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The Defense Trade Cooperation Treaties with the United Kingdom and Australia Advance the American Interest

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The Senate Foreign Relations Committee (SFRC), chaired by Sen. Joe Biden (D-DE), announced last week that it was delaying consideration of bilateral defense trade cooperation treaties between the United States and the United Kingdom and between the U.S. and Australia.¹

These treaties are important to advancing U.S. defense and security cooperation with two of its closest allies. They also offer important benefits to U.S. industry and the American military. The SFRC and the Bush Administration must work together to resolve the concerns that led to this delay, and the SFRC must give early consideration to both treaties.

A Cumbersome Process. The U.S.–U.K. treaty (Treaty Document 110-7) was signed on June 21 and 26, 2007. A similar U.S.–Australian treaty (Treaty Document 110-10) followed on September 5, 2007.² The treaties permit the U.S. to trade most defense articles with these nations without an export license or other written authorization.³ Currently, the U.S. reviews export license requests on a case-by-case basis. In 2006, the U.S. Department of State reviewed more than 7,000 licenses for defense exports to the U.K. Potential transatlantic projects often require many levels of government approval.⁴

Despite some recent improvements, the export license process remains a cumbersome and lengthy one. This discourages defense suppliers from the U.K. and Australia from participating in U.S. defense acquisition programs, which raises costs

and reduces the ability of the U.S. to supply its forces efficiently. At the same time, the license system raises barriers to profitable U.S. exports to its closest allies.

Finally, it encourages the U.K. and Australia to procure from other suppliers, whose systems may not be interoperable with those of the U.S. This reduces the ability of the U.S., the U.K., and Australia to conduct joint operations. Over time, it will lead these closest of allies to become militarily and politically reliant upon other countries. In particular, there is a serious risk that the U.K. will further increase its reliance on European consortia. Such a development would not be in the interests of U.S. exporters—or the U.S. as a whole.

Unnecessarily Burdensome. The U.S. refuses very few export licenses for defense trade with the U.K. or Australia: In a typical year, over 99.9 percent of requests are approved.⁵ While the existing export license system—the International Traffic in Arms Regulations (ITAR)—ultimately denies almost no licenses to the U.K. or Australia, the system does exist for an important reason: to restrict foreign access to advanced U.S. technology. It is therefore

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essential to note that the treaties do not simply decontrol defense trade.

Rather, under the treaties, the U.S. has negotiated with the British and Australian governments an approved list of private sector defense- and counter-terrorism-related entities in these countries that are allowed end-user access to U.S. items. Both the U.K. and Australia will protect U.S.-origin items as classified and will require prior U.S. approval for the re-export of these items.⁶

The fact that some defense firms operating in the U.K. are foreign-owned (such as the Italian firm Finmeccania) does not raise additional concerns; these firms also operate in the U.S., frequently supply U.S.-owned firms such as Boeing with crucial components, and regularly receive export licenses under the existing system. The treaties will not give them access to U.S.-origin items beyond those with which they already work.

Finally, the U.S. has excluded certain particularly sensitive items from eligibility under the treaties.⁷ Therefore, the treaties will not expose U.S. technology to significant additional risks of transfer to unauthorized foreign users. The treaties will instead allow the existing market to operate more efficiently, reducing costs for all and encouraging suppliers in all three countries to bid against and purchase from each other. This will raise the level of competition in all countries and reduce the ability of any one company to dominate the procurement process. The

result will be lower costs, faster development cycles, better weapons systems, and a renewal of the close and vital defense ties between the U.S., the U.K., and Australia.

A Poor Show. Both Australia and the U.K. strongly back these treaties. The Select Committee on Defence of the House of Commons in the U.K. issued a report on the U.S.–U.K. treaty on December 11, 2007. Its conclusion was cogent:

We are confident that Congressional scrutiny of the Treaty will show that it is as much in the US interest as it is in the interest of the UK... The US export control system imposes a large administrative burden on defence exports from the US to the UK. While we respect the wish of the US to control its defence exports, we consider that its current system of controls for exports from the US to the UK is unduly burdensome and time-consuming. The US and the UK are very close allies, cooperating closely on defence and security. Our soldiers are fighting side by side in Iraq and Afghanistan. It is vital to the interests of both the US and the UK that the system should not prevent our Forces from getting access to the equipment they need to fight effectively alongside their US allies in current and future operations.⁸

In response to the SFRC's delay, a Ministry of Defence spokesman in Britain stated that "the Gov-

1. Jen DiMascio, "Senators Delay Defense Trade Treaties," *Politico*, September 22, 2008, at http://www.politico.com/blogs/thecript/0908/Senators_delay_defense_trade_treaties_.html (September 25, 2008).
2. See Baker Spring, "Defense Trade Cooperation Treaties with Australia and the U.K. Will Improve Security," Heritage Foundation, *Backgrounder* No. 2107, February 8, 2008, p. 1, at <http://www.heritage.org/Research/NationalSecurity/bg2107.cfm>.
3. John C. Rood, "Hearing on Defense Trade Cooperation Treaties with the United Kingdom and Australia," testimony before the Foreign Relations Committee, U.S. Senate, May 21, 2008, p. 2, at <http://foreign.senate.gov/testimony/2008/RoodTestimony080521a.pdf> (September 25, 2008).
4. John C. Rood, "The U.S.-U.K Defense Trade Cooperation Treaty: Entering a New Era of Transatlantic Defense Cooperation," remarks at the Aerospace Industry Association Board of Governors Meeting, November 16, 2007, pp. 2–3, at <http://www.state.gov/t/us/rm/107514.htm> (September 25, 2008).
5. *Ibid.*, p. 2.
6. Rood, "Hearing on Defense Trade Cooperation Treaties," pp. 3–4.
7. *Ibid.*, p. 3.
8. Select Committee on Defence, House of Commons (UK), *UK/US Defence Trade Cooperation Treaty*, December 11, 2007, Section 4, "Conclusions and Recommendations," paras. 1–2, at <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmdfence/107/10708.htm> (September 25, 2008).

ernment remains fully committed to the Defence Trade Co-operation Treaty and we are working closely with the US Administration to find a way forward.”⁹ Shadow Defense Procurement Minister Gerald Howarth said, “We’ve been pressing for this for two years and it’s a pretty poor show that Congress has failed to accord more support to its number one ally.”¹⁰

Delay Threatens Harm. The committee’s decision, as explained by Chairman Biden and ranking member Sen. Richard Lugar (R-IN), stemmed from their belief that they lacked the necessary time to evaluate the Administration’s proposed amendments to the ITAR that are necessary to put the treaties into effect.¹¹ It does not reflect a lack of enthusiasm on the part of the Administration or broad-based opposition to the treaties in the Senate.¹²

As such, it is incumbent on the Administration to ensure that its proposed ITAR amendments are clearly laid out, and on the SFRC to give careful consideration to the U.S.–U.K. and the U.S.–Australia treaties at the earliest possible date. Further delay threatens to harm the interests of U.S. exporters, the U.S. Armed Forces, and the confidence of two of the U.S.’s closest friends in the value of their alliance with this nation. The U.S.–U.K. and the U.S.–Australia partnerships in defense are cornerstones of our shared security. Prompt action to strengthen these partnerships is vital.

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9. “Senators Refuse to Approve Treaty,” *Daily Express*, September 25, 2008, at <http://www.express.co.uk/posts/view/62713/Senators-refuse-to-approve-treaty> (September 25, 2008).
 10. Sylvia Pfeifer and Demetri Sevastopulo, “Defence treaty delay to hit UK,” *Financial Times*, September 22, 2008, at <http://www.ft.com/cms/s/0/2af58b4a-883e-11dd-b114-0000779fd18c.html> (September 26, 2008).
 11. DiMascio, “Senators Delay Defense Trade Treaties.”
 12. Pfeifer and Sevastopulo, “Defence treaty delay to hit UK.”