

# **Export control in the context of contemporary threat environment**

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# The changing nature of the proliferation threat

- States:
  - Developing NBC weapons and long-range delivery systems
  - Holding open future options by maintaining an appropriate knowledge and technology base
  - But ... this applies to a very small number of states.
- Non-state actors
  - Seeking NBC related materials for improvised devices
  - Use of dangerous materials and new techniques that are not weapons
  - But ... no use so far in a mass impact terrorist attack.

# From export control to trade control

- Prevent sensitive items reaching a few specific end-users.
- Non-state actors planning mass impact terrorism are present in target countries.
  - Particular concern - an “insider threat” where sensitive materials are found.
- Changing nature of technology transfer:
  - Wide availability of dual-use items and technologies => growing use of end-use (or “catch-all”) controls.
  - Tendency to work in international teams using wide-area computer networks (including the internet) => “intangible” technology transfer controls.

# New ways of working with industry

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- International processes set conditions for companies:
  - UNSC 1540
  - Convention on Physical Protection
  - EU Community Customs Code
  - General licences (CGEA, Global Project Licence)
- Company-led and other ideas
  - Certified companies

# A way forward?

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- New controls increase the responsibility of business for public security across a range of fields.
- Companies offer:
  - Insight into future transactions and activities.
  - Demonstrated capacity to control all sensitive elements of their business practices.
- Regulators provide:
  - One authorization covering all regulatory requirements in all jurisdictions in which activities take place.
  - Inform of specific actions needing individual assessment.

# Certified company

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- An exporter would:
  - undertake to enforce control regulations,
  - demonstrate that it understands the norms and principles underpinning non-proliferation,
  - show that it can exercise vigilance with respect to the risk of diversion,
  - and agree to a process of voluntary certification.

# Soft law

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- Regulatory impact statement should cover all the control obligations of the company (legal, voluntary, national, international).
- Company would receive a 'letter of comfort' or similar document from the authorities giving assent and specifying transactions where licences would need to be sought.