

JSCFADT Defence Industry Exports Hearing – 24 March 2015

Question on Notice No. 27 - Defence Export Control Office

The Committee provided in writing:

(1) For each financial year during the period 2010-11, 2011-12, 2012-13 and 2013-14 (and, if available, the most recent 2014-15 figures), the following information is requested in relation to the Defence Export Control Office:

- (a) DECO's available funding and resourcing, including:
 - (i) Total revenue;
 - (ii) Total available budget;
 - (iii) Total expenditure; and
 - (iv) The number of full-time equivalent staff within DECO.
 - (b) The total number of export applications considered, processed and granted by DECO, including:
 - (i) Those arising pursuant to Regulation 13E of the Customs (Prohibited Exports) Regulations 1958;
 - (ii) Those arising pursuant to the Weapons of Mass Destruction (Prevention of Proliferation) Act 1995;
 - (iii) Matters considered under Section 112BA(1) of the Customs Act 1901; and
 - (iv) Any other export licences or permit applications not falling to the above categories.
 - (v) The percentage of applications assessed within: 15-20 working days; 20-25 working days; 25-30 working days; 30-35 working days; and over 35 working days; and
 - (vi) The number of applications received and rejected or denied.
 - (c) An estimate of the cost per export application processed.
- (2) Should there be any other authority, other than DECO, with powers to approve the export of controlled materiel or technology, information in similar terms to questions (1)(a) and (1)(b) above is requested.
- (3) A summary of the processes available for an applicant to appeal DECO's decisions relating to export licences and permits.
- (4) The number referrals (or general frequency of such referrals) to DECO from other government agencies, over the last five years, on behalf of third parties who have desired to export materiel or technology that may be restricted by relevant laws.

Response:

- (1) (a) (i) DECO does not collect revenue. The export application process and provision of export-related training and outreach activities are delivered by DECO at no cost to exporters.
- (ii) and (iii) Budgets are managed at the Divisional level, therefore it is difficult to provide an accurate figure for DECO funding. DECO's supplier expenditure in FY12-

13 was approximately \$0.5m. In FY13-14 and FY14-15 DECO's supplier expenditure increased to approximately \$1.2m per annum to account for process modernisation through the development of an online permit processing system and an online-self assessment tool.

(iv) DECO Full Time Equivalent staffing (FTE) has been running at approximately 30 staff from 2011 to 2015. DECO FTE is currently 27.35. A break down of DECO FTE by year is:

- (a) At July 2014 - 28.5;
- (b) At July 2013 -27.5;
- (c) At July 2012- 33.3; and
- (d) At July 2011 - 32.1.

(b) DECO's online permit processing system went live at the end of April 2013. We are able to provide statistics from that date forward. Prior to that DECO used a paper-based system and to collate a response manually would represent an unreasonable diversion of resources.

(i) Those arising pursuant to Regulation 13E of the Customs (Prohibited Exports) Regulations 1958:

Period	Applications Received*	Permits Issued^
1/7/2014 – 5/5/2015	3280	2366
1/7/2013 – 30/6/2014	3859	2681
29/4/2013 – 30/6/2013	518	171

**Note: The 'Applications Received' column are all Applications to Export Controlled Goods and Technology loaded on to the DECO system for processing, including those relating to goods found not to be actually controlled for export. Dependent on the good or technology in question, the application will be assessed under the relevant piece of legislation which DECO administers.*

^Note: The 'Permits Issued' column reflects only those permits issued under Regulation 13E of the Customs (Prohibited Exports) Regulations 1958.

- (ii) Those arising pursuant to the Weapons of Mass Destruction (Prevention of Proliferation) Act 1995;
- (iii) Matters considered under Section 112BA(1) of the Customs Act 1901; and
- (iv) any other export licence or permit applications not falling to the above categories:

All exports assessed by DECO are considered against all relevant legislation, including Regulation 13E of the Customs (Prohibited Exports) Regulations 1958, the Weapons of Mass Destruction (Prevention of Proliferation) Act 1995 ('the WMD Act') and the Military End Use provision at Section 112BA(1) of the Customs Act 1901 ('the MEU provision').

Exporters do not receive a permit under the WMD Act or MEU provision as these are ‘catch-all’ controls that operate to prohibit exports that would not otherwise be controlled. They are used only if other controls do not apply. Where an assessment has been made under these ‘catch-all’ controls an Export Control Assessment is issued. Therefore, these figures are captured by DECO under this assessment type:

Period	Export Control Assessments*
1/7/2014 – 5/5/2015	469
1/7/2013 – 30/6/2014	511
29/4/2013 – 30/6/2013	49

**Note: Assessments issued to applicants on whether a particular good or technology is listed in the DSGL including ‘catch-alls’ under the WMD Act and MEU provision.*

Period	International Import Certificates Issued	Delivery Verification Certificates Issued	Non-Transfer and End-Use Certificates Issued	Foreign End Use Certificates Signed
1/7/2014 – 5/5/2015	486	184	118	158
1/7/2013 – 30/6/2014	541	117	130	60
29/4/2013 – 30/6/2013	55	7	14	0

Note: When certain controlled goods enter Australia from overseas, some countries require certification that the items will be subject to Australian export control laws before they will grant permission for the item to be exported from that country.

(v) The percentage of applications assessed within:

- i. 15-20 working days;
- ii. 20-25 working days;
- iii. 25-30 working days;
- iv. 30-35 working days; and
- v. over 35 working days; and

Period	0-15 days	16-20 days	21-25 days	26-30 days	31-35 days	36+ days
1/7/2014 – 5/5/2015	92.50%	3.75%	0.90%	0.58%	0.46%	1.80%
1/7/2013 – 30/6/2014	81.86%	8.82%	3.42%	1.82%	0.84%	3.24%
29/4/2013 – 30/6/2013	68.28%	17.54%	10.82%	3.36%	0%	0%

(vi) The number of applications received and rejected or denied.

Period	Withdrawn by the exporter	Denial of an actual or ‘in-principle’ export by the	Prohibition Notices (WMD Act and/or MEU
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		Minister for Defence	provision)
1/7/2014 – 5/5/2015	196	2	1
1/7/2013 – 30/6/2014	166	2	3
29/4/2013 – 30/6/2013	19	0	0

(c) As per response (ii) and (iii) Budgets and expenditure (including salaries) are managed and acquitted at the Group and Divisional level. DECO's activities also include provision of training, guidance and outreach to exporters, and support for the broader Australian Government non-proliferation agenda. It would, therefore be difficult to determine accurately the 'unit cost' of processing an application.

(2) There are no other delegated authorities that approve the export of defence and strategic goods or technologies, except for Customs Officials who are delegated to approve the export of certain firearms and ammunition at the border under a Restricted Goods Permit.

(3) DECO provides applicants with the right to review a decision and provides procedural fairness to the applicant at a number of points throughout the application process. DECO will notify an applicant if an application has been denied and provide reasons for the decision and advice on their review rights. Applicants are entitled to seek review of a decision made under regulation 13E of the Customs (Prohibited Exports) Regulations 1958 or the Weapons of Mass Destruction (Prevention of Proliferation) Act 1995 under the Administrative Decisions (Judicial Review) Act 1977; however, where a matter falls outside the scope of the ADJR Act there may grounds for an applicant to seek relief under section 39B of the Judiciary Act 1903 (Cth).

(4) The number of referrals (or general frequency of such referrals) to DECO from other government agencies, over the last five years, on behalf of third parties who have desired to export materiel or technology that may be restricted by relevant laws:

Period	Responses to referrals from other Government Agencies
1/7/2014 – 5/5/2015	346
1/7/2013 – 30/6/2014	377
29/4/2013 – 30/6/2013	45