



House of Commons  
Defence Committee

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**UK/US Defence Trade  
Cooperation Treaty:  
Government Response  
to the Committee's  
Third Report of Session  
2007–08**

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**Third Special Report of Session 2007–08**

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## The Defence Committee

The Defence Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Ministry of Defence and its associated public bodies.

### Current membership

Rt Hon James Arbuthnot MP (*Conservative, North East Hampshire*) (Chairman)  
Mr David S Borrow MP (*Labour, South Ribble*)  
Mr David Crausby MP (*Labour, Bolton North East*)  
Linda Gilroy MP (*Labour, Plymouth Sutton*)  
Mr David Hamilton MP (*Labour, Midlothian*)  
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Richard Younger-Ross MP (*Liberal Democrat, Teignbridge*)

The following Members were also Members of the Committee during the Parliament.

Mr Colin Breed MP (*Liberal Democrat, South East Cornwall*)  
Derek Conway MP (*Conservative, Old Bexley and Sidcup*)  
Mr Mark Lancaster MP (*Conservative, North East Milton Keynes*)  
Willie Rennie MP (*Liberal Democrat, Dunfermline and West Fife*)  
Mr Desmond Swayne MP (*Conservative, New Forest West*)

### Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via [www.parliament.uk](http://www.parliament.uk).

### Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at: [www.parliament.uk/defcom](http://www.parliament.uk/defcom).

### Committee staff

The current staff of the Committee are Mike Hennessy (Clerk), Eliot Wilson (Second Clerk), Ian Rogers (Audit Adviser), Stephen Jones (Committee Specialist), Lis McCracken (Inquiry Manager), Richard Dawson (Committee Assistant), Christine McGrane (Secretary) and Stewart McIlvenna (Senior Office Clerk).

### Contacts

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# Report

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The Defence Committee published its Third Report of Session 2007–08 on the *UK/US Defence Trade Cooperation Treaty* on 11 December 2007, as House of Commons Paper HC 107. The Government's response to this report was received on 11 February 2008. This is appended below.

## Government response

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1. The Government welcomes the House of Commons Defence Select Committee's (HCDC) report on the UK US Defence Trade Cooperation Treaty and its support for the ratification of the Treaty as soon as possible.

2. As the Committee has recognised, the Treaty will help to strengthen and deepen the UK and US defence relationship, allowing greater levels of cooperation and interoperability that will help support our Armed Forces particularly where they are operating side by side around the world.

3. The Treaty will significantly relieve administrative burden associated with applying for and processing US export licences. Removal of the need for such licences within the Treaty Approved Community will allow the UK to more quickly access material urgently needed to support our troops on the front line and will, in the longer term, help to improve interoperability between UK and US forces. The Treaty will also allow UK and US defence industries to work more closely together in developing new capabilities to tackle the ever-evolving threats both nations face. The Treaty will also remove thousands of licence applications each year from the US export control system, allowing it to better focus on exports of greater concern.

4. We are pleased that both the Committee and the industry witnesses agree that implementation of the Treaty has the potential to deliver the above benefits and will certainly be no worse than the current situation. We are of course working to ensure the Treaty has the widest possible applicability and are confident that, once implemented, it will deliver a major improvement in the transfer of defence material between the UK and US.

5. We acknowledge the Committee's view that the detailed Implementing Arrangements will be key to the success of the Treaty. We have continued to negotiate with the US to reach a position that best meets both countries' needs. We are now close to agreeing this position and the Implementing Arrangements will be published in due course in the form of a Memorandum of Understanding.

6. Parliamentary procedures for ratification of the Treaty in the UK are now complete. The Treaty must be ratified in the US by way of a Senate vote. We are working with the US State Department to build support for the Treaty within the Senate and are encouraging a vote to be scheduled as soon as possible.

7. The MOD would like to address a number of the conclusions and recommendations made by the Committee, in order to clarify the Government's position and make clear the action being taken to address the Committee's concerns.

**While it cannot be taken for granted that the Treaty will be approved by the required two-thirds majority of the US Senate, 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. (Paragraph 6)**

**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. (Paragraph 18)**

**We share the ambition of industry that the Approved Community should be as inclusive as possible. The current List X, the group of establishments that have been cleared by the UK Government as being able to handle classified material, is tried and tested and forms a solid foundation on which to build eligibility for inclusion in the UK Approved Community. In our view a UK Approved Community which was drawn more tightly—by excluding SMEs or major foreign-owned defence companies—would seriously blunt the effectiveness of the Treaty. UK defence companies owned by overseas companies form a significant part of the UK defence industry and have a large footprint in the UK economy: they are in practice regarded by the MoD as UK defence companies. If European-owned UK defence companies were barred from membership of the Approved Community, it would create a two-tier industry and would risk discouraging European collaboration. (Paragraph 26)**

8. We agree with the Committee that the Approved Community should be as inclusive as possible. First, there will be no bar on SMEs applying to join the Approved Community, providing they are able to meet the necessary criteria. In practice, companies will need to weigh the costs of investing in the appropriate security measures to meet Approved Community criteria against the level of business they expect to handle under the Treaty. In either case, companies who choose not to join the Approved Community and continue to apply for Individual US export licences should benefit from a more effective US system that has been unburdened with thousands of UK licence applications each year. We will also be working with the larger defence companies to ensure that sub-contractors are able to benefit from the Treaty as well as their respective Prime contractors.

9. Clearly the Government will be seeking the widest possible membership for the Approved Community, including those foreign-owned, UK-based companies that form a major part of the UK's defence industrial base. Such companies already operate successfully within the UK and have clear processes in place to ensure that UK-only material is adequately protected and controlled. They also have considerable experience of successfully applying for US export licences and protecting the material involved. We would expect that similar arrangements can be put in place to ensure the protection of US material exported to the UK under the Treaty and so satisfy the US authorities that the criteria of the Approved Community can be met. Ultimately, decisions on Approved Community membership will be taken jointly by the UK and US and it will be for the UK and US Governments and the companies involved to identify how Approved Community membership can best be achieved.

**We endorse the Government's approach that the list of technologies excluded by the Implementing Arrangements should be as short as possible. Given the reliance that**

**today's Armed Forces place on technology, an extensive list of exclusions emerging from the negotiations on the Implementing Arrangements would undermine the purpose of the Treaty. In our view, the longer the list of exclusions, the less effective the Treaty will be. (Paragraph 27)**

10. We continue to press the US to ensure that the scope of any technology exclusions are kept to a minimum in order that the Treaty has the widest possible applicability. Where the US does choose to exclude technologies, exporters will continue to be able to apply for individual US export licences using the existing system.

**We note that the Treaty does not cover multi-national programmes and therefore does not provide the key to ensuring a comprehensive transfer of technology for the Joint Strike Fighter programme. The Treaty has, however, the potential to assist those parts of the JSF programme which are exclusively joint US/UK collaborative projects. We welcome this benefit. We will continue to monitor the JSF programme closely. (Paragraph 29)**

**The Implementing Arrangements are fundamental to the scope and effectiveness of the Treaty. Until they are agreed, it is hard to judge to what extent the Treaty will reduce the barriers to US/UK defence exports. But the consensus of our industry witnesses was that the outcome was likely to be an improvement on the current arrangements. (Paragraph 30)**

**We expect the Government to keep us fully informed of the content of the Implementing Arrangements and of the progress of the Treaty, once it is brought into force. (Paragraph 33)**

11. It is our intention to provide the Committee with copies of the agreed Implementing Arrangement text once negotiations are complete on a privileged basis. We will also provide an update on how implementation of the Treaty is progressing once the ratification process has been completed in both the UK and US.

**We recommend that the Government continue to keep industry as informed as it is able within the constraints of the negotiating process on the Treaty, and that, once the Implementing Arrangements are agreed, the Government ensure that industry is fully involved in discussions on the practical implementation of the Treaty. (Paragraph 34)**

12. We have continued to seek industry comment throughout our negotiations with the US on the emerging Implementing Arrangements. We view our continued engagement with industry to be crucial in bringing the Treaty into operation once it has been ratified and will involve industry from the start of the implementation process.

**We fully support the Government's objective of greater levels of cooperation and interoperability between the US and UK that will assist our Armed Forces. Industry welcomed the Government's approach. We conclude that the faster and less restrictive flow of goods and technologies between the US and the UK is likely to foster greater cooperation between our industries and that, in turn, should facilitate interoperability between our Armed Forces. (Paragraph 39)**

**The Treaty has the potential to enhance defence research and development in both the UK and the US. We share industry’s concern that a narrowly-drawn Approved Community would allow only a few to take advantage of the Treaty’s provisions and share in the benefits of greater cooperation and collaboration. If, instead, the Approved Community in the UK is large, it will build the critical mass to sustain collaborative projects across the Atlantic. (Paragraph 42)**

13. We acknowledge the concerns of the Committee, and are working to ensure the widest possible membership for the Approved Community is achieved. Where appropriate, this may include research establishments such as universities, providing they are able to meet the criteria of the Approved Community. We believe that the Treaty will create major opportunities for collaborative R&D with the US—the current system of export licences, which apply to very specific exchanges of material, is often a barrier to the successful sharing of information and expertise necessary in the early stages of collaborative programmes.

**The current US export control arrangements, with their tightly drawn licences and consents, work against UK sovereign control. Any change that allows a less prescriptive transfer of technology can only assist the UK. We do not believe that the Treaty will erode operational sovereignty. (Paragraph 44)**

**It will take several years before it is possible to assess whether the Treaty has achieved its objectives of greater levels of cooperation and interoperability. As a Committee we will return to this issue once the Treaty has been implemented. (Paragraph 45)**

**We note the Government’s assurance that the Treaty is compatible with European law. (Paragraph 46)**

**If European-owned UK defence companies are included in the UK Approved Community, we can see no reason why the Treaty should discourage European defence collaboration; but this will need to be monitored closely. (Paragraph 47)**

14. We agree with the Committee’s assessment that the Treaty will not discourage European defence collaboration; the UK works and will continue to work closely with our European partners on defence, not least in the wide range of existing collaborative research and procurement programmes that exist.

**While the Treaty appears to be asymmetrical in giving the US more control over UK exports than vice versa, the practical effect of the Treaty will be to bring US and UK exporting arrangements closer together. (Paragraph 48)**

**In order that the Treaty is in accordance with UK export control policy, the UK Government should restrict any open or general licences it issues, to meet the requirements of the Treaty, to exclude the re-export or transfer from the US of UK goods and technology to third countries other than to US or UK forces. (Paragraph 49)**

**The US export control system, as currently administered, discourages collaboration between UK and US industry and inhibits the swift supply of urgently needed equipment to our Forces in theatres of operation. Given how closely UK and US Forces**

**cooperate in theatre, this is clearly in the interests of neither the UK nor the US. (Paragraph 50)**

**We, like many others, considered that an ITAR waiver might be a way of preserving the close relationship between the UK and the US. The Treaty offers an alternative route. We have scrutinised the Treaty and we conclude that the principles it sets out offer the opportunity for the UK and US to strengthen further and deepen their defence relationship and allow greater levels of cooperation and interoperability. Industry on both sides of the Atlantic firmly supports the Treaty and we believe the Treaty accords with the Government's Defence Industrial Strategy. (Paragraph 51)**

**15. The extent and nature of the benefits to the Government and the defence industry in the UK will depend on the Implementing Arrangements. In the expectation that the UK and the US will agree satisfactory Implementing Arrangements, we support the UK's ratification of the UK/US Defence Trade Cooperation Treaty. (Paragraphs 52)**

16. The UK's existing export control system will remain in force alongside the Treaty, meaning exports to the US under the Treaty will still need to meet the Government's export control criteria. The UK's Open General Export Licences (OGELs) will apply to the vast majority of material that will be transferred under the Treaty. OGELs do not have the administrative burden associated with US export licences and have a wider applicability—the changes under the Treaty will therefore have the effect of bringing the UK and US systems closer together.