

allies. Second, in recent years attention has turned to the proliferation of weapons of mass destruction in the Third World. In response, Western governments have developed multilateral systems to control the export of missiles and products used to manufacture chemical weapons. Third, the public has come to demand more insight and input into the making of strategic export control policy.

PRINCIPLES GOVERNING THE CONTROL OF STRATEGIC EXPORTS

Underlying current policies on the export of military products is a well-known principle; namely, that for political and moral reasons, military exports are not like other exports and must be subject to certain restrictions. This principle is a product of both the idealism of the 1920s and the realism of the 1940s. In most Western countries, the basic legal approach is that exports of weapons of war are banned, unless authorized by the government.

The export of dual-use technology, that is technology which has both civilian and military applications, is dealt with differently. Exports are allowed, but the government reserves the right to ban particular exports, or limit them to certain countries.

Governments grant or refuse permits for the export of weapons and dual-use technology on the basis of international agreements which they have signed, and in accordance with their own political, economic and moral objectives.

There are many reasons for controlling strategic exports. First, political leaders consider the national interest better served by a policy of export controls than by the free market. By regulating exports, governments are able to reduce the likelihood that arms and advanced technology will be transferred to avowed or potential enemies. They can also influence the policies of states by restricting or allowing strategic exports to them.

Second, export controls can help protect continued military production. Most countries with an arms industry have to export to make the industry viable. However, there is sometimes considerable domestic opposition to this trade. With export controls, arms manufacturers can argue that their business is legitimate since it is approved and controlled by the government. The regulation of exports also shelters firms which produce dual-use technology from the charge that they are in fact arms merchants.

Third, export controls serve a moral purpose. Many believe that regulation of the arms trade promotes hu-

man rights, justice and peace. Control policies make it possible for political leaders and the public to reconcile themselves to the moral dilemma facing them — that although they would prefer a disarmed world, they are obliged to recognize the harsh realities of international life. Partly in response to these concerns, Canadian governments have attempted to apply a policy of not selling arms to states which are “involved in or under threat of imminent hostilities” or to countries with consistent records of gross violations of human rights.

The compromises which governments have accepted in their export control policies have given rise to a number of paradoxes. For example, Western governments speak of the dangers of excessive armament but still authorize unrestricted sales of military hardware to their allies. Controls on the trade of strategic products are described as necessary for the security of the world, but they may also harm developing states’ economic progress by denying them certain technology. This in turn may create new security problems as a consequence of underdevelopment.

Those who reject trade-offs in the making of strategic export policy focus on these paradoxes to advance their argument. There are many critics who maintain that any trade-off in controls policy is unacceptable, and therefore the strict regulation of arms exports should be applied equally to all concerned and in all circumstances. In the extreme, some argue the best possible solution is to ban the production and trade of arms. However, the cynics make the opposite case: since a world without arms is not within reach, and the tensions present in export control policies cannot be resolved, such efforts at control are demonstrably futile.

CANADIAN LEGISLATION AND CONTROLS ON STRATEGIC EXPORTS

Background

The concept of strategic export controls became integrated into Canadian legislation only in 1954. Previously, the export of arms and military production was governed by the old *Customs Act* (Section 29), which authorized cabinet to prohibit exports of arms or military material. In 1937, the *Customs Act* was amended to give cabinet greater power over arms exports. The Order in Council of 30 July 1937 prohibited anyone from exporting military goods without first obtaining a permit from the Minister of National Revenue.

In 1947, the *Export and Import Permits Act* replaced the *Customs Act* as the main instrument of control over exports. Subsection 3(1) stipulated that exports for military purposes should be placed on a