Of Interest
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COOPERATION LEADS TO BETTER SECURITY

A. Edward Major

The Senate should promptly approve the Defense Trade Cooperation Treaty. It makes our huge trade budget with the United Kingdom (UK) more efficient without compromising national security, and is a necessary efficiency to serve our domestic security and that of our soldiers abroad. The treaty allows the United States to (1) place new technology and expertise into the hands of our military, (2) reduce research and development times, and (3) erode the complications, delay, and expense of outdated regulation.

The Defense Trade Cooperation Treaty is limited in scope. It applies only to the established relationship enjoyed with the UK and obviates the need for new licenses every time there is a transaction with a pre-approved government agency, military, or a company which is directly supplying the UK government or the military. Current law rightfully requires voluminous documentation and an extensive review period of the defense trade to fulfill U.S. Department of State licensing requirements. But the law also unrealistically makes no distinction between U.S. trading partners, which have very different security procedures. The Treaty streamlines the process for transactions that directly benefit only the UK government or military. To approve the Treaty is to honor our existing two-way relationship and shared commitment to fighting terrorism, while restricting proliferation of our technology and research.

Why the UK?

America enjoys reliable relationships with a plethora of other nations, but few may claim the depth we share with the UK. When diplomacy fails, few allies have stood up in the storm with us. When others "talk the talk," precious few "walk the walk." The UK has found a way to stand with us, in spite of a globally stretched military and the huge costs incurred in casualties and budget. The UK is also an extremely valuable trade partner because it is our largest defense trade partner, and it possesses a high degree of technical expertise. The United States can except this limited trade from the extensive licensure process, which requires both authorization and approval by the United States, in recognition of proven UK security. Trade material entering the UK under this arrangement will be classified at a minimum as "Restricted-U.S. Military

List" and subject to the terms of the Official Secrets Act, including its penalties for unauthorized disclosure. Penalties under UK law for violations of U.S. retransfer and end-use restrictions would be much stiffer under the Treaty, according to the U.S. Assistant Secretary of State for International Security Affairs and Non-Proliferation, The Honorable John Rood, and Assistant Attorney General William E. Moschella. In an environment where security operations are asymmetric and worldwide, not bound by national boundaries, joint operations are more necessary and common. (A similar treaty with Australia is also pending before the Senate).

The Senate has shilly-shallied or resisted approval of the Treaty for over 6 months since Executive agreement on Treaty terms between our nations. The delay has strained our diplomatic relations and continues to affect our ability to cooperate freely.

The basic terms of the agreement have been before Congress much longer. President Bill Clinton's Defense Trade Security Initiative, 2000, moderated arms export controls when dealing with "governments of treaty allies and qualified companies within those countries that have export controls comparable in scope and effectiveness to those of the U.S." Some government officials remained skeptical of the exemptions because they made acquisition of military equipment easier and made law enforcement to prosecute offenders more difficult. Congress worked through these objections, adding specific retransfer, handling, and enforcement components.

Criticism of the Proposed Treaty.

Let us examine the criticism of those who would disagree.

In spite of Congress' resolutions, a 2004 report of the House International Relations and Armed Services Committees entitled "US Weapons Technology at Risk" expressed several concerns. The Treaty would:

1. Eliminate "nearly all critical elements of prior U.S. Government scrutiny and control,"
2. "Enlarge risks of diversion," and
3. Eliminate our ability "to screen for telltale signs of diversion to rogue governments, criminal organizations, . . ."

These concerns are misplaced as follows:

1. The proposed Treaty neither compromises government scrutiny nor overturns existing U.S. law. "Existing" or "current" U.S. law is primarily the International Traffic in Arms Regulations, sometimes known as "ITAR," which are the implementing instructions of the U.S. Arms Export Control Act of the Cold-War era. The Treaty's application is limited to dealings that directly benefit the UK government and Her military. Under the Treaty, the UK partner (government, military, or company) has continuing responsibility to scrutinize new employees, processes, and products. This reduces our legal obligation to rehearse the difficult and delaying security clearance process every time business is done.

To understand the immensity of effort caused by ITAR, the State Department's Directorate of Defense Trade Controls reviewed more than 70,000 cases in 2006 alone, up from 44,000 in 2005. Keeping up with these applications is overwhelming other security procedures. Over the years 2005-06, over 13,000 export license applications to Britain were examined, and after this massive approval process, according to The Honorable John Rood, 99.9 percent were approved! This statistical rubber stamp points out that the licensing requirements, so expensive and time-consuming to government, taxpayers, and companies, are little more than a paper-shuffling waste. As applied to defense trade with the UK, ITAR, by its outdated requirements, diverts valuable assets, and slows and prejudices our ability to prosecute our fight against terrorism.

2. The risks of U.S. technology being diverted are not increased. The Treaty restates current law and adds further protections: (a) if we feel (our own subjective standard) that matters are ill-protected or have changed, the Treaty specifically provides our right to review and revet, and (b) U.S. technology, goods, and research will be prohibited from export and resale, thereby restricting proliferation.

3. Upon hearings before Congress, then Secretary of State Colin Powell pointed out the procedures required by the Treaty still require *de novo* review of every shipment, contrary to understanding of the House Committees. Exporters must disclose, via electronic report at least 24 hours prior to shipment, an itemized account of the content of every shipment. Members, recognizing the overburden on customs officials, feared that adequate reviews could not be performed. However, the electronic report presents information in a new, easier to review format, making scarce time more efficient.

How Will the Treaty Help?

What we need is law that does not require a license every time a transaction takes place and provides the means of efficient, but secure trade.

There is an already flourishing trade in defense materiel between the United States and UK. For years we have dealt with the UK, repeatedly investigating every transaction in dutiful, torpid compliance with ITAR. The inefficiency, loss of time, expense, and, perhaps worst, diversion of efforts of our security forces from actual threats, are staggering.

The Senate approval of the Defense Trade Cooperation Treaty will greatly reduce wasted time and money, and will reinvest our valuable security assets.

Approval also will recognize the extensive nature of our relationship to the UK and the history of our commercial engagement. The UK has similar standards for administrative and judicial review, legal protections accorded those subject to reviews, and deeply shared commitment to resist terrorism. We are already comfortable with the British process, both its thoroughness and protection of rights. Freed from the bureaucracy, our personnel can be more effectively applied to real risks as they appear in this rapidly changing environment.

In Summary.

Friends of America naturally receive our confidence. Logic and instinct combine in the Treaty's treatment of the British. Our reliance on their governmental institutions and vetted companies is a means of liberating our security efforts from repetitive duties, freeing us to focus on priority targets and issues. With limited resources for security measures, we must prioritize and free personnel and funds to address the fast-changing threats of our enemies.

The Treaty stands as an enhanced measure to fight terrorism. It shall allow us to deepen our mutually advantageous relationship. If we are to resist the deeds of a pernicious enemy on an asymmetric battlefield, we must allow ourselves to be nimble. The Treaty allows the efficient provision of modern technology to our armed forces. They deserve nothing less.

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Mr. Major is an attorney who practices in New York, New Jersey, and Florida, as well as England and Wales. His practice includes Anglo-American issues. He is a member of the American Bar Association's Committee on Law and National Security and attended the U.S. Army War College's National Security Seminar in June 2007.

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