



LEVEL 2, 40 MACQUARIE STREET, BARTON ACT 2600

16th July 2014

Senator David Fawcett
Chair,
Joint Standing Committee on Foreign Affairs, Defence and Trade

Dear *David,* Senator,

Inquiry into Government Support for Australian Defence Industry Exports

Thank you for the opportunity to provide a submission to the Inquiry. In a previous capacity as Deputy Secretary for Strategy in the Department of Defence I was responsible for the Defence Export Control Office. More generally I have had a long term policy interest in defence industry matters.

The Australian Strategic Policy Institute (ASPI) does not take a corporate position on any policy issue. All ASPI's material reflects the views of their authors. As such the attached submission represents my personal views only.

I will be happy to further assist the committee as required.

Yours sincerely,

Peter Jennings PSM
Executive Director
Australian Strategic Policy Institute

Joint Standing Committee on Foreign Affairs, Defence and Trade, Inquiry into Government support for Australian Defence industry exports

DECO and export controls

The Inquiry's focus is commendably on supporting defence industry exports. While supporting that objective, government must place some controls on exporting defence and dual use goods for a number of reasons. Export controls including the capacity to deny exports may be necessary:

- To protect sensitive technology and Intellectual Property provided to us by allies and other partners.
- To ensure the Australian Defence Force retains areas of technological superiority over potential adversaries.
- To ensure Australia complies with international law, non-proliferation regimes and arms embargoes.
- To ensure that exported equipment is not used in human rights violations.

The positive outcomes of defence exports are equally important. These can include:

- Strengthening the economic viability, skills and capabilities of Australian firms.
- Reducing costs to Australia by improving the economy of scale for ADF purchasing of equipment and support.
- Strengthening the defence capabilities of Australia's friends.
- Creating a basis for closer interoperability between the ADF and counterpart military forces.
- Supporting Australia's broader strategic policy aims in the region and further afield and,
- Adding to government revenues.

The challenge is to develop export control mechanisms that quickly authorise appropriate exports and are generally oriented to supporting industry but which have the capability to identify and prevent inappropriate exports. While the majority of export approvals are relatively straightforward, complex cases potentially involve sensitive intelligence assessments; judgements about the legal basis of individual exports; securing interdepartmental consensus on the right approach, and strategic assessments about the impact on regional and ADF capabilities. While complex export approvals can take more time than industry likes, the implications of authorising inappropriate exports can be very serious.

What recommendations might the committee consider to support a quick and efficient export control process? My assessment is that the current DECO processes are both necessary and appropriate, though refinements to processes are possible and desirable. I suggest the following:

Ministers should provide written guidance to Defence, setting out their preferred approach to handling export approvals. This could include listing potential export destinations where the minister is happy for approvals to be made by appropriate Defence officials. A sensible approach should be to try to minimise all references of cases to the Minister in the interests of supporting speedy approvals.

Defence should only refer cases to the Minister where there is doubt about settling the right outcomes. Inevitably referrals of cases to Ministers slow export approvals. At its worst too many referrals to Ministers will grind the approval process to a halt, to the frustration of all involved. Ministers must be satisfied that the right delegations of authority are in place to allow speedy decision at appropriate levels in the Defence Department.

Ask DECO to establish an industry contact group that can be used to assess the performance of export control processes. DECO would benefit from industry advice that helps to improve any aspects of the approval process; informs Defence about industry developments that may impact on exports; can recommend best practice approaches and is able to discuss concerns. Industry for its part would benefit from closer engagement about DECO processes.

Retain DECO in Strategy Group and separate from any export facilitation organisation. Although DECO is unlike other parts of Defence's Strategy Group, its work does involve close engagement with intelligence assessments and draws on key strategy and international policy areas. It is important to separate export approvals and export facilitation (the game keepers and poachers, if you will) to make sure that neither legitimate objective compromises the other.

Encourage DECO to follow and draw on international best practice in export control matters. This largely happens through DECO's management of Australia's compliance with key international agreements relating to export control. I suggest there would be value in strengthening cooperation and alignment of processes between the Five Eyes countries (the United States, United Kingdom, Canada, New Zealand and Australia) and Japan.

Defence Export Promotion

Compared to many countries Australia's efforts to promote defence exports are understated to say the least. This lacklustre performance starts at the political level, where Ministers tend to avoid any systematic involvement in export promotion work. Why that should be the case is a puzzle, because Australia has a good story to tell about its defence industry. Our approach to defence industry and to exports is ethical, based on good quality technology, is linked to the positive relations we have with our friends and neighbours and is concerned to ensure that customers receive supportable capabilities, suited to their needs. Very few defence equipment exporting countries can claim such a high-quality approach to the business.

What might government do to develop a more concerted and positive approach to supporting defence industry exports? An important starting point is to maintain the highest ethical standards around the export process. The following additional measures should be considered.

Designate the Minister Assisting the Minister for Defence as having particular responsibility for defence export promotion. The Minister Assisting should be tasked to lead regular industry delegations to potential markets. (I understand this recently happened on Minister Robert's visit to Israel.) The Minister for Defence should also ensure that where possible overseas visits include an export promotion component. Defence industry representatives should also be invited to participate in Prime Ministerial trade and

industry delegations. This approach mirrors the Government's current trade facilitation strategy for non-defence industries as promoted by the Minister for Trade and Investment.

The Defence Material Organisation's work (through the defence Export Unit now known as Team Defence Australia) on export promotion should be reviewed to establish fitness for purpose and organisational focus. I understand, for example, that there is a current emphasis on trade show representation. I understand the correct focus is to organise Australian presence at shows around priority capabilities and to develop better measures of success. This shows the flag but it would be difficult to demonstrate any link between presence at trade shows and actual export sales. This should be reviewed from a value for money perspective.

Government should develop a Defence Export Facilitation Plan complimentary to the Defence Capability Plan and Defence industry policy. The plan should identify and target markets; determine opportunities for visits by trade delegations; establish practical growth targets; identify industry export priority areas that align with expectations of DCP acquisitions. I understand the Defence Export Facilitation Office, which was opened in mid-2012, is thinking of a similar product to support internal planning. There would be value in making this a public document.

Defence Attaches and other Defence officials overseas should have the requirement to support export facilitation written into their statement of work objectives.

Although this has not typically been part of the work tasked of our overseas representatives, it is very much a part of the role of attaches from a number of our key friends and allies. There is no reason why this should be part of the normal expected workload of our overseas Defence staff. This work should align and draw on DFAT and Austrade trade facilitation activities but the nature of defence exports, with its obvious link to broader national security objectives, means that the function should remain with Defence.

A role for ASPI?

ASPI conducts independent, nonpartisan, policy-relevant research into defence and national security issues. The Institute has a strong track record of publishing work on defence capability and industry issues, including on matters such as ship-building, the future submarine acquisition, the Joint Strike Fighter, capability development generally and defence budget matters. ASPI maintains close contact with key industry entities as well as Defence and the wider national security community. ASPI is in a position to undertake further work on policy options in the defence export area, as long as any such work meets the terms of our charter and independent position.

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Executive Director, ASPI

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