



**INITIATIVE FOR  
A RENEWED TRANSATLANTIC PARTNERSHIP**

**A WORKING PAPER**

**TRUSTED PARTNERS: SHARING TECHNOLOGY  
WITHIN THE U.S.-UK SECURITY RELATIONSHIP**



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## PREFACE

Strong defense industrial and technological linkages between the United States and Europe constitute a key component of the broader transatlantic security relationship. Without these linkages, the relationship as a whole would be weaker than it need be – weaker in terms of the compatibility of defense systems; weaker in terms of operational interoperability; weaker in the returns each side gains from its investments in defense research, development, and production; and weaker in terms of the political ties that hold the overall relationship together.

CSIS has sustained a research focus on the challenges to effective transatlantic defense industrial and technological cooperation since the early 1990s, when, under the leadership of CSIS founder and former President & CEO David Abshire, we conducted a one-year study and released a report on the “Atlantic Partnership: An Industrial Perspective on Transatlantic Defense Cooperation” (1991). More recently, CSIS released “Technology and Security in the Twenty-First Century: U.S. Military Export Control Reform” (2001) and “The Future of the Transatlantic Defense Community” (2003). Currently, we are working with the Defence MOU Attachés Group, the representatives of allied nations that possess bilateral defense trade arrangements with the United States, in hosting a regular series of meetings on Capitol Hill on the “Facts and Myths of Defense Cooperation and Trade.” Furthermore, we currently chair a regular working group on Transatlantic Defense Cooperation.

This latest study is animated by a specific paradox: if the United States and the UK, the two closest of allies, are unable to overcome the continuing obstacles to the efficient sharing of defense-related technologies, what hope is there for broader transatlantic defense industrial and technological cooperation? Bilateral U.S.-UK cooperation in the fields of intelligence, nuclear defense, and military deployments is unprecedented in U.S. alliances. And the U.S. and UK defense industrial bases have become increasingly intertwined through investment and trade. And yet, the U.S. and UK governments have proved unable to institute a more open system for exchanging and transferring defense technologies, despite the stated intent of senior political leaders and extensive efforts by both sides over the past couple of years.

The document that follows is a working paper that examines the way that the current U.S.-UK technology transfer regime is affecting the U.S.-UK strategic and defense industrial relationships. We are releasing it as a basis to engage in a debate with colleagues and experts in and out of government in both the United States and the UK who are interested in this topic. We are conscious that the U.S. and UK governments have been working over the last few months to find new ways to share and transfer defense-related technologies, and we hope that this paper can contribute some useful ideas to their ongoing dialogue. To help with this process we have also included an appendix, prepared by Seth Seifman, Research Associate in the Defense Industrial Initiatives Group, that acts as a primer comparing the two countries’ export and technology control regimes.

The arguments and conclusions in this paper are our own. However, we want to thank the invaluable assistance of our colleagues at CSIS who are supporting this research – David Scruggs, Senior Fellow, and Seth Seifman in the Defense Industrial Initiatives Group of the CSIS International Security Program; Mark Redden, Military Fellow; and Raffaello Pantucci, Research Associate in the CSIS Europe Program.

## EXECUTIVE SUMMARY

### The Gap Between Shared Security and Technology Sharing

*The United Kingdom and the United States are each other's closest ally and security partner. The UK has been the leading contributor to U.S.-led multilateral troop deployments in crises around the world, from the Gulf War of 1991 to Iraq and Afghanistan today. U.S.-UK cooperation in the highly strategic and sensitive areas of intelligence and nuclear planning and weapons has transcended the coming and going of governments in Washington and London for the past half century. The two sides share a common vision of the future importance and vital roles of the Atlantic Alliance in upholding global security. And the UK and U.S. defense industrial bases are today more closely intertwined than even before.*

*The UK and U.S. governments have also drawn similar conclusions about the new threats of the twenty-first century. Both sides have suffered attacks first-hand by radical Islamist terrorists. Both have demonstrated their determination to confront the proliferation of weapons of mass destruction and not permit terrorism and WMD to form a new and lethal nexus. Both have a global perspective of the scope of the threat, and both have the military capacity to confront the threat wherever it may emerge.*

*As with any bilateral partnership, there have been low-points, irritants, and tensions. In the last few years, however, one long-standing irritant is growing into a major tension and now threatens the closeness of the bilateral relationship. The issue revolves around the limits and restrictions that the United States imposes upon UK access to U.S. defense technologies, and the inability or unwillingness of successive U.S. administrations to change the situation measurably despite their stated intention to do so. These strains are likely to increase steadily as each nation's armed forces depend more and more on technology to maintain superiority over potential adversaries. It would be a serious error, therefore, to dismiss the current friction as a transitory irritation that is unlikely to have a long-term effect on the relationship.*

*Part of the problem has been a different sense in London and Washington about whether there really is a crisis. For the UK, several factors threaten to turn this irritant into a deeper test of the overall relationship.*

#### UK Perspectives

*First, British decision-makers are concerned that, without being able to build a closer relationship in the development and fielding of joint systems or systems that share sufficient levels of technological compatibility to be interoperable, the physical ability of UK forces to fight effectively alongside their U.S. counterparts (and vice versa) will erode over time.*

*Second, as stated in its recently-released UK Defence Industrial Strategy, the UK government has concluded that, in order to ensure Britain's military security in the future, it must have "operational sovereignty" over its main defense capabilities. Essentially, this means that the UK must be able to maintain, operate, upgrade, and modernize its key weapons platforms purchased from the United States or other third parties.*

Third is the sense within UK policy circles that, notwithstanding steadfast UK support of the United States in Iraq and elsewhere, *the UK and its contributions are being taken for granted by key decision-makers in Washington*. Partly, this is fed by the sense that the transfer of defense technology is flowing much more easily from east to west, than west to east

Fourth, *the continuing rigidity of the U.S. technology transfer regimes has raised concerns about the future evolution of the UK defense industry*. Significant portions of the UK defense industry are becoming increasingly intertwined with that of the United States, to the point where restrictions on the flow of information between the two markets generated by the current U.S. technology control regime is more than just an annoyance. UK and U.S. companies are compelled to develop two-pillar structures that undermine the logic of having Anglo-American defense firms and limit the hoped-for synergies. If the issue of information and technology exchange is not ultimately resolved, shareholder pressure and management frustration will force an unwinding of these transatlantic industrial relationships, to the detriment of both the United States and UK.

The last concern is more immediate. In 2006, the UK government must reach an agreement with the U.S. government on the next stage of the Joint Strike Fighter (JSF) program, the world's largest defense production and acquisition program and one that was designed to be a new model for transatlantic defense industrial and technological cooperation. *However, the UK has been unable to secure access to the highly sensitive technologies associated with the functioning of the aircraft. This runs counter to the central philosophy of the program and strikes at the heart of the UK requirement to secure the "operational sovereignty" of its defense capabilities*. If the United States and the UK cannot reach an agreement shortly, there is a growing risk that the UK could delay signing the agreement or even terminate its involvement in the JSF development program and pursue other alternatives to meet its future manned aircraft requirements. Were that to happen, it could have very serious consequences both for the economic viability of JSF, and for U.S.-UK security relations.

The bottom line is that UK political leaders remain committed to working with the United States as the closest of security allies. They want to be capable to deploy and operate UK forces from the outset, shoulder to shoulder with U.S. forces in the most intense and complex of battlefield situations. They also want to take advantage of U.S. defense equipment and technology for UK armed forces and to see the UK defense industry grow stronger through its involvement in the U.S. market.

*But this vision presupposes a level of bilateral technology cooperation that U.S. leaders appear to be unwilling to concede*. Coming on the heels of the failure to ease the U.S. obstacles to the flow of unclassified defense technologies between the United States and UK and the recent difficulties the UK has had in accessing technologies incorporated into other UK platforms such as the Airborne Stand-Off Radar (ASTOR), there is a serious risk that U.S. resistance to reforming its defense technology relationship with the UK could open a damaging rift between the two governments.

## U.S. Perspectives

*The United States has its own fundamental reasons to want to cooperate with the UK in the defense industrial and technological realm*. As recent deployments have revealed and as the latest U.S. Quadrennial Defense Review has underscored, the United States needs to work

“with or through others” to confront security challenges wherever possible in the future. In this context, the UK is likely to continue to be America’s partner of choice, especially from the U.S. military’s standpoint. And for U.S. military commanders, UK forces are most useful when they have equipment that can communicate and interact with U.S. forces as seamlessly as possible.

In addition, *the UK can bring – as it already has brought – valuable technologies to the table for the United States.* The UK’s track record of useful military technology innovation includes the contemporary examples of the vertical, short take-off and landing engine system and the anti-IED capabilities now deployed in Iraq. A common perception of the threats also means that the UK defense science and technology establishment is focused on solving problems in areas that are of value to the United States, such as counter-terrorism and net-enabled warfare. And UK investment in cooperative programs such as the JSF can lessen the development cost for an increasingly-strained U.S. defense budget while decreasing the per-unit costs of the system once they go into production. Furthermore, while incomparable in size to the U.S. marketplace, the UK defense market does offer opportunities for major defense contracts.

All in all, the UK is a force multiplier for U.S. security. Nevertheless, some U.S. officials approach the question of technology transfer from a very different perspective. For the United States, *maintaining technological superiority over all potential adversaries is a central national priority.* U.S. policymakers are aware that U.S. military superiority relies to a large degree on its unique possession of certain advanced technologies. They are also conscious that other countries and groups would like to undercut that superiority by gaining access to these technologies and are determined to do all in their power to ensure that U.S. technological superiority is not compromised.

In this context, *the UK is seen by some not only through the lens of its role as a leading U.S. security ally, but also through the lens of its potential – like any other country – to be a gateway for sensitive U.S. technologies to third countries or actors.*

In addition, over the last couple of decades, *UK defense-related companies have been involved in cross-border mergers, joint ventures, and industrial partnerships with other European companies.* As part of this process, people of different nationalities are employed or sub-contracted across EU borders. Despite the fact that UK companies must still meet all national export control policies and have developed elaborate internal firewalls to protect confidential information, as do U.S. companies, this situation still contributes to U.S. anxiety about sharing its most sensitive technologies with the UK.

There is also a commercial dimension to U.S. concerns. Some U.S. officials are not disposed to give to their UK partners *intellectual property and technologies that have been developed with substantial amounts of U.S. taxpayer dollars* while the UK is unable to make equal investments to achieve similar advances – especially when such transfers could enhance the competitiveness of UK defense firms vis à vis their U.S. counterparts in the UK, European, and global defense markets.

This U.S. administration, like its predecessors, is genuinely committed to a strong and intimate security relationship with the UK and to having highly capable UK forces available to fight alongside their U.S. counterparts. But, rather than deal with the conflict between UK

perceptions of a growing crisis over their access to U.S. defense technologies and U.S. preoccupations with protecting those technologies, they have denied, for the most part, that a crisis exists.

### Crafting a New Way Forward

Given these differing perspectives, it is perhaps not surprising that the two sides have arrived at an impasse, one that threatens to have profound and enduring implications for their relationship. A new approach, new concept, and new vocabulary are needed to address this increasingly critical issue.

*The heart of any solution must lie in the exceptional closeness of the U.S.-UK political and military relationship.* The fact that there are “trusted communities” in the intelligence, nuclear, and operational military fields indicates that a similar trusted community could be built in the defense-industrial realm for sharing defense technologies. And, just as with the intelligence and nuclear trusted communities, the answer probably lies in developing a set of special practices, policies, and procedures for defense technology that both sides can have confidence in.

In order to inspire the confidence necessary to foster this trusted community, the solution must incorporate an agreement or set of policies that is commensurate with *the UK’s position as one of America’s most trusted security partners – in the past and in the future – but that protects U.S. concerns about the transfer of technology beyond this bilateral relationship.* In practice, this means:

Creating a government-to-government framework within which specific companies and individuals from the two countries would be certified to share between each other defense-related information, systems, and technologies – from the most mundane to the most sensitive – without restrictions, but under the strict condition that enforceable controls would be in place to prevent unauthorized release beyond this bilateral space.

The companies and individuals involved in developing, building, and maintaining weapon systems under this framework would be treated, for all intents and purposes, as nationals or as domestic firms by both countries, subject, of course, to limitations on their sharing anything outside of this “trusted community.”

Within the framework, the issue of exports simply would not arise, whereas transfer or exports outside the framework – whether to actors in the United States, UK, or any third parties – would be strictly controlled and enforced.

In other words, any technologies, information, or items that individuals might want to transfer beyond this specific framework would come under the full weight of existing U.S. and UK arms and technology export laws and regulations.

The framework would apply strict procedures and legal obligations upon the companies and individuals concerned. They would be held to account by their national governments by means of legally enforceable obligations, much as

government agents are within the intelligence sphere and companies and their employees are in the criminal sphere.

*Only a framework that combines the open sharing of information, technology, and systems within the trusted community with maintaining the complete range of restrictions outside this trusted community is likely to realize the political, military, and operational potential of the U.S.-UK security relationship while addressing the U.S. objective of minimizing the risks of global technology proliferation.*

To achieve such an outcome would require compromises by both the UK and the U.S. governments. The UK would need to find tangible ways to reassure U.S. concerns about its ability to block exports of America's most sensitive technologies to third countries and the unauthorized transfer of technologies within the UK. The U.S. side would need to be prepared to strike a balance between any risk of technology compromise and the operational as well as strategic benefits of a freer flow of defense-related technology between the United States and the UK.

## Conclusion

If the two sides cannot make progress soon on developing new procedures to overcome the current obstacles to technology sharing, there is a very real risk that this situation will increasingly undermine the broader bilateral security relationship. It could also lead to a gradual distancing of the U.S. and UK defense industrial and technological bases – with the U.S. turning inward and the UK government and some UK companies strengthening their European ties instead. This would be a wasteful outcome, given how much each side has offered to the other in the past and could continue to do in the future.

# TRUSTED PARTNERS: SHARING TECHNOLOGY WITHIN THE U.S.-UK SECURITY RELATIONSHIP

## INTRODUCTION

The United Kingdom and the United States possess one of the closest bilateral security relationships in the world today. It is a relationship that has endured and thrived despite the coming and going of administrations in Washington and governments in London for over a half century. More than just flowery rhetoric underpins this alliance; it is built on tangible structures such as the highly strategic and sensitive U.S.-UK cooperation in intelligence and in nuclear weapons and policy. Furthermore, it is an alliance that has produced tangible action. For example, the UK has been the leading contributor to U.S.-led multilateral troop deployments in hot-spots around the world, from the Gulf War of 1990-91 to Iraq and Afghanistan today.

From the UK perspective, this is a unique relationship that has been founded, since its inception at the end of the Second World War, upon a belief that the United States serves as the primary guarantor of security for the Western world. Supporting the United States in its foreign and security policy goals has been generally, and with few exceptions, in the British national interest. From a U.S. perspective, the UK has served as its most loyal ally, first, within the transatlantic alliance and its fifty-year struggle to contain and defeat communism and, now, in the fight against international terrorism.

As with any bilateral partnership, there have been low-points, irritants, and tensions. So far, none has served as a structural obstacle to the continuation of this close U.S.-UK relationship. In the last few years, however, one long-standing irritant has grown into a major tension and now threatens the closeness of the bilateral relationship. The issue revolves around the limits and restrictions that the United States imposes upon UK access to U.S. defense technologies and the inability or unwillingness of successive U.S. administrations to change the situation measurably despite their stated intention to do so. The contrast with U.S.-UK cooperation in the intelligence and nuclear fields, both also highly sensitive areas, is telling.

While U.S. limits on the sharing of its defense technologies has been a perennial irritant in the U.S.-UK relationship, a number of near-term factors threaten to raise its salience and turn this issue into a deeper test of the overall relationship in 2006. The first is the sense within UK policy circles that, following steadfast UK support of the United States in the decision to go to war in Iraq, the UK and its contributions are being taken for granted by key decision-makers in Washington. The second is the fact that the U.S. and UK defense industrial bases have become increasingly intertwined through cross-ownership, the supply of subsystems and components, and the joint development of systems - to the point where the current technology control regime is more than just an annoyance and a source of inefficiency. Over time, the impediments to day-to-day collaboration may overwhelm the advantages of having linked defense industrial bases

and force an unwinding of the Anglo-American defense-industrial relationships that have offered much to each other in past and that could continue to do so in the future.

The third concern is more immediate. In 2006, the UK government must reach agreement with the U.S. government on the next stage of the Joint Strike Fighter (JSF) program, one of the world's largest defense production and acquisition programs and a program that was designed to serve as a new model for transatlantic defense industrial and technological cooperation. This key decision point, where the U.K. has to decide whether to commit significant and precious financial resources, has brought into sharp relief the issue of technology sharing. The UK has been unable to secure access to highly sensitive technologies associated with the functioning of the aircraft, something that is seen as running counter to the central philosophy of the program, as interfering with the effective development of the aircraft, and detrimental to the British sovereign capacity to operate, maintain, adapt, and upgrade one of the key weapons systems in its national inventory.<sup>1</sup> If the two sides cannot make progress soon on developing new procedures to overcome this specific stand-off as well as the general obstacles to the sharing of U.S. technology on other important UK defense programs, there is a very real risk that this situation will start to undermine the broader bilateral security relationship. The paper starts by examining the structural basis for the "specialness" of the U.S.-UK security relationship, and provides a brief review of U.S.-UK cooperation in the fields of military deployments, intelligence, and the nuclear field through the Cold War and present day.

The second section considers whether this extensive web of bilateral connections can provide the infrastructure for a continuing close bilateral relationship in the face of the new security threats of the 21<sup>st</sup> century. It also considers whether they mask an underlying weakening of some of the United States' and UK's strong bilateral bonds, which, in turn, is affecting the willingness of the two sides to find a solution to the technology sharing question.

The third section looks specifically at the bilateral defense-industrial relationship, how it has evolved over time, the increased intertwining of the two industrial bases, and the recent attempts to reform the export and technology regimes of the United States and UK in order to ease the conflicts that have arisen along with this increased interaction.

The fourth section looks specifically at the current U.S.-UK disagreement over technology sharing, the perspectives of both countries on the issues, and the stakes involved.

The paper concludes by proposing a bilateral policy framework that could break the U.S.-UK impasse on the sharing of defense-related technologies under specific conditions. This framework would reflect the continuing vitality of the U.S.-UK security relationship, but also recognize the U.S. determination to control as tightly as possible the transfer of its technologies into the wider world.

## 1. THE MANY DIMENSIONS OF THE “SPECIAL RELATIONSHIP”

It has been commonplace since the 1960s to speak of a “special relationship” between the United States and the United Kingdom, primarily in the area of security and defense. A cursory look across four facets of this relationship shows that in three dimensions, at least – commitment to the Atlantic political-military alliance, nuclear cooperation, and intelligence sharing – a strong case can be made for the emergence of a distinct and privileged bilateral relationship over the past forty years. The fourth area – defense industrial cooperation – reflects a more ambiguous situation, as we shall see below.

### A Shared Military Alliance After 1945

At its most fundamental level, the close – even “special” – UK-U.S. relationship has rested upon the shared commitment of both countries to the NATO alliance as the central vehicle for upholding their national security interests. The United States helped build NATO as its principal international security alliance after the end of World War II. At its high point, the U.S. stationed some 450,000 troops in Europe under the NATO umbrella and offered its nuclear guarantee to uphold Western Europe’s security from the threat of Soviet and communist domination.

Successive UK governments saw this U.S. commitment and its manifestation through the NATO Alliance as the central pillar of their own security and that of their European neighbors. The UK willingly accepted U.S. leadership of the Alliance as a means to sustain U.S. engagement in Europe’s security. It sought to share the military burden by deploying major force contingents alongside U.S. forces to protect NATO’s borders against the Warsaw Pact forces arrayed on the opposite side. Even as NATO went through its periodic institutional crises, such as France’s withdrawal from NATO’s integrated command in 1966, the UK remained steadfastly committed to the Alliance.

Moreover the UK has served as a critical forward outpost of America’s strategic deterrent - from the 1948 deployment of American B-29 Superfortresses to Royal Air Force bases in East Anglia during the Berlin blockade crisis<sup>2</sup>, to the 1958 deployment of Thor strategic missiles across East Anglia that were manned and maintained by British forces,<sup>3</sup> to the Pershing and Ground Launched Cruise missile deployments in the 1980’s, to the current incorporation of the UK-based radar sites such as Fylingdales into the U.S. ballistic missile defense architecture.<sup>4</sup> This UK-based forward presence has been a critical component not only of America’s national defense, but also the ultimate guarantor of European security.

### Nuclear Cooperation and Intelligence Sharing

U.S.-UK cooperation on nuclear security has been another central feature of their close bilateral relationship. While the nuclear relationship should not be romanticized given its

ups and downs over the last sixty years, it is one of the best examples of where a trusted community has developed between the U.S. and UK. The evolution of the nuclear relationship also foreshadows many of the issues currently being raised in the debate over the U.S.-UK defense technology sharing relationship.

The UK's technical prowess permitted an early lead in atomic energy research in the 1940s, although the UK was soon outstripped as the U.S. program gained momentum. A true partnership between the United States and UK was formed with the Quebec Agreement of 1943 – where each party agreed not to use nuclear weapons against the other, not to use them against other states without each others consent, to exchange all information and ideas on nuclear energy, and not to pass nuclear energy technical information to third countries without each others consent. At its peak, there were some fifty British scientists working on the Manhattan Project during World War II and the British know-how shortened the development time of the atomic bomb by a year.<sup>5</sup> The immediate post-WW II period was probably the low point in the relationship when an act of Congress, the McMahon Act of 1946, prevented the exchange of nuclear information, although there was still cooperation in nuclear-related intelligence and the sharing of uranium.<sup>6</sup>

It took the personal leadership of President Eisenhower and Prime Minister Churchill to revive the bilateral nuclear relationship. The extremely sensitive U.S. Strategic Air Plan was shared with the UK and the McMahon Act was amended to allow some sharing of civil nuclear technology information. By 1956, the United States was sharing information with the UK on its secretive nuclear ship propulsion reactors and, soon thereafter, the McMahon Act was repealed. The sharing of nuclear propulsion technology was particularly important since it contributed to the UK's ability to build nuclear submarines and thus the UK was the only European nation capable of accepting the Polaris submarine-launched nuclear missiles in the 1960s.<sup>7</sup>

From the Polaris nuclear weapon programs of the 1960s, the UK's nuclear deterrent has been developed and maintained in close cooperation with the United States through the creation of a trusted community of American and British scientists, engineers, officials, company executives, and firms.<sup>8</sup> The UK's current submarine-based Trident nuclear weapons system is shared with the United States, and serves as a part of the U.S.'s own nuclear shield deterrent. British nuclear submarines on patrol help alleviate the burden to U.S. nuclear submarine forces of maintaining the U.S. deterrent. At the same time, Britain's strategic nuclear force has been committed to NATO and targeted in accordance with Alliance policy and strategic concepts under plans made by the Supreme Allied Command Europe (SACEUR).<sup>9</sup> Furthermore, the United States and the UK continue to perform joint research on nuclear issues and cooperate on nuclear policy, with at least 43 separate Joint Working Groups meeting over the last 30 years.<sup>10</sup>

In parallel to these close nuclear ties lies an especially close relationship between the UK and U.S. intelligence services, another bilateral trusted community which was also initially forged during the Second World War and has survived for over 60 years. Open sources point to the fact that cooperation between U.S. and UK secret services remains

extensive, particularly in the areas of imagery intelligence (IMINT), signals intelligence (SIGINT), and technical intelligence (TECHINT).<sup>11</sup> These strong relationships are maintained through the presence of liaison offices and exchange of personnel between the CIA and Britain's Secret Intelligence Service (MI6) in human intelligence, between the Pentagon's Defense Intelligence Agency and the British Defense Intelligence Staff in military intelligence, between the National Reconnaissance Office (NRO) and the British Joint Aerial Reconnaissance Intelligence Center in IMINT, and between the National Security Agency and Britain's General Communications Headquarters (GCHQ) in SIGINT.<sup>12</sup>

Intelligence cooperation has extended into the operational military realm also. For example, the Royal Air Force's (RAF) Nimrod surveillance aircraft have provided crucial surveillance capabilities for U.S. as well as UK troops in wartime and in peacetime operations – including participation in the U.S. Joint Interagency Task Force (JIATF) South Theater of operations that protects the Southern U.S. coastline from illicit traffickers.<sup>13</sup>

Commentators have also noted that the United States and the UK share a philosophy towards the development and use of intelligence that is not common in their dealings with other allies. Intelligence that the United States develops with its UK counterparts is used in a more empirical fashion and has a greater influence on policy than is the case with other European countries.<sup>14</sup>

## NATO after the Cold War

The close US-UK security relationship has persisted beyond the end of the Cold War. In the early 1990s, questions arose as to whether member states of the European Union should develop parallel defense structures to NATO that reflected the end of the bi-polar East-West confrontation and the emergence of the EU as a more autonomous international actor. During those debates both U.S. and UK leaders consistently sought to adapt NATO for the post-Cold War world. The UK also sought to maintain NATO's position as Europe's principal security structure, convinced as it was of the continuing importance of U.S. engagement in Europe's security. In this spirit, the 1990 NATO London Declaration recognized that "NATO must become an institution where Europeans, Canadians and Americans work together not only for the common defense, but to build new partnerships with all the nations of Europe." And, at the 1991 NATO summit in Rome, the Alliance, under U.S. and British leadership, laid out the framework for the Allied Rapid Reaction Corps as part of its New Strategic Concept.<sup>15</sup> For the past ten years, the UK's guiding principle has been that "the UK is a strong supporter of developing EU military capability to complement NATO, rather than competing with it."<sup>16</sup>

## Joint International Deployments

The UK government has continued to be a leading supporter of U.S.-led reforms for the Atlantic Alliance. As U.S. policymakers have encouraged NATO to take on a more assertive international role beyond its members' borders, the UK has been a willing participant, sending major deployments to serve with American troops under the NATO flag in Bosnia and later in Afghanistan. And the UK has taken a leading role in making the NATO Response Force (NRF) operational.<sup>17</sup>

These deployments were made easier by the close operational relationships between U.S. and UK armed forces. Years of U.S. and UK forces training together translated into real benefits in the 1991 Gulf War. Coalition commanders were able to easily integrate RAF aircrew into the USAF Air Component Headquarters in Riyadh, make use of mixed U.S.-UK aircrews, and use composite formations of British and American fighters.<sup>18</sup>

Most emblematic of the continuing close bilateral security relationship, however, was Prime Minister Tony Blair's decision to commit Britain diplomatically and militarily to the overthrow of Saddam Hussein and his regime in Iraq in 2003, and the sustained role of UK forces there for the three years since the defeat of the regime. The Blair government set aside serious reservations among the British public and much of its political class about the decision to go to war with Iraq. In doing so, it revealed the determination that it shared with the Bush administration to ensure that weapons of mass destruction not remain in the hands of a dictator whose intentions were hostile to the United States, the UK, and the West and whose actions in the future, including the use or proliferation of those weapons, could not be predicted. Despite the failure to find stocks of these weapons after the invasion, despite the serious political cost that the government paid for this failure, and despite the continuing cost in lives and resources, the UK government has remained steadfast with the United States in not contemplating withdrawal until a greater degree of security and domestic political control has been established.

Currently, the United Kingdom has the largest non-U.S. contingent deployed in Iraq, with roughly 8,500 troops in country, and a further 3,500 in the Gulf Theater of operations. The only other European contributions to Iraq close to this scale are the 2,600 Italian troops and 1,500 Polish troops, both of whose governments have indicated their intention to withdraw these levels in 2006.<sup>19</sup>

Importantly, U.S. and UK forces also cooperated during the invasion of Iraq itself. For example, the Royal Marines' 3 Commando Brigade seized control of the strategically important al-Faw peninsula near the Iranian border, with the U.S. 15 Marine Expeditionary Unit deployed under its command. Further along the coast, U.S. and British combined Marine units engaged together in active combat against Iraqi forces at Iraq's only seaport, Umm Qasr.<sup>20</sup>

In the air, British air power extended beyond traditional force projection and contributed to the information dominance of the coalition forces. Besides the use of UK Nimrod

aircraft feeding information to UK and U.S. troops on the ground, British ‘pilots’ flew and continue to fly roughly 30 percent of all Predator UAV (Unmanned Aerial Vehicle) flights over Iraq, permitting coalition forces to survey hostile terrain and strike enemy targets.

British forces are also continuing to play an important role in Afghanistan, where, this spring, the British have assumed control of the NATO-led International Security Assistance Force (ISAF) operating there, thus permitting the United States to concentrate more of its forces on the Iraqi theater of operations. As the “framework nation” the United Kingdom will supply the command infrastructure and an additional 3,300 soldiers – taking its total to some 5,500 – to help maintain headquarters operations in Afghanistan, even while the ISAF commander’s nationality may change.<sup>21</sup>

## **2. A DEEP BUT CHANGING PARTNERSHIP**

The continuing closeness of the U.S.-UK bilateral security relationship at a practical level is reflected in the close coordination over sustaining and modernizing the Atlantic alliance, in working together to confront international crises and in engaging in post-conflict reconstruction. However, the end of the Cold War and the emergence of the “post, post-Cold War” period some ten years later, especially after the terrorist attacks of September 11, 2001, have had subterranean effects on how U.S. and UK policy makers think about their long-term security. How are each side’s perspectives changing, and will the changes strengthen or weaken the bilateral security relationship?

### **America’s Changing Security Strategy**

The changes in America’s strategic security outlook in the aftermath of the terrorist attacks of 9/11 have been well documented. The principal features include a shifting of America’s geopolitical focus beyond Europe to regions where threats to its security are now more likely to emanate – the Middle East and Near East and, with China’s rise as an increasingly formidable economic and military power, Asia. Second, there is the new desire to confront the rise of potential adversaries beyond America’s borders by being willing to take pre-emptive or preventive action before the threats become imminent.<sup>22</sup> Third, the Bush administration appears to be taking a more flexible approach to the role of NATO. The idea has gained ground in U.S. circles of NATO serving as a “tool box” for training, logistics management, and integrating the command functions of its members, while actual operations might involve the “coalitions of the willing” that can be formed around a specific security challenge. Some U.S. leaders have bemoaned the declining centrality of NATO’s North Atlantic Council for U.S.-European dialogues about new strategic threats to their common security and the rise of alternative region- or issue-specific transatlantic “dialogues.” Others have recognized that this might offer an easier way to get things done, especially given the difficulty of establishing consensus positions in a NATO of 26 countries.

This apparent shift in U.S. thinking about NATO has spilt over in the last year into a less doctrinaire U.S. approach toward European efforts to build up their own security identity. While U.S. policy makers emphasize the need for European governments to spend more on their defense and on modernizing and making deployable their armed forces, there has been an easing of the criticism of European efforts to drive this process through the strengthening of European defense structures and initiatives.

At the same time, members of the Bush administration and commentators close to them outside of the government have started to push strongly the idea of NATO either building closer military relationships or actually offering membership to countries beyond central and eastern Europe, to include those allies now engaged or most likely to be engaged in the future in U.S.-led coalition operations across the world, such as Japan, Israel, and Australia.

### Continuing Synergy between UK and US Security Perspectives

Despite these changes, it is noticeable that UK approaches to its national security remains very close to U.S. thinking, for a number of reasons.

First, the current UK government, like the U.S., takes a global perspective of its national security. UK interests span the globe, with historical and material interests in the Middle East, the Gulf region, sub-Saharan Africa and, for domestic as well as historical reasons, in South Asia. Second, the UK government is equally concerned about the rise of Islamic terrorist groups in weak countries around the world, given their proven capacity to bring their battle with the West onto British shores. To the extent that shoring up weak governments, managing post-conflict environments, or breaking up new terrorist havens in Africa, the Middle East, or South Asia will need to accompany other initiatives in tackling the underlying drivers of radicalization, the UK government is likely to be a willing partner of the United States in these sorts of international missions. Reflecting this shared worldview, former British Defense Minister Geoff Hoon argued in 2003 that, as far as the UK is concerned, “it is highly unlikely that the United Kingdom would be engaged in large-scale combat operations without the United States, a judgment born of past experience, shared interest and our assessment of strategic trends.”<sup>23</sup>

Third, most British policy makers are pragmatically conscious that, without a close security partnership with the United States, it will remain very difficult for either the United Kingdom or the EU to pursue their major security objectives around the world or respond to security crises that may arise. Although there may be future disagreements with the United States over specific diplomatic or military actions, as there have been in the past, it is a received wisdom among serious thinkers on both the left and the right of British politics that it is better to work with the United States than to leave it alone to engage in major security actions which could impact UK or European interests. If anything, this instinct toward consultation and cooperative action is likely to become more rather than less intense in the future. Particularly as UK and European economic and security interests grow and intensify beyond the European periphery into the rising

powers of Asia, such as China and India – countries that are also now the focus of U.S. foreign policy.

The fourth reason for a continuing close security relationship between the two sides is a simple matter of capacity. As the latest Quadrennial Defense Review underscored, the United States needs to work “with or through others” to confront future security crises, and the United Kingdom is the principal U.S. ally that, at the same time as sharing a similar security perspective, can also bring armed forces to bear with a global reach and modern capability. The UK currently spends 2.4% of GDP on defense, a figure well above the EU average of 1.5%, even if below the current U.S. 4% level. Furthermore, the UK’s ability to deliver real capability is supported by procurement and defense R&D expenditures that are the highest in Europe, representing 30% of total European defense equipment spending (a level only matched by France).<sup>24</sup> Recent British advances in building forces that combine sea, air, and land forces under “joint” military commands can make their contributions especially valuable in expeditionary missions where flexibility and speed are at a premium. And British special operations forces are among the best in the world and already have extensive experience fighting alongside their U.S. counterparts.

UK attitudes to its key security institutions are also likely to favor a continuing close relationship with the United States. Under Tony Blair, the UK has played an increasingly important role in trying to build a genuine, as opposed to rhetorical European Security and Defense Identity. From the St. Malo summit in December 1998 to the Helsinki summit in 1999 which launched the concept of the EU Battlegroups, to the creation of the European Defence Agency in 2003 at Thessaloniki (whose first head is the British Nick Witney), the UK government has worked closely with its EU partners to establish better methods of consultation and improved national and joint capabilities that will be able to underpin Europe’s nascent common security and defense policy. However, neither under New Labour, nor certainly under any possible future Conservative government, does this focus on ESDP represent an ideological commitment to building a stronger Europe as an end unto itself.

British actions in this area tend to be driven by the belief that a strong transatlantic security relationship will depend upon European nations being able to act on their own when a crisis is of more direct concern to them than it is to the United States, and the United States may decide not to become involved. Similarly, there is the belief that, in order to be good partners to the United States in future collective missions, but lacking the financial resources to pursue exclusively national modernization efforts, European nations will need to work together to build the necessary capabilities to partner with an ever more technologically sophisticated and powerful U.S. military.

At the same time, the UK continues to see NATO as the dominant guarantor of its and the EU’s security. Improvements in EU capabilities serve this end as well as being useful for more autonomous EU action. And for each of the reasons above – its global security perspective, concerns about rising instability outside the Euro-Atlantic area, its desire to be a good security partner to the United States, and its military capabilities – neither the

current UK government nor its successors are likely to resist the internationalization of NATO's mission.

So, as the security imperatives of the Cold War recede into the past and both sides deal with the emergence of new threats to their security, the United States and the UK have largely succeeded in remaining synchronized across critical areas of their security relationship. This means that U.S.-UK ties have the potential to remain deeply integrated over the coming years. The principal storm cloud on this generally positive horizon arises from the disconnect between the closeness of the relationship at the strategic, intelligence, nuclear, and military levels and the contrasting limitations placed by the U.S. government on the sharing and transfer of defense-related technologies between U.S. and UK defense industries, even in the context of collaborative, bilateral defense programs. This situation is a growing source of concern, especially given the growing need for countries such as the United States and the UK to possess interoperable and integratable military capabilities in order to conduct effective joint military operations in support of shared objectives. .

### **3. THE REALITIES OF U.S.-UK DEFENSE INDUSTRIAL AND TECHNOLOGICAL COOPERATION**

#### A History of U.S.-UK Defense Industrial Cooperation

The United States and Great Britain have had a complex defense industrial relationship for over a century now. During both World Wars, the United States acted as Great Britain's strategic industrial reserve.<sup>25</sup> While the history of the U.S.-UK alliance during World War II is well recorded, less well known is how UK purchases of aircraft and other strategic goods in the late 1930s kick started the mobilization of the U.S. defense industrial base, easing its transition into being the "arsenal of democracy."

At the end of the Second World War, the United States and the UK were amongst the few countries with intact defense industrial bases, although the UK's was saddled with duplicate facilities and inefficiencies due to its strategy of building shadow factories. Both the U.S. and UK militaries had a strong desire to continue their wartime cooperation, as evidenced by the 1946 Directive of the Coordinating Committee of the U.S. War and Navy Departments<sup>26</sup> and the Burns-Templer Agreements of 1950, which permitted the sharing of all classified information and intelligence.<sup>27</sup> Despite this desire for a close military partnership, the close industrial relationships forged during the hot war of the 1940s drifted apart in the 1950s particularly at the prime contractor level. The UK became focused on developing national weapon systems, rationalizing its domestic defense industry, developing a civil aviation industry and creating industrial competitors with sufficient size and scale to survive in the marketplace – ultimately resulting in the formation of British Aerospace and Rolls Royce. In key areas where it had established defense industries, such as aircraft manufacturing and shipbuilding, the UK sought to maintain jobs, technical know-how, and a dimension of strategic security independence by choosing national options. In newly developing technologies, such as missiles and

helicopters, the UK industry had closer relations with its American counterpart and participated in more frequent technology exchanges and licensed production. In addition, the second and third tiers of the UK defense industry, such as the engine manufacturers and electronics companies, were able to develop relationships with both US and UK companies and serve as a link across the Atlantic. For example, Martin Baker ejection seats have been used by the U.S. Navy since 1957, and Rolls Royce engines and Smiths instrumentation have been on U.S. aircraft since the 1960s.

On the U.S. side of the Atlantic, at the end of the Second World War, the American defense industry was faced with the usual drawdown and dismantling of the “arsenal of democracy.” The advent of the Cold War with the Soviet Union in 1947 and the Korean War quickly reversed this trend. More importantly, the strategic decision to use superior technology and weapon systems as a fundamental component of U.S. military superiority put the defense industry squarely in the forefront. Compared to its UK and European colleagues, throughout the Cold War the U.S. defense industry enjoyed more robust budgets that sustained multiple programs and therefore numerous competitors, long production runs which drove learning curves, and large volumes which allowed for manufacturing efficiencies.

By the 1960s and 1970s, however, fiscal realities in both the UK and United States encouraged both industries to consider greater international collaboration. In Great Britain, UK-only weapons became increasingly unfeasible. Growing enthusiasm over the development of the European Economic Community and the fear of domination by the U.S. industry led the UK to engage in collaborative European aerospace/defense projects such as Tornado, Concorde, and Airbus. During this time period even the United States discovered that it could not self-fund the development of every weapon system, nor did it have a monopoly on technology. For example, in 1957 NASA Langley became aware of Hawker Aircraft Ltd.’s vertical take-off and landing aircraft technology and entered into a cooperative testing program.<sup>28</sup> The relationship paid off and in the 1970s the U.S. Marine Corps AV-8B fighter, based on the British Harrier vertical take-off and landing fighter design, became the most visible example of a Cold War transatlantic program that used a non-U.S. technology to meet a U.S. need.

Nevertheless, the overall imbalance in transatlantic defense trade and weapons development between the United States and the UK, along with the European NATO allies, served as a constant irritant to transatlantic and bilateral relations during the Cold War. On the one hand, this imbalance was inevitable. As noted, the size of the U.S. defense market and the size of its defense and R&D budgets dwarfed those of its European allies, which were hobbled by their fragmentation as well as by their small size. U.S. military forces and agencies had little to gain and a certain amount to lose from pursuing complex cooperative defense programs with UK and other European allies when national solutions were most often available. For their part, some European nations were happy to have the option of buying their equipment from U.S. producers. The British tended to take a mixed path of making certain major acquisitions domestically, while opening others up to U.S. purchases, which offered high technology solutions at competitive prices. In this sense, the UK was among the most open of the defense

producing European countries to U.S. purchases throughout the Cold War and subsequently into the post-Cold War period.

## Post Cold War – An Increased Intertwining of Defense Industrial Bases

Since the end of the Cold War, the U.S. and UK defense aerospace/defense industries have only become more intertwined. The defense industrial relationship by almost any measure has broadened and deepened, in the last five years in particular.

Underpinning the industrial links are a set of U.S./UK collaborative R&D and procurement programs that have grown in number and scope over the last 15 years. In the arena of defense science and technology research there are ten umbrella memorandums of understandings between the Department of Defense and the Ministry of Defense that has given rise to over 100 individual exchange agreements and 30 project arrangements that are in effect today.<sup>29</sup> These Anglo-American projects represent the largest collaborative relationship for the United States in defense science and technology and, for the UK, it represents approximately one half of the MoD's Defense Science and Technology Laboratory's collaborative projects. The U.S. Defense Science Board and UK Defence Scientific Advisory Council recently concluded a study on critical defense technologies and identified even more areas for future collaboration.<sup>30</sup> In addition, there are currently about two dozen collaborative defense R&D and procurement programs involving the United States and the UK<sup>31</sup>, equally divided in the air, land and sea domains and over half of them purely bilateral.<sup>32</sup>

All this activity has translated into increased defense trade. Through the 1990s U.S. defense industry exported over \$500 million of defense goods to the UK per year; and since the late 1990s the volume has expanded to an average of \$1.1 billion a year. This growth has included key programs such as the UK purchase of the Apache helicopter, the C-130J transport aircraft and the ASTOR surveillance aircraft. During that same time frame, UK defense industry has exported an average of \$350 million of weapon systems and parts annually to the United States.<sup>33</sup> The UK is the second largest supplier of defense goods to the United States, after Canada, as British defense technology continues to prove useful to U.S. warfighters. For example, a British firm manufactures the "brains" of the Predators.<sup>34</sup> In addition, the United States was able to turn quickly to the UK for technologies and procedures to mitigate one of the most deadly causes of conflict fatalities in Iraq: Improvised Explosive Devices (IEDs) that are set by insurgents as booby traps to kill and maim troops on patrol.<sup>35</sup>

Furthermore, over the last decade, the U.S. and UK defense industries have established a significant physical presence in each others' country. This has reflected the political imperative of needing to be able to compete "on shore" for contracts in each other's markets. Many of the major U.S. defense contractors have established or acquired operations in the UK, including Lockheed Martin, Raytheon, General Dynamics and Northrop Grumman. There have also been significant acquisitions in the UK by second tier US aerospace/defense firms. In total U.S. companies have bought 27 UK

aerospace/defense firms worth \$5.1 billion over the last five years, representing a little over half of all the U.S. investment in foreign defense assets. Meanwhile U.K. companies have acquired 50 aerospace/defense firms in the United States worth \$7.3 billion since 2001, equaling three-quarters of all foreign investment in the U.S. defense sector. And there have continued to be significant acquisitions by the second tier back and forth across the two countries.<sup>36</sup>

## The Failure of Recent Efforts to Eliminate Barriers to Cooperation

The increased intertwining of the U.S. and UK defense industrial base has raised the imperative for a technology control regime that is more reflective of the close overall security relationship. Beginning in the 1990s, both the U.S. and UK governments have attempted to streamline the process for transferring defense equipment and technology between the United States and the UK. Many officials in both countries recognize that the regulations now in place unnecessarily hamper cooperation between trusted allies who work closely together on the battlefield and in their laboratories and factory floors.

In February 2000, the U.S. and UK governments announced a joint Declaration of Principles for Defense Equipment and Industrial Cooperation. One goal of the Declaration of Principles was to reform U.S. and UK export controls to facilitate defense trade and work on joint programs. In May 2000, the U.S. administration announced its Defense Trade Security Initiative (DTSI), which sought to increase defense cooperation between the United States and its allies by offering them less cumbersome U.S. export controls in exchange for shoring up their own technology control regimes. Building on the Declaration of Principles, one goal of DTSI was to secure a waiver for the UK from the U.S. International Traffic in Arms Regulations (ITAR).

The ITAR requires that the State Department license all U.S. exports of designated defense equipment. Through an exemption, both countries hoped to expedite the sharing of technology between the United States and the UK and remove one of the obstacles to closer cooperation on joint defense research and production projects. The British placed a great deal of importance on the waiver, not only for industrial reasons, but also because, as described above, the UK's national security strategy envisions the country conducting major military operations alongside the United States. The ability to transfer defense goods and technology quickly and efficiently between the two countries was viewed as being critical to the level of interoperability desired between the British and U.S. militaries. Although the exemption negotiations appeared to focus on exports of unclassified defense equipment and technology to the UK, it still seemed an important step forward from a British perspective and, when it came to power, the Bush administration continued these efforts.

The Arms Export Control Act (AECA), which is the statutory authority for the ITAR, empowers the president to grant ITAR exemptions provided they meet certain conditions. Certain members of Congress, concerned about the conditions under which the UK would be able to receive an exemption, helped pass the Security Assistance Act of 2000

which amended the AECA and set out criteria needed to receive an ITAR exemption. These included a change in export control regimes to be “at least comparable to US law, regulation and policy;” the right for the United States to approve re-export to third countries; end-user certification; the sharing of information; the establishment of a list of controlled items; the control of technology transfer over electronic mediums; and penalties for violation.

In order to try to meet these criteria and secure the waiver, the UK proceeded to better align its export control regime to U.S. requirements, which it did by enacting the Export Control Act 2002 – the first major overhaul of UK export controls since 1939. Among other reforms, the Act expanded the definition of exports to include the transfer of technology by intangible means, such as email and fax, and also subjected brokers to regulation, a weakness in the old system. In addition, it included new controls on transfers of technical data related to weapons of mass destruction (WMD). With new UK legislation in place, U.S. and UK negotiators came to agreement on the terms of an ITAR exemption. However, neither the U.S.-UK agreement nor the UK reforms fully satisfied some key members of Congress and their staff. In both 2003 and 2004, Congress denied the administration’s requests to grant the waiver, and, in 2005, instead of approving an ITAR waiver, the most that Congress was willing to do was to add a section to the 2005 Defense Authorization bill calling for expedited consideration of UK license applications.

In the absence of a congressional majority to grant the UK an ITAR waiver, officials from the two governments have begun to consider other measures to improve their capacity to transfer defense-related technologies between the two countries. Some of these measures could be technical, such as creating a dedicated technology release path for U.S. technologies found in systems solely being used by the UK; processes whereby the United States could better deal with UK citizens with dual nationality; adapting U.S. technology transfer regulations for defense-related items that have a dual use; or simply speeding up the time taken to complete license applications.<sup>37</sup>

As helpful as these may be, making the existing system work more efficiently will not be a sufficient substitute for a more far-reaching adaptation of the U.S. technology transfer regime to allow U.S. and UK officials and technicians to work seamlessly together on building advanced defense systems capable of meeting their common security interests. Proponents of the waiver on both sides are aware that an ITAR exemption may have been a good start, but, because it would most likely have applied primarily to unclassified exports, it would not have eliminated the key U.S. regulations governing on the transfer of classified technologies and information that are now primary areas of concern.

Nevertheless, the failure to grant the UK an ITAR exemption has been particularly damaging to U.S.-UK relations because it has served as a very visible manifestation of the difficulties in the defense technology relationship. Similar to letting a blind man see for a day, the promise of an ITAR waiver provided the UK a glimpse of an environment where the United States and the UK could cooperate in a much closer fashion. With hopes for the waiver now dashed, the lack of progress on reforming the export and technology control regime between the two countries has changed from an irritant to

being a slow-burning crisis. Not only senior British defense officials, but also members of the British Parliament have taken every opportunity over the past six months to highlight the seriousness of the situation to their U.S. counterparts

#### **4. PERSPECTIVES ON A GROWING IRRITANT REACHING ITS CRITICAL POINT**

While the obstacles to deeper transatlantic and UK-U.S. defense cooperation were a persistent irritant within a mostly positive relationship during the Cold War and in the fifteen years since its end, they might now affect the nature of the bilateral security relationship more deeply. The ingrained U.S. bureaucratic resistance to allowing UK individuals and companies to have access to sensitive U.S. defense technologies appears, from the British perspective, to reflect a U.S. lack of trust in their ally that belies the continuing closeness of the overall security relationship. The competing pressures within the U.S. body politic are more complex.

##### **U.S. Perspectives**

There are two camps within the U.S. government. The first has and continues to argue that there are a number of important reasons why the United States should try to develop as open a system as possible for cooperating with its UK ally on defense industrial and technological matters.

As recent deployments have revealed and as the latest U.S. Quadrennial Defense Review has underscored, the United States needs to work “with or through others” to confront security challenges wherever possible in the future. In this context and from the U.S. military’s standpoint, the UK is likely to continue to be America’s partner of choice given its commitment to have a deployable armed forces capable of fighting high intensity warfare and its expertise in counter-terrorism and urban combat.

In the absence of an environment where the UK would simply purchase all of its defense equipment from U.S. manufacturers, it is vital that U.S. and UK companies be able to work closely together to develop joint systems or exchange the necessary technological information to be able to make their respective systems as interoperable as possible. Ultimately for U.S. military commanders, UK forces are most useful when they have equipment that can communicate and interact with U.S. forces as seamlessly as possible. This requires close cooperation in the requirements definition and development phases of a defense program and an environment where information can be shared.

Beyond the political-military sphere, another benefit of the relationship is the fact that the UK can bring valuable defense technologies to the table for the United States. As mentioned earlier, the UK has a long and proven track record of useful military technology innovation from the jet engine to steam catapults on aircraft carriers to Cobham armor for tanks to the contemporary examples of the vertical, short take-off and landing engine system used in the Joint Strike Fighter, the shaped-charge penetrating

BROACH warhead for the U.S. Navy's Joint Standoff Weapon, the M777A1 155M Ultralightweight Field Howitzer favored by the U.S. Marine Corps, and the anti-IED capabilities now deployed in Iraq.

A common perception of the global security threats also means that the UK defense science and technology establishment is focused on solving problems in arenas that are of value to the United States, such as counter-terrorism and net-enabled warfare. Furthermore, with one of the largest defense investment budgets in Europe, the UK is able to deliver real combat capability. However, it is clear that a more effective and rapid system for transferring technology between the United States and the UK is required, in order to incorporate more efficiently U.S. and UK technologies into each other's platforms and systems.

The UK also represents an attractive market in and of itself. The UK defense market, although by no means a match in terms of size to that of the United States, is capable of demanding major defense imports, and, over the past fifty years, the United States has been a leading beneficiary of this demand. Recognizing this opportunity, U.S. defense firms have made significant investments in the UK in recent years with the encouragement of a UK government that is seeking to maintain as competitive a domestic defense market as possible. Involvement in the UK market not only allows U.S. firms to gain access to technologies that strengthen their overall base of expertise but provides an opportunity to extend production runs and leverage technological resources.

Finally from a U.S. government budgetary standpoint, UK investment in cooperative programs such as the JSF can lessen the development cost for an increasingly-strained U.S. defense budget while decreasing the per-unit costs of the system once it goes into production. However, this development of a closer relationship between the UK and US defense industrial bases again presupposes a more efficient bilateral defense technology regime than currently exists.

All in all, the central argument for the proponents of a robust Anglo-American defense relationship is that UK can be a force multiplier for U.S. security.

Nevertheless, there is a second camp within the United States that resists any fundamental alteration of the military export control regime with the UK, however close it might be as an ally.

This group takes to heart the goal indicated by the Bush administration in its 2002 National Security Strategy of maintaining technological superiority over all potential adversaries as a central national priority. This strategic goal is designed to give U.S. leaders the confidence to know that they can enter any armed conflict with the capacity to overcome any enemy, from the most sophisticated to the most primitive, with minimum casualties and at a rapid pace. The central philosophy is "no fair fights."<sup>38</sup> There is an awareness that other countries and groups would like to undercut that superiority by gaining access to these technologies. Combined with a viewpoint that most leading defense technologies can be found in the United States and the rest of the world has little

to offer, some U.S. officials are determined to do all in their power to ensure that a restrictive technology transfer regime remains in place.

The forces of economic globalization – huge levels of cross-border economic activity, the constant movement of people involved in research and scientific exchanges, and the electronic sharing of data and information – only risk increasing the opportunities for U.S. technology leakage to competitors and potential adversaries. These phenomena of globalization are increasing in intensity even as the leveling of technical expertise across the world also increases the potential for adversaries to absorb both dual-use and defense technologies and integrate them into weapon systems.

In this context, the economic rise of China and its decision to undertake a significant military modernization program stands out as one particular source of concern; although stymieing the efforts of any number of other countries - from Iran to Russia - from acquiring U.S. technologies also remains a priority.

A more recent source of concern is that determined individuals linked to international terrorist groups might also find ways to acquire specific U.S. technologies and turn them back against their inventors. The level of operational sophistication of some of the new radical Islamic groups, and their potential access to strong technical minds and potentially to large sources of funding, all intensify this new concern.

The opponents to changing the system draw comfort from the fact that successive U.S. governments and legislators have put in place and updated a series of controls on the transfer of U.S. technology toward not only other countries in general, but also toward U.S. allies so as to ensure that sensitive technologies do not then pass on from allies to third parties. The central line of reasoning behind these restrictions is that enemies of the United States can try to draw U.S. technology from countries that take a different approach to their technology transfer policies. In this context, the UK is seen by some not through the lens of its role as a leading U.S. security ally, but through the lens of its potential – like any other country – to be a gateway for sensitive U.S. technologies to third countries or actors.

This difference in approach came to a head in the U.S. Congress when the UK government joined other EU governments in recommending the lifting of the EU arms embargo on China in late 2004 and early 2005. U.S. concerns have persisted despite the EU's decision in the spring of 2005, largely at UK urging, not to proceed with the lifting of the embargo for the moment and the commitment by major UK defense companies not to sell defense equipment to China. Nevertheless, the British government has and might have in the future different foreign policy objectives or tactics from the United States toward certain countries, and it is argued that these policies could also guide a different approach toward the licensing of sensitive technologies for export.

In addition, U.S. officials have been concerned for some time that UK defense-related companies have been involved in cross-border mergers, joint ventures and industrial partnerships with other European companies, even as they have deepened their industrial

linkages within the U.S. market. As part of this process, UK and European companies sometimes work collaboratively on technology development and product manufacturing, and people of different nationalities are employed or sub-contracted across EU borders. The fact that UK companies, like their European counterparts, must still meet all national export control policies and have developed elaborate internal firewalls, as U.S. companies have in similar situations, to protect confidential information does not entirely alleviate U.S. anxiety about sharing its most sensitive technologies with the UK in this context.

Finally, there is also a commercial dimension to U.S. concerns. Some U.S. officials as well as corporate executives are not always disposed to give to their UK partners intellectual property and technologies that have been developed with substantial amounts of U.S. taxpayer dollars while the UK is unable to make equal investments to achieve similar advances – especially when such transfers could enhance the competitiveness of UK defense firms vis à vis their U.S. counterparts in the UK, European, and global defense markets.

In this context, it is not surprising that successive U.S. administrations have been cautious or unwilling to give the UK some form of preferential access to U.S. defense-related technologies – despite the political-military as well as the economic benefits of doing so – even as they have continued to treat the UK as the closest of allies in most other areas of their bilateral security cooperation.

## UK Perspectives

For British decision makers, the acknowledgement that, if the UK engages in large scale combat operations, it will do so with the United States drives the central argument for greater Anglo-American technology sharing. Without being able to build a closer relationship in the development and fielding of systems that share sufficient levels of technological compatibility to be seamlessly interoperable, the physical ability of UK forces to fight alongside their U.S. counterparts might erode over time. British military planners want to have the capacity to fight alongside their U.S. counterparts from the first hour and in the most difficult military theater of operations. To do this, they need to know that their systems are fully compatible with U.S. systems.

From a more self-interested perspective, UK defense planners are increasingly conscious that one of the most important components of their future security will be the capacity to operate, maintain, modernize, and upgrade their key weapons platforms acquired from the United States or other countries. This is vital given the prospect that the UK will be operating its land, air and sea platforms and systems for quite some time, as the cost of purchasing new equipment continues to increase significantly. Thus, the UK feels that, in times of emergency, it must be able to modify or adapt its weapon systems quickly and at will, and, in today's environment this implies particularly the ability to modify electronics and software. British policy makers fear that slow and cumbersome technology transfer regimes places this capability at risk. As the recently-released UK

Defence Industrial Strategy concluded, the UK government must maintain a level of “operational sovereignty” in key areas, which can either be achieved by a more open interchange of technology with its offshore suppliers or by insisting that certain technologies and production processes be developed and sustained in the UK in the future.<sup>39</sup> This concern plays heavily in UK insistence on having the appropriate access to key technologies in the JSF program, as well as in the UK’s Airborne Standoff Radar system (ASTOR), both of which contain sensitive U.S. defense technologies.

From a corporate perspective, if the UK industry is to satisfy the British military’s desire to be interoperable with the United States then it must have a presence or access to the U.S. market. Furthermore, the size of the U.S. market means that it offers by far the greatest potential for sales and market growth in the defense and aerospace sector. There is an acknowledgement that UK and European companies have been limited in their ability to access this market effectively from their home bases, primarily because of U.S. domestic preferences. Some UK companies have responded by building major subsidiaries inside the United States through both acquisitions and market growth. These acquisitions are subject to various special security arrangements (SSA’s) and other “Chinese walls” that UK companies, like other foreign companies, must maintain between their U.S. defense operations and their parent companies. Although these constraints are fully respected as a condition of doing business in the United States, they serve to limit the ability of companies concerned to enhance and fully take advantage of their global technology asset base. As a consequence, a number of UK companies have been forced to construct “two-pillar structures” – one on each side of the Atlantic – an arrangement that may not be sustainable in the long-term. The concern is that, if the issue of information and technology exchange is not ultimately resolved, shareholder pressure and management frustration will force an unwinding of these transatlantic industrial relationships, to the detriment of both the United States and UK.

While the UK had grudgingly tolerated for the last three decades the paradox of being the closest of security allies while being treated no differently than the worst of international actors in the eyes of the U.S. technology control regime, there is now a growing frustration about the effects that it is having on UK perceptions and interests at a number of levels. One level is emotional. As UK soldiers stand alongside their U.S. counterparts also sacrificing their lives in some of the most difficult conflicts of the moment, from Iraq to Afghanistan, senior UK ministers and politicians, as well as others, cannot understand how the deep sense of trust involved in fighting together to defend each other’s common interests corresponds with the lack of trust shown the British government over its ability to protect sensitive U.S. technologies.

This sense of grievance is heightened by the suspicion that the U.S. government is separating these two aspects of its security relationship with the UK simply because it knows that it can. In other words, as a matter of reality, the UK feels obliged to stand by the United States in Iraq and Afghanistan for all of the strategic reasons listed above, but the U.S. does not feel obliged to let down its guard in its technology relationship with the UK in return, given its own specific concerns in this area. Where the UK is looking for linkage, the United States prefers to treat these as separate items.

UK concern about this apparent imbalance in dependencies extended recently to the area of operational military intelligence, one of the most important and sensitive areas that has helped sustain the closeness of the bilateral security relationship. Although the problems in this area are being addressed, there is a growing concern that UK participation in joint operations, while welcomed by U.S. decision-makers and the military, is perhaps not sufficiently vital for the U. S. policy establishment as a whole to feel the need to make difficult domestic trade-offs in related policy areas, such as in the area of more open technology sharing.

A zero-sum mentality is growing in the UK government and industry between a desire to work with the U.S. government on joint programs and participate in the U.S. defense market as a key actor, on the one hand, and a desire to play a central role in the rationalization of the European defense market, on the other. Steps that the government might take or endorse to deepen its defense industrial and technological integration on one side of the Atlantic are increasingly likely to be taken at the expense of its influence on the other. And some are arguing that, given the inability to develop a predictable and efficient environment for the exchange, transfer, and sharing of defense technology between the UK and the United States, UK companies should gradually lessen their U.S. technological content, and abandon the U.S. market for more of a European vocation. A warning as to an alternative future can be seen in recent European efforts to design satellites and weapon systems without U.S. content in order to create “ITAR-free” products. This outcome would have a severely negative effect on the overall U.S.-UK security relationship.

In the near-term, the UK government might decide to raise the stakes in its negotiations with the U.S. government over the JSF and other collaborative programs, threatening to precipitate a highly public falling-out with the United States over important bilateral programs as well as risking serious financial costs for both sides, either in delays or re-negotiations. Looking further ahead, the UK government may feel pressured to make more explicit choices in favor of European defense program solutions, where it can play fully in the development and production of the system and thus meet its needs for future operational sovereignty. At the same time, UK officials and companies may increasingly decide not to source partners, systems, sub-systems, and components from the United States and thus avoid the restrictions that U.S. export control procedures have on British industrial interests and security policy. None of these would be preferred options for UK decision-makers, who are well aware of the financial and defense capability risks of loosening their transatlantic defense acquisition bonds. But, given the choice between two unsatisfactory options, it is hard to know which way they will turn over time.

In sum, it has proved impossible to date to bridge the differences between U.S. security concerns about protecting their most sensitive technologies and growing UK frustrations that the U.S. emphasis on protection might come at the expense of making the U.S.-UK security relationship as robust and flexible as possible for the future. Rather than deal with the growing UK sense of crisis over this situation, U.S. officials appear to have denied for the moment that a crisis exists. The risk is that this divergence might widen

gradually into a rift that could damage a bilateral alliance that is vital to both sides. What chances are there to square this circle?

## **5. THINKING ABOUT SOME WAYS FORWARD**

The U.S.-UK defense-industrial relationship has evolved, in many ways, to match the depth of the bilateral political and military relationship, after lagging for most of the Cold War. So much so that it has outgrown and put under strain the export control and technology sharing regimes that were constructed to prevent technology from flowing to adversaries rather than a close partner and for lower volumes of interaction. The relationship has arrived at a crossroads, and progress cannot be made without seriously dealing with this issue, one that is normally seen as technical and tactical in nature but has assumed strategic importance. A new approach, new concept, and new vocabulary are needed to resolve this issue.

The heart of any solution must lie in the exceptional closeness of the U.S.-UK political and military relationship, which is bound by common values and visions of the future security environment. The fact that there are “trusted communities” in the intelligence, nuclear, and operational military fields indicates that a similar trusted community could be built in the defense-industrial realm. It is incredible that the United States can trust the UK with highly classified nuclear secrets and sensitive intelligence and yet the same level of trust cannot be extended to the protection of sensitive defense industrial information.

Just as with the intelligence and nuclear trusted communities, the answer probably lies in developing a set of trusted community practices, policies, and procedures for the sharing of defense technology that both sides can have confidence in, but that also reflect the reality of the close U.S.-UK strategic relationship in today’s and tomorrow’s world. In this world, the UK and the United States will remain the closest of allies in terms of their commitment to upholding the foundations of security and prosperity within and beyond the boundaries of the Euro-Atlantic area, whether this is in terms of diplomacy, institution-building, or the deployment and use of military force. In addition, even as the U.S. continues to offer new defense technology options for UK armed forces, the UK will also offer the United States valuable alternative sources for equipment and technology for its defense procurement needs. In this world, however, the United States will continue to lay a high priority on protecting to the farthest extent possible its most sensitive, defense-related technologies, while the UK government will insist on maintaining its sovereign control over its own defense export decisions. Any solution to the current U.S.-UK technology sharing impasse must capture these two parallel realities.

In order to inspire confidence, therefore, the solution must incorporate an agreement or set of policies that is commensurate with the UK’s position as one of America’s most trusted security partners – in the past and in the future – but that protects U.S. concerns about the transfer of technology beyond this bilateral relationship. In practice, this means:

Creating a government-to-government framework within which specific individuals and companies from the two countries would be certified to share between each other defense-related information, systems, and technologies – from the most mundane to the most sensitive – without restrictions, but under the strict condition that enforceable controls would be in place to prevent unauthorized release beyond this bilateral space.

The companies and individuals involved in developing, building, and maintaining weapon systems under this framework would be treated, for all intents and purposes, as nationals or as domestic firms by both countries, subject, of course, to limitations on their sharing anything outside of this “trusted community.”

Within the framework, the issue of exports simply would not arise, whereas transfer or exports outside the framework – whether to actors in the United States, UK, or any third parties – would be strictly controlled and enforced.

In other words, any technologies, information, or items that individuals might want to transfer beyond this specific framework would come under the full weight of existing U.S. and UK arms and technology export laws and regulations.

The framework would apply strict procedures and legal obligations upon the companies and individuals concerned. They would be held to account by their national governments by means of legally enforceable obligations, much as government agents are within the intelligence sphere and companies and their employees are in the criminal sphere.

Only a framework that combines the open sharing of information, technology, and systems at the bilateral level with maintaining the complete range of restrictions outside the framework is likely to support the political, military, and operational potential of the U.S.-UK security relationship while assuaging the U.S. concern to limit the risks of global technology proliferation. To achieve such an outcome would require compromises by both the UK and the U.S. governments from their past positions. The UK would need to find tangible ways to meet the U.S. concern about its ability to block exports of America’s most sensitive technologies to third countries and the unauthorized transfer of technologies within the UK. And the United States would need to be prepared to strike a balance between any risk of technology compromise and the operational as well as strategic benefits of a freer flow of defense-related technology between the United States and the UK.

## **CONCLUSION**

The United States and the UK have sustained an exceptionally close security relationship through the Cold War and into the Post-Cold War period. They will likely continue to share common security interests globally and functionally well into this century. They also have the capacity to confront those challenges collectively from a military

perspective should the need arise. This close relationship is underpinned by the daily sharing of information in some of the most sensitive areas of national security policy – nuclear policy, intelligence, and military operations – as well as the intimate working relations between senior diplomats in London and Washington.

The continuing obstacles to the exchange of defense-related technologies between the United States and the UK stand out as an anomaly within the overall bilateral relationship. There are important and structurally ingrained reasons why this is so, especially on the U.S. side. However, the status quo is no longer sustainable from the UK perspective and carries increasing costs for the United States. If the two sides cannot make progress soon on developing new procedures to overcome the current obstacles to the bilateral exchange and transfer of technology, there is a very real risk that this will increasingly undermine the broader bilateral security relationship. It could also lead to a gradual distancing of the U.S. and UK defense industrial and technological bases – with the U.S. turning inward and the UK government and some UK companies strengthening their European ties instead. This would be a wasteful outcome, given how much each side has offered to the other in the past and could continue to do in the future.

Further cementing the close bilateral security relationship with the UK at the technology sharing level is likely to carry specific benefits both for the United States and the UK over the long-term. In sum, it is critical to the national interests of the UK and the United States that the current disagreements over reciprocal access to defense-related technologies not become a contributor to the weakening or decay of what remains the most vital bilateral security partnership for both sides.

## ENDNOTES

<sup>1</sup> For more detail on British concerns, Lord Drayson, “Statement to Senate Armed Services Committee,” March 14, 2006

<sup>2</sup> John Baylis, *Anglo-American Defense Relations, 1939-1984*, (New York: St. Martin’s Press, 1984), p. 40-41

<sup>3</sup> American forces remained in control of the actual Thor warheads and a joint decision was required by both governments to launch. See Christopher Finn, “Anglo-American strategic air power cooperation in the Cold War and beyond,” *Air & Space Power Journal*, Winter 2004, (USAF, 2004)

<sup>4</sup> <http://www.globalsecurity.org/space/facility/fylingdales.htm>

<sup>5</sup> Baylis, p. 16-19

<sup>6</sup> In response to the breakdown of the relationship, the U.K. pursued its own nuclear and thermonuclear weapons research through the mid-1950s. The UK’s independent work resulted in some nuclear plant designs that were considered to be better than the U.S. and a thermonuclear weapons program whose progress surprised U.S. policy makers. Baylis, p. 30-43

<sup>7</sup> Baylis, p. 67-71

<sup>8</sup> Article XIV of the Polaris Sales Agreement of April 6, 1963 states, “Section 1: The Government of the United Kingdom shall not, without the prior express consent of the Government of the United States, transfer, or permit access to, or use of, the missiles, equipment, services, or documents or information relating thereto which are provided by the Government of the United States under this Agreement, except to a United Kingdom officer, employee, national or firm engaged in the implementation of this Agreement. Section 2: The Government of the United Kingdom shall undertake such security measures as are necessary to afford classified articles, services, documents or information substantially the same degree of protection afforded by the Government of the United States in order to prevent unauthorized disclosure or compromise.” Baylis, p. 135

<sup>9</sup> Ian Davis, “US-UK Nuclear Cooperation and the Future of the UK Trident System,” statement before the Meeting of the All-Party Parliamentary Group on Global Security and Non-Proliferation, February 5, 2002

<sup>10</sup> “US-UK nuclear weapons collaboration under the Mutual Defense Agreement: Shining a torch on the darker recesses of the ‘special relationship,’” BASIC Special Report, p.11, June 2004

<sup>11</sup> Charles Dick, “The Defense Dimension of the Anglo-American Special Relationship,” *U.S.-UK Relations at the start of the 21<sup>st</sup> Century* (Washington: Strategic Studies Institute, January 2006)

<sup>12</sup> Charles Grant, *Intimate Relations: Can Britain Play a Leading Role in European Defence – And Keep It’s Special Links to US Intelligence?* (London: Center for European Reform, April 2001)

<sup>13</sup> A recent example of this occurred in November 2005, when a Nimrod surveillance craft detected a small, fast moving boat off the coast of Nicaragua. They directed the HMS Cumberland to intercept the ship and the operation resulted in a seizure of two tonnes of cocaine. “Drugs bust ‘a sledgehammer blow,’” BBC News, November 1, 2005, [http://news.bbc.co.uk/2/hi/uk\\_news/4394392.stm](http://news.bbc.co.uk/2/hi/uk_news/4394392.stm)

<sup>14</sup> Charles Grant, *ibid.*

<sup>15</sup> Robin Niblett and William Wallace, “Rethinking European Order: West European Responses,” (Palgrave MacMillan: London, 2001)

<sup>16</sup> “Delivering Security in a Changing World: Defense White Paper,” British Ministry of Defense, December 2003 [http://www.mod.uk/NR/rdonlyres/051AF365-0A97-4550-99C0-4D87D7C95DED/0/cm6041I\\_whitepaper2003.pdf](http://www.mod.uk/NR/rdonlyres/051AF365-0A97-4550-99C0-4D87D7C95DED/0/cm6041I_whitepaper2003.pdf)

<sup>17</sup> John Reid, “Allies must shape up,” at the informal meeting of Defense Ministers in Taormina, Italy, February 9-10, 2006: <http://www.mod.uk/DefenceInternet/DefenceNews/DefencePolicyAndBusiness/ReidNatoRisksFailingAlliesMustShapeUp.htm>

<sup>18</sup> Christopher Finn “Anglo-American strategic air power cooperation in the Cold War and beyond,” *Air & Space Power Journal*, Winter 2004, (USAF, 2004)

<sup>19</sup> Figures from: [http://www.globalsecurity.org/military/ops/iraq\\_orbat\\_coalition.htm](http://www.globalsecurity.org/military/ops/iraq_orbat_coalition.htm)

<sup>20</sup> Thomas Houlahan “The War so far,” *United Press International*, March 21, 2003

<sup>21</sup> Further lessons can be drawn from the reorientation in Afghanistan towards bringing together military, civil, and reconstruction components, proving the value of British experience in counter-insurgency

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operations. Using a model honed by British forces in counter insurgency operations in Kenya and Malaysia, NATO forces have gradually increased the use of Provincial Reconstruction Teams (PRTs) in order to project their influence and protection beyond Kabul. The PRTs are able to maintain a security blanket in a given area, while overseeing the reconstruction process with close participation and involvement of local parties. The United States is now looking to employ similar tactics in Iraq. British Secretary of Defense John Reid “Transatlantic Challenges,” delivered at the Center for Strategic and International Studies (CSIS), November 7, 2005.

<sup>22</sup> “Quadrennial Defense Review 2006,” U.S. Department of Defense <http://www.comw.org/qdr/06qdr.html>

<sup>23</sup> Geoff Hoon, British Secretary of State for Defense, at the Royal United Services Institute, June 26, 2003

<sup>24</sup> Burkard Schmitt, *Defence Expenditure* (Brussels: Institute for Security Studies, February 2005)

<sup>25</sup> For example, between 1915 and the end of the Great War, the UK bought about \$230 billion worth of munitions, weapons and other strategic goods from the U.S. (in 2004 dollars), engaging a vast portion of the American defense industrial base – some 948 firms and 20,000 subcontractors – in many cases having them manufacture British designs. Paul Koistinen, *Mobilizing for Modern War: The Political Economy of American Warfare, 1865-1919* (Lawrence, Kansas: University Press of Kansas, 1997), p. 114.

<sup>26</sup> “...all classified military information, including the United States order of battle, and all information about combined research and development projects to which the United Kingdom had contributed or was contributing and United States research and development projects, could be released to the United Kingdom.” Baylis, p. 36

<sup>27</sup> The Burns-Templer Agreements, Document A, January 27, 1950. “The U.S. and the UK are agreed that it is in the interests of both countries that there should be a full and frank interchange to the greatest practicable degree of all classified military information and intelligence, except in a limited number of already declared fields, it being understood that either Government may subsequently declare any newly-developed fields or projects as excepted upon due notification to the other Government. In this connection it is agreed that the flow of information over the whole field of guided missiles shall be resumed at once.” Baylis, p. 74

<sup>28</sup> <http://www.globalsecurity.org/military/systems/aircraft/av-8-history.htm>

<sup>29</sup> Defense Science and Technology Laboratory, UK Ministry of Defense, (January 2006)

[http://www.dstl.gov.uk/about\\_us/partner.htm](http://www.dstl.gov.uk/about_us/partner.htm).

<sup>30</sup> “Joint U.S. Defense Science Board and UK Defence Scientific Advisory Council Task Force on Defense Critical Technologies Report”, Defense Science Board, March 2006

[http://www.acq.osd.mil/dsb/reports/2006-03-Defense\\_Critical\\_Technologies.pdf](http://www.acq.osd.mil/dsb/reports/2006-03-Defense_Critical_Technologies.pdf)

<sup>31</sup> The bilateral programs include Surface Ship Torpedo Defense, Recoverable Tethered Optical Fiber (Buoy), NEST Super High Frequency Satcom Terminals, Trident Missile, Joint Blue Force Situational Awareness, Combined Arms Tactical Trainer, Joint Common Missile, Harrier AV8B, Directional Infra-Red Countermeasures (DICRM), Multifunctional Electronically Scanned Radar (MESAR), and the UCAV Capabilities and Cost-Effectiveness Study.

<sup>32</sup> “Ministry of Defence Annual Report and Accounts 2004-2005,” UK Ministry of Defence, October 28, 2005, <http://www.mod.uk/publications/modara04-05/index.html>

<sup>33</sup> U.S. International Trade Commission statistics

<sup>34</sup> Anthony Barnett, “Revealed: UK’s role in deadly CIA drone,” *The Observer*, January 29, 2006

<sup>35</sup> Joseph Giordano, “New Army program aims to put soldiers on higher alert for IEDs,” *Stars and Stripes*, May 25, 2005.

<sup>36</sup> Defense Mergers & Acquisitions Database, Infobase

<sup>37</sup> Andrew Chuter and Vago Muradian, “UK, U.S. enter tech-transfer talks,” *Defense News*, January 30, 2006

<sup>38</sup> “National Security Strategy of the United States of America,” (Washington, DC: September 2002)

<sup>39</sup> The British Defense Industrial Strategy specifically state that the MoD will be “looking for parallel commitment from industry [in] investing in growing and maintaining high-quality systems engineering capability within the UK.” (British Ministry of Defense, 2006)

## **APPENDIX A:**

# **Primer on the Strategic Export Controls of the United Kingdom and the United States<sup>1</sup>**

### **Introduction: Why Control Strategic Exports?**

The United States and Great Britain have enacted extensive regulations—known as strategic export controls—to control exports of technologies and products from their respective countries that could have military uses. The principle underlying these rules is the same in both countries: strategic export controls help prevent undesirable actors from acquiring dangerous weapons and technologies.

But what exports must governments control? And how should they go about this? For the United States and the United Kingdom, the answers to these questions are quite similar, though not exactly identical. Regarding what should be controlled, both countries control dual-use goods that have both military and civilian applications in addition to goods with only military applications. The two systems are also similar in that the United Kingdom controls nearly everything that appears on the U.S. military control list. Beyond controlling goods, the United States and the United Kingdom both control the technology and technical data necessary to produce those goods. Therefore, an international technology transmission—such as sending an email with blueprints for a controlled dual-use item—is considered an export subject to control in both the United States and the United Kingdom. Both countries also control the provision of technical assistance, as well as the trading and brokering of controlled items. In addition, sensitive information in both countries may be classified and therefore subject to an additional set of rules governing its disclosure. Philosophically and in end effect the United States and the United Kingdom have strategic export control systems that are quite similar.

It should be noted that despite these basic commonalities, the two export control regimes are not exactly the same. U.S. rules tend to be more encompassing, covering more transactions than those of the UK. For example, UK export control rules covering visual or oral disclosures of technology to foreigners inside the United Kingdom are narrowly tailored for specific transactions, such as those involving weapons of mass destruction (WMD) related technology; U.S. rules cover all such transfers. In addition, UK regulations for brokering designated goods rarely apply to UK brokers operating wholly outside of the United Kingdom; U.S. brokering rules apply to U.S. brokers everywhere. These are just two examples of some of the differences detailed below.

There is, however, one area where U.S. and UK regulations are both especially tight: the export of any goods or technology associated with WMD or related missile programs. Both governments view the spread of these weapons as exceptionally dangerous and destabilizing—particularly if terrorists are able to acquire them. For this reason,

preventing WMD and missile proliferation is a key common aim of both U.S. and UK strategic export controls.

The United Kingdom and the United States also broadly agree on what export controls should prevent. Both countries state that regulations should not allow exports that detract from regional peace and security, incite or escalate conflict, support terrorism, or promote WMD proliferation. In addition, UK rules prohibit arms exports that are likely to enable human rights abuses, and this is an area of U.S. concern as well. Both U.S. and UK criteria for permitting exports also stress the importance of adhering to multilateral arms control agreements, which is deemed important given the global nature of some weapons technologies.

How do the United States and the United Kingdom control exports? In both countries, a licensing process is the primary mechanism for enforcing strategic export controls. Regulators in both countries maintain lists of designated military and dual use items and technologies, and in order to export them, one must receive a government license.

In the United Kingdom, licensing authority rests with the Department of Trade and Industry (DTI), in particular the Export Control Organization. DTI does not, however, exercise this authority independently; instead, it circulates license applications to relevant ministries for substantive evaluation. Most often this means the Ministry of Defense (MOD), but DTI may also consult with the Foreign and Commonwealth Office, the Department for International Development, or other ministries.

In the United States, responsibility for administering export controls is split: the State Department's Directorate of Defense Trade Controls (DDTC) controls military exports, while the Commerce Department's Bureau of Industry and Security (BIS) controls dual-use exports. In the approval of licenses, both agencies consult with the Department of Defense, and often with other agencies such as the Department of Energy, the National Security Agency (a part of the DoD), the National Security Council, the Federal Bureau of Investigation, and other members of the "intelligence community". It can be assumed that the British authorities also consult with their own intelligence services. The U.S. has a mechanism for resolving issues within the "inter-agency process." For dual-use items, the BIS chairs an inter-agency "Operating Committee" of senior civil servants, with further reviews by policy-level officials up to a final (if rare) review by the "Principals" (Cabinet secretaries) or even by the President.

In their underlying philosophy and their execution, then, U.S. and UK strategic export controls are similar. The governments of both countries maintain lists of military and dual-use items and technologies that may not be exported without a license. The purpose of these rules is to protect national security and maintain global peace and stability by keeping powerful weapons—most importantly WMD—away from those who might use them irresponsibly—such as terrorists, rogue states, and potential regional aggressors.

## **Controls on Exporting Military Goods & Technologies**

### **Origins of the UK Strategic Export Controls**

**D**TI's authority over British strategic export controls stems from the Export Control Act 2002, which is the foundation of British strategic export controls. The Act was the culmination of a long reform process that resulted in the first overhaul of strategic export controls since the beginning of World War II. The primary catalyst for the reform was the "Arms-to-Iraq" affair, in which it was revealed that, during the 1980s, UK companies had sold military equipment to Iraq. This led to an inquiry by Sir Richard Scott, a judge, who published a report in 1996 recommending substantial changes that would modernize and tighten export controls, while making them more transparent. The Government followed up two years later in a White Paper on strategic export controls that incorporated many of the Scott Report's recommendations. The White Paper formed the basis for the Export Control Act 2002, which is the first UK primary legislation on strategic export controls since 1939. The Act contains the basic rules and principles for controlling strategic exports. It also delegates to DTI the authority to enact further regulations—known as secondary legislation—to implement the law.

### **UK Licensing Criteria**

"What items should DTI control and upon what criteria should it evaluate export licenses?" was an important question for the framers of the Export Control Act 2002. One major problem that the Scott Report identified was a lack of transparency in the export control regime. While DTI sets forth specific lists of controlled items in secondary legislation, the primary legislation mentions some broad categories of exports subject to control. Some of these are military equipment and technology, equipment or technology that could be adapted for military use, and equipment or technology that could support WMD programs, terrorism, or violations of international law or human rights. The government must also implement export controls to fulfill the UK's international obligations. While the Government may institute controls on exports beyond what the Act permits, these must be temporary; Parliament must authorize any permanent expansion of the Government's power to impose export controls.

The broad categories contained in the Export Control Act 2002 were consistent with two major policy statements on export controls. One was a 1997 Foreign Office statement setting forth criteria for approving export licenses, including whether a transaction is consistent with UK international obligations, whether it is consistent with UK national interests, the risk that it will promote internal repression, international aggression, or regional instability, and the possibility of re-export to undesirable users, including terrorists. The other policy statement is the EU Code of Conduct for Arms Exports, which contains eight criteria similar to those found in the Foreign Office statement, including the need to protect the interests of EU members and allies, preserve regional security, fight terrorism, respect human rights, and observe international commitments. It should be noted that, while often cited as a basis for EU export control rules, the Code of Conduct is a political statement that is not legally binding on the individual EU member

states. It is the Export Control Act 2002 that operationalizes the principles of the Code of Conduct for the United Kingdom.

DTI policy is to evaluate export license applications based on the Foreign Office and EU Code of Conduct criteria. DTI maintains a database on end-users to help provide the information necessary to assess license applications against the criteria. In addition, UK authorities may employ secret intelligence on procurement efforts when deciding whether to approve a license application.

### **UK Control Lists**

In order to implement the broad terms of the Export Control Act 2002, DTI regulators have devised several lists enumerating exactly what goods and technologies are controlled. There are two lists covering military goods—the UK Military List and the UK Explosive-Related List—as well as two covering dual-use goods—the UK Dual-Use List and the EC Dual-Use List. DTI, in consultation with other ministries, has the authority to determine what items appear on the lists, and the department controls both military and dual-use items. Additionally, when considering export licenses, the Act instructs authorities to consider not only the description of the item or technology to be exported, but also the various uses that the buyer might have for it. While the lists offer a fairly comprehensive accounting of controlled goods, items that do not appear on a list are not automatically exempt from export controls. For example, if an exporter knows or suspects that an item or technology is intended for use in a WMD or related missile program and that item or technology does not appear on a list, it is still subject to control and requires a license.

### **Types of UK Licenses**

DTI issues three main types of export license: Single Individual Export Licenses (SIELs); Open Individual Export Licenses (OIELs); and Open General Export Licenses (OGELs). SIELs are the most restrictive licenses, covering exports of a specific quantity of specified goods to a specific consignee. OIELs cover multiple shipments of specified goods to a specific destination or consignee. They are usually valid for two years. A Global Project License (GPL) is like an OIEL, but it applies to exports related to a joint project undertaken with the five other major European arms producing countries that signed the 2000 Framework Agreement (France, Germany, Italy, Sweden, and Spain), an agreement that followed on from the 1998 Letter of Intent (LoI) and that represented a first step towards creating a political and legal framework for cross-border industrial restructuring. GPLs are intended to streamline licensing procedures on cooperative projects involving these countries. Finally, OGELs allow the export of specific goods to specific destinations without a license. The exporter must register with DTI in order to use an OGEL and maintain detailed records of the transaction. OGELs that are currently open include those covering exports of certain items to British troops overseas, export of certain goods to NATO end-users, and the re-export of certain goods imported temporarily for repair or replacement under warranty.

## **U.S. ITAR Basics**

In the United States, exporters must also apply for government licenses to sell designated goods and technology abroad. Contrary to the U.K. model, however, separate U.S. agencies administer controls for exporting military and dual-use items. The statutory basis for U.S. regulations governing military exports—but not dual-use exports—is the Arms Export Control Act (AECA), mostly recently reauthorized in 2000. This legislation empowers the President to designate what military items will be controlled and to establish regulations for their export. The Act instructs the executive branch to consider whether the export would contribute to an arms race, aid the development of WMD, support terrorism, make armed conflict or its escalation more likely, or discourage the development of international arms control or other agreements when deciding whether to grant an export license. These criteria are very similar to those used in the United Kingdom.

The President has delegated his AECA authority to the State Department, which is the lead agency responsible for administering export controls on military items and technology. To accomplish this, the State Department issues a set of rules, which is known as the International Traffic in Arms Regulations (ITAR). One element of the ITAR is the United States Munitions List, which designates the military goods subject to export control. Within the State Department, the Directorate of Defense Trade Controls (DDTC), which is part of the Bureau of Political-Military Affairs, administers the ITAR. DDTC adds and removes items from the Munitions List in consultation with the Department of Defense. One source of Defense Department input regarding the Munitions List is its Office of International Technology Security, which maintains the Militarily Critical Technologies List (MCTL) and the Developing Science and Technologies List (DSTL).

According to a Defense Department survey, all four UK lists, combined with the UK Official Secrets Act, control “nearly everything” contained in the ITAR Munitions List.<sup>2</sup> The report does note a few exceptions where the United States controls items that the UK does not and also states that some items on the ITAR Munitions List appear as dual-use items in the UK, such as space launch vehicles. Conversely, the UK classifies some items as munitions that the United States labels dual-use.

The ITAR requires anyone intending to export or temporarily import any item on the Munitions List to apply for a license from DDTC, regardless of the end-use. In addition, anyone who produces any item on the Munitions List must register with DDTC whether or not they intend to export these items (there is no such registration requirement in the United Kingdom). Though it has the power to approve licenses, DDTC may refer cases to other government agencies for comment. Most often, this means contacting the Defense Technology and Security Administration (DTSA) within the Defense Department, which can provide additional input on the national security implications of a particular license application. In 2005, DDTC reviewed 62,228 licenses, about thirty percent of which it “staffed”, or referred, to DTSA for comment. Staffing a case to DTSA results in significantly increased processing times. In 2005, DDTC’s median

processing time for a non-staffed case was fifteen days; for staffed cases, it rose to fifty-one days.<sup>3</sup>

### **Technology Transfers Are Exports Too**

Beyond the export of physical goods, both the U.S. and UK strategic export control regimes regulate technology transfer, though U.S. rules in this area are broader. The ITAR prohibits the transfer of designated technical data to foreigners without a license. Examples of technical data include software, blueprints, and instructions related to defense items. The provision of designated forms of technical assistance to foreigners also requires a license. Technical assistance can include such activities as training foreigners in the production, operation, or maintenance of a defense item. The ITAR covers all forms of furnishing technical data or assistance, including phone, fax, email, oral communication, and visual disclosure. In addition, the transfer of technical data or provision of technical assistance to a foreign person requires a license whether or not it occurs in the United States. A transaction occurring completely outside the United States requires a license if the exporter is a “U.S. person” and therefore subject to U.S. jurisdiction. Also, technology or assistance is deemed to have been exported if it is disclosed to a foreigner in the United States; this type of transaction is therefore called a “deemed export.”

UK rules governing technology transfer, provision of technical assistance, and “deemed exports” are not as broad as those under the ITAR, though they do place special emphasis on WMD and missile proliferation. The Export Control Act 2002 modernized UK rules to control technology transfer out of the United Kingdom by electronic means, including email, fax, and, in some cases, telephone. The United Kingdom only controls technology transfer by non-electronic means (i.e. visual and oral disclosure) when there is reason to believe that the technology may be intended for use outside the EU in the development of WMD or related missile programs. These rules for electronic and non-electronic dissemination apply to transfers from the UK to another country and from a UK person overseas to a foreign country. As for technology transfers within the UK, they are forbidden when there is reason to believe that the technology ultimately may be intended for use outside the EU in the development of WMD or related missile programs. (Of course, even if they do not require an export license for intra-UK disclosure, sensitive non-WMD related military technologies may still be classified and therefore subject to the UK’s Official Secrets Act.) This is a different framework than the one in place under the ITAR, where the nationality of the receiver determines whether a license is needed. UK rules forbid the provision of technical assistance related to the development of WMD and related missile programs outside of the EU.

Both countries provide an exemption for basic research and public information. UK rules state that unless necessary, export controls shall not stop the dissemination of scientific research undertaken for theoretical or experimental purposes rather than practical application. In addition, export controls should not pertain to generally available public information. The ITAR also exempts information in the public domain as well as basic research in science and engineering that is ordinarily widely disseminated throughout the scientific community.

The tendency for the British to require less restrictive licensing of transactions not involving WMD and missile components extends to temporary imports as well. ITAR requires a license for all temporary imports—including transshipments—of designated goods passing through the United States. In the United Kingdom, most goods-in-transit only require a license when there is reason to believe they are intended for use in the development of WMD or related missile programs. Of course, in order to get to Great Britain in the first place, the goods in transit likely required an export license from their country of origin.

### **U.S. and UK Controls on Trading and Brokering**

British and U.S. export controls both cover the brokering of military goods. Brokers arrange and facilitate transactions for others in exchange for a commission, and they do not necessarily own any of the controlled items. Under the ITAR, brokers who deal in any items or services on the Munitions List must secure a license for each transaction. (There are exceptions for brokering certain items among NATO members, Japan, Australia, and New Zealand.) These rules apply to any U.S. person anywhere in the world, as well as anyone physically located in the United States. Under UK law, export controls only apply to the brokering of goods—not software and technology—and most brokering transactions involving items on the Military List require a license only if the broker operates in the United Kingdom. The license requirement for brokering is extended to all UK persons abroad, however, if goods are destined for certain embargoed destinations or if the transaction involves long-range missiles and their components or certain items that facilitate internal repression.

Similar to its approach to exports, the U.K. DTI issues three types of trading licenses. The Single Individual Trade Control License (SITCL) covers specified quantities of specified goods between specified parties. It is also issued to a specified exporter. The Open Individual Trade Control License (OITCL) is like an SITCL except the quantity of goods is not defined. The Open General Trade Control License (OGTCL) is like an OGEL for brokering: brokers may trade in specific items between specific destinations without a license provided they register with DTI and maintain detailed records.

### **End-Use Monitoring**

Both the United Kingdom and United States try to insure the recipients of strategic exports use them for the purpose stated in the license application and do not divert them to unacceptable third parties. For this reason, nearly all strategic exports from the UK (excluding most temporary exports) require the end-user to furnish an End-User Undertaking to UK licensing authorities stating that the goods will be used for the specific purposes stated in the license application, that the goods will not be used in connection with a WMD or related missile program, and that the goods will not be transferred if it is suspected that they will be used in connection with a WMD or related missile program. As is also done by U.S. diplomats, British Embassy personnel stationed overseas may also check up on end-users to insure that that they are not diverting strategic exports for other purposes or to other users. The United States also requires

documentation regarding end-use before granting a license. Additionally, under the Blue Lantern program, U.S. Embassy and DDTC personnel monitor end-use of strategic exports in foreign countries.

Importantly, the United States also goes one step further to prevent strategic exports from falling into the wrong hands: under the ITAR, recipients of strategic exports from the United States may not resell them, either in their original form or after incorporating them into another item, without U.S. approval. Essentially, DDTC claims to maintain control of licensed U.S. goods and technology after they have left the United States. The British, while maintaining an interest in end-use and in preventing the development of WMD programs, tend to put more faith in the export control systems of other nations to regulate trade in controlled goods once they have left the United Kingdom.

Penalties for violating export control regulations are serious in both Great Britain and the United States. In the UK, the maximum penalty for knowingly evading the law by exporting certain types of technical assistance, software, and technology is ten years in prison and a fine of any amount. Other violations of the export control act may result in lesser terms in prison—usually up to two years—and a fine of any amount. A summary conviction frequently results in less or no jail time and a smaller fine. In the United States, the AECA also sets a maximum penalty of 10 years in prison for violating the ITAR, though this may apply to any violation. The maximum fine is \$1 million per violation. In addition, violators may be subject to civil penalties of up to \$500,000.

## **Controls on Dual-Use Exports**

### **UK Adheres to EU Dual-Use Export Control Rules**

**A**s a member of the European Union, the United Kingdom is a party to the European Council's regulations governing dual-use exports. These rules—primarily Council Regulation 1334/2000—form the basis of the British dual-use export control regime, though the United Kingdom does retain some unilateral controls on dual-use exports.

EU dual-use regulations cover any items—including software and technology—that can be used for both civil and military purposes, including any items that can contribute to the development of nuclear weapons. According to EU rules, exports include technology transfer via electronic means, such as email, fax, and, at times, telephone. (Oral disclosure from the EU to an outside destination via telephone is not an “export” unless the “exporter” reads technical information from a document or talks in a manner that has a similar effect.) EU dual-use regulations do not cover most oral and visual disclosure of technology, and they do not cover “deemed exports”, or disclosure to foreigners within the EU.

The EU publishes an extensive list of dual-use items and technologies of concern, and any natural or legal person subject to the jurisdiction of an EU member state requires a license to export any of the goods on the list outside of the EU. The items and technologies on the list are divided into ten major categories: nuclear materials, facilities,

and equipment; materials, chemicals, “microorganisms” and “toxins”; materials processing; electronics; computers; telecommunications and “information security”; sensors and lasers; navigation and avionics; marine; and propulsion systems, space vehicles and related equipment. Dual-use items and technologies not on the list may also require a license if they meet certain criteria. For example, an item or technology not on the list requires a license if authorities inform the exporter that it may be used in a WMD or related missile program. In addition, exports of dual-use items or technology not on the list to countries subject to an EU, Organization for Security and Cooperation in Europe, or United Nations Security Council arms embargo must be licensed as well if authorities believe they may be intended for military use.

Each EU country is responsible for enforcing export control rules within its borders, including licensing exports of dual-use items and technology from its territory. When determining whether to permit the export of a dual-use item or technology, EU regulations instruct authorities to consider their international obligations, their national security interests (including those covered in the EU Code of Conduct), the end use in the destination country, and the risk of diversion. Intra-EU exports of many dual-use items do not require a license, meaning that in some cases, EU dual-use controls are only as strong as the level of enforcement in the most permissive member state. It should be noted however that this is not always the case, since several dual-use items and technologies—including many related to WMD and missile programs—require intra-EU licenses. In addition, under certain circumstances, member states may prohibit intra-community transfers of any dual-use good, whether it appears on the list or not. EU members may also maintain national dual-use lists containing items not on the EU list. Great Britain has a short list of dual-use items beyond those on the EU list requiring a license. EU regulations also call for information sharing between member states. This is meant to help keep authorities informed about parties attempting to break the rules. Finally, one member state may request that another member state not grant a license if doing so would harm its essential national security interests, though there is no requirement that the other member accede to the request.

### **Commerce Department Control U.S. Dual-Use Exports**

In the United States, the Export Administration Act of 1979 (EAA) grants the Commerce Department authority to regulate dual-use exports. Responsibility for administering the Export Administration Regulations (EAR) rests with the Department of Commerce’s Bureau of Industry and Security (BIS). The framework for regulating the export of dual-use items is similar to that described above for defense articles. For example, the regulations cover not only the export of goods, but also software, associated technology, and technical data such as design plans and blueprints. Also, EAR covers the physical export of goods outside of the United States as well as other means of transfer, such as fax, email, telephone, and oral communication. Transshipments and temporary imports of foreign items into the United States are covered, as are “deemed exports”, or the disclosure of designated technology or information to foreign nationals within the United States. The U.S. also controls re-exports of dual-use goods and exports of certain foreign-made items with U.S. content.

BIS maintains the Commerce Control List (CCL), which serves a similar function for dual-use items that the Munitions List serves for defense items. It is divided into the same ten major categories as the EU dual-use list. There are three primary reasons for an item to appear on the CCL: national security, foreign policy, and economic security. The Secretary of Defense, in consultation with the Secretary of Commerce, decides what items appear on the CCL for national security reasons based upon the Defense Department's Military Critical Technology List (MCTL). The EAA gives the president discretion to impose controls on exports to promote foreign policy objectives, and the Secretary of Commerce—in consultation with other department and agency heads—exercises this authority. Common reasons for foreign policy controls are promoting regional stability, controlling crime, enforcing U.S. and UN sanctions, and countering terrorism and weapons proliferation. This includes adherence to multilateral counter-proliferation agreements, such as those concerning WMD and related missile programs. While national security and foreign policy controls are the main reasons why items appear on the CCL, the EAA also allows controls on goods to protect the domestic economy from shortages.

BIS reviews license applications for items on the CCL; however, it frequently asks for input from other agencies—primarily the Department of Defense's DTSA—with relevant expertise (in FY 2003, for example, BIS referred nearly all of its cases to DTSA).<sup>4</sup> Not all items on the CCL require a license depending on the destination of the export, the end-user, and the end use to which the export will be put. Nevertheless, as with the EU rules, if items do not appear on the CCL, but exporters suspect or have been informed that they are intended for use in a WMD or related missile program, they must apply for a license.

The EAA expired in 1989 but has remained in place through temporary reauthorizations or, as now, under the International Emergency Economic Powers Act. While many would like to see new legislation reforming the export control process for dual-use items, there is little consensus on what a new EAA would look like. Some business interests maintain that the current export control regime is increasingly unworkable in a global marketplace and serves primarily to handicap U.S. companies. Others argue that stricter controls will help the U.S. military to maintain the technological edge which has been a foundation of its success and thwart the designs of terrorists, proliferators, and rogue states.

## **U.S. and UK Participate in Major Multilateral Arms Control Arrangements**

**I**n addition to enforcing their own strategic export controls, the United States and the United Kingdom are parties to several multilateral export control agreements: the Wassenaar Arrangement (established 1992, 39 members), which promotes transparency and responsibility in the international trade in armaments and dual-use goods; the Nuclear Suppliers Group (established 1992, 44 members), which seeks to stem nuclear proliferation; the Australia Group (established 1985, 39 members), which seeks to stem chemical and biological weapons proliferation; and the Missile Technology Control Regime (established 1987, 34 members), which seeks to stem proliferation of missiles

capable of carrying WMD. All of these arrangements are voluntary, and each nation is ultimately responsible for enforcing the export control regime in its own country. While there are some reporting requirements under these multilateral agreements, no country has veto power over the decisions of any other and reporting often takes place after a transaction occurs. Nevertheless, these arrangements provide a common framework and a means for the U.S., the UK, and other countries to reduce the likelihood that dangerous weapons fall into the wrong hands.

## **Controls on Classified Information**

### **U.S. National Disclosure Policy Separate From ITAR**

Governments often protect information related to military technology, and the strategic export controls in both the United States and the United Kingdom discussed above are separate from the rules for disclosing classified information. In the United States, procedures governing the release of classified information to foreigners are known as National Disclosure Policy (NDP). The president granted joint authority for implementing NDP to the secretaries of State and Defense, who have established an interagency National Disclosure Policy Committee for this purpose. In practice, different departments and agencies retain control over the disclosure of their own information; therefore, the Secretary of Defense and the Deputy Secretary of Defense have “original disclosure authority” over information that the Defense Department has classified. (This tends to include most technical data and information related to military equipment.) The Secretary and Deputy Secretary have delegated disclosure authority to several senior leaders at the Defense Department, who can then approve the release of classified information. However, simply obtaining Defense Department authority to share classified information with foreigners may not permit an exporter to execute a transaction. If the classified information to be exported appears on a control list, such as the Munitions List or the CCL, the exporter must also obtain a license from the appropriate authority. For example, if a U.S. company intends to share a classified technology with a foreign company as part of a joint program and that technology is on the Munitions List, the U.S. company must obtain two approvals: one to disclose classified information to foreigners from an appropriate Defense Department authority and one standard ITAR license from DDTTC to export military technology.

### **UK Also Has Separate Rules for Sharing Classified Data**

There are also regulations regarding the disclosure of classified information in the United Kingdom. In addition to securing an export license from DTI for controlled information, UK exporters must obtain MOD approval before sharing classified information with foreigners. Also, before disclosing classified information to foreign nationals UK officials must assure that the recipients take sufficient action to safeguard the information from further disclosure. There are several UK regulations governing the handling of classified information, the most prominent of which is the Official Secrets Act.

## Conclusion

The strategic export controls in the United States and the United Kingdom are broadly similar in philosophy and effect. Both countries have enacted export controls on military and dual-use items to protect their national interests, promote global peace and stability, and prevent terrorism, crime, and human rights violations. In addition, strategic export controls in both countries focus on stopping other countries from acquiring WMD, and the United States and UK are members of several international counter-proliferation groups. Also, the goods and technology subject to export controls in the U.S. and UK are quite similar. It should be noted that, within the context of these similarities, however, U.S. export controls tend to be broader. Under U.S. law, more transactions are subject to export licensing requirements, and U.S. authorities try to maintain a greater degree of control over exports after they have left the country.

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<sup>1</sup> Many thanks to Seth Seifman, Research Associate, CSIS Defense Industrials Initiatives Group, for his considerable effort in researching and drafting this primer.

<sup>2</sup> House Committee on International Relations, *U.S. Weapons Technology at Risk: The State Department's Proposal to Relax Arms Export Controls to Other Countries*, Appendix 12, "Letter from Assistant Secretary Kelly to Chairman Hyde dated November 6, 2003 (with enclosures)", 108<sup>th</sup> Cong., 2<sup>nd</sup> sess., Committee Print, May 1, 2004, 125. [http://www.fas.org/asmp/campaigns/control/U.S.%20Weapons%20Technology%20at%20Risk/U.S.\\_WEAPONS\\_TECHNOLOGY\\_AT\\_RISK.pdf](http://www.fas.org/asmp/campaigns/control/U.S.%20Weapons%20Technology%20at%20Risk/U.S._WEAPONS_TECHNOLOGY_AT_RISK.pdf)

<sup>3</sup> <http://www.pmdtc.state.gov/processtime.htm>

<sup>4</sup> U.S. Government Accountability Office, *Defense Trade: Arms Export Control System in the Post-9/11 Environment*, Report to the Chairman, Committee on International Relations, House of Representatives, GAO-05-234, (February 2005), 13. <http://www.gao.gov/new.items/d05234.pdf>