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The Missile Technology Control Regime in U.S. Nonproliferation Strategy

Remarks

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This paper discusses the role of the Missile Technology Control Regime (MTCR) in U.S. Government nonproliferation strategy, building on a discussion of the MTCR's successes. It covers the role of the MTCR in U.S. Government nonproliferation strategy in two interrelated spheres – the MTCR as a standard for behavior and the MTCR as a forum for nonproliferation coordination.

A) There are three key aspects of the MTCR as a standard for behavior.

The first aspect is the one most commonly thought of: a standard for export behavior, controlling exports of the items on the MTCR Annex according to the rules in the MTCR Guidelines. In this sense of a standard the MTCR has been more successful than its founders could have expected.

- The membership of the Regime expanded from the original seven in 1987 to 34 since 2004.
- A number of other countries are formal adherents to the MTCR, pledging to abide by both the Annex and the Guidelines, to include such countries significant to nonproliferation as India, Israel, and Kazakhstan.
- Even more countries are not formal MTCR adherents but have export control systems that encompass the MTCR Annex and permit decision-making in accordance with the Guidelines. In addition to all members or associated states of the EU that are not already in the MTCR, this includes such economies significant to nonproliferation as Hong Kong, Malaysia, Singapore, Taiwan, and the United Arab Emirates.
- In addition, China has an export control list that is substantially consistent with the MTCR Annex, and has undertaken various bilateral commitments to the U.S. in terms of its missile-related exports.
- Perhaps most surprising of all to the framers of the MTCR would be the de facto globalization of the Annex via UN Security Council Resolution (UNSCR) 1540 of 2004 – which for the first time termed the proliferation of delivery systems for weapons of mass destruction (WMD) a “threat to international peace and security” warranting mandatory action; required all UN Member States to have controls on the proliferation of delivery systems; and implicitly endorsed the MTCR Annex as a component of national control lists.



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In addition to the successes of this quantitative expansion of the reach of MTCR export control standards, there has been an impressive series of successes in the qualitative expansion of these export control standards over the years, such as:

- expanding the scope of the MTCR Guidelines in 1993 to cover delivery systems for chemical and biological weapons in addition to the nuclear weapons that were the Guidelines' original 1987 focus;
- making terrorism an explicit focus of the Regime in 2002;
- adding a requirement in 2003 for catch-all controls (a legal basis to control the export of any item, whether or not on the Annex, if destined for use in WMD delivery); and
- clarifying that MTCR controls apply to exports of controlled technology in intangible as well as tangible form.

The second aspect of the MTCR as a standard for behavior is the substantial success the United States has had in positing the MTCR Category I range/payload capability standard – the capability to deliver a payload of at least 500 kg to a range of at least 300 km – as a generalized standard for missile possession.

- Decisions by Argentina, Brazil, Libya, South Africa, Ukraine, and many former Warsaw Pact countries to forgo or eliminate various types of Category I systems are concrete examples.

The third and final aspect in which the MTCR has served as a standard for behavior is as a standard for the application of three nonproliferation tools beyond export controls.

- First, the Category I range/payload parameters and/or the list of items on the MTCR Annex are peg-points for the application of nonproliferation sanctions that punish, deter, and complicate proliferation:
 - both sanctions under U.S. law (such as under the Fiscal Year 1991 National Defense Authorization Act “missile sanctions law” amendments to the Export Administration Act and Arms Export Control Act, and the Iran/North Korea/Syria Nonproliferation Act); and
 - UN Security Council sanctions (where exporting Annex items is banned to Iran under UNSCRs 1737 and 1929, and to North Korea under UNSCR 1718 – in the process providing another reason why all UN Member States need export control systems incorporating the MTCR Annex).
- Second, the MTCR serves as a standard for the application of the tool of interdiction. The MTCR's multilateral agreement that Category I systems are inherently capable of delivering WMD, that items on the MTCR Annex are of particular utility for missile use, and that unlisted items destined for Category I programs should be controlled all make it easier to get cooperation from other countries – and not just MTCR-member countries – in investigating suspect shipments and interdicting them.
- Third, the MTCR serves as a standard for applying the nonproliferation tool of engagement.
 - The MTCR Annex is a built-in part of the “export control systems meeting international standards” that the U.S. Export Control and Related Border Security (EXBS) program is working with 60 other countries to enact, implement, and



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enforce – as well as in the equivalent efforts of Australia, the EU Japan, and others.

- State’s Nonproliferation and Disarmament Fund provided technical and financial assistance for most of the MTCR Category I missile elimination activities alluded to above.
- And the International Science and Technology Center in Moscow and the Science and Technology Center in Ukraine have engaged with scientists and technicians that used to work on Category I programs to give those experts civil, non-missile work at home to lessen their potential economic incentive to go work for proliferation programs.

B) There are three key aspects of the MTCR’s role as a forum for international cooperation.

First, and perhaps the most obvious such role, is as a forum for the evolution and strengthening of the MTCR itself.

- All of the expansions of the membership and scope of the Regime outlined above, and all of the changes there have been to the MTCR Annex, required consensus decisions by all of the then-current members of the Regime.
- And as noted above, the changes in the Regime have had broad knock-on effects for the export activities of members and non-members, and for the application of a range of other nonproliferation tools.

Second, the Regime is a forum that promotes more intensive and extensive implementation of the members’ own MTCR commitments. In addition to updating the MTCR Guidelines and Annex that the Regime encourages all countries to follow, there is a great deal of confidential, internal information-exchange and consultation among MTCR members. This ranges from:

- the exchange of denial notifications and the maintenance of the “no-undercut” policy that dissuades proliferators from “shopping around” the membership until they finally get an export license;
- information-sharing on proliferation programs and front companies;
- illumination of emerging technologies;
- sharing experiences on proliferant procurement techniques and best practices in thwarting them.

Taken together, this consultation and sharing of information and best practices has gone a long way toward walling MTCR members off as a significant source of Annex-item technology for proliferation programs.

Third, and finally, the MTCR serves as a forum for broader coordination of missile nonproliferation policy among its members. As a relatively small and like-minded group, the MTCR is the place where the most committed countries work together to put more pressure on the proliferators – not just in areas related to exports or export controls, but in a variety of ways that try to dissuade other countries from retaining or acquiring missiles and/or from helping others to do so.



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Conclusion: U.S. nonproliferation strategy and the MTCR have:

- directly reduced the number of countries possessing missiles capable of delivering WMD, the global inventory of such missiles, and the number of countries interested in acquiring such missiles;
- significantly reduced the availability to proliferators of the most and best missile technology;
- dissuaded others from getting into the Category I missile business; and
- made it more difficult, time-consuming, and costly to pursue Category I programs for the relatively limited number of non-MTCR countries that seek to stay in or enter that business.