

## Appendix 15

**THE SECRETARY OF STATE  
WASHINGTON**

November 25, 2003

Dear Mr. Chairman:

I was happy to have the opportunity to meet with you and Mr. Lantos on November 21 to discuss the UK and Australia ITAR licensing exemption agreements. Let me assure you that this Administration is fully committed to keeping U.S. weapons and technology out of the wrong hands.

Two principal issues of concern emerged from our discussion. The first is what we give up by not licensing each export transaction individually with these UK and Australian firms. It is true that under an exemption we cannot review the shippers or freight forwarders for each transaction. However, the new Automated Export System (AES) that became fully operational on October 18 requires a U.S. exporter to deposit an electronic record of all parties to an export 24 hours before shipment, including shippers and freight-forwarders, whether they are under license or an exemption. While neither a license nor the proposed exemptions can protect against unscrupulous middlemen (not all of whom are on the watchlist), AES is expected to serve as a key tool in the investigation and prosecution of these kinds of transactions. Additionally, of course, Australian and UK end-users of exempt items will have been fully vetted by U.S. and host-government authorities before they become qualified to participate under these agreements.

The second issue that we discussed was re-exports and retransfers of U.S.-origin defense items. This is a matter of major importance to the Department of State, because we are committed to ensuring that exports are limited to the end-user and end-use authorized under the ITAR. This Administration would not have begun negotiations with the UK and Australian governments had they not in the past respected the USG requirement for prior consent of re-exports to other

The Honorable  
Henry J. Hyde, Chairman,  
Committee on International Relations,  
House of Representatives.

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countries. Even the UK commitment, while politically rather than legally binding, goes far beyond anything we have obtained from the United Kingdom in the past in terms of re-exports. The Australian commitment is legally binding in this regard.

Without these agreements, the United States will have no commitment whatsoever from the Governments of Australia or the United Kingdom to control retransfers of U.S.-origin defense items within their borders. Under these agreements, qualified Australian and UK firms will now be obliged to both the USG and to their own government not to retransfer U.S.-origin defense items (either licensed or exempt) to other parties without our consent. These new controls on in-country transfers will not apply to UK and Australian companies that are not authorized to use the exemption. While we do not gain anything in such cases, we do not lose anything, either.

These agreements are a clear improvement over the status quo. For the first time, UK and Australian companies using the exemptions will be obligated by their own governments to submit to audits and inspections, maintain specific records of U.S. exports, and produce such records on both licensed and exempt transactions when we believe our laws and regulations have been violated. I want the compliance partnership relationship with UK and Australian defense trade authorities that these agreements will now give us.

Because we will not individually license many transactions with qualified companies, our licensing staff will be able to increase its focus on proposed exports to other end-users whose business practices bear closer scrutiny. The Departments of Justice and Homeland Security have reviewed and are satisfied with these arrangements. Recall also that the exemptions cannot be used for classified items or relatively sensitive categories of defense items such as small arms, items on the MTCR Annex, WMD-related items, and most night-vision devices. Furthermore, the exemptions cannot be used for any export that requires Congressional notification.

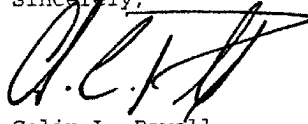
In sum, I do not see that we incur any imprudent risk with respect to controls on U.S.-origin defense items under the agreements, and the benefits are substantial in both

cases. Moreover, these agreements are the basis for a new and more significant defense cooperation relationship with two allies who, more than any other countries, have proven to share the national security and foreign policy objectives of the United States.

By requiring fewer individual licenses, we are building interoperable military forces with these key allies and, at the same time, drawing their defense industries and regulatory regimes alike closer to our own. The Administration and I strongly desire to move forward with Congressional approval as soon as possible and hope the foregoing, added to our previous correspondence, will persuade you of the same.

I very much appreciate the consideration that you and Mr. Lantos have given to these issues.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. L. Powell', with a large, sweeping flourish extending to the right.

Colin L. Powell