



Ministry
of Defence



Shaping the Market:

UK perspective on U.S. Export Control Reform and the U.S.-UK Defence Trade Co-operation Treaty

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AGENDA

- Treaty Origins & Objectives
- How it works
- Update on DTCT two years on/
Impact of ECR
- The future



Treaty Origins

- Iraq War - lessons learnt
- 'Special Relationship' - Bush & Blair
- Previous UK attempts for ITAR exemptions since 2000 all failed
- U.S. Congress 'conservative' about relaxing Export Controls - 5 years of complex negotiations - U.S. Senate ratifies in 2010
- Treaty finally comes into force - 13 April 2012





What was the Treaty for?

- Strengthen + deepen defence & security relationship between UK & U.S.
- Improve interoperability between UK & U.S. forces + support provided to our Armed Forces
- Facilitate closer UK-U.S. cooperation, including between our industries
- Enhance business opportunities for UK & U.S. defence industries
- Get the best U.S. and UK equipment to the front line quicker

DTCT in a slide

- Allows for export or transfer of certain US defense articles & defense services within an Approved Community (AC) in the US & UK
- All MOD sites are automatically included – means Treaty is “ready to use” for certain government-to-government transactions (Airseeker PT)
- BUT, any UK non-governmental entities or facilities need to be part of a pre-cleared UK Approved Community
- Serves as the basis for an ITAR exemption (22 CFR ITAR § 126.17) provided key Treaty criteria are met

What are the criteria?

- Permits ITAR exemption for USML items if (and only if):
 - Project is for UK and/or US Government End-Use and on an approved list;
 - All parties involved are members of the AC; and
 - Items are not on Exemptions List of excluded items (see ITAR Part 126, Supplement No.1)

Treaty Scope & Six Key Lists

- Treaty can only be used for UK & US Government end-use programmes only – it will apply to transfers in support of:
 - List One - UK & US combined military or security operations;
 - List Two - UK & US cooperative security & defense research, development, production, & support programmes;
 - List Three - Specific defence projects where HMG is end-user;
 - and
 - List Four – US Government end-use;
 - +
 - List Five – Exempt Technologies List (ETL)
 - List Six – Approved Intermediate Consignees (ICs) also published on a list but not part of the AC
- In essence, you can only use the Treaty if your business relates to a programme on one of the approved lists

Treaty Engagement Work

Outreach to UK industry

- Numerous awareness-raising and regional feedback events with UK Industry since the Treaty's inception.
- Edinburgh, London (three times), Leeds, Manchester, Huddersfield, Coventry, Bristol, Farnborough and DSEI
- These events have cumulatively allowed for hundreds of UK defence and security companies to find out more about the Treaty

Inreach to UK Ministry of Defence

- MOD also hosted a Treaty awareness seminar in 2013 – over 100 delegates in attendance
- In addition, direct representations were made to Deputy Assistant Secretary Ken Handelman by MOD Project Teams when he visited Abbey Wood in December 2013



Who is in the AC so far?

- **24 UK companies now have 36 facilities** in the Approved Community
- **43 facilities of 23 further companies** are currently going through the process
- The Approved Community includes several Primes: Boeing, Raytheon, BAES Inc, Agusta Westland
- So companies are looking for ways to use DTCT

Is Export Control Reform (ECR) a game-changer?

- Welcome achievements to date
- ECR today: governments and industry still in learning mode – which items go in which U.S. export license box?
- If fewer defence articles are subject to ITAR (EAR or U.S. export license-free) then it is clear that fewer items will be eligible for an ITAR exemption!
- Both governments are working to retain a unique space for DTCT and preserve its utility – e.g. it can still be quicker than applying for a Technical Assistance Agreement or license
- So why use DTCT at all?

Benefits to Industry (1)

- ✓ Removal of need for individual ITAR licence applications for each transfer when for U.S. or UK Government end-use
- ✓ Ability to share information more easily without the need for a Technical Assistance Agreement
- ✓ UK & U.S. companies better able to work on joint projects so process is faster, easier & more efficient
- ✓ Better opportunities for UK Approved Community members to access U.S. defence programmes (in collaborative transatlantic projects and/or responding to DoD solicitations and contracts)

Benefits to Industry (2)

- ✓ UK companies may gain competitive edge if they can bid directly on qualifying U.S. Government programmes
- ✓ A contract advantage: receiving ITAR-controlled data in a timely fashion means UK companies won't miss out on RFPs
- ✓ Unlike a TAA, scope & conditions are revealed up front
- ✓ Unlike a TAA, there is no expiry date
- ✓ Re-transfers within the AC without the need for U.S. authorisation



What about making DTCT better?

Reviewing the Exempted Technologies List (ETL)

Examples of broad-category U.S. Government-imposed exclusions:

- Reduced observables
- Torpedoes
- Acoustic spectrum control and awareness
- Countermeasures
- GPS/PPS security modules
- Submersible vessels

Other inhibitors to Treaty uptake

- Access to Treaty items/technical data permitted ONLY to staff with UK Security Check (SC) clearance granted by HMG – more difficult for larger numbers of staff
- Unclassified items must be classified USML RESTRICTED (not to be confused with old HMG RESTRICTED label) while in the UK AC & are ultimately protected under the UK Official Secrets Act – associated dual compliance concerns
- Re-transfer and re-exports out of the UK AC will still require Dept of State approval and UK MOD approval via F680 process
- Detailed marking & record keeping requirements which differ from ITAR

An Evolving Process

- The UK Approved Community is expanding
- The Treaty has cut government-to-government transaction times from weeks to days
- Use of Treaty will start to become more widespread but more work to do, especially now U.S. export controls are about more than ITAR
- Both countries will learn from experience
- End-Use lists will be updated



Next Steps

- Assessing ongoing impact of US Export Control Reform – what space will DTCT occupy?
- Continue engagement with DE&S personnel and UK Industry, and ongoing training support for MOD personnel
- HMG continues to assess broad scope of the ETL with USG
- Maintaining key Treaty lists
- Seeking first live transaction involving UK industry
- Further engagement in the USA – a major event hosted by the SIA is planned for October 2014
- Joint UK/US Government engagement with US acquisition professionals

Any Questions?

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