

CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE
DIVISION OF INTERNATIONAL LAW
MONOGRAPH NO. 4

AMERICAN REGULATION
OF ARMS EXPORTS

BY
ELTON ATWATER

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PUBLISHED BY THE ENDOWMENT
WASHINGTON, D. C.
1941

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GIPE-PUNE-026209

Monograph Series of the
Carnegie Endowment for International Peace
Division of International Law
No. 4

AMERICAN REGULATION OF ARMS EXPORTS

BY

ELTON ATWATER

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Elmira College*

WASHINGTON
CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE
700 JACKSON PLACE, N.W.
1941

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PRINTED IN THE UNITED STATES OF AMERICA
AT THE RUMFORD PRESS, CONCORD, N. H.

FOREWORD

The regulation of the traffic in arms is a subject which has been considered from many points of view. In recent times the problem has been viewed from the standpoints of the preservation of neutrality and of the deterrents of aggression, or sanctions, as well as from those of international ethics and of diplomacy. It has played its part in American politics, in schemes for world organization, and in plans for the conservation of resources. In earlier periods, arms embargoes were an important instrument in the Latin American policy of the United States. In the dawn of United States history, ill-fated experiments with complete embargoes were an important incident in the history of our relationship to the French Revolutionary and Napoleonic Wars. All of these and other aspects of the regulation of the traffic in arms throughout the history of the United States have been analyzed by Professor Atwater in this book. His previous detailed study of the application of sanctions by the members of the League of Nations against Italy during the Ethiopian War has provided him with an unusual background for considering the more recent aspects of the American policy.

At this time, it may be that the various uses of the arms embargo as an instrument of policy fade into the background while more pressing problems of defense and perhaps of war itself occupy the center of the stage. Yet the history of the use of embargoes, both statutory and "moral," is still being written as part and parcel of the history of the neutrality of the United States. The repeal of the arms embargo when the Neutrality Act of 1939 was passed is clearly seen in retrospect as the first step in aid to Britain short of war. At this writing, one can not yet say whether the United States Government's refusal to yield to the clamor for an anti-Japanese embargo will prove to have been part of the prelude to peace or to war. But it is clear that the decision to raise or to impose an arms embargo is fraught with consequences of the utmost seriousness. It is also true that present prophesies of post-war world conditions are hazardous. Nevertheless, under all of the hypotheses which one may select as a basis for analyzing the future, it is safe to assume that the regulation of the traffic in arms will play its part, whether as a measure of conservation, of defense, of national pressure or of international cooperation. As Professor Atwater points out in his Introduction, however, it is always necessary to consider the purpose for which an arms embargo has been imposed before utilizing the

experience with it as a precedent for comparable action. This book with its record and appraisal of past experience has, therefore, a permanent value not only as a history but also as an aid in planning the future.

PHILIP C. JESSUP

Director of the Division of International Law

New York, N. Y.

April 1, 1941.

ACKNOWLEDGMENTS

The writer would like to take this opportunity to express his sincere appreciation to the many persons who have given him assistance and counsel in the preparation of this study. A particularly deep debt of gratitude is owed to Professor Philip C. Jessup of Columbia University, Director of the Division of International Law of the Carnegie Endowment for International Peace, who has written the Foreword and has made many helpful, critical suggestions regarding the scope and content of the study. Special thanks are due also to the following persons who have given much counsel in the preparation of the study and have read and criticized the manuscript, in part or in whole: Professors Ellery C. Stowell, Catheryn Seckler-Hudson and Henry B. Hazard of American University, Washington, D. C.; Mr. Leo Pasvolksy of Brookings Institution, now Special Assistant to the Secretary of State; Mr. Carlton Savage, Assistant to the Assistant Secretary of State; Professor Pitman B. Potter of the Graduate Institute of International Studies, Geneva, Switzerland; and Professor John B. Whitton of Princeton University, formerly of the Graduate Institute of International Studies.

In the preparation of the study, the writer was especially fortunate in being permitted to consult the unpublished papers of the Department of State to December 31, 1918. For this, he is indebted to the officers of that Department and in particular to Mr. Joseph C. Green, Chief of the Division of Controls, and Mr. Charles W. Yost, Assistant Chief of that Division. These gentlemen have given unselfishly of their time in facilitating the writer's research and in making countless valuable suggestions based on their intimate acquaintance with the problems of regulating the export of arms from the United States. Needless to say, all responsibility for the accuracy of the material contained herein rests with the writer.

Grateful acknowledgment should be made to the librarians of the Carnegie Endowment for International Peace and the Brookings Institution in Washington, D. C., without whose assistance the collection of material would have been vastly more difficult. The writer also wishes to express his deep appreciation to the Brookings Institution for a fellowship in the years 1938-9 which enabled him to do the necessary research.

Final acknowledgment is due the Division of International Law of the Carnegie Endowment for International Peace under whose auspices the book is being published.

The manuscript was completed in August, 1940, but wherever possible additions and modifications have been made to bring the material covered up to January 1, 1941.

ELTON ATWATER

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ABBREVIATIONS

- A.J.I.L.* *American Journal of International Law*
- Annals* *The Annals of the American Academy of Political and Social Science*
- Moore, Digest* John Bassett Moore, *A Digest of International Law*, 8 vols. (Washington, 1906)
- Stat.* *United States Statutes at Large*

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