Intangible Technology Transfer (ITT) and UNSCR 1540

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UNSCR 1540

- **The Resolution does not explicitly mention Intangible Technology Transfers (ITT).**
- **But it is included as one of the 382 fields of control that the Resolution 1540 implies, which constitute the Compliance Matrix devised by the 1540 Committee.**
- **ITT controls are presumed to be part of the controls articulated in the Operative Paragraphs 3 (c-d) and 8 of the Resolution.**

What are Intangible Technology Transfers?

ITT includes…

- **Transfer of knowledge and skills by a person (technical assistance, training or instruction, consultation, collaborative research in universities and research institutions, research papers presented in a conference etc.) ****

and

- **Transfer of technology -- specific information or technical data necessary for the development, production or use of a product such as blueprints, schematics, diagrams etc. – via e-mail, telephone, fax, software or the internet.**

**** Bilateral research programmes; Iran/DPRK Sanctions**

Export controls on ITT…

- **By the very fact that ITTs are intangible, they constitute an extremely challenging component of export controls**

➔ **It involves markedly different approach than the usual controls in the supplier-recipient mode of transfer of physical goods**

- **It is not included in any 'control list' of products and goods**
- **Distinct from "catch all" provisions and "deemed exports"**
- **Mechanisms for ITT controls include company audits, visa screening, raising awareness within industry, universities, research institutions and academia, *and monitoring, surveillance & interception of telecommunication channels***

➢ **Basic research or information in public domain is exempt from export controls on ITT. The distinguishing line could, however, be difficult in practice in some cases (eg., research in nuclear physics, microbiology)**

Questions on Compliance of National Legal and Enforcement Frameworks with UNSCR 1540

Q: Does UNSCR 1540 implementation mean compliance with respect to all the 382 fields? Is that the goal?

Q: Why should, say, Burkina Faso or Vanuatu, which have no nuclear programmes, comply with fields related to nuclear proliferation?

Legal measures are “on paper” and are more easily done. Implementation and enforcement measures cost money.

A State would invest in these depending upon its own assessment of the threat perception with respect to a particular field of control.

Q: Can one quantify the risk associated with ITT globally to demand compliance with regard to its control that could entail significant investment by the State.

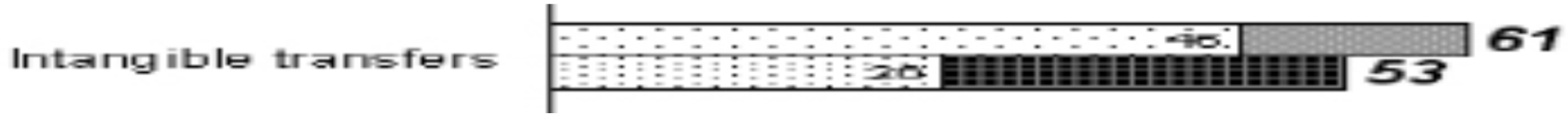
Compliance and ITT Controls

- **According to the 2011 Comprehensive Report on 1540 implementation, 66 States had measures within their control systems to cover ITT compared to 46 States in the 2008 report.**

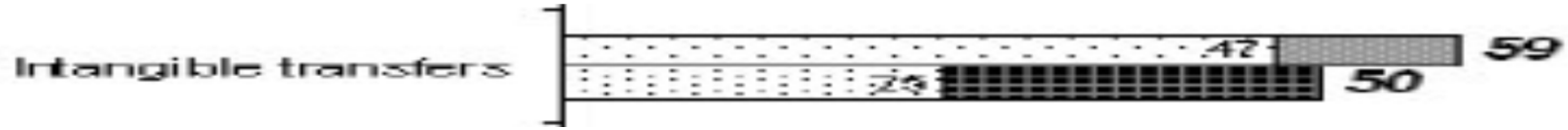
Specifically,

Nuclear Weapons:

Chemical Weapons:



Biological Weapons:



Compliance Assessment

Compliance assessment is made on the basis of assertions made by the States in their National Reports and an evaluation of the evidence (available or provided) thereof by the Committee.

"an "X" [against a State in the matrix] does not indicate that the measure or measures taken fully implement an obligation under resolution 1540. It only indicates that the 1540 Committee and its experts have found evidence that the State has taken a measure or measures relevant to a particular field."

- **How robust is this system of assessment to get to the goal of universal implementation of UNSCR 1540?**

Assessment is very likely to be more vague and nebulous in case of implementation of ITT controls.

- **Do States provide actual instances of ITT in their states and corresponding measures taken as evidence?**

India: Legal Measures

According to the Compliance Matrix for India (2011)

- **Nuclear Weapons: Atomic Energy Act, 1962**
  WMD Act 2005, Section 13(4)

- **Chemical Weapons: WMD Act, 2005, Section 13**

- **Biological Weapons: WMD Act, 2005, Section 13**

Implementation Mechanisms for ITT Controls

Telecom Monitoring/Surveillance System:

- **The Central Monitoring System (CMS): A mass electronic surveillance data mining system set up by the Centre for Development of Telematics (C-DOT) and operated by Telecom Enforcement Resource and Monitoring (TERM) Cells.**

  It enables security agencies to centrally access the national telecommunications network and listen in on and record mobile, landline and satellite calls and voice over Internet Protocol (VoIP), and read private emails, SMS and MMS and track the geographical location of individuals, all in real time.

  Also enables tracking of social media such as Facebook, LinkedIn and Twitter, and users' search histories on Google.

Issues in Surveillance

- **Privacy and Human Rights violations**

- **Does the UNSCR Committee expect all States to put in place monitoring/surveillance mechanisms of this kind for compliance?**
- **Or, are there best practices elsewhere of a different kind that can be used for ITT controls?**

Thank You