



Australian Government

Department of Defence

Department of Foreign Affairs and Trade



CHEMICAL AND BIOTECH INDUSTRY EXPORT CONTROLS

**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.

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. These obligations are enacted into Australian law through Regulation 13E of the *Customs (Prohibited Exports) Regulations 1958* of the *Customs Act 1901*. Goods, services and technologies not controlled under the *Customs Act 1901* that may potentially contribute to a WMD program are controlled for export or supply under the *Weapons of Mass Destruction (Prevention of Proliferation) Act 1995*.

CHEMICAL AND BIOLOGICAL CONTROLS

Australia implements controls on various biological and chemical agents, trade 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 it is important to 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.

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* and the *WMD Act 1995* in the absence of valid authorisation to export.

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. The biotech and chemical industries 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 can include:

- Requests from unknown individuals, institutions and companies for help and advice in a specific area of technology and/or technical process;
- 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 DEC01 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

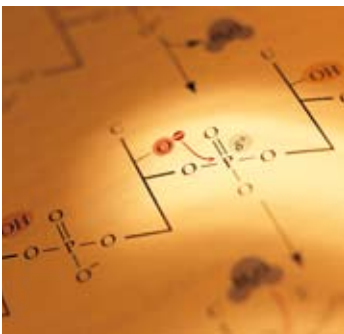
In some instances permits/licences may be issued with conditions. It is important to check your permit and comply with any conditions.

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.



DEFENCE EXPORT CONTROL OFFICE

Department of Defence
R1-I-A038
Russell Offices
CANBERRA ACT 2600

Telephone: 1800 66 10 66
Facsimile: 02 6265 4583
E-mail: deco@defence.gov.au
<http://www.defence.gov.au/strategy/deco/default.htm>

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
Wassenaar Arrangement	www.wassenaar.org