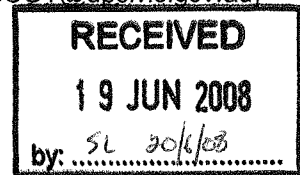


**Cooley, Dorota (REPS)**

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**From:** Lygon Agents [SCOT@dpc.vic.gov.au] on behalf of SCOT [SCOT@dpc.vic.gov.au]  
**Sent:** Wednesday, 18 June 2008 12:52 PM  
**To:** Committee, Treaties (REPS)  
**Subject:** Aus-US Defense Trade Cooperation



Victorian Government comments on the Treaty between the Government of Australia and the Government of the United States of America concerning Defense Trade Cooperation (Sydney, 5 September 2007)

Victoria strongly supports the purpose of the Treaty, this being to open up new avenues for industrial cooperation between the defence industries of the US and Australia, allowing for effective partnering and technology sharing. Similarly, Victoria supports its intention to remove 'red tape', improve access to US technology, delivery times for new defence projects, and the whole of life sustainment of military equipment.

Greater collaboration and more efficient practices will create stronger relationships between defence businesses in both countries and the improved flow of technology transfer creates greater opportunities for innovation and knowledge acquisition.

The Victorian Government has several concerns with regards to the implementation of the Treaty and some points which require further clarification. These are:

The 'Approved Community' Concept.

The 'Approved Community' is a critical component of this Treaty. Companies will have an obligation to maintain extensive systems in order to remain a member of the Approved Community. There will be some additional regulatory costs associated with this Treaty that may not be offset by savings due to the streamlining of the export licences. Will the Federal Government be offering any financial assistance to Australian companies to help them comply with the additional security requirements?

The costs of these additional security arrangements and the vetting process may act as a barrier for SMEs to enter the US export market and place them at a disadvantage to the primes and US companies.

Citizenship Issues.

Under section 6 Clause 14 - The Participants acknowledge that no nationals of third countries who are not Australian citizens will be permitted access to Defence Articles pursuant to the Treaty without the prior authorisation of both the Government of Australia and the United States Government, unless otherwise detailed in the Management Plan. This issue is seen as being difficult to police and may act a barrier to jointing the program. Is there any thought to determining whether people at or below a certain level in an organisation be exempted from this requirement?

Exemptions

The final area of concern relates to Defence Articles that may be excluded from the Treaty. The Treaty will not cover items either country declares highly classified "sensitive defence articles" and items where a third country is part of a supply chain.

The process of deciding which Defence Articles are exempt needs to be well articulated and clearly documented to ensure it does not water down the intent of the Treaty. That is, the Defence Articles that Australian companies are providing and where they would benefit most from the Treaty are not then excluded without good justification.

Section 4, Clause (7) refers to obligations on members of the Approved Community who find their technology on the Defence Articles exemption list to cease the transfer of the Defence Article without the appropriate license or other authorisation, thereby effectively reverting back to the situation that existed before the Treaty was in place.

Conclusion

The Treaty appears to promise benefits and opportunities for the Australian defence industry and the initiative is

strongly supported. The Victorian Government looks forward to the Commonwealth Government finalising the details of the Treaty and moving to ensure that exemptions do not hinder the intentions of the document.

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