



Thailand Consortium: Trade Control on Weapons of Mass Destruction related Items (TCWMD)

International Best Practices Legal/Regulatory For Strategic Trade Controls

17-20 July 2017
Bangkok, Thailand

Export Control and Related Border Security (EXBS) Program
Office of Export Control Cooperation
Bureau of International Security and Nonproliferation
U.S. Department of State

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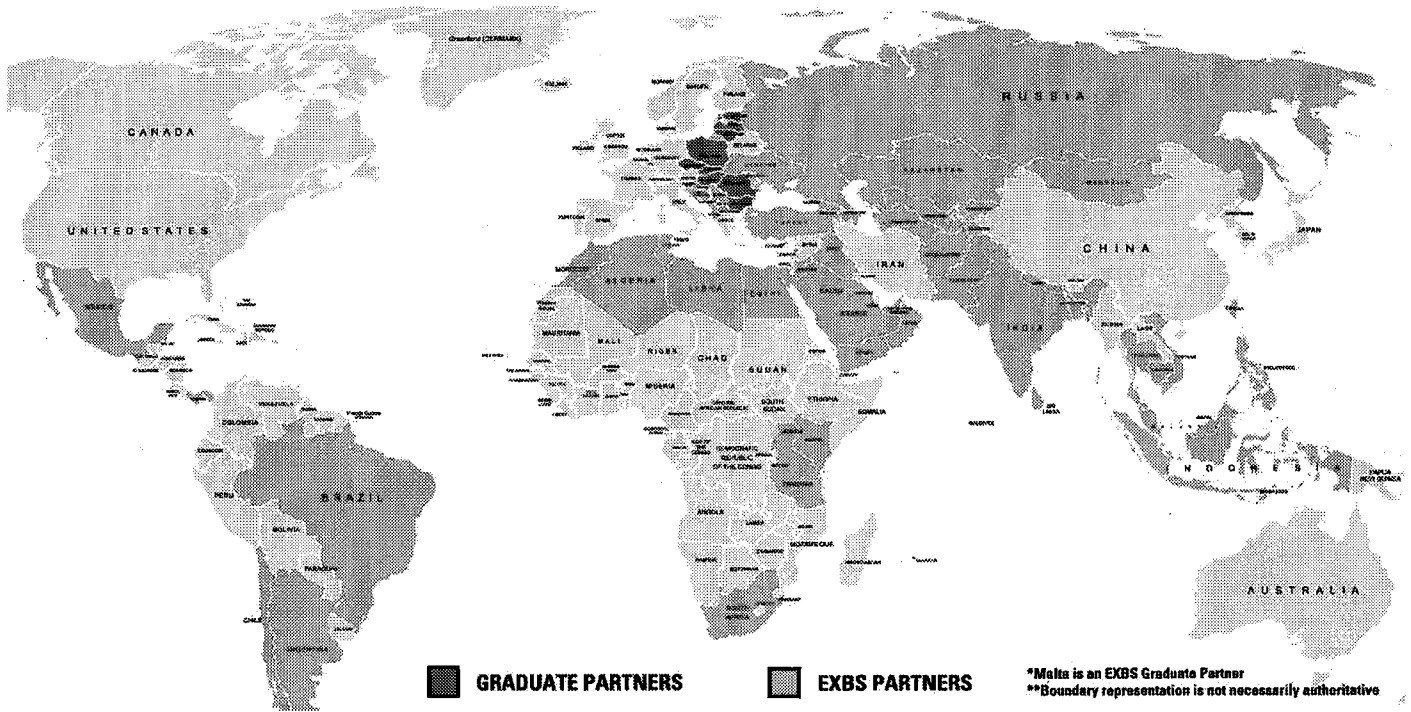
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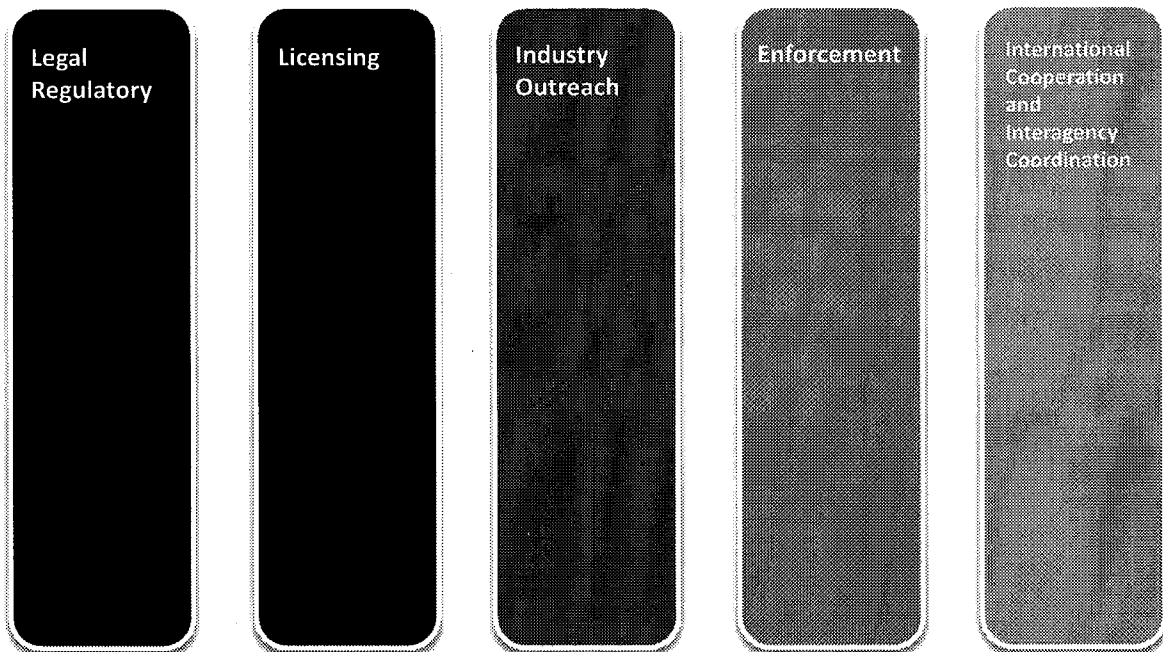
- EXBS is empowered to help foreign partners build effective national strategic trade control and border security systems
- EXBS seeks to prevent the proliferation of WMD and destabilizing accumulations of advanced conventional weapons



Partner Countries at a Glance



Strategic Trade Control Pillars



EXBS Thailand Assistance Highlights 2007-2017

Legal/ regulatory	Licensing	Enforcement	Industry Outreach	Interagency and International Cooperation
<ul style="list-style-type: none"> • Legal/ Regulatory Workshop • Legal/ Regulatory Visits 	<ul style="list-style-type: none"> • Export Control Infrastructure Workshop • National Control List Workshop • Commodity Identification and Curriculum Development Training • Regimes Awareness and National Control List Workshop • End use/ End user Review Training • Licensing System Implementation • Analysis of Strategic Commodity Transfers (ASCOT) Training • Technical Assessment Training • Wisconsin Risk Database Training • Translation of EU Military List and Dual Use List 	<ul style="list-style-type: none"> • Interdiction Training (land border, seaport, air cargo, motor vehicle) • Boarding Officer Course • Port Security Training • WMD Interdiction Training (RADACAD) • Indigenous Commodity Identification Training hosted by Thai Customs Department • Counter proliferation Investigation Training • Counter Proliferation Prosecution Workshop • CBP International Visitor Programs • Targeting and Risk Management Training • Customs X-ray Training • Authorized Economic Operator (AEO) Workshop 	<ul style="list-style-type: none"> • Enterprise Outreach Conferences • Internal Compliance Program Tools Training • Production and Translation into Languages of Thailand Industry Outreach VDO 	<ul style="list-style-type: none"> • International Export Control Conferences 2007-2017 • Transit and Transshipment Conferences • University of Georgia's Security and Strategic Trade Management Academy • Asia-Pacific Strategic Trade Experts Network (STEN) • Licensing Roundtable Meeting in Taiwan



EXBS Sponsored Trips and Projects to Promote Regional and International Exchanges

- South Korea in 2014 - Automated Licensing System
- Japan in 2015 - Internal Compliance Program
- Malaysia in 2015 - Legislation and Licensing System
- Mexico in 2016 - Licensing System

- Translation of Malaysia Strategic Trade Act
- Funding of South Korea's YesTrade Licensing System Manual
- Translation of Chinese Correlation Table
- Translation of EU Military List and EU List



EXBS Activities

Range of Activities

- Classroom training
- Field exercises
- Long-Term Consultations
- Best Practice Exchanges
- Conferences
- Distance learning

Range of Implementers

- EXBS Advisors
- U.S. Government Agencies
- International Organizations
- Private Contractors
- Academic Institutions



EXBS sponsored Regional Boarding Officer Course

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Additional Information

EXBS Program Website:

<http://www.state.gov/strategictrade>

A Resource on Strategic Trade Management and Export Controls

HOME THE EXBS PROGRAM OVERVIEW OF U.S. EXPORT CONTROL SYSTEM BEST PRACTICES RED FLAGS AND WATCH LISTS RESOURCES

EXBS ASSISTS THAI CUSTOMS WITH CURRICULUM INDIGENIZATION

EXBS sponsored the International Nonproliferation Export Control Program (INPEC) implemented OI Pilot program, launched on June 15-18. [Full Text](#)

RESOURCES

- ▶ Commodity Dual-Use and Military Control Lists of the EU
- ▶ NGO Web Sites
- ▶ Nonproliferation Regimes
- ▶ U.S. Export Controls
- ▶ International Export Control Regimes

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United Nations Security Council Resolution 1540

- Adopted on April 28, 2004 under Chapter VII of the UN Charter
- Reaffirmed by Resolutions 1673(2006), 1810(2008), 1977(2011) and 2055 (2012)
- Renewed in April 2011 for 10 years (until 2021)
- Legally binding instrument
- Proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitute a threat to international peace and security
- Focus on threat posed by *non-state actors*

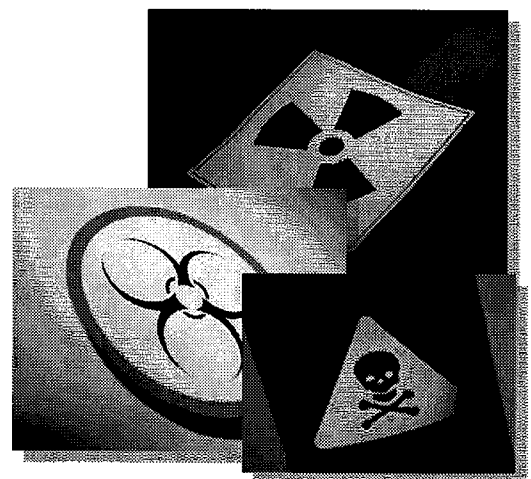


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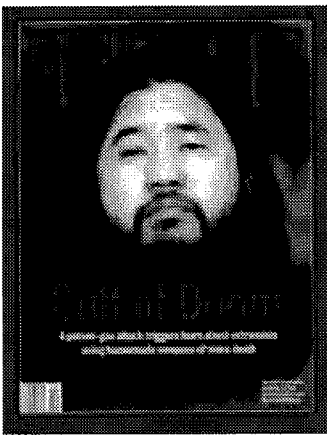
United Nations Security Council Resolution 1540

Motivations for UNSCR 1540

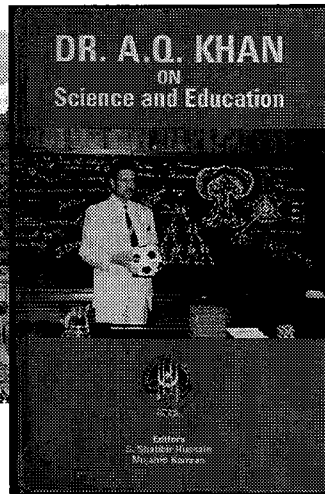
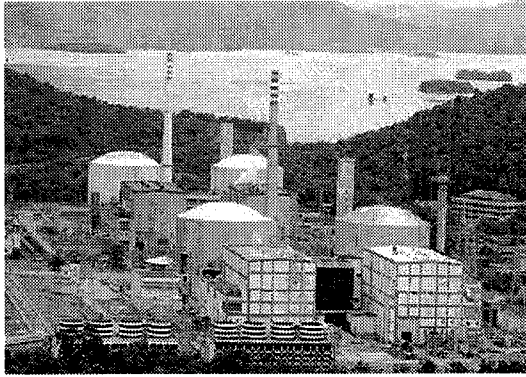
- Increasing terrorist attacks world-wide
- Terrorist groups seeking weapons of mass destruction (WMDs)
- World-wide calls for multilateral non-proliferation enforcement



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Dangerous Confluences: WMD and Non-State Actors



Source: Conflict Armament Research /
Sahan Research

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United Nations Security Council Resolution 1540

Scope of Strategic Trade Controls:

- Nuclear, chemical, or biological weapons and their means of delivery, including related materials (provision 3)
- Establish and maintain appropriate effective national controls, "*including appropriate laws and regulations*" to control export, transit, trans-shipment and re-export (provision 3(d))
- Controls on illegal trafficking and brokering (provision 3(c))
- Controls on financing and transporting (provision 3(d))
- Establish and maintain end-user controls (provision 3(d))
- Develop effective national control lists (provision 6)
- Establish and enforce criminal or civil penalties for violations (provision 3(d))
- Develop appropriate ways to work with industry and the public (provision 8(d))

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STC Legal/Regulatory Frameworks

- Modalities of implementing strategic trade controls are a national decision;
- There is no single model for an effective and strategic trade control legal framework;
- Countries have different legal and administrative systems;
- Approaches:
 - Single (comprehensive) law on strategic trade controls;
 - Separate laws for controlling military and dual-use items;
 - Incorporate STCs into existing foreign trade, commercial, export/import, and customs laws, or through secondary implementing regulations
 - Regional approach (e.g., European Union)

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ILLUSTRATIVE EXAMPLES

- **Philippines** – “*Strategic Trade Management Act*” (STMA) – adopted in November 2015; Implementing Rules and Regulations (IRRs)
- **Georgia** – “*Law on the Control of Military and Dual Use Items*” –adopted in 2014
- **Morocco** – Draft Law “*On the Control of Trade in Dual Use Goods and Related Services*”
- **Kenya** – Draft Law “*Strategic Trade Management Act*” (Dual-Use)
- **Mongolia** – Draft Law “*On Trade Control of Dangerous Goods of Strategic Importance*”
- **Thailand** – “*Export and Import Goods Act*”; Draft Law “*Non-Proliferation of Weapons of Mass Destruction Trade Act*”
- **Vietnam** – Commercial Code of 2005, and Government Decree No. 187/2013 (possible legal basis)
- **Indonesia** – Trade Law No. 7/2014, and Trade Regulation No. 13/2012 (possible legal basis)

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ILLUSTRATIVE EXAMPLES (Cont'd)

- **Ukraine** – Ongoing modernization of Law *“On State Control over International Transfers of Military and Dual-Use Goods”*
- **Jordan** - finalizing regulations to introduce STC transit and transshipment controls that align controls with international standards

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National Control Lists

- **“*Related materials*”: materials, equipment and technology covered by relevant multilateral treaties and arrangements, or included on national control lists, which could be used for the design, development and production or use of nuclear, chemical and biological weapons and their means of delivery.”**
- Major Multilateral Control Regimes
 - Wassenaar Arrangement (WA)
 - Missile Technology Control Regimes (MTCR)
 - Nuclear Suppliers Group (NSG)
 - Australia Group (AG)
 - Chemical Weapons Convention (CWC)

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National Control Lists

- Developing international practice is to adopt a comprehensive dual-use control list which consolidate lists maintained by the multilateral nonproliferation regimes (e.g., EU Dual Use List).
 - European Union, The Philippines, Georgia, Ukraine, Malaysia, Singapore, Kazakhstan, Moldova;
 - Morocco, Kenya, Mongolia, among others, are considering similar steps;
 - Vietnam, Turkmenistan, Uzbekistan, and Azerbaijan are in the process of upgrading their respective control lists;
- Parallel multiple list system is also used (e.g., Russian Federation, Kyrgyzstan, Belorussia).

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United Nations Security Council Resolution 1540

Summary

- Prevent the proliferation of WMD and means of delivery, including *related materials*
- Member states required to establish national strategic trade controls, including *“Appropriate laws and regulations”*
- Control export, transit, transshipment, and re-export; brokering, financing, and transportation
- Enacting end-user controls (“catch-all”)
- Develop national controls lists
- Establish and enforce appropriate civil or criminal measures
- Work with industry and the public
- UNSCR 1540 Home Page:
 - www.un.org/sc/1540/index.shtml

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Thank you!

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United States Department of State