

H.R. 6156. An act to renew the authority of the Secretary of Health and Human Services to approve demonstration projects designed to test innovative strategies in State child welfare programs.

At 12:04 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2701. An act to authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1745. An act to amend the Public Health Service Act to provide liability protections for volunteer practitioners at health centers under section 330 of such Act; to the Committee on Health, Education, Labor, and Pensions.

H.R. 3199. An act to amend the Public Health Service Act to provide grants to State emergency medical service departments to provide for the expedited training and licensing of veterans with prior medical training, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 5307. An act to amend the Tariff Act of 1930 to include ultralight vehicles under the definition of aircraft for purposes of the aviation smuggling provisions under that Act; to the Committee on Finance.

H.R. 5710. An act to amend and reauthorize the controlled substance monitoring program under section 3990 of the Public Health Service Act; to the Committee on Health, Education, Labor, and Pensions.

H.R. 5756. An act to amend subtitle D of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 to provide grants and technical assistance to University Centers for Excellence in Developmental Disabilities Education, Research, and Service to improve services rendered to children and adults on the autism spectrum, and their families, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 6156. An act to renew the authority of the Secretary of Health and Human Services to approve demonstration projects designed to test innovative strategies in State child welfare programs; to the Committee on Finance.

### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KERRY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and with an amended preamble:

S. Res. 573. A resolution urging the development of a comprehensive strategy to ensure stability in Somalia, and for other purposes.

### EXECUTIVE REPORT OF COMMITTEE—NOMINATION

The following executive report of a nomination was submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Robert Leon Wilkins, of the District of Columbia, to be United States District Judge for the District of Columbia.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

### EXECUTIVE REPORTS OF COMMITTEE—TREATIES

The following executive reports of committee were submitted:

By Mr. KERRY, from the Committee on Foreign Relations:

TREATY DOC. 110-7 TREATY WITH UNITED KINGDOM CONCERNING DEFENSE TRADE COOPERATION WITH 9 CONDITIONS, 7 UNDERSTANDINGS, AND 3 DECLARATIONS (EX. REPT. 111-5); AND TREATY DOC. 110-10 TREATY WITH AUSTRALIA CONCERNING DEFENSE TRADE COOPERATION WITH 8 CONDITIONS, 6 UNDERSTANDINGS, AND 3 DECLARATIONS (EX. REPT. 111-5)

The text of the committee-recommended resolutions of advice and consent to ratification are as follows:

[110-7: Treaty with United Kingdom Concerning Defense Trade Cooperation]

*Resolved (two-thirds of the Senators present concurring therein),*

Section 1. Senate Advice and Consent Subject to Conditions, Understandings And Declarations.

The Senate advises and consents to the ratification of the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington and London on June 21 and 26, 2007 (Treaty Doc. 110-7) (as defined in section 5 of this resolution), subject to the conditions in section 2, the understandings in section 3 and the declarations in section 4.

Section 2. Conditions.

The Senate's advice and consent to the ratification of the Treaty with the United Kingdom Concerning Defense Trade Cooperation is subject to the following conditions, which shall be binding upon the President:

(1) United States preparation for treaty implementation.

(A) At least 15 days before any exchange of notes pursuant to Article 20 of the Treaty, the President shall submit to the Congress a report—

(i) describing steps taken to ensure that the Executive branch and United States industry are prepared to comply with Treaty requirements;

(ii) analyzing the implications of the Treaty, and especially of Article 3(3) of the Treaty, for the protection of intellectual property rights of United States persons;

(iii) explaining what steps the United States Government is taking and will take to combat improper or illegal intangible exports (i.e., exports as defined in part 120.17(a)(4) of title 22, Code of Federal Regulations) under the Treaty; and

(iv) setting forth the issues to be addressed in the Management Plan called for by Section 12(3)(f) of the Implementing Arrangement and the procedures that are expected to be adopted in that Plan.

(B) Before any exchange of notes pursuant to Article 20 of the Treaty, the President shall submit to the Congress a certification that changes to the International Traffic in Arms Regulations (parts 120-130 of title 22, Code of Federal Regulations) have been published in the Federal Register pursuant to the Arms Export Control Act, as appro-

priate, that would, upon entry into force of the Treaty,—

(i) make clear the legal obligation for any person involved in an Export, Re-export, Transfer, or Re-transfer under the Treaty to comply with all requirements in the revised International Traffic in Arms Regulations, including by taking all reasonable steps to ensure the accuracy of information received from a member of the Approved Community that is party to an Export, Re-export, Transfer, or Re-transfer under the Treaty;

(ii) make clear the legal obligation for Approved Community members to comply with United States Government instructions and requirements regarding United States Defense Articles added to the list of exempt Defense Articles pursuant to Article 3(2) of the Treaty;

(iii) limit a person from being a member of the United States Community, pursuant to Article 5(2) of the Treaty, if that person is generally ineligible to export pursuant to section 120.1(c) of title 22, Code of Federal Regulations; and

(iv) require any nongovernmental entity that ceases to be included in the United States Community to comply with instructions from authorized United States Government officials and to open its records of transactions under the Treaty to inspection by United States Government and, as appropriate, authorized United Kingdom Government officials pursuant to Article 12 of the Treaty.

(C) Before any exchange of notes pursuant to Article 20 of the Treaty, the President shall submit to the Congress—

(i) a certification that appropriate mechanisms have been established to identify, in connection with the process for determining whether a nongovernmental entity is in the United States Community pursuant to Article 5(2) of the Treaty, persons who meet the criteria in section 38(g)(1) of the Arms Export Control Act (22 U.S.C. 2778(g)(1));

(ii) a certification that appropriate mechanisms have been established to verify that nongovernmental entities in the United States that Export pursuant to the Treaty are eligible to export Defense Articles under United States law and regulation as required by Article 5(2) of the Treaty;

(iii) a certification that United States Department of Homeland Security personnel at United States ports—

(a) have prompt access to a State Department database containing registered exporters, freight forwarders and consignees, and watch lists regarding United States companies; and

(b) are prepared to prevent attempts to export pursuant to the Treaty by United States persons who are not eligible to export Defense Articles under United States law or regulation, even if such person has registered with the United States Government;

(iv) a certification that the Secretary of Defense has promulgated appropriate changes to the National Industrial Security Program Operating Manual and to Regulation DoD 5200.1-R, "Information Security Program," and has issued guidance to industry regarding marking and other Treaty compliance requirements; and

(v) a certification that a capability has been established to conduct post-shipment verification, end-use/end-user monitoring and related security audits for Exports under the Treaty, accompanied by a report setting forth the legal authority, staffing and budget provided for this capability and any further Executive branch or congressional action recommended to ensure its effective implementation.

(2) Treaty partner preparation for treaty implementation.

Before any exchange of notes pursuant to Article 20 of the Treaty, the President shall

certify to Congress that the Government of the United Kingdom has promulgated all necessary regulatory changes, including:

(A) changes to export control regulations, setting forth a Treaty-specific Open General Export License (OGBEL);

(B) changes to the United Kingdom Security Policy Framework and related security regulations for Government and United Kingdom Industry; and

(C) changes to the MOD Classified Material Release Procedure (F680), to take account of Treaty Re-exports and Re-transfers.

(3) Joint operations, programs and projects.

The Secretary of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives informed of the lists of combined military and counter-terrorism operations developed pursuant to Article 3(1)(a) of the Treaty; cooperative security and defense research, development, production, and support programs developed pursuant to Article 3(1)(b) of the Treaty; and specific security and defense projects developed pursuant to article 3(1)(c) of the Treaty.

(4) Exempted defense articles.

(A) The President may remove a Defense Article from the list of Defense Articles exempt from the Scope of the Treaty, if such removal is not barred by United States law, 30 days after the President informs the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of such proposed removal.

(B) When a Defense Article is added to the list of Defense Articles exempt from the Scope of the Treaty, the Secretary of State shall provide a copy of the Federal Register Notice delineating the policies and procedures that will govern the control of such Defense Article, consistent with Section 4(7) of the Implementing Arrangement, as well as an explanation of the reasons for adopting those policies and procedures, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives within five days of the issuance of such Notice.

(5) Changes to the definition of the territory of the United Kingdom.

(A) The Secretary of State shall inform the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives within 15 days of the initiation of consultations with the United Kingdom concerning the inclusion of any additional territory or territories in the definition of "Territory of the United Kingdom" for the purposes of Article 1(8) of the Treaty, and shall inform the Committees within 15 days of receipt through diplomatic channels of notice that a territory or group of territories has been added to the definition of "Territory of the United Kingdom" for the purposes of Article 1(8) of the Treaty.

(B) The Secretary of State shall consult with the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives before approving any addition to the United Kingdom Community of a non-governmental entity or facility outside the territory of England, Scotland, Wales, or Northern Ireland.

(6) Approved community membership.

(A) If sanctions are in effect against a person in the United Kingdom Community pursuant to section 73(a)(2)(B) or section 81 of the Arms Export Control Act (22 U.S.C. 2797b(a)(2)(B) or 2798), the United States shall raise the matter pursuant to Article 4(2) of the Treaty and Section 7(9) of the Implementing Arrangement.

(B) The Secretary of State shall inform the Committee on Foreign Relations of the Sen-

ate and the Committee on Foreign Affairs of the House of Representatives not later than 5 days before the U.S. Government agrees to the initial inclusion in the United Kingdom Community of a nongovernmental United Kingdom entity, if the Department of State is aware that the entity, or any one or more of its relevant senior officers or officials:

(i) Has been convicted of violating a statute cited in paragraph 38(g)(1) of the Arms Export Control Act (22 U.S.C. 2778(g)(1)); or

(ii) is, or would be if that person were a United States person,

(a) ineligible to contract with any agency of the U.S. Government;

(b) ineligible to receive a license or other form of authorization to export from any agency of the U.S. Government; or

(c) ineligible to receive a license or any form of authorization to import defense articles or defense services from any agency of the U.S. Government.

(C) The Secretary of State shall inform and consult with the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives not later than 5 days after the United States Government agrees to the continued inclusion in the United Kingdom Community of a nongovernmental United Kingdom entity, if the Department is aware that the entity, or any one or more of its relevant senior officers or officials, raises one or more of the concerns referred to in paragraph (B).

(7) Transition policies and procedures.

(A) No fewer than 15 days before formally establishing the procedures called for in Section 5(5) of the Implementing Arrangement, the President shall provide to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report concerning the policies and procedures developed to govern the transition to the application of the Treaty, pursuant to Article 3(3) of the Treaty, of Defense Articles acquired and delivered under the Foreign Military Sales program.

(B) No fewer than 15 days before formally establishing the procedures called for in Section 8(2) of the Implementing Arrangement, the President shall provide to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report concerning the policies and procedures developed to govern the members of the United Kingdom Community wishing to transition to the processes established under the Treaty, pursuant to Article 14(2) of the Treaty, from the requirements of a United States Government export license or other authorization.

(8) Congressional oversight.

(A) The Secretary of State shall inform the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives promptly of any report, consistent with Section 11(4)(b)(vi) of the Implementing Arrangement, of a material violation of Treaty requirements or procedures by a member of the Approved Community.

(B) The Department of State shall brief the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives regularly regarding issues raised in the Management Board called for in Section 12(3) of the Implementing Arrangement, and the resolution of such issues.

(9) Annual report.

Not later than March 31, 2011, and annually thereafter, the President shall submit to Congress a report, which shall cover all Treaty activities during the previous calendar year. This report shall include:

(A) a summary of the amount of Exports under the Treaty and of Defense Articles transitioned into the Treaty, with an analysis of how the Treaty is being used;

(B) a list of all political contributions, gifts, commissions and fees paid, or offered or agreed to be paid, by any person in connection with Exports of Defense Articles under the Treaty in order to solicit, promote, or otherwise to secure the conclusion of such sales;

(C) any action to remove from the United Kingdom Community a nongovernmental entity or facility previously engaged in activities under the Treaty, other than due to routine name or address changes or mergers and acquisitions;

(D) any concerns relating to infringement of intellectual property rights that were raised to the President or an Executive branch Department or Agency by Approved Community members, and developments regarding any concerns that were raised in previous years;

(E) a description of any relevant investigation and each prosecution pursued with respect to activities under the Treaty, the results of such investigations or prosecutions and of such investigations and prosecutions that continued over from previous years, and any shortfalls in obtaining prompt notification pursuant to Article 13(3) of the Treaty or in cooperation between the Parties pursuant to Article 13(3) and (4) of the Treaty;

(F) a description of any post-shipment verification, end-user/end-use monitoring, or other security activity related to Treaty implementation conducted during the year, the purposes of such activity and the results achieved; and

(G) any Office of Inspector General activity bearing upon Treaty implementation conducted during the year, any resultant findings or recommendations, and any actions taken in response to current or past findings or recommendations.

Section 3. Understandings.

The Senate's advice and consent to the ratification of the Treaty with the United Kingdom Concerning Defense Trade Cooperation is subject to the following understandings, which shall be included in the instrument of ratification:

(1) Meaning of the phrase "identified in."

It is the understanding of the United States that the phrase "identified in" in the Treaty shall be interpreted as meaning "identified pursuant to."

(2) Meaning of the word "scope."

It is the understanding of the United States that the word "Scope" in the Treaty shall be interpreted as meaning "the Treaty's coverage as identified in Article 3."

(3) Cooperative programs with exempt and non-exempt defense articles.

It is the understanding of the United States that if a cooperative program is mutually determined, consistent with Section 2(2)(e) of the Implementing Arrangement, to be within the Scope of the Treaty pursuant to Article 3(1)(b) of the Treaty despite involving Defense Articles that are exempt from the Scope of the Treaty pursuant to Article 3(2) of the Treaty, the exempt Defense Articles shall remain exempt from the Scope of the Treaty and the Treaty shall apply only to non-exempt Defense Articles required for the program.

(4) Investigations and reports of alleged violations.

It is the understanding of the United States that the words "as appropriate" in Section 10(3)(f) of the Implementing Arrangement do not detract in any way from the obligation in Article 13(3) of the Treaty, that "Each Party shall promptly investigate all suspected violations and reports of alleged violations of the procedures established pursuant to this Treaty, and shall promptly inform the other Party of the results of such investigations."

(5) Exempt defense articles.

It is the understanding of the United States that if one Party to the Treaty exempts a type of Defense Articles from the scope of the Treaty pursuant to Article 3(2) of the Treaty, then Defense Articles of that type will be treated as exempt by both Parties to the Treaty.

(6) Intermediate consignees.

It is the understanding of the United States that any intermediate consignee of an Export from the United States under the Treaty must be a member of the Approved Community or otherwise approved by the United States Government.

(7) Scope of treaty exemption.

The United States interprets the Treaty not to exempt any person or entity from any United States statutory and regulatory requirements, including any requirements of licensing or authorization, other than those included in the International Traffic in Arms Regulations, as modified or amended. Accordingly, the United States interprets the term 'license or other written authorization' in Article 2 and the term 'licenses or other authorizations' in Article 6(1), as these terms apply to the United States, and the term 'prior written authorization by the United States Government' in Article 7, to refer only to such licenses, licensing requirements, and other authorizations as are required or issued by the United States pursuant to the International Traffic in Arms Regulations, as modified or amended; and the United States interprets the reference to 'the applicable licensing requirements and the implementing regulations of the United States Arms Export Control Act' in Article 13(1) to refer only to the applicable licensing requirements under the International Traffic in Arms Regulations, as modified or amended.

Section 4. Declarations.

The Senate's advice and consent to the ratification of the Treaty with the United Kingdom Concerning Defense Trade Cooperation is subject to the following declarations:

(1) Self-execution.

This Treaty is not self-executing in the United States, notwithstanding the statement in the preamble to the contrary.

(2) Private rights.

This Treaty does not confer private rights enforceable in United States courts.

(3) Intellectual property rights.

No liability will be incurred by or attributed to the United States Government in connection with any possible infringement of privately owned patent or proprietary rights, either domestic or foreign, by reason of the United States Government's permitting Exports or Transfers or its approval of Re-exports or Re-transfers under the Treaty.

Section 5. Definitions.

As used in this resolution:

(1) The terms "Treaty with the United Kingdom Concerning Defense Trade Cooperation" and "Treaty" mean the Treaty between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington and London on June 21 and 26, 2007.

(2) The terms "Implementing Arrangement Pursuant to the Treaty" and "Implementing Arrangement" mean the Implementing Arrangement Pursuant to the Treaty between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, which was signed in Washington on February 14, 2008.

(3) The terms "Defense Articles," "Export," "Re-export," "Re-transfer," "Transfer," "Approved Community," "United States Community," "United Kingdom Com-

munity," and "Territory of the United Kingdom" have the meanings given to them in Article 1 of the Treaty.

(4) The terms "Management Board" and "Management Plan" have the meanings given to them in Section 1 of the Implementing Arrangement.

(5) The terms "person" and "foreign person" have the meaning given to them by section 38(g)(9) of the Arms Export Control Act (22 U.S.C. 2778(g)(9)). The term "U.S. person" has the meaning given to it by part 120.15 of title 22, Code of Federal Regulations.

[110-10 Treaty with Australia Concerning Defense Trade Cooperation]

*Resolved (two-thirds of the Senators present concurring therein),*

Section 1. Senate Advice and Consent Subject to Conditions, Understandings And Declarations.

The Senate advises and consents to the ratification of the Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, done at Sydney, September 5, 2007 (Treaty Doc. 110-10) (as defined in section 5 of this resolution), subject to the conditions in section 2, the understandings in section 3 and the declarations in section 4.

Section 2. Conditions.

The Senate's advice and consent to the ratification of the Treaty with Australia Concerning Defense Trade Cooperation is subject to the following conditions, which shall be binding upon the President:

(1) United States preparation for treaty implementation.

(A) At least 15 days before any exchange of notes pursuant to Article 20 of the Treaty, the President shall submit to the Congress a report—

(i) describing steps taken to ensure that the Executive branch and United States industry are prepared to comply with Treaty requirements;

(ii) analyzing the implications of the Treaty, and especially of Article 3(3) of the Treaty, for the protection of intellectual property rights of United States persons;

(iii) explaining what steps the United States Government is taking and will take to combat improper or illegal intangible exports (i.e., exports as defined in part 120.17(a)(4) of title 22, Code of Federal Regulations) under the Treaty; and

(iv) setting forth the issues to be addressed in the Management Plan called for by Section 12(3)(f) of the Implementing Arrangement and the procedures that are expected to be adopted in that Plan.

(B) Before any exchange of notes pursuant to Article 20 of the Treaty, the President shall submit to the Congress a certification that changes to the International Traffic in Arms Regulations (parts 120-130 of title 22, Code of Federal Regulations) have been published in the Federal Register pursuant to the Arms Export Control Act, as appropriate, that would, upon entry into force of the Treaty,—

(i) make clear the legal obligation for any person involved in an Export, Re-export, Transfer, or Re-transfer under the Treaty to comply with all requirements in the revised International Traffic in Arms Regulations, including by taking all reasonable steps to ensure the accuracy of information received from a member of the Approved Community that is party to an Export, Re-export, Transfer, or Re-transfer under the Treaty;

(ii) make clear the legal obligation for Approved Community members to comply with United States Government instructions and requirements regarding United States Defense Articles added to the list of exempt Defense Articles pursuant to Article 3(2) of the Treaty;

(iii) limit a person from being a member of the United States Community, pursuant to Article 5(2) of the Treaty, if that person is generally ineligible to export pursuant to section 120.1(c) of title 22, Code of Federal Regulations; and

(iv) require any nongovernmental entity that ceases to be included in the United States Community to comply with instructions from authorized United States Government officials and to open its records of transactions under the Treaty to inspection by United States Government and, as appropriate, authorized Australian Government officials pursuant to Article 12 of the Treaty.

(C) Before any exchange of notes pursuant to Article 20 of the Treaty, the President shall submit to the Congress—

(i) a certification that appropriate mechanisms have been established to identify, in connection with the process for determining whether a nongovernmental entity is in the United States Community pursuant to Article 5(2) of the Treaty, persons who meet the criteria in section 38(g)(1) of the Arms Export Control Act (22 U.S.C. 2778(g)(1));

(ii) a certification that appropriate mechanisms have been established to verify that nongovernmental entities in the United States that Export pursuant to the Treaty are eligible to export Defense Articles under United States law and regulation as required by Article 5(2) of the Treaty;

(iii) a certification that United States Department of Homeland Security personnel at United States ports—

(a) have prompt access to a State Department database containing registered exporters, freight forwarders and consignees, and watch lists regarding United States companies; and

(b) are prepared to prevent attempts to export pursuant to the Treaty by United States persons who are not eligible to export Defense Articles under United States law or regulation, even if such person has registered with the United States Government;

(iv) a certification that the Secretary of Defense has promulgated appropriate changes to the National Industrial Security Program Operating Manual and to Regulation DoD 5200.1-R, "Information Security Program," and has issued guidance to industry regarding marking and other Treaty compliance requirements; and

(v) a certification that a capability has been established to conduct post-shipment verification, end-use/end-user monitoring and related security audits for Exports under the Treaty, accompanied by a report setting forth the legal authority, staffing and budget provided for this capability and any further Executive branch or congressional action recommended to ensure its effective implementation.

(2) Treaty partner preparation for treaty implementation.

Before any exchange of notes pursuant to Article 20 of the Treaty, the President shall certify to Congress that the Government of Australia has—

(A) enacted legislation to strengthen generally its controls over defense and dual-use goods, including controls over intangible transfers of controlled technology and brokering of controlled goods, technology, and services, and setting forth:

(i) the criteria for entry into the Australian Community and the conditions Australian Community members must abide by to maintain membership, including personnel, information and facilities security requirements;

(ii) the record-keeping and notification and reporting requirements under the Treaty;

(iii) the handling, marking and classification requirements for United States and Australian Defense Articles Exported or Transferred under the Treaty;

(iv) the requirements for Exports and Transfers of United States Defense Articles outside the Approved Community or to a third country;

(v) the rules for handling United States Defense Articles that are added to or removed from the list of items exempted from Treaty application;

(vi) the rules for transitioning into and out of the Australian Community;

(vii) auditing, monitoring and investigative powers for Commonwealth officials and powers to allow Commonwealth officials to perform post-shipment verifications and end-user/end-user monitoring; and (viii) offenses and penalties, and administrative requirements, necessary for the enforcement of the Treaty and its Implementing Arrangement; and

(B) promulgated regulatory changes setting forth:

(i) the criteria for entry into the Australian Community, and terms for maintaining Australian Community membership;

(ii) the criteria for individuals to become authorized to access United States Defense Articles received pursuant to the Treaty;

(iii) benefits stemming from Australian Community membership, including a framework for license-free trade with the United States in classified or controlled items falling within the scope of the Treaty;

(iv) the conditions Australian Community members must abide by to maintain membership, including:

(a) record-keeping and notification requirements;

(b) marking and classification requirements for defense articles Exported or Transferred under the Treaty;

(c) requirements for the Re-transfer to non-Approved Community members and Re-export to a third country of defense articles; and

(d) maintaining security standards and measures articulated in Defense protective security policy to protect defense articles pursuant to the Treaty;

(v) provisions to enforce the procedures established pursuant to the Treaty, including auditing and monitoring powers for Australian Department of Defence officials and powers to allow Department of Defence officials to perform post-shipment verifications and end-user/end-user monitoring;

(vi) offenses and penalties, including administrative and criminal penalties and suspension and termination from the Australian Community, to enforce the provisions of the Treaty; and

(vii) requirements and standards for transition into or out of the Australian Community and Treaty framework.

(3) Joint operations, programs and projects.

The Secretary of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives informed of the lists of combined military and counter-terrorism operations developed pursuant to Article 3(1)(a) of the Treaty; cooperative security and defense research, development, production, and support programs developed pursuant to Article 3(1)(b) of the Treaty; and specific security and defense projects developed pursuant to article 3(1)(c) of the Treaty.

(4) Exempted defense articles.

(A) The President may remove a Defense Article from the list of Defense Articles exempt from the Scope of the Treaty, if such removal is not barred by United States law, 30 days after the President informs the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of such proposed removal.

(B) When a Defense Article is added to the list of Defense Articles exempt from the

Scope of the Treaty, the Secretary of State shall provide a copy of the Federal Register Notice delineating the policies and procedures that will govern the control of such Defense Article, consistent with Section 4(7) of the Implementing Arrangement, as well as an explanation of the reasons for adopting those policies and procedures, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives within five days of the issuance of such Notice.

(5) Approved community membership.

(A) If sanctions are in effect against a person in the Australian Community pursuant to section 73(a)(2)(B) or section 81 of the Arms Export Control Act (22 U.S.C. 2797b(a)(2)(B) or 2798), the United States shall raise the matter pursuant to Article 4(2) of the Treaty and Section 6(9) of the Implementing Arrangement.

(B) The Secretary of State shall inform the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives not later than 5 days before the U.S. Government agrees to the initial inclusion in the Australian Community of a nongovernmental Australian entity, if the Department of State is aware that the entity, or any one or more of its relevant senior officers or officials:

(i) Has been convicted of violating a statute cited in paragraph 38(g)(1) of the Arms Export Control Act (22 U.S.C. 2778(g)(1)); or

(ii) is, or would be if that person were a United States person,

(a) ineligible to contract with any agency of the U.S. Government;

(b) ineligible to receive a license or other form of authorization to export from any agency of the U.S. Government; or

(c) ineligible to receive a license or any form of authorization to import defense articles or defense services from any agency of the U.S. Government.

(C) The Secretary of State shall inform and consult with the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives not later than 5 days after the United States Government agrees to the continued inclusion in the Australian Community of a nongovernmental Australian entity, if the Department is aware that the entity, or any one or more of its relevant senior officers or officials, raises one or more of the concerns referred to in paragraph (B).

(6) Transition policies and procedures.

(A) No fewer than 15 days before formally establishing the procedures called for in Section 5(5) of the Implementing Arrangement, the President shall provide to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report concerning the policies and procedures developed to govern the transition to the application of the Treaty, pursuant to Article 3(3) of the Treaty, of Defense Articles acquired and delivered under the Foreign Military Sales program.

(B) No fewer than 15 days before formally establishing the procedures called for in Section 7(2) of the Implementing Arrangement, the President shall provide to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report concerning the policies and procedures developed to govern the members of the Australian Community wishing to transition to the processes established under the Treaty, pursuant to Article 14(2) of the Treaty, from the requirements of a United States Government export license or other authorization.

(7) Congressional oversight.

(A) The Secretary of State shall inform the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of

the House of Representatives promptly of any report, consistent with Section 11(6)(f) of the Implementing Arrangement, of a material violation of Treaty requirements or procedures by a member of the Approved Community.

(B) The Department of State shall brief the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives regularly regarding issues raised in the Management Board called for in Section 12(3) of the Implementing Arrangement, and the resolution of such issues.

(8) Annual report.

Not later than March 31, 2011, and annually thereafter, the President shall submit to Congress a report, which shall cover all Treaty activities during the previous calendar year. This report shall include:

(A) a summary of the amount of Exports under the Treaty and of Defense Articles transitioned into the Treaty, with an analysis of how the Treaty is being used;

(B) a list of all political contributions, gifts, commissions and fees paid, or offered or agreed to be paid, by any person in connection with Exports of Defense Articles under the Treaty in order to solicit, promote, or otherwise to secure the conclusion of such sales;

(C) any action to remove from the Australian Community a nongovernmental entity or facility previously engaged in activities under the Treaty, other than due to routine name or address changes or mergers and acquisitions;

(D) any concerns relating to infringement of intellectual property rights that were raised to the President or an Executive branch Department or Agency by Approved Community members, and developments regarding any concerns that were raised in previous years;

(E) a description of any relevant investigation and each prosecution pursued with respect to activities under the Treaty, the results of such investigations or prosecutions and of such investigations and prosecutions that continued over from previous years, and any shortfalls in obtaining prompt notification pursuant to Article 13(3) of the Treaty or in cooperation between the Parties pursuant to Article 13(3) and (4) of the Treaty;

(F) a description of any post-shipment verification, end-user/end-use monitoring, or other security activity related to Treaty implementation conducted during the year, the purposes of such activity and the results achieved; and

(G) any Office of Inspector General activity bearing upon Treaty implementation conducted during the year, any resultant findings or recommendations, and any actions taken in response to current or past findings or recommendations.

Section 3. Understandings.

The Senate's advice and consent to the ratification of the Treaty with Australia Concerning Defense Trade Cooperation is subject to the following understandings, which shall be included in the instrument of ratification:

(1) Meaning of the phrase "identified in."

It is the understanding of the United States that the phrase "identified in" in the Treaty shall be interpreted as meaning "identified pursuant to."

(2) Cooperative programs with exempt and non-exempt defense articles.

It is the understanding of the United States that if a cooperative program is mutually determined, consistent with Section 2(2)(e) of the Implementing Arrangement, to be within the Scope of the Treaty pursuant to Article 3(1)(b) of the Treaty despite involving Defense Articles that are exempt from the Scope of the Treaty pursuant to Article 3(2) of the Treaty, the exempt Defense

Articles shall remain exempt from the Scope of the Treaty and the Treaty shall apply only to non-exempt Defense Articles required for the program.

(3) Investigations and reports of alleged violations.

It is the understanding of the United States that the words "as appropriate" in Section 10(3)(f) of the Implementing Arrangement do not detract in any way from the obligation in Article 13(3) of the Treaty, that "Each Party shall promptly investigate all suspected violations and reports of alleged violations of the procedures established pursuant to this Treaty, and shall promptly inform the other Party of the results of such investigations."

(4) Exempt defense articles.

It is the understanding of the United States that if one Party to the Treaty exempts a type of Defense Articles from the scope of the Treaty pursuant to Article 3(2) of the Treaty, then Defense Articles of that type will be treated as exempt by both Parties to the Treaty.

(5) Intermediate consignees.

It is the understanding of the United States that any intermediate consignee of an Export from the United States under the Treaty must be a member of the Approved Community or otherwise approved by the United States Government.

(6) Scope of treaty exemption.

The United States interprets the Treaty not to exempt any person or entity from any United States statutory and regulatory requirements, including any requirements of licensing or authorization, other than those included in the International Traffic in Arms Regulations, as modified or amended. Accordingly, the United States interprets the term 'license or other written authorization' in Article 2 and the term 'licenses or other authorizations' in Article 6(1), as these terms apply to the United States, and the term 'prior written authorization by the United States Government' in Article 7, to refer only to such licenses, licensing requirements, and other authorizations as are required or issued by the United States pursuant to the International Traffic in Arms Regulations, as modified or amended; and the United States interprets the reference to 'the applicable licensing requirements and the implementing regulations of the United States Arms Export Control Act' in Article 13(1) to refer only to the applicable licensing requirements under the International Traffic in Arms Regulations, as modified or amended.

Section 4. Declarations.

The Senate's advice and consent to the ratification of the Treaty with Australia Concerning Defense Trade Cooperation is subject to the following declarations:

(1) Self-execution.

This Treaty is not self-executing in the United States, notwithstanding the statement in the preamble to the contrary.

(2) Private rights.

This Treaty does not confer private rights enforceable in United States courts.

(3) Intellectual property rights.

No liability will be incurred by or attributed to the United States Government in connection with any possible infringement of privately owned patent or proprietary rights, either domestic or foreign, by reason of the United States Government's permitting Exports or Transfers or its approval of Re-exports or Re-transfers under the Treaty.

Section 5. Definitions.

As used in this resolution:

(1) The terms "Treaty with Australia Concerning Defense Trade Cooperation" and "Treaty" mean the Treaty between the Government of the United States of America and the Government of Australia Concerning De-

fense Trade Cooperation, done at Sydney, September 5, 2007.

(2) The terms "Implementing Arrangement Pursuant to the Treaty" and "Implementing Arrangement Pursuant to the Treaty between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, which was signed in Washington on March 14, 2008.

(3) The terms "Defense Articles," "Export," "Re-export," "Re-transfer," "Transfer," "Approved Community," "United States Community," "Australian Community," and "Scope" have the meanings given to them in Article 1 of the Treaty.

(4) The terms "Management Board" and "Management Plan" have the meanings given to them in Section 1 of the Implementing Arrangement.

(5) The terms "person" and "foreign person" have the meaning given to them by section 38(g)(9) of the Arms Export Control Act (22 U.S.C. 2778(g)(9)). The term "U.S. person" has the meaning given to it by part 120.15 of title 22, Code of Federal Regulations.

### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. LANDRIEU (for herself and Ms. SNOWE):

S. 3839. A bill to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes; considered and passed.

By Mr. CASEY (for himself and Mr. HARKIN):

S. 3840. A bill to permit employees to request, and to ensure employers consider requests for, flexible work terms and conditions, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KAUFMAN (for himself, Mr. CRAPO, Mr. CARDIN, Mr. ALEXANDER, Mr. CASEY, Mrs. MURRAY, Mrs. LINCOLN, Ms. LANDRIEU, Mr. BURRIS, Mr. UDALL of Colorado, Mr. BINGAMAN, Mr. KERRY, Mrs. SHAHEEN, Mrs. FEINSTEIN, Mr. BENNETT, Mr. FEINGOLD, Ms. CANTWELL, Mr. CORKER, Mr. REED, Mr. UDALL of New Mexico, Mr. PRYOR, Ms. STABENOW, Mr. WHITEHOUSE, Mr. INOUE, and Mr. LEVIN):

S. Res. 644. A resolution designating the week beginning October 10, 2010, as "National Wildlife Refuge Week"; considered and agreed to.

By Mr. ENSIGN:

S. Res. 645. A resolution expressing the sense of the Senate regarding the Parliamentary elections to be held in Venezuela on September 26, 2010; to the Committee on Foreign Relations.

By Mr. HATCH (for himself, Mr. LEVIN, Mr. BENNETT, Mr. DURBIN, Mr. CRAPO, Mr. CASEY, and Mr. COCHRAN):

S. Res. 646. A resolution designating Thursday, November 18, 2010, as "Feed America Day"; to the Committee on the Judiciary.

### ADDITIONAL COSPONSORS

S. 730

At the request of Mr. ENSIGN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 730, a bill to amend the Harmonized Tariff Schedule of the United States to modify the tariffs on certain footwear, and for other purposes.

S. 3398

At the request of Mr. BAUCUS, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 3398, a bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to certain recently discharged veterans.

S. 3773

At the request of Mr. SCHUMER, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 3708, a bill to amend titles XVIII and XIX of the Social Security Act to clarify the application of EHR payment incentives in cases of multi-campus hospitals.

S. 3773

At the request of Mr. JOHANNES, his name was added as a cosponsor of S. 3773, a bill to permanently extend the 2001 and 2003 tax relief provisions and to provide permanent AMT relief and estate tax relief, and for other purposes.

S. 3834

At the request of Ms. KLOBUCHAR, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 3834, a bill to amend the Environmental Research, Development, and Demonstration Authorization Act of 1978 to require the appointment of a member of the Science Advisory Board based on the recommendation of the Secretary of Agriculture.

S. CON. RES. 71

At the request of Mr. FEINGOLD, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Missouri (Mrs. McCASKILL) were added as cosponsors of S. Con. Res. 71, a concurrent resolution recognizing the United States national interest in helping to prevent and mitigate acts of genocide and other mass atrocities against civilians, and supporting and encouraging efforts to develop a whole of government approach to prevent and mitigate such acts.

S. RES. 642

At the request of Mr. INOUE, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. Res. 642, a resolution congratulating the National Institute of Nursing Research on the occasion of its 25th anniversary.

S. RES. 643

At the request of Mr. INOUE, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. Res. 643, a resolution designating the week beginning October 3, 2010, as "National Nurse-Managed Health Clinic Week".