & US catchall refusals

Note 1: Unilateral and catchall controls combined
 Note2: Iran has been excluded from this chart
 UK: 392 Refusals
 US: 7



KEY POINTS

- **EXPORT CONTROLS ARE PROACTIVE TOOL – THEY DETER AND CAN PREVENT**
- **CATCHALL TOOLS ARE REACTIVE – THEY PREVENT**
- **TO BE EFFECTIVE, MUST BE INTELLIGENV LED**
- **PRIVATE SECTOR MUST BE PROACTIVE**
- **GOVERNMENTS MUST EDUCATE AND INFORM**
- **MUST SHARE INFORMATION**

HISTORY OF THE UK'S END USE CONTROL

- UK WAS ONE OF THE FIRST COUNTRIES TO INTRODUCE IT
- ORIGINATES FROM 1980s
- INITIALLY ONLY FOR CW (IRAQ) CONCERNS BUT SOON EXPANDED
- GAVE UK GOVERNMENT POWER TO CONTROL GOODS (CHEMICALS)
- GOVERNMENT ALREADY HAD POWERS TO REFUSE LICENCES, BUT EXTENDED ABILITY TO PREVENT EXPORTS OF NON-LISTED GOODS

EXPORT CONTROL ORDER 2008

‘WMD purposes end-use control supplementing the dual-use Regulation

This article applies where—

(a) a person (“the enquirer”) has grounds for suspecting that dual-use goods, software or technology are or may be intended, in their entirety or in part, for WMD purposes; and

(b) the goods, software or technology in question are not specified in Annex I to the dual-use Regulation.

Subject to article 26, the enquirer shall not—

(a) export the goods in question; or

(b) transfer the software or technology in question by electronic means to a destination outside the customs territory unless, having made all reasonable enquiries as to the proposed use of the goods, software or technology in question, the enquirer is satisfied that they will not be used for WMD purposes. ‘

HOW THE UK END USE CONTROL WORKS

- THE EXPORTER NEEDS TO 'SUSPECT' OR HAVE BEEN 'INFORMED'
- IN PRACTICE, EXPORTERS RARELY KNOW AND ONLY OCCASIONALLY SUSPECT.
- IT CAN'T (AND SHOULDN'T) CATCH EVERYTHING.
- BORDER ENFORCEMENT – CUSTOMS OFFICERS SCREENING SHIPMENTS
- EXPORTERS MAKING THEIR OWN CHECKS
- TRANSPARENCY OF LICENSING SYSTEM – PUBLISHING INFORMATION

LESSONS FOR GOVERNMENT

- SUCCESSFUL REACTIVE MEASURE TO FRUSTRATION UNDESIRABLE EXPORTS
- KEY TO SUCCESS WAS EFFECTIVE ENFORCEMENT AT BORDERS
- AND HAVING INFORMATION TO INFORM DECISION-MAKING
- AND THROUGH EXPORT CONTROL REGIMES
- BUT AN UNLEVEL PLAYING FIELD FOR UK EXPORTERS
- RESULTS IN LICENCE REFUSALS AND APPEALS
- NEED TO GIVE ADVICE TO EXPORTERS ABOUT END USERS – SEE ALPHA WEBSITE (WWW.ACSSS.INFO)
- MORE RESOURCES WERE NEEDED TO DO ALL OF THIS

LESSONS FOR EXPORTERS

- MANY ONLY LEARNT THE HARD WAY. SOME LOST MONEY.
- MORE LICENCE APPLICATIONS = DELAYS
- MUST CONDUCT DUE DILLIGENE – REQUIRES TRAINING AND INFORMATION
- USE AVAILABLE END USER CHECKING SERVICES

HOW THE END USE CONTROL IS USED TODAY

TYPICALLY...

- SUPPLMENTS SANCTIONS RESOLUTIONS
- RESTRICTS EXPORTS TO COUNTRIES WITH NUCLEAR, CHEMICAL, BIOLOGICAL AND RELATED DELIVERY SYSTEMS
- PREVENTS TRADE THROUGH THIRD COUNTRIES ONLY WHEN SPECIFIC INTELLIGENCE EXISTS... (LIKE INTRADICTIONS)

WHAT HAS IT ACHIEVED?

- SOME UNDESIRABLE EXPORTS FROM THE UK HAVE BEEN STOPPED
- PERHAPS ALSO SOME LEGITIMATE EXPORTS
- PROLIFERATORS HAVE BEEN FRUSTRATED AND FORCED TO GO ELSEWHERE
- MUCH GREATER AWARENESS OF WMD IN UK AND OVERSEAS
- EXPORTERS ARE NOW MUCH MORE ALERT
- BUT SO ARE END USERS...

UK-INDIA NUCEAR COOPERATION

INFORMATION SHARING

- ALL COUNTRIES RELIANT ON IMPORTED TECHNOLOGY FOR NUCLEAR AND MISSILE PROGRAMS TO SOME EXTENT
 - OVERT (STATE-AUTHORISED) PROLIFRATION LARGELY STOPPED
 - CLANDESTINED TRADE SUSTAINS PROGRAMS OF CONCERN
 - SPOTTING ILLICIT TRADE IS HARD (INTELLIGENCE) BUT:
 - CAN FRUSTRATE PROCUREMENT
 - CAN PROVIDE INSIGHTS INTO PROLIFERATION ATTEMPTS
 - INFORMATION SHARING KEY AS THOSE WHO COULD KNOW OFTEN CANNOT ACT. (I.E. IAEA DOESNT SEE ILLICIT TRADE)
 - MUST SHARE... EXPORT LICENSING STATISTICS, REFUSALS, ACTIONABLE INTELLIGENCE, PROCUREMENT ATTEMPTS
- CAN CIVIL SOCIETY OR 1540 HELP?

CONCLUSIONS

- END USE CONTROLS ARE USEFUL REACTIVE MEASURE
- TO BE EFFECTIVE, INFORMATION SHARING IS KEY
- CIVIL SOCIETY OR/AND 1540 CAN HELP

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