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The United States Is Moving Further From Fostering Multilateral Restraint Of Conventional Arms Sales

Arms sales is the blind spot of our generation. Every generation has its own blind spot which is incomprehensible to future generations — slave trade of the eighteenth century and childworkers of the nineteenth century. Like the other evils, this too shall pass.¹

I. Introduction

Not by itself, it will not pass. History has shown that leadership, by a particular nation and with concerted diplomatic effort, has been a principal ingredient leading to positive results from multilateral conventional arms² transfer restraint efforts.³ In the last thirty years, arms transfer has become a national security and diplomatic instrument of the major powers,⁴ as the quantity of arms transferred⁵ and level of their technological sophistication has increased.⁶ As a result, arms transfer has become a major factor in East-West competition,⁷ and armed conflicts have become more devastating.⁸ The past thirty years has also been marked by unilateral⁹ and multilateral¹⁰ attempts to both reduce the negative results of international arms

1. A. PIERRE, THE GLOBAL POLITICS OF ARMS SALES 311 (1982) [hereinafter A. PIERRE]. This is a paraphrase of A. Pierre's quote of Anthony Sampson, noted British journalist, in *Arms Sales: Blind Spot of a Generation*, The Observer (June 18, 1978). The last sentence of this paraphrase, stating that "this too shall pass" is inferred by the quoted sentence, according to A. Pierre.

2. The scope of this Comment is restricted to "conventional arms," meaning other than nuclear. "Arms," as used in this Comment is not restricted to individual weapons, but means all weapons and equipment of conventional war, to include individual and crew-served weapons, weapons systems, aircraft, armored and other ground vehicles, boats and ships, communications equipment, and other equipment (writer's definition).

3. See generally *infra* p. 359 (discussion of Soviet First Party Secretary Khrushchev's proposal for United Nations arms embargo of the Middle East), p. 360 (discussion of the Carter administration's Conventional Arms Transfer Talks with the Soviet Union), p. 365 (discussion of the Venezuelan president's efforts to reactivate the Ayacucho Declaration).

4. See *infra* note 20 and accompanying text.

5. See *infra* p. 345.

6. See *infra* pp. 345-46.

7. See *infra* p. 346.

8. See *infra* p. 370.

9. See generally *infra* pp. 356-65.

10. *Id.*

transfer and reverse the current trends.¹¹ Until the present decade, the United States had taken the initiative in many of these instances to encourage restraint.¹² Presently, international arms transfer restraint does not appear to be a significant item in the United States foreign policy agenda.¹³

In the past, cooperation among major arms suppliers was only successful to a limited degree, in achieving restraint, when the objectives were limited to a particular region of the world and toward correcting a particular crisis.¹⁴ Conventional wisdom at the beginning of the Carter administration was that the Soviet Union was not interested in multilateral arms transfer restraint; however, this changed when, at Carter administration initiative, the United States and the Soviet Union conducted Conventional Arms Transfer Talks, which lasted for one year.¹⁵ The Reagan administration has taken a different tack, concluding that cooperation among major suppliers is presently an unworkable approach. One reason for the Reagan administration's conclusion is that the Soviet Union, whose participation would be necessary for success, is no longer interested.¹⁶ Thus, the present United States policy is to take no initiative toward encouraging arms supplier multilateral restraint, but to focus on regional conflict resolution in an attempt to reduce underlying arms demand motivation.¹⁷ The present policy also supports United Nations' ongoing arms transfer restraint efforts.¹⁸

This Comment describes world arms sales trends and the roles of the arms suppliers. It traces the United States arms sales policies and practices from World War II to the present. This Comment outlines past international efforts at restraint that illustrate how previous successes have been achieved. Last, this Comment examines the present United States policy, concluding that the policy is too passive, lacks implementation, and lacks diplomatic leadership needed for success.

II. Trends in World Arms Trade

Several marked international trends have occurred in the 1970's and 1980's.¹⁹ The trends are that arms sales have become a key dip-

11. *Id.*

12. *Id.*

13. *See generally infra* pp. 372-74.

14. *See generally infra* pp. 358-64.

15. *See infra* text accompanying note 183.

16. *See infra* text accompanying notes 303 and 304.

17. *See infra* text accompanying notes 308-10.

18. *Id.*

19. Most scholars of international arms transfer would likely agree that an excellent discussion of trends is at A. PIERRE, *supra* note 1. *See also Arms Sales: The New Diplomacy*, FOREIGN AFFAIRS (Wntr 1981-82), reprinted in NATIONAL DEFENSE UNIVERSITY, INTERNA-

omatic tool of supplier states, quality and quantity of transferred arms have increased, significant flow is toward the Third World rather than solely toward major alliance allies, indigenous armaments industries within the Third World have become prominent, and arms sales have become a major factor in East-West competition in the Third World. Each of these trends is discussed below.

The first trend is that arms sales have become a key diplomatic tool of suppliers.²⁰ The major powers are placing less reliance on the traditional instruments of reassurance and diplomacy, such as formal alliances, stationing forces abroad, and threat of direct intervention.²¹ Instead, nations are more likely to shore up allies or proxies with arms than to commit their own forces.²² Both the United States and the Soviet Union now give less economic assistance than they give military assistance.²³

The second trend is that the quantity of weapons traded has increased.²⁴ Worldwide arms imports rose from 22.9 billion dollars in 1975 to approximately 40 billion dollars each year from 1981 to 1984.²⁵ In 1984, the United States share of total world arms exports was 24.6 percent, and the Soviet Union's share was 26.8 percent.²⁶ French and British sales volume have quadrupled since 1970.²⁷ A number of smaller suppliers have significantly increased their sales.²⁸

The third trend is the qualitative upgrading of arms trans-

TIONAL ISSUES AND PERSPECTIVES 208-26 (1983) [hereinafter NATIONAL DEFENSE UNIVERSITY].

20. NATIONAL DEFENSE UNIVERSITY, *supra* note 19, at 211. Although not the most evident trend, this is the most disheartening trend with regard to prospects for multilateral restraint.

21. *Id.*

22. *Id.* These trends, breaking away from the traditional diplomatic tools and instead using arms supply, portend an environment that is more unfriendly to multilateral reduction agreement. This Comment traces the change, from major power reliance in prior decades on regional alliance and diplomacy, to supplying arms in this decade in order to achieve international objectives. As major powers find that arms supply is more effective and economical than traditional methods, it seems that major powers will emphasize arms supply. *Id.*

23. *Id.*

24. *Id.* at 209.

25. Measured in constant 1983 dollars. ARMS CONTROL AND DISARMAMENT AGENCY, WORLD MILITARY EXPENDITURES AND ARMS TRANSFER, 6 (1986) [hereinafter WMEAT]. This document has been published annually by the Arms Control and Disarmament Agency (ACDA). ACDA distributes the report to major college, university, and public libraries. Transfers dropped to 27 billion dollars in 1985, due principally to a decline of developing country imports by over 40 percent in real terms for the previous year. *Id.* at 7. The 1986 WMEAT report concludes that the sharp decline was due to a burgeoning rise in developing countries' imports in the early 1980's, which could not be sustained because of the economic drain on those countries. *Id.* The 1986 WMEAT report states that years 1979-1984 can be seen as a plateau period with a moderate growth rate of 1.5 percent, and that the 1985 drop will probably be revised upward in future editions. The WMEAT report cautions against assuming a downward trend. *Id.*

26. WMEAT, *supra* note 25, at 11.

27. *Id.*

28. *Id.*

ferred.²⁹ Prior to 1970, most arms transferred were the major powers' surplus and obsolete weapons.³⁰ Today the weapons transferred are among the most sophisticated the suppliers can offer.³¹

The fourth trend is that the direction of arms flow has changed.³² Until the mid-1960's most weapons went to developed countries, namely NATO and Warsaw Pact allies.³³ This changed during the Vietnam War period when the major portion of transfers went to the developing world.³⁴ The trend did not reverse with the end of the war. During the late 1970's, shipments from the United States to the Persian Gulf and Middle East quadrupled.³⁵ Most Soviet weapons are now shipped to Syria, Iraq, and Libya.³⁶ By 1980, this region was receiving fifty percent of all weapons shipped to the Third World.³⁷ In 1985, more than three-fourths of arms transfer went to the Third World.³⁸

The fifth trend is toward the establishment of indigenous armament industries within the Third World.³⁹ Some twenty-four developing countries now produce weapons, whereas in 1960 hardly any of these nations manufactured arms.⁴⁰ This trend is motivated by the desire to reduce dependence for national security, rather than for commercial reasons.⁴¹

Last, arms sales have become a major factor in East-West competition in the Third World.⁴² Arms transfer is the major tool for the Soviets, and is an important tool for the United States, in gaining allegiance of Third World countries.⁴³

Several of these trends are disheartening with respect to prospects for multilateral arms transfer restraint. Willingness to negotiate arms transfer may be expected to decrease as major powers place

29. NATIONAL DEFENSE UNIVERSITY, *supra* note 19, at 209.

30. *Id.*

31. As late as the early 1960's, the aircraft transferred by the United States and the Soviet Union were ten-year-old F-86's and MiG-17's, rather than the first-line fighters of the period such as the F-4's and Mig-21's. In contrast, today the most technologically advanced fighters are being transferred — F-15's and MiG-23's. *Id.*

32. *Id.* at 209-10.

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.* at 210.

37. *Id.*

38. *Id.* See also WMEAT, *supra* note 25, at 6.

39. NATIONAL DEFENSE UNIVERSITY, *supra* note 19, at 210.

40. *Id.* The major Third World arms suppliers are Argentina, Brazil, China, Egypt, India, Israel, North Korea, South Korea, Pakistan, Singapore, and Yugoslavia. WMEAT, *supra* note 25, at 26.

41. *Id.* States that have been motivated by perceived unreliability of outside suppliers are Israel, South Africa, Taiwan, South Korea, and India. Nations that have built their own defense industries, motivated less by perceptions of threat to security and more by political status within their region, are Argentina, Brazil, Venezuela, and Indonesia. *Id.*

42. *Id.* at 211.

43. *Id.*

less emphasis on diplomacy and more emphasis on arming their proxies. Also, the major powers may be drifting further from potential cooperation on arms transfer since arms transfer has become a major factor in East-West competition in the Third World.

III. Role of the Suppliers

The Soviet Union is the world's largest supplier of arms.⁴⁴ Total arms exports of the Soviet's major alliance — the Warsaw Pact — is however less than that of the United States' major alliance — NATO. The Warsaw Pact accounts for 34.1 percent of world arms exports whereas NATO accounts for 48.6 percent of world arms exports.⁴⁵ France, which is not a NATO member, is the world's third largest supplier, with a 19.3 percent world market share in 1985.⁴⁶

The Middle East is the dominant market for nearly all major supplier countries⁴⁷ with two exceptions. One exception is that NATO is the main United States market.⁴⁸ Another exception is that the Soviet Union is the main market of the non-Warsaw Pact group of suppliers.⁴⁹ The supplier roles in world arms transfer are discussed in more detail following.

A. *The United States Role in World Arms Transfer*

The United States, long the world's largest supplier of arms, transferred abroad over \$120 billion in arms and military services, during the period of 1950 to 1980.⁵⁰ This was more than half the world total during the period.⁵¹ During the late 1970's, the Soviet Union overtook the United States as the world's leading arms supplier.⁵² United States transfers are growing during the Reagan administration,⁵³ with its military buildup⁵⁴ and emphasis on arms as an instrument of diplomacy.

1. *Early History.*—Before World War II, the United States

44. WMEAT, *supra* note 25, at 10.

45. *Id.*

46. *Id.* at 11.

47. *Id.* at 8.

48. *Id.*

49. *Id.* It may be surprising, but the Soviet Union is the world's eighth-ranked importer of arms, even though the largest exporter in the world, and the primary supplier to five of the top ten arms importing countries. *Id.*

50. NATIONAL DEFENSE UNIVERSITY, *supra* note 19, at 217.

51. *Id.*

52. R. LABRIE, J. HUTCHINS, & E. PEURA, U.S. ARMS SALES POLICY: BACKGROUND AND ISSUES, 23 (1982) [hereinafter R. LABRIE] (citing U.S. ARMS CONTROL AND DISARMAMENT AGENCY, WORLD MILITARY EXPENDITURES AND ARMS TRANSFERS 1970-1979 (1982)).

53. *Id.* at 16.

54. The "greatest peacetime arms buildup in United States history" occurred during the Reagan administration. Gold, *Caspar Weinberger's Legacy May Stand on 'Star Wars'*, 3 INSIGHT 18 (Nov. 23, 1987).

ranked behind France and Great Britain in arms exports.⁵⁵ In 1939 the Neutrality Act⁵⁶ was amended to lift the prohibition of arms sales to belligerents and permit the "cash and carry" policy that prevailed during wartime.⁵⁷ With the Lend-Lease program of 1941,⁵⁸ the United States became the arms supplier to the allies.⁵⁹ The Truman Doctrine of 1947 became the cornerstone of United States containment policy toward the Soviet Union. The enactment of Public Law 80-75 in 1947,⁶⁰ providing military aid to Greece and Turkey, marked the beginning of military assistance programs (MAP).⁶¹ With the formation of NATO in 1949, an increasing number of weapons were exported to European allies.⁶² The Mutual Defense Assistance Act of 1949⁶³ expanded aid to several countries outside NATO.⁶⁴

As the containment policy expanded in the 1950's and early 1960's to geographic regions other than NATO regions, so did United States military assistance.⁶⁵ With the Korean War, Egypt's turn to the Soviet Union for support, and involvement in Indochina in the 1960's, United States foreign aid policy was broadened from support for our allies to support for other nations as well.⁶⁶ When

55. Kemp & Miller, *The Arms Transfer Phenomenon*, in *ARMS TRANSFERS AND AMERICAN FOREIGN POLICY*, 21 (A. Pierre ed. 1979).

56. J. Res. Nov. 4, 1939, § 20, 54 Stat. 4 (codified as amended at 22 U.S.C. § 441 *et seq.*).

57. DEFENSE INSTITUTE OF SECURITY ASSISTANCE MANAGEMENT, *THE MANAGEMENT OF SECURITY ASSISTANCE 1-22* (1979) [hereinafter DEFENSE INSTITUTE].

58. Act of Mar. 11, 1941, ch. 1-11, 55 Stat. 31 (codified as amended at 22 U.S.C. §§ 411-19 (1982) (these sections, comprising the Lend-Lease Act, expired by their own terms following the end of World War II. 22 U.S.C. §§ 441-19 (1982)). Lend-Lease was a program submitted to Congress by President Franklin D. Roosevelt, designed to circumvent existing neutrality legislation and make United States war materials immediately available to the Allies. The Lend-Lease Act authorized the president to sell, transfer, exchange, lease, or lend any defense articles to the government of any country whose defense the president deemed vital to the defense of the United States, and made available to such nations the facilities of United States shipyards. S. MORISON, *THE OXFORD HISTORY OF THE AMERICAN PEOPLE* 998-99 (1965) [hereinafter S. MORISON].

59. In the terms of President Franklin D. Roosevelt, "the arsenal of democracy." S. MORISON, *supra* note 58, at 999. See also DEFENSE INSTITUTE, *supra* note 57, at 1-22.

60. Act of May 22, 1947, ch. 81, 61 Stat. 103-05 (codified at 22 U.S.C. §§ 1401-08, and amended (1982)) (repealed 1954).

61. See generally DEFENSE INSTITUTE, *supra* note 57, at 1-25.

62. Lewis, *Political Influence: The Diminished Capacity*, in *ARMS TRANSFERS IN THE MODERN WORLD* 188 (S. Newman & R. Harvey ed. 1979) [hereinafter Lewis].

63. Act of Oct. 6, 1949, ch. 1, 63 Stat. 714 (codified at 22 U.S.C. § 1571, and amended) (repealed 1954).

64. Lewis, *supra* note 62. Military assistance during this period consisted primarily of war surplus materials, free of charge to NATO allies and other countries seen as threatened by communism, under what became known as the Military Assistance Program. AMERICAN ENTERPRISE INSTITUTE, *DEBATING THE DIRECTION OF U.S. FOREIGN POLICY: 1979-1980 HIGH SCHOOL DEBATE ANALYSIS* 35 (1979).

65. Warnke, *American Arms Transfers: Policy and Process in the Executive Branch*, in *ARMS TRANSFERS AND AMERICAN FOREIGN POLICY* 195 (A. Pierre ed. 1979) [hereinafter Warnke].

66. *Id.*

World War II surplus stockpiles diminished, United States security assistance moved from military assistance program grants to arms sales under foreign military sales programs.⁶⁷

2. *Nixon-Ford Years.*—Concurrent with the beginning of the “Vietnamization” of the Vietnam War⁶⁸ Nixon established new guidelines for United States security assistance policy. The guidelines stated that the United States would respect commitments and help its friends, but would look to the nation directly threatened to assume the primary responsibility for providing the manpower for defense.⁶⁹

In the 1970’s several trends in United States arms transfer occurred.⁷⁰ These trends included the continued decline in the use of grant military aid, and the increase in the number of arms sales recipients and commercial sales.⁷¹

In 1968, the Foreign Military Sales Act⁷² was passed, requiring administrations’ arms sales policies to emphasize foreign policy.⁷³ The dollar value of arms transactions was rising dramatically and weapons sold by the United States were becoming increasingly sophisticated.⁷⁴ These factors, and what was perceived as a casual attitude on the part of executive branch policy makers, became major concerns of Congress and the public in the 1970’s.⁷⁵

The Nixon and Ford administrations did not appear to follow a coherent arms transfer policy.⁷⁶ Arms sales became more a tool of politics than an instrument of foreign policy.⁷⁷ For example, in 1972 President Nixon gave instructions to honor virtually all requests from Iran, thereby circumventing the formal review process.⁷⁸ President Ford decided during the 1976 presidential campaign to sell Israel equipment that had previously been banned.⁷⁹ In response, Congress enacted a law⁸⁰ that gave it power over individual transac-

67. *Id.*

68. Nixon labeled as “Vietnamization” his move away from attempting to win the Vietnam war with U.S. forces, so that they could be withdrawn, and toward attempting to make the Vietnamese forces capable of sustaining the effort (writer’s explanation).

69. CONGRESSIONAL RESEARCH SERVICE, CHANGING PERSPECTIVES ON U.S. ARMS TRANSFER POLICY 5 (unpublished report to the Subcomm. on International Security and Scientific Affairs of the Comm. on Foreign Affairs, U.S. House of Representatives) (Sept. 25, 1981).

70. Warnke, *supra* note 65, at 198-99.

71. *Id.*

72. Act of Oct. 22, 1968, 82 Stat. 1320 (codified as amended at 22 U.S.C. § 2341).

73. R. LABRIE, *supra* note 52, at 9.

74. *Id.*

75. *Id.*

76. *Id.*

77. *Id.*

78. A. PIERRE, *supra* note 1, at 48.

79. *Id.*

80. The Nelson amendment to the fiscal year 1975 foreign assistance authorization bill.

tions. The law required the executive to report military sales of \$25 million or more to Congress, and Congress was given twenty days to veto them by a concurrent resolution.⁸¹ Whereas Congress had always had control over grants, because grants require appropriation, this new law gave Congress measure of control over arms sales as well.⁸²

The International Security Assistance and Arms Export Control Act⁸³ passed in 1976⁸⁴ gave Congress a great deal of control, which remains today. Congress retained the right to veto proposed arms sales and extended the period of time during which a proposed sale could be vetoed from twenty days to thirty days.⁸⁵ The Act placed a ceiling on commercial arms sales — sales to non-NATO countries over \$25 million were required to be on a government-to-government basis. The Act required the president to submit arms transfer quarterly reports to Congress. Last, the Act required that security assistance be withheld from governments that engaged in human rights violations.⁸⁶

3. *Carter Years.*—Perhaps the most significant United States period of attempt, since World War II, to restrain arms transfer was made during the Carter administration.⁸⁷ The administration's arms transfer policy attempted both unilateral restraint and international arms transfer reduction through multilateral negotiations.⁸⁸

The Carter administration affirmed the preceding congressional initiatives limiting the sale of arms to foreign countries.⁸⁹ In 1977 President Carter announced his arms sales policy, stating that conventional arms transfers would be viewed as an "exceptional foreign policy implement, to be used only in instances where it can be clearly demonstrated that the transfer contributes to our national security interests."⁹⁰ The policy established controls on transfers to all

Act of Dec. 30, 1974, 88 Stat. 1814 (codified at 22 U.S.C. § 2776).

81. Whittle, *Controls on Arms Sales Lifted After Failure of Carter Policy to Reduce Flow of Weapons*, published in 40 Congressional Quarterly Weekly Report, 798 (Apr. 10, 1982).

82. R. LABRIE, *supra* note 52, at 9-10.

83. Arms Export Control Act, 90 Stat. 729 (1976) (codified as amended in scattered sections of 22 U.S.C. (1982)).

84. The Arms Export Control Act ushered in the present period of strict procedure and control over arms sales. R. LABRIE, *supra* note 52, at 10.

85. *Id.* The Supreme Court since declared the "legislative veto" unconstitutional in *INS v. Chadha*, 462 U.S. 919 (1983). For a discussion of the effect of *Chadha* on selected United States foreign policy issues, including arms transfer, see Pomerance, *United States Foreign Relations Law After Chadha*, 15 CAL. W. INT'L L.J. 201 (1985).

86. R. LABRIE, *supra* note 52, at 10.

87. See generally text pp. 9-10, and pp. 20-24 (discussing Conventional Arms Transfer Talks with the Soviet Union).

88. See R. LABRIE, *supra* note 52, at 11-12.

89. *Id.* at 10.

90. *A Foreign Policy Based on America's Essential Character: President Carter An-*

nations except NATO members, Japan, Australia, and New Zealand. The controls were binding "unless extraordinary circumstances necessitate a Presidential exception, or where I determine that countries friendly to the United States must depend on advanced weaponry to offset quantitative and other disadvantages in order to maintain a regional balance."⁹¹

In retrospect, the Carter policy of unilateral restraint was not entirely successful.⁹² Even though the administration established guidelines and controls that required disclosure and interagency coordination,⁹³ arms sales were not an "exceptional" implement of foreign policy, nor did the dollar ceiling reduce the volume of sales during the Carter presidency.⁹⁴ The United States conducted Conventional arms transfer talks with the Soviet Union, but the talks fell short of their objective of limiting the arms sales of the other major supplier nations.⁹⁵

The Carter administration's policy on arms transfers emphasized unilateral restraint in order to set the example for eventual multilateral restraint.⁹⁶ The Carter administration was successful in instigating multilateral restraint negotiations among NATO allies, and at bilateral Conventional Arms Transfer (CAT) talks with the Soviet Union.⁹⁷ By contrast, the Reagan administration is willing to listen to other's proposals, but says it is unwilling to jeopardize United States interests by unilateral restraint.⁹⁸

nounces Policy on Transfers of Conventional Arms, 76 DEPT. OF STATE BULLETIN 621, 625 (1977).

91. *Id.* This policy statement was announced on May 19, 1977. More specifically, the policy included the following features: (1) The United States would reduce the dollar volume of new commitments. A \$8.5 billion ceiling was set for fiscal year 1978, which represented an eight percent decrease from the prior year new commitments to nonexempt nations. These goals did not include commercial sales, which are sales made by manufacturers directly to foreign governments under U.S. license, nor did these goals include non-weapons factors, such as military construction. (2) The United States would not transfer newly developed advanced weapons until the weapons were operationally deployed with U.S. forces. (3) The human rights posture of a potential arms recipient country, and the economic impact of arms transfers to countries receiving U.S. economic assistance, would be considered. (4) Weapons would not be developed, nor existing weapons significantly modified, solely for export. (5) Coproduction agreements would not be permitted for significant weapons, equipment, and major components. (6) Retransfer of weapons to third-party countries would not be permitted. (7) Proponents, and not opponents, of an arms sale would have the "burden of persuasion." (8) Attempt would be made to remove economic incentives for arms sales, such as lower per unit cost for Defense Department procurement of items. (9) U.S. government employees abroad were prohibited from helping arms salesman without express permission from Washington. (10) Reduction in international arms transfer would be attempted through multilateral negotiations. *Id.*

92. See R. LABRIE, *supra* note 52, at 11.

93. *Id.* at 10. See also A. PIERRE, *supra* note 1, at 52, 59, and 61-62.

94. A. PIERRE, *supra* note 1, at 57-58.

95. The Carter administration's effort at negotiating multilateral restraint was the Conventional Arms Transfer Talks with the Soviet Union, discussion more fully in this Comment *infra* p. 360.

96. See R. LABRIE, *supra* note 52, at 11-12.

97. See *infra* pp. 360-63.

98. R. LABRIE, *supra* note 52, at 17-18.

4. *The Reagan Administration.*—In contrast to the Carter policy of attempting to control United States arms sales abroad, the emphasis under the Reagan administration shifted to arms sales as a key foreign policy instrument.⁹⁹ The Reagan administration views weapons transfers as “an essential element of its global defense posture and an indispensable component of its foreign policy.”¹⁰⁰

President Reagan’s first official statement on arms transfer, on July 8, 1981, focused on the use of arms sales to counter the Soviet challenge.¹⁰¹ According to President Reagan, the United States must not only strengthen its own military capabilities but must be prepared to help its friends and allies to strength their military capabilities through the transfer of conventional arms and other forms of military assistance.¹⁰² The Reagan policy has no rigid decision-making guidelines.¹⁰³ Requests for arms will be evaluated on a “case by case” basis with “high priority” given to major alliance partners and to those countries with which the United States has cooperative security relationships.¹⁰⁴

The Reagan policy overturned the Carter administration’s qualitative restrictions on arms transfer.¹⁰⁵ The Reagan policy neither bars the United States from being the first to introduce new or more advanced weapons into a region¹⁰⁶ nor prohibits transfer of arms before they become operationally deployed with United States forces.¹⁰⁷

The Reagan policy made two other significant changes. One change is that the Reagan policy specifically provides that arms sales can help to enhance United States defense production capabilities and efficiency.¹⁰⁸ The other change is that President Reagan re-

99. *Id.* at 15.

100. *See Conventional Arms Transfers Policy*, DEP’T. OF STATE BULLETIN 61 (Sept. 1981) [hereinafter *Conventional Arms Transfers*]. In contrast, the Carter policy stated that arms transfers were to be an “exceptional implement of foreign policy.” *See* notes 91-92 and accompanying text. The stated goals of the Reagan administration policy are as follows: (1) help deter aggression by enhancing preparedness of friends and allies; (2) increase military effectiveness by improving U.S. ability in conjunction with its friends and allies “to project power in response to threats posed by mutual adversaries”; (3) support efforts that “foster the ability of our forces to deploy and operate with those of our friends and allies,” thereby strengthening our mutual security relationships; (4) demonstrate the enduring interest that the U.S. has in its friends and allies “and that it will not allow them to be at a military disadvantage”; (5) “foster regional and internal stability, thus encouraging peaceful resolution of disputes and evolutionary change”; and (6) help enhance U.S. defense production capabilities and efficiency. *Id.*

101. *Conventional Arms Transfers*, *supra* note 100, at 61.

102. *Id.*

103. R. LABRIE, *supra* note 52, at 15.

104. *Id.* In contrast to this flexible approach, the Carter policy tightened procedures and controls. R. LABRIE, *supra* note 52, at 15.

105. *Id.* at 17.

106. *Id.*

107. *Id.*

108. *Id.* at 17. By contrast, the Carter policy attempted to remove the incentive to use

scinded the Carter directive that prohibited United States officials abroad from helping United States arms manufacturers.¹⁰⁹

The United States presently transfers military materials and services through several programs.¹¹⁰ The major programs are (1)

arms sales to lower per unit production costs to domestic arms. *Id.*

109. *Id.*

110. See UNITED STATES GENERAL ACCOUNTING OFFICE, U.S. SECURITY AND MILITARY ASSISTANCE: PROGRAMS AND RELATED ACTIVITIES—AN UPDATE (report number GAO/NSIAD-85-158) (Sept. 30, 1985). The General Accounting Office report describes the several present United States Arms Transfer Programs more fully as follows:

(1) Foreign Military Sales (FMS) Financing Program — Sections 23 and 24 of the Arms Export Control Act, Act of June 30, 1976, 90 Stat. 729 (codified as amended in scattered sections of 22 U.S.C.), authorize the President to help finance the purchase of defense articles and services by friendly foreign governments and international organizations. The FMS has provided assistance through two types of loans — direct and guaranteed. Under direct loans the Department of Defense finances defense article procurement out of appropriated funds. Guaranteed loans do not use appropriated funds, but are financed through the Department of the Treasury's Federal Financing Bank. Direct loans were used from 1968 until the mid-1970's. Beginning in 1975 when all new loans had to be the guaranteed type, guaranteed loans were the predominant type, with the exception of continued direct loans to Egypt and Israel. Starting in 1985, all new loans had to be the direct type.

Id. at 2-18.

(2) FMS Sales Agreements. — In addition to sales financed with FMS credits or grants, a country may buy United States military equipment and services with cash, under FMS sales agreements. FMS cash transactions, authorized by the Arms Export Control Act, Act of June 30, 1976, 90 Stat. 729 (codified as amended in scattered sections of 22 U.S.C.), enable eligible foreign governments to purchase defense articles, services and training from the United States government. The Department of Defense provides items or services from Department of Defense stocks in accordance with section 21 of the Arms Export Control Act, *id.*, or by procuring the items from United States firms in accordance with section 22 of the Act, *id.* When the source of supply is new procurement, the United States government agency or military department assigned cognizance for the procurement enters into a contract with the company to provide the item or service.

Id. at 36.

(3) The Military Assistance Program (MAP). — The MAP is authorized by the Foreign Assistance Act of 1961, as amended. Act of Sept. 4, 1961, 75 Stat. 424 (codified in 42 U.S.C. §§ 1651, 1701, and in scattered sections of 22 U.S.C.). MAP provides grant funding for defense articles and services. Initially, the program's purpose was to strengthen the mutual defense and collective security of the non-Communist world. MAP is now used to retain United States military base rights, maintain regional arms balances, encourage greater military self reliance on the part of certain nations, and promote aid to financially strapped countries which would have difficulty repaying loans. In the 1970's, when the United States was using loans as the primary means of providing military assistance, MAP funding declined, but beginning in 1982, MAP funding was made available for financing FMS cases, and MAP has increased steadily since 1982.

Id. at 24-28.

(4) Lease. — In addition to making sales and grants, the United States leases equipment to foreign countries and international organizations, as authorized by chapter 6 of the Arms Export Control Act. Act of June 30, 1976, 90 Stat. 729 (codified as amended in scattered sections of 22 U.S.C.).

Id. at 44-45.

(5) Equipment Loan. — Lending military equipment to foreign countries is authorized under exceptional circumstances in accordance with section 503 of the Foreign Assistance Act of 1961. Act of Sept. 4, 1961, 75 Stat. 424 (codified

the Foreign Military Sales (FMS) Financing Program and the FMS Sales Agreements Program, through which the Defense Department makes arrangements with recipient states for credit sales and cash sales; (2) the Military Assistance Program, by which the United States makes grants; and (3) commercial sales, by which recipient states deal directly with United States manufacturers who must receive a license for a particular sale from the State Department. Equipment is leased and loaned through other programs.

B. Roles of Suppliers Other Than the United States

1. *The Soviet Union.*—The Soviet Union is now the world's largest supplier of arms. Soviet deliveries to developing countries rose from \$3.5 billion in 1973 to \$6.7 billion in 1980.¹¹¹ The Soviet Union ships arms to the Middle East,¹¹² Asia,¹¹³ Sub-Sahara Africa,¹¹⁴ and Latin America.¹¹⁵

Soviet arms transfer motives are to gain political influence, to support ideologically compatible regimes, and to gain access to base facilities. An increasingly important Soviet motive in recent years is getting hard currency to finance Moscow's imports of food and technology from the West.¹¹⁶ Thus, the Soviets have concentrated on countries able to pay in cash, such as Libya, Iraq, and Algeria, and have cut back on grants of military aid and credit terms.¹¹⁷ In the past, the Soviet Union sold its highest technology only to Eastern

in 42 U.S.C. §§ 1651, 1701, and in scattered sections of 22 U.S.C.). Such lending is restricted to MAP recipients.

Id. at 45.

(6) Commercial Sales. — United States arms are transferred to foreign countries by commercial sales — deals between the foreign government and the United States manufacturer, under United States government license. The State Department's Office of Munitions Control (OMC) has responsibility for overseeing commercial sales. The OMC coordinates commercial sales requests with the appropriate regional bureau of the Department of State, its counterpart in the Department of Defense, the State Department Bureau of Politico-Military Affairs, the Arms Control and Disarmament Agency, and sometimes the National Aeronautics and Space Administration, Federal Aviation Administration, and Department of Energy. The OMC may disapprove a sale on request of any of these agencies. Resolution of an issue follows the same interagency process as with FMS. Finally, an export license must be issued to the United States manufacturer prior to the sale. Congress must be notified of all commercial sales of major defense equipment valued at \$14 million or more, and of sales of all other military items and services valued at \$50 or more.

R. LABRIE, *supra* note 52, at 33.

111. *Id.* at 19.

112. Middle eastern countries have been the major recipients — primarily Iraq, Syria, and Lybia. *Id.*

113. Asian recipients are Vietnam and India. *Id.*

114. Sub-Saharan African recipients are Ethiopia, Angola, Mozambique, Guinea, Nigeria, Somalia, and Uganda. *Id.*

115. Latin American recipients are Cuba, Peru, and Nicaragua. *Id.*

116. *Id.*

117. *Id.*

European countries, whereas now the Soviets' most sophisticated arms go to Third World countries.¹¹⁸ The Soviet Union, however, still does not generally license the production of its arms outside Warsaw pact countries.¹¹⁹ Another recent change is that the Soviet capability to transport arms quickly by air and by sea has greatly increased.¹²⁰

2. *France*.—France, the world's third largest supplier, increased transfer from \$620 million in 1973 to \$2.5 billion in 1980.¹²¹ France has been willing to sell to almost anybody, and on occasion French ministers have spoken of a policy of selling weapons "without political considerations."¹²² The arms-for-oil connection is quite direct.¹²³

France actively promotes arms sales. In 1980, about forty percent of the arms manufactured in France were exported.¹²⁴ More than seventy-five percent of the French aeronautical industry weapons output were sold outside France.¹²⁵ Ninety thousand of the 280,000 workers in the French arms industry owe their jobs to arms sales to other countries.¹²⁶

In addition to diplomatic and oil-related motives, France sees its foreign sales as supporting its national independence in defense and foreign policy.¹²⁷ Today, France is self-sufficient in military research and development and in weapons production, and is capable of totally meeting the needs of its own forces.¹²⁸

One recent trend in French policy resembles that of the United States. Prior to the 1970's, most French arms transferred went to Western industrial countries.¹²⁹ Since the 1970's, Third World countries, particularly in the Middle East, are the major recipients. In 1980 about fifty-five percent of French arms exports went to the Middle East.¹³⁰

3. *Britain*.—Britain ranks fourth, having exported \$600 million in arms in 1980. That level is up from \$360 million in 1973.¹³¹

118. *Id.*

119. *Id.*

120. *Id.* at 20.

121. *Id.*

122. NATIONAL DEFENSE UNIVERSITY, *supra* note 19, at 215.

123. *Id.*

124. R. LABRIE, *supra* note 52, at 20.

125. *Id.*

126. *Id.*

127. *Id.*

128. *Id.*

129. *Id.* at 21.

130. *Id.* Due to France's indiscriminate policy, this trend is probably a function of demand. *Id.*

131. Measured in 1982 dollars. *Id.* at 22.

Great Britain actively promotes arms sales. The Defense Sales Organization, of the Ministry of Defense, is responsible for foreign military sales, and has personnel stationed in embassies abroad.¹³² Official decisions to sell arms are made on a case by case basis with apparently no guidelines. The British government publicizes little information about its foreign arms sales.¹³³

V. Past Efforts at International Restraint

The United States Arms Control and Disarmament Agency (ACDA)¹³⁴ classifies all prior international efforts at arms transfer restraint into three general types, as follows: (1) arms registration, (2) arrangements among supplier states, and (3) arrangements among recipient states.¹³⁵ Most scholars of the subject follow the ACDA format.¹³⁶ The most significant of these past international restraint attempts are discussed following.

A. *Arms Registration*

Several attempts have been made to give international publicity to arms transfers, in hopes that publicity would have a restraining effect. The first notable attempt was a League of Nations yearbook in 1925. In the 1960's, several short-lived attempts were made in the United Nations.

1. *League of Nations Armaments Yearbook*.—The League of Nations established the precedent of giving publicity to arms transfers, in the hope that public knowledge would have some restraining effect.¹³⁷ From 1925 until 1938 the League of Nations published a statistical yearbook on the trade of arms and ammunition.¹³⁸ The yearbook became a model for several arms registration attempts which followed.¹³⁹

132. *Id.*

133. *Id.* at 23.

134. ACDA is an independent establishment of the United States government. See OFFICE OF THE FEDERAL REGISTER, NATIONAL ARCHIVES AND RECORDS ADMINISTRATION, U.S. GOV'T. MANUAL (1985).

135. See Under Secretary of State for Security Assistance, Science and Technology, unpublished report to the Chairman, Committee on Foreign Relations, United States Senate, examining United States policy on conventional arms export and approaches to developing multilateral limitations (Sept. 17, 1986). See also UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY, THE INTERNATIONAL TRANSFER OF CONVENTIONAL ARMS: A REPORT TO THE CONGRESS (April 12, 1974) (for use of the Committee on Foreign Affairs, pursuant to section 302 of the Foreign Relations Authorization Act of 1972, PL 92-362) [hereinafter THE INTERNATIONAL TRANSFER].

136. See generally A. PIERRE, *supra* note 1, at 275-312; BROOKINGS INSTITUTION, *Arms Across the Sea*, 118-22 (P. Farley, S. Kaplan & W. Lewis eds. 1978).

137. See A. PIERRE, *supra* note 1, at 281.

138. *Id.* at 281.

139. See generally A. PIERRE, *supra* note 1, at 281-82; THE INTERNATIONAL TRANSFER, *supra* note 135, at C-5-9.

2. *United Nations' Arms Registration Attempts.*—In the 1960's, several attempts were made in the United Nations to reduce arms transfer by some registration regime. These attempts were the Maltese Draft Resolution of 1965,¹⁴⁰ a President Johnson proposal for the Middle East,¹⁴¹ and the Danish Draft resolution of 1968.¹⁴² These attempts all failed, as discussed below.

In the First Committee of the United Nations General Assembly in 1965, the Maltese Ambassador introduced a draft resolution requesting the Eighteen Nation Disarmament Committee (ENDC)¹⁴³ to study arms transfers between states and to submit to the next General Assembly proposals for establishing through the United Nations a system of publicity on sales and transfer of arms.¹⁴⁴ The Maltese proposal was rejected by the General Assembly by a 19 to 18 vote, with 39 abstentions.¹⁴⁵

In 1967, shortly after the Arab-Israeli conflict, President Johnson outlined five principles for peace in the Middle East.¹⁴⁶ These included a proposal that the United Nations "immediately call upon all its members to report all shipments" of arms into the area and "keep those shipments on file for all the peoples of the world to observe."¹⁴⁷ United States Ambassador Goldberg then submitted to the U.N. General Assembly a draft resolution that proposed achievement of "a stable and durable peace" in the area "through negotiated arrangements" on the basis of President Johnson's five principles, including "registration and limitation of arms shipments into the area."¹⁴⁸ The Soviet Union and its Arab allies opposed the resolution, and the United States decided not to press the resolution to a vote.¹⁴⁹

In 1968, Denmark and three other states submitted a draft resolution¹⁵⁰ at the General Assembly that requested the Secretary-General to ascertain member views on the following: (1) registration

140. 20 U.N. GAOR, U.N. Doc. A/C.1/L.347 (1965).

141. 22 U.N. GAOR, U.N. Doc. A/L.520 (1967).

142. 23 U.N. GAOR, U.N. Doc. A/C.1/L.446 (1968).

143. ENDC became the Conference Committee on Disarmament (CCD) in 1969 after 8 new members joined. THE INTERNATIONAL TRANSFER, *supra* note 135 at C-5.

144. *Id.*

145. *Id.* at C-6. The United States abstained and the Soviet Union and its allies voted against the resolution. *Id.*

146. *Id.* at C-6-8.

147. *Id.* at C-6.

148. *Id.*

149. *Id.* The United States introduced a similar resolution in the Security Council, urging both sides in the Arab-Israeli conflict to limit "the wasteful and destructive arms race in the area." The Soviet Union submitted a resolution with similar language, but the Soviet proposed resolution called for immediate withdrawal of all forces to positions occupied prior to June 5, 1967. The question of arms shipments received little attention in Security Council debate and both the United States and the Soviet Union decided to not press their resolutions to a vote. *Id.* at C-7.

150. 23 U.N. GAOR, U.N. Doc. A/C.1/L. 446 (1968).

with the Secretary-General of "all imports and exports of conventional arms . . .," and (2) collection and publication by the Secretary-General at regular intervals of information on transfers.¹⁵¹ The resolution sponsors decided not to put it to a vote.¹⁵²

In 1970, Secretary General Thant proposed that the United Nations collect and publish information on conventional arms similar to the League's Armaments Yearbook.¹⁵³ The Netherlands and Sweden called attention to this proposal at the Conference of the Committee on Disarmament.¹⁵⁴ The matter did not receive further attention.¹⁵⁵

B. *Arrangements Among Supplier States*

From the 1950's to the present, several multilateral efforts were made among supplier states to curtail international arms transfer. Several of these efforts contributed to crisis reduction when incorporated into a broader United Nations peacekeeping regime. Another attempt that showed promise was the Conventional Arms Transfer (CAT) talks between the United States and the Soviet Union during the 1970's.¹⁵⁶ In addition, several noncommunist countries are active in an international committee that has interest in the broader subject of East-West trade policy.¹⁵⁷ Following is a discussion of these multilateral restraint attempts among supplier states.

1. *Triparte Arrangement for the Middle East of 1950.*—In 1950, the United States, United Kingdom, and France, the major arms suppliers to the Middle East, attempted a triparte arrangement to limit arms supply in that region.¹⁵⁸ At a Foreign Ministers' meeting in London, the three Western powers recognized the need of Arab states and Israel to maintain national security, but expressed concern over an arms race.¹⁵⁹ They pledged that they would take immediate action, "both within and outside the United Nations" to prevent violation of frontiers or armistice lines.¹⁶⁰ This triparte dec-

151. THE INTERNATIONAL TRANSFER, *supra* note 135 at C-8-9, *citing* ARMS CONTROL AND DISARMAMENT AGENCY, DOCUMENTS ON DISARMAMENT, 728 (1968). Several developing countries strongly opposed the resolution on grounds that it discriminated against nonaligned countries, forcing them to join military alliances, thereby upsetting the present balance of power in the world, and would create monopolies in the field of conventional weapons. THE INTERNATIONAL TRANSFER, *supra* note 135 at C-9 *citing* ARMS CONTROL AND DISARMAMENT AGENCY, DOCUMENTS ON DISARMAMENT 748-51 (1968).

152. THE INTERNATIONAL TRANSFER, *supra* note 135 at C-9.

153. *Id.* at C-9.

154. *Id.* *citing* CCD/PV.478, at 10, 19.

155. THE INTERNATIONAL TRANSFER, *supra* note 135, at C-9.

156. *See infra* text accompanying notes 200, 206, 209, and 216.

157. *See infra* text accompanying notes 220-22 (discussion of Coordinating Committee (COCOM) for East-West trade policy).

158. THE INTERNATIONAL TRANSFER, *supra* note 135, at C-9-10.

159. *Id.* at C-9.

160. *Id.* at C-10.

laration was implemented and was effective in reducing shipments for several years.¹⁶¹

2. *Soviet Overtures on Restricting Arms to the Middle East of 1956-57.*—During a series of talks in London between Britain and the Soviet Union, the Soviets indicated a willingness to limit arms shipments to the Middle East.¹⁶² The Soviets agreed to establishing a joint committee to discuss the matter.¹⁶³ A month later, Soviet First Party Secretary Khrushchev announced that if other states would stop supplying arms to the Middle East through United Nations agreement, the Soviet Union would cooperate in an arms embargo.¹⁶⁴ In February, 1957, the Soviet Union proposed a joint pledge by the United States, United Kingdom, Soviet Union, and France to cease delivering arms to the Middle East, as one of six basic principles, which would require withdrawal of all troops military aid and alliance for protection and to promote economic development without any political or military conditions.¹⁶⁵ The United States rejected the proposal as propaganda to weaken the West militarily and exert Soviet influence over the region.¹⁶⁶

3. *United Nations Embargoes.*—The United Nations has attempted many times to reduce conflict through multilateral arms embargoes.¹⁶⁷ Several attempts were successful in contributing to crisis reduction, when incorporated into a broader United Nations peacemaking regime.¹⁶⁸

In 1948 during the Palestine conflict, the Security Council adopted a cease fire and arms embargo.¹⁶⁹ All parties to the conflict accepted the terms.¹⁷⁰

In 1951 the United Nations imposed a strategic embargo against North Korea and the Peoples Republic of China (PRC), upon the advice of a group especially established by the General Assembly.¹⁷¹ A General Assembly resolution called upon members to

161. In 1954, the U.S. supplied arms to Iran without restrictions. *Id.* Egypt was offended because Egypt sought arms from the U.S. since 1948 and was prevented by various United States restrictions, THE INTERNATIONAL TRANSFER, *supra* note 135, at C-10, and the tripartite declaration. *Id.* In 1955, Egyptian President Sadat announced an agreement with Czechoslovakia, stating that Egypt had applied to the Western powers for arms "but all we got were demands." *Id.* at C-10, *citing* N.Y. Times, Sept. 28, 1955, at A4, col. 5.

162. THE INTERNATIONAL TRANSFER, *supra* note 135, at C-11-12.

163. *Id.* *citing* N.Y. Times, Apr. 21, 1956, at A1, col. 8.

164. THE INTERNATIONAL TRANSFER, *supra* note 135 *citing* N.Y. Times, Apr. 28, 1956, at A1, col. 8.

165. THE INTERNATIONAL TRANSFER, *supra* note 135, at C-11.

166. *Id.* *citing* N.Y. Times, Feb. 13, 1957, at A4, col. 7.

167. THE INTERNATIONAL TRANSFER, *supra* note 135, at C-12-32.

168. *See infra* p. 20-21.

169. THE INTERNATIONAL TRANSFER, *supra* note 135, at C-12-13.

170. *Id.*

171. *Id.* at C-13-14.

apply an embargo to areas controlled by the PRC and North Korea.¹⁷² The resolution was adopted by the General Assembly, even though the Soviet Union refused to participate.¹⁷³

Several other United Nations Arms Embargoes were successful to a limited extent. In 1956, the First Emergency Special Assembly of the General Assembly adopted a cease fire and arms embargo resolution for the purpose of finding a solution to the Suez crisis.¹⁷⁴ The General Assembly has adopted several resolutions in the past twenty five years aimed at stopping arms shipments to South Africa, in efforts to induce abandonment of the apartheid policy.¹⁷⁵ Beginning in 1962 and lasting through the 1970's, Asian and African efforts to force Portugal to halt repression of rebellions in its African territories resulted in no less than ten resolutions imposing arms embargoes against Portugal.¹⁷⁶ In 1965, the Security Council imposed sanctions, including arms embargo, on the Ian Smith government in Southern Rhodesia.¹⁷⁷

4. *United States Efforts to Achieve United States and Soviet Mutual Restraint to the Middle East and Other Areas.*—Since the Arab-Israeli war of 1967, the United States has made several attempts to make agreements with the Soviet Union to limit the flow of arms to the Middle East.¹⁷⁸ The efforts of the Nixon administration, in the few years following the 1967 war, failed because the Soviets insisted on the condition that Arab and Israeli forces withdraw and occupy pre-war lines.¹⁷⁹ In the early 1970's, President Nixon mentioned in annual foreign policy addresses to Congress the need for bilateral restraint in arms shipment to the Middle East, to South Asia following the India-Pakistan war over Kashmir, and to Vietnam following the Paris Agreement on Ending the War and Restoring Peace in Vietnam,¹⁸⁰ but neither the United States nor the Soviet Union took initiative.¹⁸¹

5. *Conventional Arms Transfer Talks Between the United States and the Soviet Union.*—Conventional wisdom in the United States for years had been that the Soviets would never be interested

172. *Id.* at C-14.

173. *Id.*

174. *Id.* at C-15.

175. *Id.* at C-15 n.1.

176. *Id.* at C-21-25.

177. Now Zimbabwe. *Id.* at C-25-31. This action was the response to the Security Council's condemnation of the Ian Smith government as an "illegal racist minority regime."
Id.

178. *Id.* at C-32-35.

179. *Id.* at C-32.

180. *Id.* at C-35.

181. *See id.*

in discussions on arms transfer restraints.¹⁸² Following President Carter's election, however, Brezhnev stated that "the problem of the international arms trade seems to merit an exchange of views."¹⁸³ When Secretary of State Vance made his first official visit to Moscow in March 1977, his proposals on SALT II were rejected, but agreement was reached on establishing bilateral working groups on several subjects, one being arms transfer.¹⁸⁴ United States and Soviet arms transfer delegations, to what became termed the Conventional Arms Transfer (CAT) talks, met first in December 1977 and three more times over the following years.¹⁸⁵ The talks collapsed, however, a year after they began.¹⁸⁶

At the first CAT session the Soviets listened to the United States views, limiting their discussion to asking questions about the new United States policy.¹⁸⁷ The Soviets showed special interest in the Carter administration's new annual ceiling on arms sales.¹⁸⁸

At the second CAT round it appeared that substantive progress could be attained.¹⁸⁹ The Soviets sent "a responsible and constructive diplomat,"¹⁹⁰ Ambassador Lev I. Mendelevich, to the talks held in Helsinki in May 1978.¹⁹¹ Mendelevich agreed that arms transfers were a serious problem and that the two countries should work toward solution.¹⁹² The Soviets presented some legal and political principles to serve as proposed criteria to define when arms transfers may and may not be permissible.¹⁹³ The United States suggested further guidelines that reflected the new Carter policy. One guideline was that advanced weapons should not be introduced into a region if doing so would create a new or significantly higher combat capability,¹⁹⁴ and re-transfer to third party countries should be limited.¹⁹⁵

At this point, the United States team and the State Department wanted to begin focusing the talks on limitations of transfers to specific regions.¹⁹⁶ The Arms Control and Disarmament Agency (ACDA), on the other hand, preferred the classical and more technical arms control approach of concentrating on global restrictions on

182. A. PIERRE, *supra* note 1, at 286.

183. *Id.*

184. *Id.*

185. *Id.* at 285-90.

186. *Id.* at 286.

187. *Id.*

188. *Id.*

189. *Id.* at 287.

190. *Id.*

191. *Id.*

192. *Id.*

193. *Id.*

194. *Id.*

195. *Id.*

196. *Id.*

certain weapons without attention to certain regions.¹⁹⁷

At the CAT third round, it became evident that the Soviets were dealing in earnest.¹⁹⁸ The talks were progressing better than many in the United States had anticipated.¹⁹⁹ The participants agreed upon a framework to work toward both regional and arms control restraints. Although initially reluctant to discuss regional restraints, the Soviets were persuaded to work toward conducting exchange of views on a region by region basis with the objective of establishing guidelines for restraint of transfers into particular regions. The participants also agreed to draw up general principles for mutual restraint in military-political and military-technical terms.²⁰⁰

Prior to the fourth, and what would become the final round of Conventional Arms Transfer (CAT) talks, deep differences emerged within the Carter administration.²⁰¹ Zbigniew Brzezinski, the president's national security adviser, attacked the direction the CAT talks were taking.²⁰² Brzezinski particularly objected to discussion of the West Asia and East Asia regions.²⁰³ Leslie Gelb, the chief United States delegate to the CAT talks,²⁰⁴ believed that we should listen to what the Soviets would have to say about those regions.²⁰⁵ President Carter reversed his previous position in favor of focusing discussion on regions, and the President sided with Brzezinski and Secretary of Defense Harold Brown, concluding that the United States would not negotiate on the West Asia and East Asia regions.²⁰⁶ The pending normalization of relations with China was a factor that could have influenced Carter's decision.²⁰⁷ After much debate, the United States delegation was instructed to refuse to listen and walk out if the Soviets brought up arms transfer restraints to West Asia and East Asia.²⁰⁸

197. *Id.*

198. *Id.* at 288.

199. *Id.*

200. *Id.* Examples include prohibitions that would be established on export of certain types of weapons such as long range surface to surface missiles and on arms of particular use to terrorists. *Id.*

201. *Id.* at 288.

202. *Id.*

203. *Id.*

204. Gelb was at the time director of the State Department Bureau of Politico-Military Affairs.

205. A. PIERRE, *supra* note 1, at 288.

206. *Id.* at 289.

207. *Id.* This development was not known to all parties who had input into the decision. Instability in Iran could have been another factor that influenced Carter's reversal on the issue. Perhaps more than any specific factor influencing the decision to not discuss those regions, was a general change in attitude within the administration on Soviet relations. *Id.*

208. *Id.* at 289. Such a dispute may have been unprecedented in the annals of United States diplomacy. The dispute continued in communications between Brzezinski and Gelb in Mexico City, the site of the fourth round of CAT talks. At one point Gelb was ordered by the White House to return to Washington, but the order was rescinded. *Feud in Administration Said to Endanger Talks on Arms Sales Pact*, N.Y. Times, Dec. 20, 1978, at A12, col. 3;

In the fourth round of talks in Mexico City, the Soviets were angry at United States unwillingness to consider regions of Soviet concern.²⁰⁹ The Soviets refused to limit the agenda to United States proposed regions of Latin America and sub-Saharan Africa.²¹⁰ The fourth round ended in deadlock.²¹¹ Detente deteriorated in 1979, and the Soviets invaded Afghanistan.²¹² The CAT talks were finished.

Personal disagreements and personality clashes among United States decision makers were not the central cause of the United States contribution to collapse of the CAT talks.²¹³ More fundamental was the lack of consensus regarding the purposes and limitations of CAT talks, and the role of arms transfers in foreign policy.²¹⁴

The State Department viewed the political ramifications of the CAT talks as more important than the technical issues of arms transfer restraint.²¹⁵ The State Department hoped that one outcome of the negotiations would be a better mutual understanding of Soviet and United States objectives in the Third World as a basis for regulating their activities in that region.²¹⁶ This was the reason for the State Department CAT strategy of focusing on restraining arms transfers to particular regions rather than on controlling transfers of specific weapons systems worldwide.²¹⁷

A highly regarded expert on the subject of foreign policy aspects of international arms transfer, Dr. Andrew J. Pierre,²¹⁸ believes that concentrating so heavily on bilateral talks with the Soviet Union, without West European supplier involvement, was a mistake. Dr. Pierre concluded as follows:

If intra-Alliance consultations had been far more extensive they might have given a resulting Western position greater solidity, making it less vulnerable to internal Washington bureaucratic struggles. At a minimum they would have forced the United States to think through its approach before the negotiations had reached a substantive stage.²¹⁹

6. *COCOM Strategic Trade Controls.*—Since the outbreak of

Policy Shift Puts Arms Sales Talks in Doubt, Wash. Post, Dec. 19, 1978, at A1, col. 2; J. Porro, *Conventional Arms Sales in the Carter Administration: An Interview with Leslie Gelb*, 10 ARMS CONTROL TODAY 1 (Sept. 1980).

209. A. PIERRE, *supra* note 1, at 289.

210. *Id.*

211. *Id.*

212. *Id.*

213. *Id.* at 289-90.

214. *Id.*

215. *Id.* at 290.

216. *Id.*

217. R. LABRIE, *supra* note 52, at 13.

218. Author of *THE GLOBAL POLITICS OF ARMS SALES*, *supra* note 1, and other works.

219. A. PIERRE, *supra* note 1, at 290.

the Korean War in 1950, the United States and some of its principal allies have controlled their exports of strategic goods to communist countries through a multilateral organization known as the Consultative Group and its working committee, the Coordinating Committee (COCOM) for East-West trade policy.²²⁰ The COCOM operates without formal treaty or charter and is not a part of any other international organization.²²¹ The COCOM maintains international embargo lists of strategic materials.²²²

C. *Arrangements Among Recipient States*

Another approach to international restraints has been to place the burden on the recipient states. Historically, this approach has been implemented in attempts that have centered on regions of the world.²²³

In 1966 the United States urged the Conference on the Committee on Disarmament (CCD)²²⁴ to adopt a formal multilateral arrangement to achieve restraint within regions.²²⁵ In addition to supplier restraints, the proposal provided for states within a region to agree not to acquire certain weapons and to make information available to each other.²²⁶ The proposal met with lack of CCD interest.²²⁷

In the early 1970's the Nixon administration urged the United Nations to initiate discussion of regional conventional arms control. No concrete suggestions were offered and the episode was short lived.²²⁸

In the mid-1970's, the Geneva Conference on Disarmament considered proposals for purchaser restraint.²²⁹ The United States did not wholeheartedly support this approach.²³⁰ A 1976 State Department paper to members of Congress who expressed interest in arms reduction stated that an agreement among suppliers to regulate weapons sales would amount to a "cartelization" of the world arms trade, and that cartels had historically worked effectively when suppliers shared some interest.²³¹ The paper concluded that the largest suppliers did not have a common interest, and thus the most promis-

220. THE INTERNATIONAL TRANSFER, *supra* note 135, at C-35-37.

221. *Id.* at C-36.

222. *Id.*

223. See discussion *infra* pp. 25-27.

224. Originally the United Nations Eighteen Nation Disarmament Committee (ENDC), the Committee became the CCD in 1969 after addition of eight new members. THE INTERNATIONAL TRANSFER, *supra* note 135, C-5 n.1.

225. *Id.* at C-37-41.

226. *Id.* at C-39-40.

227. *Id.* at 40.

228. *Id.* at C-41-42.

229. A. PIERRE, *supra* note 1, at 282-83.

230. *Id.* at 283.

231. *Id.*

ing multilateral restraint proposals "will be those that derive from initiatives taken by leaders in the regions concerned."²³² In commenting on this episode, one well-respected scholar on the subject of arms transfer restraint concludes that "although the recipient states must be brought into a regime of restraints — on the basis of their self-interests and in a cooperative manner rather than having curbs imposed upon them — the primary initiatives must be made by combination of suppliers."²³³

Latin America is the only region in which arms recipient states have made a significant attempt to develop regional agreement on restraint.²³⁴ The Declaration of Ayacucho²³⁵ was signed on December 9, 1974, by eight Latin American states.²³⁶ Discussions among the signatories, designed to freeze existing ratios of weapons-to-manpower and levels of military expenditures in relation to gross national product, broke down within two years.²³⁷ Subsequent negotiations among only Peru, Chile, and Bolivia bogged down.²³⁸ In 1978 the president of Venezuela took the initiative in reactivating the Ayacucho Declaration and organized a meeting of foreign ministers of signatories as an activity at the United Nations Special Session on Disarmament.²³⁹ In a separate initiative, the president of Mexico proposed to the Organization of American states that all Latin American and Caribbean states establish a body to set limits on conventional arms transfer.²⁴⁰ Twenty states, including Cuba, meeting in Mexico City in August, 1978, agreed to exchange information on purchases and work toward a regime of restraints.²⁴¹

VI. Pros and Cons to the United States of Arms Transfer Curtailment

World arms transfer provides some advantages and disadvantages to the United States. On the positive side, shoring up allies' military capability may enhance United States security and regional

232. *Id.*

233. *Id.*

234. *Id.*

235. ARMS CONTROL AND DISARMAMENT AGENCY, DOCUMENTS ON DISARMAMENT, 819 (1974).

236. The persons who attended and who signed the Declaration were the chiefs of state of Bolivia, Panama, Peru, and Venezuela, and representatives of Argentina, Colombia, Chile, and Ecuador. *Id.* at 819-21 (1974) (a United State Department of State translation). The Declaration agreed and encouraged to support a permanent international peace and cooperation and "to create conditions that permit the effective limitation of armaments and put an end to their acquisition for offensive warlike ends, in order to dedicate all possible resources to the economic and social development of each of the countries of Latin America." *Id.*

237. A. PIERRE, *supra* note 1, at 284.

238. *Id.*

239. *Id.*

240. *Id.*

241. *Id.*

objectives. Also, arms transfer can provide diplomatic leverage. On the negative side, some United States technological secrets have been compromised through export of sophisticated weapons. Arms transfer can also increase tensions in regions of the world and can destabilize regional balances.

A. Reasons Why the United States Would Not Want Arms Sales Curtailed

Shipping arms abroad can benefit United States national security, through strengthening collective security arrangements with allies and by contributing to regional stability. In addition to being a security instrument, arms transfers can be an important United States instrument of diplomacy.²⁴² An increasingly important United States consideration is that if the United States does not make a particular arms transfer another country will. These benefits from United States arms export are discussed below.

1. *Support of National Security.*—As one means of providing national security since World War II, the United States has entered into a number of collective security arrangements with other nations.²⁴³ Through security assistance, allies assume regional responsibilities that the United States might have to assume in the interest of national security.²⁴⁴ Arms sales are an alternative to United States forces in a region.²⁴⁵

Access to military bases abroad is a factor that enhances United States national security.²⁴⁶ Arms sales are important to maintenance of many of these bases. For example, arms assistance to the Philippines is regarded as a quid pro quo for the use of United States bases there, and those bases are critical to the maintenance of the United States as an Asian and Pacific power and to the projection of United States power in to the Indian Ocean.²⁴⁷

2. *Foreign Policy Tool.*—Arms sales can be effective instru-

242. See *infra* text accompanying note 250.

243. R. LABRIE, *supra* note 52, at 61.

244. *Id.*

245. *Id.* at 61-62. Proponents of arms sales cite several examples. Greece and Turkey protect the southern flank of NATO. Turkey occupies a strategic position; Turkey controls access to the Mediterranean from the Black Sea and faces the Soviet Union over the longest land border of any NATO country. With modern arms these countries balance Soviet interests without the presence of United States forces. *Id.* at 62.

246. *Id.*

247. U.S. CONGRESS, HOUSE OF REPRESENTATIVES, COMMITTEE ON APPROPRIATIONS, SUBCOMMITTEE ON FOREIGN OPERATIONS AND RELATED AGENCIES, FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS FOR 1982, 97th Cong., 1st Sess., part 6 at 757 (1981), cited in R. LABRIE, *supra* note 52, at 65 n.11.

ments of foreign policy.²⁴⁸ Clearly, arms can be used to influence decision makers of a country, and to demonstrate United States friendship.²⁴⁹ Arms sale can provide leverage. For example, President Carter used arms sale to Egypt to encourage Egyptian President Sadat to work toward the Camp David accords.²⁵⁰

3. *Economic Benefits.*—“Arms sales earn foreign exchange and improve the United States balance of payments.”²⁵¹ Arms sales made up 4.7 percent of total United States exports in 1984.²⁵² Arms sales to European allies partially offset the cost of United States forces stationed there, and sales in the Persian Gulf region recoup dollars spent on oil.²⁵³ Other economic benefits are a positive effect on United States employment²⁵⁴ and an assistance in obtaining critical raw materials such as Middle East oil.²⁵⁵ Also, military sales abroad can lower unit cost of arms for use by United States forces.²⁵⁶ Larger Defense Department orders to manufacturers lower unit cost through overhead savings²⁵⁷ and United States government and manufacturers recoup a portion of research and development expenses from military sales abroad.²⁵⁸

4. *United States Refusal to sell would leave markets to other suppliers.*—“If we don’t sell, others will,” is a common cliché used by proponents.²⁵⁹ This statement was born out by a 1981 Congressional Research Service study.²⁶⁰ The study showed that the value of United States arms transfers to the Third World declined during the Carter years. During the same period, the Soviet Union nearly doubled the value of the agreements it had the previous four years, and in 1979, for the first time, the estimated value of Soviet arms deliveries exceeded United States deliveries. France tripled its agreements, and Great Britain, West Germany, and Italy each doubled

248. R. LABRIE, *supra* note 52, at 67.

249. *Id.*

250. *Id.* at 68-69.

251. *Id.* at 70.

252. WMEAT, *supra* note 25, at 13. This is up from 3.1 percent in 1979. R. LABRIE, *supra* note 52, at 70.

253. R. LABRIE, *supra* note 52, at 70.

254. CONGRESSIONAL BUDGET OFFICE, THE EFFECT OF FOREIGN MILITARY SALES ON THE U.S. ECONOMY, 1 (CBO Staff Working Paper) (July 23, 1976) [hereinafter CONGRESSIONAL BUDGET OFFICE]. The study determined that approximately 42,000 jobs are provided by every \$1 billion in arms sales.

255. *Id.*

256. R. LABRIE, *supra* note 52, at 71.

257. *Id.*

258. *Id.*

259. *Id.* at 76; see also A. PIERRE, *supra* note 1, at 43.

260. CONGRESSIONAL RESEARCH SERVICE, CHANGING PERSPECTIVES ON U.S. ARMS TRANSFER POLICY, REPORT TO THE SUBCOMMITTEE ON INTERNATIONAL SECURITY AND SCIENTIFIC AFFAIRS OF THE COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, 12-26 (Sept. 25, 1981).

their agreements. The United States lost its worldwide lead in sales of four of the standard twelve weapons categories, and its dominance as an arms supplier slipped in all the regional markets.²⁶¹ This turn of events is discouraging to prospects for multilateral arms transfer restraints involving the Soviet Union. Were CAT talks involving the Soviet Union to resume now, the Soviets would be negotiating from a position of much more strength than they had in the early Carter years at the time of CAT talks.²⁶²

B. Reasons Why the United States Would Wants Arms Sales Curtailed

Arms transfer reduction would serve United States interests in several ways. First, foreign arms sales are not always in the United States national security interest. For example, some United States technological secrets have been compromised through export of sophisticated weapons.²⁶³ Another example is that arms recipients may use arms in ways counter to United States intentions.²⁶⁴ United States arms supply in return for base privileges puts the United States in a dependency position that can cause problems.²⁶⁵ On occasion United States force readiness has been reduced because of arms supply commitments to other countries.²⁶⁶ Another argument made by conventional arms transfer critics is that elevating nations to a military power with conventional arms can whet their appetites for nuclear arms.²⁶⁷ Additionally, arms transfer critics contend that being a leading arms supplier undermines the perception of the United States as a world peacemaker.²⁶⁸

261. *Id.*

262. Indeed, how much incentive do the Soviets have at all for participating in CAT talks again, now?

263. R. LABRIE, *supra* note 52, at 39. For example, when the Shah was toppled by the Islamic revolution in Iran in 1979, some classified technology may have been compromised. The Navy assumed that the Phoenix air-to-air missile was compromised, giving the Soviets not only the technology to use themselves, but to develop effective countermeasures against United States use. *Id.* at 39-40.

264. For example, Turkey, a NATO ally, used United States arms to invade Cyprus in 1974. Also, Israel used United States supplied arms for non-defensive purposes in its invasion of Lebanon in 1978. Additionally, Argentina used F-4's against British forces in the Falkland Island War. *Id.* at 40.

265. For example, when Congress sought to punish Turkey for the Cyprus invasion by putting an embargo on arms to Turkey, Turkey retaliated by no longer allowing United States intelligence-gathering activities at United States bases in Turkey. *Id.* at 41.

266. *Id.* at 41-42. For example, following depletion by the 1973 Israeli war, the United States spent four years rebuilding an adequate level of armored personnel carriers within United States units. *Id.* at 42.

267. *Id.* One expert stated that "conventional capabilities do not substitute for the political influence and prestige which are perceived to accrue to possessors of nuclear weapons." Baker, *Arms Transfers and Nuclear Proliferation*, in *CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE, NEGOTIATING SECURITY, AN ARMS CONTROL READER*, 161 (W. Kincaid & J. Porro eds. 1979).

268. R. LABRIE, *supra* note 52, at 42-43. President Carter, during his presidential cam-

The second reason why the United States would want to curtail arms transfer is that sales do not always provide the intended diplomatic leverage.²⁶⁹ Until the 1970's most United States arms supplied were by grant, which tended to carry diplomatic influence.²⁷⁰ Presently, however, the greatest volume of transfer occurs by cash sale, which carries little diplomatic leverage.²⁷¹ This is particularly so now that the international weapons market is such that the oft-cited phrase is very true: "If we don't sell to them, somebody else will."

Third, economic benefit to the United States from arms transfer is actually not significant.²⁷² Arms sales are a small help to the balance of payments problem,²⁷³ since arms sales accounted for only about four to five percent of exports in 1980.²⁷⁴ Arms transfer proponents' argument about employment is weak, considering a 1976 Congressional Budget Office study showed that a total United States ban on arms sales would raise the 1981 unemployment rate by only 0.3 percent.²⁷⁵ Also, arms transfer does not significantly support the United States mobilization industrial base. In 1977 only one of the top ten United States defense industry contractors depended on sales abroad,²⁷⁶ and foreign sales accounted for only about twelve percent of the business volume of the other nine.²⁷⁷

The 1976 Congressional Budget Office (CBO) study showed that foreign arms sales do not significantly improve manufacturing economies of scale and do not thereby lower unit cost for domestic arms. The CBO study estimated that foreign military sales were responsible for less than a one percent savings in the Department of Defense budget in that year.²⁷⁸

Fourth, sales can exacerbate tensions among neighbors and destabilize regional balances. Supporters of arms sales restraint contend that United States arms supply has played a role in the arms race among the Persian Gulf states.²⁷⁹ The United States is also in-

paign said that the United States "cannot be both the world's leading champion of peace and the world's leading supplier of weapons of war." *Id.* at 44.

269. *Id.* at 44. For a detailed discussion of the arms transfers as an instrument of influence in diplomacy, see Lewis, *supra* note 62, at ch. 11.

270. R. LABRIE, *supra* note 52, at 44.

271. *Id.*

272. *Id.* at 46-51.

273. *Id.* at 46-47.

274. A. PIERRE, *supra* note 1, at 24.

275. CONGRESSIONAL BUDGET OFFICE, *supra* note 254, at 21-25.

276. R. LABRIE, *supra* note 52, at 47-48.

277. *Id.*

278. CONGRESSIONAL BUDGET OFFICE, BUDGETARY COST SAVINGS TO THE DEPARTMENT OF DEFENSE RESULTING FROM FOREIGN MILITARY SALES 13-15 (Congressional Budget Office Staff Working Paper) (May 24, 1976). A United States arms transfer scholar noted that a United Kingdom Parliament Public Accounts Committee reached the same conclusion with regard to British arms sales. A. PIERRE, *supra* note 1, at 105.

279. R. LABRIE, *supra* note 52, at 51.

volved in South American arms races. One example deals with Peru's competition against Ecuador and Chile.²⁸⁰ In the 1970's, the United States denied F-5 aircraft to Peru and vetoed a proposed sale of Israeli Kfir fighters, with United States engines, to Ecuador, but other suppliers quickly met the demand.²⁸¹

Last, wars have become more destructive than they would be without foreign-supplied arms. The largest tank battle in the history of mankind occurred during the 1973 Middle East War with United States and Soviet tanks.²⁸² Anti-tank and air-to-ground precision-guided munitions greatly increased the quantities of arms destroyed, and increased potential that the superpowers could be drawn into a conflict to resupply their clients.²⁸³ In 1973, the Soviet Union threatened to send troops to save Egyptian forces from being overwhelmed by the Israelis, which resulted in a tense confrontation with the United States, and caused Washington to raise its nuclear alert level.²⁸⁴

VII. Prospects for Multilateral Conventional Arms Transfer Restraints

Prospects for international cooperation on arms transfer restraint appear to be worsening, considering the lessons of the past and trends of the present. Arms transfer registration and recipient state cooperation attempts have never contributed significantly to arms transfer restraint. Several attempts at cooperation by arms supplier states have been successful to a limited degree. In those instances, arms supply curtailment was limited in scope, of short duration, and often in the context of a broader United Nations peacekeeping regime, or due to the strong diplomatic leadership by an individual or state. Present United States policy and activity, and international conditions, however, lack the ingredients conducive to multilateral reduction.

A. *Lessons of the Past*

Arms registration²⁸⁵ and arms recipient cooperation²⁸⁶ have repeatedly failed to work in the past. Only cooperation by suppliers has been successful in achieving goals of restraint, and then only when focused on a particular region of the world and usually toward

280. *Id.*

281. *Id.*

282. H. KISSINGER, YEARS OF UPHEAVAL, 583-88 (1982).

283. *Id.*

284. *Id.*

285. *See supra* pp. 356-58.

286. *See supra* pp. 364-65.

correcting a particular crisis.²⁸⁷

Multilateral attempts to reduce arms transfer by central collection and publication of information have never met with success. The League of Nations Armaments Yearbook accomplished nothing and initiatives of United Nations members to establish similar registers received little interest.²⁸⁸

Arms recipient agreements have an equally poor record of success.²⁸⁹ The only region in the world where a significant effort has been made is Latin America.²⁹⁰ Ten recipient nations agreed in 1979 to work on multilateral agreement but only two years later the interest had dissipated.²⁹¹

Arms supplier cooperation is the only avenue of restraint that has some history of success.²⁹² The United Nations arms embargoes by suppliers on several occasions stabilized regional crises for months, usually when coupled with concerted diplomatic and economic efforts.²⁹³ On the occasions when these cooperation efforts were successful, the major world suppliers were able to reach agreement, and limited success was possible without Soviet participation — success within a region and lasting for a time period measured in months.²⁹⁴ The CAT talks between the Soviet Union and the United States during the Carter administration are the only example of an effort both involving the Soviet Union and with the goal of general and global arms transfer reduction that approached success.²⁹⁵ In the CAT talks, the Soviet Union wanted to orient the effort toward general global reduction, and the United States forced a change in direction toward a regional focus and eventual deadlock because of United States inability to compromise certain regions.²⁹⁶

B. *Obstacles to New Breakthroughs*

Since the limited multilateral successes in the 1960's and the 1970's, the number of suppliers and recipients have increased and recipients have become widely dispersed.²⁹⁷ The United States and Soviet roles as largest and second largest supplier have reversed;²⁹⁸ consequently, the United States has less leverage when suggesting

287. See generally *supra* pp. 358-64.

288. See *supra* pp. 356-58.

289. See *supra* pp. 364-65.

290. See *supra* text accompanying note 234.

291. See *supra* text accompanying note 237.

292. See *supra* pp. 358-64.

293. See *supra* pp. 359-60.

294. *Id.*

295. See *supra* pp. 360-64.

296. See *supra* text accompanying notes 196, 199, 200, 205, and 206.

297. See *supra* p. 345.

298. See *supra* text accompanying note 52.

mutual reduction to the Soviets. History has shown that lasting efforts to control arms transfer on a global or regional basis are not likely to succeed without Soviet and other significant suppliers' cooperation.²⁹⁹ The Soviet Union has not shown interest in arms transfer limitations since 1976. France is now the third largest supplier of world arms and France has become indiscriminate in her policy. Her motives are more economic than humanitarian.³⁰⁰

C. *Present United States Policy*

The Reagan administration's present conventional arms export policy is described in a September 17, 1986, State Department report to the Chairman of the Senate Committee on Foreign Relations.³⁰¹ The Reagan approach does not seek supplier cooperation. Rather, the approach seeks to reduce the conditions within countries and regions that create arms demand, and secondarily continues to support United Nations efforts.³⁰²

The report concludes that seeking cooperation among major suppliers is at this time an unworkable approach, because the Soviet Union and other major suppliers show no interest, and European suppliers are economically motivated.³⁰³ Regarding the Soviet Union, the report concurs with the Western European assessment that Soviet cooperation is essential to a restraint regime, given that the Soviet Union is the largest individual supplier and that the Soviet Eastern European allies are important suppliers.³⁰⁴ In reference to Western European motivations, the report states that whereas United States transfers are directed toward enhancing the security of friends and allies and maintaining stability, arms transfers of many Western European suppliers are motivated largely by economics related to production cost reduction, balance of payments, and domestic employment.³⁰⁵ Another factor that the report cites is that the number of arms suppliers providing sophisticated arms further complicates the potential to develop an effective broadly-based restraint regime.³⁰⁶ The total number of arms exporters increased nearly fifty percent from 1973 to 1983.³⁰⁷ Thus, the report concludes

299. See *infra* text accompanying note 304; see generally *supra* pp. 356-65.

300. See *supra* p. 355.

301. Under Secretary of State for Security Assistance Report to the Chairman, United States Senate Committee on Foreign Relations (unpublished report) (Sept. 17, 1986) (stating that it reports on export of conventional arms, in compliance with the reporting requirement of Section 129 of the International Security and Development Cooperation Act of 1985 and delegation of authority under Executive Order 12163).

302. *Id.* at 12-13.

303. *Id.*

304. *Id.* at 14.

305. *Id.*

306. *Id.*

307. *Id.*

that a broad-based restraint regime focused on supplier cooperation is unrealistic and unworkable.³⁰⁸

The present Reagan administration approach is focused on regional conflict resolution, dealing with underlying motivations for arms acquisitions.³⁰⁹ The emphasis is on regional security and confidence-building measures designed to reduce the pressures to buy arms.³¹⁰ The report cites one initiative in this regard. President Reagan addressed the United Nations General Assembly on October 24, 1985, proposing that a negotiation process be established among the warring parties in Afghanistan, Cambodia, Ethiopia, Angola, and Nicaragua, to bring about an improvement in internal conditions.³¹¹ In the course of negotiations, the United States and the Soviet Union should discuss supporting the warring parties in verified elimination of the foreign military presence and restraint on the flow of outside arms.³¹² The report states that the State Department hopes the Soviets will respond positively to this initiative that offers the best prospect of arms transfer restraint in specific country and regional contexts.³¹³

The present United States approach puts a secondary emphasis on supporting United Nations ongoing efforts.³¹⁴ The report states that the United States will continue to participate in and support the forty-nation Geneva Conference on Disarmament (CD)³¹⁵ and the United Nations Disarmament Commission (UNDC).³¹⁶

An encouraging recent occurrence is that the Reagan administration included a conventional arms control topic as part of its agenda in the December, 1987, Reagan-Gorbachev Summit held in

308. *Id.*

309. *Id.* at 12-13.

310. *Id.* at 13.

311. *Id.*

312. *Id.*

313. *Id.*

314. *Id.* at 15-16.

315. The CD is the principal multilateral negotiating forum for international arms control arrangements. *Id.* at 15. Since 1980 the CD has been working on the text of a Comprehensive Program of Disarmament (CPD) that would serve as directional, but nonbinding, guidance for states in reducing nuclear and conventional arsenals. *Id.*

316. *Id.* The United Nations and its subsidiary organization, the UNDC, since 1974 has been discussing nuclear and conventional disarmament in its Contact Group of the Committee of the Whole. *Id.* at 15-16. The Contact Group has prepared proposed recommendations on conventional arms limitations and regional disarmament for the United Nations General Assembly, but the UNDC participants have not been able to reach agreement on these recommendations. *Id.* at 15. The First Committee of the United Nations General Assembly convenes in New York every autumn to consider and make recommendations on disarmament items referred to it by the General Assembly. *Id.* at 15-16. In 1985, the 40th session of the General Assembly adopted over seventy resolutions on arms control that the First Committee recommended after prolonged debate. *Id.* Among those supported by the United States were resolution 40/84] that condemns use of "excessively injurious" conventional weapons, resolutions 40/91]A and B which deal with the reduction of national military budgets, resolution 40/94]A which encourages regional efforts on conventional disarmament, and resolution 40/152]D which endorses the CD's work on a CPD. *Id.*

Washington, D.C. The Summit focus, and that which received the greatest public attention, was the signing of a treaty that limits intermediate range nuclear forces deployed in Europe.³¹⁷ The Summit agenda, however, included several other topics, one of which was support for a United Nations resolution³¹⁸ imposing a conventional arms embargo on Iran for its refusal to agree to a cease fire.³¹⁹ The United Nations Security Council, on July 20, 1987, adopted a resolution³²⁰ demanding a cease fire, but China and the Soviet Union signaled opposition to a follow-up resolution³²¹ imposing the embargo on Iran.³²²

VIII. Conclusion

For the reasons cited by the Reagan administration,³²³ broad-based restraint attained by supplier cooperation is unworkable and unrealistic at present. The regional and specific country focus of the policy offers the best chance of success, since it emphasizes reducing the insecurity and conflict that created arms demand. This writer also agrees with placement of the secondary emphasis, while still recognizing the important of United Nations and Geneva Conference efforts. History bears out the soundness of this ordering of priorities. The only arms restraint successes since World War II have been regionally or country focused, with the major arms suppliers involved, and many of those successes involved an arms embargo in conjunction with a broader United Nations peacekeeping regime. Broader-based supplier cooperation has not been successful in the past, and the conditions that contributed to near-success on several occasions are not present now.

Although in agreement with the stated emphasis of the Reagan administration policy, this writer concludes that the policy will not contribute to achieving international arms transfer reduction because it is long on form and short on substance. In essence, the current policy is passive. The principal example offered by the administration in support of regional stability and security emphasis is that the President made a speech to the United Nations General Assem-

317. *INF Pact to Sweeten Reagan-Gorbachev Summit*, 45 CONG. Q. WEEKLY REP. 2925 (Nov. 28, 1987).

318. 42 U.N. GAOR, U.N. Doc. _____ (1987).

319. *Also on the Summit Agenda: Afghan, Persian Gulf Conflicts*, 45 CONG. Q. WEEKLY REP. 2928 (Nov. 28, 1987) [hereinafter *Also on the Summit Agenda*]. Other agenda topics were the Afghan conflict, human rights, and several bilateral issues, as follows: (1) status of new embassies in Moscow and Washington, D.C.; (2) cultural exchange programs; and (3) working conditions for United States diplomats in Moscow.

320. 42 U.N. GAOR, U.N. Doc. _____ (1987).

321. 42 U.N. GAOR, U.N. Doc. _____ (1987).

322. *Also on the Summit Agenda*, *supra* note 319, at 2928.

323. *See supra* text accompanying note 303.

bly.³²⁴ This writer does not consider speech-making to be on a par with the leadership and implementation efforts which contributed to the world's prior multilateral restraint successes. The State Department cites nothing further in the way of implementation. The specific regional conflicts cited by the State Department report, as the Reagan administration targets for gaining Soviet cooperation in reducing outsider military presence, are all conflicts that the Soviet Union started with objectives of furthering Soviet power projection. The fact that the Reagan administration did include, as a December 1987 Summit agenda item, the United Nations conventional arms embargo on Iran, does, however, demonstrate that the administration's policy implementation is borne out by more than rhetoric.

Prospects for successful cooperation among arms suppliers are not good at present because (1) the Soviet Union, the largest supplier, is reacting to the perceived threat of United States power projection in the world; and (2) France, the third largest volume supplier in the world, behind the United States, is motivated by economics and is indiscriminate in her approach. Geneva Convention on Disarmament and United Nations efforts should, however, continue receiving United States support. United States emphasis on regional and specific country conflicts, with the goal of reducing the instability and insecurity that creates the arms demand, would stand a good chance of success, however, the present United States effort in this regard is passive. When this approach succeeded in the past it did largely because of major power leadership, initiative, and active involvement. Prime examples were the Carter Camp David Accord, and the United Nations arms embargoes in conjunction with broader peace keeping initiatives. Several major power initiatives and active involvement contributing to these successes included concerted diplomatic efforts by tireless figures such as Kissinger and Carter. In the present decade, such diplomatic effort has not been undertaken.

Success in multilateral agreement on conventional arms reduction will require major power initiative focusing on the specifics of arms restraint and, very importantly, on a larger diplomatic effort and leadership in increasing regional stability and reducing arms demand. Presently the United States has a policy with the proper ingredients, but it is a stated policy with no implementation and is not coupled in the broader context of a focused, diplomatic leadership effort.

William George Wentz

324. See *supra* text accompanying note 311.

