WORKING AND PLAYING WELL WITH OTHERS: A STRATEGY-POLICY MISMATCH IN EXPORT CONTROLS

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Reading through the strategic guidance that our Nation has been operating under for a number of years, you can find a basic, common concept that I like to refer to as "work and play well with others." It is derived from statements like "partnerships continue to be the principle source of our strength"[1] and "the reform of NATO structures, capabilities and procedures must be accelerated."[2] Those are just two examples of the many similar references that are imbedded throughout documents from the National Security Strategy to CJCS-approved military strategies. The concept is also routinely reflected in guidance at lower levels of government, such as that developed by our Combatant Commanders.

For those who have not been forced to read strategy at a War College (or who don't enjoy a little light reading at bed time), this theme also resonates from what our leaders say. From congressional testimony to public speeches, our leaders have provided consistent guidance. As Deputy Secretary England observed in July, "...for America, this is a time for leadership, commitment and resolve—to support these emerging new partners and allies in the war on terror."[3]

Unfortunately, it is not clear that this theme is understood or acted upon at all echelons of government. This lack of understanding leads those who participate in international activities and defense exports to fall back on historical bureaucratic norms — "the way we have always done it." A prime example of the disconnect between strategic policy and export controls is the Danish attempt to purchase the Blue Force Tracker to meet the U.S. push in NATO for increased interoperability through combat identification, which faced lengthy delays due to bureaucratic hurdles. One such hurdle was a complaint that by giving our Allies this combat identification capability they might know where our units were, which could compromise our units from a force protection standpoint. Given our strong strategic policy push to field interoperable combat identification capability under NATO's Defense Cooperation Initiative so that deployed forces would be aware of units around them, thereby reducing fratricide risks, this argument seems rather specious. Nonetheless, it added to the delays in the cooperative program

How did this disconnect occur? "The way we've always done it" is embedded in the Arms Export Control Act (AECA) of 1976 and the resulting International Traffic in Arms Regulations (ITAR). Originally the AECA was designed to increase Congress' role in international arms sales (and foreign policy) in response, among other things, to arms shipments to questionable regimes. While perhaps a noble purpose in 1976, today the implementation of ITAR severely restricts cooperation with even our closest allies. The Blue Force Tracker is but one instance where the disconnect between our stated strategy

and our implemented policy on export activities has created havoc in our relations with partners and Allies.

This disconnect forces one to consider whether our current policies and procedures, focused on a Cold War model of preventing the spread of weapons and protecting our technology, still make sense in an age where we have to rely on allies and partners to confront our enemies in an extremely complex environment. In a time when we want our allies to do more than let us help them defend their own countries, can we afford to continue alienating them? When we consider that they are a principal source of our strength, does it continue to make sense to delay or prohibit them from acquiring the same state of the art equipment that we use so that they can remain interoperable with us on today's battlefield? Do those procedures even make sense in an increasingly globalized defense industrial environment where we are just as likely to block our own access to state of the art equipment because foreign suppliers do not want to risk losing control of their own equipment and intellectual property by becoming enmeshed in ITAR controls through cooperative programs or sales? How does this help guarantee our national security?

Many authors have written about the negative business aspects of the AECA and its current implementation in ITAR. However, as a recent speaker at the Hudson Institute observed, Congress recognizes that the defense industry is still making money and is unwilling to change legislation that could result in increasing the chances of our adversaries gaining technology just to ease the regulatory burden on industry. Unfortunately, this discussion misses the strategic point. The issue is not the impact on business, but rather the impact on the nation and our ability to achieve our strategic objectives. Leaving aside the question of whether it really restricts access—it appears our adversaries are having great success simply stealing our technology outside of procurement channels so that only our closest allies are restricted—consider for a moment the consequences in the broader arena of international relations. If the situation were reversed, how willing would we be to commit forces that were technologically inferior to fight and die beside advanced allies just because they asked us to? Would we be willing to enter into restrictive technology agreements that diminish our sovereign rights with respect to our own technology? Taking off my altruistic glasses and focusing on reality, I have to think the answer would be no.

So what can be done about this dilemma? I have heard a number of people say that we need to throw more bureaucrats at the problem. After all, we successfully process tens of thousands of applications every year and if we just had more people working on it than we could speed the process and reduce the backlog. In a time of limited resources and massive federal budget deficits, is that really the answer? And would faster processing of rejections to key allies, like the Danes, really help the problem?

I believe the answer lies instead in changing our philosophical approach. After over 50 years of successful alliances, in which our partners have fought by our side in conflicts from Korea to Iraq and Afghanistan, spilling their blood to advance our mutual objectives, they should have earned our trust. This trust does not have to be

universal, but should certainly be extended to those who have stood beside us time and again and embrace our philosophy on minimizing arms proliferation.

In the longer term, this may require modification of the AECA, the ITAR, and the related munitions list. However, any such changes would be long, drawn out legislative and bureaucratic undertakings. Moreover, there will always remain a need to protect our sensitive information from (potential) adversaries, so perhaps they do not require significant change.

In the nearer term we can achieve success in meeting our treaty obligations with allies and developing better relations with our long-term strategic partners by working inside established systems to grant what the Clinton administration called blanket ITAR waivers. While those waivers never became a reality, the concept lived on and has finally resulted in the U.S.-UK Defense Trade Cooperation Treaty that the President and then Prime Minister Blair signed in June. If ratified and properly implemented, this treaty will make it easier for US and UK defense companies to cooperate and sell equipment and knowledge by eliminating the need for export control licenses processed under the onerous ITAR procedures. Rapid ratification of this treaty and a statement of intent to develop similar agreements with other key nations would send a positive signal to our allies. Rapid expansion of the concept to other allies would materially support our ongoing war efforts. By trusting our allies to support our standards, we can effectively demonstrate our global leadership. As a positive side effect, we might also free resources to put against other requirements rather than tying down more resources to process an ever growing case load.

What does this mean for the Army? Enforcement of export controls are, after all, a State Department responsibility. The answer is simple because we are frequently part of the problem and we certainly suffer the consequences of it. Here in CONUS those involved with providing Army concurrence to transfers need to leave behind legacy protectionist thinking and contemplate the operational impact on the future battlefield. The next time we consider providing technology like Blue Force Tracker—and while still considering force protection issues—we should focus on the impact of allied forces not deploying in the first place or, if that is too strategic for pragmatists, the human impact of fratricide when allied forces don't know we are there (or visa versa). Out in the field, where tradition is more easily overcome by the realities of the current fight, we must remember the exceptional effort that is occurring by leaders and soldiers at all levels to work around the problems.

In the end, one thing is very clear. If we grieve for the casualties of our allies and partners "as we grieve for our own"[4] as the President told the CENTCOM Coalition Conference last May, then we owe it to those partners to ensure they have access to the same capabilities that we promise the sons and daughters of our nation. Moreover, we owe it to our own warriors to ensure those fighting side by side with them on the front lines of tomorrow's battlefields are fully capable of seamlessly integrating into our mutual battlespace.

ENDNOTES

1. Donald H. Rumsfeld, *The National Defense Strategy of the United* States, March 1, 2005, p. 4.

2. George W. Bush, *The National Security Strategy of the United States of America,* March 16, 2006, p. 38.

3. Statement of the Honorable Gordon England before the House Budget Committee, July 31, 2007, available at *http://www.defenselink.mil/speeches/speech.aspx?'speechid=1172*

4. President Bush's address to the CENTCOM Coalition Conference, May 1, 2007, available at *http://wivw.whitehouse.gov/news/releases/2007/05/20070501-4.html.*

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