

## Appendix 4



THE SECRETARY OF DEFENSE  
1000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1000

MAY 5 2000

The Honorable Madeleine K. Albright  
Secretary of State  
2201 C Street Northwest  
Washington, DC 20520

Dear Madeleine:

I am strongly convinced that the national security imperative for technology control remains undiminished. Regrettably, denial to rogue states and problematic governments has become more difficult over time as these states have taken advantage of the substantial increase in global trade to pioneer new avenues to gain access to sensitive technologies. To ensure the same degree of security in this changing security and business environment, we must devote more resources to blocking the flow of sensitive technologies to rogues and problematic governments and expand the consensus among our allies on technology control, and in particular on third-party retransfers.

Our staffs have been in discussion for nearly a year and have reached agreement on several incremental, procedural reforms to improve our controls. Still outstanding is the most important issue: whether to enhance our technology security through negotiation of a "Canadian-like ITAR exemption" with the UK and Australia. Only this change will expand the consensus with these key allies on enhanced export controls, create incentives for other countries to also improve their export controls, and allow us to redirect resources from low-risk to high-risk transfers. Announcement of this proposal, with the other incremental reforms, would be part of your package for the NATO Ministerial meeting this month.

I have found that DoD is spending too much effort controlling low risk items destined for low risk destinations at the expense of devoting more time to high-risk cases and issues. For example, nearly a third of the export license requests are destined for the UK and Australia, two historical allies with whom we share the most sensitive information and technology. Under current ITAR rules, my staff is processing these requests with the same approach that they give to export license requests destined for more problematic nations. Clearly, we could free up substantial resources to focus on more sensitive cases if we could agree upon an approach that is appropriate for the lesser risk associated with exports to the UK and Australia of unclassified information and equipment of low sensitivity.

Both the UK and Australia have technology security systems that are quite effective. There are some enhancements to their systems, however, that we have long sought. It is our view that the best way to accomplish this is through a US proposal to negotiate a Canadian-like exemption to the ITAR for UK and Australia.

The proposed exemption would apply only to certain unclassified items and services specifically *for end-use in UK and Australia only by nationals of each country*. While very important to industrial collaboration and defense cooperation, these items and services are of low sensitivity for proliferation and other concerns. All classified items and services exported to UK and Australia will continue to require licenses. Similarly, items controlled under the Missile Technology Control Regime, the Nuclear Suppliers Group or the Australia Group and other sensitive technologies, such as small arms and gas turbine "hot section" know-how and technology, will continue to require export licenses. This proposal would be conditioned on several measures: (1) formalized end-use and retransfer assurances; (2) control of "intangibles"; and (3) gap-filling changes to ensure congruency of export controls with those of the US. The ITAR proposal does not contemplate and would not establish a "defense free-trade zone" with these two nations in any meaningful sense of the term.

Some have suggested the ITAR exemption would eliminate all US Government control over exports that would no longer require licensing. That is not the case. In fact, the proposal would require legally binding agreements with the UK and Australia on tight third party retransfer controls and closure of other gaps. This strengthened retransfer control would extend to UK and Australian end-users for all US Munitions List items, not only items entering the UK and Australia under the proposed exemption. Our proposal would dramatically improve our control of third-party re-transfers, further enhancing national security.

We are working with the Justice Department to ensure that the proposal would strengthen US law enforcement. ITAR violations on the part of US exporters will be prosecuted irrespective of whether there is an ITAR exemption for UK and Australia. Also, end-use or retransfer violations on the part of UK or Australia end-users can be acted upon by the summary removal either of a specific end-user's eligibility under the exemption or by the removal or modification of the exemption itself—as was done with the Canadian exemption last year. As a result of US actions last year, Canadian officials are now strengthening their export control practices—an outcome that could not have been possible absent the ITAR exemption. Negotiating similar agreements between the US and the UK and the US and Australia would provide substantial US leverage on this key issue.

Finally, the creation of ITAR exemptions for the UK and Australia would—as we have seen in the case of the US/UK DoD/MOD Declaration of Principles—stimulate intense, beneficial competition among our other allies to improve their export controls, thus globally improving our technology security.

Technology security is a fundamental DoD concern on which I am personally involved. I believe that a "Canadian ITAR exemption" for the UK and Australia is the most important step we can take to significantly improve that security in the near term. I ask for your support.

Sincerely,

