

**IMPLEMENTING ARRANGEMENT PURSUANT TO THE TREATY BETWEEN  
THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE  
GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND CONCERNING DEFENSE TRADE COOPERATION**

The Government of the United States of America (hereinafter "the United States Government") and the Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter "Her Majesty's Government") (hereinafter "the Participants"):

Having entered into the Treaty between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Defense Trade Cooperation, done at Washington and London on 21 and 26 June 2007 (hereinafter "the Treaty");

Recalling that Article 14(1) of the Treaty requires the Participants to conclude implementing arrangements for the Treaty;

Recognizing that this Implementing Arrangement is a means by which the Participants will implement the legally binding obligations of the Treaty;

Recognizing that pursuant to Article 13(2) of the Treaty, any conduct falling outside the terms of the Treaty, including this Implementing Arrangement, and any regulations promulgated to implement the effect of such terms on existing law remains subject to applicable licensing requirements and implementing regulations, including any criminal, civil, and administrative penalties or sanctions contained therein;

Recognizing the principles established under the General Security Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America of 14 April 1961, as amended, and implementing arrangements thereto (hereinafter "the GSA"); and

Recognizing the principles established under the Memorandum of Understanding between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States relating to the Principles Governing Cooperation in Research and Development, Production, Procurement, and Logistics Support of Defense Capability, signed 13 and 16 December 2004;

Have reached the following understandings:

**Section 1  
Definitions**

(1) Terms used in this Implementing Arrangement that are defined in the Treaty will have the same definition as in the Treaty. In addition, the following definitions will apply to this Implementing Arrangement:

- (a) "Delivery" means the movement of Defense Articles to a member of the United Kingdom Community pursuant to a Foreign Military Sales program Letter of Offer and Acceptance where such Defense Articles are outside of the customs jurisdiction of the United States of America and are subject to the control of Her Majesty's Government in accordance with Foreign Military Sales program shipping practices.
  - (b) "Management Board" means the board established pursuant to Section 12(3).
  - (c) "Management Plan" means the plan identified in Section 12(3)(f).
  - (d) "Principals" means the persons designated by each Participant pursuant to Section 12(1).
  - (e) "Project" means (i) specific acquisition efforts by Her Majesty's Government mutually determined pursuant to Section 2(3) to research, develop, test, evaluate, produce, support, or sustain Defense Articles for worldwide use by Her Majesty's defense and security organizations, or (ii) specific defense or security operations mutually determined pursuant to Section 2(3).
- (2) Reference to government departments or agencies, including individual posts or officials therein, will be deemed to be to their successors in the event of reorganization.
  - (3) References to numbered Articles refer to Articles of the Treaty.
  - (4) Terms capitalized in this Implementing Arrangement, and their variants, will have the meaning established in this Section.

## **Section 2**

### **Operations, Programs, and Projects**

- (1) In furtherance of Article 3(1)(a), the Participants will develop, establish, maintain, and publish information concerning combined military and counter-terrorism operations, including lists of such operations, using the following procedures:
  - (a) The United States Department of Defense (hereinafter "U.S. DoD") and the United Kingdom Ministry of Defence (hereinafter "UK MOD") will develop and maintain a list of combined military operations, and revisions thereto, based on the criteria used by the U.S. DoD and the UK MOD to establish and document such operations; and
  - (b) The U.S. DoD and the UK MOD will also consult with their respective government's authorities responsible for counter-terrorism operations to develop and maintain a list of combined counter-terrorism operations based on the criteria used by the Participants to establish and document such operations.

(2) In furtherance of Article 3(1)(b), the Participants will develop, establish, maintain, and publish information concerning existing or future potential cooperative security and defense research, development, production, and support programs, including lists of such programs, using the following criteria:

- (a) Such programs must fall under one or more valid United States cooperative program legal authorities confirmed by the United States Government and accepted by Her Majesty's Government;
- (b) There must be a valid cooperative program international agreement or arrangement documented and in force or effect between the United States Government and Her Majesty's Government, which includes agreements or arrangements between their subordinate organizations;
- (c) All bilateral United States - United Kingdom cooperative program relationships within the overall context of a multilateral cooperative program must be documented in a United States - United Kingdom bilateral international agreement or arrangement to fall within the scope of the Treaty;
- (d) The cooperative program international agreement or arrangement must involve Defense Articles that fall within the scope of the Treaty; and
- (e) Cooperative program international agreements or arrangements that focus on the research, development, production, and support of Defense Articles exempt from the scope of the Treaty will be excluded, unless otherwise mutually determined for any program that also involves Defense Articles not exempt from the scope of the Treaty.

(3) In furtherance of Article 3(1)(c), the Participants will develop, establish, maintain, and publish information concerning mutually determined specific security and defense Projects, including lists of such Projects where Her Majesty's Government is the end-user, based on the following criteria:

- (a) The purpose of the Project must be focused on meeting the needs of Her Majesty's Government, rather than on security and defense exports to third parties;
- (b) The Project must involve Defense Articles that fall within the scope of the Treaty; and
- (c) Projects that focus on the research, development, production, and support of Defense Articles exempt from the scope of the Treaty will be excluded, unless otherwise mutually determined for any Project that also involves Defense Articles not exempt from the scope of the Treaty.

- (4) The lists of operations, programs and Projects referred to in this Section, which have been mutually determined by the UK MOD and the U.S. DoD, will be subject to approval by the United States Department of State and the UK MOD.
- (5) The approved lists of operations, programs and Projects that may be publicly identified will be published in accordance with Sections 12 and 13.
- (6) The approved lists of operations, programs and Projects that may not be publicly identified will be maintained for reference via secure channels.
- (7) Exports of Defense Articles from the United States Community in support of the operations, programs and Projects identified in the approved lists that may not be publicly identified may be carried out by the British Embassy in Washington in accordance with procedures developed by the British Embassy and the Directorate of Defense Trade Controls of the United States Department of State.

### **Section 3**

#### **United States Government End-Use**

In furtherance of Article 3(1)(d), the Participants will employ the following procedures concerning Defense Articles required for United States Government end-use:

- (1) United States Government end-use requirements that fall within the scope of the Treaty will be based on the following criteria:
  - (a) Only those United States Government end-use requirements identified pursuant to a United States Government solicitation or contract will be considered to fall within the scope of Article 3(1)(d);
  - (b) Only United States Government solicitations or contracts that allow for responses or participation of the United Kingdom will be considered to fall within the scope of Article 3(1)(d). Such solicitations or contracts will specifically provide that United Kingdom Approved Community members are permitted to respond or participate using the procedures established pursuant to the terms of the Treaty;
  - (c) United States Government solicitations or contracts will specifically provide that only Defense Articles that are not exempt from the scope of the Treaty may be Exported or Transferred in support of the solicitation or contract; and
  - (d) United States Government solicitations or contracts that relate to the research, development, production, and support of Defense Articles exempt from the scope of the Treaty will be excluded, unless otherwise mutually determined for any solicitation or contract that also involves Defense Articles not exempt from the scope of the Treaty.
- (2) In addition to the criteria described in paragraph (1) of this Section, Approved

Community members responding to United States Government solicitations will be subject to the following requirements:

- (a) Prior to contract award, Approved Community members responding to a United States Government solicitation may only Export or Transfer Defense Articles that specifically respond to the stated requirements of that solicitation. Once under contract, Approved Community members may Export or Transfer Defense Articles that specifically respond to the stated requirements of the contract;
  - (b) Approved Community members will maintain records relating to any Export, Transfer, Re-export, or Re-transfer of a Defense Article for a period of at least five years, including records regarding intangible items or technical data; and
  - (c) Approved Community members will agree in writing prior to the Export or Transfer of a Defense Article that they:
    - (i) Will mark, identify, transmit, store, and handle any Defense Articles provided for the purpose of responding to such solicitations, as well as any Defense Articles provided with or developed pursuant to their responses to such solicitations, in accordance with the Treaty, this Implementing Arrangement, and corresponding United States Government and Her Majesty's Government regulations including, but not limited to, the marking and classification requirements described in Section 10;
    - (ii) Will comply with the Re-transfer or Re-export provisions of the Treaty, this Implementing Arrangement and corresponding United States Government and Her Majesty's Government regulations, including, but not limited to, the Re-transfer and Re-export requirements described in Section 9; and
    - (iii) Acknowledge that any conduct that falls outside or in violation of these Implementing Arrangements, including, if any Defense Articles are Re-transferred or Re-exported in violation of the procedures established in this Section, pursuant to the terms of the Treaty, including any Re-transfer or Re-export to a prospective subcontractor that is not an Approved Community member, remains subject to applicable licensing requirements of Her Majesty's Government and the United States Government, including any criminal, civil, and administrative penalties or sanctions contained therein.
- (3) Approved Community members may obtain information regarding United States Government solicitations for United States Government end-use requirements that meet the criteria specified in paragraph (1) of this Section as follows:
- (a) Publicly available U.S. DoD solicitations may be found on United States Government website [www.fedbizopps.gov](http://www.fedbizopps.gov) (or successor in the event of website changes); and

- (b) A list of other publicly available United States Government solicitations will be published in accordance with Sections 12 and 13.
- (4) Approved Community members may obtain information regarding contracts for United States Government end-use requirements that meet the criteria specified in paragraph (1) of this Section through the United States Government contracting officer(s) responsible for contract management and administration of the applicable contract(s).
- (5) Solicitations or contracts for United States Government end-use requirements that meet the criteria specified in paragraph (1) of this Section that may be not publicly identified will be maintained by the Participants for reference via secure channels in accordance with the Sections 12 and 13.
- (6) Exports of Defense Articles from the United States Community in support of United States Government end-use requirements that may not be publicly identified may be carried out by the British Embassy in accordance with procedures developed and approved by the British Embassy and United States Department of State, Directorate of Defense Trade Controls.

**Section 4**  
**Defense Articles Exempt from the Scope of the Treaty**

- (1) In furtherance of Article 3(2), the Participants will develop, maintain, and publish information concerning Defense Articles that are exempt from the scope of the Treaty.
- (2) The UK MOD will develop and maintain a list of Defense Articles to be exempted from the scope of the Treaty, including revisions thereto. Her Majesty's Government's list will be updated as needed.
- (3) The U.S. DoD will develop and maintain, and the United States Department of State will approve, a list of Defense Articles to be exempted from the scope of the Treaty, including revisions thereto. The United States Government list will be updated as needed.
- (4) The lists referred to in paragraphs (2) and (3) of this Section will be combined to constitute the list of Defense Articles exempt from the scope of the Treaty. The Participants will consult prior to the combination of the lists and any proposed changes thereto.
- (5) The list of Defense Articles exempt from the scope of the Treaty that may be publicly identified, including updates thereto, will be published periodically in accordance with Sections 12 and 13.

(6) Information concerning the list of Defense Articles exempt from the scope of the Treaty that may not be publicly identified, including updates thereto, will be maintained by the Participants, and shared via secure channels, as appropriate.

(7) With respect to Defense Articles added to the list of Defense Articles exempt from the scope of the Treaty, the Participants will establish policies and procedures to require members of the Approved Community that have Exported, Transferred or received such Defense Articles pursuant to the Treaty to immediately, or as soon as reasonably practicable, notify the Participants and apply to the appropriate Participant for an export license or other appropriate authorization for such Defense Articles. Upon such notification and, where appropriate, application, the appropriate Participant will, on an expedited basis, either issue a license or other authorization for such Defense Articles or provide other written guidance and direction regarding the disposition of such Defense Articles. Pending such action, the Participants will require any member of the Approved Community in possession of such Defense Articles Exported or Transferred pursuant to the Treaty to not Transfer such Defense Articles without an appropriate license or other authorization, and to continue to abide by its obligations as a member of the Approved Community.

## **Section 5**

### **United States Foreign Military Sales**

(1) Defense Articles acquired by Her Majesty's Government via the United States Foreign Military Sales (FMS) Program and transferred to Her Majesty's Government pursuant to Letters of Offer and Acceptance (LOAs), or equivalent agreements or arrangements, may be treated as if they were Exported pursuant to the Treaty once Delivery to Her Majesty's Government occurs. Defense Articles exempt from the scope of the Treaty at the time an LOA is executed should be contained in separate lines in the LOA and identified with an appropriate special note in the LOA terms and conditions.

(2) Prior to any initial Transfer of Defense Articles the following requirements will apply:

(a) Her Majesty's Government must determine that the Transfer falls within the scope of Article 3(1) and that, at the time of the Transfer, such Defense Articles are not exempt from the scope of the Treaty; and

(b) The Defense Articles will be marked or otherwise identified in accordance with the Treaty and this Implementing Arrangement.

(3) Upon Transfer, such Defense Articles will be marked, identified, transmitted, stored and handled in accordance with the Treaty and this Implementing Arrangement.

(4) Her Majesty's Government will maintain a register of FMS items that are subsequently Transferred under the Treaty within the Approved Community.

(5) Terms of the FMS LOA unrelated to the provisions implemented under the Treaty will govern. Procedures for transition of Defense Articles acquired and Delivered under the FMS Program that fall within the scope of the Treaty will be established in the Management Plan, as appropriate, based on the principles outlined in this Section.

## **Section 6 United Kingdom Community Exports and Transfers**

In furtherance of Article 8, Her Majesty's Government will ensure that all Defense Articles not exempt from the scope of the Treaty are authorized for export, including Transfers, from the United Kingdom by a member of the Approved Community to the United States Community under Her Majesty's Government's system of open and blanket authorizations and any successor mechanisms to such authorizations. HMG will, as necessary, ensure that system is updated to fulfill this requirement upon the Treaty's entry into force. The Management Board will, as necessary, address issues arising from the implementation of this Section.

## **Section 7 Approved Community**

### Government Members of the United Kingdom Community

- (1) In furtherance of Article 4(1)(a), the UK MOD will maintain a list of Her Majesty's Government authorities with facilities that are both accredited by Her Majesty's Government pursuant to the GSA and related to the scope of the Treaty. This list will be made available to the United States Government.
- (2) The Participants will develop a process for notifying additions to and deletions from the list. This process will be administered by the UK MOD and the U.S. DoD.

### Nongovernmental Members of the United Kingdom Community

- (3) In furtherance of Article 4(1)(c), the Participants will implement a process to establish and maintain a list of nongovernmental United Kingdom entities and facilities that will be included in the United Kingdom Community. The process will be administered by the UK MOD and the United States Department of State, based on the eligibility criteria and process steps identified below.
- (4) The following are the criteria that the nongovernmental United Kingdom entities and facilities will be assessed against, for inclusion on the List referred to in Article 4(1)(c):
  - (a) That the entity or facility must be on Her Majesty's Government's "List X" of approved facilities;



- (b) Foreign ownership, control or influence;
  - (c) Previous convictions or current indictment for violations of United States or United Kingdom export control laws or regulations as considered by the United States Government;
  - (d) Previous convictions for violations of United States or United Kingdom export control laws or regulations as considered by Her Majesty's Government;
  - (e) The United States export licensing history of the entity or facility; and
  - (f) National security risks, including interactions with countries proscribed by United Kingdom or United States laws or regulations.
- (5) A nongovernmental United Kingdom entity or facility may apply to the UK MOD for inclusion in the United Kingdom Community.
- (6) Where a nongovernmental entity applies for inclusion in the United Kingdom Community, the UK MOD and the United States Department of State will conduct an eligibility review based on the criteria described in paragraph (4) of this Section and will mutually determine whether to include that entity in the United Kingdom Community.
- (7) The list of United Kingdom Community members, including revisions thereto, will be published by the UK MOD and the United States Department of State periodically in accordance with Sections 12 and 13.
- (8) The UK MOD will inform nongovernmental United Kingdom entities and facilities of the results of their application.
- (9) If one Participant considers that removal of a nongovernmental United Kingdom entity or facility from the United Kingdom Community may be in its national interest:
- (a) It will advise the other Participant, and that Participant will have 24 hours to provide mitigating information concerning the entity or facility.
  - (b) At the end of 24 hours, unless decided otherwise, the Participant will formally notify the other Participant of its desire that the entity or facility be removed from the United Kingdom Community. Upon such notification, the entity or facility will then be suspended from the United Kingdom Community pending a final decision on removal by the Participants.
  - (c) The Participants will consult within 30 days of notification regarding removal of an entity or facility. Consultation may include measures to be applied during the suspension period and any remedial measures to be imposed in lieu of removal.

(d) If after such consultation either Participant believes that such entity or facility should be removed from the Approved Community it will be so removed. Otherwise any suspension will be rescinded and any appropriate remedial measure may be imposed.

(10) Her Majesty's Government will require nongovernmental United Kingdom entities or facilities applying for inclusion in the United Kingdom Community to acknowledge in writing that they will be bound by the Manual of Protective Security, as amended, in accordance with Section 10, and acknowledge the conditions identified in paragraph 4(b) of Section 11.

#### Access

(11) Access to Defense Articles Exported under the Treaty will be granted only to serving members of Her Majesty's Armed Forces and those individuals who have:

(a) An appropriate security clearance at least at the United Kingdom "Security Check" level; and

(b) A need to know.

(12) When considering whether to grant an individual, other than a serving member of Her Majesty's Armed Forces, access to Defense Articles, the Participants will consult where national security considerations, including close ties to countries or entities of concern, to either Participant arise. Such access will not be granted until mutually determined by the Participants. The list of countries or entities of concern will reflect the laws and regulations of both Participants. The Participants will keep each other informed of relevant national security considerations. The Management Board representatives will promulgate such considerations within their respective organizations as required for the operation of the Treaty.

### **Section 8 Transition from Licenses or Other Authorizations**

(1) Members of the United States Community wishing to make a transition from the requirements of a United States Government export license or other authorization to the processes established under the Treaty and this Implementing Arrangement must surrender the existing license or other authorization and notify the United States Department of State, Directorate of Defense Trade Controls of their intentions.

(2) Members of the United Kingdom Community wishing to make a transition from the requirements of a United States Government export license or other authorization to the processes established under the Treaty and this Implementing Arrangement will obtain authorization from the United States Department of State, Directorate of Defense Trade Controls, either directly or through the original United States exporter, using

procedures established by the Participants before the items may be considered as Defense Articles Exported under the Treaty.

## **Section 9**

### **Re-transfers and Re-exports**

- (1) All Re-transfers or Re-exports of Defense Articles will require authorization by Her Majesty's Government, except where identified in paragraph (12) of this Section. Authorization will be requested through the UK MOD process for the approval of the release of classified material (F680). In reviewing a request for authorization, the UK MOD will require supporting evidence that includes United States Government approval of the proposed Re-transfer or Re-export. The existence of UK MOD authorization to release is also a consideration in reviewing export license applications that may be required under the export control process of Her Majesty's Government.
- (2) The UK MOD will update the F680 process to ensure the requirement in paragraph (1) of this Section is clear for requests relating to Defense Articles originally Exported or treated as if they were Exported under the Treaty. Her Majesty's Government will also update its procedures relating to Defense Articles originally Exported or treated as if they were Exported under the Treaty to:
  - (a) As part of the export control procedures, seek confirmation that F680 authorization has been obtained; and
  - (b) Make it a condition of relevant open licenses that F680 clearance must be obtained.
- (3) Her Majesty's Government will require a United Kingdom Community member seeking to Re-transfer or Re-export to first approach the United States Department of State, Directorate of Defense Trade Controls, directly or through the original exporter, to obtain United States Government approval.
- (4) For Re-transfers, the F680 process must be followed when seeking permission for the Re-transfer of Defense Articles.
- (5) For Re-exports, the F680 process must be followed when seeking permission for the Re-export of Defense Articles as well as any procedures that may be required under the export control process of Her Majesty's Government. Her Majesty's Government's audit procedures will check that relevant open license conditions have been met, including checks to ensure F680 process clearance has been obtained as required.
- (6) In the event of authorization from Her Majesty's Government, the proposed Re-transfer or Re-export may take place. The Defense Articles thereafter will be considered to fall outside of the Scope of the Treaty and will be governed by the applicable terms of

any license or authorization granted by the United States Government and, as appropriate, Her Majesty's Government, in place of the terms of the Treaty.

(7) In the event that an entity seeking Her Majesty's Government approval for Re-transfer or Re-export is unable to demonstrate to the UK MOD that it has obtained United States Government approval, the UK MOD will not give authorization for the proposed release of classified material, and therefore, will not give authorization for the proposed Re-transfer or Re-export.

(8) In the event that United States Government consent for a proposed Re-export has not been obtained, Her Majesty's Government will consult the United States Government, in accordance with procedures established by the Management Board, on the export license application, assessing it against Her Majesty's Government's Consolidated EU and National Arms Export Licensing Criteria.

(9) Any reincorporation or redevelopment of a Defense Article does not eliminate the requirement to obtain UK MOD authorization for a proposed Re-transfer or Re-export of such Defense Article, under the processes described above.

(10) Re-transfer or Re-export of Defense Articles without the approval of the UK MOD will be considered by the Participants to be a breach of the procedures established pursuant to the terms of the Treaty.

(11) Where Defense Articles are Re-transferred or Re-exported, markings and classifications arising solely from the Treaty will be withdrawn.

(12) Further to paragraph (1) of this Section, the following exceptions to the Re-transfer and Re-export authorization provisions of the Treaty and this Implementing Arrangement will apply pursuant to Article 9(1):

- (a) Re-exports of Defense Articles from nongovernmental entities of the United Kingdom Community to United Kingdom Armed Forces deployed outside the Territory of the United Kingdom conducting operations, including training, as mutually determined and listed pursuant to Sections 2(1) and 2(3), via United Kingdom Armed Forces transmission channels, or other transmission channels approved by the Principals or Management Board; and
- (b) Re-exports of Defense Articles from nongovernmental entities of the United Kingdom Community to Approved Community members operating in direct support of United Kingdom Armed Forces deployed outside the Territory of the United Kingdom conducting operations, including training, as mutually determined and listed pursuant to Sections 2(1) and 2(3), via United Kingdom Armed Forces transmission channels, or other transmission channels approved by the Principals or Management Board.

(13) The Participants have mutually determined that the following exceptions to the Export and Transfer authorization provisions of the Treaty and this Implementing Arrangement will apply:

- (a) Exports or Transfers of Defense Articles from nongovernmental entities of the United States Community to United Kingdom Armed Forces deployed outside the Territory of the United Kingdom conducting operations, including training, as mutually determined and listed pursuant to Sections 2(1) and 2(3), via United Kingdom Armed Forces transmission channels, or other transmission channels approved by the Principals or Management Board; and
- (b) Exports or Transfers of Defense Articles from nongovernmental entities of the United States Community to Approved Community members operating in direct support of United Kingdom Armed Forces deployed outside the Territory of the United Kingdom conducting operations, including training, as mutually determined and listed pursuant to Sections 2(1) and 2(3), via United Kingdom Armed Forces transmission channels, or other transmission channels approved by the Principals or Management Board.

(14) Regardless of location, Approved Community members will ensure that Defense Articles provided pursuant to paragraphs (12) and (13) of this Section will be marked, identified, transmitted, stored and handled in accordance with the Treaty and this Implementing Arrangement.

### **Section 10 Marking and Classification**

(1) The Participants will mutually determine policies and procedures necessary to implement Article 6, Article 11, and the GSA. These policies and procedures will be reflected in the Participants' regulations and guidance. Such policies and procedures issued by the Participants will require that all Defense Articles Exported or Transferred under the scope of the Treaty be marked, identified, transmitted, stored and handled as provided below:

- (a) All Defense Articles Exported or Transferred will be marked or identified prior to such movement, as follows: For Exports and Transfers of Defense Articles classified for purposes other than the Treaty, the standard marking or identification will read CLASSIFICATION LEVEL USML//REL USA and GBR Treaty Community// unless a revision to this standard identifier is determined by the Management Board. For Exports and Transfers of other Defense Articles, the standard marking or identification will read RESTRICTED USML //REL USA and GBR Treaty Community// unless a revision to this standard identifier is determined by the Management Board;

- (b) Where Defense Articles are returned to the United States Community, any Defense Articles classified as RESTRICTED purely for the purposes of the Treaty will revert to an unclassified state and any markings associated with this classification will be removed. Defense Articles with other classifications must continue to be protected in accordance with the GSA; and
- (c) The standard marking and identification requirements for Defense Articles described herein will be implemented in each Participant's policies and procedures based on the following guidance:
  - (i) Tangible Defense Articles (including hardware, equipment, and software) will be individually labelled or, where such labelling is impracticable, will be accompanied by documentation (such as contracts, invoices, shipping bills, or bills of lading) clearly associating the Defense Articles with the appropriate markings as detailed above;
  - (ii) Technical data (including data packages, technical papers, manuals, presentations, specifications, guides and reports), regardless of media or means of transmission (physical, oral or electronic) will be individually labelled or, where such labelling is impracticable, will be accompanied by documentation (such as contracts, invoices, shipping bills, or bills of lading) or a verbal notification clearly associating the Defense Articles with the appropriate markings as detailed above; and
  - (iii) Other intangible Defense Articles, including defense services, will be accompanied by documentation (such as contracts, invoices, shipping bills, or bills of lading) clearly associating the Defense Articles with the appropriate markings as detailed above.

(2) The United States Government will promulgate regulations to reflect that the United States Government considers that any conduct falling outside the terms of the Treaty and procedures established pursuant to the terms of the Treaty, including Re-transfers and Re-exports of Defense Articles without the prior approval of the United States Government, is a violation of the United States Arms Export Control Act and International Traffic in Arms Regulations and subject to the applicable criminal, civil, and administrative penalties or sanctions of these and other applicable laws and regulations.

(3) Her Majesty's Government will modify relevant regulations and guidance, including the Manual of Protective Security, to detail the requirements for the handling of Defense Articles Exported to the United Kingdom under the Treaty, including requiring that:

- (a) On receipt of Defense Articles that have been Exported to the United Kingdom Community, the recipient is to ensure that the appropriate standard markings detailed above have been applied. In the event that irregularities are found, Her

Majesty's Government will require the recipient to correct the marking and to notify the irregularity and action taken to the UK MOD. The UK MOD will report such notifications to the United States Government in order that corrective action can be taken with the United States exporter, in accordance with the GSA;

- (b) All Defense Articles Exported to the United Kingdom Community will be marked, identified, transmitted, stored and handled in accordance with the Treaty;
- (c) Defense Articles that are located within the United Kingdom, having been previously exported under a license or other export authorization, that are transitioned pursuant to Section 8, will be marked, identified, transmitted, stored, and handled in accordance with the Treaty, by the holding United Kingdom Community entity;
- (d) United Kingdom Community members comply with additional recordkeeping and handling requirements for Defense Articles, including:
  - (i) Recording dates of receipt and details of the United States exporter;
  - (ii) Recording the location, incorporation, Transfer, Re-export, Re-transfer or destruction of the Defense Articles, to enable a full audit trail to be established regarding the handling of the Defense Articles;
  - (iii) Applying and maintaining appropriate markings or other identification and ensuring that these requirements are passed to any future recipient of the Defense Articles within the Approved Community;
  - (iv) Establishing and carrying out a self-audit regime to monitor the effectiveness of the application of relevant controls on the Defense Articles; and
  - (v) Maintaining such records for a minimum of 5 years and providing such records on request to Her Majesty's Government, which may be provided to the United States Government in accordance with the provisions described in Section 11;
- (e) There are access controls appropriate to the level of classification of the Defense Articles and their status under the Treaty, including password protection for electronically held Defense Articles, and that such Defense Articles be contained on information systems that have been accredited in accordance with Her Majesty's Government standards and guidelines appropriate to the classification of the Defense Articles;
- (f) Any material violations of the procedures established pursuant to the terms of the Treaty must be reported immediately, and all other violations must be reported as

soon as reasonably practicable, to Her Majesty's Government, which will notify the United States Government as appropriate; and

- (g) Defense Articles not be Re-transferred or Re-exported without the prior authorization of both the United States Government and Her Majesty's Government, and be in compliance with the process for seeking such authorizations. Members of the United Kingdom Community may seek such authorizations from the United States Department of State, Directorate of Defense Trade Controls, directly or through the original United States exporter.

## **Section 11**

### **Cooperation and Enforcement Measures**

- (1) The Participants will, subject to their respective laws and regulations, cooperate in the enforcement of the operation of the Treaty, including this Implementing Arrangement, and applicable national laws and regulations.

#### Mechanisms for cooperation

- (2) The Participants will cooperate based on the following instruments that promote mutual cooperation and assistance:
  - (a) The GSA;
  - (b) The Treaty between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland on Mutual Legal Assistance in Criminal Matters signed in Washington on 6 January 1994;
  - (c) The Treaty on Extradition between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America signed in Washington on 31 March 2003;
  - (d) The Guidance for Handling Criminal Cases with Concurrent Jurisdiction in the United Kingdom and the United States approved by the Attorneys General of the United States and the United Kingdom on 18 January 2007;
  - (e) The Memorandum of Understanding between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America regarding Mutual Assistance and Cooperation between their Customs Administrations signed in Washington on 6 July 1989;
  - (f) The Agreement regarding the sharing of forfeited or confiscated assets or their equivalent funds signed in Washington on 31 March 2003; and
  - (g) Any further cooperation agreements or arrangements between the Participants.



### Cooperation Measures

- (3) The Participants, subject to their respective laws, will cooperate and assist one another as requested utilizing the most expeditious mechanisms available, including one or more of the following:
- (a) Sharing information, documents, records, and evidence pertaining to Defense Articles that are Exported, Transferred, Re-Transferred, Re-Exported, or received under the Treaty;
  - (b) Conducting verifications, site visits, and inspections of Defense Articles that are Exported, Transferred, Re-transferred, or Re-exported including, where appropriate, mechanisms to conduct post-shipment verifications and end-use or end-user monitoring of Defense Articles;
  - (c) Conducting interviews and obtaining testimony, including permitting, where appropriate upon request, the other Participant's officers to participate;
  - (d) Locating and identifying persons or entities;
  - (e) Notifying the other Participant when a breach of the procedures established pursuant to the terms of the Treaty is suspected, detected, or reported;
  - (f) Identifying, tracing, freezing, seizing, and forfeiting Defense Articles and associated proceeds and instrumentalities relating to violations of the procedures established pursuant to the terms of the Treaty consistent with all mechanisms of cooperation between the Participants;
  - (g) Discussing forfeitures and the sharing of assets between Participants when appropriate; and
  - (h) Any other measures consistent with the laws of the respective Participant.

### Promotion of Compliance Measures

- (4) The Participants will undertake specific measures to support compliance with the procedures established pursuant to the terms of the Treaty, including:
- (a) Providing guidance to their relevant law enforcement officials and prosecutors regarding the Treaty and Implementing Arrangements upon the Treaty entering into force; and
  - (b) Notifying applicants to, and members of, the United Kingdom Community, as a condition of entry into the United Kingdom Community, in writing with written return acknowledgement that:
    - (i) Information and statements provided to one Participant regarding Defense Articles Exported, Transferred, Re-transferred, or Re-exported may be

- provided to the other Participant;
- (ii) Defense Articles may not be Re-transferred or Re-exported without the prior approval of the Participants;
  - (iii) The United States Government considers any Re-transfer or Re-export of Defense Articles, without prior permission of the Participants, to be a violation of the United States International Traffic in Arms Regulations, Arms Export Control Act, and related laws;
  - (iv) United Kingdom Community members must maintain records with respect to all Defense Articles Exported, Transferred, Re-transferred, or Re-exported for a period of at least 5 years, including records regarding intangible items or technical data;
  - (v) United Kingdom Community members must, within five days of the event, provide written notification to Her Majesty's Government of a material change in a United Kingdom Community member, including a change in the senior officers; the establishment, acquisition or divestment of a subsidiary or foreign affiliate; a merger; a take-over; or a change of location. A United Kingdom Community member must provide Her Majesty's Government with written notification at least 60 days, or as soon as reasonably practicable, in advance of any intended sale or transfer to a foreign person of ownership or control of the United Kingdom Community member;
  - (vi) Any material violations of the procedures established pursuant to the terms of the Treaty must be reported immediately, and all other violations must be reported as soon as reasonably practicable, to Her Majesty's Government which will notify the United States Government as appropriate;
  - (vii) Any additional information, records, or documents relating to compliance with the procedures established pursuant to the terms of the Treaty, and this Implementing Arrangement, will be provided to Her Majesty's Government upon request of either Participant. United Kingdom Community members will also endeavor to obtain any additional information, records, or documents relating to compliance with the procedures established pursuant to the terms of the Treaty, and this Implementing Arrangement, held by a foreign subsidiary, parent or affiliated company upon request by either Participant;
  - (viii) No objection will be made by the United Kingdom Community member to any reasonable request by either Participant to undertake an investigation, review records, or inspect any premises in accordance with the established mechanisms of cooperation;

- (ix) United Kingdom Community members will inform their employees and personnel who may be handling Defense Articles of these requirements; and
- (x) In the case of removal from the United Kingdom Community, the nongovernmental United Kingdom entity or facility will continue to abide by the undertakings it assumed as part of the United Kingdom Community until such time as other appropriate United States Government licenses or arrangements are in place.

Coordination in investigations and prosecutions

(5) The overall objective of this part of this Section is, in each case, for the appropriate authorities of each Participant, in accordance with the relevant instruments and mechanisms for cooperation noted in paragraph (2) of this Section, to coordinate investigations and any proceedings that may follow.

(6) The Participants acknowledge that independent prosecutors may exercise their discretion in any individual case.

(7) The Participants will consider each case on its own facts and merits and where appropriate will coordinate to determine the best avenues of inquiry for resolving matters in light of the following principles:

- (a) The Participants will closely consult at the outset, and at all other appropriate times, when a violation of either Participant's laws is suspected, to arrive at an investigative plan setting out where and how investigations may be most effectively pursued;
- (b) The nationality of a particular individual or company of interest will not bar cooperation in an audit, request, investigation or prosecution;
- (c) If an individual is involved in a violation of the procedures established pursuant to the terms of the Treaty, such conduct may constitute a violation of United States law, United Kingdom law, or both, and may subject such individual to extradition from one of the Participants to the other;
- (d) When criminal prosecution is contemplated by the United States or the United Kingdom prosecuting authorities, they will consider:
  - (i) Where and how a prosecution should be initiated, continued, or discontinued;
  - (ii) The venue, based on such case-related factors as the location of the suspects and the availability of witnesses and evidence;
  - (iii) Whether, and if so how, different aspects of the case should be pursued in

different jurisdictions;

- (iv) The consequences of the commencement of proceedings leading to conviction or acquittal in one jurisdiction on national security, further investigation, intelligence operations, or prosecution in the other jurisdiction; and
- (v) How best to preserve prosecutors' options in both jurisdictions;
- (e) Where sufficient evidence is obtained, and prosecution is the best option given the factors cited above, the appropriate authorities will endeavor to ensure the availability of witnesses and the availability and admissibility of evidence to be used. Where beneficial, the appropriate authorities will consider coordinating the timing of the related legal proceedings against different persons in their respective jurisdictions; and
- (f) Each Participant reserves the right to pursue civil enforcement and criminal prosecution consistent with its national law and procedure notwithstanding action or inaction by the other Participant.

## **Section 12 Management**

- (1) Each Participant will designate one Principal to exercise executive-level guidance and oversight of the activities under the Treaty and this Implementing Arrangement. The United States Government Principal will be the Under Secretary for Arms Control and International Security, United States Department of State and Her Majesty's Government Principal will be the Chief of Corporate Services, Defence Equipment and Support.
- (2) The Principals will meet at least annually. Additional meetings may be held at an appropriate level as mutually determined by the Principals.
- (3) A Management Board consisting of one designated representative from each Participant will be established to exercise executive level authority and day-to-day management of all activities under the Treaty and this Implementing Arrangement for their respective Governments. The United States Government representative will be a Deputy Assistant Secretary for Political-Military Affairs, United States Department of State and Her Majesty's Government representative will be the Director General, Acquisition Policy, UK MOD. Other personnel of the Participants, as appropriate, may attend Management Board meetings, however, decisions will be made by the designated representatives of the United States Government and Her Majesty's Government. The functions, duties and responsibilities of the Management Board will include, without limitation:
  - (a) Advising the Principals on any matters that affect the operation of the Treaty, including this Implementing Arrangement;

- (b) Reviewing and forwarding to the Principals for approval any proposed amendments to this Implementing Arrangement;
- (c) Reviewing the operation of the Treaty, including this Implementing Arrangement;
- (d) Providing reports of activities under the Treaty and this Implementing Arrangement to the Principals, as necessary;
- (e) Approving publication of all lists referenced in this Implementing Arrangement;
- (f) Approving a Management Plan that describes Treaty-related implementation efforts, to include identification of relevant points of contact; and
- (g) Acting as their respective Participant's primary contact point, and establishing sources of information for Approved Community members, concerning the operation of the Treaty and this Implementing Arrangement.

### **Section 13 Publication**

- (1) The Participants will establish, maintain, publish, and provide information for the purposes of the Treaty and this Implementing Arrangement.
- (2) For matters involving information that may be publicly identified, the Participants will coordinate efforts to establish and maintain websites available to the public including, but not limited to, the establishment of technical points of contact for website-related matters in order to achieve consistent, timely and accurate publication of information to the Approved Community.
- (3) For matters involving information that may not be publicly identified, the Participants will establish mechanisms at the appropriate security levels to promote timely responses to inquiries from the Approved Community.

### **Section 14 Dispute Resolution**

Any disputes arising out of or in connection with this Implementing Arrangement will be resolved through consultations between the Participants and will not be referred to any court, tribunal, or third party.

**Section 15  
Amendments**

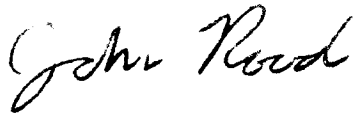
This Implementing Arrangement will only be amended by the written mutual determination of the Participants.

**Section 16  
Duration and Withdrawal**

This Implementing Arrangement will come into effect on the date of entry into force of the Treaty and will remain in effect for as long as the Treaty remains in force.

SIGNED in two originals at Washington on February 14, 2008.

FOR THE GOVERNMENT OF  
THE UNITED STATES OF  
AMERICA:



FOR THE GOVERNMENT OF  
THE UNITED KINGDOM OF  
GREAT BRITAIN AND  
NORTHERN IRELAND:

