



EXPORT CONTROLS FOR DEFENCE AND STRATEGIC GOODS

INTRODUCTION

Customs works with the Department of Defence to ensure approved exports of military goods, civilian arms, explosives and goods containing dual-use (military/civilian) technology are permitted to leave Australia.

Goods falling into these categories cannot be exported out of Australia without a Defence permit.

The Australian Government encourages the development of industries exporting defence and strategic goods, and believes access to international markets is important.

Some equipment, materials and technologies intended for export are more sensitive than others. The need to control these exports is essential to ensure that goods originating from Australia are not used in a manner that is adverse to Australia's national and international interests, or have destabilising implications to global security.

The types of defence and strategic equipment, technologies and materials that are controlled include, but are not limited to:

- advanced materials such as those with stealth, armour or armour defeating properties
- electronic equipment such as high powered micro-processors, advanced data encryption, and operating software for these goods
- equipment, facilities, technologies and materials which have a legitimate use in civil industry, but may be diverted for use in a weapons of mass destruction program
- explosives
- firearms, telescopic sights and ammunition
- military vehicles, ships or aircraft
- nuclear material and handling equipment
- sensors and lasers
- some chemicals (including finished products that contain equal to or greater than a specified concentration of a controlled chemical)
- some biological agents.

These export controls also cover goods being exported as samples, after or for repair, goods transhipped through Australia, and the temporary export of items for demonstration or loan purposes.

OBTAINING AN EXPORT PERMIT

To export controlled defence and strategic goods from Australia, a permit must first be obtained from the Defence Export Control Office (DECO) within the Department of Defence.

Applications to export defence and strategic goods are considered on a case-by-case basis, taking into account strategic, foreign policy and economic factors as well as human-rights concerns. In considering sensitive applications, the Department of Defence may consult a number of other government departments and agencies including Customs.

EXPORT DECLARATIONS

All goods that require an export permit also require an export declaration, regardless of the value of the consignment. This also covers goods being exported as samples, after or for repair, goods transhipped through Australia, and the temporary export of items for demonstration or loan purposes.

Personal firearms may be exported using a Restricted Goods Permit, issued by Customs, and will also require an export declaration.

CUSTOMS CONTROL OF EXPORT GOODS

All goods for export come under Customs control when they are brought to a Customs controlled area such as a wharf, airport or depot.

Customs and the DECO work together with industry to ensure compliance with the export controls for defence and strategic goods. The DECO conducts training and provides assistance to raise awareness of export controls and to foster an environment where Government agencies and industry cooperate to ensure the success of the export control system.

Customs deals with non-compliance in accordance with its stated regulatory philosophy. Customs is less likely to intervene in business practices (for example by conducting audits) if the practice is compliant with Customs legislation.

Customs response to non-compliant activity is determined by the extent and nature of the non-compliance and is in line with the sanctions set out in the law. Responses may include:

- industry education visits
- imposition of stricter permit provisions
- more frequent and/or extensive examinations
- more extensive and/or focused audits
- imposition of sanctions.

PENALTIES

Failure to obtain a Defence Export Permit is an offence under section 233BAB of the *Customs Act 1901* and can attract a penalty of up to A\$275,000 and/or imprisonment for up to 10 years.

Failure to correctly enter goods that require a permit for export is an offence under Section 113 of the *Customs Act 1901* and can attract a penalty of A\$5500.

INTERNATIONAL REGIMES

Australia is a member country of several international regimes controlling the international trade in defence and strategic goods. The main international regimes affecting Australian exporters of defence and strategic goods are:

The Wassenaar Arrangement

The Wassenaar Arrangement aims to ensure that exports of conventional arms and dual-use technologies (with military applications) do not contribute to the development or enhancement of military capabilities which undermine international and regional security, and are not diverted to support such capabilities. For more information, visit www.wassenaar.org

The Australia Group

The Australia Group aims to ensure that exports of certain goods do not contribute to the development of chemical or biological weapons. For more information, visit www.australiagroup.net

The Nuclear Suppliers Group

The Nuclear Suppliers Group aims to ensure that exports of nuclear material, equipment and technology do not contribute to the development of nuclear weapons proliferation or to un-safeguarded nuclear fuel activities. For more information, visit www.iaea.org or www.fas.org

The Missile Technology Control Regime

Participants in the Missile Technology Control Regime aim to limit the proliferation of systems capable of delivering nuclear, chemical and biological warheads by licensing exports of equipment and technology capable of developing such systems. For more information, visit www.mtcr.info

The Chemical Weapons Convention

The Chemical Weapons Convention (CWC) bans member states from making and holding chemical weapons and also requires them to destroy such weapons and production facilities. As part of its CWC obligations, Australia imposes strict export and import controls on CWC chemicals. For more information, visit www.opcw.org

The Biological Weapons Convention

The Biological Weapons Convention (BWC) requires member states not to make or hold microbial or biological agents or toxins, except for peaceful purposes, such as medical research. Australia controls the export of microbial and biological agents and toxins as a result of membership of the Australia Group. For more information, visit www.opbw.org

United Nations Security Council Resolutions

United Nations Security Council Resolutions are decisions made by the United Nations Security Council which member states must carry out under the United Nations Charter. Many of the resolutions are relevant to export controls and need to be taken into account before exporting. For more information, visit the DECO website or Department of Foreign Affairs and Trade www.dfat.gov.au

WEAPONS OF MASS DESTRUCTION (PREVENTION OF PROLIFERATION) ACT 1995

In 1992, the Government became aware that some goods, technologies and the provision of services, which could potentially contribute to a Weapons of Mass Destruction (WMD) program, might not be covered under the existing export regulations. To deal with this gap in the controls, the Australian Government introduced the *Weapons of Mass Destruction (Prevention of Proliferation) Act 1995* (WMD Act).

This Act and the *Weapons of Mass Destruction Regulations 1995* enable the Government to control goods and services that will or may assist in such weapons programs. A WMD program is defined as a plan or program for the development, production, acquisition or stockpiling of nuclear, biological or chemical weapons or missiles capable of delivering such weapons.

If you know or suspect that the activities you have been requested to provide may be in support of a WMD program, then you should seek advice from the Minister for Defence, through the Department of Defence, before proceeding with sales or contract negotiations. For further information, please contact the Department of Defence on 1800 661 066. The WMD Act can be found on the DECO website, details below.

FOR MORE INFORMATION

The full list of defence and strategic goods subject to controls is found in the Defence and Strategic Goods List. If you are unsure as to whether your goods may be controlled, please contact DECO for advice.

DEFENCE EXPORT CONTROL OFFICE

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Canberra ACT 2600
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For more information on any Customs matter, contact the Customs Information and Support Centre on 1300 363 263 or email information@customs.gov.au or browse the website at www.customs.gov.au