

# Chapter 1

## Introduction



**Robert Beeres, Jeroen Klomp, Job Timmermans, Robert Bertrand  
and Joop Voetelink**

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**Abstract** This year’s volume of the Netherlands Annual Review of Military Studies (NL ARMS) offers an interdisciplinary view on the domain of Compliance and Integrity in International Military Trade (CIIMT), integrating defence economics, international law, arms export control frameworks and policies, information management, organizational sciences and ethics. Although in academia, and from an interdisciplinary perspective, CIIMT constitutes a novel research domain, across private and public defence-related sectors, the subject evokes high levels of attention and interest, instigating a need for critical thinking, reflection and creativity to address ensuing multi-faceted issues and problems. From 2017, the Faculty of Military Sciences (FMS) at the Netherlands Defence Academy (NLDA) has offered an in-house MSc programme on CIIMT, which, by integrating practice-based and scientific-based

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R. Beeres (✉) · J. Klomp · J. Timmermans · R. Bertrand · J. Voetelink  
Faculty of Military Sciences, Netherlands Defence Academy, PO Box 90002, 4800 PA Breda, The Netherlands  
e-mail: [rjm.beeres@mindef.nl](mailto:rjm.beeres@mindef.nl)

J. Klomp  
e-mail: [jg.klomp@mindef.nl](mailto:jg.klomp@mindef.nl)

J. Timmermans  
e-mail: [jfc.timmermans@mindef.nl](mailto:jfc.timmermans@mindef.nl)

R. Bertrand  
e-mail: [rmm.bertrand@mindef.nl](mailto:rmm.bertrand@mindef.nl)

J. Voetelink  
e-mail: [jed.voetelink@mindef.nl](mailto:jed.voetelink@mindef.nl)

knowledge, aims to contribute to this need. The NL ARMS 2021 comprises, amongst others, contributions from students and lecturers partaking in this programme.

**Keywords** Compliance · integrity · international military trade · (arms) export control · strategic trade control · strategic trade control frameworks

## 1.1 Introduction

Re-imposing United States (US) sanctions against Iran, the US-China trade war, US threats on account of high-technology exports to China from the European Union (EU), the termination of the US-Russian treaty on Intermediate-Range Nuclear Forces (INF), the political turmoil surrounding the Nordstream-2 pipeline project, or selling military-strategic items under the flag of humanitarian support constitute examples of recent events with potential geopolitical consequences.

The examples above hold another thing in common. To some degree, they are related to the arms trade. As compared to most other goods, commodities and services, the international arms trade is extensively controlled. The need to exercise effective control over international arms transfers is acknowledged, almost globally, and grounded in specific international regimes, arrangements and treaties, on national laws and regulations, as well as in standards and principles.

In research, varying concepts are applied to render meaning to control. For example, military strategists refer to arms control,<sup>1</sup> whereas lawyers employ export control<sup>2</sup> and economists arms export control<sup>3</sup> to express both similar as well as very dissimilar control notions, inherent to their domains. Moreover, next to these concepts of control, in literature, measures such as economic sanctions<sup>4</sup> and arms embargoes<sup>5</sup> serve as manifest forms of more or less effective controls, and the Financial Action Task Force, by imposing regulations to counter money laundering and terrorism financing, also aims to oppose the proliferation of weapons of mass destruction.<sup>6</sup>

To prevent possible quagmires springing from differences in terminology, NL ARMS 2021 on Compliance and Integrity in International Military Trade (CIIMT), in this introductory chapter, applies *strategic trade control* as an encompassing notion.<sup>7</sup> To us, the editors, strategic trade control relates to all efforts undertaken by countries and international organisations, such as the European Union, to design and implement measures to regulate international movements of military-strategic goods and dual use items that are able to exacerbate ongoing conflicts, contribute to destabilizing weapons build-ups, or can be used in violations of human rights. Moreover, the

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<sup>1</sup> Gray 1992; Smith 2009, p. 87.

<sup>2</sup> Aubin and Idiart 2016.

<sup>3</sup> Smith and Garcia-Alonso 2006.

<sup>4</sup> Afesorgbor 2019.

<sup>5</sup> Brzoska and Lopez 2009.

<sup>6</sup> Joosten et al. 2019; Stewart et al. 2020.

<sup>7</sup> Dill and Stewart 2015; Salisbury 2013.

concept of *strategic trade control frameworks* is applied to clarify variations in the development, design and operational use of strategic trade controls across nations. Such clarification is considered necessary as national strategic control frameworks serve as the foundations underpinning multilateral frameworks.

Strategic trade controls imply strategic relationships between defence-related public and private sectors, comprising industries, firms, governments, universities and research institutes, and international institutions. Strategic trade control frameworks shape the business environment and regulatory contexts in which industries must operate, navigate and remain aligned to, both nationally and internationally, in order to conduct and sustain business relating to the transfer of controlled items. Due to its complex nature and evolving policy landscape, compliance with strategic trade controls can incur high levels of costs, additional resources, and ongoing commitments, both from industry and end-users.

Two significant trends have become visible over the last two decades. First, regulations to improve international security are regularly abused for economic purposes, as illustrated by the recent trade war between China and the US.<sup>8</sup> Second, dual-use items, in particular emerging technologies, are gaining importance. Both trends instigate novel monitoring issues, thereby rendering strategic trade policies subject to continuous change.<sup>9</sup>

Violation of strategic trade legislation may hold severe consequences, for instance, limited access to military-strategic items, loss of trade privileges, fines, reputational damage and even prison sentences. In this respect, and compounded by its extraterritorial effect, the US International Traffic in Arms Regulations (ITAR) is considered the strictest body of regulations.<sup>10</sup>

Compliance with trade control regulations is not only the responsibility of defence-related industries, but, instead, stretches to encompass end-users, such as the armed forces. It has to be noted, however, that, in striving to act compliant with trade control regulations the relation between *compliance* and *integrity* remains essential.<sup>11</sup> Integrity is the primary requirement in any compliance process, whereas acting ‘in compliance with’ is understood as an act associated with integrity. Likewise, when shaping an ethical culture based on integrity, such acting ‘in compliance with’ as well as the standards that are part of the object of compliance are to be incorporated. There is no recipe for constructing the best relation between integrity and compliance, for, as such relations are context-dependent, they are being shaped in actual organizational practices. In this regard, build-in mechanisms to gain insight and awareness on integrity-compliance relations will influence organizational decision-making processes on trading military goods or services to a suspicious country. Rather than responding reactively, when particular transactions are causing societal outrage, an ethical culture enables organizations to act pro-actively, by incorporating

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<sup>8</sup> Heidenkamp et al. 2013, p. 105; PricewaterhouseCoopers 2005, p. 27.

<sup>9</sup> Brandt 1994; Kytömäki 2014; Jones 2020.

<sup>10</sup> Heidenkamp et al. 2013, p. 113.

<sup>11</sup> Achterbergh and Vriens 2009, pp. 376–377.

reflection on their principles in relation to what legal standards demand as part of their business processes (see Chap. 6 of this volume).

Strategic trade controls and -frameworks do not only derive their relevance from a strategic perspective. Rather, they challenge all organizations and their members that are partaking in the supply-chain of military-relevant or dual-use items. This constitutes the main focus of the interdisciplinary MSc programme on Compliance and Integrity in International Military Trade (CIIMT). As both lecturers and students contribute to NL ARMS 2021, the next section provides an overview of the CIIMT MSc programme.

## 1.2 The Compliance and Integrity in International Military Trade (CIIMT) Master Programme

The MSc programme on CIIMT is concerned with exploring, analysing, understanding, explaining, controlling and improving the military dimension in international military trade. More particularly, CIIMT studies managerial questions regarding strategic trade control of military and dual-use goods and services. These questions comprise defence economic, ethical, organizational, legal and strategic elements (e.g., human rights, international order and security).

### 1.2.1 Focus of the MSc Programme on CIIMT

The programme is primarily designed to cater to the needs of military and civilian defence personnel, including EU, NATO, from all services and commands and defence-relevant industries, agencies and research centres, active in the field. By integrating scientific based- and practice based knowledge, it aims to develop academic professionals that are able to generate and implement problem solving strategies and management decisions to further compliance and integrity in strategic trade control of international trade in military and dual use goods and services.

To this end, the CIIMT MSc ties in with the FMS-NLDA vision on scientific education, embedded in Schön's reflective practitioners' paradigm.<sup>12</sup> This paradigm unites both management and leadership skills needed to decide and operate in high-tension and high-risk knowledge intensive environments. FMS uses the reflective practitioners' paradigm to refer to critical thinking, reflection, and *Bildung* that characterize its thinking doers, the so-called Thinking Soldiers, either at the academic Bachelor's or Master's level.

In view of the complexity of international trade of military and dual-use goods and services, the rapid evolvement of strategic trade control and -frameworks, and

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<sup>12</sup> Schön 1983; 1987.

their importance to procurement processes, defence organizations require innovative thinking doers, that, based on in-depth understanding, from an interdisciplinary perspective can be expected to find- and take responsibility for creative solutions.

### 1.2.2 Learning Styles and Structure of the MSc Programme on CIIMT

The part-time programme is taught over the course of two years, totalling 60 European Credit Transfer and Accumulation System (ECTS) credits and consists of 10 modules (see Fig 1.1). With the exception of the thesis, each module is structured in five independent learning weeks, one contact week and one experiential learning week. Independent learning takes place in preparation on the contact weeks. By means of ‘guided’ self-study, students study parts of literature and prepare assignments. Independent learning, as a working method, does not prevent students to consult their peers, teaching staff or their colleagues in the organization. As such, independent learning is related to experiential learning as well. Key to experiential learning is

Module	EC	Title	Discipline	Leids Level
1	5	International trade in defence markets	Defence economics, international relations, political sciences	400
2	5	International business in defence markets and law	Law, defence economics, organization theory; international relations, political sciences	400
3	5	A legal perspective on strategic trade	Law, ethics, defence economics	500
4	5	Managing compliance and integrity in military organizations	Ethics, system theory, organization theory, defence economics	500
5	5	Designing internal compliance programs	Information systems, internal control	500
6	5	Monitoring and auditing internal compliance programs	Information systems, internal control, auditing	500
7	5	Research methods	Research methods	500
8	5	Managing relationships in non-compliance contexts	Organization theory, ethics, change management, management control	500
9	5	Integration project related to aspects of ICP in business environments	All previous modules	600
10	15	Master Thesis (including individual research proposal)	All previous modules	600
<b>Total</b>	<b>60</b>			

**Fig. 1.1** Curriculum of MSc programme Compliance and Integrity in International Military Trade  
 Source Beeres et al. 2021

that students engage in a dialogue within their organization by sharing new insights and applying these to (e.g., problem identification, -analysis and solution) in their professional field. As such, experiential learning may not only benefit the student but the organization as well. Moreover, experiential learning contributes to the deepening of understanding and the integration of scientific- and practice based knowledge.

The programme derives its coherence from the following structure. First, by taking an outside-in perspective, modules 1–4 provide an interdisciplinary context from which strategic trade control in international trade of military and dual-use goods and services can be understood.

Next, building on this background, the program proceeds to deepen the students' understanding of particular control and information aspects within organizations by studying (the feasibility and boundaries of) re-designing, implementing, monitoring and auditing internal compliance programs (ICPs) within organizations. Students are involved in how to construct an ICP. To this end, modules 5 and 6 integrate practice-based knowledge and skills, stemming from experience in the field, with scientific-based knowledge on information systems and internal control. By sharing knowledge and experience, students and teaching staff learn from each other. Building on these modules and the module on research methods (module 7), it becomes possible to study and discuss problems, challenges and controversies, such as, managing non-compliant behaviour or conflicts of interest within and between organizations in international trade in military and dual use goods and services (module 8). The Integration Project (module 9), subsequently, draws from all previous modules, enabling students to conduct their own interdisciplinary research, based on their selection of ICP key elements in relation to a specific business environment and using appropriate research methods. The Integration Project can be seen as a stepping stone to writing the master thesis (module 10).

### 1.3 Outline of NL ARMS 2021

As elaborated on previously, due to our focus on specific managerial questions regarding the international arms trade, studying (the management of) strategic trade control requires an interdisciplinary approach. Although from the literature it appears that various disciplines contribute studies to either the international arms trade, export control, arms export control, or compliance and integrity, to date, research connecting and integrating these concepts, however, remains to be undertaken.

For this reason, as well as to add to this novel interdisciplinary knowledge domain and to underpin the MSc programme, the editors have chosen to provide the contributors to NL ARMS 2021 with as much leeway as possible to think creatively in adding their expertise to this multifaceted field. In fact, we have asked them to become reflective practitioners themselves! We want to express our gratitude to all the authors for delivering their contributions to this volume.

Despite our extending a free rein, all contributions could be grouped meaningfully into two categories. The first category consists of research we consider *basic* (i.e.,

underpinning the first four modules of the MSc programme on CIIMT), while within the second category, we distinguish chapters that apply knowledge to address specific managerial issues/questions, thereby integrating both scientific- and practice-based knowledge on strategic arms trade (frameworks).

Moreover, and to interconnect research and education, students of the CIIMT MSc programme have been invited to contribute to this volume also. As a result, NL ARMS 2021 in Chaps. 4, 10 and 14 presents its readers with three case-studies based on papers written by students (2019/2021). Students were asked to recognize, analyse and respond to non-compliant and/or unethical behaviour within and by organizations in the context of arms export control, in accordance with the Problem-Oriented Policing (POP)-guide template. Although designed for policing work, POP-guides offer a method to deal with deviant behaviour in general. Also, the focus on crime holds similarities to situations of non-compliance or breaches of integrity.

The template consists of four consecutive stages, *Scanning* (describing the case, particularly the salient individual, organizational factors motivating the deviant behaviour and the regulatory and (inter-) organizational context); *Analysis* (in-depth analysis of the underlying structural conditions and causes of the deviant behaviour including the micro-, meso- and macro-level origins and factors, e.g., psychological, organizational and (inter)national policy and regulation);<sup>13</sup> *Response* (designing a possible ad-hoc (crises management) and a systemic (internal control) manner of addressing the case's challenge); and *Assessment* (reflecting on the analysis and the effectiveness of the chosen response in relation to external (regulatory/ legal) and internal standards, and drawing lessons for future cases).<sup>14</sup>

In Chap. 2, van Lieshout and Beeres contribute to filling the knowledge gap by investigating why, how and to what extent economic motives and the international arms trade are interrelated. More in particular, the authors analyse the development of explicit sets of relationships between dependent and independent variables in the international arms trade, from 1995 onwards. Although an economic-based literature review results in a number of relevant studies on the international arms trade, the authors argue, as a research domain, CIIMT remains understudied and will benefit by connecting with insights from neighbouring economic fields. To this end, the authors offer a future research agenda.

De Bruin, in Chap. 3, investigates present-day challenges and opportunities within the system of export control regimes (i.e., the Nuclear Suppliers Group, the Australia Group, the Missile Technology Control Regime, and the Wassenaar Arrangement). The system of export control regimes is considered an important instrument to prevent both the proliferation of weapons of mass destruction and conventional weapons, as well as to control dual-use products. De Bruin favours a paradigm-based regime over the current weapon-based regime. In addition, the author recommends to revise the regimes' decision-making processes to respond more swiftly to developments in the field.

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<sup>13</sup> Hodson and Jensen 2013.

<sup>14</sup> Braga 2008, p. 15.

The first case study, by Klappe and Keunen, in Chap. 4, discusses a case of non-compliance by Fokker Services. From 2005 to 2010, Fokker Services failed to comply with the economic sanctions the US Government had established against Iran and Sudan. Klappe and Keunen analyse how the company operated while evading export control, breaching sanction regimes and export control laws, thereby, paying attention to the roles of top and middle management during everyday activities.

In Chap. 5, Voetelink maps the field of international export control law. The author refers to export control as a set of domestic and international laws and regulations, policy rules and commitments, applicable to and regulating export, re-export, transit, and transfer, in any manner, pertaining to goods, technology, and software. Over time, domestic and international export control law has developed into a challenging and dynamic legal discipline. Although not being an established legal sub-discipline in its own right, Voetelink argues the critical importance of considering related parts of export control law comprehensively to understand their impact on international military trade.

Timmermans, in Chap. 6, explores the multifaceted relationship between compliance and integrity. The author constructs a framework to analyse how compliance and integrity concepts invoke each other at different levels. The framework helps to unearth and understand the often implicit (organisational) design choices, shaping this relationship in particular real-life situations. Besides offering a more detailed understanding, the framework aids to pinpoint the aspects in the relationship between compliance and integrity that currently remain underdeveloped. To this end, Timmermans argues for additional research to shed light on how integrity and compliance overlap and supplement each other in terms of content and/or process, both in theory and in organizational practices.

Splinter and Klomp, in Chap. 7, explore whether economic sanctions are able to trigger sudden economic growth collapses. Their results clearly demonstrate that economic sanctions hold a significant positive effect on the likelihood of a growth deceleration in the first three years after the first threat signals or actual imposition. In particular, trade sanctions, multilateral sanctions, and sanctions aiming at the business sector cause sudden negative growth accelerations.

In Chap. 8, Saitova and Beeres present the results of their search for data sources to provide insight in the characteristics, types and qualities of aircraft designed for combat purposes, the total market volume (entries, movements and exits), as well as each aircraft's financial equivalents, over a specific period of time. The authors conclude that to conduct their empirical investigation into the factors contributing to the worldwide demand and supply of fixed-wing combat aircraft, sufficient data can be availed of. However, this data comes at a price.

In Chap. 9, Klomp and Beeres investigate whether the legal origin of a country influences the likelihood of ratification of multilateral international treaties concerning arms control. The authors expect civil-law countries to be more likely to ratify treaties than common-law countries. The empirical results clearly confirm this expectation. In particular, civil-law countries have ratified about nine percent more treaties than common-law countries.



The second case study, by Türkalp and Dekkers, in Chap. 10, looks at a fictitious case of sharing parts and services among NATO partner nations. Although, NATO's goals require close cooperation between partner nations on operational readiness, interoperability of their systems, material supplies, transfer of technology and joint R&D projects, a common approach on the application and implementation of arms export controls appears to be largely absent. This case study, in the context of the material logistical support and services provided by the NATO Support and Procurement Agency (NSPA), investigates the lack of applying and implementing arms export controls.

In Chap. 11, Voetelink addresses the issue of extraterritoriality of US export control and sanctions legislation. The author discusses, *inter alia*, the notion that US export controls 'follow the part', thereby extending US jurisdiction over any item that has left US territory, even when this item has been incorporated into a new foreign-built object. As goods do not possess a nationality, the extraterritorial reach of these provisions cannot be based on the national principle or on any other principle of jurisdiction. Also, extraterritorial sanctions provisions have not given rise to coordinated foreign protests in general. The author concludes that "the need for the US to enact extraterritorial sanctions legislation will only be taken away when the US and its allied trading partners are prepared to better coordinate their foreign policy objective".

In Chap. 12, De Schryver and Demmink address the F-35 program's international defence supply chain. Multiple exports across the supply chain are subject to intricate licensing and export controls. Drawing on insights from governance and contract theory, the authors apply contract-boundary-spanning governance mechanisms as a theoretical lens to highlight important trade compliance challenges within the supply chain network. The authors find that while serious efforts have been made by various state actors and legislators to reduce the burden regarding trade compliance requirements in the F-35 program, the industry still faces a considerable number of compliance challenges. It is argued, that, to overcome these challenges, private parties in defence supply chain networks need to undertake contract-boundary-spanning initiatives.

In Chap. 13, Bogers, Beeres and Smetsers, using a four-level dashboard, offer both a quantitative and qualitative analysis on the effectiveness of the recent arms embargo against Saudi Arabia. The authors elaborate on the question as to how political, security and economic motives have impacted the (un)willingness of major arms selling states to join the arms embargo against Saudi Arabia.

The third case study, conducted by Nieboer and van Manen, in Chap. 14, discusses the fictitious case of an unauthorized transfer of a so-called Dronebuster under the US International Traffic in Arms Regulations (ITAR). Using the POP-guide as a framework, the authors investigate underlying causes and conditions. According to the authors, a mix of hard and soft controls used in a coordinated effort may turn out the best effects in preventing unauthorized behaviour.

In Chap. 15, Bertrand and van Riet investigate the process of developing an Internal Compliance Program (ICP) for the Royal Netherlands Airforce (RNLAf).

By combining a PESTL analysis, the legal framework and the selected ICP Frameworks, the authors have devised an 11-pillars ICP, which they consider the most adequate for the RNLAf.

Finally, in Chap. 16, taking a historical perspective, De Jong elaborates on arms exports and arms export control in the Dutch Republic, from 1585 to 1621. Nothing new under the sun, it would seem. The author discusses the need for arms export (controls) at the time, and the interests and benefits yielded by the Republic, in doing so.

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**Robert Beeres** holds a Ph.D. in administrative sciences from Radboud University Nijmegen, The Netherlands. Currently he is a professor of Defence Economics at the Faculty of Military Sciences, Netherlands Defence Academy. His research interests include economics of arms export controls, defence capabilities, performance management and burden sharing within the EU and NATO. He published numerous articles in peer-reviewed journals and books and co-edited a number of books.

**Jeroen Klomp** is full professor of arms export control at the Faculty of Military Sciences of the Netherlands Defence Academy and associate professor macroeconomics at the Section Economics of the Wageningen University & Research. He holds a Ph.D. in political economy from the University of Groningen. His current research involves the economic causes and consequences of strategic trade controls and has been published in numerous peer-reviewed journals.

**Job Timmermans** is an associate professor of Business Ethics at the Faculty of Military Sciences of the Netherlands Defence Academy. His interests cover the philosophical and sociological issues arising from the intersections of ethics, integrity and compliance within organizations. Previously, he has worked within several projects on Responsible Research Innovation (RRI) at Wageningen University (NL), De Montfort University (UK), and Delft University of Technology (NL).

**Robert Bertrand**, colonel Royal Netherlands Marechaussee, is associate professor of Accounting, Control and Defence Economics at the Faculty of Military Sciences, Netherlands Defence Academy. He joined the Royal Netherlands Air Force in 1995 and switched to the Royal Netherlands Marechaussee in 2009. He defended his PhD on contract audits in 2016 at Maastricht University. His current research interests focus on auditing, compliance, internal control, ethics and leadership.

**Joop Voetelink** is associate professor of Law at the Faculty of Military Sciences of the Netherlands Defence Academy. He defended his Ph.D. on Military Operational Law at the University of Amsterdam in 2012. Currently, his research focusses on export control law in general with a specific focus on sanctions, extraterritoriality and emerging technologies.

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