



Australian Government
Australian Research Council

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Thank-you for the invitation to make a submission to the Senate Foreign Affairs, Defence and Trade Committee inquiry into the *Defence Trade Controls Bill 2011*.

The role of the Australian Research Council

The Australian Research Council (ARC) is an independent agency established under the *Australian Research Council Act 2001* (ARC Act), within the Industry, Innovation, Science, Research and Tertiary Education Portfolio. The ARC is responsible for managing the National Competitive Grants Program (NCGP), administering the Excellence in Research for Australia (ERA) evaluations and providing advice to the Australian Government on research matters. The NCPG funds research projects, postgraduate awards, fellowships, infrastructure and research centres on a competitive basis; while ERA provides a periodic and comprehensive evaluation of the quality of research by discipline. These activities are focused on the research conducted at universities.

Research community concerns regarding the *Defence Trade Controls Bill 2011*

The research community has expressed a range of concerns in relation to the *Defence Trade Controls Bill 2011*. The University of Sydney has written to Minister Evans regarding the Bill. In addition, Universities Australia and the University of Sydney have both made submissions to the Senate Foreign Affairs, Defence and Trade Committee inquiry into the Bill and representatives of both institutions have appeared before the Committee in relation to the Bill. Universities Australia has also provided the Committee with further evidence in relation to its concerns in the form of responses to questions on notice from the Committee.

The central concern raised by both submissions is that the Bill seeks to regulate previously unregulated activities that are critical to the core mission and financing of universities, without adequately consulting with universities as to how the regulations concerned will operate in practice.

Both submissions point to the extensive impact that the regulatory regime established by the Bill would have on the activities of universities. Both are particularly concerned about the impact of the Bill on international research collaboration and upon the Australian international education industry – both fields of activity that are vital to the current strength and future potential of the Australian economy.

Specifically, Universities Australia maintains that the Bill will impact upon:

- What may or may not be taught by Australian universities;
- To whom it may be taught by Australian Universities;
- With whom Australian researchers may carry out research;
- What may be published by Australian researchers;
- What research materials may be transferred by Australian Universities to non-Australian collaborators within or outside of Australia.

As the Submission of the University of Sydney highlights, the Department of Defence intends to exempt a range of technology and services from the proposed controls in order to ensure that they do not unnecessarily restrict activities related to research and development. However, as the exposure draft of the regulations associated with the Bill provide little clarification as to how these exemptions will operate in practice, the research community remains concerned about the impact of the controls on research and development activities.

Universities Australia seeks a number of amendments to the Bill, whilst the University of Sydney believes that ‘further dialogue with the higher education sector is needed about the design and implementation of the reforms in advance of their commencement.’

Australian Research Council position in relation to the Bill

As the recently released ‘Health of Australian Science’ report of the Chief Scientist notes, both Organisation for Economic Cooperation and Development (OECD) and ERA data confirm that: ‘Australia’s output of research publications is high and overwhelmingly world class.’ The report highlights the strong link between international collaboration and the health of Australian science: ‘In most scientific fields Australian researchers collaborate internationally and contribute well. This is where the strength lies in the current system.’

The report also highlights that the contribution of the higher education sector is critical to this success story, particularly in relation to pure and strategic basic research: ‘The Commonwealth holds the largest stake in expenditure on basic research, controlling 75 per cent of it, largely through the higher education sector.’ It further notes that: ‘The higher education sector contributed the largest amount in dollar terms (\$3.33 billion) and the largest proportion of its total expenditure to [basic] research.’

Given the importance of scientific production to the national interest, and the importance of international collaboration and the higher education sector to Australian scientific production, the higher education sector’s concerns about the *Defence Trade Controls Bill 2011* should not be dismissed lightly. In the ARC’s view, the concerns raised by the research community are sufficiently serious as to justify further consultation with universities about the proposed controls, prior to their implementation. Such consultation should address:

- The extent to which the controls are likely to impact upon universities in practice, including the extent of any burden resulting from the administration required to ensure compliance with the controls;
- The scope of the exemptions in the proposed regulatory regime for basic research, information in the public domain and information required for patent applications;
- The manner in which these exemptions will be administered in practice; and

- The nature and extent of the support and training that will be provided to university personnel to assist them to comply with the controls in a manner which is administratively efficient.

Further consultation with the sector in relation to the matters listed above is required. Such consultation has commenced and a number of options aimed at addressing the key concerns raised by the higher education sector are currently under consideration. The ARC trusts that this process will ensure that the meritorious objects of the Bill are achieved without imperilling the university research that is a key strength of Australian science.

Yours sincerely

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