



22 MAR 2013

**Stephen Smith MP  
Minister for Defence**

Senator the Hon Ursula Stephens  
Committee Chair  
Foreign Affairs, Defence and Trade Legislation Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600



*Ursula*

Dear ~~Senator~~ Stephens

Thank you for your letter of 13 February 2013 requesting details of consultations on the most recent draft *Defence Trade Controls Regulation 2013* and its Explanatory Statement.

During the consultation period from 5 February 2013 to 4 March 2013, the Department of Defence promoted the consultations on the Regulation and its Explanatory Statement in the following ways:

- pre-public release to members of the Strengthened Export Controls Steering Group (SECSG) and the Defence Trade Cooperation Treaty Industry Advisory Panel to allow them to raise any issues prior to the public release, no amendments were proposed by the members of these two groups;
- discussions during the Defence Trade Cooperation Treaty Industry Advisory Panel meeting on 31 January 2013;
- public release on the Defence Export Control Office (DECO) website of the draft Regulation and Explanatory Statement with invitation to make comment;
- Defence media release to advise of the release (enclosed);
- email notification to organisations listed at the enclosure, the list includes all members involved in consultations on the Defence Trade Controls Bill 2011;
- email notification to approximately 475 industry members and government representatives who attended the Treaty Roadshow events in December 2010 and August 2011 and people who have registered on the Treaty mailing list;
- Defence Materiel Organisation's E-portal bulletin board redirecting industry to the DECO website;

- distribution through the Defence Materiel Organisation's business access office network, noting that due to an administrative oversight, this distribution happened on 27 February 2013 and advised the network that the consultation period was in its final week;
- discussions during the SECSG – Legislation and Regulation Sub Group meeting on 15 February 2013 (the Subgroup consists of legal representatives from the government, university and industry sectors);
- John O'Callaghan (Executive Officer, Australian Industry Group Defence Council) meeting with Angus Kirkwood (Assistant Secretary Arms Control) and me on 12 March 2013 to discuss the Regulation; and
- DECO and United States Trade Treaty 1800 numbers for information on the strengthened export controls and Treaty aspects of the Regulation.

A previous draft of the Regulation was publicly consulted from 21 December 2011 to 17 February 2012. The latest promotion measures detailed above expand on the measures Defence used to promote the previous period of consultation. Additional measures include: pre-public release to the SECSG, email notification to 30 organisations from the university and research sector, and discussions during the SECSG – Legislation and Regulation Subgroup meeting.

The Regulation implements the Australian-United States Defence Trade Cooperation Treaty elements of the legislation. The strengthened export controls aspects of the Regulation will be subject to the same two year transition period as the strengthened export controls elements of the Act and can be altered on the recommendation of the SECSG.

Thank you for your continuing interest in the implementation arrangements for this important legislation.

Yours sincerely

Stephen Smith  
Encl

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5 February 2013

**Release of exposure draft of amended Defence Trade Controls Regulation for public consultation**

An exposure draft of the Defence Trade Controls Regulation 2013 is now available for public consultation. The draft Regulation is available for comment until 4 March 2013.

The *Defence Trade Controls Act 2012* was passed by Parliament on 31 October 2012 and received Royal Assent on 13 November 2012. The Regulation was previously released for consultation in late 2011 but has been redrafted to reflect amendments to the Act and comments received during previous consultations. In particular, provisions relating to record-keeping and Australian community member employee requirements have been simplified.

The Act implements the Australia-United States Defence Trade Cooperation Treaty. The Treaty will create a framework for trade between Australia and the United States in certain defence articles, technologies and services without the need for individual United States or Australian export licences.

The Act also strengthens Australia's existing export control measures by regulating the intangible supply of technology relating to defence and strategic goods, and regulating the brokering of defence and strategic goods and technology. These measures eliminate identified gaps in Australia's export control system, align Australia with the accepted international best practice and contribute to international efforts to prevent proliferation of sensitive technology.

A Strengthened Export Controls Steering Group has been appointed by the Minister for Defence to advise on implementation of the strengthened export controls provisions of this new legislation. Over a two-year implementation period, this Steering Group will test the strengthened export controls through a program of pilot studies, and will recommend any necessary amendments to the legislation.

Interested sectors and the public can access and make comment on the draft Regulation and the draft Explanatory Statement on the Defence Export Control Office (DECO) website: [www.defence.gov.au/deco](http://www.defence.gov.au/deco)

Further information on the draft Regulation please email [deco@defence.gov.au](mailto:deco@defence.gov.au)

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## List of Organisations – advised of consultation on the Regulation

The Attorney-General's Department  
The Department of Foreign Affairs and Trade  
Australian Customs and Border Protection Service  
The Department of the Prime Minister and Cabinet  
Australia's Chief Scientist  
Office of the Gene Technology Regulator  
Australian Safeguards and Non-Proliferation Office  
Australian Radiation Protection and Nuclear Safety Agency  
Australian Security Intelligence Organisation  
Geoscience Australia

through the Department of Industry, Innovation, Science, Research and Tertiary Education:

- Commonwealth Scientific and Industrial Research Organisation
- Australian Research Council
- Australian Nuclear Science and Technology Organisation
- Australian Institute of Marine Science

through the Department of Health and Ageing:

- National Health and Medical Research Council
- Public Health Laboratory Network
- Communicable Disease Network Australia

through the Department of Agriculture, Fisheries and Forestry:

- Australian Bureau of Agricultural and Resource Economics and Sciences
- Grains Research & Development Corporation

Peak industry groups:

- The Australian Industry Group
- Australian Industry Defence Network (AIDN)

Peak university and research groups:

- Universities Australia
- Academy of Technological Sciences and Engineering
- Association of Australian Medical Research Institutes
- Australian Academy of Science

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- Science and Technology Australia
- Cooperative Research Centres Association
- National Tertiary Education Union
- Australian Nanotechnology Alliance
- Australian Information Industry Association
- AusBiotech
- Royal Australian Chemical Institute
- Geoscience Australia
- Minerals Council of Australia

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