



The Missile Technology Control Regime: Successful international co-operation, with limits

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Statement by the MTCR Chair, Ambassador Piet de Klerk

Good afternoon. I am happy to be here and I want to thank our Japanese hosts for inviting me. The Asian Export Control Seminar has a great reputation. Much good has come from it over the years, and that no doubt will continue.

I started my career with nuclear export control responsibilities, then moved on, but came back to it as the chair of the Nuclear Suppliers Group (2011/2012) and to some extent in 2013/2014 as the lead Sherpa preparing the Nuclear Security Summit in The Hague.

Now, I am here as the chair of the Missile Technology Control Regime (MTCR). I am the chair since last year's Plenary in October in Rotterdam, where I took over the gavel from my predecessor, Ambassador Roald Naess of Norway, who was here last year. Endorsed by the governments of Luxembourg and the Netherlands, I will remain the chair of the MTCR until next October, when this responsibility will be transferred to my Korean colleague, Ambassador Ham.

So, as chairman of the MTCR, it is my pleasure to present to you the work of this regime, its successes and also its limitations. One of my key messages is that the MTCR does important work, especially in light of worrisome developments in the global security environment, be it in the Middle East, where the collapse of state structures has allowed the unchecked proliferation of conventional weapons, including their means of delivery; or in East Asia, where one state in particular continues to violate international norms. These developments continue to pose serious threats to international peace and security.

The MTCR aims to prevent proliferation of unmanned delivery systems (missiles or unmanned aircraft) capable of delivering weapons of mass destruction, by seeking to coordinate national export licensing efforts.

The pillars of the MTCR are a set of common export policy *guidelines* and a *common list* of controlled items known as the Technical Annex. In following the Guidelines MTCR Members should exercise restraint in exporting goods, software and technology in the Annex. This applies in particular to items in Category I of the Annex where there is a presumption of denial as regards export of such items.

The *implementation* of these pillars, however, is a national discretion, in accordance with a country's legislation and practice. The MTCR does not take export-licensing decisions as a group. That would infringe on national sovereignty, and it would also not be very practical.

The Regime was established in 1987 by the G7, the group of world's most industrialized countries (Canada, France, Germany, Italy, Japan, the United Kingdom and the United States) to stem the further spread of missile technology. At that time a number of countries were developing their missile capabilities, primarily in the Middle East, South Asia and the Far East.

Initially the MTCR looked only at missiles as delivery vehicles for *nuclear weapons*. This is also where threshold of a 500 kg payload over a range of 300 km stems from. These parameters were agreed among the initial members to be the minimum capacities of a representative nuclear-



capable ballistic missile. In 1992 it was decided to enlarge the scope to not only missiles but *all* unmanned delivery vehicles, for *all* weapons of mass destruction, including chemical and biological weapons.

Over the years the MTCR has expanded. Since 2004 it has 34 Members. Since 2014 the regime also has a category of adherents. Membership requires unanimity in the group, adherence is a unilateral decision of a country to accept the MTCR Guidelines and to implement the MTCR Annex – including future changes - in its regulations.

The MTCR is one of four export control regimes. You have heard my colleagues. Whereas the Australia Group and the Nuclear Suppliers Group both aim at curbing the non-proliferation of WMD, the MTCR aims specifically at non-proliferation of their *means of delivery*. Although the Wassenaar Arrangement has a different scope by focusing on transfers of conventional arms and dual-use goods and technologies, it has some themes of interest in common with the MTCR in the field of aerospace technology, such as propulsion, materials and production technology.

A special role is being played by HCoC, the The Hague Code of Conduct against Ballistic Missile Proliferation. HCoC, launched in 2002 after the MTCR Plenaries in Helsinki and Ottawa in 2000 and 2001 had worked on a draft code, is a relative new instrument in international efforts to prevent and curb the proliferation of ballistic missile systems capable of delivering weapons of mass destruction. It is complementary to the MTCR: whereas MTCR has common export policy guidelines applied to an integral list of controlled items, HCoC members commit themselves to notify others on launches and test flights of ballistic missile and space launch vehicles. States also commit to subscribe to principles that include submitting an annual declaration of their country's policies on ballistic missiles and space launch vehicles.

To some extent all of this is underpinned by UNSCR 1540, which requires all UN Member States to develop and enforce appropriate legal and regulatory measures against the proliferation of chemical, biological, radiological, and nuclear weapons and their means of delivery. This resolution was adopted to prevent the spread of weapons of mass destruction to non-state actors, but that is rather immaterial for the export control system every state should have.

The MTCR has functioned well in the decades since its inception. It has managed to thwart the missile programmes in more than a handful of states. It has also managed to slow down developments in a number of countries of concern. In particular it can be noted that developments in the DPRK and Iran have gone slower than in other cases.

Being the only instrument in the international effort to curb the proliferation of means of delivery for WMD, the MTCR considers itself as the international benchmark for export control in this field. The MTCR Guidelines and control list are without doubt best practices for controlling exports of missile-related items and technologies, and these standards are increasingly adhered to by non-members as well as used as reference in some United Nation Security Council resolutions.

To remain the international benchmark requires steady cooperation between MTCR members, both on a policy level and within its three expert groups. As regards the first, members gather once a year for their annual meeting to discuss a range of issues, including membership, adherence and outreach to non-members, and normally a second time in a slightly different format. As regards the latter, within the *Information Exchange Meeting* members share information on topics such as technological and regional developments, procurement, brokering and transshipment. The *Technical Experts Meeting* ensures that the Annex is kept up to date and connected with relevant technological developments. The third group is the *Licensing and Enforcement Experts Meeting*, where members share information and best practices on licensing and enforcement.



It is only fair to say that the regime for preventing missile proliferation has its limits. Just like similar non-proliferation efforts, MTCR cooperation can usually not *stop* programmes of concern on its own – especially when states are bent on acquiring the technology and have the right combination of political skills and the financial means to continue their programmes. But it can contribute by slowing down development of such programmes, increasing their cost, and reducing their effectiveness.

Secondly, there is an important difference between non-proliferation of weapons of mass destruction as compared to their means of delivery: there is no underlying treaty and no supporting organisation. There is no “Ballistic missile & UAV Non-proliferation Treaty”, no “Organisation for the Prohibition of Ballistic Missiles & UAVs”. The MTCR has no formal Secretariat; the French Foreign Ministry serves as a - much appreciated - Point of Contact.

There may be different views on why there is no underlying treaty, and I will not get into this question, but let me just point to a few complicating factors. Complication number one is that the MTCR's concern is not unmanned delivery vehicles as such, but such vehicles in relation to weapons of mass destruction. To see why this is a limiting factor, consider the fact that shorter range missiles for WMD delivery are similar to missiles delivering conventional explosives.

A further complicating factor is that longer range ballistic missiles are closely related to space launch vehicles to be used in space programmes. Both require powerful rocket engines running on advanced propellants, use multiple stages in order to achieve high velocities, and have a need for advanced re-entry technology in order to bring payloads safely and in one piece back into the earth's atmosphere. Combining MTCR's goals not to impede technological advancement and development including space programmes on the one hand, and preventing exports that contribute to the development of delivery systems for WMD on the other, can give rise to tensions. Granting export licenses for dual use items become easier, as the exporting country has more information about and confidence in MTCR-relevant (space) programmes in the receiving state. Therefore outreach to countries with such programmes is important in order to establish a dialogue on *responsible export* on the one hand, and *responsible use of strategic goods* on the other. In this respect a robust export control system in the receiving country, which can be relied upon by an exporting country, is paramount in order to mitigate any risk of diversion to third parties.

What are challenges the regime is faced with?

MTCR's activities have historically focused on ballistic missiles, and the MTCR indeed has had the greatest impact on slowing down ballistic missile programmes. Now that an increasing number of programmes worldwide are branching out into land-attack cruise missiles, we may ask ourselves whether we have the balance right. While their precision makes such cruise missiles a very effective conventional weapon, that quality does not rule out an effective WMD role, for example the delivery of biological weapons. As regards other UAVs, the MTCR has recognized the importance of these systems for WMD delivery for a long time. Yet, developments such as the maturing of UAVs into capable combat systems open up new possibilities for the use of these systems. This will provide new challenges as well.

It also has been recognized for a number of years that Intangible Technology Transfer provides challenges to the Regime from both a human and a technological perspective. These will grow rather than decline in our interconnected world in which the ability of national administrations to control the flow of information is limited. To put it simply: MTCR relevant technology or software can be transferred internationally with a click of a mouse, data can be stored in the cloud, and every student with enough money and brains can study in the country of his choice. We have formulated some answers, but those do not solve the problems completely.



In the end, export control decisions are national decisions. All MTCR Members weigh the different factors involved and seek the right balance between national economic and global security interests. Everyone involved in export control can tell you that finding that balance, often in a politically charged environment, can be very difficult. Freedom to make national decisions is politically necessary, but at the same time the regime needs to be strong enough to create a level playing field.

During our plenary meeting in Rotterdam last October we discussed these challenges to the regime. We also discussed proliferation concerns in different regions, in particular in the DPRK and Iran, noting of course the changing situation with regard to Iran. We agreed on the importance of brokering and transit of listed goods. We agreed on a number of changes in the Technical Annex. We welcomed the first formal MTCR adherents. And above all we called on all states to exercise extreme vigilance to prevent the transfer of goods and technology which can contribute to WMD programmes.

So, in conclusion let me assure you that the MTCR is a *transparent* regime. The Guidelines and the Technical Annex are public documents. We have an Outreach programme, not only for interested states but also for broader audiences like this seminar. In addition, the Chair and the MTCR Point of Contact are always open for questions. And, yes, we will hopefully have a revamped website soon.

The MTCR is also an *open* regime in the sense that every state can become a member or an adherent. As I said, the first requiring a consensus decision, the second being a unilateral decision.

The MTCR has developed and maintained over time an international benchmark that can be used by every state trying to implement - as it should - UNSC resolution 1540. In that light we have offered the 1540 Committee in New York our assistance. To have clear and strict regulations, harmonized regulations for export control in the MTCR area which create a level playing field, is important for and in the interest of states and companies alike.

Thank you for your attention.