

REMARKS FOR CNS-ACA MTCR 30th YEAR EVENT

February 15, 2018 – AS DELIVERED

Introduction

Let me begin by thanking Sandy and CNS, and Daryl and ACA, for hosting this meeting. The world of nonproliferation can be very nuclear-focused, and so I appreciate them making some space for a consideration of missile nonproliferation and its centerpiece, the Missile Technology Control Regime (MTCR). Even if you do not come to agree with me that “missiles are best,” I hope this event has increased your appreciation of the importance of missile nonproliferation and the MTCR – both in their own right and in their interaction with nuclear and WMD nonproliferation more broadly.

I also am grateful for the opportunity to deliver this keynote address. Having been integrally involved with the MTCR and U.S. missile nonproliferation policy for some 22 years, and with intelligence on foreign missile forces for another ten years, I think I am in a good position to offer some insights to augment those of: Ambassador de Klerk, Tom Countryman, and the panel of Dick Speier, Mike Elleman, and Rachel Stohl.

In light of the 30th Anniversary of the MTCR, I intend to focus on three topics:

- key accomplishments of the Regime after its first 30 years;
- key challenges the MTCR faces going into its next 30 years; and
- some suggestions for how the Regime can navigate those challenges.

Key Accomplishments of the MTCR

At a high level of aggregation, I would flag four key accomplishments of the MTCR over these 30 years.

The **first** is the impressive series of qualitative expansions in MTCR controls over the years to keep pace with changes in technology, missile programs of concern, and proliferant procurement practices. These include:

- expanding the scope of the Guidelines in 1993 to cover delivery systems for chemical and biological weapons (CBW) as well as the original nuclear weapons;
- making terrorism an explicit focus of the Regime in 2002;

- adding a requirement in 2003 for catch-all controls on non-Annex items destined for use in WMD delivery;
- clarifying that MTCR controls apply to exports of controlled technology in intangible as well as tangible form; and
- myriad changes over the years in the MTCR Annex to expand and clarify the items under export control.

The **second** of these four key accomplishments is the outstanding success of the MTCR in becoming a global standard for export behavior, thus quantitatively expanding the reach of export controls according to MTCR rules. For example:

- The membership of the Regime expanded from the original 7 in 1987 to 34 since 2004 (including non-westerners Argentina, Brazil, South Africa, and Russia), and after a long dry spell to 35 with the addition of India in 2016.
- A number of other countries have pledged to varying degrees to abide by the Annex and the Guidelines, to include Israel and Kazakhstan.
- Even more economies may not be MTCR adherents, but have export control systems that encompass the Annex and permit decisions 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 Hong Kong, Malaysia, Pakistan, Singapore, Taiwan, and the United Arab Emirates.
- China has an export control list that is substantially tangent with the MTCR Annex, and has undertaken various bilateral commitments to the U.S. on its missile-related exports.
- And the MTCR Annex has effectively been globalized via UN Security Council Resolutions (UNSCRs). UNSCR 1540 for the first time deemed the proliferation of WMD delivery systems 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. Security Council sanctions on North Korea and Iran, which ban or require Council approval for

all exports of Annex items to these countries, provide another reason why all UN Member States need export control systems incorporating the Annex.

The **third** accomplishment is how the MTCR has been strengthened as a forum for international cooperation, both internally and externally.

Internally, in addition to the 30 years of cooperation that expanded the MTCR's controls and membership, the Regime has steadily increased its efforts to promote more intensive and extensive implementation of the members' own MTCR commitments.

Beyond changing the public rules that the Regime tries to persuade all countries to follow, there has become a great deal of confidential, internal rule-setting, information-exchange, and consultation within the MTCR, ranging 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;
- to intelligence-sharing on proliferation programs and front companies;
- to illumination of emerging technologies;
- to sharing experiences on proliferant procurement techniques and best practices in thwarting them.

Externally, the MTCR's Chairs have led formal outreach to some 20 non-Partner governments and about a dozen UN and other international organizations. This has helped build non-members' awareness of the missile proliferation threat, and of the role of export controls and the MTCR; offered the Regime's assistance in export control and UN sanctions implementation; and established patterns of cooperation useful in interdictions. Indeed, 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 bilateral cooperation from other countries in investigating and interdicting numerous shipments of equipment and technology intended for proliferant missile programs.

The **fourth** and final key accomplishment is the expansion of the MTCR's activities beyond just export controls, making it a full-fledged nonproliferation regime – not just an export control regime. This includes aspects of MTCR countries' joint and coordinated outreach to non-members, as well as a steady increase in the Regime's internal consideration of interdiction, sanctions implementation, visa screening, and other non-export-control topics.

Most important, the MTCR now is being used 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 “good guys” work together to put more pressure on the “bad guys” – not just in areas related to exports or export controls, but in a variety of ways that try to dissuade other countries from retaining missiles, acquiring missiles, and helping others to do so. These include:

- occasional public diplomacy measures such as the mention of Iran and North Korea in MTCR Plenary press releases;
- steps that Partners agree to take on a national basis against specific programs, entities, or phenomena; and
- substantial success in establishing the MTCR Category I range/payload capability parameters as a generalized standard for what kind of missile possession is problematic.

Key Challenges Ahead – And Steps to Address Them

Taken together, I think these four key accomplishments over the past 30 years 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, that have:

- directly reduced the number of countries possessing missiles capable of delivering WMD and the number of such missiles – to include in Argentina, Libya, South Africa, Ukraine, and the former Warsaw Pact countries;
- dissuaded yet other countries from getting into the Category I missile business;
- made it more difficult, time-consuming, and costly to pursue Category I programs for the relatively limited number of non-MTCR countries that still seek to stay in or enter that business; and
- significantly reduced the availability to these countries of the most and best missile technology, particularly by largely walling MTCR members off as a significant source of Annex-item technology for proliferation programs.

But these impressive results still leave us some big challenges, of which I will flag three: (1) major missile proliferation threats from North Korea and Iran, (2) the

disturbing availability of materials and components from entities in China, and (3) the evolution in missile and military technology. I will now spend a few minutes discussing each of these three issues, and whether and how the MTCR can help mitigate them.

Concerning North Korea and Iran, the MTCR needs to continue to implement its technology controls and conduct policy coordination to further impede these programs. Although we are all rightly concerned about the advances in these two missile programs, especially North Korea's, we need to keep in mind that those advances would have been faster and even worse without the efforts of the Regime – and can still get even worse, even faster, if the Regime does not continue its energetic efforts. And we also need to recognize that the MTCR is only one part of addressing what are now mature, well-established, and substantially indigenized missile programs, that North Korea and Iran see as integral to their national objectives. Military deterrence measures, missile defenses, and more disruptive financial and other sanctions against those who supply and do business with these missile programs will need to carry more of the load, building on the standards, policy coordination, international outreach, and technology impedance of the MTCR.

The relatively easy availability to proliferators of equipment and technology from and through **Chinese entities** has been a key enabler of quantitative and qualitative growth in the North Korean, Iranian, and other missile – and WMD – programs. This challenge is a hardy perennial that I have spent most of my career trying to mitigate, both directly with the PRC government and indirectly via sanctions and other nonproliferation measures. Although the situation has in fact gotten better from where it started – we essentially no longer see the Chinese government selling full-up Category I systems or their production facilities, for example – it is still manifestly clear that China is not devoting the priority, resources, or effort needed to substantially restrict proliferators' access to important Chinese-origin missile-usable materials, components, and equipment below the system level. The MTCR can help address this problem on the margins by continuing to:

- set and maintain clear standards of missile-related export control for China to understand and emulate;
- engage in dialogue with China (where Beijing is prepared to accept it) to improve China's understanding of export control implementation;
- provide implementation capacity-building assistance when possible, and
- impede unauthorized technology flows from MTCR members to China that might find their way to North Korea and Iran.

Based on my experience, the prospect of MTCR membership for China if it can show it is following the rules – and both the Regime and missile nonproliferation would be undermined if China joined on any other basis – has not been a sufficient incentive to get China to make the needed improvements. Instead, incentivizing the Chinese leadership to put resources and priority behind thwarting proliferant procurement – to the extent it is possible – would require measures that go well beyond the ambit of the MTCR regime itself. Rather, the United States and other key countries would need to:

- prioritize nonproliferation over other aspects of their bilateral relations with China,
- make clear to Beijing that not getting proliferant procurement under much better control would have consequences for other aspects of those relationships, and
- publically expose and meaningfully sanction those Chinese entities doing business with proliferant missile programs.

Finally, let me address **technological challenges to the MTCR**. We have rightfully heard a great deal about things like intangible technology transfers and additive manufacturing. Rather than discuss these kinds of discrete technologies, which are being actively considered in the MTCR, I want to comment on what I see as a broader challenge to the business of missile nonproliferation: the increasing role in conventional military operations of MTCR Category I systems.

We are, of course, dealing with this right now in the context of non-cruise-missile “UAVs,” where many advocate loosening MTCR controls because they are increasingly taking on the missions of manned aircraft (which the MTCR explicitly does not cover) and supposedly are far removed from WMD delivery. Unlike the other two challenges I have discussed, addressing this challenge is squarely in the MTCR’s ambit. But the Regime’s ability to do so is directly affected by the varying interests and perspectives of the individual Partner countries, which must be reconciled to arrive at the consensus decision needed to change MTCR rules if they are going to be changed.

Fortunately, the Regime has shown it can do this when needed, such as in the series of Guidelines and Annex changes made to “extend the Guidelines” to cover CBW, as well as nuclear, delivery vehicles, and even in what I believe was the proper rejection of what I think was a premature and unnecessary U.S. proposal over a decade ago to redefine certain non-cruise-missile UAVs out of Cat. I. Obviously, with over ten years having passed since then, the situation regarding such UAVs is different now, although the need for changes right now remains

debatable. Regardless of the merits of the case, however, the requirement for consensus within the Regime remains. As frustrating as consensus can be, it helps ensure that any changes are thoroughly considered and have the lowest possible risk of unintended consequences.

One such unintended consequence, that needs to be considered very carefully in any solution to the non-cruise-missile UAV issue, is: the increasing role in conventional military operations of ballistic missile and cruise missile systems exceeding MTCR parameters. (I intend to discuss this issue, rather than suggesting my own point solution to the non-cruise-missile UAV issue.)

China has been a leader in creatively using large numbers of MTCR-class ballistic missiles, with different guidance and warhead subsystems, to address various problems of conventional warfare commonly assigned to manned aircraft. Iran seems also to have embarked along that road, and North Korea is unlikely to be far behind. China also is deploying Category I conventional land-attack cruise missiles for such missions as well, and Iran is developing them. It is a realistic prospect that others will come to see the conventional military utility of such Category I systems, opening up the possibility of an export market for existing producers, and perhaps even of additional countries seeking to develop their own systems.

While current MTCR controls are adequate in principle to deal with the threat that proliferation of these systems pose to U.S. security – their export is subject to a strong presumption of denial, regardless of the actual or intended payload type – the advent of a legitimate and substantial conventional military role for certain Category I ballistic and cruise missile systems, including for U.S. allies and countries posing no realistic threat of WMD possession or development, may begin over time to put pressure on the controls of a Regime focused on WMD delivery that excludes manned aircraft. Any changes made to MTCR Category I controls on non-cruise-missile UAVs, will have implications, if not set precedents, for how “conventionally-armed” Category I ballistic and cruise missiles will be treated. This needs to be factored in to any MTCR consideration of changes in controls on non-cruise-missile UAVs.

Conclusion

In conclusion, thank you all for listening to my sense of the key achievements of the MTCR’s first 30 years, and some of its key challenges looking ahead. Just as it is clear that the Regime has made important contributions to U.S. and international security, it also is apparent that the MTCR will continue to be needed to help

address the evolving threat of missile proliferation – although the Regime is not and has never been a panacea.