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12 June 2008

Committee Secretary
Joint Standing Committee on Treaties
Department of House of Representatives
PO Box 6021
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Joint Standing Committee on Treaties

Treaty between the Government of Australia and the Government of the United States of America concerning Defense Trade Cooperation, Sydney, 5 September 2007 [2007] ATNIF 31

Submission by CEA Technologies Pty Limited

CEA Technologies Pty. Limited (CEA) is pleased to provide the following response to the Joint Standing Committee on Treaties (JSCOT) regarding the Defense Trade Cooperation Treaty and its implementation, in accordance with the *Implementing Arrangement pursuant to the Treaty between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation* signed on 14 March 2008. As a leading Australian Defence company supplying electronics and communications products to the Australian Government and overseas, CEA is vitally interested in the future of the Australian Defence sector including the framework for procurement and sustainment.

CEA acknowledges the commitment of the Australian Government to the Defense Trade Cooperation Treaty and its implementation but would like to raise concern on the following three points, which all relate to choice and the reach of the applicability of the Defense Trade Cooperation Treaty.

1. **Choice of membership** – to what extent will it be optional for a company to choose to be a member of the Approved Community? We note the statement by Defence that ‘membership is voluntary’ but would ask that the Committee investigate this further to determine if there is real choice for Australian companies in a commercial sense, and

noting that Defence has said, in recent presentations to Industry, that membership will be by recommendation and invitation.

2. **Choice to employ the Treaty regime once a member** – if a company takes up membership of the Approved Community for exchanges within Scope, will it be able to choose when to use or not use the mechanisms of the Defense Trade Cooperation Treaty, or is usage mandatory unless an item is exempt? An Australian company may be happy to receive a Defense Article from the US under the Defense Trade Cooperation Treaty but may prefer to go through the Australian licensing requirements for the export of an Australian Defense Article to the US.

We also recommend that membership not be limited to those already doing business with the US but also be allowed to include those with a clear intent to do business in that market.

3. **Exclusions list** – will there be opportunity for companies to influence the composition of the Exclusions List which we understand is being prepared by Defence, or at minimum, will companies directly involved in Australian Defence projects be informed of the decision making process in deciding whether or not an item is on the Exclusions List. Are there mechanisms to object to decisions on exclusions (and membership) where a company is not satisfied with a decision made?

The Defense Trade Cooperation Treaty is of greater value to Australian companies if it is a tool that they can use and avail themselves of, rather than being restricted to a few or prescriptive in its application.

All queries regarding CEA's submission are to be directed to Ms Valentina Josifovski, Legal and Contracts Manager at valentina.josifovski@cea.com.au or on (02) 6213 0028.

Signed for and on behalf of CEA by



Mr Rob A. Forbes
Chief Executive Officer