

Making 1540 Work

Achieving Universal Compliance with Nonproliferation Export Control Standards

By **MATTHEW FUHRMANN**

It is no secret that proliferation of weapons of mass destruction (WMD) and related components, particularly the prospect of dangerous weaponry ending up in the hands of terrorists, is one of the United States' chief foreign policy concerns. This fear is legitimized by evidence suggesting that terrorist organizations are attempting to acquire and use nuclear, chemical, and biological weapons. With the September 11, 2001, terrorist attacks still fresh in their minds, policymakers in Washington are devising strategies to prevent hostile organizations from acquiring these perilous weapons.

Much of this effort involves developing effective nonproliferation export control systems that encompass the regulations, practices, and processes used in transferring military or dual-use goods, technologies, or services. Although an integral tool in the fight against proliferation, export control systems are not particularly easy to develop and require substantial resources and technical expertise to sustain. To be truly effective, nonproliferation export controls must be implemented globally. Otherwise, a state wishing to acquire sensitive dual-use technologies merely has to shop around to find a supplier with weak or nonexistent controls.

Cognizant of these challenges, Washington has worked to strengthen export controls in countries around the world. Speaking at the United Nations (UN) General Assembly on September 23, 2003, President Bush called on all nations to develop and implement strict export controls and proclaimed that "the United States stands ready to help any nation draft these new laws, and to assist in their enforcement."¹ Following these remarks, the United States began drafting United Nations Security Council Resolution (UNSCR) 1540, which criminalizes proliferation by requiring all nations to develop and

enforce export control systems and seals the gaps in current nonproliferation arrangements, which do not account for non-state actors (e.g., terrorist groups).² After some diplomatic bargaining, UNSCR 1540 passed with unanimous approval on April 28, 2004.³

UNSCR 1540 includes some innovative and ambitious mandates. Noteworthy are operative paragraph 3, which calls on all states to take and enforce "effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or their means of delivery," and operative paragraph 7, which obliges countries with resources and knowledge of export control to offer assistance to those in need. These requirements signify an unprecedented attempt to promote the internationalization of norms relating to trade in WMD.⁴ Prior to the passage of this resolution, the "universal standard" for export controls was shared amongst the multilateral export control arrangements (MECAs)—the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group (NSG), the Wassenaar Arrangement (WA), and the Australia Group (AG). The guidelines of these arrangements have limited normative pull because they are closed-membership organizations.⁵

Compliance with UNSCR 1540 will likely vary significantly from country to country. This article attempts to elucidate the forces that will impact compliance with the resolution and identify when and how resource-rich states should extend export control related assistance. To do so, it traces the process of export control development in two countries that achieved significant progress building an export control system in the 1990s: India and Russia. By highlighting the driving forces of progress in these two countries, this article seeks to uncover the most effective means to promote compliance with UNSCR 1540 in places where current

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controls are largely absent, such as the Middle East, Southeast Asia, and Latin America.

This article proceeds by identifying the standards for a comprehensive nonproliferation export control system. The following section presents a framework to allow for a better understanding of the determinants of export control development. Next, the article summarizes the current state of compliance and identifies the driving forces behind this progress in India and post-Cold War Russia. The article concludes by generalizing from these two cases to identify strategies to promote compliance with UNSCR 1540.

COMPREHENSIVE NONPROLIFERATION EXPORT CONTROLS

A comprehensive nonproliferation export control system includes four components: (1) effective licensing procedures, (2) border security and enforcement, (3) collaboration between government and industry, and (4) international cooperation.⁶ This section summarizes the requirements of these four areas, thus identifying the standards countries will have to meet to fully comply with UNSCR 1540.⁷

Licensing

An effective nonproliferation export control system must license or approve the export, re-export, transit, and transshipment of proliferation-sensitive commodities. Here, sensitive goods refer to munitions and dual-use technologies—goods that can be used in both commercial and military applications.⁸ To effectively license these commodities, governments must:

- Issue licenses on the basis of a national control list that includes all goods subject to control for nonproliferation purposes;
- Review license applications among an interagency committee to evaluate the proliferation risk of the export;
- License goods and knowledge based on the “catchall” concept, which allows governments to restrict exports that do not appear on the national control list if there is reason to believe that they may threaten the supplier state’s security;
- Control intangible exports—technical data or knowledge transferred through interpersonal exchanges—relating to dual-use commodities or munitions;
- Control deemed exports—knowledge or goods transferred to a foreign national if

a license would be required to export the knowledge or good to the foreign national’s home country—relating to dual-use commodities or munitions; and

- License the brokering of commercial activity involving sensitive dual-use items or munitions.

Enforcement

For an export control system to be effective, frontline personnel must enforce regulations at border crossings and governments must punish those who intentionally or inadvertently circumvent the system. Sound enforcement of export control regulations provides a second line of defense in the event that entities export proliferation-sensitive commodities without obtaining required licenses. Additionally, it deters entities from committing violations in the first place. Robust enforcement requires significant training, resources, and due diligence among government personnel. Consequently, very few countries are able or willing to sustain an effective system for export control enforcement. To maintain a comprehensive enforcement system, government personnel must:

- Screen license applications at all border crossings, airports, and seaports in the country;
- Search cargo leaving the country—whether it is classified as an export, transit, or transshipment—for proliferation sensitive commodities and seize or detain it if necessary;
- Conduct end-use verification checks to ensure that exported dual-use commodities or munitions are exported to the purported end user and not illegally diverted to a third party;
- Investigate, prosecute, and levy penalties for violations of nonproliferation export control regulations;
- Require economic agents to keep records on proliferation-sensitive exports and provide them to enforcement personnel on request; and
- Employ a risk management system to target suspicious cargo that may be illegally transporting proliferation-relevant commodities.

Government–Industry Cooperation

Although governments play a large role in the export control process, industry ultimately supplies proliferation-relevant goods in most cases. Thus, effective export control systems include cooperation, training, and outreach between industry and government such that the

former entities are aware of their obligations as exporters. Obviously, government–industry cooperation is less important if there are no suppliers of dual-use technology or munitions in the country. Assuming that suppliers are present, governments must:

- Provide assistance to industry on compliance with national nonproliferation export control regulations;
- Publish national export control laws, regulations, and procedures so that economic agents are able to identify their obligations;
- Require exporters of proliferation-relevant commodities to institute internal compliance programs (ICPs), which allocate personnel and resources to maintain conformity with export control regulations; and
- Provide industry with incentives for voluntarily disclosing violations should they occur.

International Cooperation

Given the abundance of suppliers of sensitive technology in the world, effective export control systems must link strong domestic controls with international nonproliferation efforts. Multilateral or international policy harmonization fortifies export controls and makes it much more difficult for “countries of concern” or terrorist organizations to acquire WMD-related technology. The four MECAs put forth guidelines for the control of trade in sensitive technologies, including the identification of target entities, the identification of sensitive technologies that should be controlled, the establishment of best practices, the standardization of licensing procedures, and information sharing on end users of concern and denied license application among member states. The MECAs are closed-member institutions, meaning that states can be denied membership. Although everyone cannot formally join these arrangements, nations should adhere to the guidelines of the MECAs if they are striving to institute a comprehensive export control system.

EXPORT CONTROL DEVELOPMENT AND UNSCR 1540

The following case studies will demonstrate that myriad factors motivate states to develop nonproliferation export controls and that considerable effort is required to match the standards outlined above. An explanation of why states achieve these benchmarks requires a distinction between opportunity and willingness

on the part of governments.⁹ States must have the political willingness to impose controls as well as the capability to do so. In short, political commitment to export control is a necessary, but not sufficient, condition for compliance with universal export control standards. Financial resources and expertise must exist to translate political willingness to export control development. Thus, without both components, an effective export control system cannot function. The remainder of this section uses the opportunity–willingness framework to identify the primary determinants of export control development.

The concept of restricting trade to prevent the proliferation of sensitive technologies is counterintuitive to most governments unfamiliar with export control. Governments with little experience in this area often perceive that export control directly conflicts with one of their primary objectives—to augment national wealth by promoting exports and imposing few restrictions. They assume, in short, that restricting trade can only stymie economic growth. In many cases, this perception, whether true or not, stymies a country’s political willingness to impose export controls.

The cases analyzed in this article suggest that a nation’s willingness can be enhanced by two factors, even if it is initially subdued. The first is a country’s political and economic relationships with countries that advocate strong nonproliferation trade controls—particularly the United States, the most prominent champion of export control. States with similar foreign policies and interests are more likely to be “bound by a common set of rules in their relations with one another”¹⁰ and to “see themselves as a ‘we’ bound by certain norms.”¹¹ Additionally, warm relations help “regulate opportunism by foreign governments,” meaning that friendly nations are less likely to cheat or disregard commitments with one another, all other factors being equal.¹² If the United States makes it clear that compliance with universal export control standards is important, allies on good terms with Washington are more likely to comply; doing so reinforces the existing positive relationship and maintains benefits such as defense commitments, strong trade relationships, and other political support.

Under these circumstances, willingness does not have to be externally induced; it emerges from the nature of states’ relationships with one another. It is rarely the case, however, that willingness to institute export controls is provided

solely by preexisting relationships. The United States often has to externally bolster other governments' willingness to comply with export control standards.

Second, incentives or sanctions can bolster states' willingness to maintain robust export controls. Incentives include increased access to high technology, membership in multilateral institutions, and bolstered international legitimacy. The linkage of incentives with export control development can mute potential downsides to compliance with international standards, thus enhancing a country's willingness. On the other side of the coin, states that export sensitive technology to countries of concern because they have not instituted the appropriate controls are likely to be sanctioned by the United States and possibly other enforcers of global export control standards. Past behavior indicates that sanctions or the fear of being sanctioned can induce export control development. The utility of incentives and sanctions suggests that focusing rewards on cooperators and retaliation on defectors and linking issues together in a productive way plays an integral role in promoting export control development.¹³

Opportunity is primarily a function of the resources a state has to devote to export control. Most countries do not have sufficient economic resources and/or export control related expertise and knowledge to institute an export control system. Indeed, noncompliance is "not necessarily . . . the result of deliberate defiance of the legal standard" but may be the result of insufficient resources.¹⁴ In the early stages of development, most of the opportunity to comply is provided by external sources. The United States, which operates the most extensive export control outreach programs in the world, provides training and financial resources through programs such as the State Department's Export Control and Related Border Security (EXBS) Assistance Program. The EXBS Program allocated \$91.16 million from fiscal years 2000 through 2003 to forty-two countries to provide valuable training and equipment to strengthen border security and craft national export control legislation.¹⁵ This assistance directly impacts the available resources a state has at its disposal to develop export controls. The implications of this for compliance with UNSCR 1540 are palpable: even the states most dedicated to export control development will encounter problems in the absence of sufficient funding.

The subsequent narratives illustrate that

although the factors summarized above are not the only determinants of governments' opportunity and willingness to institute universal export controls, they are some of the more prominent factors. The article's final section will demonstrate how the framework summarized above can generate policy recommendations to promote future compliance with UNSCR 1540.

INDIA

Nonproliferation Export Controls in India

Since the May 1998 nuclear tests, India's export control policy has become more sophisticated and is increasingly converging with international standards; a recent assessment indicated that its system is currently 76.8 percent compatible with Western benchmarks.¹⁶ In response to pressure from the United States to adopt a unified export control law, India passed the 2005 Weapons of Mass Destruction and Their Delivery Systems Act, which criminalizes intangible technology transfers and provides "catchall" authority.¹⁷ The most glaring points of nonconvergence remain India's failure to join the export control regimes, which it has historically viewed as discriminatory. Its failure to participate in these arrangements signifies that export control is a function of internal policy consensus rather than international constraints. This, coupled with New Delhi's failure to sign two relevant nonproliferation treaties—the Comprehensive Test-Ban Treaty (CTBT) and the Nuclear Nonproliferation Treaty (NPT)—propagates the fear that India could, in the future, feel free to proliferate beyond its borders. This is not necessarily a legitimate fear, however. On the whole, India's export control record is better than Russia's and China's, both signatories to the NPT.¹⁸ India's response to recent failures of its export control system has reaffirmed its dedication to compliance.¹⁹

The Path to Indian Export Control Development

The quest for international recognition has been a motivating factor for India's nonproliferation policies since the country's first nuclear test in 1974, which reportedly "emboldened Indian leaders to deal with other powers as self-perceived equals."²⁰ Indeed, New Delhi strives to be perceived as an equal to the other nuclear states and receive the benefits and recognition that stems from such status, such as permanent membership on the UN Security Council. It routinely cites its strong commitment to nonpro-

liferation, especially export control, as evidence that the international community should view it as such. For example, following its second nuclear test in May 1998, the government of India asserted, "We would like to re-affirm . . . that we will continue to exercise the most stringent control on the export of sensitive technologies . . . we expect recognition of our responsible policy by the international community."²¹

In the wake of the 1998 nuclear tests, the United States imposed stiff sanctions against India that reportedly cost the latter country as much as \$20 billion in loans and guarantees.²² Despite these costs, the sanctions did not directly alter India's nonproliferation-related behavior in any significant way. The prospect of gaining access to Western technology has been much more effective. To push the issue on strategic trade, India took significant steps to tighten export controls and assure the international community that it is committed to nonproliferation. In November 2001, President George W. Bush and Indian Prime Minister Atal Behari Vajpayee pledged to "discuss ways to stimulate bilateral high-technology commerce" and commit to "broaden dialogue and cooperation" in the realm of export controls.²³ The following year witnessed the creation of the U.S.-India High Technology Cooperation Group (HTCG). The HTCG was "designed to reduce the barriers to bilateral high-technology trade and enhance controls to prevent the proliferation of sensitive goods and technologies."²⁴ Through HTCG meetings in both India and the United States, the two nations have addressed export controls, market access, barriers to trade, and outreach to industry.

In January 2004, Bush and Vajpayee agreed on the Next Steps in Strategic Partnership (NSSP). As part of the first phase of the NSSP, the United States agreed to lift export controls on equipment for nuclear facilities in India, while India pledged to comply with U.S. export controls.²⁵ Specifically, the United States removed the Indian Space Research Organization (ISRO) from the Department of Commerce Entity List, and India provided assurances that sensitive technology it received from the United States would not end up in the hands of rogue regimes.²⁶ India has permitted the United States to station an "export control attaché" at the American embassy in New Delhi to verify the end use of the sensitive technology sent to India.²⁷

The onset of the HTCG and NSSP indicates that policymakers in Washington have come to grips with the nuclear realities in South Asia and

are moving away from a heavy-handed emphasis on sanctions and unrealistic objectives, such as imploring India to give up its nuclear weapons and sign the NPT as a non-nuclear state. In recent years, one of Washington's primary objectives became ensuring that India adopt more stringent export control laws and regulations to prevent the proliferation of nuclear technologies to other entities.²⁸ Indications are that the HTCG and NSSP have sped the pace of export control development in India, augmenting the country's already strong willingness to impose world-class export controls.²⁹

India's export control system has benefited from enhanced opportunities to comply as a result of U.S. assistance. Indeed, in the last several years, the United States has engaged India in sustained dialogue and provided external assistance in customs training and a variety of other issues. Since 1999, U.S. government officials have interacted with Indian export control delegations at least nine times.³⁰

The prospect of economic incentives, such as increased access to dual-use technology and a quest for the same international recognition afforded to other nuclear weapon states, have been the impetus behind export control development in India. U.S. sanctions, including stiff penalties imposed in the wake of the 1998 nuclear test, had little direct impact on New Delhi's pursuit of a robust export control system, largely because they were not effectively targeted.

The July 18, 2005, nuclear deal offered by the United States—which lifts a moratorium on U.S. nuclear trade with India—reinforces this argument. The Indo-American nuclear pact calls for series of reciprocal commitments designed to foster cooperation between the two countries. In exchange for assistance to its civilian nuclear program, India pledged to separate its civilian and military nuclear facilities and allow the International Atomic Energy Agency (IAEA) access to the former. Additionally, New Delhi agreed to align its national control lists with those of the multilateral export control arrangements and strengthen its legal and enforcement export control authority.³¹

In agreeing to cooperate with India's civilian nuclear power program, the United States pledged to reverse long-held nonproliferation policies. As a result of this reversal, India has worked to improve its export control system, albeit rather slowly.³² New Delhi has harmonized its nuclear and missile control

lists with those of the NSG and the MTCR and is currently working to harmonize those lists pertaining to chemical, biological, and conventional dual-use sectors with the relevant export control regimes. Moreover, it has taken steps to implement its new and more robust export control commitments under the 2005 Weapons of Mass Destruction and Their Delivery Systems Act.³³

RUSSIA

Nonproliferation Export Controls in Russia

Recent assessments indicate that Russia's export control system is 82 percent compatible with the ideal Western standard.³⁴ The "basic instrument" currently providing the legal basis for regulating export control is Federal Act No. 183-FZ "On Export Control" of July 18, 1999.³⁵ The export control law authorizes and requires an interagency review of license applications; the construction and maintenance of control lists; assurance from foreign parties that imported goods will not be used in the development of WMD; the establishment of "catchall" controls; record-keeping of all foreign economic transactions by entities engaged in such activity; and penalties for violations in the sphere of export control.³⁶ Moscow, however, has been slow to implement many of the provisions in the law, which has minimized its intended impact.³⁷

Enforcement of export control regulations in Russia is lax. Although public officials, including President Vladimir Putin, publicly convey the importance of export controls, the country lacks the will to vigorously enforce its laws. As David Albright recently observed, "What you really have in place is a set of laws and regulations [that have] not been implemented."³⁸ Although policymakers in Russia continually stress the importance of combating proliferation in public forums, in private they admit that these concerns regularly take a backseat to more pressing issues.

Russia is a member of, or adherent to, all of the nonproliferation export control regimes. The country inherited the Soviet Union's status as a member of the NSG, was accepted as a full member of the MTCR in 1995, and was admitted into the WA shortly thereafter. Russia is not a member of the AG, though its control lists closely match the AG's lists of controlled items, and it is a signatory of the Biological and Toxin Weapons Convention (BTWC).³⁹

The Path to Russian Export Control Development

In the immediate aftermath of the Cold War, Moscow attempted to ally closer with the West. Russian Foreign Minister Andrei Kozyrev, who saw his country's fate as closely linked to the West, argued that cooperation with the United States would enhance its economic interests and could restore Russia's status as a great power in the international system.⁴⁰ This brief time in the early 1990s is often characterized as the "honeymoon period."⁴¹ During this period, Russia sought to coordinate its export control policy with the West and the Ministry of Foreign Affairs (MFA) advocated increased cooperation with the export control regimes. Russia passed two decrees in the early 1990s that provided a loose legal basis for nonproliferation export control. Although these decrees laid necessary groundwork, in 1992 Russia's system of export control was only 40 percent compatible with the ideal Western standard.⁴²

By late 1992, the honeymoon was coming to an end. Russia began to question the utility of a pro-Western foreign policy and critics of existing policies accused the MFA of "blindly following" the West and chastised President Boris Yeltsin for "selling out" to the United States.⁴³ Russia continued to pursue export control development, but only in the face of incentives and sanctions applied by Washington. Side payments or sanctions, often stemming from Russia's technological cooperation with Iran and India, made at least an ostensible commitment to export control desirable. For example, Washington expended significant resources to bolster Russian export controls and prevent a 1992 deal to export rocket engines to the Indian Space Research Organization (ISRO). From the U.S. perspective, this transaction violated MTCR guidelines that Moscow had pledged to follow. Fearing that Russia's weak political willingness to impose export controls would undermine the global regime, particularly the effectiveness of the MTCR, the United States offered Russia a series of incentives to beef up its existing system.⁴⁴ After several rounds of bilateral discussions, Russia pledged to break the \$800 million contract with India and agreed to join the MTCR in July 1993.⁴⁵ For its part, the United States promised Russia participation in the International Space Station (ISS) and cooperation in joint space launches. Russia's involvement in the ISS facilitated an export control infrastructure and promoted export control awareness within Russian industry.⁴⁶

In other instances, sanctions or the threat of sanctions enhanced Russia's willingness to comply with strict standards. After the sanctioning of Russian entities involved with Iran's missile or nuclear programs in 1998, Washington witnessed a "noticeable upsurge in Russian efforts on the legislative front."⁴⁷ Moscow adopted a "catchall" decree to regulate goods and services that could be used to develop WMD in response to the imposition of such penalties. U.S. officials praised this improvement and asserted that it illustrated "that they're taking measures . . . to do what they can do to try to prevent this kind of proliferation potential."⁴⁸ The same year, Moscow adopted two presidential orders relating to export control as the U.S. Congress was prepared to take scheduled action on the Iran Missile Proliferation Sanctions Act. These orders required Russian exporters to determine the end use of shipments and gave the Russian Space Agency regulatory authority for the Russian commercial space industry.⁴⁹

These improvements prevented the imposition of some sanctions but did not spare all Russian entities involved in transferring technology to Iran. Under the authority of a July 29, 1998, executive order, President Bill Clinton imposed sanctions on seven Russian entities.⁵⁰ After extensive bilateral negotiations that month, Russia embarked on investigations of the sanctioned entities and two others that are alleged to have violated export controls by aiding Iran's ballistic missile program. The United States viewed such action favorably; on September 2, 1998, Clinton and Yeltsin agreed to expand cooperation on export controls to "strengthen Russia's capacity to sustain recent progress on clamping down on export control violations."⁵¹ By April 2000, as a result of "Russia's commitment to stopping the flow of sensitive technologies to Iran," some of these sanctions were removed.⁵²

In addition to these endeavors, the United States has expended substantial amounts of aid to amplify Russian opportunities to comply. Beginning with the passage of the original Nunn-Lugar legislation in 1991, the United States implemented a number of programs designed to reduce proliferation threat from Russia by strengthening export controls, stemming illicit weapons and technology trafficking, and combating potential "brain drain."⁵³ In recent years, the United States has conducted extensive outreach in Russia through the EXBS program to provide financial assistance and expert guidance in support of the Moscow Cen-

ter on Export Controls (CEC), one of Russia's leading export control institutions. These programs provided exporters with direct access to government officials, afforded industry representatives with skills and methods that allow for classification of exports, and promoted a common methodological approach to export control among industry and government.⁵⁴ Collectively, these improvements enhanced Russia's opportunity to comply.

From 1990–1992, the pursuit of warmer relations with the West catalyzed export control development in Russia. A desire to break through restrictions levied by the Coordinating Committee for Multilateral Export Controls (COCOM) and gain access to lucrative U.S. technology markets was a particularly strong force during this time. By 1993, Russia's willingness to comply with universal standards was significantly reduced, although it was occasionally bolstered by succulent carrots and powerful sticks issued by the United States. Although Moscow's status as a G-8 country and existing resources arguably supply sufficient opportunity to institute robust export controls, its scant willingness to comply hinders progress.

PROMOTING COMPLIANCE WITH UNSCR 1540

The preceding narratives reveal some common justifications for export control development and highlight that setting up such systems requires significant resources and political will. Although advancing compliance with UNSCR 1540 will not be easy, the cases analyzed in this article offer some useful prescriptions. Available evidence suggests that the United States should adopt a two-phased approach to promoting compliance. First, Washington should seek to fortify foreign governments' willingness to comply. Without a robust political commitment to compliance, financial resources will not be appropriately used and training will not be very effective. If states' willingness requires strengthening, Washington should then:

- Provide outreach to educate foreign governments and industries on the benefits and costs of compliance to alter preconceived notions and false perceptions of export controls;
- Offer economic incentives, such as increased access to U.S. high technology to countries that make significant progress toward compliance;
- Make compliance a necessary prerequisite for bilateral accords such as free trade agree-

- ments (FTAs) or military alliances;
- Link export control development with great power status and fortify existing export control norms; and
- Consider levying well-targeted economic sanctions against governments that exhibit very little willingness to comply and habitually neglect their commitments in practice.

The extent to which these strategies will be required largely depends on whether a country shares warm relations with the United States. Given that Washington typically links this issue with other areas of cooperation, friends of the United States typically have a predisposed willingness to comply, rendering the above strategies largely unnecessary. At the very least, Washington will have an easier time promoting political commitment to export control among its friends.

In the second phase, after a country's willingness to comply becomes apparent, Washington should attempt to enhance states' opportunities to comply by extending financial resources and training on nonproliferation export controls. With willingness present—as either the result of the inducement strategies outlined above or because it is indigenously supplied based on the nation's relationship to the United States—material assistance will be put to much better use. Although financial assistance and training should target the needs of a particular country, when appropriate, Washington should:

- Provide training to licensing, enforcement, and industry personnel that elucidates the purposes of a nonproliferation export control system and distinguishes it from trade controls motivated by other factors such as revenue collection;
- Help nations draft national export control legislation that provides the legal basis necessary to control the export, transit, or transshipment of sensitive commodities and meet the standards of UNSCR 1540;
- Supply financial assistance to institute an effective licensing system for the export, transit, and transshipment of sensitive technologies and relevant training to licensing officials;
- Offer frontline personnel training to identify sensitive commodities and other knowledge necessary to enforce the national export control system;
- Provide frontline equipment that will help personnel identify and potentially search, detain, or seize sensitive commodities; and
- Provide training to industry and all owners of the supply chain—including importers, carriers, brokers, warehouse operators, and manufacturers—so that they are aware of their export control-related obligations and how to fulfill them.

Although these prescriptions are no panacea, the stakes are far too high for the United States and other key players to sit on the sidelines. The breakdown of UNSCR 1540 would be a huge blow to the nonproliferation regime and may undermine the credibility of future Security Council resolutions. A proactive approach that acknowledges the distinction between opportunity and willingness and draws from the recommendations outlined here significantly increases the prospect that this seminal resolution will be successful.

NOTES

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