



Australian Government
Defence



DEFENCE EXPORT CONTROLS

Technical Assessments Session

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Acknowledgement of Country

I would like to acknowledge the Traditional Custodians of the land on which we meet today, and pay my respects to their Elders both past and present.

I would also like to pay my respects to the Aboriginal and Torres Strait Islander men and women who have contributed to the defence of Australia in times of peace and war.



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Agenda

Item	Description
01	Defence and Strategic Goods List (DSGL) Interpreting DSGL codes Interpreting DSGL language
02	Excluded Technology List (ETL) How to interpret the ETL
03	Case Study
04	Q&A



01. Defence Strategic Goods List

Interpreting DSGL Codes

How is the DSGL structured?



Part 1 – Munitions List DSSL Codes



“...goods and technologies *designed or adapted for use by armed forces* or goods that are *inherently lethal*.”

- **ML1-22 = WA and MTCR regime controls**
- **ML901-910 = Australian unilateral controls**

Part 1—Munitions list

ML1. Smooth-bore weapons with a calibre of less than 20 mm, other arms and automatic weapons with a calibre of 12.7 mm (calibre 0.50 inches) or less and accessories, as follows, and specially designed components therefor:

Note: ML1. does not apply to:

- Firearms specially designed for dummy ammunition and which are incapable of discharging a projectile;
- Firearms specially designed to launch tethered projectiles having no high explosive charge or communications link, to a range of less than or equal to 500 m.;
- Weapons using non-centre fire cased ammunition and which are not of the fully automatic firing type;
- 'Deactivated firearms'.

Technical Note:

A 'deactivated firearm' is a firearm that has been made incapable of firing any projectile by processes defined by the Wassenaar Arrangement Participating State's national authority. These processes irreversibly modify the essential elements of the firearm. According to national laws and regulations, deactivation of the firearm may be attested by a certificate delivered by a competent authority and may be marked on the firearm by a stamp on an essential part.

- Rifles and combination guns, handguns, machine, sub-machine and volley guns;



Part 2 – Dual-use List DSSL Codes

DSSL Category

- 0 = Nuclear
- 1 = Materials/chemical/biological
- 2 = Materials processing
- 3 = Electronics
- 4 = Computers
- 5 = Telecommunications
- 6 = Sensors and lasers
- 7 = Navigation and avionics
- 8 = Marine
- 9 = Aerospace and propulsion

E.g. Internal Navigation System

Item form

- A = finished system, part or component
- B = test, inspection or production equipment
- C = Related materials
- D = Related software
- E = Related technology

7A003.a.2

DSSL Sub-code

Specific conditions

Regime origin

- 0 = Wassenaar Arrangement
- 1 = Missile Technology Control Regime
- 2 = Nuclear Suppliers Group
- 3 = Australia Group
- 4 = Chemical Weapons Convention
- 9 = Unilateral

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Software and Technology

- **Military software – ML21**
- **Military technology – ML22**
- **Dual-use software – codes containing D (eg. 1D001)**
- **Dual-use technology – codes containing E (eg. 9E001)**



Item form

A = finished system, part or component

B = test, inspection or production / equipment

C = Related materials

D = Related software

E = Related technology

DSGL Category

1D001

Regime origin

DSGL
Sub-code
Specific
conditions

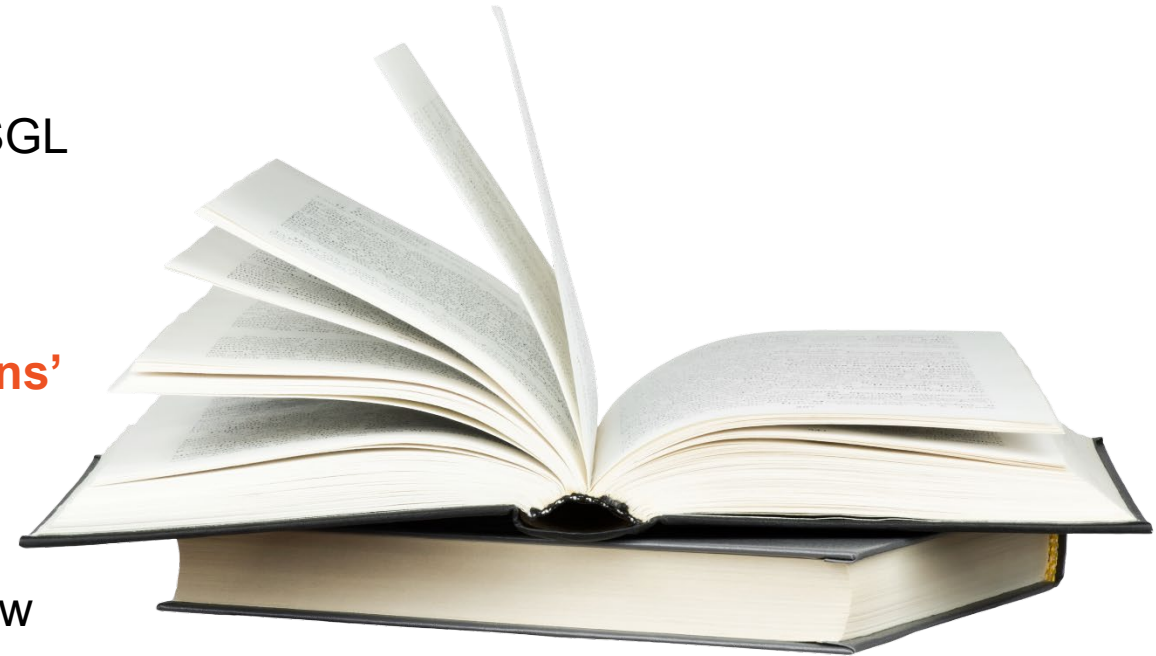


01. Defence Strategic Goods List

Interpreting DSG Language

Understanding Defined Terms

- **Global definitions** – Indicated by “double quotations”
 - Term has a specific meaning throughout the DSG
 - Definition located at the beginning of the DSG (under Division 4 - Definitions)
- **Local definitions** – Indicated by ‘single quotations’
 - Term has a specific meaning for the relevant control code
 - Definition located in a Technical Note/Note below the control text
 - There may also be relevant de-controls, and technical descriptions, examples and calculations



What does 'Specially Designed for Military Use' mean?

- **Not** simply commercial items *marketed* for military use (e.g. painted green)
- Items designed or modified for military use
 - Focus on the design INTENT, not the end-use
- Have military-specific features or capabilities
 - e.g. connectors, software, signal waveforms, integration
- Designed for military-specific functions
 - e.g. electronic warfare, combat, countermeasures
- Designed for stealth/countermeasure evasion
 - e.g. signature suppression, small radar cross-section
- Developed with or for a military entity (e.g. Australian Defence Force, military/intelligence agency)
 - May include under a Defence project (e.g. LAND, SEA, AIR) or funded by the entity (e.g. Defence funded)
- Military-specific features withheld from commercial variants, only sold to military entities.



What is 'DSGL technology'?

Division 4—Definitions

“Technology” (GTN NTN All) means specific information necessary for the “development”, “production” or “use” of a product. This information takes the form of ‘technical data’ or ‘technical assistance’. Specified “technology” for the Dual-Use List is defined in the General Technology Note and in the Dual-Use List. Specified “technology” for the Munitions List is defined in ML22.

Note 1: ‘Technical assistance’ may take forms such as instruction, skills, training, working knowledge and consulting services and may involve the transfer of ‘technical data’.

Note 2: ‘Technical data’ may take forms such as blueprints, plans, diagrams, models, formulae, algorithms, tables, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, read-only memories.

- The “technology” threshold is set by the global definitions “development”, “production” and “use”.
- Not all controlled items have associated technology controls

i.e. no relevant XEXXX control for development, production or (most commonly) use of the item.



What is 'DSGL technology'?

3.9 General technology note (GTN)

Note: This note applies to all technology controls in Categories 1 to 9 of the Dual-Use List.

3.91 The export of "technology" which is "required" for the "development", "production" or "use" of goods controlled in Categories 1 to 9, is controlled according to the provisions of Categories 1 to 9.

3.92 "Technology" "required" for the "development", "production" or "use" of goods under control remains under control even when applicable to non-controlled goods.

3.93 Controls do not apply to that "technology" which is the minimum necessary for the installation, operation, maintenance (checking) and repair of those goods which are not controlled or whose export has been authorised.

Note: This does not release such "technology" specified by 1E002.e, 1E002.f, 8E002.a and 8E002.b.

3.94 Controls on "technology" transfer do not apply to information "in the public domain", to "fundamental research" or to the minimum necessary information for patent applications.

- Significant for **10A permits**, which are required for the supply of **controlled DSGL technology** to a non-exempt foreign person wholly in Australia.



What is ‘DSGL technology’?

Division 4—Definitions

“Required” (GTN 3 5 6 7 9 ML22), as applied to “technology”, refers to only that portion of “technology” which is peculiarly responsible for achieving or extending the controlled performance levels, characteristics or functions. Such “required” “technology” may be shared by different goods.

- The technology is essential or critical for the development, production or use of the item:
 - The item cannot be developed, reproduced or used without this information
 - e.g. While an image of a prototype aircraft may not be public domain (and may be classified), it is not controlled.
- The use of ‘achieving or extending’ is to narrow the scope of “required”
 - Does not apply to ‘minimum necessary for ...’, ‘in the public domain’, etc.
 - e.g. software code that is solely to fix bugs or provide cosmetic enhancement (e.g. UI updates) is not considered responsible for achieving or extending controlled functions
 - e.g. Marketing material, most brochures, information published on a website.
- Specific for a controlled item
 - e.g. technology that is for both controlled and uncontrolled variants of an item is not controlled



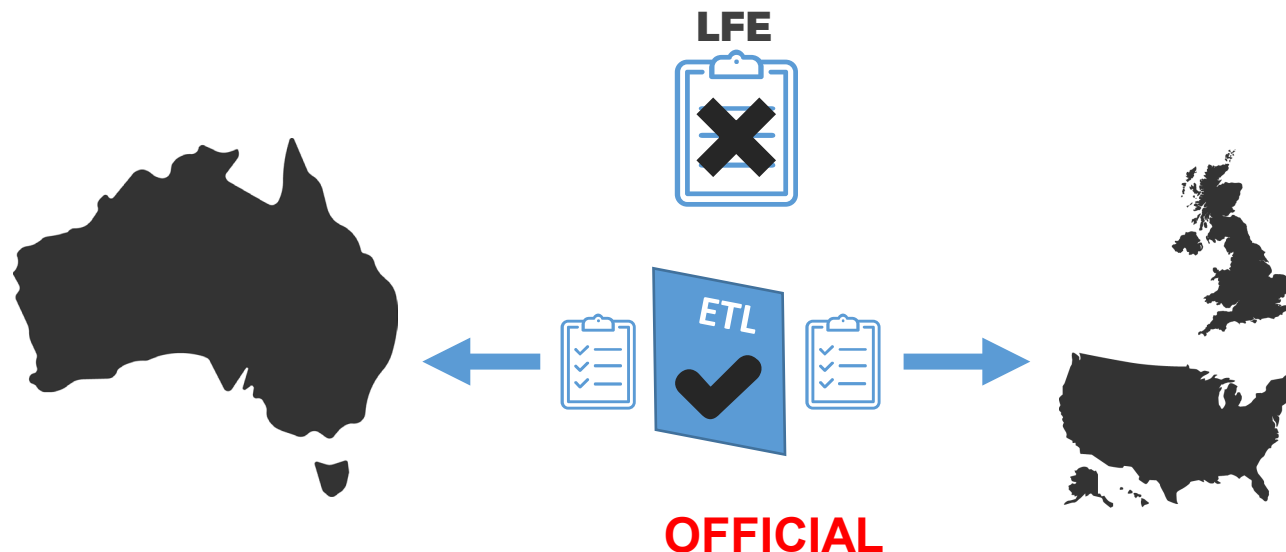
02. Excluded Technology List

How to interpret the ETL

What is the ETL?

The ETL is a legislative instrument within the *Defence Trade Controls Act 2012*

- It lists Australia's, the United States' and the United Kingdom's sensitive technologies that should remain under each countries' regulatory oversight.
- Goods, software and technology listed on the ETL are **NOT** eligible for the AUKUS license-free environment and certain exemptions for 10A, 10B and 10C permits.
- **Generally, this means you will still require a permit for exports, supplies and provision of services of ETL- listed items to the UK or US.**



What types of items are on the ETL?

The ETL lists **both military and dual-use** items that are considered sensitive, including but not limited to:

- Firearms and detachable magazines
- MTCR Category I and II systems and sub-systems (e.g. missiles, space launch vehicles)
- Naval nuclear propulsion systems and production facilities
- Advanced fighter jets and associated engines (e.g. F-22)
- Underwater detection and electronic warfare equipment (e.g. sonar, flares, countermeasures)
- Satellites and associated payloads, and
- Associated software and technology



General considerations

Schedule 1—Excluded DSGE goods or DSGE technology

Column 1	Column 2	Column 3
Item	DSGE Reference Number	DSGE goods or DSGE technology

The Australian ETL is formatted as three (3) columns:

- **Column 1** – this designates a reference for each ETL Item
- **Column 2** – this provides a DSGE Reference Number for easier searching; it does **NOT** determine the scope of the ETL. The DSGE code of the goods, software or technology does **NOT** need to match the DSGE Reference Number.
- **Column 3** – **determines the scope of the ETL** and details the specification(s) for an item to be listed on the ETL. Generally, if the DSGE good, software or technology meets a description in Column 3, it is listed on the ETL.



General considerations (cont.)

Schedule 1—Excluded DSGL goods or DSGL technology

Column 1	Column 2	Column 3
Item	DSGL Reference Number	DSGL goods or DSGL technology
2	ML4.a	10. Rockets, missiles having a range of at least 300 km, and the following specially designed components:
3	ML4.b.1	1. Equipment for “activities” relating to items not permitted under ML4.a in this table.
49	ML21.a	Software directly related to unclassified items whose export is not permitted in this table.
51	ML22	Technology relating to items whose export is not allowed in this table, except where technology controls are limited as follows to “classified”:

Classified means information that is security classified.

Activities means handling, controlling, activating, powering with one-time operational output, launching, laying, sweeping, discharging, decoying, jamming, detonating, disrupting, detecting or disposing.

Example, what are captured by these items?

- **Item 2** – complete military and dual-use rocket systems with a range >300km
- **Item 3** – equipment for “activities” related to **Item 2**, both military and dual-use
- **Item 49** – non-“classified” software specially designed for the development, production or use of **Items 2 and 3**
- **Item 51** – “classified” and non-“classified” technology required for the development, production or use of **Items 2, 3 and 49**



General considerations (cont.)

Important definitions:

- *Classified* means information that is security classified. **PROTECTED** and above, or equivalent.
- The definitions for certain technologies in Item 52 and 53:

• “design methodology”	53	ML22	Technology for the “manufacturing know-how” of the following:
• “engineering analysis”			1. High velocity kinetic energy weapon systems and specially designed components therefor specified by ML12.a.
• “manufacturing know-how”			2. Ammunition as follows:
• “build-to-print”			a. Projectiles that use pyrotechnic tracer materials that incorporate any material having peak radiance above 710 nm or are incendiary or explosive;
• “design-to-specification”			b. Shotgun projectiles that are flechettes, incendiary, tracer, or explosive.
			3. Bombs, torpedoes, grenades, rockets, Man-portable air defense systems, mines, missiles, depth charges and specially designed components therefor.
			4. Equipment specified in ML4.b.1 for ‘activities’ relating to items not permitted in 3 above.
			5. The following parts and specially designed components therefor specified by ML4.a, for rockets and missiles:



Are my items on the ETL?

Consider these questions to help determine if your item is listed on the ETL:

- Are my goods, software or technology controlled in the DSGI?
 - Uncontrolled items are not listed on the ETL
- Are my items considered a sensitive or lethal technology?
 - Firearms, explosives and advance military capabilities
 - Emerging or cutting-edge dual-use technologies
- Do my items carry a security classification?
 - For some items, only “classified” versions are on the ETL

“Ultimately, if the goods, software or technology match the Item description in Column 3, it is on the ETL”



03. Case Study

Initial Assessment Workflow

Ask yourself these three questions to assist in determining if your good(s), software or technology (items) are controlled under the DSGL:

- 1. Is my item inherently lethal or could it be used by a military force for operations?**
 - The DSGL only captures military and strategic (dual-use) goods
- 2. Is my item 'specially designed for military use' and/or for commercial/civilian use?**
 - For the military → Part 1
 - For civilian use but could be used by the military → Part 2
 - For military and civilian use → Part 2 (some cases Part 1)
- 3. Is my item on the ETL?**
 - If not on the ETL, it may be eligible for the AUKUS license-free environment and not need a permit

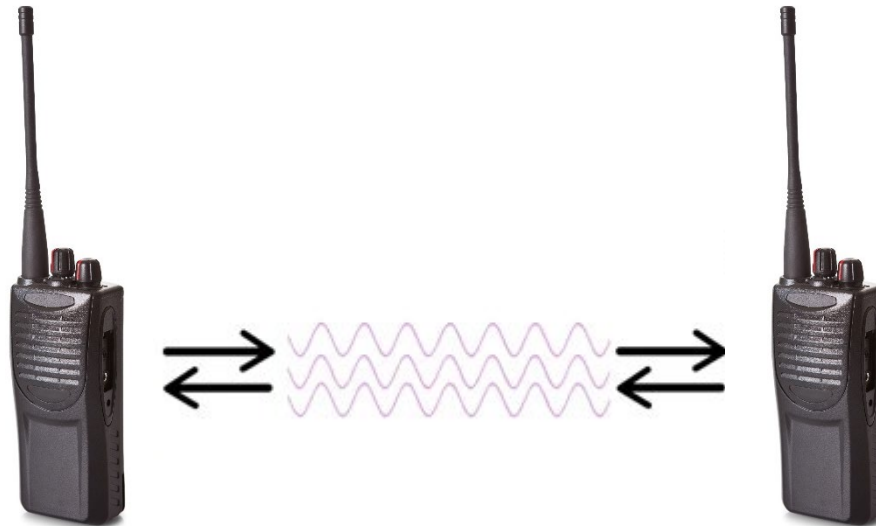


Case Study: Radios

Radios are ubiquitously used by everyone, so could they be in the DSGL?

1. Is my item inherently lethal or could be used by a military force?

- Radios are not inherently lethal
- They could be used by a military force for military uses (e.g. communication)
- Military-specific radios exist



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Case Study: Radios

Radios are ubiquitously used by everyone, so how do we determine their control status?

2. Is my item 'specially designed for military use' and/or for commercial/civilian use?

- Is the radio designed or modified for military use, with a focus on design *intent*?
 - Capable of operating on military waveforms (SINGCARS, Link 16, SRW, SATCOM)
- Designed to be integrated with other military equipment?
 - Radios designed for aircraft, naval vessels and ground vehicles
 - Special mechanical, electrical or optical interfaces/connectors not used commercially
- Designed for a military force?
 - Intended to be only used by the military or specific force
 - Not commercially available to civilians or other government agencies



Case Study: Radios

Radios are ubiquitously used by everyone, so how do we determine their control status?

2. Is my item 'specially designed for military use' and/or for commercial/civilian use?

- My radio is for commercial/civilian use. Is it still controlled?
 - Frequency hopping (5A001.b.3)
 - Voice coding rates less than 700 bit/s (5A001.b.6)
 - Encryption >56 bit (5A002.a.2)
- My radio doesn't meet any controls in the DSG
 - Considered uncontrolled
 - 'Catch-all' legislation may apply (WMD/MEU)
e.g. The radio could still be used for communication between military personnel, but would be susceptible to interception and poor performance

Part 2—Dual-use list

Category 0—Nuclear materials, facilities and equipment

Category 1—Materials, chemicals, microorganisms and toxins

Category 2—Materials processing

Category 3—Electronics

Category 4—Computers

Category 5—Telecommunications and "information security"

Category 6—Sensors and lasers

Category 7—Navigation and avionics

Category 8—Marine

Category 9—Aerospace and propulsion

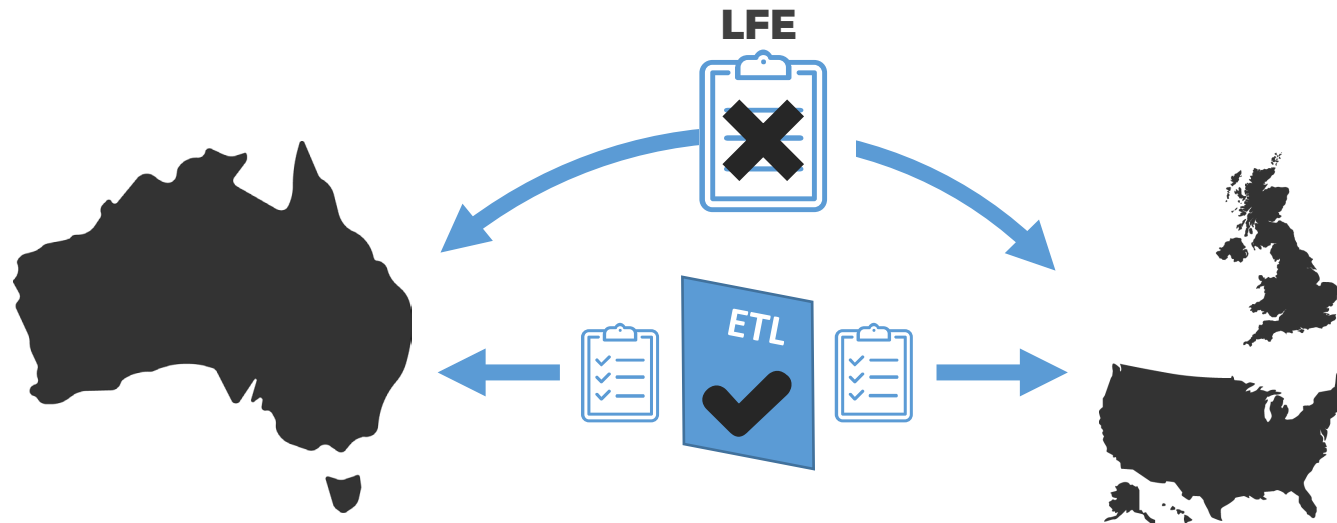


Case Study: Radios

Radios are ubiquitously used by everyone, so how do we determine their control status?

3. Is my item on the ETL?

- We have determined the radio is controlled
- We want to export to the US and UK. Do we need a permit?



Case Study: Radios

Radios are ubiquitously used by everyone, so could they be in the DSG?

“Technology” (GTN NTN All) means specific information necessary for the “development”, “production” or “use” of a product. This information takes the form of ‘technical data’ or ‘technical assistance’. Specified “technology” for the Dual-Use List is defined in the General Technology Note and in the Dual-Use List. Specified “technology” for the Munitions List is defined in ML22.

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Note 2: ‘Technical data’ may take forms such as blueprints, plans, diagrams, models, formulae, algorithms, tables, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, read-only memories.

3. I need to transfer technical documents of the radio for a collaborative project. Do I need a permit?

- Technical documentation may be a type of technology, for the purposes of the DSG
- Is it **required** for the development, production or use of the radio?
- If I’m transferring onshore (wholly within Australia) do I need a 10A permit?

5. E. 001. “Technology” as follows:

- a. “Technology” according to the General Technology Note for the “development”, “production” or “use” (excluding operation) of equipment, functions or features specified by 5A001 or “software” specified by 5D001.a. or 5D001.e.;





Where to Get Help and Assistance?

1. Visit the Defence Export Controls website
<https://www.defence.gov.au/business-industry/exporting>
2. Use the MADE portal self-help tool and guidance materials
3. Email exportcontrols@defence.gov.au
4. Call 1800 333 362 (1800 DEFENCE) 'Option 4'
between 8.30-16.30 AEST

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Questions?



Thank you

