

Challenging Conventional Wisdom



DEBUNKING THE MYTHS AND



EXPOSING THE RISKS OF ARMS EXPORT REFORM



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CHALLENGING CONVENTIONAL WISDOM

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In September 2001, two individuals were sentenced in San Diego for their roles in an international conspiracy to illegally purchase Hawk missile components, fighter jet parts and other military goods for Iran. The 20-month Customs probe disclosed that the individuals were operatives of a London-based firm called Multicore Ltd. that was buying sensitive military items from a multitude of U.S. companies for export to Iran via Singapore.¹

A Canadian company attempted to sell 35 OH-58 U.S.-origin helicopters to undercover agents posing as brokers for the Iraqi government. These helicopters were to be equipped for air-dispensing chemical weapons. They were seized before being exported from Canada. Fifty-eight M-113 armored vehicles originally sold to the Canadian Armed Forces were exported without State Department approval, transferred to Europe, and then to Iran.²

Despite the best efforts of hard-working U.S. Customs agents, the above incidents are not aberrations.³ Even defense items shipped to the closest U.S. allies and their nationals too often end up in the wrong hands, or are used for unauthorized purposes. These examples also show that all U.S. arms exports — from spare parts to fully integrated weapon systems — need to be treated with caution.⁴

Nonetheless, a consensus appears to be forming in Washington in favor of dismantling the U.S. arms export control system — in particular with regard to allies. A number of changes have already been made to the licensing process, and many more have been proposed by government agencies and advisory boards, as well as the defense industry. These so-called “reforms” have generally focused on trade with NATO members and a few other close allies, with whom the Pentagon wants to increase defense cooperation. What this means for the safety and security of U.S. technology and, more importantly, the lives of U.S. military personnel and civilians, has yet to be seen. But as this book demonstrates, there is reason to believe the risks resulting from such policy changes outweigh the benefits.

What explains the U.S. government’s overall support for the idea of relaxing export controls, given the potential security implications? In an examination of arms industry trends, Ann Markusen found in 1999 that “although the United States already appears to be leading an effort to welcome some transnational mergers to preserve competition and rationalize capacity, its actions seem to reflect industry pressure rather than careful foreign, security, military and economic policy

planning.”⁵⁵ The General Accounting Office (GAO) notes that one major reform initiative in particular, “the Defense Trade Security Initiative (DTSI), was developed in response to industry and foreign government concerns.”⁵⁶ U.S. Army Major Isaiah Wilson, a military analyst, stated that the move to reform at least the Foreign Military Sales system was “dominated by the short term, commercial interests of the defense firms” and the interests of foreign buyers. According to Wilson, the reforms have “come at the expense of the longer term security interests of both the U.S. armed forces and the United States citizenry.”⁵⁷

Thus, the reform push appears to be driven more by economic motivation than a desire to enhance national security, although reformers often state that improving national security is their aim. The most widely touted goal of arms export reform is to increase U.S. government and industry cooperation with European defense firms, so U.S. firms will not be shut out of European markets as governments there come under increasing pressure to buy domestically. Moreover, American firms are finding it may be cheaper to produce weapon components in Europe. The defense industry and its allies in the U.S. government allege that trans-Atlantic defense cooperation is hampered by current U.S. export laws and regulations. On a broader level, reformers maintain that the bureaucratic process involved in exporting weapons, which can be slow and opaque, is “broken” and in need of massive repair. This book will challenge these claims.

The History of the Reform Movement

The movement to reform the U.S. arms export control system is not new. For several years, different departments and agencies have chipped away at long-standing provisions of arms export laws and regulations. Evidence of executive branch amenability to the reform movement’s agenda dates back at least to the mid-1990s. In 1995, the administration of President Bill Clinton conducted a review of defense trade policy that culminated in the issuance of Presidential Decision Directive 34. Among the more notable results was the addition of domestic economic factors to the list of criteria U.S. officials must consider when assessing arms export licenses.

The changes can be explained in part by industry’s influence over the policy-making process. Through advisory boards and commissions, industry representatives are able to feed their ideas directly to government officials. Washington’s “revolving door syndrome” — wherein top executives often rotate between government and industry posts — has also encouraged the Defense and State departments to align their interests closely with those of the defense industry. Access can be bought as well, and many export control reform advocates provide millions of dollars a year to campaign coffers.

Understanding the current debate over export reform requires some familiarity with key policy documents and proposed reforms put forward by industry-related groups, as well as recent changes to export controls. A brief summary of several of these instruments, initiatives and entities is provided below.

Defense Science Board

The Defense Science Board (DSB) was a key player in the early stages of the arms export reform movement.⁸ In its December 1999 “Task Force Report on Globalization and Security” — one of the first reports supporting far-reaching changes to the U.S. export control system — the DSB found that economic globalization has made it increasingly difficult to control international access to advanced conventional weapons or commercially available military technology.

The DSB answer to this challenge was, for all intents and purposes, that the United States should give up the battle and drop many unilateral export controls. The board found that when the U.S. government tries to single-handedly limit the spread of weapons, it only hurts the U.S. defense industry and does nothing to stop proliferation. The report states that “clinging to a failing policy of export controls has undesirable consequences beyond self-delusion. It can limit the special influence the U.S. might otherwise accrue as a global provider and supporter of military equipment and services. Equally obvious, shutting U.S. companies out of markets served instead by foreign firms will weaken the U.S. commercial advanced technology and defense sectors upon which U.S. economic security and military-technical advantage depend.”⁹

Alternatively, the board supported “building higher walls around smaller yards,” or decontrolling most defense goods in order to better protect a small number of critical military technologies. The DSB further recommended that DoD should facilitate transnational defense cooperation and integration.¹⁰

DTSI

Some of the DSB recommendations subsequently were translated into a set of policy changes to the licensing process designed to facilitate arms exports and technology transfers, especially to close allies. These changes, known as the Defense Trade Security Initiatives, were adopted by the Clinton administration in May 2000 over the strong objections of the State Department. According to the Defense Department, DTSI will allow U.S. industry to be more competitive abroad and enable companies to break into new markets. At the same time, however, DTSI dismantles many critical checks on arms and technology exports to U.S. allies. To date, few of DTSI’s 17 proposals have been fully implemented.

Underlying the various rationales for DTSI is the common complaint that the State Department’s review of approximately 45,000 export license applications a year is too lengthy and cumbersome. According to advocates of defense export reform, the thousands of commonplace license requests for exports to responsible allies clogs the licensing system, which results in unnecessary export delays and saps the State Department of resources that could otherwise be devoted to preventing the export of militarily critical technologies to problematic recipients. DTSI seeks to relax licensing requirements for exports to the closest U.S. allies: NATO members, Australia, Japan and New Zealand. Implicit in this argument is

the notion that exports to these countries are less likely to be diverted or used for unauthorized purposes.

In addition to relaxing controls on exports to the “NATO + 3” treaty allies, DTSI also allows exporters to circumvent many supposedly superfluous licensing requirements for the export of spare and replacement parts, as well as individual components of the larger, more sophisticated weapon systems. For example, the Global Project License allows exporters to receive a “single, comprehensive export authorization to permit qualified U.S. defense companies to exchange a broad set of technical data necessary for team arrangements, joint ventures, mergers, acquisitions or similar arrangements with qualified foreign firms from NATO, Japan, or Australia.”¹¹ Further, major program licenses are valid for eight years instead of the current four years. Licenses for NATO efforts, including those under the Defense Capabilities Initiative (DCI) designed to beef up allied militaries, are given expedited reviews as well.

Another DTSI provision requires a rotating review, on a four-year basis, of the U.S. Munitions List (USML) — the official government catalogue of what military items require an export license — to determine which weapons and technologies should be removed or added. While close examination of the process reveals that more technologies have been added to the USML than removed, there are consistent attempts to take sophisticated weapons and spare parts off the list. One such example is the campaign waged by Rep. Curt Weldon, R-Pa., and industry to remove the CH-47 Chinook military transport helicopter from the munitions list. Weldon’s interest is politically driven; a dearth of orders for the CH-47 is forcing the Boeing plant located in his district to eliminate at least 1,000 jobs by 2004.¹² If the CH-47 is removed from the USML, Boeing would be allowed to sell the helicopter to China, which has expressed an interest in purchasing the Chinook, but is prohibited from receiving U.S. defense articles due to a U.S. arms embargo imposed after the Tiananmen Square massacre. The Pentagon has also tried to convince the State Department to remove aircraft spare parts from the USML, despite the fact that many trafficking incidents involve spare parts going to prohibited states like Iran and China.¹³

The most significant and controversial change included in DTSI is the possibility to offer certain states exemptions from the International Traffic in Arms Regulations (ITAR), which govern all arms exports. Australia and the United Kingdom, which together account for 25 percent of U.S. weapon export licenses, will be the first two beneficiaries of this new policy once they meet U.S. requirements. When qualified, the two countries would enjoy the same license-free zone as Canada does now, despite the trouble the United States has experienced in ensuring the security of U.S. military technology sent to Canada under its ITAR exemption.¹⁴ In fact, the U.S. government was compelled to suspend ITAR exemptions to Canada in 1999 after investigations revealed that parties in Canada had re-exported U.S. weapons without approval.

In response to problems associated with the Canadian experience, and because this provision was designed to encourage potential beneficiaries to improve their own export controls, the Clinton administration identified specific measures that foreign states would need to adopt to qualify for the exemption. These included the protection of intangible defense technology, improvements in industrial security and agreements on retransfers of U.S. defense items. Congress gave these criteria teeth by requiring that they be legally binding under the domestic laws of any state granted an exemption.¹⁵ While essential from a national security perspective, the ITAR exemption requirements have prolonged negotiations with the United Kingdom and Australia, prompting the State Department to call for significant changes to the legal requirements. One such proposal — which was included in an initial draft of a bill of the 2004-'05 Foreign Operations Authorizations Act — would allow the congressional criteria to be waived when the president determines it is “in the national interest” to do so. If enacted into law, this waiver authority would weaken the exemption requirements and thereby undermine efforts to prevent diversion.

Although the defense industry supports the DTSI provisions, and the U.S. government maintains that it will uphold the strictest controls and restrictions to ensure national security needs are met, the new policies are potentially problematic. For example, the streamlining of the State Department export licensing process cuts down on the review time for licenses, which in turn could reduce oversight and accountability.

License exemptions also reduce the paper trail on arms transfers, making it difficult to track potential unauthorized transfers or retransfers. Exemptions, especially any made under a waiver of the congressional requirements, would make it significantly harder for the Justice Department to identify and prosecute violators of export laws. Indeed, in a letter to John Holum, then senior adviser for arms control and intelligence, the Justice Department warned that granting licensing exemptions to the United Kingdom or Australia “[would] greatly impede the ability of the law enforcement community to detect, prevent and prosecute criminal violations of the [Arms Export Control] Act, and [would] facilitate efforts on the part of countries and factions engaged in international terrorism to illicitly acquire sophisticated U.S. weaponry.”¹⁶

CSIS

Perhaps the most powerful non-governmental, non-profit actor in the reform movement has been the Center for Strategic and International Studies (CSIS). Now headed by John Hamre, former deputy secretary of defense in the Clinton administration, CSIS and a panel of consultants from defense industry and government in May 2001 called for an ambitious overhaul of the export licensing system.

The proposals set out in the CSIS report, “Technology and Security in the Twenty-First Century: U.S. Military Export Control Reform,” would gut the U.S.

export control regime. CSIS justified its proposals by arguing U.S. security would be enhanced by sharply reducing the number of military items requiring an export license and allowing defense companies to self-police compliance with export regulations. CSIS contended that the U.S. licensing regime is burdensome and over-restrictive, thus causing U.S. firms to lose export business. In addition, CSIS stated that U.S. export controls have pushed the European defense industry to consolidate, potentially cutting U.S. arms makers out of the European market or eroding the U.S. edge in technology development. Moreover, CSIS maintained that the current system is undermining the U.S. military's ability to maintain interoperability with allied forces.

CSIS' findings make little sense in today's economic and security environment, however. The U.S. arms industry maintains a large market share in Europe, completing over \$18 billion worth of new government-to-government deals and receiving more than \$80 billion worth of licenses for commercial arms exports in fiscal years (FY) 1996-2001.¹⁷ It is also hard to argue that U.S. technological capabilities are suffering. As evidenced by Operation Iraqi Freedom, U.S. military superiority is undeniable. Furthermore, the technological gulf separating the United States and its European allies is likely to widen in years to come as the United States reaps the benefits of its massive military research and development (R&D) spending, which is three times larger than that of its European counterparts collectively.¹⁸ Furthermore, since DTSI was first implemented in May 2000, efficiency improvements have sharply reduced the average license review time in both the Defense and State departments, and State has doubled the amount of license officers.¹⁹ But industry is still not satisfied.

Aerospace Commission

In its November 2002 final report, the congressionally mandated Commission on the Future of the United States Aerospace Industry, which was formed to study the future of the U.S. aerospace industry in the global economy and its importance to national security,²⁰ focused heavily on the need to reform the U.S. export control system to improve the industry's competitiveness in the global market. Chapter 6 of the report highlights the importance of having open and fair markets within which U.S. defense industry can compete. The report's sixth recommendation reads:

"The commission recommends that U.S. and multilateral regulations and policies be reformed to enable the movement of products and capital across international borders on a fully competitive basis, and establish a level playing field for U.S. industry in the global marketplace. The U.S. export control regulations must be substantially overhauled, evolving from current restrictions on technologies through the review of transactions to controls on key capabilities enforced through process controls. ..."²¹

The commission found that U.S. export controls “are increasingly counterproductive to our national security interests in their current form and under current practices of implementation.” Moreover, the commission stated that “export control reform is crucial to provide better security in the future and to insure the health and vitality of our aerospace industry.”²² The report featured many of the buzzwords in the reform debate, stating that export controls “provide too little security and impose enormous inefficiency.” Its central argument was that the current system of controls hurts interoperability, undermines collaboration, isolates American industry and damages U.S. competitiveness.

Like the CSIS, the commission recommended a shift from transaction-based licensing to process licensing, meaning industry should be granted a license to engage in defense exports and then be trusted to comply with U.S. laws and policy. This would leave it up to industry to police itself and make its own decisions about questionable transfers. Similarly, the commission argued that additional reforms — such as expanding ITAR waivers, reviewing the munitions list, eliminating some extraterritorial retransfer bans, updating country risk surveys on a regular basis and streamlining the administrative processes — would all go far in increasing the safety and security of the United States and its defense industry. But these reforms could also flood unstable regions with weapons, provide weapons to human rights-abusing regimes, and eliminate critical safeguards for the control of U.S. weapons and technology in general.

AIA

The Aerospace Industries Association’s (AIA) mission is to shape “public policy that ensures the U.S. aerospace industry remains pre-eminent and that its members are successful and profitable in a changing global market.”²³ AIA has been vocal in its complaints about the arms licensing process and has regularly provided lists of recommendations for reforming the export system. These proposals have been taken seriously, as AIA’s lobbying power is great. AIA has 77 member companies and 144 associate member companies²⁴ “represent[ing] the nation’s major manufacturers of commercial, military and business aircraft, helicopters, aircraft engines, missiles, spacecraft, materials and related components and equipment.” As mentioned above, the financial strength of the defense industry helps to ensure its message is heard in Washington. In 2000 alone, the defense sector spent \$60 million on lobbying,²⁵ with the defense aerospace industries spending almost \$28 million of that total.²⁶

AIA argues that “an entirely new export control system is long overdue.”²⁷ In the meantime, however, AIA proposes changes to congressional notifications of arms transfers, rules on third party transfers, the USML, laws governing the export of satellites and components, the licensing process and deemed export rules (a deemed export is one that would result in an item going to a foreign national within the United States).²⁸ For example, in July 2001, AIA advocated “raising (congres-

sional) notification thresholds, eliminating formal (congressional) notification for the NATO + 3 countries, removing non-military unique technology components and subsystems from the USML, and reducing license processing time.”²⁹ Across the board, AIA encourages reducing existing controls and relieving industry of the encumbrances of the licensing process.

Myths Vs. Realities

Though the reforms outlined above are based on the desire to improve U.S. national security and give a boost to the U.S. defense industry, they do not correspond with the realities of the current security and business environments. Moreover, many of the policy proposals are either unnecessary or go far beyond what is required to fix the problems identified by reform advocates.

In order to justify the more radical proposals, those pushing reform have developed a set of assertions that — due to constant repetition — have become conventional wisdom in the arms control world. This book seeks to provide an alternative, independent analysis of the export control system. It critically examines the arguments being put forward by reformers in the hopes of debunking some of the “myths” used to support radical change. Rather than basing their analysis on the financial needs of the defense industry, the authors in this volume assess export control reform in terms of broad national interests, such as the promotion of national security, foreign policy goals and democratic values.

Among the myths examined in this book are:

- The defense industry is in trouble, and needs U.S. government subsidies and a relaxation of export controls to compete internationally;
- Current controls damage U.S. national security by preventing interoperability with foreign forces and stymie the development of “cutting edge” U.S. military technologies;
- Arms exports buy the U.S. government influence over other nations’ domestic and foreign policies; and
- Without radical changes, our allies will start to look elsewhere for arms.

In addition to critiquing these assertions, the authors assess the risks and costs of undertaking the reforms that have been proposed or adopted over the past few years. The purpose is to provoke an in-depth, real debate before more, potentially damaging, changes are presented as *fait accompli*.

The authors, all experts in the field, are not alone in their beliefs. The GAO (a federal watchdog agency), some members of Congress, and the State Department also have a record of skepticism regarding the export reform movement. Following the approval of DTSI in May 2000, the GAO issued a report that found that DoD “largely relied on incomplete data and did not perform the analysis necessary to determine the underlying causes for problems it identified.”³⁰ According to the GAO, the administration was forming policy based largely on “anecdotal evidence,

... newspaper reports, ... and an informal survey of several major defense companies” without verifying the validity of the complaints.³¹ When the GAO conducted its own analysis of 10 commonly cited examples of problems with defense trade controls, it concluded that industry presented only a partial, and sometimes incorrect, portrayal of the facts.

The 2003 war in Iraq also prompted several members of Congress to speak out about the need not to weaken, but to strengthen, export controls to ensure U.S. weapon technologies cannot make their way into the hands of U.S. enemies.

Rep. Duncan Hunter, R-Calif., House Armed Services Committee chairman, advocated in April 2003 for tighter unilateral and multilateral export controls because of the danger of terrorists acquiring U.S. weapon technology.³²

Sens. Jon Kyl, R-Ariz., Richard Shelby, R-Ala., John McCain, R-Ariz., Jeff Sessions, R-Ala., and Russell Feingold, D-Wis., sent a letter to President George W. Bush calling for greater control by the State and Defense departments over the licensing of dual-use equipment exports (goods that can be used for either military or commercial purposes). Their goal is to reduce the current dominance of the Commerce Department in this process because “[t]here is an inherent conflict of interest in resting the protection of our national security in the hands of a department that is charged with the promotion of U.S. business interests.”³³

In a separate press release, Kyl stated, “U.S.-manufactured products — and those of other allied nations — still make their way to Baghdad and other terror capitals through the back door. ... The U.S. and our allies clearly are not doing enough to keep these materials from enemy hands. What is all the more alarming is that so many in the U.S. want to relax even further our government’s controls over such material.” He added, “In the years to come, America and her allies will certainly have to confront other enemies that may strike us. Imagine how it would feel to be injured by weapons stamped ‘Fabriqué en France’ or ‘Made in the USA.’”³⁴

Debunking the Myths and Exposing the Risks

Part 1 of this book (Chapters 2-5) examines the myths perpetuated by export control reformers. Each chapter discusses one critical aspect of the debate: U.S. government support for the defense industry; U.S. competitiveness in the global market and prospects for U.S. military modernization; the best way to achieve interoperability; and the usefulness of military diplomacy based on weapon exports. In each chapter, the authors demonstrate how these myths create a distorted view of the export control system.

In Chapter 2, John Feffer investigates government support for the U.S. defense industry in order to counter one of the reformers’ most salient arguments: that arms manufacturers require additional economic and political aid. The chapter sets the stage for the rest of the book by examining the special relationship between the arms industry and the government — a relationship that helps explain why industry representatives feel entitled to more favorable export policies.

Feffer explains that although arms sales constitute a relatively minor market - only 4.6 percent of U.S. trade volume and about 1 percent of total world trade - the U.S. government has provided subsidies and other forms of direct and indirect support far in excess of the industry's importance to the economy. This largesse has enabled U.S. firms to control half of the roughly \$38 billion global market in arms. The U.S. government spends approximately \$1 in subsidies for every \$2 in exports. Such subsidies include generous procurement policies, R&D funds, tax policy, aggressive overseas marketing and promotion, and military aid and financing for foreign customers.

Feffer further examines how tracking these subsidies has become more of a challenge because of the changing nature of the U.S. military-industrial complex. He explains how governments historically used investments in defense industries to gain exclusively national advantages. Today, however, the globalization of the defense industry, featuring international joint ventures, co-production agreements between countries and multinational defense firms, brings new challenges and priorities. The U.S. government is committed to securing U.S. industry a pre-eminent position in the increasingly globalized defense market to improve national security by boosting U.S. military and economic power. In the end, Feffer concludes that, in reality, subsidizing arms exports does not work economically and does nothing to increase U.S. security.

In Chapter 3, Kevin Speers and retired Rear Adm. Steven H. Baker, challenge assertions that unrestricted access to export markets is central to maintaining the financial health of the U.S. arms industry. The authors dismiss free market justifications for reducing export controls on the grounds that the defense industry is unique and — for national security reasons — not intended to be perfectly competitive. Speers and Baker conclude that the current system has allowed the U.S. defense industry to outperform its competition while satisfying the U.S. military's procurement and modernization needs.

To assess the impact of export controls on the defense industry, the chapter illustrates how U.S. defense firms have maintained dominance in the global market despite shrinking defense budgets around the world. In the end, the authors argue that given the new security framework since Sept. 11, 2001, it is critical that national security needs receive much higher priority than increasing the revenues of the defense industry.

In Chapter 4, retired Army Col. Daniel M. Smith debunks the argument that military interoperability is an essential reason to ease export controls. Smith defines interoperability, and describes what is required (or not) to achieve it. He argues that the misidentification of high-tech weapon systems as the primary source of increased battlefield complexity leads to the mistaken conclusion that solutions to interoperability challenges, such as compatible or interchangeable communications interfaces, can be addressed through weapon sales. These specious arguments overly simplify the problem; interoperability issues go far beyond hardware.

Smith explains that while there are interoperability problems among allied militaries (e.g., how to organize and train forces, and align procedures), these cannot be solved by changing the arms export control system. He argues that today's wars demand an interoperable "mindset" — the ability to quickly integrate and exploit the strengths that less technologically advanced partners can contribute to a coalition. He concludes that developing liaison teams, creating automated equipment interfaces, preparing tiered alliances, and undertaking joint and combined training would truly contribute to more interoperable coalitions.

In Chapter 5, Cassady Craft discusses another common justification for the promotion of arms exports: military diplomacy, or the belief that weapons and technology transfers will provide the U.S. government influence over recipients' policies. Craft examines whether traditional U.S. foreign policy goals — such as encouraging respect for human rights and democracy, preventing regional conflict, and achieving foreign assistance in promoting U.S. interests — are actually influenced by weapon transfers.

Craft identifies and analyzes the conditions under which military diplomacy may be effective. He concludes that military diplomacy is truly influential only in situations where:

- The importer relies on foreign suppliers for most of its weaponry;
- The exporter is the sole supplier of specific military items and thus importers have little chance of diversifying supply;
- The exporter seeks influence over the recipient's foreign, not domestic, policy;
- The exporter uses positive incentives rather than sanctions; and
- The recipient governments are liberal democracies.

Craft finds that these conditions do not usually apply to the countries that most often participate in the international weapon trade, especially those that are key U.S. arms trading partners. Craft illustrates the failure of military diplomacy by examining the cases of Israel and Turkey. In those cases, Craft concludes that the impact of military diplomacy is overstated or impossible to verify.

Part 2 of the book (Chapters 6-8) examines the risks of implementing the changes to the arms export control system favored by today's reformers.

In Chapter 6, Jason Meyers examines the implications for U.S. national security of several of the proposals under discussion. He concludes that the majority of proposals are overly concerned with the well-being of the defense industry, but insufficiently concerned with U.S. nonproliferation and security policies. Meyers highlights three main reform proposals — extension of ITAR exemptions, acceleration of licensing, and review of the USML — and discusses how each proposal is susceptible to misapplication and faulty administration. For example, Meyers details how the extension of ITAR exemptions could undermine enforcement of U.S. export laws and facilitate the acquisition of U.S. weapons and technology by

unintended end-users. In regard to dual-use controls, he argues that if the Export Administration Act (EAA), which controls the licensing of these types of exports, is renewed, it should be altered to give greater weight to national security.

While advocating caution in reform, Meyers agrees that there are risks associated with the current export system as well. For example, he argues that today's regime does not adequately address a range of humanitarian concerns and could — through massive arms sales to coalition partners — contribute to regional instability. Such actions could create more threats to U.S. forces operating abroad. Meyers concludes that while there are weaknesses in the current system, it does not present a clear and present danger to U.S. security — as some of the proposed reforms indeed might.

In Chapter 7, Joseph Smaldone evaluates arms export reform proposals in view of the foreign policy risks and costs associated with their enactment. He notes that the most prevalent threats to U.S. and international interests reside in troubled states and regions in the Third World, and summarizes empirical research on the relationships between arms transfers and political violence, humanitarian crises and human rights abuses in those areas.

Smaldone assesses six specific export reform proposals and provides recommendations to eliminate or reduce the foreign policy risks associated with each of them. Throughout the chapter, Smaldone endorses reform of the U.S. defense trade control system in theory, as long as any changes preserve and enhance the primary goals and principles of the existing system. Smaldone concludes by accepting many of the reformers' recommendations, endorsing others with caveats or conditions, rejecting a few, and offering additional proposals for consideration.

In Chapter 8, David Fite provides a view from Congress on reform of the U.S. arms and dual-use export control systems, with an eye to the risks to oversight and transparency that might result. The chapter begins with a primer on how Congress oversees the arms export process. Fite then reviews and critiques reform proposals, and makes conclusions and recommendations for the future.

Fite details the role of Congress in the export process, including responsibilities under the Arms Export Control Act (AECA), which controls sales/transfers of military equipment and services, and the EAA. He finds that Congress can exercise real influence through its control of export agencies' budgets, and by actions to raise the political and public costs of pursuing controversial arms sales. Throughout the chapter, Fite examines the varied viewpoints of members of Congress and those who serve on the committees that oversee the export control process. He concludes that committee members and staff are generally skeptical about a major overhaul of the arms export control system, especially any moves that would undermine congressional oversight. He also provides recommendations for reform of the arms export control system that promote efficiency, oversight and security.

Part 3 (Chapters 9-12) examines alternatives for reforming the arms export control process. Among the alternatives considered are the strengthening of multilateral arms export control regimes, and the fortification of U.S. leadership and management of arms export processes.

In Chapter 9, Wade Boese describes the history, successes and failures of the Wassenaar Arrangement (WA), the voluntary export control regime whose 33 members exchange information on their trade with non-member countries in conventional arms and dual-use goods. The aims of the WA are to promote greater responsibility among arms sellers, and to prevent destabilizing accumulations of weapons and technologies that could threaten regional or global security.

Members of the WA are often at odds over its goals and procedures. In particular, Boese discusses the difficulties in developing rules and guidelines on arms exports. For instance, WA members disagree about which countries or regimes should be prohibited from receiving weapons. This has undermined efforts by individual member states to shut off the arms spigot to problematic governments, such as those in Iran, Libya and North Korea. Boese argues that, despite such problems, the WA can transcend its current, limited role as a transparency mechanism and information-sharing body. Reinventing the WA into a multilateral instrument capable of shaping and controlling the global arms trade requires that each member must cede some control over its own exports and forgo some sales, however.

The second international regime analyzed in this volume, the Missile Technology Control Regime (MTCR), is addressed in **Chapter 10 by Theresa Hitchens and Jillian Hayes**. The authors discuss the strengths and shortcomings of the MTCR, the only multilateral arrangement focused exclusively on missile non-proliferation. Hitchens and Hayes argue that the MTCR has been a successful tool in achieving four main goals: slowing and suppressing missile activity and proliferation; delaying, although not preventing, development of missile programs in countries of concern; increasing transparency about members' own missile programs; and acquiring information about which nations continue to pursue missile technologies.

The authors structure their discussion of the regimes' weaknesses by focusing on three areas: the stability of its rules of restraint; the technical coverage of its restrictions; and the continued activities of some missile suppliers. The key finding is that the MTCR's current weaknesses lie less in the technological and process arenas, but rather in the political will of member countries to work together to improve the regime. In conclusion, Hitchens and Hayes discuss a number of initiatives undertaken in order to expand the MTCR's scope and effectiveness.

In light of the failure of existing international regimes to properly curb weapon proliferation, a new concept for controlling the legal arms trade is discussed in **Chapter 11 by Greg Puley and Michael Crowley**. The authors describe an international initiative to create a legally binding set of rules for international arms transfers — the Arms Trade Treaty. The Arms Trade Treaty, which has been developed by international legal experts in coordination with several non-governmental organizations and

18 Nobel Peace Prize winners, would reiterate existing rules on arms transfers found in other texts and codify principles of international law that have not yet been explicitly tied to arms transfers.

The Arms Trade Treaty is based on the assumption that states already have certain responsibilities with regards to arms sales based on their adherence to documents like the Geneva Conventions and the UN Charter. Legal scholars have determined that if a state helps another state to violate these international laws — for example, by providing the weapons used to target civilians in contravention of the laws of war — it shares the responsibility for that violation.³⁵ The convention would therefore ban arms transfers where there is a clear risk they could be used to seriously violate established standards of human rights, humanitarian law and non-aggression. It would also require exporting states to avoid the sale of weapons that could have an adverse impact on sustainable development or political stability.

Finally, in **Chapter 12**, **Tamar Gabelnick and Rachel Stohl** conclude that national security in the post Sept. 11 world demands strengthened, not weakened, U.S. export controls. While not disputing the goals of those advocating reforms, the authors take issue with the means selected to achieve those goals. Many of the reform proposals would “throw the baby out with the bath water,” overreacting to the problems at hand and creating new hazards at the same time. Gabelnick and Stohl encourage U.S. policy-makers to carefully weigh the costs vs. benefits of proposed reforms, recognizing that some costs might be too steep no matter what the possible returns.

The authors further urge the U.S. government to consider a set of alternative measures to meet weaknesses in the current export control system. Their proposals center around improving the efficiency of the system, enhancing transparency on arms transfers, and improving accountability through stronger and clearer norms on eligible states. They also encourage the United States to play a leadership role in international arms control by actively promoting improvements to current regimes and supporting a normative arms trade treaty.

This book is likely to leave the reader with more questions than answers about arms export reform. That is the intention. The goal is to transform what has largely been a one-sided debate into a broader discussion that allows policy makers and the public to engage in meaningful dialogue.

A crucial lesson that emerges is that U.S. security and foreign policy interests should always come before economic concerns. Moreover, the book highlights the fact that oversight, transparency and accountability are key obligations of any arms export system.

Finally, the essays demonstrate that, as the world’s remaining superpower and largest arms exporter, the United States has an undeniable responsibility to ensure that its policies and practices are not only beneficial to the United States, but to the rest of the world as well. Only by maintaining the highest possible export control standards will the U.S. system remain a model for other countries.

ENDNOTES

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