

**TESTIMONY BY
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U.S. DEPARTMENT OF STATE**

**HEARING ON DEFENSE TRADE COOPERATION TREATIES
WITH THE UNITED KINGDOM AND AUSTRALIA**

**United States Senate Foreign Relations Committee
SD-419**

**9:15 pm to 10:45 pm
May 21, 2008**

Mr. Chairman:

Thank you for holding this hearing and for the opportunity to testify before the Committee on the two bilateral defense trade cooperation treaties between the United States and the United Kingdom (Treaty Document 110-7), and Australia (Treaty Document 110-10). On behalf of the Administration, I urge you and your colleagues in the Senate to promptly provide advice and consent to the ratification of these treaties.

The UK and Australia Defense Trade Cooperation Treaties represent a paradigm shift in the way the United States conducts defense trade with its closest allies. Rather than reviewing and approving individual export licenses, once ratified and fully implemented, the Treaties will establish an environment where trade in defense articles, technology and services can take place freely and securely between approved communities in the U.S., U.K., and Australia. These Treaties are designed to enable each nation's government and industry to work together in a flexible, agile manner to provide the best possible defense technology and equipment to our military forces and counter-terrorism organizations.

The Treaties will permit, without prior written authorization, the export of defense articles, technical information, and services controlled pursuant to the International Traffic in Arms Regulations, or ITAR, between the United States and the United Kingdom and Australia, when in support of:

- combined military and counter-terrorism operations;
- joint research, development, production, and support programs;
- mutually agreed projects where the end-user is Her Majesty's Government or the Government of Australia; or the U.S. Government.

The U.S. Government will maintain its authority over which end-users may have access to U.S. Munitions List items under the Treaties by mutually agreeing with Her Majesty's Government, and with the Government of Australia, on an approved community of private sector defense and counter-terrorism related entities in these countries. The U.S. Government will not approve the British and Australian government entities that will be eligible to use the Treaties, but we will clearly identify those entities for compliance and enforcement purposes. Not all ITAR-controlled items will be eligible for export under the Treaties. We have identified such items in a proposed "Exemption List," which was carefully developed by the Department of Defense, and provided this to the Committee staff.

Both the UK and Australia have agreed to protect US-origin defense items exported under the Treaty using their national laws and regulations which govern the safeguarding of classified information and material, and to require prior U.S. approval for the re-export and re-transfer of such items outside the approved community. We have agreed with the United Kingdom and Australia on detailed compliance and enforcement measures, to be required of members of each approved community, which were negotiated by the Departments of State, Justice, Homeland Security (specifically, Customs and Border Protection, and U.S. Immigration and Customs Enforcement), and the Department of Defense. Violations of the Treaties will be prosecuted under the laws of the responsible participant.

These details, and others related to how the Treaties will actually work, are contained in the “Implementing Arrangements” called for in both Treaties. These arrangements will become effective on the date of entry into force of the Treaties. If ratified, the Treaties will be self-executing; that is, no additional implementing legislation will be required to bring them into force, although we will need to publish federal regulations implementing their effect on existing law. The Administration believes that these Treaties will play a key role in our ability to

manage risk while fulfilling our dual obligations of building partnership capacity with key allies and protecting U.S. defense technology through export controls.

I will now highlight the strategic rationale for the Treaties and explain why swift Senate action to provide its advice and consent would significantly advance U.S. national security objectives with our two closest allies.

First, from an investment and trade perspective, the United States, the United Kingdom, and Australia are already connected to a remarkable degree. The United States is the largest foreign investor in the United Kingdom with over \$360 billion in investments. Indeed, close to a third of U.S. direct investment to all EU countries reaches the UK, while about 40% of U.S. investment in G-8 countries is in the UK. Likewise, the United States has invested over \$120 billion in Australia, making it that nation's largest foreign investor. To put these numbers in perspective, it is worth considering U.S. economic relations with rising global powers China and India. While increasing rapidly, U.S. investments in those countries are approximately \$22 billion and \$9 billion, respectively – still significantly less than in the UK and Australia.

These relationships are, of course, reciprocal. The UK's \$300 billion worth of investments in the United States makes it our largest foreign investor. These investments account for over one-fourth of all EU investments in the United States. Australia is the eighth-largest investor in the United States.

The economic interdependence between the United States, the UK, and Australia is only one aspect of a much deeper bond that connects our nations – a bond that Winston Churchill called “the fraternal association of the English-speaking peoples.” Our shared historical experience, culture, and – above all – commitment to the ideals of human liberty, form the deep and solid basis for our alliance over many years, and the implementation of these Treaties will further cement these relationships.

This leads me to my next reason for swift Senate action on these Treaties – our enduring strategic interdependence. Going back over 90 years to our alliance with Great Britain and its Commonwealth States against the Central Powers during World War I, defense relations in particular have served to strengthen U.S.-UK-Australia alliance ties throughout recent history. In the early years of World War II, President Franklin Roosevelt provided the UK with military hardware under the lend-lease program, helping Britain stand as a bulwark in Europe against fascist

aggression. U.S.-U.K. scientific and technological cooperation throughout the war led to tremendous advances in military technology, such as the invention of radar in the UK and advances in code breaking, and the Manhattan Project in the United States. Ultimately, the efficient, integrated nature of the allied defense industry proved decisive in dealing the final deathblow to the Axis powers. While spending less than 40% of our GDP on military spending during World War II, the introduction of U.S. troops in Europe and the Pacific helped secure an allied victory in WWII. In addition to close cooperation during World War II, the US-Australia alliance continued to mature as symbolized most clearly by the ANZUS Treaty of 1951. Interestingly, the ANZUS Treaty and NATO Article 5 were both invoked after the September 11th attacks on the United States.

This military cooperation continued throughout the Cold War as allied defense industries worked together on a wide range of advanced technologies and knowledge, producing key strategic weapons systems like ballistic missile submarines and Tomahawk cruise missiles, which are invaluable to our combined arsenals today. The collaborative nature of our defense industries was critical in defeating communism.

The United States, UK, and Australia are once again engaged in an overarching struggle, this time against terrorists and insurgents operating outside conventional boundaries of warfare. The September 11th attacks in the US, the July 7th attacks in London, and the October 2002 Bali bombing are grim reminders of the transnational threat we face.

However, effective cooperation in the War on Terrorism is not inevitable; the United States must work with its allies to create new institutional paradigms that facilitate strategic collaboration. It is in this context that I hope you will consider the Treaties. Specifically, I will suggest three benefits we expect to see if the Senate provides advice and consent to the Treaties.

First, the Treaties will further strengthen the U.S.-UK-Australia alliance. Both the UK and Australia are critical allies in the War on Terrorism, supporting coalition missions in Afghanistan and Iraq with operational, tactical and intelligence support. In the event of future military engagements, the United States would naturally look to the UK and Australia for support as key coalition partners. A streamlined export control environment under the Treaties with these key allies will allow greater opportunities for joint research, development, production, and support of defense equipment by government and industry, and would expedite the

delivery of critical warfighting technologies to our military forces and counter-terrorism organizations fighting the War on Terrorism every day. Greater agility in development, and economies of scale in production and support, will result in more timely delivery of capability to our operational forces while reducing costs. This in turn will yield increased battlefield effectiveness because all three nations' forces will be outfitted with common, interoperable, and supportable force protection, weapons, intelligence, surveillance, and reconnaissance, logistics, and command, control, and communications systems.

Second, the Treaties will create an even more competitive defense marketplace with these allies. The institutionalized reforms in these Treaties will create opportunities for more efficient exchanges between our defense firms and those of the UK and Australia, many of which specialize in development, production, and support of critical equipment needed to fight and win current and future conflicts. Treaty implementation will improve the competitive environment, thereby attracting more firms into the defense marketplace by lowering the costs of entry into an international market. This is particularly important given our continuing trend toward greater private-sector investment in defense research and development. The operational forces of the U.S. and its key allies will have

greater, and lower-cost, access to world class, cutting-edge technologies in the U.S., UK and Australia, much to taxpayers' benefit.

The promise of innovation is not simply a long-term prospect; a number of ongoing programs and projects would progress with greater ease immediately after the Treaties' entry into force. For example, the United States, UK, and Australia are already working jointly on technologies to defeat Improvised Explosive Devices (IED's), which our forces face on a daily basis in Iraq and Afghanistan.

Finally, it is worth considering projected trends in export licenses. In FY 2008, the State Department's Bureau of Political-Military Affairs expects to license up to \$96 billion in authorized exports for direct commercial sales. The number of applications received has increased at about 8% annually. We anticipate that total licenses received will rise from 69,000 in FY 2006 to 85,000 in FY 2008. Industry officials and government representatives from our closest allies often raise concerns that export license processing delays are inhibiting efforts toward multilateral cooperation in support of military and counter-terrorism operations. Over the past two years, the State Department has processed over 15,000 such export licenses for defense trade with the UK alone. Over 99.9% of these requests were approved. We judge that, when implemented, the Treaties

will remove the requirement for approximately two-thirds of the licenses required today for both the UK and Australia.

All of the benefits flowing from increased research and development cooperation, freer trade and a more competitive market are in no way gained at the expense of our fundamental duty to protect critical U.S. defense technologies. In both countries consignment and end-use of Treaty exported articles will be limited to security cleared facilities and entities, as well as security cleared staff with a bona fide need-to-know. In the UK, Defense articles exported under the Treaty will be subject to the Official Secrets Act, as well as other relevant UK laws. In Australia, the “official secrets” section of the Crimes Act, as well as the Criminal Code Act and Customs Act will similarly apply to exports under the Treaty. Approved community companies are required to maintain all records of Treaty-related transactions for a minimum of five years and can be subject to audit. The Treaties also provide for end-use monitoring and verification to ensure compliance and investigate potential violations.

In considering the two Treaties before you, I hope that the distinguished members of this Committee will reflect on not only the immediate defense implications of ratification, but also the larger strategic importance of the Treaties. Confronting

emerging security challenges will require strong alliances inspired by shared ideals and facilitated by effective institutions. Enduring friendships with the UK and Australia are paramount. These Treaties will establish a framework for greater cooperation in support of our efforts with these key allies in the decades to come.

With this in mind, I respectfully urge the Senate to act on the Treaties in a prompt and timely manner. I would be pleased to answer any questions you might have.

Thank you.