



Australian Government

Department of Defence

Department of Foreign Affairs and Trade



TERTIARY AND RESEARCH INSTITUTIONS EXPORT CONTROLS – YOUR RESPONSIBILITIES

**Defence Export Control Office:
Ensuring Australia Exports Responsibly**

MARCH 2009



AUSTRALIA'S EXPORT CONTROL SYSTEM

Australia is a strong supporter of international efforts to prevent the proliferation of weapons of mass destruction (WMD) and is an active member of major international arms control treaties and multilateral export control regimes. These arrangements help reduce the threat environment for both Australia and the international community. Australia's national export control system is the mechanism for ensuring that Australia upholds its international non-proliferation obligations by regulating the export of controlled goods.

Many Australian universities and tertiary institutions are expanding rapidly and becoming large international entities with campuses throughout the world. Consequently, the likelihood of countries of proliferation concern and terrorist organisations attempting to access Australian expertise is on the increase. Not only is the intangible transfer of WMD-related technology through research, training and conferences a concern, but many universities and tertiary institutions are conducting cutting-edge research, which potentially could be exploited for use in WMD programs.

WHAT IS CONTROLLED?

The Australian Government strongly encourages international trade, but also carefully monitors and, where necessary, controls the export of goods, services and technologies which could affect our international non-proliferation obligations. Our export control system is the means by which this policy is administered.

DEFENCE and DUAL-USE GOODS

The Defence and Strategic Goods List (DSGL) is a list of controlled defence and dual-use goods which is based on various international export and proliferation control regimes of which Australia is a member. The list includes descriptions of equipment, assemblies and components, associated test, inspection and production equipment, materials, software and technology. The DSGL is divided into two parts, Part 1 relates to defence and related goods, which are goods or technologies designed or adapted for military use or goods that are inherently lethal.

Part 2 covers those goods that have a dual-use. Dual-use goods are commercial items with a legitimate civil application that can also be adapted for military use or in weapons of mass destruction programs. This part is further subdivided into the following categories:

- Nuclear materials, facilities and equipment;
- Materials processing;
- Computers;
- Sensors and lasers;
- Telecommunications and information security;
- Materials, chemicals, micro-organisms and toxins;
- Electronics;
- Marine;
- Navigation and avionics;
- Aerospace and Propulsion

The DSGL is updated annually. The latest version of the DSGL is available at www.defence.gov.au/strategy/deco

CHEMICAL and BIOLOGICAL CONTROLS

Australia implements controls on various biological and chemical agents, trade in which is regulated by international agreement, including through the Chemical Weapons Convention (CWC) and control lists established by the Australia Group, given the potential for their diversion to WMD programs.

Of these, one of the most challenging areas is that of biological agents. Biological agents subject to export controls, include viruses, bacteria, fungi and toxins which may be harmful to people, plants and/or animals. An easy reference to controlled biological agents, and related production equipment, including exemptions, is provided at www.australiagroup.net.



Although most of the listed agents are considered to be high risk in relation to biological weapons proliferation, many universities will carry a range of them for research purposes. The Australian Government does not wish to impede the exchange of material for legitimate research purposes, but tertiary institutions and researchers should be aware that some biological agents are subject to export controls. The potential for subsequent culture scale-up and misuse makes the unregulated export of live cultures of particular concern. A range of larger capacity cultivation, harvesting, purification and preservation equipment and technologies is also controlled.

Many specific chemical compounds or classes (around 90) are also the subject of controls, although in practice fewer than 20 are commonly traded. Controlled chemicals include agents that can be used in chemical warfare (CW), such as sarin and sulphur mustard and their precursor chemicals, as well as chemicals that can be used even earlier in the CW agent synthesis chain. Organophosphorus and some inorganic phosphorus compounds may be regulated as nerve agent precursors. Other common controlled chemicals include thiodiglycol, thionyl chloride, triethanolamine and several cyanides and fluorides. There are no quantity thresholds below which the export of these does not require a permit, but concentration thresholds may apply. A full listing of the controlled chemicals, including conditions and comprehensive identification information, is provided in the International Chemical Trade Control icon at www.dfat.gov.au/cwco.





WEAPONS OF MASS DESTRUCTION ACT

Australia's national export control system extends to any goods, technologies and services that can be used in a WMD program. The legal instrument for controlling the export of such items is the Weapons of Mass Destruction (Prevention of Proliferation) Act 1995 ("WMD Act").

The WMD Act defines a WMD program as a "plan or program for the development, production, acquisition or stockpiling of nuclear, biological or chemical weapons or missiles capable of delivering such weapons".

The WMD Act applies to:

- the supply of goods or services both within and outside Australia for a WMD program
- the export of goods and technologies which are not controlled under other legislation and where it is known or suspected that the goods may be used in a WMD program
- the provision of goods and services within and external to Australia, where it is known or suspected that they will or may potentially assist a WMD program.



INTANGIBLE TECHNOLOGY TRANSFER (ITT)

Intangible Technology Transfer (ITT) includes, but is not limited to research, papers, seminars, conferences, instructions (written or recorded), working knowledge, design drawings, models, operational manuals, skills training and catalogues. ITT that may contribute to a WMD program is regulated under the WMD Act. If you suspect that information or assistance you may be providing will assist or contribute to a WMD program, please contact DECO for information and advice.

For further information on ITT, tertiary institutions and researchers should contact DECO.

PENALTIES

Within Australia, controlled goods and technologies for which export authorisation has not been obtained may be embargoed until permission has been obtained; items that may have already left Australia may be recalled and seized. In addition, exporters of controlled goods, services and technologies may be liable to severe criminal penalties under the Customs Act 1901 in the absence of valid authorisation to export.

The WMD Act imposes substantial criminal penalties for breaching the prohibitions on the supply of tangible and intangible goods and services that may contribute to a WMD program.

A person who knowingly makes a statement to a Commonwealth entity that is false or misleading may be prosecuted for an offence against the Criminal Code Act 1995 and, if convicted, faces a penalty of up to 12 months imprisonment.

SUSPICIOUS ADVANCES

Terrorists and countries of proliferation concern regularly attempt to obtain controlled goods, often via third parties in the form of front companies and other intermediaries. Tertiary institutions and researchers can assist the Australian Government's counter-proliferation and counter-terrorism efforts by reporting entities that attempt to procure items or services that could be diverted to WMD programs. Suspicious advances include:

- Inquiries from nationals of countries suspected of WMD proliferation about enrolling as students or seeking employment on WMD-relevant research projects;
- Applications by nationals of such countries for work or training in industry areas with potential WMD applications;
- Requests from nationals of such countries to attend conferences and seminars on sensitive topics;
- Requests from unknown individuals, institutions and companies for help and advice in a specific area of technology and/or technical process;
- Requests relating to matters on which scientists, experts, research institutes and laboratory staff etc would not normally seek advice or information and for which unconvincing reasons or evasive explanations are given;
- Failure to explain or give convincing reasons for why the technology/know-how transfer and training is being sought;
- Failure to explain or give convincing answers to questions regarding commercial or technical aspects of a contract;
- Failure to demonstrate that the requesting party possesses the expertise normally required for such projects;
- Arrangements which appear excessive in view of the nature of the services to be rendered or which demonstrate that the requesting party is clearly unfamiliar with the usual security requirements for such contracts.



WHAT TO DO IF YOU NEED A PERMIT

Applicants seeking authorisation to export controlled items should contact the Defence Export Control Office of the Department of Defence.

STEP ONE:

Are your goods controlled?

Contact DECO for advice, phone 1800 66 10 66 or e-mail deco@defence.gov.au. If your goods are not controlled DECO will send you a letter of confirmation.

STEP TWO:

Submit an export application form

If the goods, services or technologies are controlled, you will need to complete a DECOI export application form – available:

<http://www.defence.gov.au/strategy/deco/forms.htm>

Please supply as much detail/documentation as possible

STEP THREE:

Submit supporting documentation

In some instances you will need to provide supporting documentation - you will be advised by DECO if any such documentation is required.

STEP FOUR:

Your permit or licence is issued

In some instances permits/licences may be issued with conditions. It is important to check your permit and comply with any conditions.

STEP FIVE:

Complete an Australian Customs Export Declaration Notice (B957)

Available: <http://www.customs.gov.au/site/page.cfm?u=4288>

You will need your DECO permit or licence number to complete the Export Declaration Notice.



FURTHER INFORMATION

DEFENCE EXPORT CONTROL OFFICE

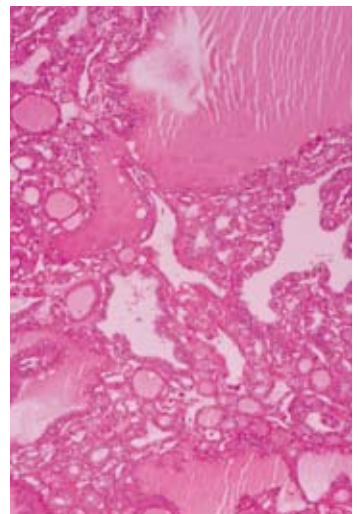
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USEFUL LINKS

Attorney-General's Department: www.ag.gov.au

Australia Group: www.australiagroup.net

Australian Customs and Border Protection Service: www.customs.gov.au

Australian Safeguards & Non-proliferation Office: www.asno.dfat.gov.au

Biological Weapons Convention: www.opbw.org

Chemical Weapons Convention: www.opcw.org

Department of Foreign Affairs and Trade: www.dfat.gov.au

Missile Technology Control Regime: www.mtcr.info/english/index.html

Nuclear Non Proliferation Treaty: www.dfat.gov.au/security/npt.html

Nuclear Suppliers Group: www.nuclearsuppliersgroup.org

US Export Administration Regulations: www.bis.doc.gov

Wassenaar Arrangement: www.wassenaar.org

Zangger Committee: www.zanggercommittee.org/Zangger/default.htm