

Keynote Address by Foreign Secretary Shri Ranjan Mathai at the Ministry of External Affairs – Institute for Defence Studies and Analyses (IDSA) National Export Control Seminar

April 18, 2012

Director General IDSA,

Excellencies and

Distinguished participants,

I am happy to speak at the National Export Control Seminar today, which is being organized jointly by the Ministry of External Affairs and the Institute for Defence Studies and Analysis. I would like to thank DG IDSA for the excellent arrangements his Institute has put in place and for bringing together a wide range of participants - government officials from all Departments dealing with export controls, representatives from industry, analysts and scholars from the research and academic communities as well as foreign experts who will be participating in today's deliberations. I would like to recognize the presence of members of the diplomatic corps, in particular representatives of countries currently chairing the various multilateral export control regimes.

Let me begin by addressing a simple but fundamental question. Why are export controls important for India?

We have for long recognized the challenge proliferation of weapons of mass destruction and their means of delivery poses for our national security and world order. The danger of terrorists gaining access to WMDs has added another facet to this grave threat. At the same time as a responsible member, India is committed to promoting and working with the international community in advancing the common objectives of global non-proliferation and international security.

Flowing from these considerations of national and international security and as a state possessing advanced and sensitive materials and technology, we are conscious of the need for responsible handling of these sensitive items from the point of production or manufacture, to their use internally or export abroad and eventual safe and secure disposition. India has no interest what so ever in aiding or abetting proliferation of WMDs, the misuse of dual use items or in non-state actors or terrorists gaining access to sensitive items. On the contrary we view a strong and effective national export control system as an essential link between our broader national security goals and our wider foreign policy objectives.

There is a second and equally compelling rationale for export controls. Just as export controls are vital for national security and global non-proliferation objectives, they are also essential for the pursuit of growth and national development by harnessing the benefits of globalization. Export control standards are increasingly the norm for global trade in sensitive material, equipment and technology and thus necessary if we are to increase the quantum of high technology items in our external trade and commercial exchanges. As India's integration with global trade patterns and supply chains deepens, it would increasingly become an important hub of manufacturing and export of high technology items. Foreign investment including through offsets for governmental procurement will strengthen our global links. Our export control system would add to the reliability and credibility of Indian companies in the global market and thus increase their competitive edge. High technology companies would invest in India confident that apart from favorable commercial returns, access to a huge market and skilled workforce and protection of IPR, there would be no risk of unauthorized diversion or re-exports. That export controls are an added burden on industry is a mistaken and short sighted notion. At the same time, Government is conscious that there be no unreasonable restrictions on legitimate trade and commercial activities and export control procedures are clear and implementable without undue delays.

Let me describe briefly India's export control framework. India has a law based export system covering about 9 different legislations. I will mention only the most important: 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 Act of

2005. Systematic dual use control lists in India were first notified in 1995 and were named as SMET - "Special Material, Equipment and Technology", published under our Foreign Trade Act. This list has subsequently been revised in 1999, 2005 and 2007 and is widely known as "SCOMET" – Special Chemicals, Organisms, Material, Equipment and Technology - List.

I would like to highlight a few points with respect to more recent developments. Our 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. 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. Second, the harmonization of SCOMET controls with the Nuclear Suppliers Group and Missile Technology Control Regime guidelines and annexes was notified in 2008. Our export controls are thus in line with the highest international standards and in some cases, in view of the generic coverage of controlled items or controls at the stage of manufacturing, they extend beyond the controls of the multilateral regimes. Third, our regulatory framework is updated regularly, for example following adoption of UN Security Council resolutions 1874 and 1929. Fourth, we have increased engagement with various countries and our participation in international and regional export control seminars and conferences. . This engagement includes the four multilateral export control regimes, which I will return to a bit later in my speech.

In terms of implementation, an Inter-Ministerial Working Group coordinated by the Directorate General of Foreign Trade administers the SCOMET regulations. The regulations outline the procedure, process and factors relating to the licensing of controlled items. The licensing process is rigorous and involves assessment of export applications by various departments. Due restraint and responsibility in the transfer of sensitive systems and technologies is exercised based on a dynamic risk assessment system and changing proliferation trends.

It is true that any export control system is as good as its enforcement on the ground. Our national enforcement mechanisms cover prevention, detection and penalization of unauthorized exports. Customs and other enforcement agencies are active participants in these efforts. These activities are coordinated through an inter-agency Core Group which meets periodically to review these issues. As part of our regular review of implementation of export controls, we are looking at updating our control lists, strengthening national capacity through training for enforcement officials, commodity identification support and installation of detection equipment at ports and border checkpoints and other measures. The DGFT is in the process of introducing by June this year an online application system that would not only further ease the application process but also facilitate implementation.

We believe that industry is the first line of defence in terms of effective export controls. Industry outreach is an important area not only to enhance understanding about export controls among producers and exporters of controlled items but also share best practices in internal control systems for due diligence at the level of companies. This requires a continuous effort in various parts of the country, involving even small and medium enterprises. Industry leadership is important and the Ministry of External Affairs was pleased to support a Confederation of Indian Industry (CII) event last month on export controls. I am glad to note that the CII is working on a voluntary "Code of Conduct" on export controls, which can be a useful guide as companies work on strengthening their internal compliance systems. India is also open to cooperating with other countries in sharing of experiences and best practices in export controls.

With this brief survey of the national scene, let me return to the international aspects of export controls. India shares global non-proliferation objectives and supports strengthening the non-proliferation regime. Since 2002, we have been piloting a UN First Committee resolution on "Measures to prevent terrorists from acquiring WMDs" which is traditionally adopted by consensus. We supported the extension of the mandate of the 1540 Committee pursuant to UNSC resolution 1540. An eminent Indian expert worked as part of the Expert Group of the 1540 Committee from 2007-09. We have also announced our intention to host a UNSCR 1540 workshop to strengthen the implementation of the resolution. India has contributed to the success of the Nuclear Security Summit process. Our Prime Minister has participated in both the Summits held in Washington in April 2010 and in Seoul in March 2012. In January this year, I hosted a Sherpa meeting involving more than 50 countries in New Delhi to prepare for the Seoul Nuclear Security Summit. India has joined the Global Initiative to Combat Nuclear Terrorism and participates in all its activities. India has also participated in the preparatory process for negotiating an Arms Trade Treaty at the UN. India is in full compliance with its obligations as a State Party to the Chemical Weapons Convention and the Biological and Toxin Weapons Convention.

India's impeccable non-proliferation record has been widely recognized and was reflected in the milestone NSG decision of September 2008 on Civil Nuclear Cooperation with India. With respect to India's implementation of the Statement on Civil Nuclear cooperation, I would like to mention the following:

- India concluded the Safeguards Agreement with IAEA which entered into force in May 2009.
- An Additional Protocol was also approved by the Board of Governors in March 2009 and signed in May 2009. India is committed to its ratification as soon as necessary internal preparatory work is completed.
- With respect to implementation of the Separation Plan, we have already put 12 out of 14 reactors under IAEA Safeguards. Only two more reactors are required to be notified by 2014.
- India has signed civil nuclear cooperation agreements with France, US, Russia, Canada, Argentina, UK, Namibia, Mongolia, Kazakhstan and ROK. Negotiations are taking place with Japan on a bilateral Nuclear Cooperation Agreement. India and the United States signed an Agreement setting out Arrangements and Procedures for Reprocessing pursuant to their bilateral Nuclear Cooperation Agreement in July 2010.
- India has adhered to the NSG and MTCR guidelines and will maintain adherence. India has continued with its policy of refraining from transfer of enrichment and reprocessing technologies to states that do not possess them and supporting international efforts to limit their spread. We supported the establishment of an IAEA fuel bank resolution contained in Gov/2010/68 adopted by the IAEA Board in December 2010 and resolution GOV/2011/16 adopted by the Board of Governors in March 2011. India has the capabilities to be a supplier state.
- India has a longstanding commitment to complete, universal, non-discriminatory and verifiable elimination of nuclear weapons in a time bound manner- a vision that was set forth in the Rajiv Gandhi Action Plan. We remain committed to a voluntary and unilateral moratorium on nuclear explosive testing. We are also committed to work together for the commencement of negotiations in the Conference on Disarmament on a multilateral, universal, non-discriminatory and verifiable Fissile Material Cut-off Treaty.
- To sum up, India has consistent record of implementation of its voluntary commitments and has made progress since September 2008 in the implementation of the Civil Nuclear Initiative.

In November 2010, India expressed interest in taking forward this engagement with the international community to the next phase of seeking membership of the four export control regimes - NSG, MTCR, Australia Group and the Wassenaar Arrangement. We are aware that there are regime specificities. Each regime has its own membership criteria, control lists and methodology of work. But at the same time, there are underlying objectives and principles which are common to all the regimes to which India subscribes to fully as it has demonstrated responsible non-proliferation and export control practices and has shown the ability and willingness to contribute substantially to global non-proliferation objectives. In this sense, India is a 'like-minded' country that shares the same objectives and goals. Further, in a material sense given the size of India's industry and its projected growth, it is clear that India has the ability to produce, manufacture or supply a vast majority of items that are controlled by these regimes. As India's integration with the global supply chains moves forward, it would be in the interest of the four regimes that India's exports are subject to the same framework as other major supplier countries. Third, India has the ability to enforce a legally based domestic export control system which gives effect to the commitment to act in accordance with the respective guidelines of the regimes. Finally, India has developed considerable experience in the implementation of its export control system. We have witnessed instances of would be proliferators targeting India to source or route their supplies; our agencies have taken appropriate preventive action in such cases. We believe that India's participation in discussions relating to proliferation assessments, trends, licensing experiences, enforcement issues, etc. will be mutually beneficial.

We appreciate the support extended by a number of countries for the objective of India's full membership of the four export control regimes, in particular the United States, Russian Federation and France. While we wish to move forward in tandem on all the four regimes, our engagement with NSG is seen by observers as the most important. India cannot be a target of regime based restrictions. The logical conclusion of partnership with India is its full membership of the four multilateral regimes.

India has engaged actively with all the four regimes through outreach meetings. This year, we have already completed outreach meetings with NSG in Vienna where I led the Indian delegation (March 1), and in Delhi with MTCR (30 January) and the Wassenaar Arrangement (21 March) and plan the next outreach meeting with the Australia Group in the coming weeks. From India's point of view, the main purpose and primary objective of India's enhanced and sustained engagement with these regimes is full membership. We will take forward this process of engagement and apply for membership when the necessary preparations have been completed and the ground has been prepared for India's full membership. We believe that India's membership of the four regimes will be mutually beneficial on grounds of common non-proliferation objectives, India's ability to contribute to the fulfillment of those objectives, global industry cooperation and linkages, transfers subject to the highest export control standards, sound commercial considerations and the contributions that the Indian industry can make with its expanding capabilities and highly qualified work force.

Let me conclude by quoting from Prime Ministers' statement at the Seoul Nuclear Security Summit last month. He said

"India has never been a source of proliferation of sensitive technologies and we are determined to further strengthen our export control systems to keep them on par with the highest international standards. We have already adhered to the guidelines of the NSG and MTCR. As a like-minded country with the ability and willingness to promote global non-proliferation objectives, we believe that the next logical step is India's membership of the four export control regimes."

Seminars like this are most valuable in bringing together policy makers, administrators, experts and industry to assess various dimensions of export controls, as listed in the Programme. You have a full agenda for today's seminar and I wish you success in your deliberations.

Thank you.

New Delhi
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