

Economic Espionage Against Allies

In economics we are competitors, not allies. I think even during the Cold War getting intelligence on economic, technological, and industrial matters from a country with which you are allied is not incompatible with the fact you are allies.

-Pierre Marion, former Director of the DGSE

The nations of the western world are the most technologically advanced countries in the history of civilization. The West is composed of countries that despite their differences, all share similar democratic values and are interested, albeit with different approaches, in the common national security issues of today, namely weapons of mass destruction and terrorism. However, as Pierre Marion indicates, an ally in these security matters is not the same as being allies in economic matters. Marion's description of nations as economic competitors is accurate, as competition is the foundation of the West's free-market economic system. How important though is the stability of our economic system, its ability to support a nation and its security? This paper takes economics as a matter of national security; one example of this is the ongoing debate about economics and failed states. Although not all agree, there is an argument made by some scholars that a certain level of economic wellbeing is a necessary precondition for stability within a country.

Thinking about the importance of economic issues has coalesced since the end of the Cold War. Once economics is established as a national security matter, the question then becomes how far should a state be willing to go to protect its economic security?¹ Since using military power against allies to ensure economic security is not an option,

¹ Economic security is defined by CSIS as "the maintenance of those conditions necessary to encourage...improvements in labour and capital productivity and thus a high and rising standard of living for a nation's citizen's, including the maintenance of a fair, secure and dynamic business environment conducive to innovation, domestic and foreign investment and sustainable economic growth." Source: CSIS Commentary 46.

especially if they are a NATO ally, perhaps there is a role for the less obtrusive work of intelligence services to gather information? Notwithstanding negative media coverage, the role of intelligence agencies in ensuring economic security is an issue that has not been looked at beyond a small body of academic and government literature. In fact, most media coverage tends to focus on the offensive activities occurring within that country perpetrated by other nations.

This paper will explore the role of intelligence services in economic espionage and look at whether states should engage in it against their allies. The focus of this paper will solely be on offensive economic espionage. This is an important topic for two reasons. First and foremost is the aforementioned importance of economics as a national security matter. Our lifestyle is based on the consumption of goods and services for which the supply is wholly dependent on income generated through economic activity. Second, although not all countries are as open as France, there is strong reason to believe that many nations within the Western alliance do spy on each other to gather economic intelligence. This is not to suggest the argument of “if they do it then why can’t we?” but rather to raise the possibility of being left behind if a nation does not take proactive measures.

This paper looks at the arguments for and against the conduct of this activity. After assessing the conceptual arguments and comparing them against Canada’s intelligence needs and capabilities, this paper argues that Canada should, only after exhausting all options, resort to economic espionage against allies in several limited ways: treaty compliance, monitoring of contract bidding and monitoring of international financial markets. For the purposes of this paper, economic espionage will be defined

using the Canadian Security Intelligence Service definition as “the use of, or facilitation of, illegal, clandestine, coercive or deceptive means by a foreign government or its surrogates to acquire economic intelligence.”² This is distinct from industrial espionage which is the conduct of these actions by the private sector.

This paper will proceed by giving a broad historical overview of economic intelligence collection in the US and its historical focus on macroeconomic data. Drawing on the literature will then be an analysis of the arguments both for and against economic espionage. The paper will then continue by looking at the current economic intelligence collection activities of several countries. Lastly, this paper will tie all of these threads together and explore Canada’s options for moving forward on an offensive economic espionage capability. Although the culmination of this paper is to look at the options for Canada, analyzing how other countries have gone about collecting economic intelligence historically and currently provides a valuable set of signposts for Canada. Because of a lot of information is available on the US, a large focus will be placed on them.

As a preface, intelligence refers broadly to information. While intelligence can be collected via clandestine, James Bond methods, open sources can be of equal or greater value. When information is not available in the public, its collection usually involves the violation of domestic laws in a foreign country. Open source information can be collected from a variety of sources from government publications to the internet. The methods of information collection also vary greatly. It can be collected by human sources, through electronic signals, or images to name a few. Intelligence services offer

² Economic intelligence is defined by CSIS as “policy or commercially relevant economic information, including technological data, financial, proprietary commercial and government information, the acquisition of which by foreign interests could, either directly or indirectly, assist the relative productivity or competitive position of attaining economic security.” Source: CSIS Commentary 46.

the value added benefits of being able to place the collected information within a broader context to understand its meaning and significance.

History of US Economic Intelligence Collection

The US government's work on economic intelligence has historically focused on macroeconomic questions. One example was analyzing the Soviet Union's industrial capacity during the Cold War to estimate the size of its military. A well-known example was calculating the size of their bomber fleet. The Central Intelligence Agency's projections were lower than the military's because they knew the USSR's industrial capacity was not capable of producing the number of bombers the military had suggested. Another issue regularly studied was estimates on USSR wheat imports and extraction of other natural resources.³

Although US economic intelligence capabilities date back to the American Revolution, the first modern efforts are traced to President Woodrow Wilson's request for economic information to help American negotiators during the Treaty of Versailles talks. During World War II the Office of Strategic Services and the Board of Economic Warfare gathered information on Axis countries. The intelligence collected was passed along to the military to aid in their targeting of factories to maximize damage to the Axis' industrial capacity to produce armaments.⁴

After World War II, the Office of Research Reports (ORR) was formed as one of the first analytical units in the CIA with their focus directed towards Eastern Bloc countries and China. In the 1960's, under the advice of the President's Foreign Intelligence Advisory Board, the State Department's economic intelligence resources

³ Philip Zelikow, "American economic intelligence: Past practices and future principles." *Intelligence and National Security*. 12, no. 1 (1997), 169.

⁴ Zelikow, 164-5.

were reduced, the ORR was renamed the Office of Economic Research and analysis was expanded to look at the recovered economies of Europe and Japan. This coincided with important economic events such as the devaluation of the British Pound Sterling and collapse of the Bretton Woods System when the US decided to no longer maintain the \$35/ounce gold standard, both of which had serious implications on the international economy.⁵ During the 1980s, US economic intelligence gathering came under attack as knowledge proliferated with computers allowing easy access to information. The International Monetary Fund, World Bank, US Federal Reserve, private actors and government departments had increasing access to information and information sharing, which used to be the sole purview of the CIA.⁶ This led to some in Congress asking why the government bothered to collect economic intelligence if most of the information was open-source data which could be purchased or received for free. When the Aspin-Brown Commission studied the intelligence community, they determined 95% of macroeconomic data was in fact open source. One of the commission's recommendations was the intelligence community should ensure not to duplicate work that could be obtained from other bodies and that intelligence services should ensure there is value added in their analysis.⁷

Post-Cold War, the US intelligence community expanded its capabilities to gather more economic intelligence. Robert Gates as Director of Central Intelligence said 40% of intelligence was economic in nature. He insisted the US would “not do commercial spying” and the CIA could aid in efforts to determine cases where foreign governments

⁵ Zelikow, 168.

⁶ Zelikow 169-170.

⁷ Aspin-Brown Commission. “Aspin-Brown Commission Report.” US Government Printing Office. <http://www.gpoaccess.gov/int/report.html> (accessed 15 January 2009).

are colluding with their domestic businesses to out-perform US firms.⁸ In *National Security Review 29*, President George H.W. Bush mandated his cabinet and other agency heads to conduct a review of the intelligence community and make projections for intelligence requirements from 1992 to 2005. Listed in the review are several new priorities, of which economic intelligence features prominently.⁹ This capability later proved instrumental in predicting the 1995 Peso Crisis, 1998 Asian Financial Crisis and the 2000-2001 Argentine financial collapse.¹⁰ Despite an extensive array of macroeconomic intelligence gathering, the US appears to have largely shied away from discussing economic espionage. Gates attitude indicates this when he said no CIA officers are “willing to die for General Motors.”¹¹

In an increasingly inter-connected global economy, financial events in one part of the world have global effects. The current financial crisis bears this out. If the US government did not see economics as a matter of national security, it is unlikely they would have invested as heavily as they have in gathering economic intelligence since World War II. This analysis of how the US has historically collected economic intelligence is useful in the context of analyzing directions Canada could go in the collection of economic intelligence. This history illustrates that intelligence agencies do have an instrumental role to play in the collection of economic intelligence to aid policymakers in decision making. Economic analysis done in the classical sense by economists is dependent on the availability and accuracy of information. Foreign

⁸ Stanley Kober. “The CIA As Economic Spy: The Misuse of U.S. Intelligence After the Cold War.” CATO Institute. <http://www.cato.org/pubs/pas/pa-185.html> (accessed 15 January 2009).

⁹ United States. “National Security Review 29.” The George Bush Presidential Library and Museum. (15 November 1991). <http://bushlibrary.tamu.edu/research/pdfs/nsr/nsr29.pdf> (accessed 15 January 2009).

¹⁰ Lowenthal, Mark M. *Intelligence: From Secrets to Policy*. 4th ed. Washington: CQ Press, 2009, 268.

¹¹ Lowenthal, 267.

governments may not be open to the disclosure of embarrassing information resulting from poor policy choices. Intelligence services can work to obtain accurate information for their respective governments by employing capabilities and resources not within the skill set of other government agencies. In addition, they can make value-added analysis with the information by adding a breadth of insights.

Literature Review

As mentioned in the introduction, the literature available on economic espionage is relatively limited. One natural obstacle to having complete information in the public domain is the nature of the intelligence community's work. In addition, the instances of economic espionage are limited not only because countries are reluctant to self report on their activities, but also because businesses have strong disincentives to not admit instances of it occurring against them. An exception to this openness is the willingness of countries to discuss the activities of other nations within their borders. This reporting is the main source of information on instances of economic espionage. In the information published by the CIA, none is strongly in favour or against it, but rather it weighs the pros and cons. Specific activities the US intelligence community could engage in are looked at by the Aspin-Brown Commission.¹²

Proponents of economic espionage seem to be those formerly involved in the intelligence community such as former CIA Directors James Woolsey and Stansfield Turner. In making their arguments, they are very pragmatic, a view probably informed from their time at the CIA. Free-market advocates, such as the CATO Institute, are against these activities. They base their arguments on these activities being an

¹² This Commission delivered its report in 1996 and was lead by former Secretary of Defence to Bill Clinton, Les Aspin, until his death in 1995. Harold Brown, a former Secretary Defense to Jimmy Carter, continued as Chairman of the commission.

unnecessary form of government intervention in the economy by disrupting market forces and supporting inefficient businesses. The academic literature does not have a consensus on the matter. It should be noted the ability to generalize this is difficult because scholarly work on the topic is sparse.

Arguments in Favour of Conducting Economic Espionage

The arguments in favour of conducting economic espionage come from a Hobbesian world view. They generally assert states should engage in these activities to protect their economies and ensure they are competitive with other developed countries by having the most advanced technology and knowledge of others intentions and capabilities. Turner argues the US does not want to be surprised by technological advances or economic decisions made by other nations. He further says that if a country spies for its military security then it should spy for economic security which he asserts is an important national matter.¹³

The first argument in favour of economic espionage is its ability to help policy makers develop foreign and trade policies, and assist during trade negotiations.¹⁴ In these instances, if a country has knowledge that the country they are negotiating with is interested in pursuing a particular issue, or if the negotiators have a bottom line, then they can be pushed down to that bottom minimum during the negotiations. Economic intelligence can also help add context in understanding international issues and countries motivations for their actions. One example of this is China's reluctance to support a peacekeeping force in Sudan, which intelligence indicated was due to oil interests for

¹³ Turner, Stansfield. "Intelligence for a New World Order." *Foreign Affairs*. Vol. 70, no. 4 (1991), 151-152.

¹⁴ David L. Boren. "The Intelligence Community: How Crucial?" *Foreign Affairs*. Vol. 71, no. 3 (1992), 57 and Porteous, Samuel. "Commentary No. 32: Economic Espionage." Canadian Security Intelligence Service <http://www.csis.gc.ca/pblctns/cmmntr/cm32-eng.asp> (accessed 15 January 2009).

Chinese companies.¹⁵ Russian and Chinese obfuscation of US efforts to sanction Iraq were caused in part because national companies had significant business interests there.¹⁶

The second argument in favour of economic espionage is it helps to ensure compliance with treaties or other international regulatory regimes. Nations presumably are not going to overtly let others know they are breaking international laws because it is a source of embarrassment. This is especially the case when the activities do not merely involve private sector actors but also when it involves the government aiding the private sector.¹⁷ Often countries attach clauses to free trade agreements which stipulate rules on subsidies to domestic industries or on price discrimination between countries to help protect domestic producers.¹⁸ These are in place to prevent country A from exporting widgets to country B at a price lower than what they would charge people in country A. These anti-dumping provisions help to protect country B's widget making industry. If country A is price discriminating, the intelligence services in country B can alert their trade authorities so recourse can be taken. In an often quoted article written by James Woolsey, another possibility is international rule enforcement. He cites European involvement in prohibited activities with Serbian banking and exporting arms and other technology to Iraq that was banned under UN Security Council Resolutions.¹⁹

The third reason proponents argue in favour of economic espionage is other countries are doing it, so doing it now keeps a level playing field.²⁰ In his attack on the

¹⁵ Lowenthal, 268-269.

¹⁶ Mark Agnew. "Iraqi Weapons Inspection: The Mirage of Support." *Journal of Military and Strategic Studies*. Vol. 9 no.4 (Summer 2007) <http://www.jmss.org/2007/2007summer/articles/agnew.pdf>, 33.

¹⁷ Aspin-Brown Commission.

¹⁸ World Trade Organization. "Anti-dumping, subsidies, safeguards: contingencies, etc." http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm8_e.htm (accessed 7 March 2009).

¹⁹ James R. Woolsey. "Why We Spy on Our Allies." *Wall Street Journal*, 17 Mar. 2000. <http://interactive.wsj.com> (accessed 7 March 2009).

²⁰ Boren, 58.

espionage practices of European nations, Woolsey says “[g]et serious, Europeans. Stop blaming us and reform your own statist economic policies. Then your companies can become more efficient and innovative, and they won't need to resort to bribery to compete. And then we won't need to spy on you.”²¹ This argument brings a very realistic outlook by accepting that some countries, who are US allies, engage in such activities. If the government wants to ensure its companies are able to remain competitive then it should engage in such activities. For example, say country A is engaging in the activities mentioned in the first argument to assist in developing trade policy. If they have information to drive country B down to its bottom line position in negotiations, B is at a significant disadvantage. However, if B has similar information on A, they can in turn reduce them to their bottom line, negating A's advantage. This idea is also pertinent to treaty compliance. If A becomes aware B is price discriminating, then they are enforcing the treaty. However, unless B has intelligence on A, B can not be sure A is not price discriminating as well. The relative impunity that comes from breaking international law gives a country an incentive to not abide by the rules of the game. This implies a self-interested view of state actions, but that is why weapons inspectors went into Iraq and the US and USSR had verifications of each other's arms reductions. A notable incident demonstrating the advantages to being one sided in economic intelligence collection was during the 1990's when French intelligence had information a US firm was making a contract bid in India. The French government passed the information along to a firm who then used the information to make their own bid, leading to them getting the contract and

²¹ Woolsey.

costing the US firm billions of dollars.²² The cost to the firm was not only the actual contract but also the money already spent in the bid and R & D.

The last argument is the government is providing a public good that private sector actors do not have the ability to provide, even to themselves. Governments have unique capabilities to gather a wide variety of intelligence that private actors do not have because of the resources, costs and skills required. Building satellites for SIGINT and IMINT or operating agents for HUMINT is expensive and requires expertise.²³ If private firms could do it themselves then there would be little reason for the DGSE to spy for French firms. Using economic intelligence to help negotiate trade agreements is something that serves to help many firms in an economy by opening and maintaining access to international markets. Another consideration is the government needs information for which the private sector has no interest, such as arms exports from Europe or Russian and Chinese oil contracts in Iraq. US firms by law were prohibited from competing for these contracts, which means they would not spend any of their own resources for intelligence.

This section has explored the arguments in favour of economic espionage. It is useful for assisting a country in developing trade policies to ensure it can at least be on equal footing with its negotiating partner. It also helps to ensure treaty compliance and that agreements are abided by. In doing this, the government ensures their domestic industries will not be at a disadvantage as some firms get a competitive advantage if their intelligence services help them. Lastly, the government is providing a good the private sector either will not, or can not, provide. In the case of the former, it pertains mostly to arms shipments or states where US firms can not do business while with regards to the

²² Porteous, "Commentary No. 32."

²³ Zelikow, 173-4.

latter, private firms do not have the resources or abilities to undertake such activities even when it is advantageous.

Arguments Against Economic Espionage

The opponents of economic espionage generally focus on issues related to economic efficiency, maintaining positive relations with allies, and that tit-for-tat policies are ill-advised.²⁴ As mentioned in the literature review section, most opponents do not appear to have been involved in the intelligence community. This is not to say their views are any less important but perhaps suggests experience in dealing with this matter influences support.

The first argument against are the repercussions if a country is caught or known to engage in such activities. Proponents of this argument claim that if a country is conducting espionage it alienates allies and can hurt trading relations. The premise is that countries will be reluctant to undertake negotiations or other economic arrangements if they know they will be exploited and placed at a disadvantage.²⁵ Opponents extend this argument by speculating that being caught would also have spill over effects into other non-economic areas. Governments may impose other penalties or sanctions against each other. As well, it may hinder intelligence sharing between allied nations if they know they are competitors.²⁶

Free-market advocates view it as problematic because it is another form of government intervention in the markets. The government is providing a non-monetary subsidy to industries that are simply non-competitive. The argument here focuses on economic competition not being bad, but rather a good thing that encourages efficiency,

²⁴ Kober.

²⁵ Dave McCurdy, "Glasnost for the CIA." *Foreign Affairs*. Vol. 94, no. 1 (1994):125-140.

²⁶ Kober and Porteous, "Commentary No. 32."

benefitting consumers. They say it is not realistic to think the US can possibly have an advantage in all industries. Instead they argue the US should focus on the things which they are relatively more productive at.²⁷ It is argued providing a subsidy is merely a short-term solution to a long-run problem of firms not being able to compete; this is akin to the arguments against providing auto industry bailouts in the current recession.

A complication also raised by opponents of economic espionage is the international nature of business today. Many large firms are multi-national corporations because they have operations and offices in many countries around the world. It becomes difficult to determine which country a firm belongs to nowadays, if any.²⁸ Is it defined by which stock exchange they are listed on? Firms can be listed on more than one stock exchange. Is it defined by where they have factories? Firms have factories around the world. Is it defined by where their offices are? Firms have offices around the world. This makes it difficult to determine if the people a country's intelligence agencies are helping are actually from that country rather than a firm where benefits will be accrued elsewhere.

The fourth argument is the problem of favouring certain industries and deciding who benefits. Intelligence agencies have finite resources and must decide where to allocate them. This would force agencies and their policymakers to decide which areas of the economy will be benefactors of intelligence gathering. Subsequently, this would

²⁷ Kober and Porteous, "Commentary No. 32."

²⁸ Porteous, "Commentary No. 32." and Sherman Kent. "Government Spying for Commercial Gain." Central Intelligence Agency. (8 May 2007) https://www.cia.gov/library/center-for-the-study-of-intelligence/kent-csi/docs/v37i2a02p_0001.htm (accessed 15 January 2009).

cause certain industries to be favoured and receive a disproportionate amount of assistance relative to others.²⁹

Opponents of economic espionage argue these activities are misguided because they disrupt the flow of the markets by creating distortions through subsidies to companies that are inefficient and cannot compete on their own. They also argue Practical problems can arise through unnecessarily angering allies and deciding who will benefit from the intelligence.

The Activities of our Allies

So far this paper has looked at the conceptual issues around economic espionage. From here the paper will look at some of the current activities of the US and of other known perpetrators of economic espionage. The *Economic Espionage Act* was passed by Congress in 1996 and was the first piece of legislation criminalizing economic espionage in the US. A noteworthy section is s. 1833 which says: “[t]his section does not prohibit—(1) any otherwise lawful activity conducted by a government entity of the United States, a state, or a political subdivision of the state.” Although the Supreme Court has never ruled on the exact meaning of this clause, some have interpreted this to be a loophole allowing the US government to engage in clandestine activities itself. One example of activities this may legitimize is the CIA’s use of SIGINT during negotiations over Japanese car tariffs, which the Japanese government complained about.³⁰

Another interesting statement on US economic espionage was testimony in 2000 by CIA Director George Tenet before the House Committee on Intelligence.

I recognize that it is standard practice for some countries to use their intelligence services to conduct economic espionage, but that is not the policy

²⁹ Kober.

³⁰ Snyder and Gregory.

or practice of the United States...With respect to allegations of industrial espionage, the notion that we collect intelligence to promote American business interests is simply wrong...Of course, SIGINT does provide economic information that is useful to the United States Government ... On many occasions, it has provided information about the intentions of foreign businesses, some operated by governments, to violate US laws or sanctions or to deny US businesses a level playing field. The Intelligence Community is ... not working on behalf of US companies to provide them unfair advantage.³¹

While Tenet says the US does not engage in economic espionage, this would seem to be a debate of semantics rather than of the substantive issue. Based on the definition of economic espionage this paper has used, the opposite of Tenet's testimony would seem to be true. In one part of the statement he says the CIA does not promote business interests yet he says they ensure there is a level playing field. One would easily think that a level playing field *is* in the interest of US businesses. Although it is purely speculative, it would appear the US government probably does engage in some form of economic espionage. Offensive economic espionage ensures treaty compliance and a fair business environment for firms. One activity worth mentioning is the much vaunted Echelon spy system.³² This is not mentioned for the conspiracy theories about the system and its use but rather to note that some Europeans have accused the US of using this system to steal technology from private firms.³³

Another country involved in the Echelon system is the United Kingdom. There are some accounts of the UK using Echelon to collect SIGINT for economic espionage

³¹ United States. "Statement by Director of Central Intelligence George J. Tenet Before the House Permanent Select Committee on Intelligence." Central Intelligence Agency. (12 April 2000) <https://www.cia.gov/news-information/speeches-testimony/2000/index.html> (accessed 7 March 2009).

³² Echelon is alleged to be a SIGINT collection network that exists between Australia, Canada, New Zealand, United Kingdom and the United States.

³³ Lowenthal, 267.

purposes.³⁴ Additionally, gathering economic intelligence is explicitly part of the Secret Intelligence Services mandate. After the existence of the SIS was publicly confirmed by the UK government in the early 1990s, the government introduced the *Intelligence Services Act 1994*. Section 1 (2) says “[t]he functions of the Intelligence Service shall be exercisable only ...in the interests of the economic well-being of the United Kingdom...”³⁵ It is further alleged that some of the companies which directly benefitted from the SIS’ collection of intelligence included British Aerospace, Shell, BP, and British Airways. There are also allegations of British intelligence in the 1980s assisting with the Al Yamamah oil-for-food deal with Saudi Arabia and the sale of the Tornado/Hawk aircraft to Malaysia.³⁶ This openness to collecting economic intelligence contrasts with the American approach. The UK has given an explicit statutory mandate to its intelligence service to collect economic intelligence. In contrast, during the 1990s and 2000s, Gates and Tenet were reluctant to associate the CIA with economic espionage. The US’ hesitancy may in part be cultural, as it is somewhat counter to free-enterprising American values, which do not look as favourably towards government intervention in the economy. One reason the UK may be more open in this regard is given the actions of France, perhaps it is more culturally acceptable in Europe to conduct economic espionage. In addition, experience dealing with economic intelligence efforts against the UK may have influenced them. One known example involved MI:5 investigating the

³⁴ Paul Todd and Johnathan Bloch. *Global Intelligence: The World’s Secret Services Today*. London: Zed Books, 2003, 107.

³⁵ United Kingdom. “Intelligence Services Act 1994.” Office of Public Sector Information. http://www.opsi.gov.uk/acts/acts1994/Ukpga_19940013_en_1.htm (accessed 14 March 2009).

³⁶ Todd and Bloch, 107-8.

Royal Society for the Protection of Birds because it was thought foreign agents were involved in threatening the economic security of British firms.³⁷

How has economic espionage in the US perhaps influenced offensive efforts? In the simple model of the intelligence cycle, the first step involves policy makers setting priorities and direction for the intelligence community, such as National Security Review 29.³⁸ In addition, during the budgetary process, estimates are made with considerations of what tasks the intelligence community will be required to undertake.³⁹ When policymakers set these priorities, what are they basing their instructions on? One possibility is experiences of foreign governments spying on the US. Surely, US firms losing contracts to foreign firms, or the US government telling companies not to partake in a French air show because French intelligence will be there in an attempt to steal technology must at some point weigh on the minds of policy makers. The National Counter-Intelligence Executive (NCIX) is a branch of the Office of the Director of National Intelligence which looks at domestic counter-intelligence efforts. Every year the NCIX submits a report to Congress which, among other things, details the extent of espionage against the US and its interests. In more than one report, traditional US allies have been reported to be engaged in espionage against the US.⁴⁰ Perhaps this annual reporting to Congress could have some effect on policymakers' decisions. Policy makers in Congress and the President face elections and want to satisfy their electoral base. These officials are going to want to ensure that firms in their constituencies are not going out of business because of lost contracts due to foreign economic espionage. Getting

³⁷ Todd and Bloch, 108.

³⁸ Lowenthal, 65.

³⁹ Lowenthal, 203-5.

⁴⁰ NCIX Report 1998 and 1995 for example.

contracts, ensuring jobs and pork-barreling is a reality of the political process to help politicians stay in office.

Throughout this paper several instances of economic espionage against the US have been mentioned. In the literature, France is the most prominently mentioned US ally engaged in this. Marion's quote at the beginning of the paper is widely cited in the literature on this topic and evidence seems to bear this quote as epitomizing French thinking. Because of its effects on shareholder confidence and future business, the extent of losses are not fully known, as many companies are reluctant to admit they have been a victim of a successful intrusion. CSIS for example has tried to reach out to companies with its Liaison Program.⁴¹ But, as a company CEO tasked with maximizing shareholder value, there is a high incentive to keep a problem from being revealed. France's openness about economic espionage is not only illustrated by the statements of key officials, but is further underscored through the structures and mandates of the French intelligence community, even more so than in the case of the UK. In March 1994, the French government authorized its intelligence service to expand its operations into collecting economic and industrial intelligence.⁴² A year later, France created the Committee for Economic Competitiveness and Security. The committee, chaired by the Prime Minister, is meant to "research, analyze, process and distribute information' with the objective of protecting economic secrets and advising French firms and the government on trade strategy."⁴³ It is thought that this body would provide coordination

⁴¹ Canada. "Liaison/Awareness Program." Canadian Security Intelligence Service. 25 April 2008. <http://www.csis.gc.ca/bts/shrngpblc-eng.asp#bm01> (accessed 7 March 2009).

⁴² Loch K. Johnson and James J. Wirtz. *Strategic Intelligence: Windows into a Secret World*. Cary: Roxbury Publishing Company, 2004, 189.

⁴³ Samuel Porteous. "Commentary No. 59: Economic/Commercial Interests and Intelligence Services." Canadian Security Intelligence Services. (July 1995). <http://www.csis.gc.ca/pblctns/cmmntr/cm59-eng.asp> (accessed 8 February 2009).

in the collection of economic intelligence to advance France's economic interests.

France's experience does show the drawbacks to spying on your allies. If caught, it does have reputational repercussions, as was evident when US firms were advised to stay away from a French air show. It is not known what the economic effects have been for France for being to known to conduct economic espionage, but it is reasonable to assume there is some reluctance of firms to do business in France for fear of the safety of any proprietary knowledge. However, there are also the monetary benefits France has accrued from its actions.

Besides France, another US ally which has engaged in espionage against the US is Israel. One incident was the theft of long-range image reconnaissance technology for US planes from a firm in Illinois.⁴⁴ Japan, another long time ally has had a series of allegations made against it. Two pieces of technology allegedly stolen in the 1980's were the television⁴⁵ and the computer microchip⁴⁶. In Japan an interesting dynamic exists with the Ministry of International Trade and Industry and the Japanese External Trade Organization doing intelligence work rather than a dedicated intelligence agency. Both of these bodies work closely with the private sector.⁴⁷ Looking to the future, the Office of the DNI published the *2025 Global Trends* report in which future economic espionage threats were predicted to come increasingly from Russia, China and Gulf States. There, the lines between private and public sector are blurry and these countries seek to move ahead by obtaining US technology. Although they are generally not considered to be US

⁴⁴ John J. Fialka "Stealing the spark: why economic espionage works in America." *The Washington Quarterly*. 19, no. 4 (1996): 175-190.

⁴⁵ Fialka.

⁴⁶ Synder and Gregory.

⁴⁷ Synder and Gregory.

allies, it shows that counter-economic espionage focus can not be limited to only allies.⁴⁸ As one of the most technological advanced nations in the world, the US is a prime target. Of the nations listed in the DNI report, China's activities are the most well-known to be presently active. China's Ministry of State Security has a separate bureau dedicated to the collection of economic, scientific, and technical intelligence. This collection relies heavily on HUMINT using Chinese nationals abroad. These efforts to aid the growth of the Chinese economy to rival those of the Western World are part of President Hu Jintao's reference to China's "peaceful rise."⁴⁹ It now seems major wars between countries are not the threat to the Western World they once were, in large part because today's weapons are extremely destructive. Economic power is the new way, as Jintao's statements indicate, for countries to assert themselves. Countries wishing to maintain greater international prestige increasingly may have to resort to economic espionage to maintain an advantage against their rivals.

There have been international efforts to stem the theft of economic secrets dating back to the Paris Convention of the 1880s. This agreement primarily pertained to the protection of intellectual property which some have extended to cover economic espionage today.⁵⁰ The United Nations has made similar efforts with Resolutions 1236 and 2131 which pertained to respecting the domestic affairs of nations. The wording of these resolutions in economic affairs has been interpreted by some to include economic espionage. However, this is only an interpretation and they are non-binding on states.⁵¹

⁴⁸ United States. National Intelligence Council. "Global Trends 2025: A Transformed World." Office of the Director of National Intelligence. www.dni.gov/nic/NIC_2025_project.html (accessed 15 January 2009), 28 and 30.

⁴⁹ Lowenthal, 319-320.

⁵⁰ Hedieh Nasheri. *Economic Espionage and Industrial Spying*. Cambridge: Cambridge University Press, 2005, 125.

⁵¹ Nasheri, 127-8.

As the actions of states have shown, these international agreements are worth as much as the paper they are written on and have no bearing on how states have used their intelligence services. This is to show that while some may raise ethical issues surrounding economic espionage, gathering economic intelligence seems to be largely within acceptable international norms, despite it probably violating a country's domestic laws.

Weighing the Arguments and Canada's Options

This paper has looked at the broad conceptual arguments for and against the conduct of economic espionage, a history of economic intelligence collection of the US and the present activities of some of Canada's major international partners. All of these issues raise interesting points for if, and how, Canada should and should not proceed in the gathering of economic intelligence. In consideration of the above points, Canada should gather information against its allies in three areas of salient interest to Canadians: treaty compliance, monitoring contract bidding, and monitoring of international financial markets. The activities of other countries, as listed above, demonstrates there is a need for Canada to assert itself and ensure its national economic interests are not being marginalized at the expense of the economic prosperity of our allies. However, for Canada to maintain international credibility and to not grossly undermine the Western alliance, it should not involve itself in spying on companies for the purpose of stealing foreign technology or expertise. This section will first look at what Canada is currently doing in the field of economic intelligence collection. It will then proceed into looking at a potential structure for gathering economic intelligence. Lastly, it will look more in-

depth at the specific types of economic intelligence collection Canada should undergo as well as an analysis to answer why it is worth it.

Canada's approach to intelligence, as with many things, has been pragmatic and cautious. As there have been no formal government declarations regarding the collection of offensive economic intelligence it is difficult to firmly ascertain what economic intelligence collection, if any, is done by the Government of Canada. However, there are several bodies likely to be involved. The Department of Foreign Affairs and International Trade (DFAIT) has the Foreign Intelligence Division (ISI). The ISI has two programs that are known to exist for collection of information. One is the Interview Program which interviews individuals that have travelled to certain countries of interest.⁵² The other is the Global Security Reporting Program which makes use of Foreign Service Officers posted abroad.⁵³ Although their resources are substantially smaller, Export Development Canada, which helps Canadian firms wishing to expand their business abroad, probably has an economic intelligence capability for determining risk factors related to their investments. As well, the Communications Security Establishment Canada likely has some economic analytical capability as in the past they have sought out individuals with economic backgrounds.⁵⁴ Canada is also involved in the collection of economic intelligence pertaining to terrorist financing activities. Approximately two weeks after the terrorist attacks of September 11th, the UN Security Council passed Resolution 1373 which obliged member nations to undertake numerous measures to stem the financing of terrorist activities. Key to this work is some of the better known intelligence agencies in Canada, such as CSIS and CSEC. In addition, a less well known entity involved in this is

⁵² Kurt F. Jensen. "Toward a Canadian Foreign Intelligence Service," *bout de papier*. Vol. 22, no. 2 (2006)

⁵³ Ibid.

⁵⁴ Porteous, "Commentary No. 59"

the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) which has received a significant increase in resources post-9/11.

Defining Canada's economic intelligence needs is a contentious issue and one for which there is a wide divergence of opinions and views. To begin, there are several types of activities that Canada would be well advised to not engage in. The first is involvement of intelligence agencies in covert economic sabotage actions. These are activities not for intelligence agencies and not activities that should be done in any place. The destruction of economic capital is detrimental to economic activity. There is also the contentious issue of whether states should steal technology and give it to a domestic firm for use. This is problematic because it involves the government picking winners and losers in the economy, something for which it does not have an excellent track record of doing. It is nearly impossible to determine if by giving a piece of technology collected by espionage to a firm is truly leveling the playing field or simply delaying the demise of firms that are uncompetitive. The government and economies function best when they are kept as separate as possible and therefore, the government should not be in the business of helping any firm steal technology from other countries.

One area Canada should be involved in collecting economic intelligence is treaty compliance. Canada has a wide range of economic agreements with our allies. At times countries, because it is in their economic interest, try to find loopholes and ways to circumvent agreements. Intelligence services can have a role in detecting instances where this is occurring and whether it is an effort being made by private sector actors or something being done in concert with a government. Intelligence agencies do not have an enforcement role as there is often a judicial review mechanism which exists in trade

treaties for review of illegal practices. However they do have a role in helping to discover instances where this occurring and alerting trade authorities so that remedy action can be undertaken. As well, there is a role for intelligence services in monitoring competition from firms in foreign competitions in completing contract bids. When there are tenders for contracts, depending on the nature of said contract, there could be bids placed from multiple companies from different countries. It is not unprecedented for governments to give firms from their country a boost to assist them in winning contracts. A particular case of this was mentioned above with the French government helping one of its companies outbidding a US company because of help from the DGSE. Both treaty compliance and contract-tendering monitoring are examples of the government providing a public good that helps firms, which they themselves could not provide for themselves due to the resources involved. It also minimizes the government picking specific winners and losers in the economy. A third instrumental use is monitoring financial markets for early warning signs of impending economic events. In addition to simple economic analysis, intelligence services help to place these within the broader context of events to more fully understand their meaning. This work is important because globalization has integrated global economies to a degree that was once unimaginable. Economic events in a country can have large reverberations felt around the world. As with the embarrassing nature of the financial crisis and the negative effects on investor confidence within a country, a state may sometimes be reluctant to fully disclose information until it is too late.

While engaging in these types of activities that involve spying on allies, Canada should proceed with caution and be very selective in its use when selecting particular

missions to undertake. By proceeding with caution and by engaging in the types of activities listed above, Canada can conduct economic espionage in a manner which maximizes the benefits while simultaneously minimizing the risks and dangers. In addition, the government has a responsibility to ensure the economic security of its citizens by maintaining an atmosphere where markets can thrive and citizens can be prosperous. However, this is not to argue that states should go to any length necessary to do this. Stealing technology from a foreign enterprise to give it to a domestic business is not an activity the government should avail itself of. Market economies, such as those of the West, consider the symmetric flow of information to be essential to a successful market. Governments engaging in the three types of activities listed above are attempts to ensure the symmetric flow of information. This is important because incentives may present themselves where one state may wish to obfuscate other nations or private enterprises from obtaining accurate and timely information.

Use of as many open sources of information as possible should be made in conjunction with clandestine collection, whether through HUMINT, SIGINT, IMINT, etc. as a method of last resort. Canada does not need to rush hastily into the creation of a monolith foreign intelligence service unnecessarily. It takes a great deal of resources, time, and carries a lot of risk. Therefore, if a determination is made that Canada does have a need for clandestine economic intelligence collection, use of existing structures and government departments should be made.

Aside from the nuts and bolts of where such a capability should be housed, the more contentious issue is target selection. Opponents make a valid criticism that selecting targets would be difficult as not every economic target can be spied on. This,

however, should not be a reason for shying away from economic espionage, especially considering all the possible benefits. Like everything, there are tradeoffs and nothing can be perfect. All that can be done is to minimize the risks while maximizing potential benefits. Some signposts for the direction and conduct of economic espionage can be found in World War II. Most of activities involved assisting the military in finding the targets which would maximize the damage to Germany's war production capabilities and preemptively buying raw materials to prevent them from being bought by the Axis powers. The UK had a consolidated body with the Ministry of Economic Warfare formed 3 September 1939 upon the outbreak of war. Although it was separate from the Foreign Office, it relied heavily on them for the collection of information and for receiving the complaints of mostly neutral states who felt their neutrality had been violated.⁵⁵ The US however had a system of bodies such as the Reconstruction Finance Group, State Department and the Board of Economic Warfare.⁵⁶ Most of the American's work and coordination was done within the Enemy Objective Unit (EOU) in the Economic Warfare Division of the US Embassy in London. The EOU was composed of mostly economists and was tasked with developing and applying criteria for selecting targets in Germany.⁵⁷

Some of the key criteria for Canada moving forward on economic espionage should be a tasking, planning and targeting stage left to economists. Such a capability needs to be housed within the Department of Foreign Affairs and International Trade

⁵⁵ United States. "Records of the Foreign Service Posts of the Departments of State." National Archives and Records Administration. <http://www.archives.gov/research/state-dept/rg-84-foreign-service.html> (accessed 24 March 2009).

⁵⁶ Bidwell, 430 and United States. "Records of the Foreign Service Posts of the Department of State."

⁵⁷ W. W. Rostow. "Waging Economic Warfare from London." Central Intelligence Agency Library. (11 July 1991). <https://www.cia.gov/library/center-for-the-study-of-intelligence/kent-csi/pdf/v35i4a06p.pdf> (accessed 24 March 2009), 73-74.

because all activities involve overseas operations which fall under the Minister of Foreign Affairs according to the *Department of Foreign Affairs and International Act*.⁵⁸ As well, if Canada were caught in a compromising position from these activities, the Minister of Foreign Affairs would have to answer to that country. Ultimately all approval for these actions should have to come directly from the Prime Minister to avoid a liberal use of clandestine collection. Being pressed by the Opposition Parties in Question Period or by the media during a press conference on a failed intelligence mission is the last thing any government would want. Lastly, there should be an arms length oversight body to investigate all operations ex post facto to assure there had been no improprieties.

Spying on your allies is not an ideal situation but as Pierre Marion indicates, an ally in the security field does not mean countries are necessarily economic allies. This is not discredit to basis of neoliberal economic thinking. Through the exchange of goods and services amongst people and nations, it can be positive sum. However, it is the responsibility of a government to ensure the economic security of its citizens by fostering conditions in which the free markets can thrive and individuals can pursue economically productive lifestyles. Traditional notions of attracting business focus on lower business taxes, and incentives for firms to invest in a particular jurisdiction. However, in addition, governments must be willing to ensure a fair market situation and that companies and governments abroad are also abiding by the rules. It is true that the nature of MNCs make it difficult to determine who, and from what country, truly benefits. However, it is better to do something to protect jobs than nothing.

⁵⁸ “Department of Foreign Affairs and International Trade Act.” Department of Justice Canada (1985) <http://laws.justice.gc.ca/en/ShowTdm/cs/e-22///en>.

Some may argue that thinking about the world in terms of security allies as economic competitors could have the effect of undermining Canada's historic alliances. However, as long as such a capability is not used excessively and only to enforce rules and create a level playing field, we can minimize the amount of anger directed towards Canada, especially because many countries engage in these types of activities themselves. In addition, as there are a number of international issues requiring cooperation amongst intelligence services, namely terrorism, it is the best interest of intelligence agencies to not stop the sharing of information to deal with traditional security issues.

Conclusion

The issue of an offensive economic espionage capability to be used against allies presents a wide range of opportunities for a country to maximize its ability to ensure its economic security. However, there are also dangers in undertaking these types of activities and risks that it presents to the Western alliance, of which Canada is a part of. The US has a long history of collecting economic intelligence to study macroeconomic issues. In addition, many of Canada's international partners are known to engage in economic espionage, and in some instances have institutions or explicit government mandates directing them to do so. However, there exists no international regulatory regime which dictates whether Canada can engage in such activities albeit that by engaging in these sorts of activities, Canada will most likely find itself in violation of the domestic laws of foreign countries.

All the evidence presented in this paper illustrates there is a fine line to walk between the self-preservation of an economy and not unnecessarily offending allies. There are three areas in which Canada can, and should, be collecting economic

intelligence: treaty compliance, level playing field for contract bidding, and monitoring international financial markets. In all these instances intelligence services are not in a position to perform enforcement or judicial actions, but rather can provide analysis and place the information in broader contexts not easily done by other government agencies. This information could be of invaluable use to policy makers by enabling them to make decisions to maintain this country's economic security.

Canada should however proceed prudently in this regard by first maximizing our use from open source information before moving into areas of clandestine collection. Any such capability should be housed under the Minister of Foreign Affairs and all clandestine missions should require the direct approval of the Prime Minister to avoid misuse. Such a capacity should not be used to clandestinely steal technology nor to support individual firms as government intervention of these sorts in the economy will inevitably result in the government trying, probably unsuccessfully, to pick winners and losers, something which should be left to the markets.

Such activities will not lead to the end of the Western security alliance and its ability to meet the security threats which it faces today. Many countries engage in these sorts of activities against their allies, and it is probable that Canada itself is a victim of these acts. However, the difficulties do not mean that the Government of Canada should abrogate its responsibilities to its citizens by providing an atmosphere where business can thrive.