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Arka Biswas

OBSERVER RESEARCH FOUNDATION

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About the Author

Arka Biswas is a Junior Fellow at the Observer Research Foundation. He is currently pursuing projects on Nuclear Developments in Iran and on India's membership in the export control groups. He has also been a Visiting Fellow at the Stimson Center, Washington DC. He obtained his Masters in International Relations from University of Bristol.

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Abstract

India formally applied for membership to the Missile Technology Control Regime in June 2015 as part of efforts to integrate itself with the global non-proliferation architecture. This paper identifies key objectives of the regime and makes an assessment of whether India meets the technical requirements to join the MTCR. It then analyses the political understandings which India has established with the leading members of the MTCR on its membership in order to assess the prospects of its inclusion. The paper also examines the implications of India's entry into the MTCR on both India and the global non-proliferation architecture.

Introduction

In June 2015, India formally applied for membership to the Missile Technology Control Regime (MTCR).¹ This is part of New Delhi's broader initiative of integrating itself with the global non-proliferation architecture. Gaining membership in the MTCR will allow India to contribute further and more effectively to the goals of non-proliferation of weapons of mass destruction and their delivery systems. Meanwhile, the regime will benefit if it brings into its fold a country which is both a leading importer and a potential major exporter of missiles and related technologies. This essential bargain was reflected in the 2005 civil nuclear initiative² between India and the US and has since received further support from other like-minded governments from around the world. It is under this initiative that New Delhi is now seeking membership in the other three export control bodies as well: the Nuclear Suppliers Group (NSG), the Australia Group and the Wassenaar Arrangement.

This paper begins with an overview of the MTCR, its objectives as well as the challenges that it has faced since its establishment in 1987. The technical requirements for a country to join the regime are identified. The second section examines the steps taken by India to meet MTCR membership requirements and assesses the missile export control policies and practices that India has adopted and employed to date. The third section then discusses the political understanding which has been driving India's integration with the global non-proliferation architecture, including its membership in the MTCR. The fourth section analyses the implications of India's entry into MTCR on both India and the regime.

The paper concludes by arguing that India's MTCR membership will benefit both India and the regime.

Objectives of the MTCR

MTCR is a voluntary and consensus-based association of countries, at present numbering 34.³ It was established in 1987 by Canada, France, Germany, Italy, Japan, the United Kingdom (UK) and the United States of America (USA).⁴ The association is based on a shared “goal of non-proliferation of unmanned delivery systems capable of delivering weapons of mass destruction, and which seek to coordinate national export licensing efforts aimed at preventing their proliferation”.⁵ The nature of the regime is such that any decision on the expansion of control items or that of new membership is dependent on consensus among all its members.

Controlling the Export of Missiles and Related Technologies

The initial MTCR adherents (G-7 countries) recognised the inadequacy of the then existing non-proliferation bodies, namely the NSG and the Non-Proliferation Treaty (NPT), in addressing “the problem of global nuclear proliferation” through export of weapon delivery systems.⁶ Analysts have noted that while the NPT and the NSG “intended to keep strategic nuclear materials out of the hands of developing countries,” they, however, did not address the challenge of proliferation of missile systems.⁷ The MTCR was thus set up to build a second level of export control measures—focused on curtailing the spread of missile systems capable of delivering nuclear weapons—to reinforce the then existing controls on the transfer of nuclear materials and technologies.⁸

In fact, the physical parameters used to define missiles—whose export was restricted as per the initial MTCR guidelines—were drawn from the observation of the first-generation nuclear weapons: 500 kg of payload and a range of at least 300 km.⁹ In 1993, the regime expanded to include ballistic missiles capable of carrying chemical and biological weapons under its purview.¹⁰ Although chemical and biological weapons constituted devices of smaller payload, the physical parameters established previously were not changed. In 1994, MTCR brought additional unmanned aerial vehicles (UAVs), including cruise missiles and drones, “inherently capable of a 300 km range regardless of payload,” under its purview.¹¹ The parameters of 500 kg payload and 300 km range, however, continue to exist in the MTCR guidelines.¹²

Categorisation of Controlled Items

MTCR has established two tiers of items labelled 'Category I' and 'Category II'. While export of items under Category I is strongly restricted, export controls on items under Category II are relatively moderate. Category I items include:

...complete rocket and unmanned aerial vehicle systems (including ballistic missiles, space launch vehicles, sounding rockets, cruise missiles, target drones, and reconnaissance drones), capable of delivering a payload of at least 500 kg to a range of at least 300 km, their major complete subsystems (such as rocket stages, engines, guidance sets, and re-entry vehicles), and related software and technology, as well as specially designed production facilities for these items.¹³

The regime places “strong presumption of denial” on export of items listed under this category. This presumption, however, can be revoked “on rare occasions” if the recipient state provides binding assurance that “the item will only be used for purposes stated” (understandably peaceful in nature) and if the exporting state “assume[s] the responsibility for taking all steps necessary to ensure that the items is put only to its stated end-use”.¹⁴

Category II lists items that include dual-use technologies and (sub)systems, which could potentially be used in the construction of or as sub-components in items placed under Category I.¹⁵ These include propulsion components, propellants, structural materials, communications equipment, and avionics equipment.¹⁶ Export of these items is permitted if the export does not contribute to a “project of concern”.¹⁷ Determining what constitutes a 'project of concern' is subjective and depends on factors such as the status of the recipient state's missile and space programmes, probability of the export contributing to the missile development programme, and the stated end-use of the item being exported.¹⁸

Inclusion of dual-use technologies and items to its control list makes it technically impossible for the MTCR to differentiate between a state's attempts to acquire space launch technologies for peaceful, scientific purposes, and that to acquire ballistic missile technologies. Hurewitz captures this difficulty of differentiation, noting that “[t]he dual-use nature of space launch technology ensures that virtually all national space launch vehicle programs may be found to contribute to nuclear weapons delivery systems”.¹⁹ Similarly, Aaron Karp notes that:

The only essential differences between [a civilian space launch vehicle] and a ballistic missile are its trajectory and the payload it carries. Suppliers cannot “denature” space-launch technology and be certain that it will be used only for civilian purposes. Once a nation has the ability to place a satellite in orbit, it is, at most, only a few years from being able to launch an intermediate range ballistic missile... The differences relate to intentions, not capabilities.²⁰

On a similar note, Richard H Speier argues that “[the regime] makes no exceptions for so-called peaceful vehicles, alleged to be for military purposes other than weapons delivery, or vehicles sought by nations which do not currently have nuclear weapons programs”.²¹ MTCR's inability to differentiate between peaceful space launch technologies and ballistic missile technologies is important in understanding some of the challenges that the regime has faced both internally and externally.

Despite presumption to deny export application of Category I items, as examined here, MTCR allows exceptions on transfer of items under this category. Similarly, transfer of dual-use items covered under Category II is allowed if the transfer is deemed not contributing to proliferation. This is important to note because it can provide room for MTCR members to cooperate with India on transfer of items covered by the MTCR in ways that benefits both parties. Considering that MTCR does not have a formal mechanism to enforce compliance, it relies on its member states to implement and adhere to its guidelines. The decision to provide exceptions from, for instance, the “presumption to deny export” is therefore also made by MTCR members individually, having consulted with its partners from the regime. As this paper assesses the implications of India's MTCR membership, it will further examine how

the probability of India receiving exception to undertake transfers of MTCR controlled items will increase if it becomes a member of the regime.

Challenges

The regime, since its inception, has faced significant challenges from its members. Observers note that the challenge has been one of putting into practice the policies established by its members in accordance with the guidelines of the MTCR.²² On horizontal missile proliferation, addressing which continues to be the primary objective of the MTCR, some of its members have violated the MTCR guidelines by supplying missiles that are under the regime's control list. For instance, on 7 December 2002, Iraq submitted a declaration of almost 12,000 pages in response to paragraph 3 of resolution 1441 (2002), which revealed that a number of US companies, including both private and government agencies, along with British, French and German companies had supplied missile technologies to Iraq.²³ Although a counter-argument is made here highlighting that these sales or the contracts for these transfers were made from 1975 onward, much before the MTCR was established and were, therefore, not a violation of MTCR guidelines.²⁴

Moreover, US entities have also cooperated with Israel to develop the Arrow Interceptor, although its range and payload capacity does not exceed the MTCR's technical threshold (500-kilogram payload with a 300-kilometer range). Similarly, Russia was accused of horizontal proliferation of missile technologies on a number of occasions, even after having joined the MTCR in 1995. For instance, in late 1995, components of Russian submarine launched ballistic missiles (SLBMs), like gyroscopes and accelerometers, which were being transported into

Iraq, were intercepted in Jordan.²⁵ Another such incident was revealed in January 1997, wherein Russia had allegedly transferred components, production technology, and plans for the 2,000 km-range SS-4 missile to Iran.²⁶ It has been argued that “[a]lthough the Russian government ... denied involvement in these incidents, at the very least they raise[d] serious questions regarding the viability of Russia's export control system and its ... ability to live up to its MTCR commitments”.²⁷

The challenge from horizontal proliferation has been further aggravated by the absence of an enforcement clause in the MTCR guidelines. Considering that the MTCR is a voluntary arrangement, “[the regime] does not have the ability to sanction member states that violate its guidelines”.²⁸ Even the MTCR FAQs note that the members or “Partners” are merely “*expected* to exercise appropriate accountability and restraint in trade among Partners, just as they would in trade between Partners and non-Partners”.²⁹

Vertical Missile Proliferation

MTCR by itself, even voluntarily, does not require its members to restrict indigenous missile development, as it essentially emphasises on control of exports of missile technologies. Thus the objective of curbing vertical missile proliferation has been argued to only be “in the spirit of the MTCR”.³⁰ The fact that this was not the primary objective of the MTCR led some of the European MTCR members to open negotiations for a code of conduct against the possession and proliferation of ballistic missiles.³¹ The negotiations culminated in the establishment of the Hague Code of Conduct (HCoC) against Ballistic Missile Proliferation which was formally adopted in November 2002.

However, positions of other MTCR members on their indigenous missile development and on the HCoC further highlight the argument that addressing vertical proliferation of missile systems and related technologies has not been a priority for the MTCR. For instance, Ukraine at the time of joining the MTCR in 1998 had made it clear that it reserves the right to produce missiles indigenously. Ukraine has since modernised the SS-18 inter-continental ballistic missile (ICBM), reiterated the right to build short-range nuclear capable missiles, and converted its ICBMs into space launch vehicles.³² Similarly, Brazil, an MTCR member, did not sign the HCoC as its representative at the negotiations for the Code noted that signing such a Code could hinder development of its space launch capabilities.³³ And while the US signed the Code, it, however, withdrew from the 1972 Anti-Ballistic Missile Treaty in June 2002, allowing it to run its ballistic missile defence programme.³⁴ Although the US has distinguished between offensive and defensive missile systems, even defensive missiles are essentially weapon systems which can be used for offensive purposes.³⁵ These instances clearly capture that controlling or curbing indigenous development and modernisation of missile technology is neither an objective of the MTCR nor a pre-condition for a country seeking membership in the regime.

Technical Requirements for MTCR Membership

An examination of the purpose of the MTCR and its evolution shows that the primary objective of the regime is to control the export of missile and related dual-use technologies in order to curb horizontal proliferation of systems which could deliver weapons of mass destruction (WMD). The emphasis on 'horizontal' is critical as the

guidelines and the Annex of the MTCR only refer to controls of technology transfers between nations.

The technical requirement that a country seeking membership in the MTCR must meet, therefore, emerges from the sole objective of the regime: controlling export of missile and related technologies. Examination of the missile export control policies and practices of a country is thus important for the assessment of its prospects of joining the regime. The following section will map out the evolution of India's missile export control policies, particularly since the 2005 India-US civil nuclear initiative, and assess India's profile for meeting the technical requirements for MTCR membership.

Assessing India's Missile Export Control Policies and Practices

At the time when the US and the Indian governments were negotiating the civil nuclear initiative, harmonising India's export control policies with the NSG and the MTCR guidelines emerged as an important element of the broader understanding based on shared non-proliferation objectives. The joint statement issued by then Prime Minister Manmohan Singh and President George W. Bush on 18 July 2005 noted that India will “assume responsibilities and practices” in “ensuring that the necessary steps have been taken to secure nuclear materials and technology through comprehensive export control legislation and through harmonization and adherence to Missile Technology Control Regime (MTCR) and Nuclear Suppliers Group (NSG) guidelines”.³⁶

At that time, sceptics argued that a civil nuclear cooperation agreement with India should be signed by the US only upon verification of India's

commitment to harmonise its export control practices to the MTCR and NSG guidelines rather than merely on the promise of it.³⁷ Such arguments, however, reflected a lack of recognition of India's record of abiding by its international commitments. The progress India has made in harmonising its export control policies and practices with the MTCR guidelines, as examined in this section, further lends such scepticism to be unfounded.

There are two primary aspects of India's export control policies and practices that are relevant to the objective of the MTCR. One is the domestic legislation implemented by India that legally enforces controls on exports of missile technologies and equipment. Two is the list, called the SCOMET List, which comprises all items on which the export control legislation is applied. This section will examine both the Indian domestic export control legislation as well as its list of items controlled legally.

Export Control Legislation: WMD Act

The key legislations that cover India's legal export control system are the Foreign Trade Development and Regulation Act or FTDR of 1992, the Atomic Energy Act of 1962, the Customs Act of 1962, and the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act of 2005, also referred to as the WMD Act. Of them, most relevant to the MTCR is the WMD Act of 2005.

On 28 April 2004 at its 4956th meeting, the United Nations Security Council (UNSC) adopted Resolution 1540 (2004) which affirmed that “proliferation of nuclear, chemical and biological weapons and their means of delivery (missiles, rockets and other unmanned systems

capable of delivering nuclear, chemical, or biological weapons, that are specially designed for such use) constitutes a threat to international peace and security”.³⁸ To implement India's commitment to the UNSC resolution 1540 and to missile non-proliferation, India passed the WMD Act.³⁹ The primary objective of the Act is to prevent proliferation of sensitive (missile) technologies which may be used for the production or delivery of weapons of mass destruction.

In an address at the National Export Control Seminar on 18 April 2012, the then Foreign Secretary Ranjan Mathai noted that the “WMD Act of 2005 incorporated into national legislation key international standards in export controls, covering technology transfers, end-user or “catch-all” controls, brokering, transshipment and transit controls”.⁴⁰ He further stated that “in 2010, these changes were translated into our Foreign Trade Act through an amendment adopted by our Parliament which widened the ambit of dual-use controls”.⁴¹

Export Control List: SCOMET

Systematic dual-use control lists in India were first notified in 1995 and were named 'SMET', or Special Material, Equipment and Technology, published under India's Foreign Trade Act. This list was subsequently revised in 1999, 2005 and 2007 and is now widely known as 'SCOMET' or Special Chemicals, Organisms, Material, Equipment and Technology - List.⁴²

In a statement issued on 5 September 2008, the then Minister of External Affairs, Pranab Mukherjee had “reinforced” India's commitment made in the 18 July 2005 Joint Statement.⁴³ He noted that “India has taken the necessary steps to secure nuclear materials and

technology through comprehensive export control legislation and through harmonisation and committing to adhere to the MTCR and the NSG guidelines”.⁴⁴ Soon thereafter, on 9 September 2008, India sent a letter to Jacques Audibert, the then MTCR point of contact in Paris, stating its adherence to the MTCR guidelines.⁴⁵ On 11 September 2008, Office of the Spokesman of the State Department, while answering a question in a press briefing confirmed that “the [US] President has notified Congress, as required under the Hyde Act of 2006, that India has harmonized and has adhered to “in accordance with the procedures of those regimes for unilateral adherence”.”⁴⁶

While legislative adherence to the MTCR guidelines was affirmed by 2008, certain gaps remained between the MTCR Annex (Category I and II items) and the SCOMET List. For instance, a presentation released by the CSIS in 2009 had captured some “minor non-standardization of item description” as the essential difference between SCOMET List and the MTCR Annex.⁴⁷ Similarly, another article published in July 2011 had noted that while SCOMET List contained most of the items listed in the Annexes to the MTCR, the description and categorisation of items was not identical.⁴⁸ It had further noted that the Government of India can address this via further modification in the SCOMET List, including alteration of technical descriptions associated with some of the entries in the SCOMET List.

To address some of these gaps, India revised its SCOMET List in March 2013. The decision to revise the List was announced by the then Foreign Secretary, Ranjan Mathai. On 13 March 2013, in a conversation with visiting IAEA chief Yukiya Amano, Sec. Mathai noted that “the SCOMET List would soon be updated to correspond with the lists of the MTCR and NSG.” He also noted that “in some respects, [Indian]

controls are more stringent than those practiced by the NSG and MTCR”.⁴⁹ For instance, the SCOMET List does not identify the minimum range or payload capacity of a missile system, unlike the MTCR guidelines, and thus all missile systems, irrespective of their range or payload capacity, fall under the SCOMET List and are subject to export control.

The following day, the Directorate General of Foreign Trade (DGFT) of India issued Notification No. 37 (RE-2012)/2009-2014, whose annexure included the amendments made in the SCOMET List.⁵⁰ The amendments were introduced in Category 3 and Category 5 of the SCOMET List, which includes “Materials, Materials Processing Equipment and related technologies” and “[a]erospace systems, equipments, including production and test equipment, related technology and specially designed components and accessories therefor[e],” respectively. These items fall under MTCR Category I and II lists. The US welcomed the SCOMET update and US President Barack Obama reaffirmed in January 2015, while on a visit to New Delhi, that “India meets MTCR requirements... and that [the US] supports India's early application and eventual membership”.⁵¹

More recently, the DGFT issued Notification No. 116 (RE-2013)/2009-2014⁵² which further updated the SCOMET List and this update brought the SCOMET List in harmony with the 2014 update of the MTCR Annex.⁵³ An official from the US Department of State's International Security and Nonproliferation Bureau affirmed that India's SCOMET List update of March 2015 covers all the amendments made in the MTCR Annex following the plenary meeting of October 2014.⁵⁴

While India has been adhering to the MTCR guidelines since 2008, it has continued updating its missile export control policies and practices to ensure that they remain in complete harmony with the MTCR.

Political Understanding Behind India's Membership in MTCR

While no objection to India's entry into the MTCR has been raised by any of the regime's member governments so far, certain champions of non-proliferation have argued in recent years that India's membership in all four export control bodies (including MTCR) could weaken the Nuclear Non-Proliferation Treaty (NPT), with India outside the Treaty.⁵⁵

These arguments, however, fail to capture the political realities and understanding that have been established for more than a decade. Ever since the 1998 nuclear tests, India came out in open support of the basic objectives of the NPT. It was during the 2000 NPT Review Conference when India's then Foreign Minister Jaswant Singh spoke at the Indian Parliament on New Delhi's "compliance" with the NPT objectives. He declared that while "India may not be a party to the NPT, [its] conduct has always been consistent with the key provisions of the treaty as they apply to nuclear weapon states".⁵⁶ This Indian position was reiterated during the 2005 NPT Review Conference by the then Indian Foreign Minister, Natwar Singh. This marked a significant shift in India's approach to the NPT. As C Raja Mohan argues, "[e]ven as [India] recognized that the NPT system would not be able to confer the formal status of a nuclear-weapon state on India, New Delhi was confident enough to extend political support to the NPT and its objectives".⁵⁷

The India-US civil nuclear initiative announced in 2005 was premised on the political understanding that, while India remains outside the NPT, it

will contribute to the global non-proliferation cause through other institutions and mechanisms. This was explicitly captured in the 18 July 2005 joint statement, where the US government, while appreciating “India's strong commitment to preventing WMD proliferation,” further agreed on India, “as a responsible state with advanced nuclear technology,” receiving “the same benefits and advantages as other such states”.⁵⁸ The political premise of the India-US civil nuclear initiative has already been accepted by the international community. For instance, the NSG in 2008 granted India the waiver from the requirement of full-scope safeguards, allowing it to engage in international nuclear trade with members of the NSG.⁵⁹ Similarly, in 2008 following the separation of civilian and military nuclear facilities by India, the Board of Governors of the International Atomic Energy Agency (IAEA) approved a safeguards agreement that placed India's civilian nuclear facilities under the IAEA's watch.⁶⁰ The Additional Protocol was approved by the IAEA in March 2009⁶¹ and it entered into force on 25 July 2014.⁶²

Continuing the process of India's integration with the global non-proliferation architecture, the US government committed to work towards bringing India inside the four export control bodies. In a joint statement issued by then Indian Prime Minister Manmohan Singh and US President Barack Obama on 8 November 2010, it was noted that:

The United States intends to support India's full membership in the four multilateral export control regimes (Nuclear Suppliers Group, Missile Technology Control Regime, Australia Group, and Wassenaar Arrangement) in a phased manner, and to consult with regime members to encourage the evolution of regime membership criteria, consistent with maintaining the core

principles of these regimes, as the Government of India takes steps towards the full adoption of the regimes' export control requirements to reflect its prospective membership, with both processes moving forward together.⁶³

Recognising India's efforts in harmonising its export control policies and practices to the MTCR guidelines since 2010, US President Obama, during his visit to India in January 2015, reaffirmed the United States' position that "India meets MTCR requirements... and that [the US] supports India's early application and eventual membership in all four regimes".⁶⁴ The US government's support for India's inclusion in the four export control bodies builds upon the political understanding established in 2005 that India will support NPT from outside and contribute to global non-proliferation efforts by joining other institutions and mechanisms. Over the years, this understanding on the four export control groups was endorsed by other governments including Russia,⁶⁵ France,⁶⁶ United Kingdom,⁶⁷ Germany⁶⁸ and Australia.⁶⁹

Despite this critical support, India has its task cut out in completing its integration with the global non-proliferation architecture. In the last two years, New Delhi has indeed stepped up its efforts in reaching out to members of all four export control bodies to both expand and consolidate the political understanding for its membership. It is a result of the Narendra Modi-led government's proactive engagement policy that India now has support from Japan⁷⁰, Canada⁷¹ and South Korea⁷² for its membership in the four export control bodies. Support from Japan, for instance, is a significant achievement considering that it had previously been ambivalent on the subject.⁷³

There yet remain countries which continue to oppose inclusion of non-NPT states in the export control bodies. China, for instance, has been expressing its reservations over inclusion of India in the NSG. However, in the context of India's MTCR membership, China is not going to be a factor as it remains outside the MTCR.

More important here, however, are countries like Ireland, the Netherlands and Switzerland, who continue to remain “not particularly favorable to the idea” of India's inclusion in the four export control bodies, although they have not publicly expressed their intent to block India's membership.⁷⁴ Even during the negotiations for the India-specific waiver from the NSG in 2008, they were these countries, along with China, that were the last to convey support to the draft decision. As former Foreign Secretary, Shyam Saran noted, “It is true that China was opposed to the waiver but preferred to encourage the smaller countries, who had very rigid positions on non-proliferation, to take the lead in proposing killer amendments to the draft decision”.⁷⁵

While none of these countries have so far raised any objection to India's membership in the MTCR, it will be important for India to proactively engage with them to ensure that they are on the same page as other major powers that support India's membership in the regime.

Implications for India and the MTCR

After India recently applied for membership at the MTCR, a media commentary noted that “India's space and missile programme will gain from MTCR membership since it will get *access to world-class technology*”.⁷⁶ This claimed benefit of MTCR membership, however, requires a more nuanced understanding. For instance, MTCR has established that its

“guidelines do not distinguish between exports to Partners and exports to non-Partners”.⁷⁷ MTCR further stresses that “membership in the Regime provides no entitlement to obtain technology from another Partner and no obligation to supply it”.⁷⁸ It would thus be incorrect to assume that membership will by default provide India access to all available missile and space technologies.

What MTCR membership could provide India, however, is access to certain items controlled by the MTCR, whose export is permitted if the regime and its members do not find the export contributing to a “project of concern.” As has been noted in the first section, exports of Category I items are subject to the presumption of denial and are only allowed in exceptional cases. On the other hand, transfer of dual-use technologies and items covered under Category II are allowed if the export is deemed to not be contributing to proliferation of missile systems capable of delivering WMDs. Such exceptions and transfers are invariably linked to the understanding between the recipient state and the supplier state that is a member of the MTCR. As has also been highlighted, MTCR does not have a formal mechanism to enforce its guidelines on its members. It is therefore upto the supplier state to assess if the export of MTCR controlled items to the recipient state will contribute to a “project of concern” and if an exception to the presumption to deny Category I items can be made. If the recipient state were to get a membership in the MTCR, it will primarily be based on a political understanding among all MTCR members that the recipient state will not contribute to WMD proliferation. Inevitably, this political understanding will also reflect on each MTCR supplier state's assessment of any export to that recipient state.

For instance, the US gives preference to some nations and entities over others for export of missile and related dual-use technologies, covered by the MTCR. The Bureau of Industry and Security (BIS), under the US Department of Commerce, issues an Entity List, which includes organisations and bodies from across the world.⁷⁹ Any export of MTCR controlled items to the entities covered in the US Entity List are subject to end-user license. Since issuance of the end-user license for export of any MTCR controlled item is subject to a prospective supplier's sovereign right, it is upto the supplier state to determine on whom the end-user license requirement is applicable and how stringent the term of the end-user license should be. Following Obama's November 2010 announcement of the US commitment of bringing India into the MTCR, along with other three export control bodies, all of the Indian defence and space related entities were removed from the US Entity List in January 2011.⁸⁰

Some Indian defence and space entities, however, continue to remain in the similar entity lists of other MTCR members. Once India becomes a member of the MTCR, the probability of it receiving higher preference—and thus exception to import MTCR controlled items from other MTCR members—will significantly increase. In essence, MTCR membership does not translate into India getting free access to all available space and missile technologies. However, with India's entry into MTCR, the possibility of it availing 'license exceptions', for instance under US export control regulations and 'general export authorisations' under EU regulations, would ease the access to MTCR controlled high technology and dual-use items.

Another benefit of MTCR membership is that it will allow New Delhi to “play an active role in curbing the global missile non-proliferation threat”.⁸¹ India, as a responsible nuclear power, has on a number of

occasions expressed its strong commitment to preventing proliferation of WMD and their delivery systems. Its entry into the MTCR and the other three export control bodies will allow New Delhi to live up to that commitment. India will also get to “participate in decision-making on the orientation and future of the MTCR, thereby setting the international standard for responsible missile non-proliferation behaviour and helping to guide the international missile non-proliferation effort”.⁸²

At the same time, India's entry into the MTCR will be beneficial for the regime. Bringing India in can help strengthen the regime in two ways. First, New Delhi can help universalise the norms of missile non-proliferation and motivate non-adherents to bring their export control practices to the levels of the MTCR. Second, it can help MTCR improve its guidelines and Annex, particularly in respects where Indian controls, as former Foreign Secretary Ranjan Mathai notes, are more stringent than those of MTCR.

Including India in the MTCR will also allow the regime and its members to ensure that, as a major potential supplier of missile and space technologies, India will be subject to the same rules and guidelines as other similar countries. As India develops and produces items covered by the MTCR and gradually moves up the global production and supply chains, it will be in the interest of MTCR and the global non-proliferation architecture to subject India's exports to the same framework as other major supplier countries.

Conclusion

A study of MTCR and its evolution captures that the regime's sole objective is to prevent horizontal missile proliferation. The technical

requirement from a prospective MTCR member, therefore, is for it to have its national export control policies and practices at par with the MTCR guidelines. An examination of India's domestic legislation and its export control list—SCOMET List, including the updates which India has introduced in both of them—leads to the conclusion that Indian export control policies and practices are indeed in complete harmony with MTCR guidelines. Thus, India meets all technical requirements to gain entry into the MTCR. The same was reaffirmed by the US President in his joint statement with Prime Minister Modi in January 2015.

It is simultaneously important to acknowledge that both the global non-proliferation architecture as well as India's approach to it has evolved significantly over the last two decades. What once was a troubled relationship is now marked by growing cooperation and trust. It was the recognition of India's impeccable record on, and unwavering commitment to non-proliferation, and New Delhi's willingness to contribute to the same cause which led the international community, including the NSG and the IAEA, to formally accept India into its fold in 2008. The next step for India's integration with the global non-proliferation architecture is its inclusion in the four export control bodies. India's application for MTCR membership is the first phase of this step. With regard to its membership in MTCR, India has established this political understanding with most of its like-minded partners. There still remain a few with whom New Delhi will have to engage further to garner their support. The case of India's membership will be thoroughly examined at the MTCR's annual plenary in October 2015. The proceedings and the outcome of the plenary will capture the trajectory of India's engagement with the MTCR and its members.

Endnotes:

1. Pranab Dhal Samanta, "India applies for membership of Missile Technology Control Regime that controls missile & space tech," *The Economic Times*, June 11, 2015, accessed June 24, 2015, <http://economictimes.indiatimes.com/news/defence/india-applies-for-membership-of-missile-technology-control-regime-that-controls-missile-space-tech/articleshow/47621035.cms>.
2. "Joint Statement by President George W. Bush and Prime Minister Manmohan Singh," last modified July 18, 2005, <http://2001-2009.state.gov/p/sca/rls/pr/2005/49763.htm>.
3. There are currently 34 countries that are members (Partners) of the MTCR: Argentina (1993); Australia (1990); Austria (1991); Belgium (1990); Brazil (1995); Bulgaria (2004); Canada (1987); Czech Republic (1998); Denmark (1990); Finland (1991); France (1987); Germany (1987); Greece (1992); Hungary (1993); Iceland (1993); Ireland (1992); Italy (1987); Japan (1987); Luxemburg (1990); Netherlands (1990); New Zealand (1991); Norway (1990); Poland (1998); Portugal (1992); Republic of Korea (2001); Russian Federation (1995); South Africa (1995); Spain (1990); Sweden (1991); Switzerland (1992); Turkey (1997); Ukraine (1998); United Kingdom (1987); United States of America (1987). The date in brackets represents the initial year of membership. See MTCR, "Frequently Asked Question: No. 7," accessed June 23, 2015, <http://www.mtcr.info/english/FAQ-E.html>.
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its support to India joining the Nuclear Suppliers Group and other export controls bodies.” For text of the entire statement, see “Joint Statement issued by India and France during the State Visit of President of France to India,” last modified February 14, 2013, <http://www.mea.gov.in/bilateral-documents.htm?dtl/21175/Joint+Statement+issued+by+India+and+France+during+the+State+Visit+of+President+of+France+to+India>.

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Observer Research Foundation
20, Rouse Avenue, New Delhi-110 002
Email: orf@orfonline.org
Phone: +91-11-43520020 Fax: +91-11-43520003
www.orfonline.org