

# WebMemo



Published by The Heritage Foundation

No. 2542  
July 13, 2009

## The U.S.–U.K. Defense Trade Cooperation Treaty Merits Early Consideration

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The U.S.–U.K. Defense Trade Cooperation Treaty will permit the U.S. to trade most defense articles with Great Britain without an export license or other written authorization. The treaty will advance American interests by:

- Reducing barriers to defense-related trade and so increasing exports;
- Improving the procurement process in both nations; and, most important of all,
- Enhancing the already close defense and security alliance between the U.S. and Britain.

The treaty was negotiated under the Bush Administration, but it has the backing of the Obama Administration and has won strong support from key Republican Senators. Unlike too many other treaties that the Senate may be called upon to consider in the coming months, it does not infringe on the sovereignty of either nation. And unlike too much of the trade-related legislation and diplomacy since the onset of the financial crisis, it is not protectionist.

Instead, the treaty promotes both economic freedom and national security and therefore merits early consideration by the Senate.

**A Problem Facing Defense-Related Trade.** 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.<sup>1</sup>

This process is cumbersome and lengthy. It discourages defense suppliers from the U.K. from participating in U.S. defense acquisition programs, which raises costs and reduces the ability of both states to equip their forces efficiently.

The license system also raises barriers to profitable U.S. exports to its closest allies and encourages the U.K. 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. and the U.K. to conduct joint operations. Over time, it will encourage Britain to become militarily and politically reliant upon other countries.

**The Treaty Addresses This Problem.** The U.S.–U.K. treaty was signed on June 21 and June 26, 2007. A similar U.S.–Australian treaty followed on September 5, 2007.<sup>2</sup> These treaties permit the U.S. to trade most defense articles with Britain and Australia without an export license or other written authorization.<sup>3</sup> The U.S. ultimately refuses very few export licenses for defense trade with either state: In a typical year, over 99.9 percent of requests are approved.<sup>4</sup> The treaties, therefore, are not a radical departure from current policy and practice. Rather, they will reduce administrative burdens on a well-

This paper, in its entirety, can be found at:  
[www.heritage.org/Research/Europe/wm2542.cfm](http://www.heritage.org/Research/Europe/wm2542.cfm)

Produced by The Margaret Thatcher Center for Freedom

Published by The Heritage Foundation  
214 Massachusetts Avenue, NE  
Washington, DC 20002–4999  
(202) 546-4400 • [heritage.org](http://heritage.org)

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established trade and thereby encourage it to grow to the benefit of all concerned.

The treaties do not simply decontrol defense-related trade. 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.<sup>5</sup> The U.S. has also excluded certain particularly sensitive items from eligibility under the treaties.<sup>6</sup> The treaties, therefore, will not expose U.S. technology to significant additional risks of transfer to unauthorized foreign users.

**The Advantages of the Treaty.** The treaty has three important advantages:

1. The U.S. stands to gain economically from any reduction in defense-related trade barriers. Of course, the U.S. should never support defense trade measures that are economically advantageous but pose serious risks to security. But the treaty does not pose such risks, and it will make it easier for U.S. industries such as aerospace—which had a positive trade balance in 2007 of \$56.5 billion—to sell goods and services to Britain.<sup>7</sup>
2. The treaty will improve procurement in both the U.S. and Britain. U.S. law requires U.S. export

licenses for imports of weapons and equipment for use by the U.S. military, because foreign suppliers must have access to U.S. technology to participate in Defense Department acquisition programs. This access is defined as an export by U.S. law.<sup>8</sup> The treaty would therefore facilitate U.S. defense-related imports as well as exports, in the usual sense of the latter term. This would expand the U.S. defense acquisition base and, by allowing the U.K. improved access as a buyer in the U.S. market, do the same on a much larger basis for Britain. Through both separate purchases and joint projects, this will create new economies of scale and reduce unit prices.

3. The treaty, by encouraging the U.S. and the U.K. to purchase the same equipment, will facilitate efficient joint operations. Even more importantly, and over the longer run, the treaty will bind the U.S. and the U.K. closer together, because it will be easier for them to cooperate with each other. This is important for both the U.S.—for whom the U.K. is an indispensable ally—and for the U.K., which will otherwise be unable to afford necessary defense capabilities or be pushed deeper into joint programs with the European Union. These programs have a lamentable record, in part because most of the states involved in them are uninterested in defense spending as anything more than a way to subsidize jobs and promote political integration.<sup>9</sup> For

1. 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).
2. Baker Spring, “Defense Trade Cooperation Treaties with Australia and the U.K. Will Improve Security,” Heritage Foundation *Backgrounder* No. 2107, February 8, 2008, 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. Rood, “The U.S.–U.K. Defense Trade Cooperation Treaty,” p. 2.
5. Rood, “Hearing on Defense Trade Cooperation Treaties,” pp. 3–4.
6. *Ibid.*, p. 3.
7. Aerospace Industries Association, “AIA Welcomes State Department Proposal to Clarify Export Controls for Civil Aviation Manufacturers,” April 14, 2008, at [http://www.aia-aerospace.org/newsroom/aia\\_news/2008/AIA\\_Welcomes\\_State\\_Department\\_Proposal\\_to\\_Clarify\\_Export\\_Controls\\_for\\_Civil](http://www.aia-aerospace.org/newsroom/aia_news/2008/AIA_Welcomes_State_Department_Proposal_to_Clarify_Export_Controls_for_Civil) (July 7, 2009).
8. Baker Spring, “Defense Trade Cooperation Treaties with Australia and the U.K. Will Improve Security,” p. 2.
9. Ted R. Bromund, “British Defense Cuts Threaten the Anglo–American Special Relationship,” Heritage Foundation *Backgrounder* No. 2210, November 18, 2008, pp. 17–19, at <http://www.heritage.org/Research/Europe/bg2210.cfm>.

the U.S. and the U.K., shifting the base of British procurement to the U.S. is an issue of strategic importance.

The treaty is also praiseworthy because it does not infringe on U.S. or British sovereignty. Regrettably, several of the treaties on the Obama Administration's Treaty Priority List, such as the U.N. Convention on the Law of the Sea, are extremely controversial, in part because they create institutions—such as the International Seabed Authority—that would have the power to bind the U.S. without its consent.<sup>10</sup> By contrast, the U.S.–U.K. treaty creates no such institutions and leaves responsibility for investigating alleged violations of the treaty to national authorities.<sup>11</sup>

Similarly, the treaty, unlike much trade diplomacy and legislation, does not conceal a protectionist agenda. For example, while the past two G-20 meetings have promised to promote open markets, the World Bank has found that “17 G-20 members and other countries have implemented approximately 78 new protectionist measures since the onset of the financial crisis in fall 2008.”<sup>12</sup> The Trade Reform, Accountability, Development and Employment (TRADE) Act, introduced in Congress on June 24, would, if implemented, “effectively bring to a halt the free flow of goods and services into and out of the United States.”<sup>13</sup> By contrast, the treaty would reduce unnecessarily restrictive government controls and thereby constitute a genuine

move toward freer trade.

**Strong Support in Britain and the U.S.** The Select Committee on Defence of the House of Commons issued a report on the treaty on December 11, 2007. It concluded that:

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... While we respect the wish of the US to control its defence exports, we consider that its current system of controls...is unduly burdensome and time-consuming... 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.<sup>14</sup>

Backing in the U.S. is equally firm and bipartisan. The Obama Administration has included both the U.S.–U.K. and the U.S.–Australia treaties on its Treaty Priority List for the 111th Congress.<sup>15</sup> Shortly thereafter, Senator Lindsey Graham (R–SC) and Foreign Relations Committee member Senator Jim DeMint (R–SC) announced their support for the U.S.–U.K. Treaty.<sup>16</sup>

**The Treaty Merits Early Senate Consideration.** The U.S.–U.K. Defense Trade Cooperation Treaty, like its U.S.–Australian counterpart, addresses a serious problem in a responsible way. It will pro-

10. Baker Spring, Steven Groves, and Brett D. Schaefer, “The Top Five Reasons Why Conservatives Should Oppose the U.N. Convention on the Law of the Sea,” Heritage Foundation *WebMemo* No. 1638, September 25, 2007, at <http://www.heritage.org/Research/InternationalOrganizations/wm1638.cfm>.

11. “Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation,” U.S. State Department, June 21, 2007, Article 13, at <http://www.state.gov/t/pm/rls/othr/misc/92770.htm> (July 7, 2009).

12. Daniella Markheim, “A Trade Agenda for the G-8 Summit in Italy,” Heritage Foundation *Backgrounder* No. 2293, July 1, 2009, p. 4, at <http://www.heritage.org/Research/TradeandEconomicFreedom/bg2293.cfm>.

13. Daniella Markheim, “An Act to End Trade,” Heritage Foundation *WebMemo* No. 2524, July 6, 2009, p. 1, at <http://www.heritage.org/Research/TradeandEconomicFreedom/wm2524.cfm>.

14. 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).

15. Ted R. Bromund, “The Obama Administration Supports the U.S.–U.K. Defense Trade Cooperation Treaty,” *The Foundry*, June 10, 2009, at <http://blog.heritage.org/2009/06/10/the-obama-administration-supports-the-us-uk-defense-trade-cooperation-treaty>.

16. Ted R. Bromund, “Senatorial Backing for U.S.–U.K. Defense Trade Cooperation Treaty,” *The Foundry*, June 23, 2009, at <http://blog.heritage.org/2009/06/23/senatorial-backing-for-us-uk-defense-trade-cooperation-treaty>.

mote trade, improve American and British procurement processes, and enhance U.S. defense and security ties with its most vital partner. The treaty has strong support from all major parties in both the U.S. and Britain, and it suffers from none of the deficiencies of some of the other treaties or legislation that may shortly come before the Senate. It has been delayed primarily not because of principled objec-

tions but because it has not been pressed forward with urgency. This is a poor reason for delay and a poor way for the U.S. to treat its best ally. The treaty therefore merits early consideration by the Senate.

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