

Controlling Weapons of Mass Destruction

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Nuclear and Missile Export Controls in Russia

Policies and Practices

Vladimir A. Orlov is the founder and director of the Center for Policy Studies in Russia (PIR Center), based in Moscow. An independent, nonprofit institution founded in 1994, the PIR Center is considered by many to be the leading nongovernmental organization working on arms control and nonproliferation in Russia. The purpose of this project is, first, to describe Russia's declaratory export controls policies (particularly in the areas of nuclear and missile exports but also in other areas related to sensitive transfers of materials and technologies); second, to identify gaps between the policies and export controls practices; and third, to prepare policy recommendations on how to narrow this gap.

Implementation of Controls in a New Market Economy

by
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Since the early 1990s, export control problems have increasingly become one of the key issues in U.S.-Russian relations and have frequently surfaced during bilateral dialogue between Russia and a number of other developed countries. Beginning in the mid-1990s, issues related to export control violations have also appeared in the lists of domestic security concerns of the Russian political leadership. After the breakup of the Soviet Union in late 1991, Russia had to establish a new export control system, involving legislation, licensing procedures, customs regulations, law enforcement, and interagency coordination.

A combination of factors has led to an inevitable gap between the legislation and declaratory policy, on the one hand, and the actual implementation of export controls, on the other hand. In the transition from a command and control system to a market economy, the market has been understood by many as allowing the freedom to make money regardless of laws and, in particular, to export without any limits. Within this context there are export pressures from a large nuclear, chemical, biological, and missile industry that traditionally focused on defense and faced, in the 1990s, a profound crisis. A lack of will by the political leadership to enforce the legislation and to impose interagency coordination has compounded the problem, while other officials have been corrupted by criminalization of the society and of the economy (including the military-industrial sector). Weak enforcement of the law, shortages of technical equipment, and lack of a nonproliferation culture at most enterprises have also contributed to the gap between policy and practice.

Russian Declaratory Export Control Policy

Based on the study of many Russian political documents, we believe Russia's stated policy in the nonproliferation area lacks coherence. However, the Russian leadership generally proceeds from the assumption that Russia, as a nuclear weapon state (NWS), has a vital interest in contributing to a strong nuclear nonproliferation regime. Russia especially does not welcome the emergence of new states with modern long-range delivery systems, given the proximity of likely proliferators to Russia's borders.

On the one hand, a nuclear nonproliferation policy can hardly be called a Russian political priority. On the other hand, Russian politicians, military leaders, and diplomats strongly believe that circumvention of the international nuclear nonproliferation regime is dangerous for Russia. It will not only undermine Russia's prestige and cause more tension with the United States, but also set free a dangerous genie. It will be more difficult to rebottle this genie, and one day it may hit Russia from the territory of Iran or North Korea. Russian thinking is influenced by a "China syndrome"; Soviet assistance to China in developing the A-bomb enabled the latter to accomplish this task ten to fifteen years earlier than would have been possible with a purely indigenous program.

Among the political and military elite as well as among export-oriented ministries and state-owned companies, there are people who insist that Russian export policy should go beyond purely economic motives to advance a number of foreign policy missions. Along this line of reasoning, the primary task would be to preserve or to revive Russia's influence in vacuum zones—such as Iraq, Iran, Syria, North Korea, Sudan, and Cuba—by transferring sensitive materials and technology specified by international trigger lists. This reasoning could account for Russia's relationship with India and China as a means of complicating the U.S. foreign policy environment. This influential minority tries, though mostly unsuccessfully, to get Russia to use nonproliferation to pursue its "Cold Peace" confrontation with the United States. Overall, then, the majority remains supportive of export controls as a nonproliferation tool but is also suspicious of U.S. motives for emphasizing that issue.

The key document for national export controls is now the Law on Export Controls (which became effective in July 1999). The important elements of the Russian export controls established by this law are as follows.

- ▮ For the first time, a definition of "export controls" has been established and approved. This definition covers materials, information, works, services, and results of intellectual activities that may be used for WMD production, means of their delivery, and other types of arms and military equipment.
- ▮ The law declares the goals of export controls as (1) protection of Russian Federation interests; (2) compliance with international treaties signed by Russia in the area of nonproliferation and export controls; and (3) creation of conditions for integrating the Russian economy into the world economy.
- ▮ The export controls lists are signed by the president and should be developed with the joint participation of parliamentarians, industrialists, and research institutes.

- ▶ The law pays special attention to controlling the export of intellectual products, technology, and dual-use materials.
- ▶ Sanctions against companies and individuals that violate the export control rules are introduced.
- ▶ The law calls for harmonization of Russian export control lists and procedures with internationally recognized norms.
- ▶ Transparency of information on export controls and easy access to it are declared as a "principle of state policy of export controls."
- ▶ Establishment of an internal compliance program at Russian companies involved in production or research and development (R&D) in the defense area and having regular export operations is declared obligatory. State licensing of companies with established internal compliance programs is introduced.
- ▶ The law establishes a detailed plan of action against companies suspected of violating the export controls legislation, including financial auditing, any necessary checks of documentation, and so on.
- ▶ A catchall principle is established for the first time in primary Russian legislation.

Although it is clearly an important step forward, the Law on Export Controls should not be viewed as a critical success. The road to preventing export control violations is too long in Russia to expect that improvements will bear fruit overnight or even in a few months.

The question of whether the law will work or will be only a piece of paper is not an easy one to answer. On the one hand, even some U.S. diplomats who have traditionally been critical of Russian export controls have recognized that in a short period of time considerable success has been achieved by Russia in improving export control practices. On the other hand, a number of existing internal problems, which, practically speaking, cannot be solved in a short period of time but only in years, make any optimistic forecast premature.

The key problems include poor interagency coordination, government corruption and penetration by export interests, financial and technical problems, lack of an export control culture, weak punishment of violations, and loopholes created by regional factors.

Risks of Proliferation from Sensitive Russian Exports

We should recognize that some states continue to seek Russian materials and technology that can be used to create WMD or their delivery systems. We can also presume that the international criminal community and terrorist groups are interested in exploiting flaws in Russia's export control system in order to acquire sensitive materials and technology.

For the most part, the problem is not missile material export control violations. The problem of illicit export of fissile materials does endure, but it should be qualified as "very high risk, very low probability." The export of missile components remains more significant, but it should be categorized as "very high probability, relatively low risk." Materials should not be the primary concern anyway. The threat of unauthorized export of dual-use technology (particularly, biotechnology that can be used in development of biological

weapons), scientific knowledge, and bearers of this knowledge (scientists and engineers) should be considered much more grave.

The countries that display the greatest interest in sensitive Russian materials and technology are China, Iran, Iraq, India, North Korea, Syria, and South Korea. Russia's relationship with each of these states varies. China is a nuclear weapon state, and, therefore, its construction of a centrifuge plant for uranium enrichment raises no concerns about the violation of the nonproliferation regime. At the same time, leakage of some Russian dual-use technology to China would be a serious blow to Russian national security and to the international system of export control on the whole.

As for contacts with Iraq, Russia has imposed an embargo on the shipment of sensitive materials to this country. That said, we have already witnessed serious Iraqi initiatives to gain access to Russian missile equipment components, corresponding technology, and perhaps biotechnology. In our opinion, the building of the Russian nuclear power station in Būshehr, Iran, does not violate export control regulations. On the contrary, it meets the requirements of Article IV of the Nuclear Nonproliferation Treaty (NPT), which calls for assisting the development of peaceful nuclear technologies. At the same time, Iran's striving to acquire Russian missile technology to develop its ambitious missile program has become a serious problem in recent years.

Russian cooperation with India in the nuclear field is dubious from the legal standpoint, and it runs counter to the practice of strengthening the nonproliferation regime, because India is not an NPT signatory. One issue is the nuclear power station construction in Kudamkulam. A second issue is Russia's intention to supply India with nuclear-powered submarines (although this is not an illegal breach of international commitments or Russian national legislation).

The active involvement of "rogue state" secret services stands as a serious problem, because such agencies possess sophisticated methods of procuring secret technology and materials from defense industries and usually share this technology. For instance, for a few years, Iranian secret services were active in finding ways to purchase strategic components for the Iranian missile program at Russian enterprises. Such activities were finally prevented by the Russians and subsequently made public. The so-called missile chain proliferation has also become very intensive: for example, missile components, technologies, scientific information, and scientists and engineers themselves are being transferred from North Korea to Libya, and then to Syria, or from North Korea to Iran via Pakistan.

According to PIR Center's estimates, the problem of export control violation through illegal transfer of equipment remains the most serious.¹ U.S. assistance to Russia's State Customs Committee (GTK), which establishes the "second line of defense" for nuclear materials in Russia channeled through the Nunn-Lugar Program, is critical for minimizing the risk of smuggling sensitive materials from Russia to rogue states and to nonstate actors such as major international terrorist groups or the international organized criminal community.

Conclusion

A Russian export control system and national export control regime presently exist, so that Russia now has a full-scope legal basis for regulating export control issues. The Law on

Export Controls logically completed the process of creating such a legal basis. Thus, the most alarming matter is not the legal basis for or declaratory intent of the Russian export control policy, but its practical implementation. If we take into consideration the many problems connected to implementation, it would be naive or irresponsible to say that current legal documents can by themselves prevent the illegal transfer of goods and technology from Russia. Moreover, the foremost problems are leaks of knowledge and the brain drain.

However, it is possible to improve implementation. In particular, it is necessary to establish in Russia a multiphase system of punishment for export control violations as soon as possible. The sequence, warnings—fines—administrative sanctions—criminal prosecution, declared by the Law on Export Controls must be put into practice. The prosecutor's General Office and its subordinate units should conduct appropriate investigations and make their results known to the public.

Bringing practical export control policy into conformity with national legislation would enable Russia to accomplish its foreign policy tasks, and working to make export controls more effective both domestically and internationally would contribute directly to Russian national security while removing a contentious issue from its diplomatic relations with other key countries.

One cannot rule out the possibility that President Vladimir Putin's "pragmatic" approach to Russian foreign policy may in the future mean greater willingness to develop nuclear cooperation, even if there is a danger of violating or not complying fully with international commitments. However, such cooperation would be undertaken only with those states that are regarded as Russia's long-term strategic partners (e.g., India), not with those seen as potential sources of threats to Russian security.

Note

1. In the framework of the project, PIR Center staff managed to examine in detail the mechanism of illicit export of missile components from Russia to Iraq (1993–95). To summarize, a Russian defense and conversion enterprise known as NIIKhSM and located in Sergiev Posad (Moscow region) founded a dummy company (SPM-Sistema) in 1994 and signed a contract with an Iraqi representative, Wi'am Gharbiya. The deal concerned the shipment of strategic gyroscopes—a key element of guidance systems for Iraqi missiles and much desired by the regime of Saddam Hussein. To deal with the customs problems, the partners chose a Nigerian-led firm, Nisov Pie, incorporated in Moscow. It succeeded in passing all customs barriers (calling the commodity some kind of "electronic equipment"), and the gyroscopes successfully left Moscow Sheremetyevo-2 airport and arrived in Amman, Jordan. The gyroscopes were later confiscated in Jordan. Russian authorities had to launch an investigation of the gyro smuggling case, which identified who the buyers and sellers were, but which failed to lead to the prosecution of Russian smugglers.