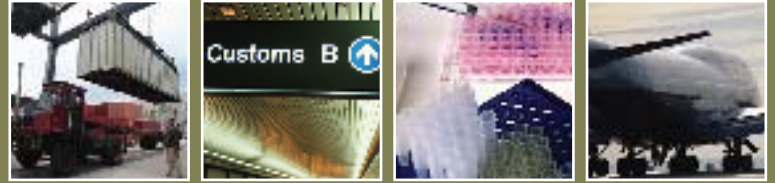




# Defence Export Controls Bulletin



Issue Four, Spring 2007

**WE HAVE A NEW NAME!** Defence Trade Control and Compliance (DTCC) is now known as the **DEFENCE EXPORT CONTROL OFFICE (DECO)**

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## INTRODUCTION

Hello and welcome to the second edition of the Defence Export Controls Bulletin for 2007.

Inside the Spring edition of the DECO Bulletin are articles covering compliance, legislation, specifically the Weapons of Mass Destruction Act and changes to requirements for exporting and importing plastic explosives, and a wrap up of export control training provided in 2007.

This edition goes to print at an exciting time for DECO and Australia's exporting community. An Australian-US treaty has been signed on Defence Trade Cooperation between Australian Prime Minister John Howard and US President George W. Bush. The treaty is expected to deliver significant new opportunities for Australia's defence industry to work cooperatively on sensitive defence technology products and to compete jointly for major defence-related global supply chain contracts. More detail can be found on the DECO website.

A most noticeable change to the section took place on 1 July, when the Defence Trade Control and Compliance section changed its name to the Defence Export Control Office. The change in name better reflects our core business and role in the exporting community. Our phone number, **1800 66 10 66**, has not changed. Our e-mail and website addresses have changed to **deco@defence.gov.au** and **www.defence.gov.au/strategy/deco**.

Always remember that the Government's policy is to encourage the export of defence and dual use goods and DECO is here to ensure that those exports are consistent with Australia's strategic obligations. The Team at DECO look forward to continuing to work with you in the future.

**Editor**



# PREVENTING THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

Preventing the proliferation of weapons of mass destruction (WMD) - chemical, biological, radiological and nuclear weapons and their delivery systems - is clearly a significant challenge for the international community. As long as WMD are perceived as the ultimate symbols of status and power, additional countries and sub-national groups are likely to try to obtain them.

Export controls are a key tool in ensuring that Australian companies and individuals do not provide assistance to WMD programs that threaten international peace and stability. As most of you know, the Customs Act 1901 controls the export of all goods on the Defence and Strategic Goods List, which includes dual-use items such as chemicals, biological materials and equipment that may be of use in a WMD program.

However, it is not possible, for regulatory purposes, to identify all items that might be used in a WMD program. Even some items that can be identified are not included in regulations because their widespread commercial applicability would create an unnecessary administrative burden for the licensing authority as well as industry. Nevertheless, the Government requires the authority to prevent such items from going to destinations and entities considered to be a WMD proliferation risk. This is where the Weapons of Mass Destruction (Prevention of Proliferation) Act 1995 (WMD Act) comes into play.

The role of the WMD Act is to prevent Australians providing assistance to a WMD program. While the Customs Act controls listed goods for export, the WMD Act is much broader as it regulates the "supply of goods" and the "provision of services" in addition to the export of non-listed goods when it is believed or suspected that they will or may be used in a WMD program.

The "provision of a service" includes, among other things,

- acting as a broker or intermediary;
- providing technical information or know how (including via electronic means such as email and fax, or through providing assistance such as maintenance and repair of equipment);
- providing training or instruction;
- working as an employee, consultant or adviser; and
- providing financial assistance.

It is important that individuals and companies remain vigilant and aware of how their products and services might be used. Preventing proliferation is everybody's business. Individuals and companies are encouraged to be aware of entities and countries that the international community considers to be a WMD risk. Countries that are not signatories to the Nuclear Non-Proliferation Treaty and are reported to have nuclear weapons programs; as well as those countries the UN Security Council has imposed sanctions on for their WMD-related activities.

A number of countries are suspected of having chemical or biological weapons research programs, and there are sub-national, or non-state actors, actively seeking a WMD capability.

Obviously, this does not mean that if you provide goods or services to these countries that they will be used in their WMD programs. And it is possible that goods and services destined for other countries may be diverted to a WMD program. There are a number of "red flags" or "suspicious procurement" indicators to watch out for. For a list of behaviours that may indicate a suspicious procurement attempt, please go to [http://www.defence.gov.au/strategy/deco/publications/Suspicious\\_Procurement.pdf](http://www.defence.gov.au/strategy/deco/publications/Suspicious_Procurement.pdf)

The effectiveness of the WMD Act relies heavily on the vigilance of industry and the academic community – knowing your customers and being able to identify suspicious approaches or procurement attempts, and seeking advice from DECO when in doubt.

You can seek our advice by calling 1800 66 10 66 or emailing [deco@defence.gov.au](mailto:deco@defence.gov.au) if you believe or suspect that a good or service you are providing to a customer may be destined for use in a WMD program.

We all have a responsibility in preventing the spread of WMD and we will only succeed by working together. For further information on the role of export controls in preventing WMD proliferation, see DECO's brochure at: <http://www.defence.gov.au/strategy/deco/publications/>



# NEW REQUIREMENTS FOR EXPORTING AND IMPORTING PLASTIC EXPLOSIVES

**Annabel Knott, Security Law Branch, Attorney Generals Department.**

From 25 August 2007, new restrictions apply to the possession, manufacture, trafficking in, export and import of plastic explosives.

These new restrictions have been introduced under the Law and Justice Legislation Amendment (Marking of Plastic Explosives) Act 2007 (the Act). This Act implements the obligations under the United Nations Convention on the Marking of Plastic Explosives for the Purpose of Detection (Montreal 1991).

The main provisions of the Act commenced on 25 August 2007 and may be found in Division 72 of the Criminal Code Act 1995 (the Criminal Code).

## WHAT ARE THE NEW REQUIREMENTS TO EXPORT OR IMPORT PLASTIC EXPLOSIVES?

From 25 August 2007, if you intend to export or import a marked plastic explosive, you will be required to submit a request for approval and provide a Manufacturers Certificate as evidence that the plastic explosive is marked in accordance with the Act.

The Manufacturers Certificate requires information, including details of manufacturer, particulars of the marked plastic explosive including the date of manufacture, the chemical detection agent, and the number of the Australian State or Territory permit or licence.

For exports of marked plastic explosives, you must obtain a permit from the Defence Export Control Office (DECO). In order to obtain this permit, you must forward a Manufacturers Certificate with a completed Export Application form to DECO.

For the export of unmarked plastic explosives, you will need to obtain permission from DECO as well as an authorisation from the Attorney General. This authorisation, and/or Manufacturers Certificate must be provided to DECO with a completed export application.

**Note:** All plastic explosives are a prohibited export under the Customs (Prohibited Exports) Regulations 1958.

For imports of marked and unmarked plastic explosives, you will need to complete the following documents:

- an application for an authorisation to import unmarked plastic explosives from the Attorney General (required for imports of unmarked plastic explosives only);

- an application for permission to import plastic explosives;
- a Manufacturers Certificate;

You will need to complete these forms before the goods arrive in Australia. It is recommended that you submit your application at least 6 weeks before the goods arrive in Australia.

- A permit or licence from your State or Territory to import plastic explosives.

The State/Territory permit or licence number must be recorded on the Application for Permission to Import Plastic Explosives.

If your application is successful, the Attorney-General's Department will issue you with a written Authorisation from the Attorney-General and a permit number for the import of the plastic explosives which you must present to the Australian Customs Service at the time of lodging an import declaration.

**Note:** All unmarked plastic explosives are a prohibited import under the Customs (Prohibited Imports) Regulations 1956. The import of unmarked plastic explosives is prohibited without a permit and an authorisation obtained from the Attorney General's Department.

## FURTHER INFORMATION ON THE REQUIREMENTS FOR EXPORTING AND IMPORTING PLASTIC EXPLOSIVES.

The Attorney General's Department website, [www.ag.gov.au](http://www.ag.gov.au), can be accessed to obtain the following forms;

- application for an authorisation to import unmarked plastic explosives
- application for permission to import plastic explosives
- Manufacturers Certificate.

Contact details of the Defence Export Control Office are found on the last page of this newsletter. The DECO website contains information on how to apply for export approval and requirements for supporting documentation. A comprehensive fact sheet on the new requirements for exporting and importing plastic explosives can also be found on the DECO website.

# STEPPING UP TO THE MARK ON TECHNOLOGY CONTROL

**Mr Alan Tebb, National Export Control Officer, Thales Australia.**

During the past several years most Western nations have dramatically stepped up their legislation and processes to prevent the illicit transfer of military technology into the hands of criminals or terrorists. Companies in Australia have no choice but to respond with improved management and oversight of their technology control systems if they wish to compete in the global defence market.

Thales Australia is deeply involved in international transactions through import and export activities. Within the past two to three years, Thales Australia has seen a marked increase in vigilance and control by foreign governments and foreign suppliers from the UK, France, the USA, Italy, Japan and Germany, to name but a few. In the Thales Group globally, the control of technology is seen as a multilayered responsibility that extends across the whole of the business process.

Sales and marketing teams are briefed to seek early advice from Australia's Defence Export Control Office (DECO) on whether the sale of a product or system, that may involve controlled defence or dual use technology, will get in-principle approval for an eventual sale into a specific country. Ignoring this first step risks the unnecessary expenditure of scarce marketing resources that may never lead to a successful sale.

In the process of designing products and systems, it is now critical for Thales engineers to design for export. From a commercial viewpoint, systems designed with hardware or software that places restrictions on trade are better engineered out at the start of the design process rather than later.

Procurement staff at all levels in the company must ensure that suppliers are aware of their obligations to source materials and components in accordance with all foreign and domestic



regulations and to declare that fact to Thales when delivering their goods.

During the production phase, employees must be aware that certain controlled or dual use components have to be tracked and accounted for as they move from the delivery dock, into the store and onto the production floor for final assembly.

In terms of dispatch and delivery, all necessary approvals and licenses required by Australian authorities and foreign authorities must be in place before the products are shipped. To implement this whole of business approach, Thales Australia has had to make a significant investment in educating managers and employees, writing and implementing appropriate policies and procedures from the corporate level, all the way down to the production floor environment. A network of dedicated and cross-tasked resources has been established to manage the export control process and the whole system is subjected to regular audits and process improvement activities. Supporting this effort requires information systems for raising, tracking and storing the data necessary to support any challenge or reconstruction of events related to the management of controlled or dual use technology for up to seven years.

The key to successfully managing controlled defence and dual use technologies in a defence company is to ensure that the systems and checks are integrated into every stage of the business process. Defence companies importing, using or exporting controlled or dual use components and technologies will need to invest substantial resources to meet the increased overheads associated with compliance. To do otherwise would be to put the company and its operations at a level of risk that might result in severe penalties or possibly even closure of the business.

# DEFENCE EXPORT CONTROL OFFICE TRAINING

During the period of March to May this year, the DECO Outreach Team, along with the Director of DECO, Jurgen Zacny, delivered export control training courses across Australia. The courses were aimed at raising awareness of Australian export controls and providing participants with knowledge and tools they could take back into their own workplace. The response to the training was very positive in terms of both content covered and the method by which the training was delivered. Below are some evaluation comments received from training participants.

I really enjoyed the practical applications and discussions. –

**Goodrich Control Systems, Sydney**

Even with very little understanding on this topic, I found it very interesting and informative. – **Thales Australia, Melbourne**

Good program, well presented, informative and thought-provoking. – **Raytheon Australia, South Australia**

Made a potentially dry topic informative, thank you. – **Q-MAC Electronics, Western Australia**

In the first half of 2008, DECO will run training courses across Australia. Both the Executive Overview presentation, and the Practitioner's Workshop will be offered. These training opportunities are also available to companies on request; please contact DECO for more information on 1800 66 10 66, option 4. Watch the DECO website, [www.defence.gov.au/strategy/](http://www.defence.gov.au/strategy/) DECO, for updates on training dates and locations. A brief description of each course is below.

**Executive Overview** – The Executive Overview is a short presentation aimed at personnel within an organisation that require a basic understanding of Australia's export control system, without going into the detail covered in the Practitioner's Workshop.

**Practitioner's Workshop** – The Practitioner's Workshop is a full day program split into 3 modules. Module 1 introduces export controls and looks at relevant legislation. Syndicate work and exercises are conducted that reinforce the legislation and why Australia controls the export of defence and dual-use goods. Module 2 looks at the application process. DECO's role in the process is discussed and the export application form is looked at. Module 3 deals with compliance from both DECO and industry perspectives. A model compliance plan is talked through to hopefully give participants a greater understanding of why having a compliance plan is important, and what can happen if there is no compliance plan in place.

## TYPES OF PERMITS / LICENCES

### MEA: Military Export Permit

Covers the export of a specified quantity of defence and related goods to named consignee(s).

### MEL: Military Export Licence

Covers the export of unspecified quantities of defence and related goods to named consignees.

### MRO: Military Return to Owner

Enables the return of defence related goods to overseas owners after repair or modification.

### MTT: Military Temporary Export Permit

Used for defence and related goods which will be returning to Australia (eg overseas demonstration trials).

### MRM: Military Return to Manufacturer

To return defence related goods to overseas manufacturer(s) (eg. for repair or modification)

### MIP: Military In-principle Permit

Preliminary advice that approval may be granted. MIP allows exporters to market defence and related goods to potential customers, this permit does not give actual export approval.

### IEP: Individual Export Permit

A single transaction export of a specified quantity of dual-use goods to a single consignee.

### ESS: Export Service Supply Licence

Used for nominated dual-use goods in support of a maintenance program or service to specified companies.

### MRR: Maintenance Repair & Return Licence

To send dual-use goods for repair overseas and return.

### EDL: Export Distribution Licence

The multiple shipment of an unspecified quantity of dual-use goods to a single or multiple consignees.

### GEL: General Export Licence

The export of a range of dual-use goods to unspecified consignees in nominated countries.

### AIP: Approval-in-principle Permit

As per MIP but for dual-use goods.

## CONTACTS

### Defence Export Control Office

RI-1-A038  
 Russell Offices, Canberra ACT 2600  
[www.defence.gov.au/strategy/deco](http://www.defence.gov.au/strategy/deco)  
[deco@defence.gov.au](mailto:deco@defence.gov.au)  
 Tel: 1800 66 10 66 Fax: (02) 6265 4583  
*Implementation of export controls on defence and dual-use goods*

### Australian Customs Service

Customs House  
 Constitution Ave, Canberra ACT 2600  
[www.customs.gov.au](http://www.customs.gov.au)  
 Tel: 1300 363 263 or (02) 6275 6666 Fax: (02) 8339 6714  
*Enforcement of import and export controls*

### US Export Controls Systems

Keswick Barracks  
 Keswick SA 5035  
 Tel: (08) 8305 6370  
[steve.hyland@defence.gov.au](mailto:steve.hyland@defence.gov.au)

### Australian Safeguards & Non-proliferation Office

R.G. Casey Building  
 John McEwen Cres, Barton ACT 0221  
[www.asno.dfat.gov.au/](http://www.asno.dfat.gov.au/)  
 Tel: (02) 6261 1111 Fax: (02) 6261 3111  
*Chemical imports, chemical and nuclear activity*

### Attorney-General's Department

Robert Garran Offices  
 National Circuit, Barton ACT 2600  
[www.ag.gov.au](http://www.ag.gov.au)  
 Tel: (02) 6250 6666 Fax: (02) 6250 5900  
*Import of firearms under 50 calibre*

### Department of Foreign Affairs & Trade

R.G. Casey Building  
 John McEwen Cres, Barton ACT 0221  
[www.dfat.gov.au](http://www.dfat.gov.au)  
 Tel: (02) 6261 1111 Fax: (02) 6261 3111  
*International arms control and non-proliferation policy*

### Contributors

Thank you to the following contributors to this edition of the DECO Bulletin: Alan Tebb, Annabel Knott and Danielle Tuckfield. Editorial staff reserve the right to reject, edit or rearrange any item submitted for the reasons of clarity and space. While editorial staff are not responsible for the accuracy of the information submitted, every reasonable effort will be made to verify information.

Send your ideas for articles to: [deco@defence.gov.au](mailto:deco@defence.gov.au). The deadline for contributions to the next edition of the DECO Bulletin is 22 February 2008.

## OUR RANGE OF INFORMATION BROCHURES



Weapons of Mass Destruction



Chemical and Biotech Industry



Australian Export Controls for Defence and Dual Use Goods



Australian Controls for the Export of Firearms



Tertiary and Research Institutions Export Controls



Detecting Attempted Procurement



Australian Controls on the Export of Defence and Dual Use Goods



Previous Issues of the Defence Export Controls Bulletin

Please go to [www.defence.gov.au/strategy/DECO](http://www.defence.gov.au/strategy/DECO) or contact DECO on 1800 66 10 66 if you would like any of the above publications sent to you.