

SOUTH AFRICA'S ARMS SALES AND HUMAN RIGHTS

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Abstract

Central to South African foreign policy is the promotion and protection of human rights. It was during 1994 that former President Nelson Mandela stated that human rights would be the light that guides our foreign affairs. However South Africa's commitment to promote peace in the international system and its commitment to protect and promote human rights has attracted large-scale criticism. Primarily because the present government has embarked on an active campaign to market South African armaments abroad. Weapons are being sold to countries that have an appalling human rights record, countries that are engaged in either civil or regional wars as well as states that are ruled by military dictatorships. In this regard South Africa's arms sales contradict and prevent South Africa from remaining firm in its commitment to promote human rights. This report maintains that the safeguards implemented by the NCACC are lacking at a practical level and also that the government needs to consistently and strictly apply the safeguards. Furthermore in the long term South Africa should seek alternate forms of income generating activities and should in the mean time consider conversion and diversification of the armaments industry. In this way the government will be able to promote the economic development of South Africa and at the same time remain firm in its commitment to promote international peace and human rights both at a domestic and an international level.

Declaration

I declare that this dissertation/thesis is my own unaided work. It is submitted for the degree of Master of Arts in the University of the Witwatersrand, Johannesburg. It has not been submitted before for any other degree or examination in any other university.



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(Name of candidate)

31st day of December 1999.

Dedication

To my parents, brother, and friends with sincere thanks

for their love and encouragement during the writing of this thesis

and throughout my life. I would also like to remember the Almighty

for the strength and courage given at times when I needed it most.

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List of Abbreviations

Armcor	-	Armaments Corporation of South Africa
DAC	-	Directorate for Arms control
DCAN	-	Directorate for arms control and nuclear matters
DFA	-	Department of Foreign Affairs
DTI	-	Department of Trade and Industry
DOD	-	Department of Defence
IAEA	-	International Atomic Energy Agency
IISS	-	International Institute for Strategic Studies
ILO	-	International Labour Organisation
JPSCD	-	Joint Parliamentary Standing Committee on Defence
MOD	-	Minister of Defence
MTCR	-	Missile Technology Control Regime
NATO	-	North Atlantic Treaty Organisation
NCACC	-	National Conventional Arms Control Committee
NFS	-	Not For Sale

NIA	-	National Intelligence Agency
NLE	-	Non-lethal Equipment
NPC	-	Non-proliferation Council
NPS	-	Non-proliferation Secretariat
NPT	-	Non-proliferation Treaty
NSE	-	Non-sensitive Equipment
PLO	-	Palestinian Liberation Organisation
RDP	-	Reconstruction and Development Programme
SADF	-	South African Defence Force
SALT	-	Strategic Arms Limitations Talk
SANDEF	-	South African National Defence Force
SASS	-	South African Secret Service
SMSE	-	Sensitive Major Significant Equipment
SSE	-	Sensitive Significant Equipment
START	-	Strategic Arms Reduction Talks
UNCRA	-	United Nations Register of Conventional Arms
UNIDIR	-	United Nations Institute for Disarmament Research

Chapter One

Introduction

Aim

Human rights have been identified as the cornerstone of South African foreign policy. The arms sales process and record of arms sales however, suggest that the issues of human rights are being ignored in the implementation of foreign policy. This report purports to assess South African foreign policy objectives particularly the objectives of promoting human rights and that of promoting economic development through the sale of weapons. Furthermore this report will discuss the actual decision making process and provide policy options for the South African government and the arms industry.

Rationale

President Mandela explicitly stated that, "human rights will be the light that guides our foreign affairs". Yet at the same time in response to United States (US) criticism, President Mandela firmly stated that South Africa would not be dictated to when it came to deciding which states they can or cannot sell arms to. These statements reflect the very heart of the dilemma faced by South Africa. Many postulate that South

Africa's recent and pending arms sales to states accused of human rights violations reflects a double standard.

During apartheid South Africa's arms industry and the military was immersed in secrecy and shady dealings. Consistent with South Africa's transition to democracy and the promotion of transparency, accountability and confidence building of government departments the National Conventional Arms Control Committee (NCACC) was established. The Committee was created to scrutinise applications for the export of arms. The criteria adopted by the NCACC requires that consideration be given to the receiving country's record of observing human rights, its regional security, its compliance with international law and arms control agreements and lastly the proposed sale must be consistent with South Africa's national and foreign interest. Despite the adoption of these criteria, it is not being strictly adhered to. South Africa continues to sell weapons to states notorious for violating human rights as well as to countries embroiled in civil war.

Clearly, the NCACC was created to bring a moral and ethical dimension to South Africa's arms sales. South Africa's arms sales during apartheid have been characterised as one shrouded in mystery and clandestine activity. Indeed there exists a need for, "clear and transparent policies stemming from a basic ethical philosophy has become an urgent need for public and private enterprise".¹ The promotion and protection of human rights are fundamental to the democratic process. The sale of weapons without consideration to ongoing conflict within a state not only fuels and exacerbates the

¹ Sendall, N.: "Is transparency Essential for Future Defense Legitimacy?" African Armed Forces Journal, November, 1996.

conflict but also erodes any democratic reform taking place in a newly established democracy.

The issue of human rights is inextricably linked to ethics, which in turn is linked to moral values and principles. In light of South Africa's history there exists a need for ethical practices and transparent governance. These are the building blocks of public trust and confidence building in a democracy. The need for transparency and public scrutiny of government bodies is a normative social and economic requirement of any emerging democracy that seeks to gain legitimacy and confidence. Transparency is essential not only to build confidence domestically but also regionally. An accountable government builds confidence in a regard to the intentions and posture of the South African government.

The NCACC plays a crucial role in ensuring that South Africa adheres to its commitment of promoting and protecting human rights. Despite the significance of the NCACC, its role and the decision making process adopted, there exists insufficient research and criticism on the actual decision making process. This report argues that the South African government needs to consistently apply the criteria set out by the NCACC in order to sustain its objective of promoting and protecting human rights.

This report in the first chapter discusses South African foreign policy objectives and the compatibility of these objectives with human rights. Including the promotion of human rights as a component of foreign policy and implementing it is indeed a difficult task for any government. Nonetheless juxtaposing human rights and foreign policy translates into many opportunity costs South Africa would have to forego.

Consequently foregoing such opportunities often creates tension between the commercial sector and the social sector of a government. Also a decision not to forego those opportunities creates tensions as well, which this report will discuss later.

Chapter two of this report discusses the theory of arms control and emphasises the need for supply side limitations. It argues that limitations are necessary in order to prevent the proliferation of armaments. The post-Cold War era is riddled with conflict especially amongst countries in the third world and therefore in order to control and prevent the exacerbation of crises it is necessary that the supply of armaments be controlled rather than exploiting the situation.

The third chapter discusses the evolution of the decision making process and the process itself. The fourth and fifth chapters comprise of a discussion of the case studies and policy options for South Africa respectively. The report in its entirety maintains that the South African government should follow a strict application of the safeguards created by the NCACC and that in the long term South Africa should look to converting and diversifying the armaments industry. This in turn will enable South Africa to remain firm in its commitment to promote and protect human rights.

Chapter Two

South African foreign policy and human rights

South Africa in the past was notorious for human rights abuses through its application of the apartheid policy. The 1976 Soweto riots and the Sharpeville massacre in which hundreds of innocent people were killed exemplified this. After 1989 however, due to international and domestic pressure white South Africa realised that the policy could not be carried on into the next decade.¹ This change was seen in 1990 with the release of Nelson Mandela, who was later elected in 1994 as South Africa's first black president.

South Africa's first democratic election was heralded as a landmark event in South African history. The election not only signified a change in South African policy but also signified that all those who had struggled and died for the cause of human rights did not do so in vain. Our freedom is a consequence of their struggle, to enjoy our human rights not as a privilege but as a basic and fundamental right.

For this reason enshrined not only our constitution but also in our foreign policy and defence paper is the protection of human rights and a commitment to international and regional peacekeeping. South Africa's membership in both the United Nations (UN) and the Organisation of African Unity (OAU) reflects this commitment.

¹ The realisation that apartheid was an inhumane policy was but one factor motivating change. Other factors were the realisation that the maintenance of an autocratic regime was too costly especially in the wake of a financial slump of South Africa's economy.

Recently, however South Africa's commitment to promote peace in the international system and its commitment to protect human rights has attracted large-scale criticism. Many postulate that South Africa's foreign policy and its recent and pending arms sales to states accused of human rights violations reflects a double standard. In fact President Mandela had explicitly stated that the, "anti-apartheid campaign was the most important human rights crusade of the post World War II era". Furthermore, he stated that "its success was a demonstration of the oneness of our common humanity, consequently South Africa will not be indifferent to the rights of others. Human rights will be the light that guides our foreign affairs."² Yet at the same time in response to United States (US) criticism regarding the possible sale of arms to Syria, President Mandela said that South Africa will not be dictated to when it comes to deciding which states they can or cannot sell arms to.³

These statements reflect the very heart of the dilemma faced by the South African government; should South Africa refrain from selling arms and deny itself the benefits flowing from arms trade or should South Africa increase its arms exports and place its reputation at risk? In attempting to answer this question, this research report will firstly look at the history of South Africa's arms trade. Secondly, the advantages and disadvantages of running such a lucrative arms trade business shall be discussed. Thirdly, an analysis of recipients of South Africa's armaments will ensue. Included in this analysis would be the status of these recipients and a record of their human rights abuses. This report maintains that South Africa's present arms control system is by far the most superior in the world. At the same time the report argues that South Africa's

² Mandela, N. "South Africa's future foreign policy", *Foreign Affairs*, vol.72, no.5, 1993, p88

arms control system needs to be developed further especially at the technical and practical levels. In addition the National Conventional Arms Control Committee (NCACC) needs to consistently apply the criteria set out to ensure that South Africa adheres to its commitment to promote and protect human rights not only at a national level but also at an international level.

Before continuing any further this report will briefly consider the compatibility of human rights as a foreign policy objective. There is no doubt that the promotion of human rights in foreign policy is easy to state an objective; however as South Africa discovered, it is rather difficult to implement.⁴

The question that inevitably arises is does this mean South Africa would have to subordinate economic development, which is also, a foreign policy objective to that of human rights. According to Jack Spence who argues that, "one cannot allow morality to dictate policy in abstract terms of absolute acceptance and rejection of a particular course of action".⁵ The implication of such a statement is that if it is in South Africa's national interest to sell weapons then one should not allow moral issues such as human rights to prevent South Africa from furthering its economic interests.

The then Deputy foreign Minister, Aziz Pahad took a similar view. According to Pahad, the new foreign policy must focus on establishing and strengthening economic links. Furthermore, foreign policy should promote trade, investment and growth that

³ Financial Mail, "Prudence Without Dogma", January 24, 1997.

⁴ The ANC foreign policy document of 1993 speaks of the need to "canonise" human rights in our international relations.

⁵ Spence, J.: "The debate over South Africa's foreign policy", South African Journal of International Affairs, vol.4, no.1, summer, 1996, p121.

would assist South Africa's economic development at home.⁶ Thus far, one can conclude that there is an "inescapable tension" between foreign policy and human rights.⁷ Before continuing any further it is imperative that we establish the goals of South African foreign policy and that we explore the concept of human rights.

2.1 South African foreign policy and human rights

South Africa's foreign policy has since the ANC's rise to power in 1994 been a source of numerous controversies and debate. Pretoria consequently has struggled and continues to struggle in an attempt to define foreign policy objectives. Thus far, the foreign policy objectives that the South African government has arrived at are discussed in the South African Foreign Policy Discussion Document. Before discussing the objectives of South African foreign policy, it is necessary that we define foreign policy. According to Peter Vale and Chisepo Mphaisha foreign policy may be defined as "the sum total of all activities by which international actors act, react and interact with their national borders."⁸ The issues covered by foreign policy range between issues of high politics to issues of low politics. The decision to sell weaponry falls into the former category.

The South African Foreign Policy Discussion Document sets out the basic principles, which drives the actions and reactions of the South African government in terms of international, continental and regional trends. According to the document the principles are:

⁶ Ibid p122

⁷ Gilles, D.: "Human rights and Foreign Policy: An international Perspective", Foundation for Global Dialogue, p2

- A commitment to the promotion and protection of human rights.
- A commitment to the promotion and protection of democracy.
- A commitment to justice and international law in the conduct of foreign relations between nations.
- A commitment to international peace and to internationally agreed upon mechanisms for the resolution of conflict.
- A commitment to the interests of Africa in World Affairs and
- A commitment to economic development through regional and international co-operation in an interdependent world.

The question that inevitably arises is what does these objectives from a practical point of view mean. According to Dr. Greg Mills of the South African Institute of International Affairs, four trends have emerged in South African foreign policy. The first and most obvious trend is that maximising South African national interest is of foremost priority. South Africa's attempts to maximise its national interest can be seen in the establishment of relations with the so-called pariah states of the international system as well as through the sale of armaments.⁹

The second trend that has manifested itself in South African foreign policy making is the emphasis placed on human rights and democracy. South Africa has attempted to

⁸ Vale, P. & Mphaisha, C.: "Analysing and evaluating foreign policy", in *Power, Wealth and Global Order*, University of Cape Town Press, Cape Town, 1999, p.88.

⁹ Mills, G.: "South African foreign policy in Review", *South African yearbook of International Affairs*, 1998/9 p.1.

negotiate peace settlements concerning Northern Ireland as well as Indonesia's suppression of East Timor. Furthermore, the South African government was extremely vocal regarding its disdain of General Sani Abacha's ruling of Nigeria.¹⁰

The South African government has on numerous occasions been criticised that its foreign policy objectives are inconsistently applied and are often contradictory. The government in response has argued that it is a new government and has yet to learn the art of foreign policy making and application. The government has also in response to such criticism pointed out that despite its lack of experience it has undertaken initiatives that are worthy of praise. These include its role in assisting to extend indefinitely the Non-Proliferation Treaty, in reforming the United Nations Conference on Trade and Development (UNCTAD) and most importantly in relinquishing its nuclear capability and in creating an African Nuclear Free Zone. The fourth and final trend is attempts to redress the foreign policy imbalances of the past. The so-called pariah states were supportive of the ANC during the apartheid struggle.¹¹ The establishment of relations with these states in turn makes it difficult for the government to focus on human rights, as it has to take into account its past relationship with these countries.

It is important however that South Africa's foreign policy objectives are interpreted in conjunction with South Africa's national interest. This would put into perspective and at the same time explain why contradictions exist in the application of South African foreign policy objectives. National interest therefore is instrumental in guiding foreign

¹⁰ Loc.cit

¹¹ Ibid p. 3

policy objectives. According to Neuchterline¹² national interest may be defined as “the perceived needs and desires of one sovereign state in relation to the sovereign states comprising its external environment”.¹³

In terms of the study conducted by Neuchterline the interests of a state may be divided into four categories.¹⁴ The first category includes defence interests in terms of which the protection of the state and its citizens against any external threat is of prime importance. The second category of national interests includes furthering ones economic interests. The third category of interest entails the maintenance of political and economic order within the international system. The maintenance of this order is essential to the security of the country and its citizens so that they may go about their normal day to day living and pursue commercial activities. The last category of a state’s national interest entails the pursuance, furtherance and protection of a country’s ideological interest.

The four categories serve as a broad generalisation of national interest that may be applicable to any country. In the case of South Africa and through the application of a process of elimination it is clear that at present there exists no regional or extra-regional threat. South Africa’s national interest one could assume is largely centred around economic development. In terms of world order interest South Africa is also actively attempting to narrow the North –South divide and trying to formulate equitable terms of trade for the less developed countries of the world. Finally in terms of ideological interests that should be interpreted in relation to South Africa’s history of apartheid the

¹² Neuchterline, D.E.: “National Interest and Presidential Leadership: The setting of priorities”, Boulder, Westview Press, 1978, p 74.

¹³ Loc.cit

¹⁴ Loc.cit

promotion of human rights and democracy are the cornerstones of South African national interest and South African foreign policy.

2.2 Human rights

Nearly one half of the world's population is denied some of the basic and fundamental human rights. Many are denied democratic freedom and political participation and about one-third face severe restrictions on their right to own property. Over half of Asia and Africa do not have access to safe water; jails are filled with political prisoners, many of them are held without trial and tortured, child labour is widespread, women are denied economic, social and political rights that men take for granted. In addition millions of people are illiterate, chronically ill and lacking in terms of health care, shelter and food.

The concept of human rights has evolved over a considerable period. The concept of human rights as understood today is largely a product of Western tradition derived from the works of John Locke and John Stuart Mill.¹⁵ Before World War II there was very little concern for human rights. Gradually however, human rights law developed initially out of concern for protecting persons during armed conflict. The Geneva Convention of 1864 for example sought to establish standards for treatment of wounded soldiers and of prisoners.¹⁶

Today however the concept of human rights has wide application. This research report in applying the concept argues that the South African government in pursuit of one of

¹⁵ Falk, R.: Human Rights, Oxford University Press, London, 1987, p55.

¹⁶ Ibid p.58.

its foreign policy objective and national interest, that is to the economic development of South Africa through the sale of weapons has violated the objective of promoting and protecting human rights and democracy. The South African government has repeatedly sold armaments to despotic states with human rights violations and in doing so has perpetuated in an indirect way the violation of human rights. The South African government has in effect provided these governments with the instruments used to suppress the human rights of a population.

2.3 Advantages of an arms trade

Despite South Africa's history of human rights violations it is ironic that the present government exports armaments to countries that are well known for their human rights violations. There are undoubtedly economic benefits to be gained from trade in arms that would motivate the government to "overlook" the effects that an arms trade has on a given population. Revenue generated from the sale of arms represents a significant foreign currency earner. Furthermore, it would assist South Africa's chronic unemployment problem. South Africa is at present faced with an unemployment rate of 50 percent. The armaments industry by manufacturing weapons for export will in effect create job opportunities. According to Jayendra Naidoo, the government's chief negotiator on procurement deals forty projects have the potential of creating 65 000 new jobs. Furthermore he adds that high value jobs will be created and although these jobs will be more skilled and technical he says there will also be a mixture of lower grade jobs. Nevertheless jobs will be created.¹⁷

¹⁷ Grawitsky, R.: "Taking a closer look at South Africa Arms Deal", Business Day, November 24, 1999.

Due to downsizing the defence industry, the cost of producing weapons for South Africa's defence needs has increased dramatically. The high cost may be overcome by manufacturing weapons to be exported to other countries. Manufacturing for export to other countries increases the manufacturing output thereby reducing the cost of production. The benefits to be gained from continued trade in arms would certainly assist South Africa along the path to development. Development in terms of not only creating job opportunities and increasing South Africa's exports but also in terms of a research and development capacity. This would enable South Africa to continually upgrade and better its technology so that it may compete on the international arms sales market. It would therefore be unwise to withdraw from the international arms trade at this point in time.

Those who advocate that South Africa should continue its arms trade argue that it is essential that South Africa maintain its defence industry if it is to play a role in international and regional peacekeeping operations. Martin Navias maintains that the sale of weapons affords South Africa access to markets that are otherwise inaccessible to South African businesses. At the same time, the sale of armaments allows South Africa the opportunity to forge new friendships and spheres of influence. In addition weapons sales to states in Africa will expand South Africa's sphere of influence across the continent. It will also benefit African states as they will no longer have to rely on non-African sources of supply for their weapons systems. This in turn makes the maintenance and upgrading of equipment easier and cheaper. Lastly, South African

armaments are deemed compatible with African conditions and needs.¹⁸ Therefore is a more attractive option to African buyers.

The attractions an arms industry has to offer looms large over South Africa especially at a time when South Africa needs solutions to enhance its economy and improve the general standard of living of the South African population. Those who advocate that South Africa should increase its share of the arms market rely on powerful and pervasive arguments to obtain the approval of the government.

This is clearly reflected in the statements of President Mandela who once was a staunch advocate of human rights.¹⁹ He was quoted to have said, "I do not think it would be fair to say that a particular country should not engage in trade in arms. Arms are for defending sovereignty and the integrity of the country. From that angle there is nothing wrong in having a trade in arms".²⁰ Such a statement clearly reflects a change in ANC policy from the days when it first came into power. Jackie Cilliers commented on this change in ANC policy:

"Since the coming to power the ANC has changed dramatically from its pro-election stance. They have dropped their idealism and suddenly woken up to the fact that there is money to be made from the arms industry...For the ANC now facing the realities of government it is going to be very difficult to ignore the persuasive arguments by both

¹⁸ Willet, S.: "The Legacy of a Pariah state: South Africa's Arms Trade in the 1990's", *Review of African Political Economy*, vol.22, no.64, June 1995, pp 151-165.

¹⁹ *Ibid* p157.

²⁰ Navias, M.: "Toward a New South African Arms Trade Policy", *South African Defence review*, Issue 13, November 1993, p38.

local and international arms dealers that even though it's a dirty business it is a potentially highly lucrative and the ripple effect on the economy is tremendous.²¹

In fact ANC policy has changed so much that even President Mandela and the previous Minister of Defence Joe Modise were actively marketing the sale of South African armaments on their trips abroad even when this meant exporting to states with less than reputable regimes.

2.4 Disadvantages of an arms trade

The entire debate appears to be dominated by the economic benefits to be gained from arms trade. However, Susan Willet in her articles raises important questions about the "real value" of these economic benefits. Willet maintains that defence production contributes only a small percentage to Gross Domestic Product (GDP). In fact in 1993 total defence production accounted for only 1.1 percent of GDP and around 4 percent of total manufacturing output. While defence industrial employment contributed 5 percent of total manufacturing employment. Arms have ranged between 0.1 percent and 1.3 percent of total exports during the last decade".²² These figures indicate that the economic benefits to be gained are far smaller than they are usually alleged to be by its supporters.

South Africa depends heavily on foreign imports of capital goods used to manufacture weapons. The implication of such a dependence means that foreign exchange used for the purchase of capital goods deprives other industrial sectors.²³ In addition the

²¹ Cilliers, J.: "South African Sunday Times", 12 July 1994.

²² Willet, S. Opcit p159.

²³ Loc.cit

production of arms depends heavily on government subsidies as well. These have led others to conclude that the defence industry is in fact a burden:

“It not only consumes scarce financial resources and skilled human resources but also creates political and bureaucratic obstacles to the restructuring of the industrial system in general. In that way it may even accelerate the downward trend in a nations economic career”.²⁴

Most authors have focussed on the economic gains or losses as a consequence of continued arms trade. Many, however, have failed to address the impact that arms sales would have on the international community as well as international organisations. South African arms sales to highly controversial countries have led many to question South Africa’s pledge to promote human rights and international peace. In terms of this South Africa stands to lose credibility with organisations such as the UN and the OAU and at the same time South Africa could jeopardise its position to acquire a permanent seat on the UN Security Council.

South Africa also stands to lose a large amount of foreign aid from states that disapprove of South Africa’s arms sales policy. The US has already expressed concern that South African arms sales to countries in the Middle East and parts of Africa only adds fuel to the already existing conflict and could affect the outcome of any peace settlements in the near future. In addition the US could influence other states such as Japan, Britain and France to withdraw aid. It is highly unlikely that the South African

²⁴ Ibid p 162.

arms industry can account for those losses that would prove to be a substantial amount.²⁵

In the long term however it has been suggested by Dr. Garth Shelton²⁶ that South Africa should look to other sources of income apart from the arms industry for several reasons. He argues that because the international arms trade market is shrinking by an average of twelve percent per annum therefore South Africa should seek alternate methods of generating income.²⁷ Both Dr Shelton and Heike Spiegelberg of the Ceasefire Campaign²⁸ suggested that South Africa should in the long term consider converting these industries to manufacturing commercial products.²⁹ Denel has actively pursued both conversion and diversification programmes. The former entails the transformation of military productive capacity into civil production while the latter entails the pursuit of commercial opportunities and military contracts.³⁰

In addition South African weapons systems are far less superior to those of the US or the UK for instance. This makes them less competitive. One has to bear in mind that South Africa is entering a market that is already been established and therefore for South Africa to be able to carve its own little niche in the international arms trade market would not be an easy task.

²⁵ South Africa receives aid from the US to the value of 82 million dollars.

²⁶ Interview with Dr G. Shelton. Senior lecturer at the University of the Witwatersrand. August 1998.

²⁷ South Africa has less than 0.5 percent of the international arms trade market, exporting on average R900 million a year.

²⁸ Interview with Heike Spiegelberg, campaign manager of the Ceasefire Campaign August 1998.

²⁹ The conversion process is also currently being implemented in Russia. Instead of producing missiles Russia uses the steel found in missiles to produce pens. In the case of South Africa it has been suggested that the butt of rifles should be used to produce cricket bats. Interview with Dr. Shelton.

³⁰ Cilliers, J.: "Towards a South African Conventional Arms Trade Policy", *African Studies*, vol.4, no.4, 1995.

A note in summary

This chapter discusses South African foreign policy in conjunction with its national interest. Furthermore it discusses the compatibility of foreign policy with human rights. Indeed the juxtaposing of human rights with foreign policy is a difficult task to achieve and as the government has realised, they often contradict each other. Nevertheless the South African government considers the armaments industry too lucrative and valuable an industry to shut down and has in fact expanded its share of arms sales on the international market. This chapter therefore also considers the argument made by those who advocate that South Africa should continue to manufacture and export armaments. To provide a contrast the argument made by those who advocate that South Africa should refrain from selling armaments is also discussed. In the following chapter on Disarmament and Arms control we define and discuss the need for such measures. This entails analysing changing nature of conflict from Cold War to post Cold War.

Chapter Three

Arms Control and Disarmament Theory

3.1 History of Arms Control.

Mankind's efforts to control the use and possession of weapons developed shortly after the creation of weapons. History has since the development of weapons been marked by various measures to limit the use of destructive weapons systems. Attempts to control the spread and use of weapons dates as far back as the fifth century BC.¹ History records negotiations between the Greek city-states of Sparta and Athens concerning limitations to fortifications. The Catholic Church during the Middle Ages issued canons proscribing violence against clerics and women banned jousting tournaments and attempted to ban weapons such as the crossbow.² Again in 1817 the United States and Great Britain signed the Rush-Bagot Agreement calling for the removal of armed warships from the Great Lakes. In 1899 and 1907 the Hague Conventions outlawed weapons such as 'dumdum bullets' and asphyxiating gases in a bid to lessen the impact of future wars.³

World War I revealed the horrors and devastation of conflict and the emerging sentiment shortly thereafter was that future wars should be avoided at all costs. President Woodrow Wilson called it the "war to end all wars". The 1925 Geneva

¹ Lamb, J.C.: "How to think about Arms Control, Disarmament and Defence, Prentice Hall, New Jersey, 1988, p 11.

² Burns, R.D.: "The Encyclopaedia of Arms Control and Disarmament, Charles Scribner's Sons, New York, 1993, p 568.

Protocol was passed to prevent the recurrence of the use of poison gas as well as other chemical and biological weapons. The Kellogg-Briand Pact of 1928 also attempted to abolish aggressive war as a legitimate right of states. Other attempts at arms control were made in 1922 at the Washington Naval Conference and the London Naval conferences of 1930 and 1935. These treaties were made in an attempt to balance the naval strength of the major powers such as the United States, the United Kingdom, Japan, France and Italy.⁴

These limitations did not produce the desired results and again the world was ravaged by World War II. The destruction of Hiroshima and Nagasaki exposed the brutality of the atomic weapon. Shortly thereafter arms control limitations were imposed on the Japanese, Germans and Italians to ensure that these states do not rearm themselves and pursue their aggressive ambitions.

Recent history also displays various attempts to limit the use of arms control such as the Missile Technology Control Regimes (MTCR), the Biological and Chemical Conventions and the Non-Proliferation Treaty (NPT). Their results have nevertheless been limited but it is of importance that attempts to reduce the possession and use of armaments are made as it does represent a beginning for future generations to follow. It is imperative that before the discussion regarding arms control continues any further an attempt is made to define arms control. At the same time and in comparison the concept of disarmament will also be discussed.

³ Loc.cit

3.2 What is arms control?

The international system is characterised by anarchy and lacking a universal government. Therefore the nature of this international system is of a “war of all against all” such that life is based on “continual fear, danger of violent death and the life of man is poor, solitary, nasty, brutish and short”.⁵ This is the international system as described one of the founding fathers of realism, Thomas Hobbes.

In such a system sovereign states have the capability to build and maintain large armed forces to the extent that a security dilemma exists. Furthermore, the maximisation of national interest is of utmost priority. In order to ensure that rival states do not exert an undue amount of influence through the pursuit of military superiority these states are engaged in a constant state of competition. Naturally insecurity and a lack of trust characterise such a system. News of one states military activity often increases levels of insecurity and suspicion about the other’s intentions. Consequently a costly arms race can ensue and this in turn heightens political tensions between states, raising the probability and the severity of crises and possibly causing war. Arms control therefore tries to address the negative effects of the security dilemma.⁶

Early arms control theorists defined arms control broadly to refer to all forms of military co-operation between potential enemies in order to reduce the likelihood of war and the political and economic costs associated with preparing for a war. Today

⁴ Larsen, J. & Ratray, G.: *Arms control Toward the 21st century*, Lynne Rienner Publishers, 1996, p6.

⁵ Hobbes, T.: *The Leviathan*, Oxford University Press, London, 1991, p35.

however arms control has been defined more narrowly. Arms control was generally confined to a limited set of activities dealing with a set of specific steps to control or related classes of weapons systems that may be codified in formal agreements or treaties.

The rationale behind an arms control system however cannot be limited to only preventing arms races and the proliferation of weapons. For purposes of this report arms control theory will be used and will be taken to mean a system of arms export limitations. These limitations are necessary to prevent the proliferation of weapons and to reduce the risk of conflict. Arms control in this report differs from the conventional model of application where limitations are considered from the demand side. It differs to the extent that it considers and recommends that limitations be imposed from the supply side, thereby shifting the responsibility from states and other parties that purchase weapons to states that sell weapons. The responsibility does not solely fall on either one party that is either purchaser or buyer but the responsibility should be shouldered equally between buyers and sellers in order to maintain peace, order and stability in the international system. This report therefore argues that the South African government as a supplier of weapons needs to shoulder that responsibility in a more efficient manner. Case studies will be considered later on in the course of the report. Case studies that illustrate that the South African government has on numerous occasions flouted the criteria it has set out for itself regarding the

⁶ Two classics dealing with arms races are Samuel P. Huntington, "Arms races Prerequisites and Results", *Public Policy: Yearbook of the Graduate School of Public Administration*, Cambridge, Harvard University Press, 1958, and Colin Gray, "The Arms Race Phenomenon", *World Politics*, October 1971.

sale of weapons and has been less than consistent in applying its commitment to the protection and promotion of human rights.

3.3 Origins of arms control during the Cold War

The surge in the importance of arms control was a reaction to the bipolar structure of the international system and the threat of possible nuclear war. Consequently, arms control during the Cold War assumed a high priority on the national security agenda as a way of managing the superpower nuclear rivalry. As the US and the Soviet Union faced each other as military, political and ideological rivals the conduct of bilateral negotiations became very formal. Generally these negotiations were limited in scope and focussed on increased strategic nuclear stability between superpowers. The Strategic Arms Limitations Talks (SALT) and the Strategic Arms Reductions Talks (START) held centre stage during this period. Agreements however were a product of protracted negotiations and often took years to reach. Every possible implication for the strategic balance was scrutinised, while increasingly complex provisions for verification became part of the process to guard against cheating. Even when a treaty was concluded, the benefits and pitfalls of arms control were hotly debated among the national security elite's.⁷

3.4 Arms control and the Close of the Cold War

The demise of the Soviet Union and the Warsaw Pact has transformed the content and perceived importance of arms control in just a few short years. Along with the fall of the Iron Curtain the need to manage the strategic nuclear balance between the

superpowers also faded. At the same time the place of arms control on the national security agenda also began to become of less priority. Consequently the question that arose was whether arms control remained an essential tool for national security.

The Gulf War however brought a new set of issues to the fore. During the Gulf War the Iraqi's pursued the establishment of a range of advanced arms that included nuclear weaponry, ballistic missiles, and super long-range artillery. Iraq's progress to achieving a nuclear weapons capability and ability to circumvent the nuclear NPT regime-while remaining a member of the regime- and subject to International Atomic Energy Agency (IAEA) inspections proved to be perturbing to the international community. At the same time the dissolution of the Soviet Union and its military created opportunities for weapons, military technologies, and know how to flow to other states.

The Gulf War revealed the emergence of other new security concerns. The breakdown of the bipolar international system coincided with a rise in regional instability. Consequently the world has witnessed an increase in conflict. Conflict that is not so much a product of external threats but rather as a result of threats that emerge from within the state. Threats such as uprisings due to dissatisfaction with the ruling government, ethnic conflict and conflict between rival factions in the scramble for power.

In order to effect a reduction in the arms trade it is essential that an understanding regarding the forces that drive the arms trade is reached. Weapons are bought as a

⁷ Larsen, J.& Rattray, G. *Opcit* p.23.

result of threats both external and internal and also in an attempt to counter potential threats. At other times governments purchase weapons in order to bolster their claims to regional power status or shortly after decolonisation for the nation-building process. Many governments continue to equate a large military capability with a superior status. In addition it is well known fact that Third World political systems are extremely fragile due to the inability of governments to reconcile the various demands of different sectors of the population. Consequently, the power of these governments has been frequently tested and is often forced to rely on the armed forces to maintain their power.

These then are the most important causes of internally generated demand for weapons in the Third World. Together with the supply side factors, they determine the amount of weapons which Third World countries wish to acquire.

3.5 Rationale for an arms control system

According to Hedley Bull⁸ there are three main grounds upon which arms control may be held to be desirable. The first ground is that disarmament contributes to international security. The assumption is that arms or certain levels of arms, or arms races are a cause of war and that arms control will prevent states from resorting to war as a means of settling disputes. Secondly, arms control are held to be desirable as they release economic resources that may otherwise be tied up in projects that aim to expand a country's military capability. The assumption here is that arms races tend to divert resources away from more urgent projects such as housing and welfare. An

⁸ Bull, H.: "The Control of the Arms Race", The Bradbury Agnew Press, London, 1961, p 3.

arms control system however would ensure that funds are channelled to address the more relevant issues such as those social projects mentioned above. Thirdly, arms control is necessary because of moral concerns. Wars of all kinds or perhaps preparing for war to inflict pain and suffering is morally wrong.

3.6 Arms control and disarmament.

The processes of arms control and disarmament have similar end goals and are often terms that are used interchangeably. There is however differences between these two concepts. Hedley Bull defines arms control as "the international restraint exercised upon armaments policy, whether in respect of the level of armaments, their character, deployment or use."⁹ Disarmament on the other hand is defined as the "reduction or abolition of armaments. It may be unilateral or multilateral, general or local, comprehensive, partial or controlled or uncontrolled."¹⁰ The differences in the two concepts lie in their views of each other. Proponents of disarmament see arms control as the reduction of the size of the military forces, budgets, explosive power and other aggregate measures whilst they see disarmament as the complete elimination of all weapons. This goal however has been criticised as being too idealistic. Disarmament therefore is the elimination of all weapons of warfare that is not so much impossible as meaningless: "so long as men have hands with which to pick up stones war cannot be made physically impossible (nor while they have brains with which to devise or remember more advanced weapons, can it be kept primitive)".¹¹

⁹ Ibid. p ix

¹⁰ Loc.cit

¹¹ Bull, H.: "Disarmament and the international system" in Hedley Bull or arms control Ed O'Neill & Schwartz, D, Macmillan Press, London, 1987, p 27.

For purposes of this report however the focus shall be on arms control theory rather than disarmament as the author considers the former to be more pragmatic in the short term. It is important to recognise that armaments will always exist in an international system and that it is within every country's sovereign right to provide for their security requirements. This does not mean that disarmament theory has no relevance this report maintains that it is a goal worth striving for in the long term.

3.7 Basic tenets of Traditional Arms Control Theory

Arms control theory is largely a product of the Cold War. It was conceived as an instrument to enhance national security. As Hedley Bull one of the founders of arms control theory explained, "Arms control or disarmament was not an end in itself but a means to an end and that end was first and foremost the enhancement of security, especially against nuclear war".¹² According to Thomas Schelling and Morton Halperin, "the aims of arms control and the aims of a national military strategy should be substantially the same."¹³ The implications therefore is that the principle established as the main goal of arms control is the enhancement of national security and not just the reduction of arms per se. This however did not imply that all reductions were useful. There was an explicit recognition that arms control could be harmful if not properly guided by overall national security strategy. According to Bull "it is not to be assumed that the level of forces and weapons most favourable to

¹² Bull, H.: "The Traditional Approach to arms control Twenty Years After in Nerlich, U. Ed Soviet Power and Western Negotiating Policies, vol.2, Ballinger, Cambridge, 1983, p 21.

¹³ Schelling, C. & Halperin, M.: "Strategy and Arms control", Twentieth Century Fund, 1961, pp. 10-14.

international security is the lowest one".¹⁴ The suggestion therefore is that arms control policies should be developed with national security strategy in mind.

The second tenet of arms control theory is the belief that the superpowers shared a common interest in avoiding nuclear war. According to Hedley Bull, "the fact that the US and the Soviet Union were locked in a political and ideological conflict, one that moreover took a military form, did not mean that they could not recognise common interests in avoiding a ruinous nuclear war or cooperation to advance these common interests".¹⁵ The suggestion made by Bull here is indicative of a conceptual departure from past thinking about arms control theory. Prior to this departure it was assumed that in order to achieve any substantive arms control agreements it was necessary that there was a relaxation of political tension. The founders of traditional arms control theory on the other hand, believed that the threat of global nuclear annihilation took precedence over and transcended political and ideological differences. Original arms control theory recognised that where there was too much political tension implementing an arms control system would be impossible and where there were only little tension parties to the system would lack in their commitment. According to Hedley Bull, "only the existence of international tension ...makes arms control relevant. It is relevant when tension is at a certain point, above which it is impossible and beneath which it is unnecessary... When the relations between nations are marked by sympathy and amity, arms control appears to be irrelevant."¹⁶ Furthermore, "Unless the powers concerned want a system of arms control; unless there is a measure of

¹⁴ Bull, H. "The Control of the Arms race", *Opcit* p 37.

¹⁵ Bull, H. "The Traditional Approach to arms control Twenty Years After", *Opcit*, p22.

¹⁶ Bull, H. "The Control of the Arms Race", *Opcit*, p.37.

political détente among them sufficient to allow for such a system; unless they are prepared to accept the military situation among them which the arms control system legitimises and preserves, and can agree and remain agreed about what this situation will be, there can be little place for arms control.”¹⁷

Arms control and military strategy should be used together to promote national security is the third and central tenet of arms control theory. The unity of strategy and national security is essential if arms control theorists and defence policy strategists were to avoid working at cross-purposes. For example if the implementation of US defence strategy required deploying certain types of weapons that were restricted by arms control agreements, this could defeat the overall purpose of US national security posture and erode the legitimacy of both the arms control process and US defence policy.¹⁸ The founders of traditional arms control theory maintain that both arms control negotiators and defence policy makers should strive toward the same goals and operate on the basis of distinguishing which weapons were desirable and which weapons were destabilising.¹⁹

The fourth and final tenet of arms control theory states that arms control regimes need not be limited to formal agreements but could also include informal, unilateral, and verbal agreements. To cite Hedley Bull again, “If arms control was co-operation in military policy between antagonistic states to advance interests that they perceive to be common ones, then this included not only the attempt to negotiate formal agreements to limit the character, deployment, or use of their weapons, but also informal

¹⁷ Ibid. p 10

agreements to restrain arms competition and indeed to restrain military conflicts themselves, and also unilateral actions that advanced perceived common interests and were not merely directed toward the advantage of one side.”²⁰

3.8 The original objectives of Traditional Arms Control Theory

As has already been mentioned for arms control to be an effective instrument of national security, its objectives must be determined by, and be in close harmony with the broader objective of national security strategy.²¹ Traditional arms control theory was based on the premise that the superpowers inherently shared an area of common ground (to avoid nuclear war). This in turn would serve as the basis for limited, co-operative arrangements involving reciprocal restraint in the acquisition of weapons of mass destruction. In defining the scope and application of arms control, theorists set forth three objectives for arms control that directly corresponded with the conceptual dilemmas associated with the Cold War.

“We believe that arms control is a promising, but still only a dimly perceived, enlargement of the scope of our military strategy. It rests essentially on the recognition that our military relation with potential enemies is not in the interest of pure conflict and opposition, but involves strong elements of mutual interest in the avoidance of a

¹⁸ Kartchner, M.K.: “The objectives of Arms control” in Larsen, J.A. & Rattray, G.J. Ed in *Arms Control in the 21st Century*, Lynne Rienner Publishers, London, 1996, p 23.

¹⁹ Ibid. p24

²⁰ Bull, H.” *The Traditional Approach to arms control Twenty Years After*”, Op cit.p24.

²¹ In the introduction to their seminal book, Schelling and Halperin state: “There is hardly an objective of arms control to be described in this study that is not equally a continuing objective of national military strategy-of our unilateral military plans and policies, p3.

war that neither side wants, in minimising the costs and risks of the arms competition, and in curtailing the scope and violence of war in the event it occurs.”²²

The first objective of traditional arms control theory entails reducing the risk of war. During the Cold War US defence strategy sought to reduce the risk of war through deterrence. The task of arms control negotiators became then to establish means and methods for enhancing and institutionalising mutual nuclear deterrence and to restrict any threat to the preservation or stability of that deterrence. One such threat that would bring about instability was uncontrolled arms races. Consequently, arms control was seen as a prime means for setting limits on and restraining strategic arms race behaviour. In addition, for early arms control theorists, restraining certain types of technology were practically synonymous with reducing the risk of war and enhancing deterrence. The underlying premise therefore was that war is most likely to begin with a surprise nuclear attack made possible by modern developments such as ballistic missiles, guidance and control systems and nuclear weapons technology. Therefore those weapons systems employing technologies that in theory most contributed to the ability to conduct a surprise nuclear attack became the principal candidates for arms limitation agreements.²³

Reducing the cost of war is the second objective of traditional arms control theory. This objective assumes that an arms control system would, “release economic resources: that armaments, or arms races are economically ruinous or profligate, and that disarmament or arms control would make possible the diversion of resources now

²² Bull, H. “The Control of the Arms Race”, *Op cit* p.3.

²³ Kartchner, K.M. *Op cit* p 26.

squandered in armaments in to other worthier channels.”²⁴ If arms control succeeded in providing the same degree of security at lower levels of weapons than would otherwise be the case, it could lead to the necessity of fielding fewer weapons and thus lower overall defence spending. Further, if certain types of technology were mutually outlawed, there would be fewer costs associated with defence research and development, weapons production, force deployment, operations and maintenance. The savings made would then be diverted to domestic economic priorities and would promote overall prosperity.²⁵

The third objective of arms control theory entails the reduction of damage should war occur. The underlying assumption of the third objective is that if there were fewer weapons in the world as a result of arms control limitations, and war should nevertheless occur the overall damage would be substantially less than it would have been had there not been any arms control limitations in place.

In practice however the first of the three objectives that is reducing the risk of war has overshadowed the remaining two objectives of reducing the costs of preparing for war and reducing the damage should war occur. The reason behind this is because and logically so that achieving the first objective would indirectly satisfy the other two objectives as they are inherently and inextricably related.

Arms control theory is a theory that was formulated during the cold war. It was a time when political and ideological tensions ran high and it was also a time when the threat of nuclear war was highly probable. A significant amount of time has lapsed since the

²⁴ Bull, H, “ The Control of the Arms Race”, Opcit p3.

end of the Cold War and the question that inevitably arises is whether the theory has application in a post Cold War era. Conflict is an inherent feature in the international system. Clearly the end of the Cold War has not itself brought an end to conflict. Instead, the world has experienced a marked increase in conflict different from the type of conflict around which the Cold War was centred. Conflicts today are largely a product of political and regional instability. In the post Cold War era, conflicts are characterised by civil strife therefore the threat to peace is not so much an external threat but a threat that emerged from within a state.

Nevertheless and closely related to the three principal objectives of arms control theory are the conceptual dilemmas of strategic thinking in the nuclear age. These are: What deters? How much is enough? What if deterrence fails? The answers to these three questions however have changed dramatically since the end of the Cold War.

This is not to say that all wars are caused by arms races. It would however be more appropriate to say that all arms races are caused by wars and that in the past they have always resulted in war; or even that they lead inevitably to war. Within states armaments tend to create or to shape the will to use them and that between states arms races tend to exacerbate conflicts. According to Hedley Bull, it is false to believe that arms races follow a logic of their own and can only result in war. It is false because it conceives the arms race as an autonomous process in which the military factor operates alone. Such an assumption does not take into account politics. In general arms races arise as a result of political factors, are kept alive by them and also subside with them.

²⁵ Kartchner, K.M. *Op cit* p 26.

Arms races therefore have not always lead to war. There is no more reason to believe that arms races must end in war than to believe that severe international rivalries must end in war. Wars are made possible by the existence of armaments, but they do not in themselves produce war. Armaments are a consequence and not a cause of political tension.

3.9 Deadly cost of new Global Warfare

The nature of conflict in the Post Cold War era has changed dramatically. There is a deadly new pattern to conflict in the international system. Indeed there has been a significant increase in the number of civil wars being fought around the world. These wars appear to be endemic to the plight of the world's poorest economies that not only have to endure poverty and human suffering but also have to undergo brutal human rights violations. Their plight is rendered worse by the reluctance of the international community to intervene and also by the growing weapons trade.

According to the Bowcott²⁶ at least 110 000 people were killed during 1998 in armed conflict around the globe.²⁷ Furthermore in the twelve months to August 1999, ten international wars and twenty-five civil wars are being fought. According to a Defence economist at the International Institute for Strategic Studies (IISS), in London said there is an upward trend in the number of conflicts around the world and also there may be slightly fewer internal conflicts but they have become more intense.

²⁶ Bowcott, O.: "Deadly Cost of New Global Warfare", Mail and Guardian, October 29 to November 4, 1999.

²⁷ The latest edition of the Military Balance estimates.

Eleven of the civil wars that were beyond control were in sub-Saharan Africa and about 60% of the deaths were caused by armed conflict in the region. These included an estimated 15 000 in Ethiopia and Eritrea, 9 000 in the Democratic Republic of the Congo and 9 000 in Sierra Leone.²⁸ Arms exports to the region have doubled over the year as different factions fought not only over territory but also for valuable mineral resources. Three quarters of the countries in sub-Sahara Africa are engaged in armed conflict or confronted by a significant threat from armed groups.

Military expenditure in the region totalled 11 billion dollars last year. Excluding South Africa, spending on arms in sub-Saharan Africa increased by 14% at a time when the regions economic growth rose by less than 1% in real terms. International aid organisations have repeatedly bemoaned the human cost of such wars. According to a Swedish Study which estimated that 15% of casualties during WWI were non-combatants; by WWII that proportion was 65%. In recent conflicts however, 84% of the dead are civilians.²⁹

Despite these appalling figures of deaths due to conflict the international community is becoming increasingly reluctant to intervene and help resolve the conflict. It is becoming increasingly apparent that powerful states are only willing to intervene if it is to their benefit. Unlike Kosovo and East Timor the North Atlantic Treaty Organisation (NATO) and the UN intervened conflicts in Africa have to a large extent been ignored by the West. According to John Chipman an IISS director, the capacity of powerful states to prevent regional conflicts is strikingly low. "In the past the US

²⁸ Bowcott, O.: Opcit.

²⁹ Loc.cit

and other powerful states were clear about what they do, and ambiguous about what they would not do... the management of the conflict in Kosovo and the general attitude of the US to much regional conflict means that now the US tends to be clear about what it will not do and ambiguous about what it will do.”³⁰

Coupled with this lack of interest is also to certain degree negligence. Negligence to the extent that states which export weapons are only interested in monetary gain and are careless about the repercussions the sale of armaments would have on a particular society. Such an attitude is indeed indicative of a lack of responsibility. The US is afterall the world's largest arms exporter, accounting for almost half of all arms sold. The international arms trade was worth \$55.8 billion in 1988. Saudi Arabia was by far the single largest purchaser importing more than \$10 billion, followed by Taiwan.

During the Cold War emphasis was placed on controlling the proliferation of nuclear weapons and preventing nuclear war. In recent times however there has been less emphasis on the prevention of nuclear war (this is not to say that the threat of nuclear war is non-existent). Today however it is the proliferation of small arms rather than weapons of mass destruction that are responsible for millions of deaths. While international agencies have concentrated on the proliferation of chemical and biological weapons, the devastating effects of assault rifles and sub-machine guns are responsible for the maiming of innocent civilians and in creating a culture of violence. Emphasis therefore needs to be placed on conventional weaponry.

³⁰ Loc.cit

Weapons alone are not responsible for the generation of conflict. Conflict arises as a result of a combination of factors of which the aggregation of weapons is but a single factor. Political tension and competition and ironically poor economic performance within a country often serves as impetus for opposing factions to enter into a conflict. The aggregation of weapons is however what makes possible the eruption of conflict and also responsible for the extent at which damage occurs.

A note in summary

Arms control theory although formulated during the Cold War continues to have relevance in a post-Cold War era. The end of the Cold War has not brought about a decrease in the number of conflicts in the international system. It appears as though the post Cold War era is characterised even more so by conflict particularly amongst the poorer countries of the world. These conflicts are in turn fuelled by the growing arms trade and at the same time the world witnesses through the proliferation of conventional weapons the perpetuation of human rights violations.

It is therefore necessary that the arms trade be regulated and limited in terms of which countries should or should not receive armaments. In this regard an arms control system that limits the sale of weapons to countries engaged in conflict is necessary. The following chapter therefore discusses the arms control system the South African government has adopted particularly the decision making process.

Chapter Four

South Africa's arms control system –The decision making process

4.1 South Africa's arms trade policy: The past

South Africa's arms trade during the apartheid years had been characterized as one shrouded in mystery and clandestine activity. According to the Armaments Development and Production Act (no.57 of 1968) states that:

“No person shall disclose to any person any information in relation to the acquisition, supply, marketing, importation, export, development, manufacture, maintenance or repair of or research in connection with armaments by, for, on behalf of or for the benefit of the corporation of a subsidiary company, except on the written authority of the Minister or of a person authorized thereto by the Minister...”¹

Such legislation facilitated the high degree of secretiveness surrounding the sale of weapons and left no room for transparency. Martin Navias succinctly captures the essence of the arms industry. He states that, “there emerged than no means of analyzing the scale and scope of transfers, of openly debating arms production values and of assessing arms sales and arms procurement policies. In essence there were no

¹ Navias, M.: “Towards a New South African Arms Trade Policy,” South African Defence Review, No. 13, November 1993, p38.

public fora in which the benefits and costs of arms trade options could be thrashed out.²

Secrecy surrounding arms sales in the past was a direct consequence of the United Nations Arms Embargo imposed on South Africa for its racist policies. This covert culture sought to consolidate South Africa's power both domestically and to protect clients from embarrassment. Consequently, South Africa's arms trade was characterized by efforts to use front and false companies.³ Sources of imports and supplies were camouflaged, end-user certificates were not utilized with the transfer of weapons systems and South Africa's clientele comprised largely of other pariah states who themselves were experiencing import difficulties due to United Nations Arms Embargoes.

An arms trade industry during the apartheid years violated the laws of many countries and there was little concern for the broader international issues. Security issues such as the security implications of a particular transfer to a region, weapons were also transferred to countries regardless of their political climate and UN arms embargoes were disregarded. Clearly, during the Nationalist Party rule the above mentioned considerations were of little relevance to the South African government. Paramount to the Nationalist government was South African national security and the financial and military benefits South Africa received at that time outweighed the costs of isolation and condemnation.

² Ibid. p.39.

³ Heitman, H.R.: "Equipment dilemma looms as the South African budget is cut," in *Jane's Defence Weekly*, 10 April 1993.

Today however and since South Africa's transition to a democracy an arms industry immersed in secrecy and "shady dealings" has no application. Especially when the overall objective of South African foreign policy is to change that perception and establish a reputation that is consistent with the promotion of human rights and international peace.

In more recent years however, we are witnessing a change in South Africa's arms export policy, especially with regard to the Armaments Corporation of South Africa (Armcor). In the past, Armcor was responsible for production, procurement as well as for exports. Such wide application of Armcor's role in the armaments industry conferred to Armcor an unprecedented amount of power thereby rendering Armcor judge, jury and executioner of its own actions.

Before continuing any further, it is worthwhile discussing Armcor's role during the apartheid era. Not surprisingly, the arms industry occupied a privileged position in terms of access to state resources because of political factors. The public sector arms industry was embodied in a single company, Armcor. Both Armcor and the South African Defense Force (SADF) were part of the Department of Defense (DOD) and were directly accountable to the Minister of Defense (MoD). Some of Armcor's letterheads entitle Armcor a statutory body. Inherent in this description is institutional ambivalence that Armcor operates "under" a Ministry but is constituted as a separate autonomous entity.

In terms of section two of its founding statute, the Armaments Development and Production Act, 57 of 1968, Armcor is incorporated and registered as a company with

its own board of directors. The Minister of Defense exercises extensive powers over Armscor's activities that range from approving corporate loans to appointing directors.⁴ Before 1992, Armscor's operations encompassed arms manufacture, sales (including exports) and acquisitions. In April 1992, a major re-organization took effect. The manufacturing and sales functions formerly performed or co-ordinated by Armscor was conferred to a corporation called Denel. Consequently, Armscor's main business became acquiring military equipment on behalf of the South African National Defense Force (SANDF).⁵

Armscor's objectives under its statutes are:

"To meet as effectively and economically as may be feasible the armaments requirements of the Republic... including armaments required for export."

Furthermore the statute empowers Armscor, "on its own account or as the representative of any other person to buy, sell, import or export and, through advertising or otherwise to promote the sale of armaments, including armaments required for export"⁶ and to "exercise control over the development, manufacture, acquisition, supply, export or marketing of armaments."⁷

In February 1994, the same year in which South Africa held its first democratic election, Armscor adopted the following as its statement on transparency and accountability:

⁴ Armaments Development and production Act 57 of 1968.

⁵ *Loc. cit*

⁶ *Loc. cit*

⁷ *Loc. cit*

“We are committed to a profound policy of transparency and accountability aimed at empowering our ultimate client, the South African public, to assess our acquisition and marketing decisions as well as our human resources and technology, development policies within the boundaries of government policies”.⁸

Such a statement indeed aims to transform Armscor’s reputation from one that was employed as a war machine during the period of “total onslaught” to one that is a responsible producer, possessor and trader of arms over which the civilian population ultimately has control. Theoretically, this was the intention, practically however is reflected later in this report complete transparency regarding Armscor’s business transactions cannot be achieved.

4.2 South Africa’s Arms trade policy: The Present

Nevertheless, in an attempt to earn a reputation as a responsible producer and supplier of weapons, the post-apartheid government, addresses the task of reformulating its arms trade policies through various legislative measures designed to improve South Africa’s arms control procedures and practices. Consequently, a two pronged approach was launched. The first approach entailed conforming to international norms and practices in arms control which in turn entailed amending export regulations in the Non-Proliferation of Weapons of Mass Destruction Act (Act no.87) to include missiles and dual use technologies. In addition the act of amending legislation enabled the South African government to gain full membership of the Missile Technology Control

⁸ Yacoob, A.O.: “Transparency and Accountability How Far Have We Come?” SALVO Armscor’s Corporate Journal, 3/96 p 21.

Regime (MTCR).⁹ While domestically, developing more open and transparent arms transfer policies has been of priority. This has been achieved through the establishment of the Cameron Commission of Inquiry and subsequently the National Conventional Arms Control Committee (NCACC). In addition the NCACC publishes an annual report reflecting South Africa's armaments export statistics.

4.3 The Cameron Commission of Inquiry

The need to establish a more transparent arms transfer policy became urgent due to press allegations during September 1994. According to the report tens of thousands of AK47 rifles and millions of rounds of ammunition had been shipped from Port Elizabeth to the Middle East. According to reports the source of the weapons was the SANDF and the supplier was Armscor. The report quoted allegations that the weapons were destined for the Palestinian Liberation Organization (PLO), for use against Israel. Furthermore, the report suggested that the new ANC government was seeking to bolster its old ally, the PLO. Armscor on the other hand maintains that the arms shipment had occurred within government prescriptions and that the export was in fact for the government of Lebanon.¹⁰

Press reports later that year revealed that the shipment had been headed for Yemen, but had been turned away at that country's ports. The press reports provoked a public storm in South Africa. World media attention focussed on the activities of Armscor and on South Africa's role in supplying weapons to dubious purchasers. The then Minister of Defense Mr. J. Modise called on Armscor to furnish a report on the events.

⁹ Batchelor, P.: "Disarmament and Defence Industrial Adjustment in South Africa", Oxford University

After receiving the report, and within twelve days of the original disclosure, it had been requested by the Minister of Justice Mr. A. M. Omar to appoint an independent commission to investigate the issue. The Cameron Commission was the result of this investigation.

The Commission was created to inquire and report on firstly, all aspects and surrounding circumstances of the transaction. Secondly, on the facts relating to the said transaction as well as details of other arms deals and other transactions relating to arms components and related materials. Third, whether there was any connection between such transactions and any other matter and lastly whether such transactions violated any law or any international embargo.¹¹

Furthermore and more importantly the commission contributed to enhancing transparency and accountability with regard to the decision making process surrounding the sale of arms. The commission was also asked to comment in the context of South Africa's national and international obligations and responsibilities on the appropriateness of South Africa's current trade policy with regard to the export of armaments and also on the decision-making processes with regard to such trade.

The commission undertook its investigation and made the following findings. The Commission considers that arms and ammunitions constitute a distinctive category of manufactured and traded goods. As implements of human destruction, armaments may obviously be used for legitimate purposes of defense.¹² Nevertheless, they may also be

Press, New York, 1998, p 126.

¹⁰ First Report of the Commission-<http://www.polity.org.za/govdocs/commissions/cameron.html>

¹¹ Ibid.

¹² Ibid.

employed for the illegitimate purposes of internal repression and external aggression. The proliferation may engender regional instability, economic underdevelopment, deaths and casualties, famine, warfare and disease.

The right to life is not simply a value enshrined in the South African constitution and applicable to South Africans only. It is also a right that citizens everywhere are entitled to expect their own governments and those of all other states to respect. If states sell arms, they should consequently, exercise a high level of responsibility and control. They have a duty to ensure that their weapons do not end up in the wrong hands. This duty should be observed not only at the level of arms trade policy but also at organizational and operational levels.¹³

The Commission published two reports. The first report which was released in June 1995, although it was not directly concerned with policy on the arms industry it was however extremely critical of Armscor. The report made recommendations regarding the transformation of Armscor and the need for new and tighter controls over South African arms exports.¹⁴ The second report of the Commission that was published in March 1996 contained a number of recommendations with regard to arms trade policy and the decision-making processes.

The recommendations included a proposal to classify countries according to their status. This entailed the categorization of countries according to those to whom arms should not be sold to and those to whom arms could be sold and those about which the

¹³Loc. cit.

¹⁴ Cameron Commission of Inquiry into the Alleged Arms Transactions between Armscor and one Eli Wazan and other related matters, First Report (Cameron Commission : JHB, 1995), and Cameron

situation is less clear. A second recommendation that was made was that Parliament should be given the right to review and veto arms sales. Both these recommendations were rejected. Furthermore, the report was criticized for recommending a restructuring of the Defense Industry as well as for challenging many of the political, strategic and economic arguments in favor of South Africa's continued involvement in the arms trade.

4.4 The decision making process

As a result of the Commission's findings and subsequently, in August 1995, the National Conventional Arms Control Committee (NCACC) was launched. Arms control therefore became the responsibility of the NCACC that was since the 1980's the responsibility of Armscor. In addition, the NCACC was also mandated to formulate policy on the arms industry. However, before discussing the NCACC, its guidelines, and procedures it is imperative that we discuss the control system in practice of which the NCACC is apart.

In terms of the process definitions, certain applications require a full process of assessment; scrutinization and authorization based on a four level process. The first level at an initial level, a processing unit in the Ministry of Defense administers and processes applications for prescribed conventional arms trade permits as received from specific entities. At the second level, designated government departments receive

certain applications individually for review and assessment in accordance with prescribed criteria.¹⁵

At the third level a scrutiny committee which consists of the Secretary for Defense and the Directors General of the Department of Foreign Affairs and Trade and Industry scrutinizes the relevant information assimilated by the Processing Unit and submits a recommendation to the NCACC. At the fourth and final level the NCACC decides on the merits of such referred application and the scrutiny committee's assessment and advises the Minister of Defense.¹⁶

In terms of implementation and the proposed principles governing the national arms trade and transfers. The import of arms into the marketing and contracting for the supply thereof, and the export of arms from South Africa as well as the transit of such arms through neighboring or foreign states shall be subjected to a control process as determined by the NCACC and approved by the cabinet.

In addition the South African government recognizes and supports the Defense industry as both a responsible and reliable possessor and supplier of defense material and related dual-use technologies and or capabilities. The South African government supports the export initiatives of the defense industry to contract and honor obligations that have been approved in terms of the national arms control system, applied in accordance with the criteria. The government however reserves the right to prohibit or withdraw such support if it is in conflict with national or international interests at any given time.

¹⁵ Guide to the terms of reference of conventional arms in South Africa issued by the Directorate for

Furthermore, the principles of openness and transparency relating to arms trade will be applied throughout. It will be limited only by national interests and confidential bilateral agreements with other states (including matters such as commercial confidentiality). Arms control measures are to be applied in respect of ethical, economic, political, military and security considerations. Such controls are governed by a legitimate South African arms control system based on principles contained in the UN Charter, International Law and recognized international arms control systems. The arms control system adopted by South Africa will ensure a responsible and accountable approach to arms trade and transfers conducted from South Africa.

More importantly, the NCACC has established criteria that would serve as an efficient system of guidance for all arms transfers. The present arms control system promises to review all transfers on a case by case basis and give due consideration to the following criteria: -

- Respect for human rights and fundamental freedoms in the recipient country.
- Cases where political, social, cultural and legal rights of people are seriously and systematically violated by the authorities of that country and are in conflict with the principles of the United Nations Universal Declaration of Human Rights and the African Charter on Human and People's Rights;
- Existing tensions or armed conflict, the internal and regional security situation in the recipient country.

- The record of compliance of the recipient country in terms of international arms control agreements and treaties.
- The nature and cost of the arms to be transferred in relation to the circumstances of the recipient country including its legitimate security and defense needs and the objective of least diversion of human and economic resources for arms procurement.
- The degree to which arms sales are supportive of South Africa's national and foreign interest.

In addition, South Africa will avoid arms trade and transfers that would be likely to:

- Cause such arms to be used for the violation or suppression of human rights and fundamental freedoms;
- Contravene South Africa's international commitments, in particular its obligations under arms embargoes adopted by the UN Security Council and other arms control conventions to which it subscribes or its responsibilities in terms of internationally accepted customs;
- Endanger regional or international peace by introducing destabilizing military capabilities into a region, or otherwise contribute to regional instability and negatively influence the balance of military power.
- Be diverted by the recipient country or re-exported for purposes contrary to the aims of this policy.

- Negatively impact on South Africa's diplomatic and trade relations with other states.
- Support or encourage terrorism.
- Be used for purposes other than the legitimate defense and security needs of the recipient country and;
- Contribute to the escalation of regional conflicts.

South Africa will also consider during an arms transfer

- Mutual assistance in the establishment of effective national mechanisms in accordance with international peace practices for controlling and regulating the trade and transfer of arms and related technologies and
- The exchange of information in respect of national legislation and practices in the field of trade and transfer of arms and related technologies as well as the mechanism of control relating to such trade and transfers.

Other measures taken to ensure that weapons do not end up in the wrong hands are the use of end-user certificates. An end-user certificate is an authoritative statement, issued by the purchaser of armaments. It certifies the institution or entity that is the end-user of the consignment, and undertaking that the goods would not be re-exported to another destination without the consent of the seller.¹⁷

¹⁷ Cameron Commission Report Part 3- <http://www.polity.org.za/govdocs/commissions.html>.

South Africa in an attempt to increase transparency surrounding the decision making process and the activities of the armaments industry has in accordance with international norms and obligations agreed to participate in the United Nations Register of Conventional Arms. Arms transfers are an important element in the global arms race and are also integral to international relations. Such transfers are of regular international concern and as such, continuously discussed by the UN General Assembly. In 1992, the General Assembly implemented the UN Register of Conventional Arms as a confidence building type mechanism in contributing to transparency and minimizing the risk of secret arms stockpiling. (The Register was established by the Secretary General in January 1992, in accordance with General Assembly resolution 46/36 L of 9 December 1991).

The trends toward transparency in armaments are based on the principles of confidence and security building measures. As part of the wider transparency process, the Register is founded on well- enshrined basic principles of cooperative security among states. These principles are based on several factors. First the maintenance of international peace and security in conformity with the UN Charter. Secondly, the inherent right to self-defense. Thirdly, preservation of regional peace. Fourth, security for all states at the lowest possible level of armaments. Fifth, recognition of the legitimacy of conventional arms transfers to meet the security and defense needs of member states of the UN and partnership and equal responsibility of both supplier and recipient states.

South Africa's participation in the Register requires South Africa to declare total import and export values for all defense commodities. Reporting on the import and export of the relevant seven categories by South Africa will normally be done once the full

contractual obligations with regard to hardware/main equipment in terms of the specified categories of equipment have been completed. No reporting is to be done on partial shipments and the Register is to include only data on the number of end items (i.e. finished products) in the specified categories of equipment. The General Assembly further encouraged member states to inform the Secretary General of their national import and export policies, legislation and administrative procedures, both as regards authorization of arms transfers and prevention of illicit transfers. States are also invited to provide information on their defense budget allocations, national holdings and procurement through national production and relevant policies on these issues.

Transparency is therefore to be created by the submission of a report from the Directorate for Arms Control (DCAC) to the scrutiny committee and the NCACC on all marketing, exports, imports and transit permits issued. In addition, the NCACC will biannually submit a detailed report on all its activities to the Cabinet. Professor Kader Asmal recently announced that the thirteen member NCACC had decided after a media conference in July 1997 to "provide for maximum voluntary disclosure to the public, within certain necessary bounds".¹⁸

According to a report regarding disclosure to the general public, the NCACC will disclose the total value of the contract, provide a description of the item at the highest level (but not a detailed report) of the items in the contract and sundry items such as training and logistic support will also be indicated. The date of intended export will also be disclosed, as will details regarding counter-trade arrangements. Disclosure however

¹⁸ Interview with Mr. Gerhard Roussow, Sub-Directorate for Arms Control at the Department of Foreign Affairs, September 1999.

regarding the name of the purchasing country can be withheld at the discretion of the NCACC. The NCACC of course will also disclose information to the Cabinet, Government Departments and agencies, Parliament, and the United Nations Register of Conventional Arms (UNCRA). Detailed provisions cover different degrees of disclosure to the above mentioned departments.

Disclosure to government departments, Agencies and Parliament will in addition to the information disclosed to the public disclose the name of the country to which the defense equipment is to be exported. Also the name of the domestic seller, copies of the end-user certificate, the price per item of the contract and a full description of the equipment under export. Again, the NCACC may at its discretion withhold certain aspects of the above information.

Disclosure to the NCACC and the Executive will in addition to the above also consist of a full discretion of technical specification, performance details and statistics, the capabilities and capacities of the equipment, critical components or sub-systems and the end-user certificates of the equipment under export. Provision is also made for the Chairman of the NCACC to brief the chairman of the Joint Parliamentary Standing Committee on Defense (JPSCD), on request, as regards details of the recipient country and other relevant information.

Regarding disclosure to the UN Register of Conventional Arms the UN will be informed of arms transfers according to seven categories (which will be discussed later in this chapter). Only finished products of the seven categories will be reported to the Register. Components and sub-systems used in the manufacturing of full systems will

only be reported at the discretion of the NCACC. The date of export to the recipient country will normally be reported once the full systems have been achieved. The quantity of items per category exported will also be reported as will product discretion at full-system levels.

The control process as approved on 30 August 1995, pertaining to arms trade control consists of four levels and is structured as follows:

At the first level, the DCAC is responsible for attending to all matters relating to the management of South Africa's conventional arms control. Responsibilities pertain to formulating national legislation, regulations, policies, rules, requirements and methodology as well as fulfilling international and national expectations. The head of the DCAC is required to perform professional, managerial activities generally required by this portfolio and to pursue venues and resources to effect a legitimate control process evident of a proficient, responsible and accountable approach.

The management of the arms trade and transfer control process is multi-dimensional and has to take into account government stated goals, policy, criteria, prescribed processes, communication, liaison, international regimes and international commitments, as well as industry's contractual obligations. The DCAC is a new establishment under the Secretary for Defense that needs to blend individuals into a professional and productive team to satisfy the expectations and requirements of government, various other stakeholders, role players and industry.

The DCAC is required to aid and render assistance to the respective secretariat functions of both the scrutiny committee and the NCACC. The overall responsibilities

of the DCAC can be illustrated through the following diagram. DCAC will be organized and staffed so that it could attend to the indicated responsibilities in an effective, proficient and professional manner.

The processing Unit that is a section of the DCAC will be responsible for receiving applications and processing permits. It will also scrutinize each application to ascertain its validity and compliance with the conditions governing such application. Each application will be duly registered on a computerized database and processed in accordance with the specific conditions applicable. The process of permit preparation processing and administration will thus include the following activities but need not necessarily be limited thereto.¹⁹

- Consistently applying the legal basis on which controls are based in accordance with stated goals and aims governing such controls as accepted and approved by government.
- Attending to South African end-user certificates.
- Re-export and export verification/confirmation checks.
- Applying all prescribed and laid down procedures and policies.
- Permit administration, processing in-house auditing and general reporting.
- Product classification control and management.

¹⁹ See Guide – Footnote 15.

- Obtaining information on technology alienation/immaterial and intellectual property rights.
- Providing inputs to the Department of Foreign Affairs on the UN Register of Conventional arms annually.
- Providing other reporting on arms trade and transfers as may be required by the Minister of Defense, the scrutiny committee, or the NCACC, including the latter's regular reporting on arms trade issues to Cabinet.
- Ensuring that applications at all times strictly conform to approved principles and criteria, before such application is submitted for assessment, scrutiny and approval.
- Seeing to it that only the datapack owner or legal manufacturer applies for a marketing permit.
- Allowing an armament system owner to also apply for the marketing of a complete system. Provided it is specified sub-systems may not be marketed separately where ownership is invested in another company, the subsystem/component manufacturers may apply individually for a marketing permit.
- Considering applications of any other local manufacturing companies or person acting in proxy of any of the above marketing permit holders. Also to apply separately for contracting approval, export, import, transit or development and manufacture permits or otherwise at the discretion of the DCAC.

- Applying the principle of sound competitiveness with regard to similar products when processing marketing permits.
- Identifying and verifying possible sensitive products i.e. containing sensitive imported components subject to another country's legislation in terms of re-export control, before a permit is issued, with the aid of and in collaboration with industry, Armscor and the SANDF.
- Specifically monitoring in cooperation with the industry, Armscor and the SANDF, the export in sensitive goods, technologies, radio and electronic equipment to prevent the possible compromising of military preparedness of the SANDF.

In order to enhance transparency and accountability all controlled goods, products and services are to be classified in terms of the following classification system, are to be published in a government gazette and periodically revised and updated.

The categories are as follows:

Category A-

Sensitive major significant equipment (SMSE) which comprises of conventional implements of war that could cause heavy personnel casualties and or major damage and destruction to material structures, objects and facilities (e.g. artillery, bombs, grenades, armored fighting vehicles etc.)

Category B-

Sensitive significant equipment (SSE) comprises of all types of hand-held and carried assault weapons of a caliber smaller than 12,7 mm. All assault and sniper rifles, machine guns, pistols and related small arms and ammunition are for example included in this category.

Category C-

Non-sensitive equipment (NSE) comprises of all support equipment usually employed in the direct support of combat operations, but which has no inherent capability to kill or destroy. Although if employed in conjunction with SMSE, they could have a force multiplier effect (e.g. radars, meteorological stations, radio equipment, support vehicles and aircraft, recovery equipment, etc)

Category D-

Non-lethal equipment (NLE) is limited to purposely designed de-mining, mine clearing and mine detecting equipment, all non-lethal pyrotechnical and riot control products and related equipment (e.g. mine detectors, signal flares, baton rounds and teargas)

Category E-

Not for sale (NFS) comprise of all those defense or related products that are not allowed to be sold (e.g. all anti-personnel landmines)

The basic framework for assessment is to be developed in due time for use by the different departments to establish a common approach to establishing a profile for each

country on arms trade activities with such countries and regions in relation to the criteria as contained herein:

The Department of Foreign Affairs is responsible for the implementation of foreign policy. This entails the supervision and coordination of South Africa's relations with other states and international organizations. The Department is therefore intimately involved in agreements with foreign governments and international conventions that impact on foreign policy or relations. In practice, this entails the interaction and coordination between foreign affairs and other government departments and institutions that have been empowered by legislation to implement and administer policy in accordance with their assigned portfolio.

The Department of Foreign Affairs in implementing foreign policy, consequently has the task of acting as advocate and catalyst in bringing the government's policy on arms control to fruition in the international arena. It is also the department's duty to advise the government on international developments that could affect such policy. At the same time to continuously liaise with the NCACC where such policy might affect certain processes or decisions relating to the issue of arms control.

In the assessment of countries for which contracting approval and export permits have been applied the DFA like the NCACC will take into account several factors. These include the internal developments in that country, regional developments and influences, human rights considerations, bilateral and foreign relations and, where applicable, UN Security Council Resolutions in applying a code of conduct. The Department's Directorate for Arms Control and Nuclear Matters (DCAN) will be the

nodal point in the DFA for processing assessments as required by the DCAC, the Scrutiny Committee, and the NCACC.

The Department of Trade and Industry (DTI) is responsible for the general well being of South Africa's industrial base, its general trade and contribution to economic growth and establishing and promoting trade relations with the international community. The DTI's role in the decision making process extends to assessing applications referred to on the basis of general trade concerns, with due consideration for possible impacts on the various industries. The DTI will take into consideration firstly the relative trade importance of a country and of a region and of a specific country in relation to a region. Secondly, trade in general, investments and technology projects. Third, the holistic perspective of the competitiveness and sustainability of general industries and the various industrial sectors in South Africa. Fourth, South Africa's industrial basis and also the industrial capability of the recipient country and its potential to become a competitor in the same field. Fifth, the DTI will also consider possible threats to losing control over certain niche technologies, the alienation of technology, immaterial property rights and patents.

Sixth, the Department will take into consideration possible spin-offs for the South African economy that arise if technology is exported. Counter trade implications and lastly a country's financial status/credibility in the international community will also be given due consideration.

The Non-proliferation Secretariat (NPS) serves the Non-proliferation Council (NPC) and is responsible for administering South Africa's non-proliferation obligations. These

relate to the prevention of the spreading of products and technologies that would contribute to the development and manufacturing of weapons of mass destruction.

The DFA, the DTI, Mineral and Energy Affairs, the National Intelligence Agency, the South African Secret Service, Military Intelligence, the DCAC of the Defense Secretariat have representation of this Control Committee. The NPC is responsible for ensuring South Africa's compliance with those international regimes to which it is a member.

The National Intelligence Agency (NIA) in collaboration with the South Africa Secret Services (SASS) will assess and comment on the matters similar to that of the DFA and the NCACC. These include a country's human rights record (separate from the DFA); the internal and regional security climate in and around the immediate vicinity of the recipient country; recorded incidents or suspicions on a country's diversion record. In addition the Agency will also comment on matters such as if the requested transfers appears to be in relation to a country's defense needs and available resources. The NIA will attempt to establish the credibility of the parties involved especially that of agents or intermediaries. Also countries or entities suspected of terrorist activities; counter intelligence on defense markets and forces at work influencing such markets. Risk analysis of industrial espionage and safeguarding of niche technologies and commercial trade information also fall within the purview of this Department's role in the arms control process.

The Department of Defense (DOD) will be involved in the control process to the extent that defense material, including espionage and safeguarding of niche technologies. The

DOD must give consideration to the following when making an assessment for the purposes of granting a marketing permit and contractual approval. Firstly, the stage of development of a project/product in relation to its maturity and marketability. Secondly, possibly comprising of SANDF capabilities, their readiness and projects, against an operational perspective. Thirdly, risk analysis of the possible loss of a leading edge (niche) technology, obtained through defense projects. Fourth, the life cycle curve of the specific product/technologies in question. Fifth, the control with regard to export version products, the effect of funding the SANDF and on industry with regard to technology alienation and technology ownership. Sixth, military diplomatic tendencies cooperation and relationships; impact on regional security and peacekeeping; impact on delivery commitments toward the SANDF. Seventh, the configuration status of products to ensure imported components are controlled in terms of re-export commitment. Lastly, the possible recovery/repayment of investments made through the Defense account, especially on certain niche technologies and subsequent rulings on payment of technology alienation fees or royalties.

The Department of Arts, Culture, Science and Technology does not have a clearly defined role as yet to play in the Arms Control Process. The Department of Transport will be responsible to ensure that South Africa's adherence to international agreements regarding the safe transportation of certain categories of dangerous goods. Only those export or transit applications that relate to products containing explosive substances will be referred to Transport for their comments.

At the third level the processing unit will submit all those applications for which comments have been received from all those entities involved. The role of the Scrutiny

Committee is to scrutinize submissions and to make recommendations to the NCACC. The scrutiny committee is to process all applications on a case-by case basis in the quickest time possible with due application of approved procedures, rules, criteria and guidelines contained herein.

At the fourth level the NCACC by virtue of its powers provide political oversight with arms trade and transfer controls vested in the collective political leadership of several ministers and deputies. The NCACC comprises of the following ministers: a neutral as chairperson that is the Minister of Water Affairs and Forestry; the Defense Minister, Minister of Trade and Industry, Minister of Arts and Culture, Science and Technology, Minister of General Services, Minister of Public Enterprise, Deputy Minister of Intelligence Services, Minister of Foreign Affairs, Safety And Security and four other Ministers.

The purpose of the NCACC is to serve as a formal forum for the discussion of national and international issues relating to South Africa's involvement as manufacturer, possessor, supplier, importer and exporter of arms and related technologies. The NCACC's role also extends to making recommendations to government on South African Policy in this regard. The aim of the NCACC is to establish a national and internationally acceptable arms control policy and system. This system will be consistent with international trends and concerns on arms control and non-proliferation. It will also take into account the South African government's commitment towards responsible conduct in allowing the South African Defense Industry to market, contract, sell, export, import, develop and manufacture conventional arms. The functions of the NCACC are set out as follows:

- To consider and to make recommendations on countries' arms export risk profiles and to determine the possible effects and implication of proposed transactions and to regularly advise the Cabinet in this regard.
- To make recommendations on and approve/deny specific cases under specific circumstances.
- To consider recommendations for the withdrawal of permits already issued; taking industry's commitment into consideration;
- To formulate rules, procedures and regulations governing the control system;
- To establish and approve the working of any subcommittees.
- To receive and discuss applications, submissions and reports relating to the issue of authorization of permits;
- To give rulings in cases of dispute in matters relating to permits;
- To submit proposals to Cabinet to appoint an Inspector General who is to effect audit checks on all levels of envisaged control and to perform any other such duties as may be assigned to its position;
- To effect the necessary reporting to Cabinet on the issue of arms trade and transfers and the activities of the NCACC.

Before any arms sale is made the NCACC, chaired by Professor Kader Asmal has to approve the sale. The NCACC adopts a three-tier process to scrutinize the sale of arms. (See appendix one). The first and conventional step involves obtaining a marketing permit, the second step known as the contracting phase places an obligation on industries to obtain permission prior to concluding a firm contract.²⁰ According to Professor Asmal in an interview with SALVO, it is the second tier that gives practical expression to the South African government's commitment to comply with international obligations and humanitarian concerns.²¹

These procedure and criteria aim to regulate South Africa's arms export policy. At the same time attempts to change the perception of South Africa's arms industry from one that instigates and fuels conflict to one which is regarded as a responsible producer, possessor and trader of arms. This in turn will give credibility to South Africa's commitment to promoting human rights globally and maintaining international peace. In all probability the achievement of this goal would be possible if these criteria and procedures were strictly adhered to. However, in all likelihood, absolute transparency is not possible.

Professor Asmal himself re-iterated this perturbing point. Asmal was quoted to have said in the Sunday Independent, "we shall not lie, we shall not consciously mislead. But it is naïve to think that the government will simply announce all details of arms transactions. We shall provide as much information as possible but we might reserve

²⁰ Naidoo, K.: "Interview with Professor Kader Asmal", SALVO, Armscor's Corporate Journal, 3/96, p5.

²¹ Loc.cit

the right not to mention some detail such as the identity of some recipient countries.”²² Human rights observers find it difficult to reconcile that the identity of recipient countries may be withheld at the discretion of the government for obvious reasons. They argue that this makes it difficult to ascertain which countries are using South African arms to suppress human rights.

Furthermore, other inconsistencies are also self-evident when considering the purpose of the establishment of the NCACC was to bring a “moral and ethical dimension” to South African arms sales. This would therefore make the chairman the custodian of collective decision making on applications from the arms industry for export to other countries.

Bearing in mind the criteria set by the South African government and the NCACC one would assume that selling arms to states embroiled in conflict such as those in Africa and the Middle East would be prohibited, but this is not the case. Instead the chairman’s role has become that of balancer, attempting to balance South Africa’s commercial and diplomatic interests with human rights and political criteria set out by the committee. When confronted by arms sales to states in the Middle East and the destabilising effect it would have Professor Asmal argues that selling arms to countries in the Middle East in all likelihood increases the possibility of peace. The sale of arms creates a reasonable balance especially since Israel has a superior military capability. Such rationalisation however is unacceptable.

²² Battersby, J.: “Applying Restraint to South African Arms Industry is a balancing Act for Asmal”, The Sunday Independent, August 10, 1997.

Indeed credit must be given to South Africa's arms control system in that it is by far the most superior system in the entire world. Nowhere in the world is there a government that has made the activities of its arms industry publicly known to the extent that the South African government has. It is nonetheless important to take what has been achieved in terms of establishing transparency and accountability one step further for the benefit of human kind.

The arms control system however is not one that is perfect and also there are inherent difficulties in applying the criteria set out by the NCACC. According to John Battersby, editor of the Sunday Independent²³ that even though the NCACC went about its task conscientiously, it soon became apparent that the decisions to be made were inherent with contradictions. Despite the procedures set out for the control of armaments in practice it was a common occurrence that when the NCACC was unable to come to a decision by itself it would pass the decisions onto cabinet. Clearly the cabinet is not suitable for the task of assessing the impact of those arms sales on human rights. The cabinet will give preference over certain sales if it was believed that there were economic, strategic and other interests to be gained.

Other problems from a practical point of view are the problem of border controls. Thus far this report has considered the transfer of weapons assuming that exporters would comply with procedures and processes. However consideration must also be given to "black market" activities, which usually entail the violation of laws, and procedures set out by the government. South Africa's border controls are weak and this in turn facilitates the transfer of weapons to other countries without the knowledge of the

government.²⁴ It also makes regulation of the arms control process that much more difficult. In this respect the government needs to tighten its border controls in order to ensure an efficient arms control system.

In addition to the practical problems the South African government has on a number of occasions flouted its the arms control system. The South African government has indicated that when it boils down to choosing between human rights and economic imperatives preference will be given to the latter. The following chapter will discuss case studies that would justify the above statement.

A note in summary

This chapter provides a detailed analysis of the arms control system adopted by South Africa. A decision is made based on reports from various departments. The NCACC is therefore not the sole body responsible for making decisions. According to protocol, various departments are consulted and in addition cabinet is also referred to in the event of the NCACC being unable to arrive at a decisions by themselves. The involvement of other departments tends to dilute the role of the NCACC making it difficult to promote human rights. More often than not preference has and will be given to South Africa's economic development rather than human rights. The following chapter provides case studies which illustrate that economic imperatives rather than human rights is the factor that guides foreign policy.

²³ Sunday Independent, August 10, 1997.

²⁴ Interview with Sagaren Naidoo. Standard Bank Researcher at the South African Institute of International Affairs. November 1999.

Chapter Five

Case Studies

The international arms sales market has changed dramatically since the end of the Cold War. The demand in conventional arms has steadily declined since 1987 by 50 percent in five years.¹ Fundamental transformation in the international arms sales market especially during the 1980's and continuing through the 1990's have allowed this to happen. The following trends have been observed:²

During the 1980's, the Cold War military spending was of high priority and was further expanded due to the wars in Iraq, Iran, Afghanistan and Angola. During the 1990's defence, spending was reduced to the post Cold War downsizing. Lastly, during the year 2000 and the years to follow it has been predicted that due to regional pressure and increase in regional and civil conflict the number of arms purchases will increase proportionally.

Unlike the 1980's which was characterised by large-scale regional wars the 1990's have so far seen a reduction in demand for arms. While the 1980's could be characterised as the "arms acquisition" decade the 1990's has been characterised by spending declines due to post Cold War downsizing globally.

¹ Rattray, G.: "Arms Control Toward the 21st Century", Lynne Rienner Publishers, London, 1996, p1.

² Ibid p 2-8

Despite the overall decline in arms purchases a number of countries perceived some benefits that could be gained by building their own armaments. An indigenous armaments industry would ensure independence of production and supply in the event that an embargo would be imposed on them. Secondly, a factor that could not be ignored was that there was profit to be made by selling arms. This option of course was extremely attractive to cash-strapped governments of the developing world. The Iran- Iraq war demonstrated that money could be made by selling arms to either one or both of the two conflicting parties. Consequently there has been an increase in the number of suppliers and this trend is likely to continue.

The turn of the century will probably see regional pressures increasing and these pressures may manifest themselves in larger regional arms acquisitions. Other factors contributing to the trend of greater arms acquisitions is that despite the end of the Cold War the concept of security has not changed as much as post-modernists would like to believe. While it may have changed to small extent for the countries in the developed world, it has not changed at all to those in the developing world as these countries battle on a day-to-day basis to meet basic requirements. In addition, it has been illustrated on various occasions around the world and especially during the crisis in Rwanda and Bosnia that the superpowers are reluctant to intervene and that, UN cannot provide security guarantees or protection.

In the absence of a global authority there continues to exist a need for states to provide for their own security. This need is an inherent sovereign right of all states in the international system. While some may argue that the UN does represent a global authority it has been demonstrated on various occasions that it takes a certain amount

of time for the UN to respond as there is a need to establish consensus prior to taking full action. A number of countries have observed this pattern and are seriously considering arms purchases and security arrangements which guarantees on a short-term basis regional stability based on an ability to defend one's interest.

5.1 Suppliers

In the early 1980's, there were few suppliers of arms and weapons technologies than in 1990's. However, many regional players such as China, Israel, Brazil, Turkey and South Africa have developed large-scale defence production capacities during the 1980's and later mature industries that focussed on large-scale exports by the 1990's. Consequently, there has been an increase in the supply of armaments on the world market.

Another global phenomenon was that countries around the world are trying to convert their excess defence industrial capacity and hope to use the revenue from arms sales to fund their own conversion efforts. Countries such as Israel, Russia, China and many West Europeans are taking extraordinary measures to make sales and to maintain a viable defence industrial base while converting excess capacity. This is a core objective for many objective many indigenous producers and their governments.

The implications of the increase in the number of suppliers mean that customers in the 1990's dictate the terms of sale. Buyers determine what will be sold, what the terms of the sale would be and what co-production agreements will be required. This situation will be likely to continue to develop and to expand in future arms deals.

With the proliferation of the number of suppliers, it is necessary that limitations be placed on what arms may be sold and to whom. South Africa unlike any other country in the world has imposed on itself an admirable arms export control system. (Which has been discussed in chapter three). In addition South Africa has as the cornerstone of its foreign policy the protection and promotion of human rights. Despite these safeguards South Africa has on many occasions flouted the criteria set out by the NCACC as well as its commitment to human rights. This has led many to believe that economic imperatives rather than human rights drive South Africa foreign policy. The following case studies will illustrate that the above statement has been justified.

5.2 Recipients of South African Arms.

Africa

Africa is plagued by severe economic problems, however despite the poverty Third World countries continue to receive about two-thirds of the global flow of major weapons. Consequently and not surprisingly, the world has witnessed a surge in the number of civil and regional conflict. Indeed the world's poorest economies are being destroyed by proliferating conflicts that are worsened by the growing arms trade.

In 1993, the Angolan President complained to the UN about South African arms supplies to UNITA rebels in Angola. Furthermore, it was later discovered to the embarrassment of the South African government that arms sales were made to countries blacklisted by the UN. Arms sales to these countries focussed worldwide media attention on South Africa and the government was criticised for not adhering to its commitment to promote and protect South African foreign policy.

5.2.1 Rwanda

In 1992, it was reported that South Africa supplied Rwanda with 3 000 R4 automatic rifles, 10 000 hand grenades and one million round of ammunition.³ According to Armscor's general manager, Armscor has supplied the Rwandan government with approximately 30 million dollars of arms over the past five years. However, arms sales were suspended in September 1993.

Later in 1997, the chairman of the NCACC, Kader Asmal announced that arms sales would be resumed to Rwanda. According to Asmal the Vice President of Rwanda confirmed and promised that the material will not be used outside Rwanda.⁴ In spite of the promise however well intentioned one cannot ignore the crisis in Rwanda and Burundi which had featured prominently in the media. Clearly in a civil war and a conflict situation there is no way to verify what these weapons are being used for and against whom. Furthermore, it is likely that these weapons would be used to suppress human rights and to advance the interests of those who wield them thereby fuelling the conflict.

The South African government in an attempt to curb the illicit use of its weapons has implemented a system of end-user certificates. Also, in order to prevent the suppression of human rights the end-user certificates are being used to reveal the identity of the export item and the enduser.⁵ The effectiveness of these end-user certificates do come into question especially when it is found that despite the use of the certificate South African weapons systems have been resold to a despotic regime. Furthermore the

³ Willet, S.: "South Africa Arms Trade Dilemma", International Security Digest, Vol.2, No.2, 1994, p 231.

NCACC whose role it is to ensure that this does not occur finds itself on the other hand playing the role of a committee that has to balance South Africa's diplomatic and commercial interests against those of human rights. In most cases there is a tendency for commercial interests to take precedence over that of human rights and this is when the use of end-user certificates are abused and merely adopted as a formality rather than as an instrument that would safeguard South Africa's commitment to promote human rights. This allows South Africa to dispose of its responsibility to maintain peace and security in Africa.

5.2.2 Uganda

The adoption of the end-user certificates as a formality was seen in the case of Uganda. South Africa has sold weapons to the Ugandan government that was later found in Sudan in the possession of the Sudanese People's Liberation Party (SPLA). The Sudanese then accused the Ugandan government of supporting the SPLA. The arms referred to included medium armoured vehicles, anti-aircraft and ant. ank missiles, ammunitions and 40mm grenade launchers.⁶

The Ugandan government has denied reports that the South African weapons are finding their way into the hands of the SPLA, while the authorities in Pretoria say they believe the authorities in Kampala have complied with the requirement of the "end-user certificates", for weapons which they claimed were solely for the use of the Ugandan government forces only. According to the South African Armament Export Statistics

⁴ Financial Mail, "Silence in the House", August 1, 1997.

⁵ End-user certificates are notorious for being falsified.

⁶ Sunday Independent: "South African weapons are fuelling another tragic conflict in Central Africa", April 27, 1997.

annual report of 1997, South Africa had sold weapons from category A to the Uganda to the value of R9 084 000.⁷ (See appendix two)

5.2.3 Algeria

Algeria is characterised by a low-level civil war and is a presently under a military dictatorship. The military government has assumed a central role in both causing and perpetuating indiscriminate violence. Despite this Denel concluded a R 100 million deal with the Algerian government for remotely piloted vehicles. According to the Algerian government, the vehicles are to be used for the protection of tourists and civilian against terrorists. In an interview with the campaign manager of the organisation Cease-fire, Heike Spiegelberg⁸ argues that it is likely that these weapons will be used in the suppression of human rights. Furthermore, in a country characterised by civil war and lacking in a legitimate government warring factions, that is, the “government” and the “rebels” can be accused of sponsoring terrorism. In essence, this of course poises problems to outsiders when it comes to identifying the legitimate government. This however did not stop the South African government from selling weapons to a country ravaged by war and in which human rights abuses continue unabated.⁹

5.2.4 Nigeria

South African weapons have also found their way to the war torn country of Nigeria. Nigeria is a military dictatorship with gross human rights violations. In the case of

⁷ Weapons from Category A are classified as sensitive major significant equipment which comprises of conventional; implements of war that could cause heavy personnel casualties and or major damage and destruction to structures, objectives and facilities.

⁸ Interview with Heike Spiegelberg, campaign manager for the Cease-fire Campaign- September 1998.

Nigeria, President Mandela had strongly supported sanctions against the Nigerian government, however his appeal was not widely supported and did not have the backing of the US. Failure of the US to support the idea of sanctions was primarily because the US depends on Nigeria for its source of oil. In the case of Nigeria self-evident are the double standards of not only South Africa but also the US and the international community at large. Once again economics takes precedence over human rights and in spite of the unstable political climate, South Africa has sold arms to Nigeria.

The Middle East

The Middle East has for decades been riddled by political tensions and conflict and may be characterised as a volatile region in terms of security. During the 1980's, there was a surge of modern high technology weapons systems to the Middle East.¹⁰ The ongoing arms race is a perpetuation of an arms race that began in the 1950's and is likely to continue on into the next century. Furthermore, it is unlikely that the conflicts and tensions that pervade the region of the Middle East will be resolved in the near future. Despite the well-known fact that regional tensions have existed due to five decades of tension between the Arab states and Israel, South Africa has sold weapons to states in the Middle East. These include as per the annual armaments export report states such as: Kuwait, Lebanon, Oman, and Saudi Arabia. According to the report weapons from categories A and B were sold. Lebanon received weapons from category A, whilst Oman purchased weapons from categories A, B, and C. lastly, Saudi Arabia purchased weapons from categories A and D.

⁹ Lambrechts, K.: "Rethinking South African Algerian Relations", Foundation for Global Dialogue, Vol.1, No.1, 1998, p 7.

5.2.5 Syria

During 1997, reports were made that Syria wanted to purchase weapons from South Africa. However, the impending deal attracted large-scale criticism from the US and had led to a deterioration of relations between the US and South Africa. At the time, while the deal was in the process of being negotiated the US stated in no uncertain terms that if the transaction were concluded it would cost South Africa billions of rands in US foreign aid.¹¹ The US condemned the sale because Syria is listed as a state that sponsors terrorism. Furthermore, it was argued that the sale of arms to Hafez al Assad's dictatorial government is likely to be used in the suppression of human rights.¹²

Syria has actively built up its military capability over the last few years. This military build-up has significantly enhanced Syria's ability to conduct an attack on Israel. Syria has deployed a significant missile capability that poses a major threat to Israel. Those who condemned the sale maintained that the transfer of a tank firing control system to Syria has the capacity to upset the regional balance of power in the Middle East. Syria already has the largest tank force in the Middle East and the sale of the laser directed target control system would enhance their offensive military capability significantly by improving their accuracy and their night vision.¹³

Furthermore, South Africa maintains that the European nations were trying to sell the same equipment to the Syrians. According to Rusty Evans, the foreign ministry's

¹⁰ Mansfield, P.: "History of the Middle East", London, Viking, 1991.

¹¹ Financial Mail, "Prudence without Dogma", January 24, 1997.

¹² Financial Mail, "Charting Dangerous Waters", January 17, 1997.

¹³ The transaction was valued at R3bn to sell a tank firing control system to Syria.

director general some countries were actually marketing American technology to Syria. He also points out that therefore there is no reason why South Africa should be singled out as being negligent to the cause of human rights and international peace.¹⁴ The implication therefore is that in an international system characterised by anarchy every country has as its sovereign right to provide for its own internal security. At the same time every state has a prerogative to sell weapons for its economic development and that potential buyers if they were rejected would look elsewhere for those weapons systems and surely enough there is almost always a potential supplier. The logic therefore behind this argument is that if South Africa does not benefit from the deal those benefits would be reaped by another state.

While the Americans reprimanded the South African government for attempting to sabotage the Middle East peace talks, the South African government responded with equal hostility. President Mandela was quoted to have said during Bill Clinton's visit in 1998 that: "we will never allow any support or assistance from any country, no matter how powerful to dictate our foreign policy."¹⁵

5.2.6 Turkey

Yet, another controversial act of the South African government was the decision to lift an arms embargo on Turkey. This would enable South Africa to increase its clientele to include Turkey. The lifting of the arms embargo some have argued was perfectly timed. Especially when Turkey's usual suppliers Europe and the US have stopped

¹⁴ Daley, S.: "South Africa rejects US warning on arms sales to Syria"
<http://www.africanhistory.com/armsdeal.html>.

¹⁵ Financial Mail, "Prudence without Dogma", January 24, 1997.

supplying arms to Turkey on account of Turkey's treatment of its Kurdish population.¹⁶

Turkey's record of dealing with its Kurdish populations includes denying them civil liberties and freedom unless they renounce their 4 000 year old culture. According to Marion Edmunds the Turks have burned 3 000 Kurdish villages and are forcing the people into squatter camps.¹⁷ Laurie Nathan, a member of the Cameron Commission¹⁸ expressed alarm at the decision of the NCACC saying it was ironic as Kader Asmal himself was once an exile and human rights activist. However, all that Kader Asmal said with regards to the decision was that the embargo had been conditionally lifted for political reasons in South Africa's interests.¹⁹

5.2.7 Saudi Arabia

During 1998 an arms deal was being negotiated between South Africa and Saudi Arabia. The deal was estimated to be worth R 7 billion and able to provide 3 000 jobs.²⁰ According to Larry Benjamin²¹ the Saudi human rights record is clearly "indefensible". According To Amnesty International Reports, the Saudi government has been accused of torturing prisoners. The type of torture includes amputations, flogging as well as application of the death penalty.²² The rationale behind the Saudi's

¹⁶ Edmunds, M.: "South Africa lifts Turkish Arms ban",
<http://www.mg.co.za>

¹⁷ Loc.cit

¹⁸ Cameron Commission was established in 1994 to investigate the sale of arms to Yemen.

¹⁹ Financial Mail, "Charting Dangerous Waters", January 17, 1997.

²⁰ Benjamin, L.: "The National Interest, Human Rights and the Saudi Arms Deal"

²¹ Lecturer at the University of the Witwatersrand specialising in the Middle East and South Asia.

²² Amnesty International Reports, 1996, Amnesty International Publications, 1996.

negotiated deal was in response to the latent threat felt as a result of Iraq under the leadership of Saddam Hussein and to maintain the balance of power in the region.²³

Saudi Arabia like most of the countries in the region is presently undergoing a major military modernisation program that entails modernising armed forces and the purchase of weapons. During the period 1987 to 1994 Saudi Arabia spent approximately \$76 billion on armaments. According to reports, the Saudi's defence budget is approximately \$40 billion.²⁴ According to an article that appeared in Jane's Defence Weekly Saudi Arabia is contemplating the purchase of new long-range missiles. The implications of a modernised missile system in the region is likely to spark of a missile race in the Middle East²⁵ and also an arms race between Iran and Saudi Arabia.

5.2.8 Yemen

During September 1994, Armscor officials without the consent of the South African government sent a clandestine consignment of AK 47 rifles to Yemen. The consignment to Yemen was in violation of government policy that prohibits weapons from being sold to countries affected by civil war.²⁶

Armscor in retaliation to the accusations released a statement that the weapons were destined for Lebanon. However, the Lebanese embassy in South Africa dismissed any suggestion that its government had purchased any weapons from South Africa and that

²³ Benjamin, L. Opcit p 3.

²⁴ Bruce, J.: "Saudi's set to continue force modernisation", Jane's Defence Weekly, vol.25, no.21, 1996, p4.

²⁵ Shelton, G. Opcit p 18.

²⁶ "New Tensions over Yemen Weapons Deal", <http://www.wn.ap.org/wmail/issues/>

the documents produced by Armscor to prove that Lebanon was the buyer was “false and counterfeit”.²⁷

The shipment is reported to consist of 8 956 AK 47's, 15 665 G3 rifles and more than R14 million of ammunition. According to military and arms trade researchers the consignment may have originally been destined for UNITA rebels who were at the time looking for automatic weapons. Armscor had agreed to supply the weapons, the deal however collapsed when UNITA could not raise the money. Furthermore, military experts say that the low price tags on the shipment indicates that politics and not profit was the motive for the transaction.²⁸

5.2.9 Lebanon

Lebanon is seen as a direct threat to Israel. According to the government of Benjamin Netanyahu the army has been undergoing an extensive military modernisation program since the 1975-1990 civil war.²⁹ The Israeli army launched an operation in an attempt to eradicate Hezbollah bases in Lebanon. As a result of the attacks, approximately 400 000 Lebanese left their homes and hundreds were killed or injured.³⁰ The Hezbollah forces in return responded with rocket attacks against towns in Israel.

In spite of the ongoing conflict between Israel and Lebanon South Africa has sold sensitive major significant equipment (category A) and sensitive significant

²⁷ Loc.cit

²⁸ Loc.cit

²⁹ Shelton, G. Opcit p 15.

³⁰ Blanche, E.: “IDF reservists press for pull-out from Lebanon”, Jane's Defence Weekly, vol.29, no.2, 1998, p 15.

equipment (SSE) to both Israel and Lebanon. This is a clear indication that the South African government aims to exploit conflict situations in order to further its economic and commercial interests.

5.2.10 Oman

Oman is reputed as having one of the best military capabilities in the Gulf region and is presently undergoing a five-year military modernisation program. The Oman and US have special defence agreements in place in terms of which the US is entitled to use Omani ports. The state of Oman is one of the first Middle Eastern states to allow a permanent military presence in the region.³¹ According to the annual armaments exports report Oman has purchased sensitive major significant equipment to the value of R10 443 000 from South Africa.

During July 1995, the Mail and Guardian published a list of countries arranged in certain categories. (See appendix three) Four categories had been listed these were. In category one weapons could be sold to countries that appeared on the list and they did not have any arms restrictions. Countries that appeared in category two has some arms restrictions while countries in category three were limited to purchasing only non-lethal equipment. The final category consisted of the names of countries to which absolutely no arms sales are to be made.³²

Despite the publication of this list it has become apparent that South Africa has not given consideration to this list. (See appendix). A few of the countries that were listed

³¹ Shelton, G. Op.cit p 20

³² Mail and Guardian, July 1995.

included: Nigeria, Liberia, Rwanda, Burundi, Syria, Yemen, Lebanon, Iraq, Iran, Yugoslavia, Bosnia-Herzegovina and North Korea. An examination at the annual report published by the NCACC³³ listing the countries to which weapons have been sold the quantity and quality one would find that these countries appear on the list. Furthermore, these countries are recipients of weapons that fall into the sensitive category, that is category A. (see appendix)

However, from the evidence presented it is clear that South Africa has not considered the list. Most if not all of the countries listed have purchased weapons manufactured by South Africa.

Southeast Asia

5.2.11 India and Pakistan

Historically relations between India and Pakistan have been volatile and are marked by a mutual lack of trust founded on a number of issues. Central to the rivalry and hostility between India and Pakistan is the dispute over Kashmir. Both Pakistan and India have laid claims to the state of Kashmir and two wars have been fought between Delhi and Islamabad over the territory of Kashmir.

More recently however, during May of 1998, India had conducted nuclear tests in the state of Rajasthan and within two months of India's nuclear tests Pakistan conducted its own nuclear tests. The acquisition of a nuclear weapons capability by both Pakistan and India significantly alters the security environment of South Asia. However, before

³³ See reports 1997 and 1998 annual armaments and export statistics.

the nuclear tests both India and Pakistan were engaged in improving their missile capabilities. Consequently, India tested its Agni and Prithvi missiles and Pakistan tested its Ghauri missile. It is therefore apparent that both these states are embroiled in a costly arms race.

Despite the obvious tensions between these two states, South Africa has sold weapons to both India and Pakistan. According to the annual armaments export report in 1998 India purchased weapons system to the value of R13 302 000. These included sensitive major significant equipment and non-sensitive equipment Pakistan on the other hand purchased weapons to the value of R10 408 000. These included sensitive major significant equipment, non-sensitive equipment and sensitive significant equipment.

The proliferation of nuclear weapons is a source of international concern. However, despite India's and Pakistan's new found status, as nuclear powers South Africa in the wake of the nuclear tests had displayed no intention to curb arms sales to India. Furthermore, the conflict in Kashmir during June 1999 only lead to the implementation of a temporary moratorium on both these states. A permanent moratorium was unlikely to be implemented, as India has been a long-standing ally of the present ANC government.

However, reports have been circulating that India is shopping for 100 000 rounds of ammunition worth \$47 million to replenish stocks used in the current conflict. In addition India has also been considering purchasing G6 artillery.³⁴ In 1997, India was

³⁴ Shevel, A.: "Kashmir war may halt weapons sales", Business Report, Monday June 21, 1999.

the largest export market for local arms. Denel directed about 43 percent of its exports to India that is equivalent to R567 million of arms. Over the past three years India has spent about R600 million on weaponry from South Africa: R572 million in 1997 and only R13 million last year.

Neither India nor Pakistan's human rights record may be applauded. In addition neither of these states have stable governments. During the year 1999 the Bhartiya Janata Party (BJP), the ruling party of India was ousted out of office before the term ended. Pakistan too is experiencing internal instability. The Prime Minister Nawaz Sharif was over powered and Pakistan is presently ruled by a military general Mushariff. In light of recent events as well as the historical relationship between India and Pakistan South Africa should not have sold weapons to either of these countries in any given point in time. Exporting states should not simply take into account recent events in the recipient state. Clearly, South Africa did not consider the impact of the transfer of armaments to these states. Had South Africa followed a holistic approach and strictly adhered to the criteria the end result to the question whether South Africa should sell weapons to India or Pakistan would have been in the negative.

5.2.12 Malaysia

The South African government has sold weapons to Malaysia, Indonesia and Thailand. Malaysia is recorded to have received weapons that are major significant equipment and non-sensitive equipment to the value of R298 000 in 1998. It was also widely reported that Malaysia was interested in purchasing South Africa's renowned Rooivalk helicopter. The deal regarding the helicopter did not materialise into a

concrete transaction. Shortly thereafter it was reported that the Americans has clenched the deal with their Apache helicopter. Malaysia at present is experiencing significant political and economic turmoil due to the Asian financial crisis. According to an article in Business Day,³⁵ Malaysian President Mahathir Mohamed called for a general election it is however expected that he will win the election despite dissent at grassroots level.

5.2.13 Indonesia

Indonesia is also featured on the annual armaments export statistics. However, it appears as though the South African government has adhered to the criteria set out by the NCACC in deciding whether to sell weapons to Indonesia. According to the export statistics Indonesia purchased only non-lethal equipment to the value of R2 597 000. Indonesia has in the last five years experienced considerable political upheaval. Mohammed Suharto's withdrawal as Prime Minister of Indonesia led culminated into violence. The violence has been blamed on religious and ethnic strife. Indonesia comprises of a variety of ethnic and religious groups that include Muslim, Hindus, Catholics and Protestants. In 1997 former President Mandela visited Indonesia and despite having sold weapons to Indonesia did make an attempt to resolve the crisis regarding Indonesia's suppression of East Timor as well as Indonesia's treatment of its own labourers.³⁶

³⁵ Birchell, J.: "Malaysian elections called", Business Day, November 11, 1999.

³⁶ Abraham, G.: "Indonesia and South Africa", South African Yearbook of International Affairs, 1998/9, p93.

5.2.14 Taiwan

Taiwan is also recorded to have received weapons from South Africa to the value of R15 176 000 in 1996 from categories A, B, C and D. In 1998 however it was recorded that South Africa sold only sensitive significant equipment valued at R1 035 000. This equipment was sold despite the obvious tensions between China and Taiwan. While China claims that Taiwan is an integral part of China, Taiwan on the other hand claims to be an independent sovereign state. Although Taiwan is a democracy, it is a young democracy characterised by one party rule. The sale of weapons to Taiwan could lead to hostile relations between South Africa and China and could possibly lead to an increase in tensions between China and Taiwan.

A note in summary

The above case studies are but a few of the countries that appear on the annual armaments list. South Africa has on a number of occasions flouted the criteria set out by the NCACC. Armaments were sold to countries experiencing internal economic and political instability, regional instability as well as countries that have an appalling human rights record. Clearly, such irresponsibility on the part of the South African government is likely to disrupt international peace and security. Also apparent is the government's exploitation of conflict situations such as that between India and Pakistan. Although a temporary moratorium was implemented it would not prevent the use of armaments that were purchased prior to the placement of the moratorium. In this respect the South African government should when determining whether a sale is to be made to a particular country consider the sale from a holistic approach. This

entails assessing the country's human rights record, the political and regional security from a historical point of view instead of just from recent events.

This is not to say that the South African government has not at all adhered to the criteria set out by the NCACC. The South African government has done well in that it has not sold weapons to countries black listed by the UN such as Iran and Iraq. In addition, China does not feature on the list and in the case of Indonesia only non-lethal equipment was sold. The Democratic Republic of the Congo (DRC) although it has been featured on the list is only recorded to having received non-sensitive equipment and non-lethal equipment (C and D). This report does therefore acknowledge the times when the South African government applied the criteria set out by the NCACC, however this report maintains that the South African government should be consistent in its application of the criteria and in its commitment to promote and protect human rights.

The following chapter in the wake of all the argument made thus far will consider the policy options available to South Africa. The first option includes a complete abstention of the sale of weapons. Second, South Africa may only sell weapons to selected countries. The third option entails the use of diplomacy and a careful selection of countries to which weapons may be sold. Fourth, weapons should be sold to all countries regardless of their political climate. Lastly, the fifth option entails the conversion and diversification of the armaments industry. The following chapter will therefore define the above two processes and consider prospects for conversion and diversification.

Chapter Six

Options for South Africa

“Coming from our history and background and given our constitution it is inconceivable that we do not prioritise the importance of human rights, democracy and good governance”.¹

Despite the above statement, it has become increasingly apparent that the South African government cannot reconcile the often-opposing objectives of promoting human rights and that of economic development. Indeed there are benefits to be derived from the sale of weapons in the short term. The question that inevitably arises is whether South Africa’s short-term objectives should take precedence over the long-term objectives to the extent that it jeopardises the long-term goal irreparably.

It appears as though the South African government has pushed itself into a position that is between “a rock and a hard place.” It would therefore be in South Africa’s best interest if South Africa’s arms sales policy was reconsidered or at least applied in consistent manner conducive to promoting human rights. The following entails a discussion of the policy options available to South Africa.

6.1 Policy options

¹ See Interview with Aziz Pahad in Global Dialogue 3(1) 1998 PP 20-22.

The first option entails a complete abstention of the sale of weapons. For those in the armaments industry this implies serious economic repercussions. In this case South Africa could follow the example used by Japan. According to a clause in the Japanese constitution Japan is prohibited from transferring weapons or goods that would be deployed by "military forces and directly employed in combat". This approach is based on a concerted effort on the part of the Japanese to eradicate "the image of Japan as a militaristic nation making profit from wars".²

There are several benefits to be gained from adopting such a policy. First, it would indicate a complete transformation from the apartheid government's previous inhumane policies. Secondly, South Africa would be leading the way in terms of setting new standards of international conduct for others to follow. Such a move would considerably enhance South Africa's standing in the international community and would work to South Africa's advantage in its bid to gain a seat on the United Nations Security Council. South Africa would not only be a country to renounce its nuclear capability but would also be the first to renounce a policy on weapons sales.

A second option available to the South African government entails the sale of weapons to selected countries only with strict application of the criteria set out by the NCACC. Both the Department of Foreign Affairs (DFA) and the NCACC³ should jointly determine the political climate and whether the recipient has or has not conducted a gross violation of human rights. In the event that the recipient does not match one or all of the criteria the sale is not approved.

² Krause, K.: "Arms and the State: Patterns of military production and trade", Cambridge Studies in International Relations, No.22, Cambridge University Press, 1992, p142.

Unlike the second option, the third option entails the use of diplomacy and a careful selection of countries to which arms are sold. Diplomacy should be used to the extent that it supports arms control initiatives as well as efforts to build and maintain peace. In this case a sale proceeds even though the receiving country does not comply with the guidelines. To counterbalance the lack of such fulfilment of the criteria the sale process is supplemented through diplomacy.⁴

An extreme fourth option entails the sale of weapons to all countries regardless of their political climate, their failures to observe human rights or regional or internal tensions which would otherwise lead to war. Such a policy is sure to elicit outrage both from the international community as well as from human rights activists. Furthermore a policy that allows for the sale of weapons to any country will reduce South Africa's international standing and could at the same time provoke the stronger powers in the international system to impose sanctions against South Africa. Clearly, such a policy is neither acceptable nor feasible and it is therefore necessary that the South African government apply a prudent policy, which transform the negative perception of the arms industry. This change should present South Africa as a responsible producer, possessor and trader of arms.⁵

A fifth option entails the conversion and diversification of the armaments industry. This option came to the fore especially in light of the fact that the international arms trade market is shrinking by an average of 12% and therefore South Africa should

³ Shelton, G.: "South African arms sales to North Africa and the Middle East-Promoting peace or fuelling the arms race?" Middle East South Asia project, FGD Occasional Paper no 16, October 1998, p33.

⁴ Ibid. p34.

⁵ Loc.cit.

seek alternative methods of generating income. In fact South Africa has less than 0.5% of the international arms trade market, exporting on average R900 million.⁶

Before continuing any further it is imperative that we assess and define the processes of conversion and diversification. The two terms although are often used interchangeably are very different and it is therefore necessary that a distinction be drawn. According to Peter Batchelor "conversion means the transformation of military production facilities in to the production of civilian goods and implies that all or part of a defence firms activities is transformed into civil production".⁷ Diversification on the other hand is an adjustment strategy whereby a defence firm attempts to reduce its dependence on military business by divesting itself of military divisions or by acquiring all or part of the assets or products of civilian companies. The strategy can incorporate mergers, joint ventures or co-production agreements with civilian companies.⁸

Important to note is that just as there are a wide spectrum of interpretations as to what conversion is and is not there also exists a wide array of approaches to the process of conversion. This process itself has been in various policy documents reflected as priority. The Reconstruction and Development Program (RDP) stated that, the "democratic government must redirect military strategic production to civilian

⁶ Hull, D. & Markov, D.: "Trends in the arms market" in Jane's Intelligence Review, vol.9, no.4, 1997, pp. 178.

⁷ Batchelor, P. & Willet, S.: "Disarmament and Defence Industrial Adjustment in South Africa", SIPRI, Oxford University Press, 1998, pp175.

⁸ Batchelor, P.: "South Africa's Arms Industry: Prospects for Conversion" in Cock, J & Mckenzie, P. (Eds), *from Defence to Development: Redirecting the Military Resources in South Africa*, David Phillip, Cape Town, 97-121.

production.”⁹ Furthermore the 1996 White Paper on National Defence in no uncertain terms supports a national policy for conversion. It states that “in circumstances of diminishing domestic expenditure and falling global arms sales the industry will be encouraged to convert production capability to civilian manufacture without losing the key technological capability needed for military production”.¹⁰

To reiterate, the concept of conversion encompasses a wide spectrum of interpretations. For several analysts conversion entails the transformation of military resources into civil activities and production. Others such as Renner states that “conversion encompasses an adaptation of research, production and management practices in arms producing factories to civilian needs and criteria”.¹¹ For those associated with the International Labour Organisation (ILO) the process of conversion should rather than concentrate on a transformation process from military to civilian should instead focus on issues of labour and skills. This entails maximising the utility of all resources especially the labour force and minimising the social cost of industrial adjustment.¹²

It has become clear that the issue of conversion is subject both to various interpretations and approaches. According to Peter Batchelor the issue of conversion is

⁹ African National Congress, *The Reconstruction and Development Program: A Policy Framework*, Umanyano Publications: JHB, 1994, pp. 98.

¹⁰ South Africa Department of Defence, *Defence in a democracy: White Paper on National Defence*, Government Printer, Pretoria, 1996.

¹¹ Renner, M.: “Sword into Plowshares: Converting to the peace economy”, Worldwatch Institute, 1990.

¹² Rogerson, C.M.: “The Question of Defence Conversion in South Africa: Issues from the International Experience”, *Africa Insight*, vol.25, no.3, 1995, pp. 155.

a complex process that should "maximise not the amount of resources converted but rather the overall benefits for the citizens or society".¹³

The fact that the process of conversion is subject to various interpretations also implies that there can be "no universal plan or blueprint for arms conversion".¹⁴ Each country has to adopt an approach that would take into account conditions that are unique and applicable only to itself and which cannot be duplicated. Harbor warns that "the first lesson of conversion is to beware of off-the shelf strategies"¹⁵ and that successful strategies will be based on "local, economic, technical, and political realities and circumstances and will encompass a range of policies to deal with separate goals and problems".¹⁶

The approaches to conversion have been limited to three basic categories. These will be discussed briefly, as it is not within the scope of this report to provide a detailed analysis of the conversion process.¹⁷ The categories include micro-economic conversion, micro-economic conversion and political conversion.

Macro-economic conversion places emphasis on evidence that there exists a negative relationship between military expenditure and economic development.¹⁸ In terms of this approach military expenditure is perceived as an economic burden. It is often

¹³ Batchelor, P. & Willet, S. "Disarmament and Defence Industrial Adjustment in South Africa", *Opcit* pp. 173.

¹⁴ Harbor, B.: "Lessons from the west European Arms Conversion Experience", Paper presented at the Military Research Group Seminar on Arms trade and arms conversion in a Democratic South Africa, Tiegerpoort, 29-30 June, 1993.

¹⁵ *Ibid.* p3

¹⁶ *Loc.cit*

¹⁷ For a detailed analysis see Rogerson, C.M.: "The question of defence conversion in South Africa: Issues from the international experience," *African Security Review*, vol.7, no.2, 1998.

¹⁸ Dunne, P. & Willet, S.: "Disarming the UK: The economics of conversion," Discussion Paper Series, Centre for industrial policy and performance, University of Leeds: Leeds, 1992.

limited to development and it is believed that reducing a state's defence expenditure would release resources that could otherwise be invested in project that would yield high returns in terms of contributing to development.

Micro-economic conversion places emphasis on the reuse of existing military resources for civilian purposes. Micro-economic conversion may take the form of plant based conversion. The main characteristic of this approach is that the decision to implement conversion is made at enterprise level. This means that plant based conversion has emerged from workers responses to the loss of jobs in the arms industry. Central to this approach is the transformation of resources accumulated by the military. These include, defence production facilities, skills, scientific and technical knowledge and also military products and components.¹⁹

Political conversion entails a shift in national priorities and reallocating resources from the military to the civil economy. Central to this approach is the empowerment of civilians over militarised and economic institutions.²⁰ In order to implement such an approach it becomes necessary for the government to formulate a partnership with industry, local authorities and trade unions. Such a partnership will enable the government to deal with the immediate economic aspects of conversion such as unemployment and industrial decline.²¹

¹⁹ Batcheor, P. & Willet, S. "Disarmament and Defence Industrial Adjustment in South Africa", *Opcit.* Pp. 17-179

²⁰ *Loc.cit*

²¹ Rogerson, C.M. *Opcit.* p 157

6.2 Defence conversion in South Africa

The end of the cold war has sparked a wide interest in the process of conversion. According to researchers at United Nations Institute for Disarmament Research (UNIDIR) this is a healthy sign. South Africa is not alone in its battle to return civilian control over the military. The issue of conversion has occupied the minds of policy makers all over the world. This common interest enables countries to share and gain from each other's experiences.

The overall decline in sales on the global arms market coupled with the dramatic decline in defence spending has compelled many public and private defence enterprises to seek alternate ways in which to deal with the effects of industrial disarmament adjustment such as unemployment and a decrease in revenues.

Attempts to convert public and private defence industries in South Africa have been relatively limited. Efforts to undertake the industrial adjustment experience are either in the form of corporate diversification or company plant based initiatives for conversion.²² The approach that has been adopted is the micro-economic approach and there has been no concerted efforts to implement either the macro-economic approach or a community based approach.²³

Defence conversion in South Africa has been limited for several reasons as there are inherent problems within the process of conversion. According to Jessica Spratt the defence industry is engulfed in a culture of "secrecy, bureaucracy and privileged

²² Ibid. p158

²³ Loc.cit

allocation of resources.”²⁴ The defence industry has yet to break away from this negative culture.

Jessica Spratt maintains that in order for any industry to survive in a commercial environment it is essential that it is able to market itself. The defence industry at this point in time does not have the capacity to market itself. Second, the skills utilised in the defence industry are more often than not defence specific they cannot be converted for civilian use. Third, the defence industry is accustomed to benefits that arise from the privileged position it occupies as a state industry. This in turn translated into having unlimited access to state resources. Civilian production requires cost-controlling procedures and defence industries are underdeveloped in these areas. Lastly, the defence industry tends to avoid change with great resistance. Such resistance is not conducive to the survival of the industry if it is to survive and thrive in a commercial environment.²⁵ It is for the above-mentioned reasons that conversion is not seen as a viable option in the near future.

At present the conclusion that may be drawn is that there are significant difficulties being experienced with regard to the conversion process. Success is limited due to the fact that the RDP strategy is unclear. This lack of clarity in turn blurs the location of the conversion of the defence industry as a priority.²⁶ In addition South Africa lacks a

²⁴ Spratt, J.: "Restructuring in the South African Defence Industry: An analysis of state, industry and labour", Group for Environmental Monitoring, July 1998, p 31.

²⁵ Ibid. p32.

²⁶ Williams, R. Op cit p 37

focussed strategy which would facilitate the reallocation of defence resources towards development projects.²⁷

A note in summary

Despite the various policy options that have been discussed South Africa has decided to expand its share in the global arms market and is doing so with the approval of the present government. The first policy option of no arms sales in light of the above statement is therefore unlikely to be implemented. Likewise the fourth policy option is likely to meet with international disapproval from both governments and human rights activists. Furthermore such a policy could result in dire economic repercussions such as sanctions against South Africa. Policy options two and three of arm sales to selected countries and the sale of arms supplemented with diplomacy are the options South Africa has attempted to implement with limited success.

On various occasions the South African government has disregarded its foreign policy objective of promoting and protecting human rights as well as the criteria set out by the NCACC. This indicates that the South African government is inclined to subordinating its economic priorities over its priorities to protect and promote human rights and democracy.

The South African government should in its application of policy options two and three also incorporate the elements of transparency and accountability. Transparency and accountability are important factors that foster a culture of democracy based on public trust and confidence. According to Sendall “ the need for maximum

²⁷ Ibid. p138.

transparency and public scrutiny of government bodies is a normative social and economic requirement of any emerging democracy".²³ Furthermore the free flow of information enables society to remain healthy and therefore the South Africa government should make the decision-making process pertaining to the sale of weapons to the public.

²³ Sendall, N.: "Is Transparency Essential for Future Defence Legitimacy?" African Armed Forces Journal, November 1996, p13.

Chapter Seven

Conclusion

The business of exporting armaments makes it difficult for the South African government to consistently apply its objective of promoting human rights. The arms industry does present the cash-strapped government with solutions to its problems of creating employment and promoting growth for the South African economy. The South African government has therefore decided to expand its exports. Armscor's international marketing efforts coupled with support from the ANC led government for international defence exhibitions have contributed to the increasing value of South Africa's arms exports.

The decision to expand South Africa's exports was welcomed by some but not by all. Particularly, those human rights activists and South Africa's foreign policy critics. The South African government has been widely criticised as being inconsistent and hypocritical concerning its commitment to "let human rights be the light that guides our foreign affairs".

This report examines the various factors that motivated the South African government to take such action and argues that South African foreign policy is driven by economic imperatives rather than by human rights. South Africa's decision to export armaments has caused a significant amount of alarm. Particularly, because South African weapons

are being sold to despotic regimes, countries that are engaged in civil war and countries that are situated in regions where tensions run high. These countries include countries such as Rwanda, Burundi and Herzegovina. Indeed South Africa as a member of the international community and the UN have a responsibility to prevent conflict in the international system rather than perpetuate conflict. One method of fulfilling such responsibility may be achieved through the implementation of an arms control system from both the supply and demand sides. This report therefore maintains that it is responsibility of both suppliers and purchasers to ensure that weapons bought or sold are not used for the suppression of a people.

The international system during the Post Cold War is riddled with conflict and violence. Especially so for the poorer countries in the world. While the elites in third world countries scramble for power and wealth, the ordinary not only have to endure hardship and poverty but are also used as pawns in the struggle. Inevitably in such a struggle the fundamental, basic rights of individuals are disregarded. It is for this reason it is imperative that an arms control system is implemented. Central to this report is the discussion regarding South Africa's arms control system and the decision making process surrounding a particular sale.

The findings of this report are that South Africa's arms control system is unique in that it is surrounded by a considerable amount of transparency and is unlike any in the world. A transaction prior to being concluded is reviewed by several departments, the NCACC and a scrutiny committee. Despite the laborious procedure that is followed by each transaction the end result of promoting human rights cannot be achieved fully for a number of reasons. First, the departments that review the pending transaction have a

commercial bias and tend to support foreign policy decisions that would enhance South Africa's economic development. Theoretically the NCACC is the only committee present to ensure that South Africa's commercial interests do not override South Africa's commitment to promote human rights both domestically and internationally. Practically however the role of the NCACC is diluted because decisions are passed onto cabinet when the NCACC is unable to arrive at a decision by itself. The cabinet itself is an unsuitable body to make such decisions and will also tend to have a commercial bias. Clearly the role of the cabinet is to advise the President.

Some have suggested that in order to increase transparency and accountability the decision to sell arms to a particular country should also include Parliament. This suggestion was met with opposition particularly from the DFA and from the NCACC. Both the DFA and the NCACC maintains that creating legislation remains the domain of Parliament and should remain as such. Including Parliament on decisions to sell arms would also prolong the process further.

Other problems with the decision making process from a practical point of view is that the roles of the ministers of the various departments involved tend to overlap substantially. In other words the ministers besides having to review decisions to sell arms to a particular country also have other functions to fulfil and therefore do not have sufficient time to give the attention such decisions require. Consequently because of the extended roles of the ministers they are forced into a position of becoming "jacks of all trades and masters of none". In this respect what is necessary then is that

specialists in arms sale and international law are appointed whose domain it will be to deal solely with these issues.

Thus far it has become apparent that the South African government is unable to remain consistent with its foreign policy objective of promoting and protecting human rights. An examination of the annual armaments exports statistics would reveal and quite shockingly that South African weapons have made their way to countries such as Rwanda, Burundi, India, Pakistan, Angola, Algeria, Nigeria and many others that have a poor human rights record, are engaged in civil or regional wars or are ruled by military dictatorships.

The fact that South African weapons have made their way to these countries indicates that the South African government has been less than consistent in applying the safeguards implemented to prevent human rights abuses. The safeguards referred to are the criteria set out by the NCACC and the various departments involved in the decision making process. Although some may argue that this is not true and that South Africa has done well in that it has not sold to countries such as the Democratic Republic of Congo, Iraq and Iran. In the case of India and Pakistan a temporary moratorium was implemented.

South Africa has on occasion when the crisis in these countries have worsened taken immediate action however such action loses its effect when the weapons transfers are simply delayed. It does not in any way assist in alleviating conflict, as conflict is generally a product of ongoing tensions that eventually erupt into war. In other words it is a process and not a point and therefore the declaration of temporary moratoriums

are ineffective. Once trade in armaments resume these weapons are usually stockpiled for later use.

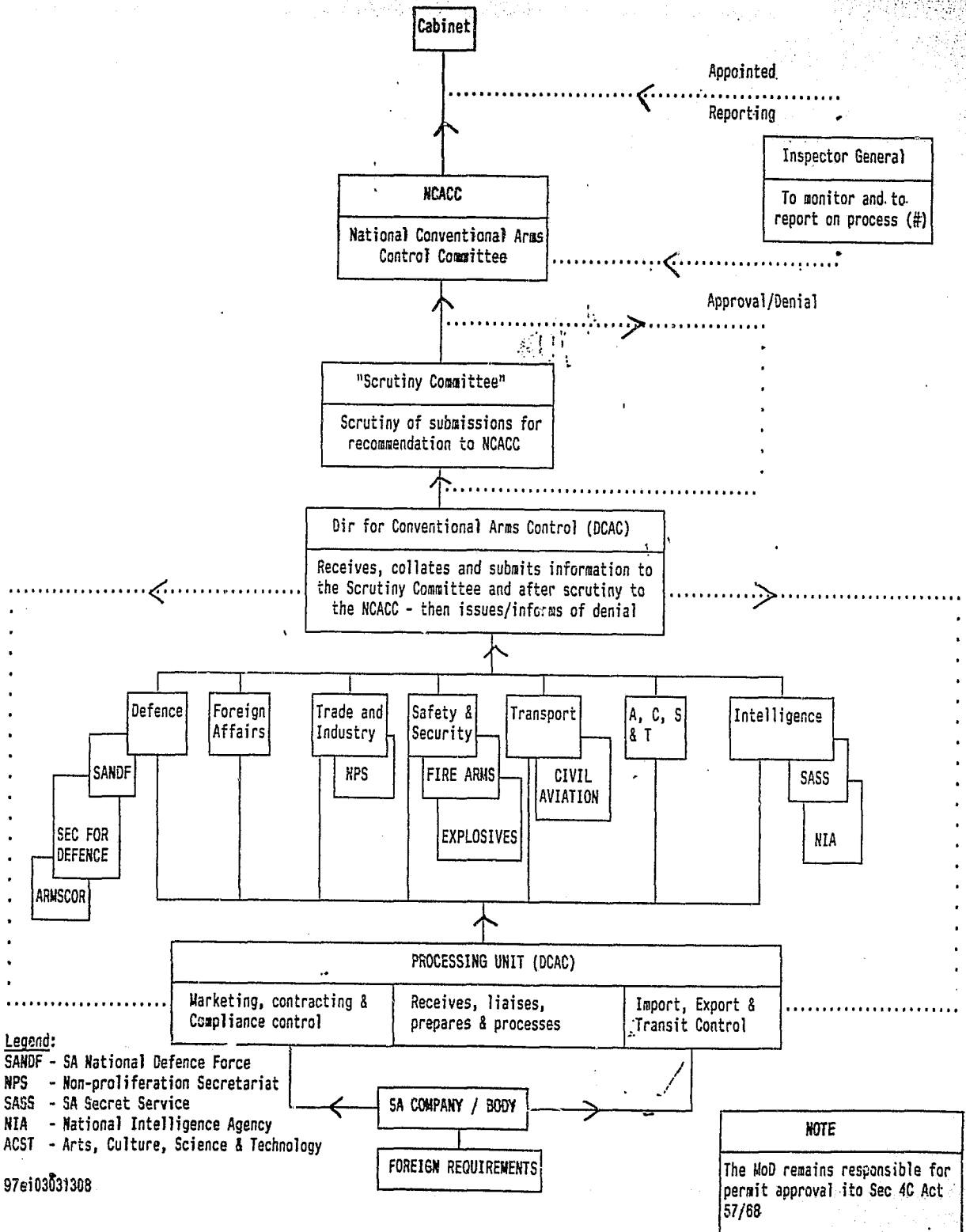
In order for South Africa to consistently apply the criteria set out by the NCACC and adhere to its commitment of promoting and protecting human rights South Africa should when assessing a particular country assess the country from a holistic point of view. In other words the NCACC should consider a particular countries history and its relationship with other countries in the region instead of from recent events only.

This report acknowledges the benefits and arguments made in favour of the arms industry and its case for continuing and expanding exports however it maintains that South Africa should search for alternate sources of income for the future. Indeed policy options need to be reconsidered. The policy option favoured is the option that allows for sales to selected countries only and a strict application of the criteria. Exercising the above policy option would severely limit market options available to South Africa but nonetheless it is in the long term the best policy option that would give South Africa the international standing it deserves. In addition South Africa should further explore its option of conversion and diversifying the arms industry. Although prospects are limited regarding these options it would in the long term create employment and promote growth and economic development in South Africa. At the same time South Africa would be able to remain committed to its foreign policy objective of promoting and protecting human rights and setting an example for others to follow.

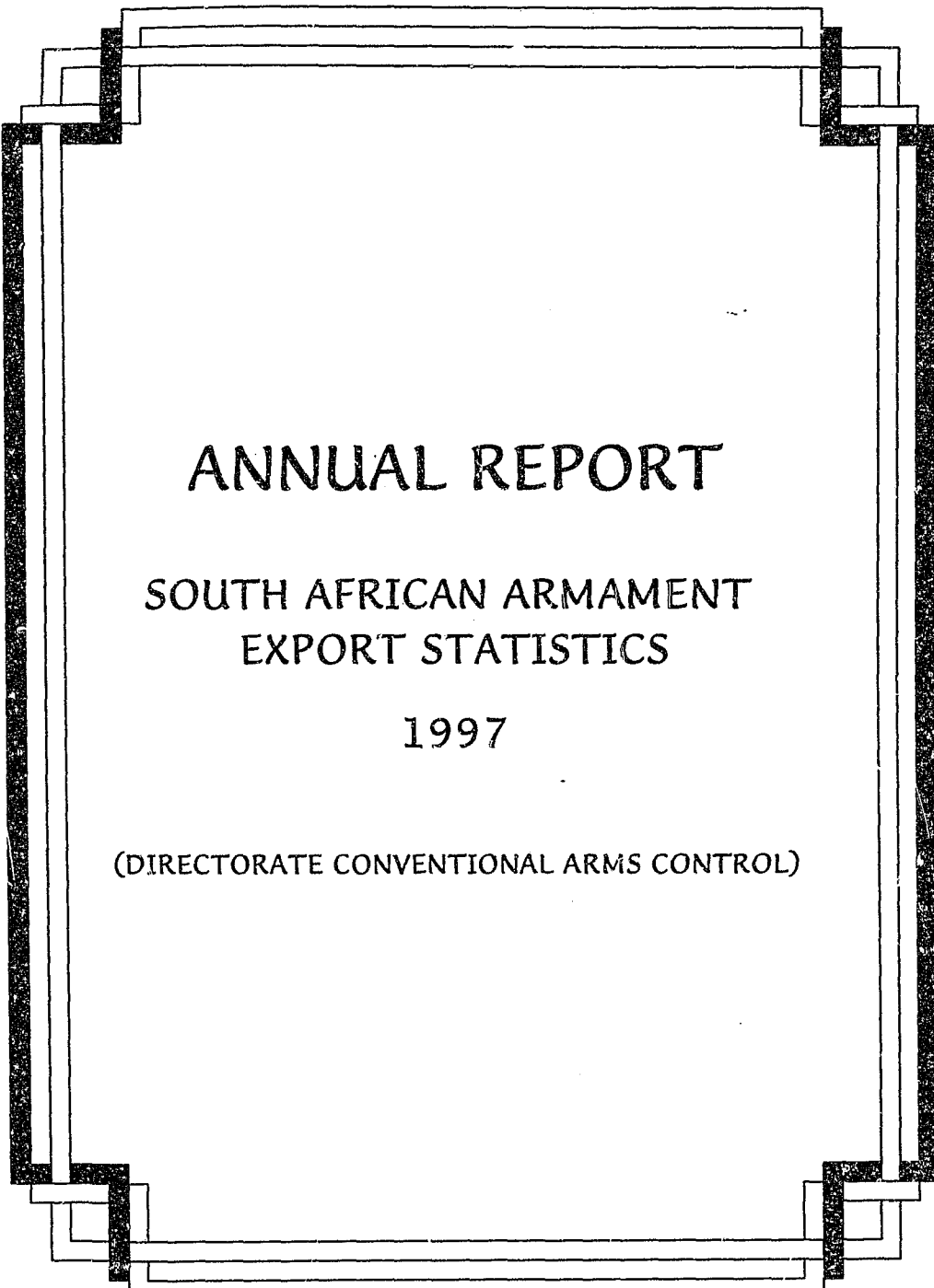
Annexures

Appendix One

CONVENTIONAL ARMS CONTROL FILE PROCESS



Appendix Two



ANNUAL REPORT

SOUTH AFRICAN ARMAMENT EXPORT STATISTICS

1997

(DIRECTORATE CONVENTIONAL ARMS CONTROL)

CATEGORIES

A SENSITIVE MAJOR SIGNIFICANT EQUIPMENT (SMSE)

Comprising conventional implements of war that could cause heavy personnel casualties and/or major damage and destruction to materiel, structures, objects and facilities.

B SENSITIVE SIGNIFICANT EQUIPMENT (SSE)

Comprising all types of hand held and portable assault weapons.

C NON-SENSITIVE EQUIPMENT (NSE)

Comprising all support equipment usually employed in the direct support of combat operations, and that have no inherent capability to kill or to destruct.

D NON-LETHAL EQUIPMENT (NLE)

Limited to purposely designed demining, mine clearing and mine detecting equipment, and all non-lethal pyrotechnical and riot control products.

DIRECTORATE CONVENTIONAL ARMS CONTROL
EXPORT STATISTICS
97/01/01 TO 97/12/31

COUNTRY	CAT	VALUE
AUSTRALIA	B	R 144 000
	C	R 43 000
AUSTRIA	B	R 3,040 000
BANGLADESH	C	R 1,373 000
BELGIUM	C	R 1,176 000
BOTSWANA	A	R 119 000
	B	R 115 000
	C	R 227 000
BRAZIL	A	R 19 000
	B	R 2,682 000
CAMEROON	A	R 13,763 000
	C	R 106 000
CANADA	A	R 1,576 000
	C	R 180 000
CHILE	A	R 16,290 000
	C	R 805 000
COLOMBIA	A	R 59,639 000
	B	R 9,793 000
	D	R 1,791 000
CYPRUS	D	R 170 000
DENMARK	B	R 2 000
ECUADOR	A	R 16,854 000
	B	R 2,916 000
ERITREA	C	R 1 000
FIJI	C	R 191 000
FINLAND	A	R 75 000
FRANCE	A	R 917 000
	D	R 24,619 000
GABON	C	R 400 000

COUNTRY	CAT	VALUE
GERMANY	A	R 130 000
	B	R 2,106 000
GHANA	B	R 1,757 000
	C	R 1,565 000
INDIA	A	R 572,225 000
	C	R 28,293 000
IRELAND	A	R 4,487 000
	B	R 74 000
	C	R 329 000
ISRAEL	A	R 1,207 000
	B	R 22,796 000
	C	R 2,160 000
IVORY COAST	A	R 83 000
	B	R 399 000
	C	R 5,270 000
	D	R 144 000
JAPAN	A	R 3,318 000
JORDAN	A	R 53 000
	B	R 1,526 000
	C	R 19 000
KENYA	C	R 5,627 000
KUWAIT	A	R 5,641 000
	B	R 439 000
LESOTHO	C	R 1,155 000
MALAYSIA	A	R 845 000
MALTA	A	R 736 000
MEXICO	A	R 6,106 000
	B	R 6,067 000
	D	R 576 000
NAMIBIA	B	R 56 000
NETHERLANDS	C	R 20,993 000
NEW ZEALAND	B	R 1,340 000
OMAN	A	R 10,443 000

COUNTRY	CAT	VALUE
PAKISTAN	A	R 26,848 000
	B	R 3,780 000
	C	R 3,088 000
PEOPLES REPUBLIC OF CHINA	C	R 8,629 000
PERU	A	R 6,671 000
	B	R 98 000
	C	R 7,087 000
	D	R 783 000
PHILIPPINES	B	R 986 000
PORTUGAL	B	R 132 000
	D	R 85 000
REPUBLIC OF CHINA (TAIWAN)	A	R 18,706 000
	B	R 19,704 000
	C	R 215 000
REPUBLIC OF CONGO (BRAZZAVILLE)	A	R 24,590 000
	B	R 630 000
	C	R 6,700 000
ROMANIA	C	R 14,504 000
	D	R 644 000
REPUBLIC OF SOUTH AFRICA	A	R 868 000
	C	R 706 000
RWANDA	A	R 8,683 000
	B	R 655 000
	C	R 6,309 000
SAUDI ARABIA	D	R 139 000
SINGAPORE	A	R 81,784 000
	B	R 4,426 000
	C	R 1,760 000
SLOVAKIA	A	R 431 000
SLOVENIA	A	R 1,400 000
SPAIN	C	R 11,404 000
SWAZILAND	A	R 781 000
	B	R 667 000
	D	R 1,561 000

COUNTRY	CAT	VALUE
SWITZERLAND	A	R 97,309 000
	C	R 10,797 000
TANZANIA	C	R 8,492 000
THAILAND	A	R 34,510 000
	B	R 1,737 000
	C	R 230 000
TUNISIA	A	R 5,132 000
UGANDA	A	R 9,084 000
UNITED ARAB EMIRATES	A	R 527 000
	C	R 16,518 000
UNITED KINGDOM	A	R 764 000
	B	R 2,334 000
	C	R 996 000
UNITED NATIONS	A	R 809 000
UNITED STATES OF AMERICA	C	R 376 000
VENEZUELA	B	R 2,838 000
ZIMBABWE	B	R 6 000

TOTALS

CAT A R 1,033,423 000
 CAT B R 93,245 000
 CAT C R 167,724 000
 CAT D R 30,512 000

R 1,324,904 000

(Figures rounded to the nearest thousand)

EXPORT STATISTICS FOR CONVENTIONAL ARMS : 1996 - 1998

(Figures rounded to the nearest thousand Rands)

COUNTRY	CAT	1996	1997	1998
ALGERIA	A			83,349 000
	C			1,584 000
ANGOLA	A			3,151 000
	C			5,794 000
	D	43 000		
ARGENTINA	A	397 000		
	D	580 000		
AUSTRALIA	A			10,514 000
	B		144 000	
	C		43 000	
AUSTRIA	A	5,265 000	3,040 000	
	B	3,077 000		
BAHAMAS	A			47 000
	B	42 000		
	C	28 000		
BANGLADESH	C		1,373 000	
BELGIUM	C	151 000	1,176 000	
BOTSWANA	A		119 000	127 000
	B		115 000	
	C		227 000	
	D			705 000
BRAZIL	A	860 000	19 000	24,883 000
	B	1,918 000	2,682 000	877 000
	D	86 000		485 000
CAMEROON	A	777 000	13,763 000	2,953 000
	B	31 000		
	C	3,740 000	106 000	100 000
CANADA	A	897 000	1,576 000	2,119 000
	C		180 000	
CHILE	A	828 000	16,290 000	271 000
	B			829 000
	C	492 000	805 000	224 000
	D			38 000
COLOMBIA	A	20,437 000	59,639 000	21,032 000
	B	6,872 000	9,793 000	13,549 000
	C			14 000
	D	1,437 000	1,791 000	10,038 000
CROATIA	A	1,253 000		
	D			784 000
CYPRUS	A	10,171 000		
	B	2,392 000		
	D	170 000	170 000	170 000
DEMOCRATIC REPUBLIC OF CONGO	C			1,778 000
	D	13 000		
DENMARK	A			12,500 000
ECUADOR	B	4 000	2 000	
	A		16,854 000	
	B	3,979 000	2,916 000	

EGYPT	A	692 000		
	C	3,135 000		1,273 000
ESTONIA	C			21 000
ERITREA	C		1 000	
FBI	C	133 000	191 000	
FINLAND	A	323 000	75 000	
FRANCE	A	210 000	917 000	1,872 000
	C	1,050 000		
	D	286 000	24,619 000	
GABON	C	13,266 000	400 000	
GERMANY	A		130 000	
	B	564 000	2,106 000	5,603 000
GHANA	A	38 000		
	B	462 000	1,757 000	2,602 000
	C		1,565 000	
	D	63 000		3,049 000
GREECE	A			470 000
	B			59 000
INDIA	A	15,463 000	572,225 000	7,324 000
	C	176 000	28,293 000	5,978 000
INDONESIA	C			2,597 000
IRELAND	A	1,298 000	4,487 000	2,334 000
	B	1 000	74 000	33 000
	C	128 000	329 000	
	D			1,036 000
ISRAEL	A	1,334 000	1,207 000	414 000
	B	17,041 000	22,796 000	2,106 000
	C	1,987 000	2,160 000	3,297 000
IVORY COAST	A	2,110 000	83 000	101 000
	B	957 000	399 000	
	C	2,504 000	5,270 000	
	D	62 000	144 000	
JAPAN	A		3,318 000	
JORDAN	A		53 000	
	B	142 000	1,526 000	1,135 000
	C		19 000	
KENYA	B	2,293 000		
	C	17,000 000	5,627 000	
KUWAIT	A		5,641 000	5,176 000
	B		439 000	
LEBANON	A	3,848 000		
LESOTHO	A	80 000		
	B	41 000		1,855 000
	C	727 000	1,155 000	4 000
	D	234 000		223 000
MALAYSIA	A	37,596 000	845 000	
	C	2,301 000		298 000
MALTA	A		736 000	
MAURITIUS	B	57 000		
	D	27 000		
MEXICO	A	8,785 000	6,106 000	65 000
	B	848 000	6,067 000	1,097 000
	D		576 000	
MOZAMBIQUE	D	225 000		
NAMIBIA	A	2,674 000		
	B		56 000	
	C			5,282 000
NETHERLANDS	A	10 000		
	C	278 000	20,993 000	7,508 000
NEW ZEALAND	B		1,340 000	

✓ CHINA	A	3,708 000	10,443 000	3,745 000
	B	464 000		
	C	146 000		
✓ TANZANIA	A	49,122 000	26,848 000	2,402 000
	B	2,335 000	3,780 000	383 000
	C		3,088 000	7,263 000
✓ PANAMA	A			39 000
✓ PARAGUAY	B	520 000		449 000
✓ REPUBLIC OF CHINA	C	284 000	8,629 000	
✓ PERU	A	13,972 000	6,671 000	24 235 000
	B	9,083 000	98 000	
	C	15,111 000	7,087 000	5,919 000
	D	520 000	783 000	
✓ PHILIPPINES	B		986 000	1,010 000
✓ POLAND	C			80 000
✓ PORTUGAL	A			599 000
	B	5,790 000	132 000	5,936 000
	D	296 000	85 000	
✓ REPUBLIC OF ANGOLA	A	61,266 000	24,590 000	
	B		630 000	
	C		6,700 000	
✓ REPUBLIC OF BURUNDI	A		868 000	
	C		706 000	
✓ ROMANIA	A			1,242 000
	C	4,682 000	14,504 000	20,626 000
	D		644 000	
✓ RWANDA	A	4,453 000	8,683 000	15,957 000
	B		655 000	1,072 000
	C		6,309 000	2,525 000
✓ SUDAN	A	1,495 000	139 000	
	D	227 000		
✓ SUDANESE	A	2,510 000	81,784 000	4,674 000
	B	15,061 000	4,426 000	8,247 000
	C	561 000	1,760 000	2,504 000
✓ SLOVAKIA	A		431 000	
✓ SLOVENIA	A		1,400 000	
✓ SOMALIA	A	13,142 000	11,404 000	6,879 000
	C	39 000		7,249 000
✓ SWAN	C	4,500 000		
✓ SWEDEN	A	126 000	781 000	
	B	379 000	667 000	1,081 000
	C			3,239 000
	D	737 000	1,561 000	
✓ SWITZERLAND	A			7,462 000
	B	1 000		
✓ THAILAND	A	18,212 000	97,309 000	64,960 000
	B	5 000		
	C		10,797 000	1,250 000
✓ THAI	A	4,619 000	18,706 000	1,035 000
	B	237 000	19,704 000	
	C	10,320 000	215 000	
	D			
✓ ZAMBIA	C		8,492 000	31,399 000
✓ ZIMBABWE	A		34,510 000	66,665 000
	B	1,038 000	1,737 000	
	C	313 000	230 000	429 000
✓ ZONE	A	646 000		
	B	224 000		
✓ ZONE	A	516 000	5,132 000	
	D	144 000		
✓ ZONE	A	26,888 000	9,084 000	
	B	2,720 000		

		1996	1997	1998	1999
UNITED ARAB EMIRATES	C	1,610 000			1,523 000
	D				
	A	3,167 000	527 000		16,709 000
UNITED KINGDOM	B	1,430 000			3,410 000
	C	3,217 000	16,518 000		17,102 000
UNITED STATES OF AMERICA	A	4,627 000	764 000		1,260 000
	B	164 000	2,334 000		98 000
	C	1,982 000	996 000		2,777 000
	D	17,074 000			
UNITED STATES OF AMERICA	A		800 000		
	B				
UNITED STATES OF AMERICA	A	1,495 000			1,580 000
	C	76 000	376 000		34,650 000
	D				
UNITED STATES OF AMERICA	B	1,077 000			
	C				
UNITED STATES OF AMERICA	B		2,838 000		
	C				
UNITED STATES OF AMERICA	A	22 000			
	B				
UNITED STATES OF AMERICA	B		6 000		3,817 000
	C				2,417 000
	D	200 000			

EXPORT TOTALS

	1996	1997	1998	1999
UNITED ARAB EMIRATES	323,343 000	R 1,033,423 000	R 396,565 000	
UNITED KINGDOM	81,323 000	R 93,245 000	R 51,296 000	
UNITED STATES OF AMERICA	48,326 000	R 167,724 000	R 145,034 000	
UNITED STATES OF AMERICA	24,034 000	R 30,512 000	R 53,595 000	
UNITED STATES OF AMERICA	517,026 000	R 1,324,904 000	R 646,490 000	

(Figures rounded to nearest thousand)

Appendix Three

During July 1995 the Mail & Guardian¹⁴ published the country categories, commenting that "... Armscor ... has come a long way in a year of gruelling public exposure by the Cameron Commission, and some soul-searching of its own."

- **Category 1 (no arms restrictions):** Namibia, Botswana, Swaziland, Zimbabwe, Zambia, Malawi, Tanzania, Mauritius, Seychelles, Benin, Cape Verde, Senegal, Togo, Côte d'Ivoire, Guinea, Guinea-Bissau, Ghana, Burkina Faso, Gabon, Eritrea, Bahrain, Egypt, Israel, Jordan, Kuwait, Mauritania, Morocco and the Saharan Arab Democratic

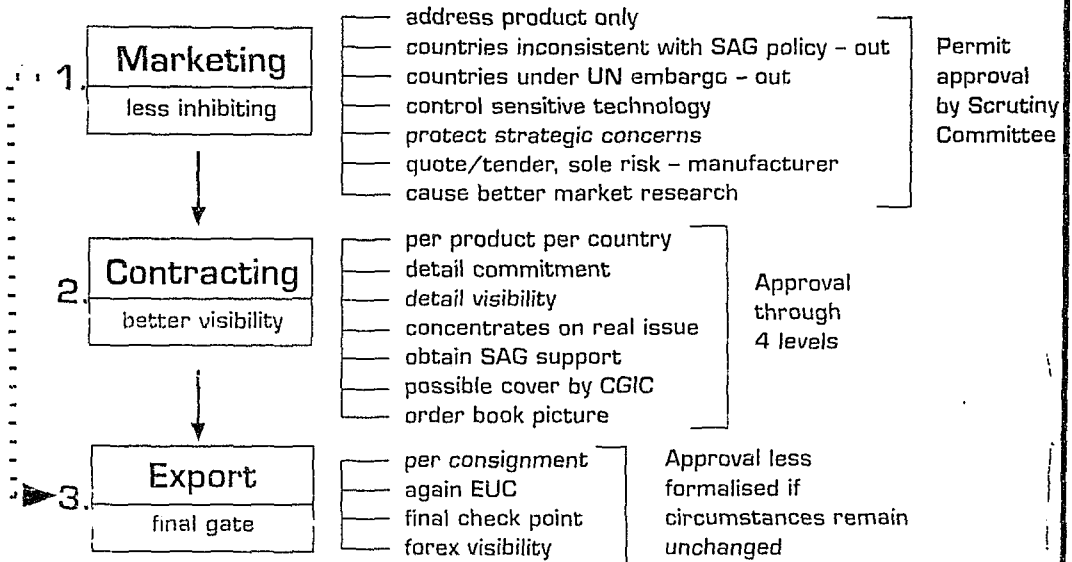
Republic (but all sales on hold pending peace referendum in Western Sahara), Oman, Qatar, Saudi Arabia, Tunisia, United Arab Emirates, Australia, Bangladesh, Bhutan, Brunei, Cambodia, People's Republic of China, Fiji, Hong Kong, Indonesia (since put on hold), Japan, Laos, Malaysia, Macao, Mongolia, Nepal, New Zealand, Pacific Ocean Islands, Papua New Guinea, Philippines, Singapore, South Korea, Sri Lanka (since put on hold), Republic of China, Thailand, Vietnam, United States of America, Canada, Venezuela, Guyana, Surinam, French Guyana, Brazil, Paraguay, Uruguay, Argentina, Chile, Bolivia, Peru, Ecuador, Colombia, Panama, Costa Rica, Nicaragua, Honduras, El Salvador, Bahamas, Bermuda, Belize, Bolivia, Dominican Republic, Guatemala, Mexico, Grenada, Puerto Rico, Trinidad and Tobago, Jamaica, Germany, Austria, Switzerland, Norway, Sweden, Finland, Denmark, Iceland, Lithuania, Estonia, Latvia, Belgium, the Netherlands, Luxembourg, United Kingdom, Vatican, San Marino, Malta, Portugal, Spain, France, Italy, Cyprus, Greece, Andorra, Albania, Hungary, Turkey (since changed to IV), Kazakhstan, Ukraine, Poland, Czech Republic, Slovakia, Russian Federation, Belarus.

- **Category II (some arms restrictions):** Comores, Madagascar, Mali, Cameroon, Congo, Sao Tomé and Principe, Chad, Ethiopia, Kenya, Uganda, Palestinian National Authority, India, Pakistan, Bulgaria, Romania.

- **Category III (non-lethal equipment):** Angola, Mozambique, Equatorial Guinea, Niger, Zaire, Djibouti, Algeria, Lebanon, Moldavia.
- **Category IV (no arms sales):** Lesotho, Liberia, Nigeria, Sierra Leone, Gambia, Burundi, Rwanda, Somalia, Iran, Iraq, Lebanese Christian Militia, Libya, Sudan, Syria, Yemen, Afghanistan, Burma (Myanmar), North Korea, Cuba, Haiti, Tajikistan, Kirghistan, Uzbekistan, Croatia, Slovenia, Federal Republic of Yugoslavia, Bosnia-Herzegovina, Armenia, Azerbaijan, Georgia, Turkmenistan.

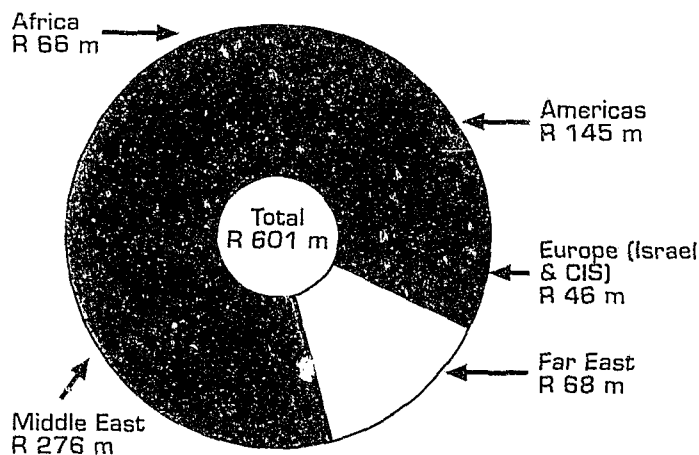
Appendix Four

Three-tier process



• Present process only addresses steps 1 and 3

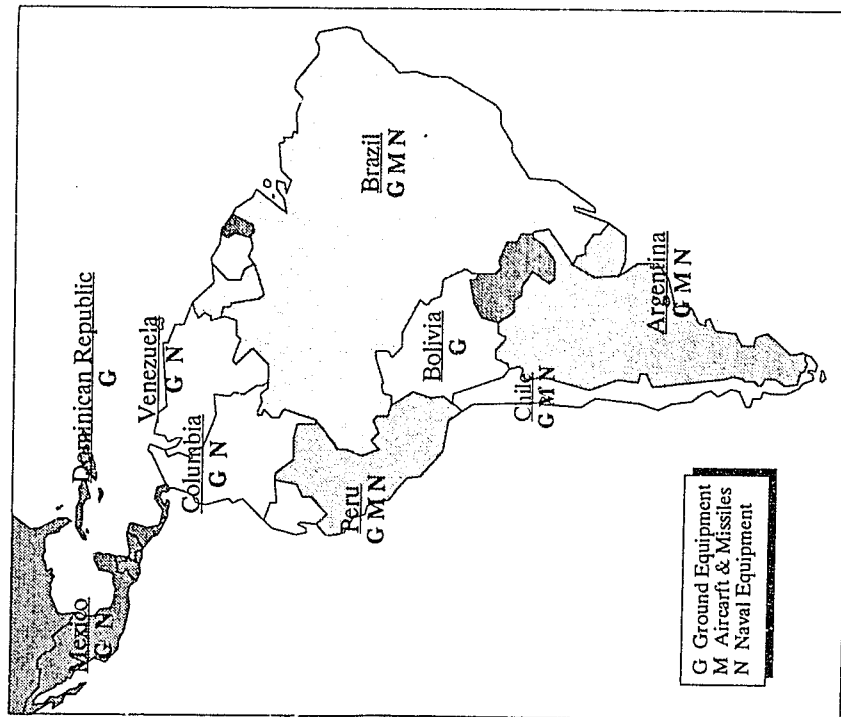
Exports for Jan - Nov 1995



Appendix Five

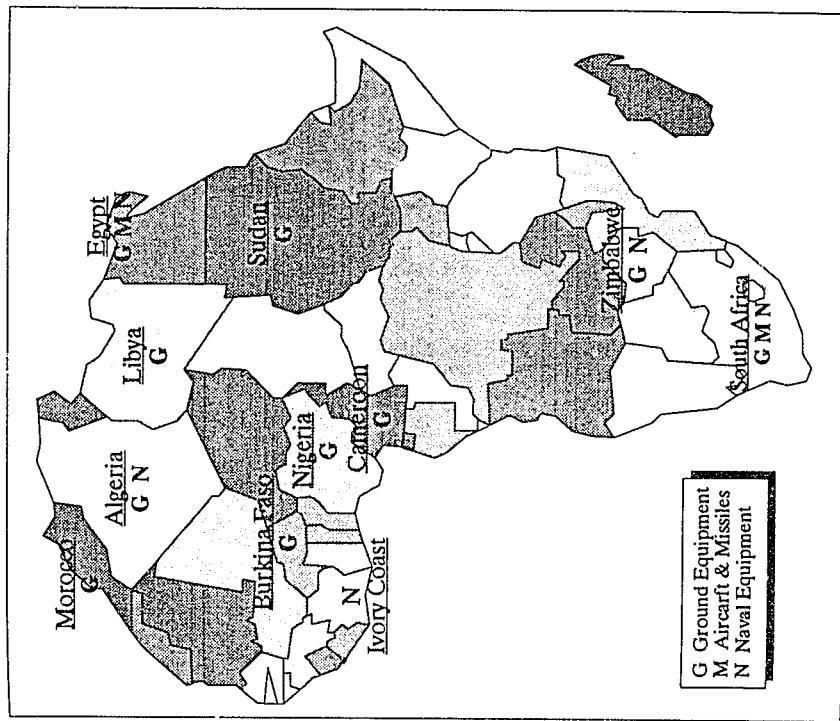
Map 1

Central and South America:
Arms Production in Less Industrialized Countries
Early 1990s



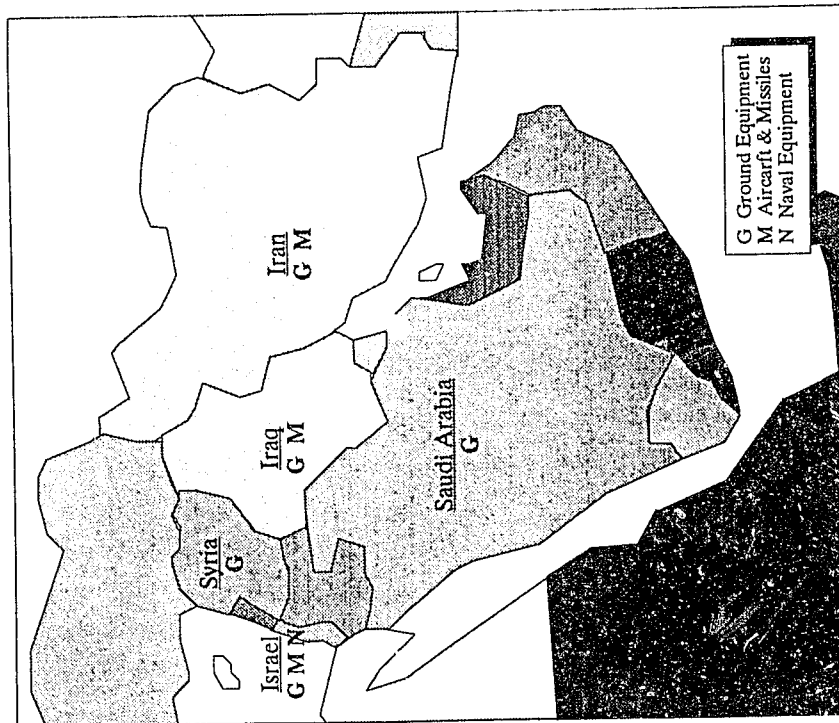
Map 1 (continued)

Africa:
Arms Production in Less Industrialized Countries
Early 1990s



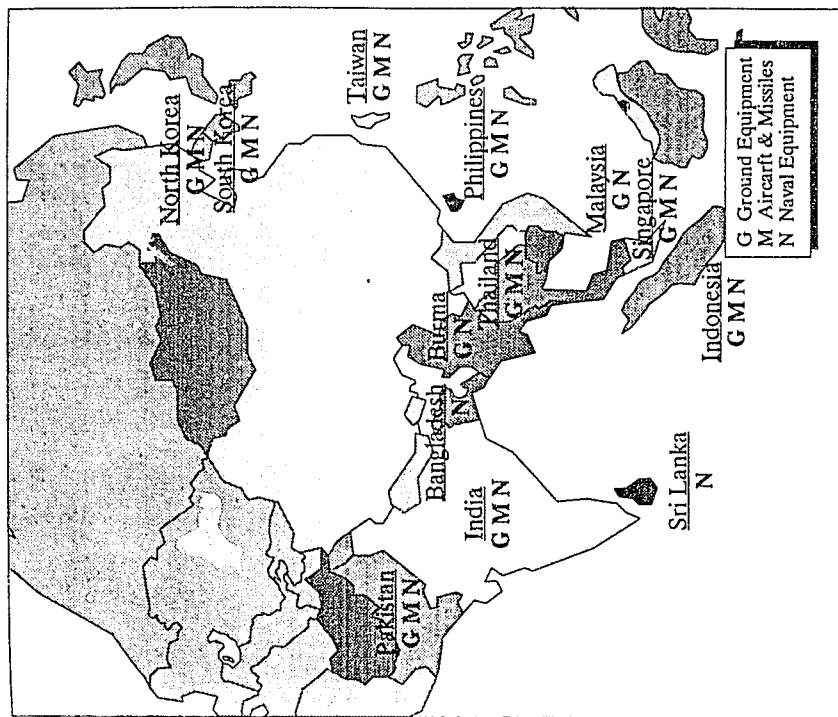
Map : (continued)

The Middle East:
Arms Production in Less Industrialized Countries
Early 1990s



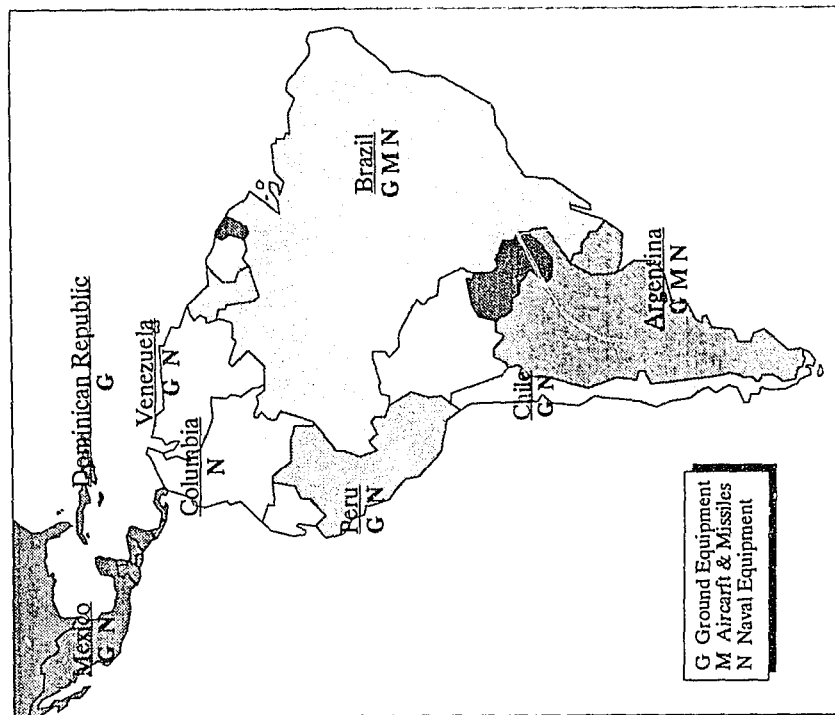
Map 1 (continued)

Asia:
Arms Production in Less Industrialized Countries
Early 1990s



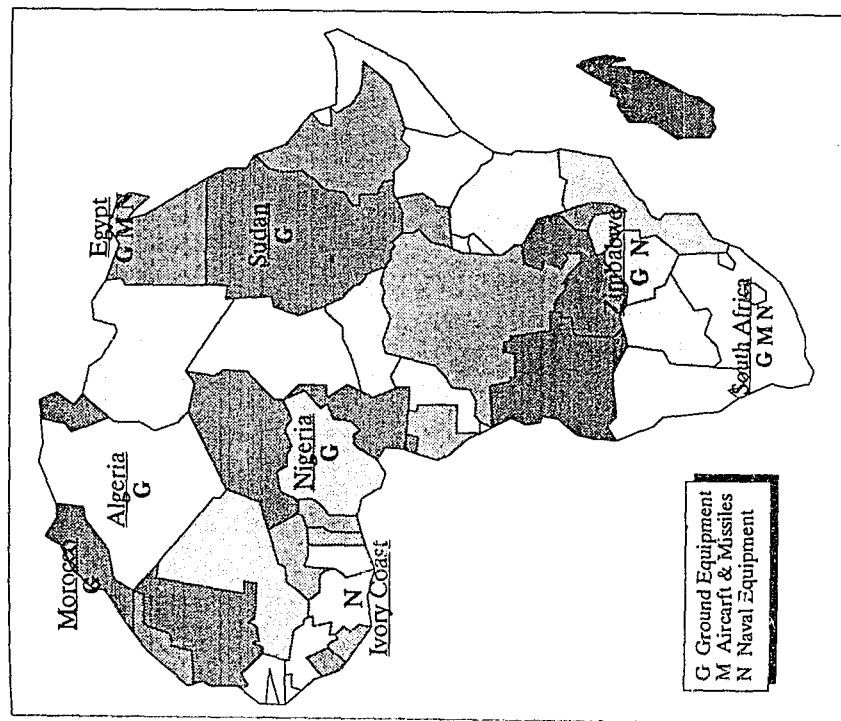
Map 2

Central and South America:
Arms Production in Less Industrialized Countries
Mid 1970s



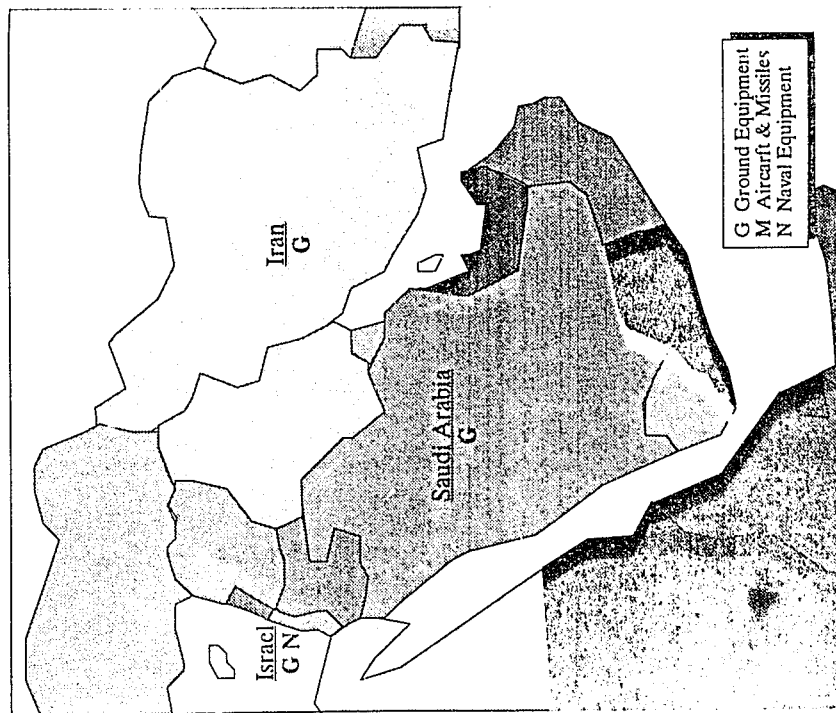
Map 2 (continued)

Africa:
Arms Production in Less Industrialized Countries
Mid 1970s



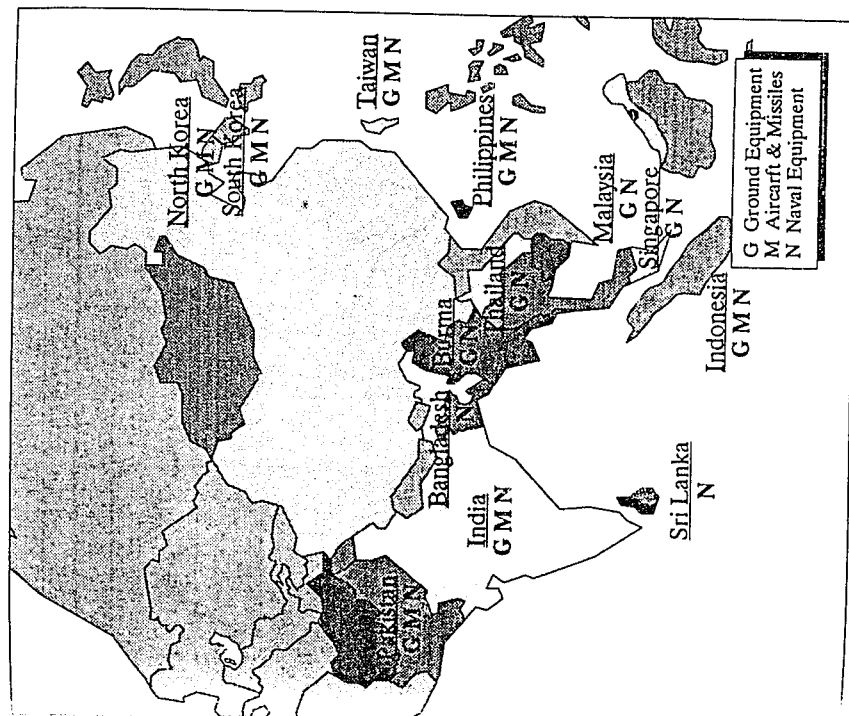
Map 2 (continued)

The Middle East:
Arms Production in Less Industrialized Countries
Mid 1970s



Map 2 (continued)

Asia:
Arms Production in Less Industrialized Countries
Mid 1970s



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