



Australian Government
Defence



DEFENCE EXPORT CONTROLS

DEEP DIVES

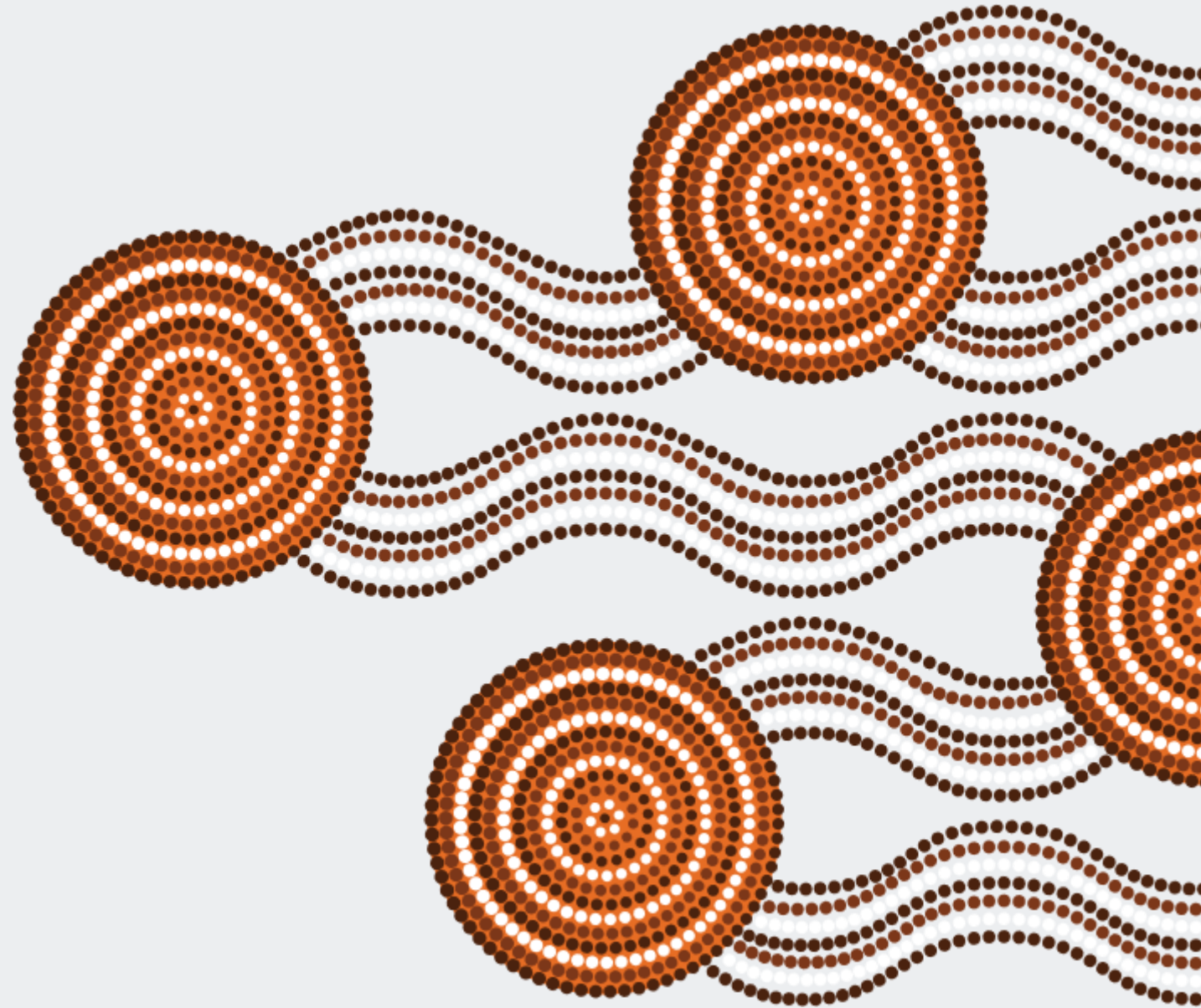
Industry Sector

Monday, 2 December 2024

Acknowledgement of Country

I would like to acknowledge the Traditional Custodians of the land on which we meet today, and pay my respects to their Elders both past and present.

I would also like to pay my respects to the Aboriginal and Torres Strait Islander men and women who have contributed to the defence of Australia in times of peace and war.



Welcome



Australian
BORDER FORCE



AFP

Agenda

Description	Speaker(s)	Time
Opening Remarks	MC	5 mins
<u>Session 1 – Defence Export Controls</u> <ul style="list-style-type: none"> • Deep dive into the changes to Australia’s Defence export controls 	Emily Brissenden (DEC)	35 mins
<u>Session 2 – Government Partners</u> <ul style="list-style-type: none"> • Australian Sanctions Office Dept Foreign Affairs and Trade • Australian Border Force Dept of Home Affairs • Crime Command Australian Federal Police • Safeguarding Australia’s Military Secrets Defence 	Michael McGillion (ASO) Sam Bowden (ABF) Jim Rowe (AFP) Carlos Grande (SAMS)	45 mins
Close	MC	5 mins



Introduction to Defence Export Controls



We are Defence Export Controls

Defence Export Controls (DEC) is the **Commonwealth regulator** for the movement of defence-related goods and technology. This involves:

- **Assessing applications** to transfer
- **Issuing permits** to legally operate
- **Monitoring reporting obligations** are met
- **Performing compliance audits** (incl. end-user verification)

Permits may be required when seeking to **export, supply, publish** or **broker** military and/or dual-use goods and technology on the Defence Strategic Goods List (DSGL), as well as to publish or provide services related to military goods and technology on the DSGL.

Current Export Controls Framework

DEC administers Australia's defence export controls framework through a combination of:

Federal Legislation

Covering 'Controlled' items listed on the DSGL



[Customs \(Prohibited Exports\) Regulations 1958](#)



[Defence Trade Controls Act 2012](#)



[Weapons of Mass Destruction \(Prevention of Proliferation\) Act 1995](#)



[Customs Act 1901 Military End-Use provisions \(section 112BA\)](#)

Covering 'Uncontrolled' items not listed on the DSGL

Legislative Instruments



[Defence and Strategic Goods List 2024](#)



[Australian Military Sales Program items 2024](#)



[Excluded DSGL Goods and Technologies List 2024](#)



[Foreign Country List 2024](#)



Changes Have Occurred

The ***Defence Trade Controls Amendment Act 2024*** (and supporting *Defence Trade Legislation Amendment Regulations 2024*) commenced on 1 September 2024, changing Australia's defence export control laws. Two key changes were:

- 1 **Licence-free environment** between Australia / US / UK, where permits may not be required.
- 2 **3 new offences** where permits may be required (subject to 6-month transition period).

8 April 2024



Defence Trade Controls Amendment Act 2024 received Royal Assent

1 September 2024



AUKUS licence-free environment commenced; permit applications for new offences became available

1 March 2025



Compliance transition period for new offences ends; criminal penalty provisions apply



Expanded Export Controls Provisions

Australian defence export control offences (effective as of 1 September 2024):

	Offence Provision	Description of Control	Part 1	Part 2 (Very Sensitive)	Part 2 (Sensitive)	Part 2 (Other)
'Controlled' provisions (covering items on the DSGL)			Applies to DSGL ...			
EXISTING	Customs Regs (13E)	Physical/tangible export of DSGL goods cross-border	✓	✓	✓	✓
EXISTING	DTC Act (s10)	Intangible supply of DSGL technology cross-border	✓	✓	✓	✓
NEW	DTC Act (s10A)	Intangible supply of DSGL technology to a foreign person in Australia	✓	✓	✓	✓
NEW	DTC Act (s10B)	Re-export or re-supply of certain DSGL goods/technology outside Australia	✓	✓	✓	✗
NEW	DTC Act (s10C)	Provision of certain DSGL services outside Australia	✓	✗	✗	✗
EXISTING	DTC Act (s14A)	Publication of certain DSGL technology	✓	✗	✗	✗
EXISTING	DTC Act (15)	Brokering of certain DSGL goods and technology	✓	* ✓	* ✓	* ✓
'Uncontrolled' provisions (covering items not on the DSGL)			Applies to DSGL ...			
EXISTING	WMD Act	Export/supply of uncontrolled goods, and provision of services that may be used in/assist a weapons on mass destruction (WMD) program	N/A			
EXISTING	Customs Act (112BA)	Export of uncontrolled goods that may be for military end-use (MEU)	N/A			

* Brokering permits only required for DSGL Part 2 when goods or technology may be for WMD or MEU purposes





AUKUS Licence-free Environment

Overview of the Licence-free Environment

Under the licence-free environment many military and dual-use goods, technologies and services can be **transferred without permits** between AUKUS partners.

- **In July 2023**, Australian, US and UK leaders **committed to streamlining defence trade** among AUKUS partners through the creation of a trilateral export licence-free environment.
- **On 1 September 2024**, this **licence-free environment was enabled** by legislative changes implemented by Australia, the US and UK.
- **As a result**, a 'national exemption' for the US and UK is now available for the **Customs (PE) Regulations** (Section 13E) and **DTC Act** (Sections 10, 10A, 10B, 10C, 15).



Impact on defence trade for Australia

The licence-free environment is now available to use for:

~900

export permits

to the US and UK previously required under Australian law (valued at \$5b / year)



70%

defence exports

from the US to Australia subject to International Traffic in Arms Regulations (ITAR)



80%

defence trade

from the US to Australia subject to Export Administration Regulations (EAR)



~200

export permits

previously required for defence exports from the UK to Australia (valued at \$129m / year)



Using the Licence-free Environment

The following **criteria must all be met** to make use of the licence-free environment.













Registration and Certification	The exporter or supplier has a Defence Export Controls Registration Number (DCRN) and has enrolled via the My Australian Defence Exports (MADE) portal as an AUKUS Authorised User. <i>Note: if activity is subject to ITAR, the exporter or supplier must also be a US-certified 'Authorized User'.*</i>
End-user	The export, supply or provision is to an Australian / UK / US citizen, permanent resident, corporation, government, or government authority. <i>Note: if involving ITAR, the export, supply or provision must be to another US-certified 'Authorized User'.*</i>
Location	The export, supply is to, or the services are received at, a place in Australia / US / UK.
Excluded Lists	The DSGI goods or technology are not on an excluded list (for Australia this is the Excluded DSGI Goods & Technologies List or Australian Military Sales Program items).
Pre-notification	DEC has been notified prior to the export or supply occurring via the MADE portal . <i>Note: this is only required for exports or supplies out of Australia (e.g. Customs Regs 13E / DTC Act s10 activities).</i>

* further information on US-certified 'Authorized Users' and their ITAR exemption access is available on the DEC website ([Access Types factsheet](#))



Example Scenarios

Your circumstances will influence if – and what level of – access to the AUKUS licence-free environment will benefit you.

Scenarios Options	Transferring goods or technology not on the DSGL	Export/supply to countries other than US / UK	Export/supply to US / UK <u>not involving</u> ITAR controlled items	Export/supply to US / UK <u>involving</u> ITAR controlled items	Receiving ITAR controlled items from US / UK
Apply for DEC Permit Only	N/A	 Consider if exemptions apply	 Consider if exemptions apply	 Need relevant ITAR approval from US	 Need relevant ITAR approval from US
Use Licence-free Environment (Australian exemption)	N/A	 Trade not occurring between AUKUS countries	 Consider other eligibility criteria	 Does not cover ITAR	 Does not cover ITAR
Use Licence-free Environment (ITAR exemption)	N/A	 Trade not occurring between AUKUS countries	 Not required if ITAR not involved	 Required to <u>transfer</u> ITAR licence-free	 Required to <u>receive</u> ITAR licence-free

Note on   Persons/entities who are certified to access the **ITAR exemption** will have already been registered with DEC to access the **Australian exemption**



New Offences – Section 10A / 10B / 10C

New Offences in the DTC Act

Three new offences have been introduced to the *Defence Trade Controls Act 2012*.

<i>Defence Trade Controls Act 2012 – New Offences</i>	Applies to DSGL ...			
	Part 1	Part 2 (Very Sensitive)	Part 2 (Sensitive)	Part 2 (Other)
10A: Intangible supply of DSGL technology to a foreign person in Australia	✓	✓	✓	✓
10B: Re-export or re-supply of certain DSGL goods/technology outside Australia	✓	✓	✓	✗
10C: Provision of certain DSGL services outside Australia	✓	✗	✗	✗



Note: permits are not required when using the **AUKUS** licence-free environment, including for these new offences



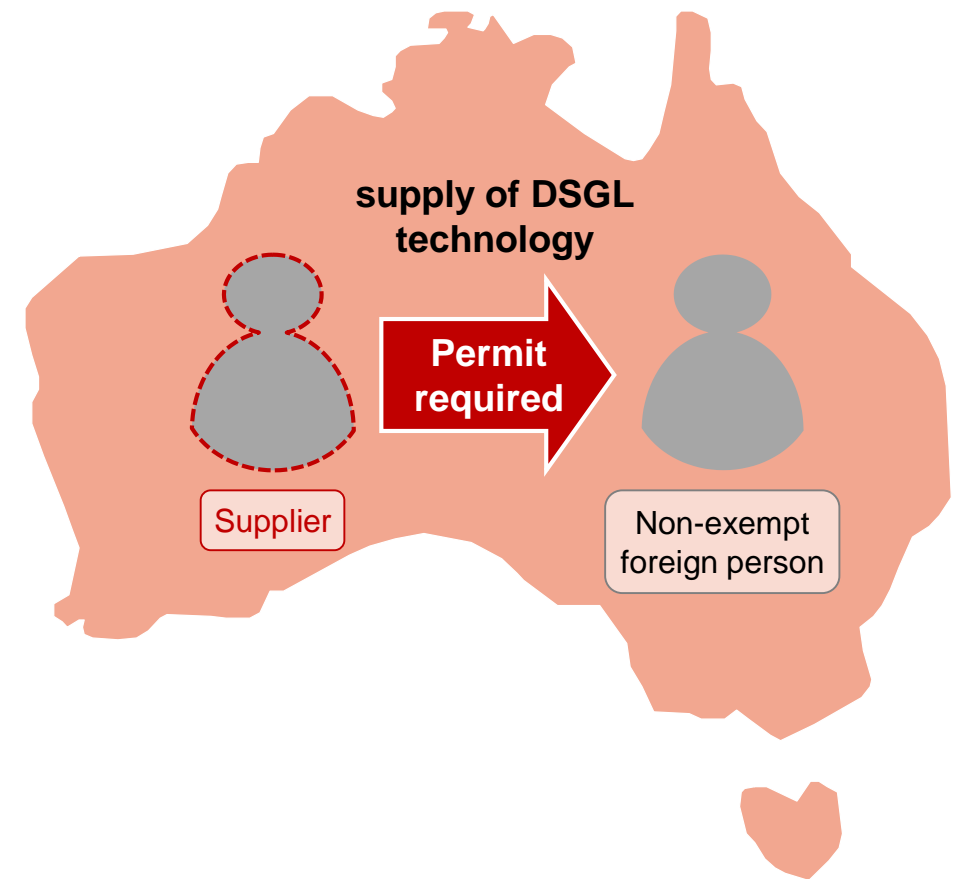
Section 10A Overview

Applies to DSGL ...	Part 1	Part 2 (Very Sensitive)	Part 2 (Sensitive)	Part 2 (Other)
	YES	YES	YES	YES

It is an **offence under Section 10A** of the *Defence Trade Controls Act 2012* if:

1. **A person supplies** (incl. provision of access)
2. **DSGL technology** (not goods)
3. **to a ‘non-exempt’ foreign person**
4. **within Australia**

Without a permit from DEC



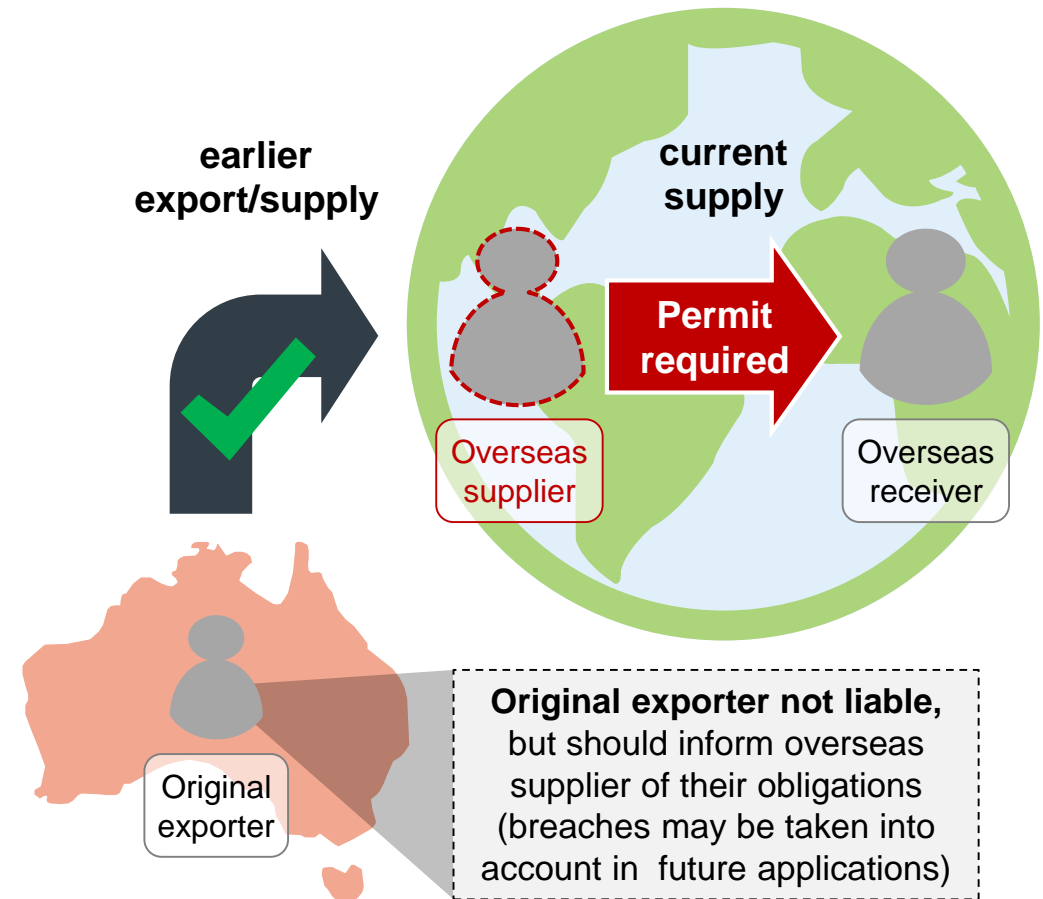
Section 10B Overview

Applies to DSGL ...	Part 1	Part 2 (Very Sensitive)	Part 2 (Sensitive)	Part 2 (Other)
	YES	YES	YES	NO

It is an **offence under Section 10B** of the *Defence Trade Controls Act 2012* if:

1. A person supplies to another person (current supply)
2. from one place outside Australia, to another place outside Australia
3. certain DSGL goods and technology (excl. firearms)
4. previously exported / supplied out of Australia in a manner requiring a DEC permit (earlier export/supply)

Without a permit from DEC



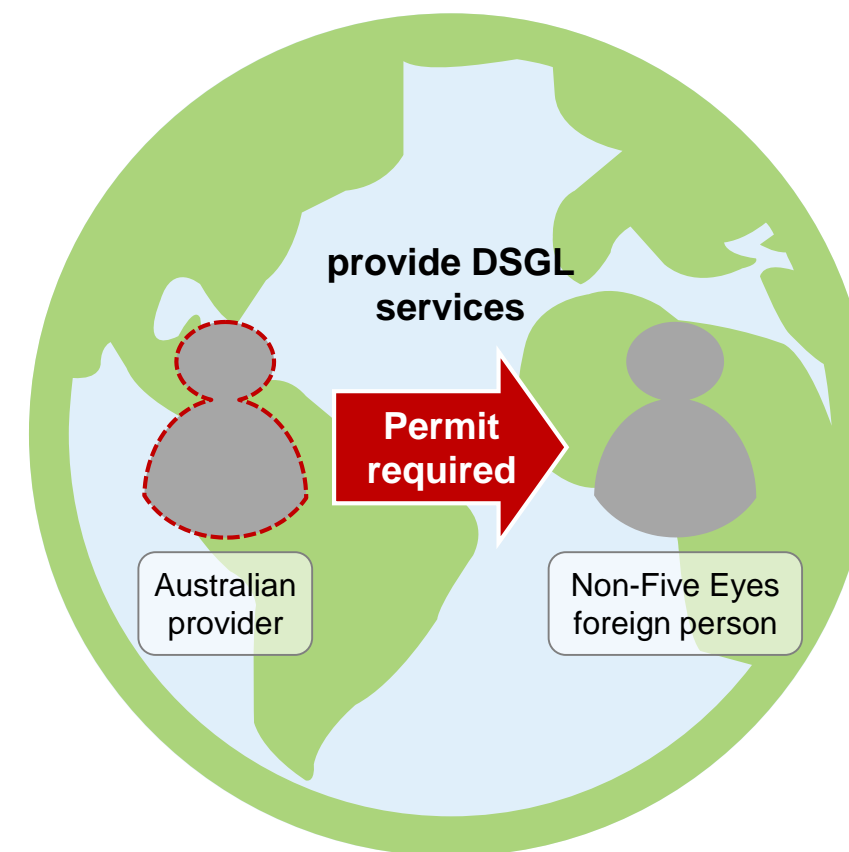
Section 10C Overview

Applies to DSGL ...	Part 1	Part 2 (Very Sensitive)	Part 2 (Sensitive)	Part 2 (Other)
	YES	NO	NO	NO

It is an **offence under Section 10C** of the *Defence Trade Controls Act 2012* if:

1. An Australian person located outside Australia
2. provides certain DSGL services
3. to a foreign person located outside Australia (excl. Five Eyes)

Without a permit from DEC



General Guidance on Exceptions

Each new offence has various exceptions that **remove the need for a permit**.

Description	Section 10A	Section 10B	Section 10C
Fundamental Research (DSGL Technology)	Exception Available	Exception Available	Exception Available
Defense Trade Cooperation Treaty	Exception Available	Exception Available	Exception Available
Australian Government Employees	Exception Available	Exception Available	Exception Available
Covered Security Clearances	Exception Available	Exception Available	Exception Available
Build-to-Print	Exception Available	--	--
FCL Involvement	Exception Available	Exception Available	--
Foreign Work Authorisation (SAMS)	Exception Available	--	Exception Available
Original Equipment Manufacturer (OEM)	--	Exception Available	--
Elapsed Time Period	--	Exception Available	--
Supplies from AUKUS Partners	--	Exception Available	--
Intracompany	--	Exception Available	Exception Available
Grandfathering (prior 1 September 2024)	--	Exception Available	Exception Available
Five Eyes Recipients	--	--	Exception Available
Maintenance Services	--	--	Exception Available



Industry Case Studies

These changes may be **relevant to industry** in different ways (including but not limited to):

Australian Partners

Company A (based in Australia) has partnered with Company B.

Company A intends to supply DSGL technology (needed to produce a controlled component of a DSGL good) to foreign persons of Company B located in Australia.

Section 10A may be relevant

- Build-to-print exception could apply if limited to the medium reasonably necessary technology, and does not inform overall design production
- No permit required if Company A supplies only to FCL representatives from Company B (if technology not on ETL / AMSP)
- Permit otherwise required (unless other exceptions apply)

Supplies Made From Overseas

Company B (located in a non-FCL Country) receives Part 2 DSGL goods from Australia.

Company B intends to supply these DSGL goods to various partners around the world.

Section 10B may be relevant

- Earlier export/supply must have first required a permit
- Only applies if the DSGL Part 2 goods are on Very Sensitive / Sensitive list
- If re-supply made within the same non-FCL country or to another non-FCL country, a permit may be required

Company Services

An Australian company previously lawfully exported certain Part 1 DSGL goods overseas to their foreign customer.

That Australian company has now been contracted by their foreign customer to provide them with training regarding maintenance and use of those Part 1 DSGL goods.

The Australian company would provide these DSGL services at various sites outside Australia.

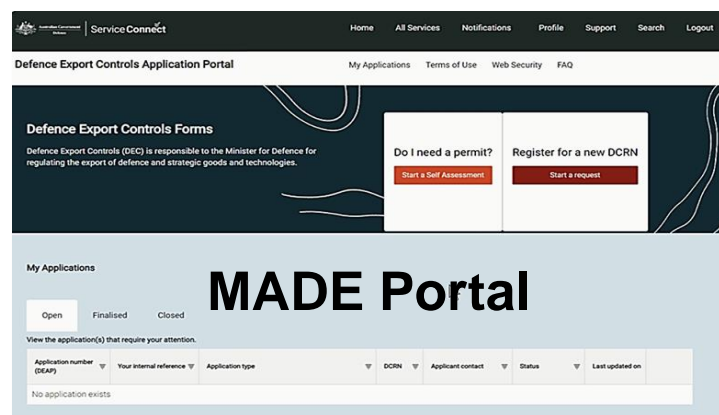
Section 10C may be relevant

- Services related to maintenance only may be exempt
- Services related to use may be controlled, and require a permit
- Grandfathering may apply if the export of the DSGL goods occurred (and services contract entered into) before 1 September 2024



Close

In Summary



Depending on your circumstances, you may now require a permit when conducting an activity under Section 10A, 10B, or 10C of the DTC Act.

If you require a permit, apply via the [My Australian Defence Exports \(MADE\)](#) portal.



Things to remember

- **New offences introduced, bringing Australia in-line with US and UK**
- **AUKUS licence-free environment available; many exceptions for FCL countries**
- **Expanded definition for Fundamental Research**
- **Consider full range of exceptions before applying for a permit**
- **Maintain records – even when relying on an exception**



Penalties

Those prosecuted for offences under Australia's export control laws may face a **penalty of up to 10 years imprisonment, and/or a fine up to 2,500 penalty units**.*

Compliance Transition Period

Although the *DTC Amendment Act* commenced on 1 September 2024, a 6-month transition period applies to the Section 10A, 10B, and 10C offences.

From 1 March 2025, criminal penalties will apply to those offences.

* one penalty unit (as of 7 November 2024) = \$330, for a **total maximum fine of \$825,000**





Where to Get Help and Assistance?

- 1. Contact your organisation's export controls office**
- 2. Visit the Defence Export Controls website**
www.defence.gov.au/business-industry/export/controls
- 3. Use the MADE portal self-help tool and guidance materials**
- 4. Email exportcontrols@defence.gov.au**
- 5. Call 1800 333 362 (1800 DEFENCE) 'Option 4'**
between 8.30-16.30 EST

**DEFENCE
EXPORT
CONTROLS**





Session 2: Government Partners

Speakers



1. Mr Michael McGillion
Australian Sanctions Office
Dept. Foreign Affairs and Trade



2. Mr Sam Bowden
Australian Border Force
Dept. Home Affairs



3. Supt Jim Rowe
Australian Federal Police
Dept. Foreign Affairs and Trade



4. Mr Carlos Grande
Safeguarding Australia's Military Secrets
Dept. Defence





Australian Government

Department of Foreign Affairs and Trade

Australian Sanctions Office

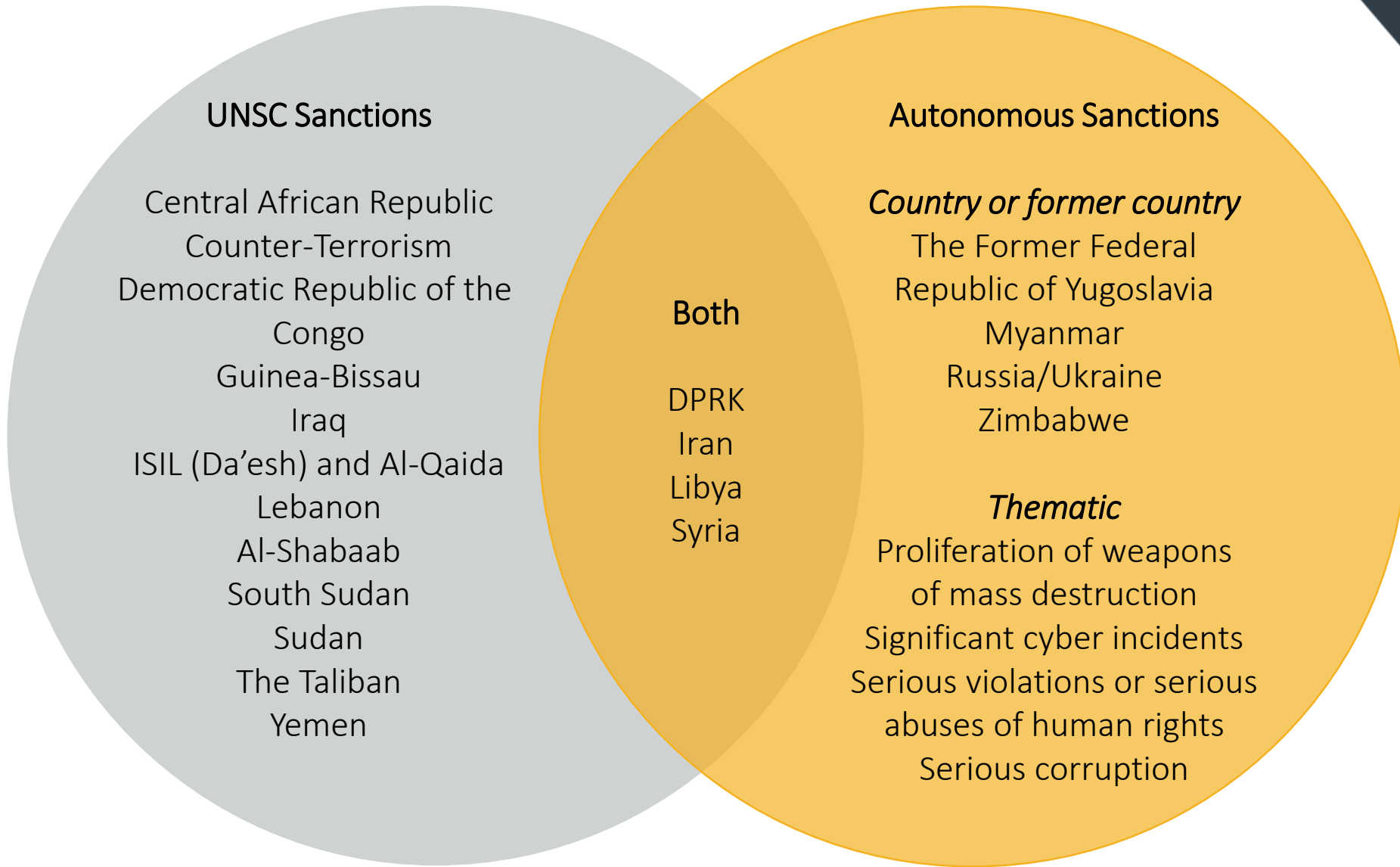
Date: December 2024

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Purpose of sanctions

Sanctions are measures not involving the use of armed force to:

- **Condemn** or **respond** to a situation of international concern
- **Prevent, limit or end the adverse impacts** of a situation of international concern
- **Deter** those who would contribute to a situation of international concern in the future





When do Australian sanctions laws apply?

- Any activity in Australia
- Any activity involving an Australian person or body corporate
- Any activity involving an Australian vessel or aircraft

Note: bodies corporate are strictly liable, but reasonable precautions and due diligence are a defence

Types of sanctions

- Restrictions on dealings with particular persons and entities
- Restrictions on exporting or importing certain goods
- Restrictions on providing certain services
- Restrictions on commercial activities
- Travel bans on particular persons

Sanctions permits

- Can take three months or more
- What can be authorised depends on the relevant framework
- Not an insurance policy – only for matters that would be a contravention
- Might be unnecessary if adequate risk mitigation is in place to prevent a sanctions offence occurring

Calendar year	Total permits issued	Permits relating to Russia/Ukraine
2021	64	37
2022	113	85
2023	58	24
2024 (to 30 Oct 2024)	18	13

Outreach and monitoring

- In 2024-25 DFAT was allocated \$23.3 million over four years to improve sanctions compliance and enforcement
- We are finalising several industry-specific guidance notes and a sanctions toolkit to provide more tailored guidance to industry on sanctions risks
- Feel free to get in touch for general advice about each sanctions framework

Key risks for industry

- Consider the detail of import and export bans for Russia – both as they are now and whenever they are updated
- Be alert to the risk of circumvention activity
- Consider indirect connections to designated entities and intangible assets



Australian Government

Department of Foreign Affairs and Trade

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Australian
BORDER FORCE

Counter Proliferation

Export Controls and Border Obligations

Monday, 2 December 2024

Inspector Sam Bowden

Customs Enforcement
Australian Border Force



Australian Border Force

Facilitate the legitimate movement of goods and people; and to protect the integrity of Australia's border.

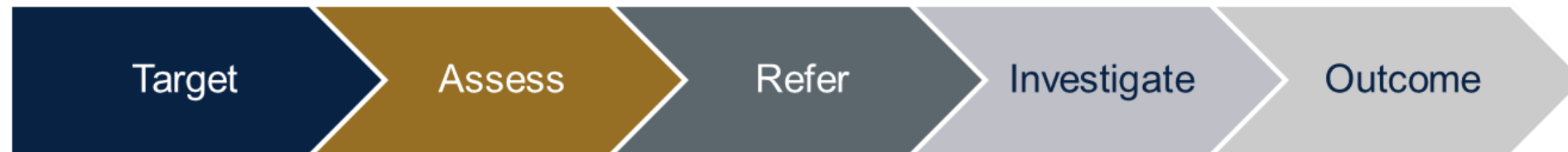
Our vision is to be a global leader in border law enforcement and a trusted partner that helps build a safe, secure and prosperous Australia.

Counter Proliferation

- **End-to-end capability:** leads generation, analysis, targeting, detection, investigation and prosecution
- **Multi-disciplinary:** function that enforces a range of import and export controls in response to identified threats and risk
- **Fully integrated:** intelligence, regulation and enforcement partners

What does Counter Proliferation do?

Mission: to combat the illicit movement of military and dual-use goods and entities of proliferation concern moving across the border



Targeting: identification, profiling and targeting of goods and entities of proliferation concern, and preparation of referrals

Governance and Operational Analysis: stakeholder liaison with domestic and international partners, and all-source analysis to operationalise data and information for opportunities and investigations

Investigations: viability assessments, investigation planning, operational activity, determination of outcome and treatment options



**Australian
BORDER FORCE**

Partners

Domestic Partners

Policy



Australian Government

Department of Foreign Affairs and Trade



Australian Government

Attorney-General's Department

Intelligence



Australian Government

Department of Home Affairs

NIC National Intelligence Community



Australian Government

AUSTRAC

Regulation and Permits



Australian Government

Defence



Australian Government

Department of Industry, Science and Resources



Australian Government

Australian Safeguards and Non-proliferation Office



Australian Government

Department of Climate Change, Energy, the Environment and Water



Australian Government

Australian Sanctions Office



Enforcement



AUSTRALIAN CRIMINAL INTELLIGENCE COMMISSION



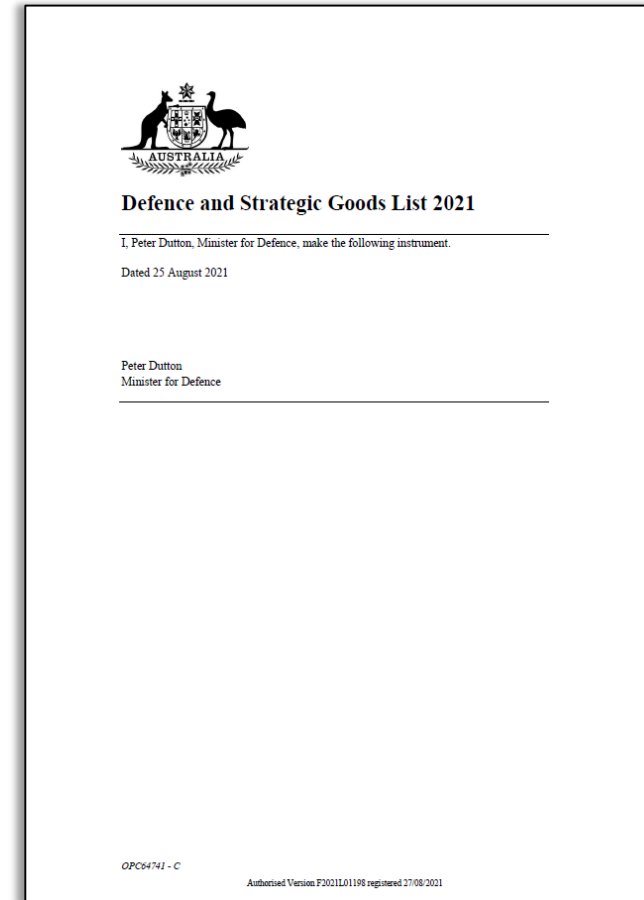
**Australian
BORDER FORCE**

Legislation and Enforcement

Border Legislation

- ***Customs Act 1901***
 - Section 112BA Military End Use provision
- ***Customs (Prohibited Exports) Regulations 1958***
 - Autonomous Sanctions – Regulations 11, 11A and 11B
 - Defence and Strategic Goods List – Regulation 13E
- ***Customs (Prohibited Imports) Regulations 1956***
 - Radioactive Material – Regulation 4R
 - Goods under autonomous sanctions – Regulation 4XA
 - Chemical Weapon Precursors – Regulation 5J
- ***Weapons of Mass Destruction (Prevention of Proliferation) Act 1995***
 - Prohibition of dual-use items

Defence and Strategic Goods List (DSGL)



'Catch all' Controls



Customs Act 1901

No. 6, 1901

Compilation No. 178

- The Minister for Defence may prohibit the export of non-DSGL listed goods that may contribute to a military end-use that would prejudice Australia's security, defence or international relations
 - Defence notifies exporters by issuing a prohibition notice

- The Minister for Defence may also prohibit the supply or export of goods and/or provision of services that may assist in the development, production, acquisition or stockpiling of **nuclear, biological, or chemical weapons** or missiles capable of delivering such weapons



Weapons of Mass Destruction (Prevention of Proliferation) Act 1995

No. 38, 1995

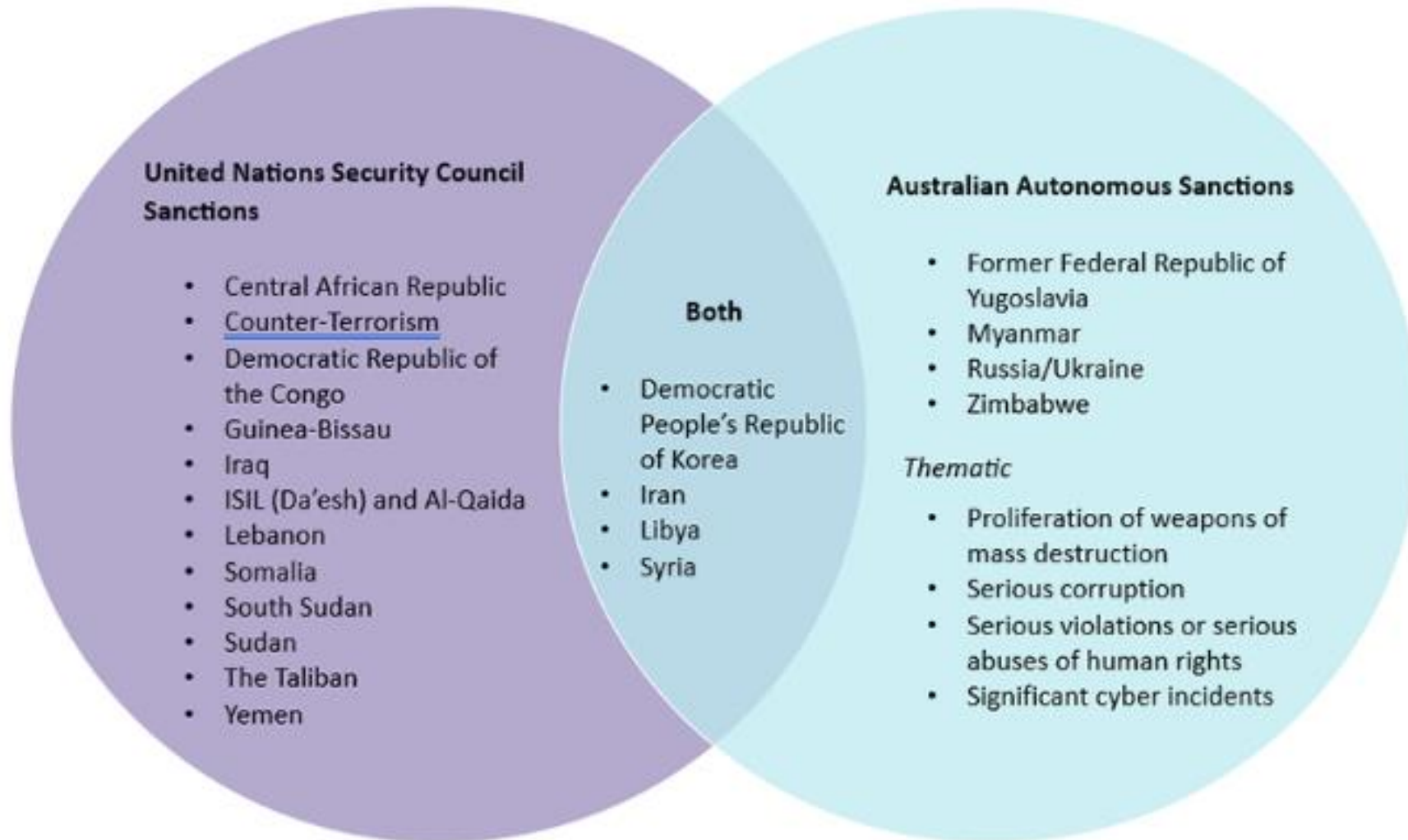
Compilation No. 8

Compilation date: 6 November 2018

Includes amendments up to: Act No. 124, 2017

Registered: 13 November 2018

Sanctions Enforcement



Enforcement Approach

Threshold for investigation can include:

- Assessed as a complex matter
- Risk at the border
- Impact on Australia
- Malign intent suspected
- Repeat offender
- May require warrant activity

Treatment options:

- Warning letters
- Infringement notice(s):
 - Individual – \$4,950
 - Company – \$14,850
- Prosecution(s):
 - Individual – 10 years imprisonment and/or \$825,000
 - Company - \$4,125,000



Additional penalties as a result of investigation outcomes could lead to the forfeiture of goods and cancellation of visas.



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Challenges

Challenges

Timeframes:

- Accuracy of export declarations (i.e. AHECC code)
- Time export declaration lodged prior to proposed date of departure

Technology advancement:

- Manual process to assess export declarations
- Greater analysis required against dual-use items

International environment:

- Changes in global environment



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BORDER FORCE**

Thank you

If you have any questions, please don't hesitate to
contact the ABF at trade.enforcement@abf.gov.au or
1800 061 800



AFP

Defence Export Controls

Industry Virtual Information Session

James Rowe
Superintendent – Economic Corporate Crime & Corruption
Crime Command

Who we are

The Australian Federal Police (AFP) is Australia’s national policing agency. Our role is to protect Australians and Australia’s interests from serious criminal threats. We reflect the Australia we serve; diverse and inclusive, fair-minded and formidable. Intelligent interaction ensures maximum impact on the criminal environment for a safer Australia and beyond.

We are an agency like no other.

VISION

Policing for a safer Australia

MISSION

As Australia’s national policing agency, we protect Australians and Australia’s interests

GOAL

Maximum impact on the criminal environment

VALUES

We value fairness, trust, respect, accountability, integrity, commitment and excellence

OUTCOME 1: National and International Policing

Reduce criminal and national security threats to Australia’s collective economic and societal interests through cooperative policing services.

OUTCOME 2: ACT Policing

A safe and secure environment through policing activities on behalf of the Australian Capital Territory Government.

OUTCOME 3: Specialist Protective Services and International Policing Partnerships

Safeguarding Australians and Australian interests through the delivery of policing services primarily focused on protective services, aviation policing and international police partnerships.

The AFP and the trade environment

The Australian Federal Police (AFP) works closely with Australian Government partners, including the Department of Foreign Affairs and Trade (DFAT), Australian Border Force (ABF) and the Department of Defence to ensure effective implementation of Australia's export control and sanctions laws.

The AFP has a key role in gathering information about controlled items and assets relating to export control laws and sanctions. Alongside ABF, the AFP conducts criminal investigations against alleged breaches of the following:

- *Autonomous Sanctions Act 2011 (Cth)*
- *Autonomous Sanctions Regulations 2011 (Cth).*
- *Defence Trade Controls Act 2012 (Cth); and*
- *Weapons of Mass Destruction (Prevention of Proliferation) Act 1995 (Cth)*

The AFP and the trade environment

Breaching Australia's trade and sanctions laws can be a serious criminal offence.

Penalties range from substantial fines up to and including 2,500 penalty units, or if the transaction of funds is the conduct amounting to the contravention, three times the value of the transaction or up to 10 years imprisonment for individuals.

The AFP has a range of unique and powerful law enforcement tools and mechanisms to target and address individuals and entities subject to trade and sanctions law breaches.

This includes the ability to identify and freeze assets and undertake investigations and activities, in close collaboration with our domestic and international partners. This includes engagement through INTERPOL, the world's largest international police organisation, comprising 196 member countries. The AFP is Australia's representative to INTERPOL.

The AFP and the trade environment

Case Study

Operation BYAHAUT

- Commenced as a 2016 cyber investigation into a Sydney based POI regarding a hacking incident.
- Then identified that the POI was attempting to breach Australian sanctions against the DPRK.
- The POI was trying to arrange the transfer of petroleum, iron ore, coal and other commodities.
- This also included the acquisition of the core critical components of ballistic missiles.
- Investigation revealed that the POI was in effect an “economic agent” of the DPRK Government.

The AFP and the trade environment

Case Study

Operation BYAHAUT

- Investigation went to resolution during late 2017.
- POI was subsequently arrested and charged with the following:
 - 2 x Providing Services for a WMD Program, Section 11 of the *Weapons of Mass Destruction (Prevention of Proliferation) Act 1995* (Cth) (Law Part Code 91754)
 - 3 x Providing a Sanctioned Service, Section 27(1) of the *Charter of the United Nations Act 1945* (Cth) and Regulation 11(2) of the *Charter of the United Nations (Sanctions – Democratic People's Republic of Korea) Regulations 2008* (Law Part Code 88348); and

The AFP and the trade environment

Case Study

Operation BYAHAUT

- 3 x Providing a Sanctioned Service, Section 16(1) of the *Autonomous Sanctions Act 2011*(Cth) and Regulation 13(1) of the *Autonomous Sanctions Regulations 2011* (Cth) (Law Part Code 91757)
- The POI was on remand for almost two years and the criminal trial commenced in the NSW Supreme Court in February 2021.
- The POI was found guilty later that month to an amended set of rolled up charges and sentenced to the following:
 - Three years and six months imprisonment.

The AFP and the trade environment

QUEENSLAND LINK

China spy investigation leads to weapons trafficking charges

Nick McKenzie, Cloe Read

Australian police have disrupted an alleged plot by two Queensland-based businessmen from Russia to China, a small part of what sources have revealed is a broader investigation into a suspected Chinese Communist Party spy network with ties to a relative of Chinese President Xi Jinping.

The Australian parliament was this week roiled by disputed allegations of Chinese influence, and yesterday the Queensland Magistrate's Court heard that Chinese-born Gold Coast accountant Kim Bowei Lee, 64, and Russian-born Brisbane entrepreneur Alexander Cher, 63, had been charged with contraventions of Australia's Defence Trade Control Act.

Multiple official sources, who are not authorised to speak publicly, say the charges had spun out of a broader ASIO investigation into an alleged Chinese spy network operating in Australia. Members of that alleged network were detected as early as August 2016, when Australian officials intercepted an unusual private jet flight, organised by an Australian casino, from the Gold Coast to New Zealand.

Mr Lee was one of six passengers on the flight. Among the others were president Xi's cousin, Ming Chai, Melbourne organised crime boss Tom Zhou and another figure suspected to be linked to Chinese intelligence.

The Brisbane Magistrate's court heard yesterday that Mr Lee and Mr Cher were accused of partnering with another Chinese national and former Melbourne businessman, Brian Chen, who is now in hiding overseas and subject of an Interpol red notice.

One official source, who has been briefed by ASIO, described Mr Chen as a Chinese military intelligence operat-



Alexander Cher (above) and Kim Bowei Lee appeared in court yesterday.

ive "who travels the world as a spy". An ASIO informant claimed two years ago that Mr Chen had sought to plant an operative, Nick Zhao, a member of the Victorian Liberal Party, in a seat in Federal Parliament.

ASIO officers quizzed Mr Chen in March 2019 at Melbourne Airport but he was then allowed to leave Australia.

The charges Mr Lee and Mr Cher face are limited to accusations of the plot to illegally broker the supply of defence goods and there is no suggestion they are involved in any espionage activity or any other criminality. The charges are yet to be tested in court.

Court documents allege that between 9 January 2018 and 27 July 2018, the two men "arranged for another person to supply goods which were listed in part 1 of the Defence and Strategic Goods list from the Russian Federation to the People's Republic of China".

Mr Cher, a Russian émigré who has run a string of companies in Queensland and NSW, was charged last week by detectives and released on bail after

a short court appearance. When called for comment yesterday, he said: "I can't talk now. Call me later," before hanging up.

According to court documents, Mr Lee was released last week on bail in connection with the alleged military equipment-smuggling plot.

In a statement, the federal police confirmed that a "64-year-old Gold Coast man and a 63-year-old Brisbane man have been charged with arranging to supply [military] goods."

The AFP statement didn't name Mr Chen, but referred instead to an unnamed "59-year-old Chinese national, currently believed to be residing overseas" and who was the subject of an arrest warrant.

The *Herald* has confirmed that the case against the pair and Mr Chen grew out of a much broader probe by ASIO into Chinese intelligence operations and Chinese organised crime activities in Australia. That broader probe does not involve Mr Cher or Mr Lee.

Multiple federal and state sources with knowledge of the intelligence investigations said that by 2019, ASIO had begun mapping an overlapping and opaque network of Chinese Communist Party-linked businessmen, money launderers and intelligence operatives.

Ming Chai was of particular interest to ASIO owing to his family ties with the Chinese president and involvement with Chinese crime figures and Chinese Communist Party operatives in Melbourne.

The Australian Federal Police's initial interest in the 2016 private jet flight was linked to allegations that Tom Zhou was a major money launderer, however, subsequent ASIO investigations determined that at least two men on the flight (not Mr Chai) were linked to Chinese intelligence agencies.

The AFP and the trade environment

Current matters/Investigations

- The AFP currently has a range of live investigations into serious alleged trade and sanctions breaches.
- These matters are across all investigation stages including two matters before the Courts.
- The other matter before the court involves an investigation into Australian and US based company allegedly supplying “arms or related material” to a Russian arms manufacturer via a third country, contrary to s15(1) of *the Defence Trade Controls Act 2012* (Cth) during 2018.

Questions / Thank you



AFP



Australian Government
Defence



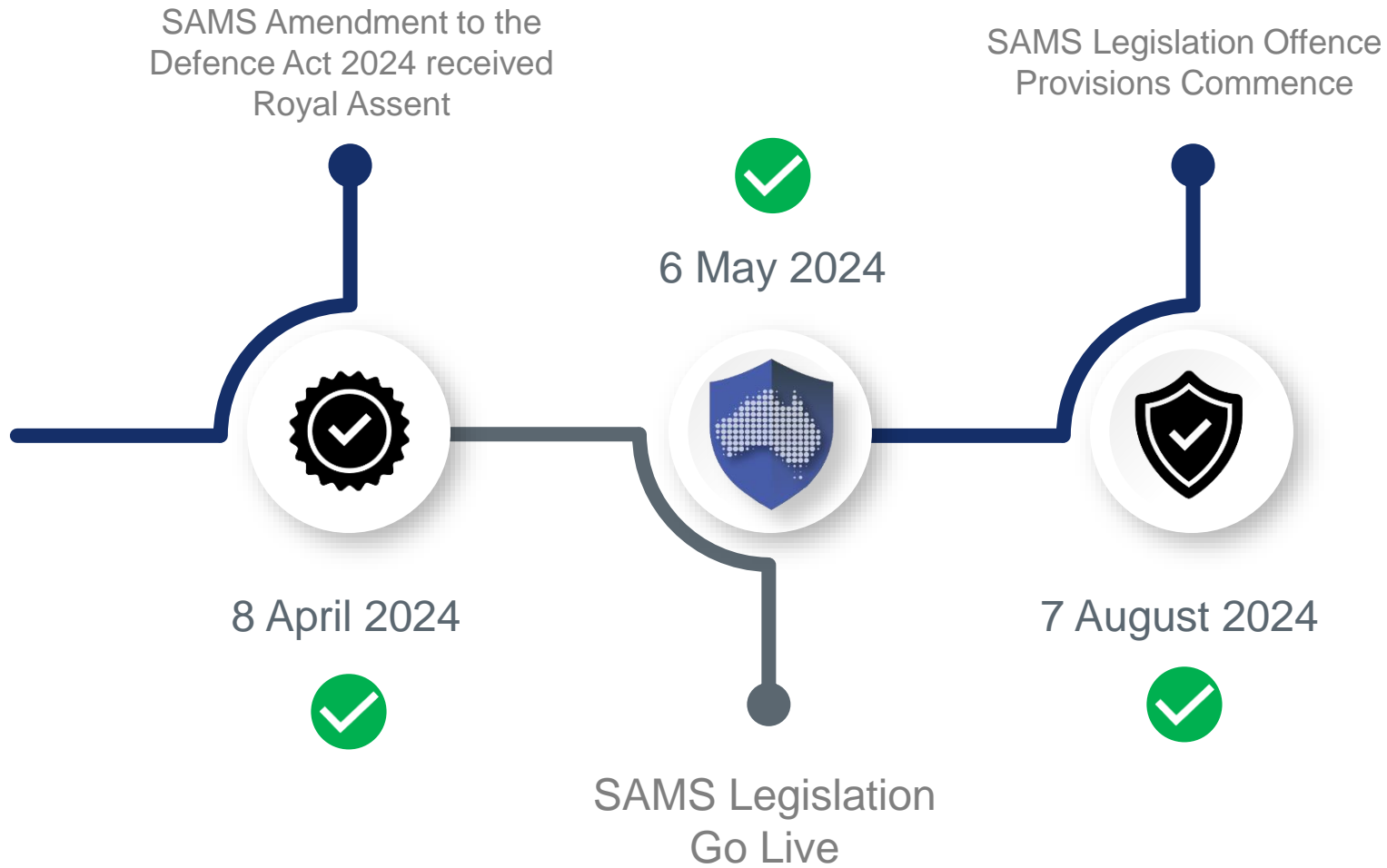
SAMS

SAFEGUARDING AUSTRALIA'S MILITARY SECRETS





Milestones and Statistics



Key Statistics	
+3000	FWA Requests
+2800	FWA Requests Completed
0	Refuse to Grant
16 days	Median Decision Time

SAMS – Applicability



The Defence Act Part IXAA (Security Australia's Military Secrets) Act 2024 commenced on 6 May 2024. Penalties for an offence under the Act started on 7 August 2024. Individuals covered by the SAMS legislation must seek authorisation before commencing work or training

Former members of the Australian Defence Force, Defence and Australian Submarine Agency public servants may need to obtain authorisation if they intend to work for a foreign military, government or government entity.

Division 2 : Work (Includes Training)

- Former Australia Defence Force (ADF) members
- Former Department of Defence Australian Public Servants (APS)
- Former Australian Submarine Agency (ASA) APS

Any Australian citizen or permanent resident providing training involving military related tactics, techniques and procedures or goods, software or technology within the scope of Part 1 of the Defence and Strategic Goods List, for a foreign military, government or government entity

Division 3 : Training

- Australian Citizens
- Permanent Residents

SAMS – Instruments and Exceptions



'Country List' - Legislative instrument

Defence (Non-relevant foreign country) Determination 2024

- Canada
- New Zealand
- United Kingdom
- United States of America



Job Families – Legislative Instrument

Defence (Non-foreign work restricted individual) Determination 2024

APS

Job families - 19

Job family functions - 87

Specific occupations - 1236

ADF

Strategic work force segments - 8

Job Roles - 290

- Army - 107
- Navy - 95
- RAAF - 88

Exceptions

- Employed by the Commonwealth
- Authorised by Commonwealth written agreement
- Service in a national Defence force
- UN / UN Agencies / ICRC



Scenario 1 - Former Defence



Australian citizen or permanent resident



Former ADF, Defence or ASA



Job family /category



In scope of Job Family time



Type of training –
- MTTPs
- Part 1 DSGL



Relevant foreign beneficiary/ies?



Covered by exception or legislative instrument



FWA required ?



Left in April 2022

Combat and Security -
Artillery Gunner (ECN)
5 years



April 2027 –
Division 2



France, Japan,
Canada



Only for Canada



Left in April 2022

Combat and Security -
Artillery Gunner (ECN)
5 years



April 2027 -
Division 2



France, Japan,
Canada



Commonwealth
Agreement



Left in April 2022

Enterprise and Command
Support - Education Officer
1 year



April 2023



Training on Army
procedures
- Division 3



France, Japan,
Canada



Only for Canada



Scenario 2 – Non-Former Defence



Australian citizen or permanent resident



Former ADF, Defence or ASA



Job family /category



In scope of Job Family time



Type of training –
- MTTPs
- Part 1 DSGL



Relevant foreign beneficiary/ies?



Covered by exception or legislative instrument



FWA required ?



Never worked in Defence



Training on drones –
Division 3



France, Japan,
Canada



Only for Canada



Army Reserve Sercat 5



Training on drones –
Division 3



USA



Non-relevant country



Worked in ASD from Jan 2019 to September 2023



Role is for work, not training



SAMS – Key information



- Individual responsibility, not company
- Applies to onshore and offshore roles
- Role specific
- Can be updated after it has been granted (i.e. add new beneficiary)
- Valid for maximum of 3 years
- No cost
- Individuals can hold multiple authorisation if required



To request a Foreign Work Authorisation visit www.defence.gov.au/SAMS

For more information email SAMS.info@defence.gov.au



www.defence.gov.au/SAMS

www.forcenet.gov.au

SAMS.info@defence.gov.au



The screenshot displays the Defence website's 'Safeguarding Australia's Military Secrets' page. A prominent red notification box states: 'SAMS offences commence from 7 August 2024. From 7 August 2024, individuals who want to work for or deliver training to a foreign military organisation or government body, must be granted a foreign work authorisation before commencing work. If authorisation is not granted, individuals risk committing an offence under the SAMS legislation.' Below this, it lists 'SAMS briefing sessions' and provides details on the program's purpose and commencement date (6 May 2024). A 'Submit a request' button is visible, along with a 'FOREIGN WORK AUTHORISATION REQUEST FORM' link.

Overlaid on the right is a ForceNet notification from ForceNet Headquarters, dated 6 May 2024 at 15:31. The notification title is 'SAFEGUARDING AUSTRALIA'S MILITARY SECRETS' and contains the following text: 'Have you left Defence in the last 10 years? Do you provide military related training? Do you work with export controlled goods? If you are planning to work overseas or your work benefits a foreign country or company, from 6 May you may need an authorisation from the Department of Defence. See if the new SAMS law applies to you. <https://www.defence.gov.au/sams>'.

At the bottom right, there is a blue graphic with a map of Australia and the text: 'Safeguarding Australia's Military Secrets. Know your obligations, obtain authorisation, and safeguard Australia's future. Check if the new law applies to you www.defence.gov.au/sams'.

Questions and discussion



Thank you

