

U.S. Senate Committee on Foreign Relations
Senator Richard G. Lugar
Opening Statement for
Hearing on U.S.-U.K. and U.S.-Australian Defense Cooperation Treaties
May 21, 2008

I welcome the opportunity to consider these two defense cooperation treaties with the United Kingdom and Australia. I support the goal of these treaties, and I believe that, if carefully implemented, they will enhance U.S. national security.

The subject of streamlining defense cooperation with our two close allies first came before this Committee as bilateral agreements creating exemptions from arms licenses for defense trade. As Chairman, I initiated the first legislative action on these agreements in 2003 by including language in S. 925, the Foreign Relations Authorization Act for Fiscal Year 2004, which was necessary to bring the agreements into force.

In 2004, language was eventually included in the defense authorization bill regarding the agreements. Unfortunately, that language did not include the exemptions I authored. It merely established expedited review of licenses for the United Kingdom and Australia.

Last summer, in the final days of Prime Minister Blair's term, the United States announced that it had signed a treaty with the United Kingdom in defense trade. On September 20th of last year, President Bush submitted that treaty to the Senate. On December 3, 2007, a nearly identical treaty with Australia arrived.

The fundamental purpose of these treaties – like the original 2003 bilateral agreements – is to eliminate the requirement for export licenses to certain firms and individuals in the United Kingdom and Australia. The treaties before us, however, are more expansive. The bilateral agreements from 2003 were limited in scope to what Secretary Colin Powell called “low-sensitivity, unclassified defense items.” The treaties would go further to include license-free treatment for classified defense exports and sensitive defense technologies.

The treaties set up groups of individuals and firms in the United Kingdom and Australia who may receive unlicensed defense articles if they are part of an “Approved Community.” The treaties also create a list of cooperative endeavors and joint military operations for which unlicensed exports may be made.

Many aspects of these treaties require careful explanation by the Administration. Of particular concern is the treaties' use of what the President's Message of Transmittal refers to as “Implementing Arrangements.” These “Implementing Arrangements” would govern some of the most critical aspects of the treaties, including enforcement and the scope of the treaties' application. Yet the Transmittal Message states: “The Administration does not intend to submit any of the Implementing Arrangements to the Senate for advice and consent...”

The Administration must illuminate provisions of the treaties and Implementing Arrangements that lack specificity. The Foreign Relations Committee will want the fullest possible

understanding of how these treaties will work. For example, Article 3 of the Treaty with the United Kingdom states that the licensing exemption created by the treaty will apply to certain counter-terrorism operations; research, development, production and support programs; and other specific projects which are all to be specified in an Implementing Arrangement. However, the relevant Implementing Arrangement refers only to various criteria that will be used to develop specifics related to Article 3. It does not list the actual projects, programs and operations to which the treaty applies. Thus, the treaty's scope is expressed in an Implementing Arrangement that says the application of the treaty will be determined at a later time under relatively vague criteria.

I am confident that we can enable a clearer understanding of Article 3 and other provisions that will allow for Senate passage this year. This will require effort on the part of both the Administration and the Senate. The Administration must expedite answers to questions for the record or other Committee inquiries within two or three weeks of this hearing.

I am glad that we are moving forward today. I remain committed to the proposition that we can achieve ratification of these treaties in this Congress. I thank the Chairman and look forward to our discussion.

###