



Australian Government

National Health and
Medical Research Council

N H M R C

Dr Kathleen Dermody
Committee Secretary
Senate Foreign Affairs, Defence and Trade Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Dr Dermody

Additional NHMRC Submission to the ‘Inquiry into the provisions of the Defence Trade Control Bill 2011’

Thank you for the opportunity to make a further written submission in response to the next iteration of the Options Paper *Principles and Options for Strengthened Export Controls after May 2012 feedback from University, Research and Defence Industry Sector*. I note that the revised Options Paper contains the previous Options 1-3 plus a new Option 4. Given NHMRC’s previous submission, this letter is concerned with issues raised by Option 4. For completeness, NHMRC’s previous submission is provided as an attachment to this letter.

I note that Option 4 proposes *not* regulating teaching, research and business processes conducted within Australia, on the basis that they will be managed through border control processes. While I can see the advantage of reducing the burden of regulation within Australia and focusing regulation on the supply of technology supplied outside Australia, it is not clear how this approach will control the transfer of intangible technology when non-Australian students and researchers return to their country of origin.

Option 4 endeavours to offer a balance between the need for freedom to conduct scientific research within Australia and the need to control intangible technologies listed on the DSGL, when supplied outside Australia. However, in Option 3 the majority of scientific research was excluded from regulation through the inclusion of ‘strategic basic research’ and ‘applied research’ as exemptions. Option 4 now restricts the exemption only to ‘basic scientific research’. We are concerned that, given the breadth of research that takes place in universities and medical research institutes, and the international collaborative nature of health and medical research, that this will present significant challenges:

- We are concerned that a large proportion of health and medical research will not fall neatly into definitions of ‘basic’ or ‘applied’ research. This could create significant uncertainty regarding the need to apply for a permit.
- We note that the definition of ‘basic scientific research’ is yet to be developed and this in itself may present a challenge.
- There may be thus be significant administrative challenges faced by institutions in complying with this option if it were to be implemented through legislation.

WORKING TO BUILD A HEALTHY AUSTRALIA

www.nhmrc.gov.au

GPO Box 1421, Canberra ACT 2601

16 Marcus Clarke Street, Canberra City ACT 2600

T. 13 000 NHMRC (13 000 64672) or +61 2 6217 9000 F. +61 2 6217 9100 E. nhmrc@nhmrc.gov.au

ABN 88 601 010 284

Another significant difference between Option 3 and Option 4 is that Option 4 now requires familiarisation with the entire DSGL instead of merely the DSGL *Sensitive and Very Sensitive or Munitions List*. While this is understandable, we are concerned that if implemented, institutions would face significant challenges in achieving compliance by requiring researchers to become familiar with the complete DSGL.

Lastly I note that page 5 of the revised Options Paper indicates that permits may be required to cover publication of research results, including at conferences. Given the potential for ambiguity regarding definitions (see above), clear advice will be required as to *how* research results (whether from 'basic research' or not) are placed in the public domain. NHMRC provides public money to researchers for health and medical research and expects these researchers to place the outcomes of that research in the public domain as soon as practicable.

In summary, Option 4 as presented raises a number of questions and concerns. As presented, and without clear advice and definitions, implementation of Option 4 may result in a significant increase in regulatory burden for researchers and institutions in comparison to Option 3, which appears to largely address concerns raised by the research community. It may be useful to conduct an assessment of the types of research and training activities conducted within the university and health and medical research sector that may require regulation under the options being considered.

NHMRC is happy to work with the Department of Defence where required to achieve an appropriate solution and is grateful for the opportunity to provide a submission on this important topic.

Yours sincerely,

Dr Clive Morris
A/g Chief Executive Officer
15 June 2012

WORKING TO BUILD A HEALTHY AUSTRALIA

www.nhmrc.gov.au

GPO Box 1421, Canberra ACT 2601

16 Marcus Clarke Street, Canberra City ACT 2600

T. 13 000 NHMRC (13 000 64672) or +61 2 6217 9000 F. +61 2 6217 9100 E. nhmrc@nhmrc.gov.au

ABN 88 601 010 284