



Australian Academy of Science

**SUBMISSION TO THE DEFENCE TRADE
CONTROLS AMENDMENT BILL 2015
CONSULTATION**
FROM THE AUSTRALIAN ACADEMY OF SCIENCE / JANUARY 2015

SUBMISSION TO THE DEFENCE TRADE CONTROLS AMENDMENT BILL 2015 CONSULTATION

The Australian Academy of Science welcomes the opportunity to comment on the draft Defence Trade Controls Amendment Bill 2015. The Academy promotes scientific excellence, disseminates scientific knowledge, and provides independent scientific advice for the benefit of Australia and the world. The Academy is made up of over 470 of Australia's leading scientists, each elected for their outstanding contribution to science. The Academy would be pleased to provide further information or explanation on any of the points made in this submission.

THE PRESSING NEED FOR THE DEFENCE TRADE CONTROLS AMENDMENT BILL 2015

The Academy broadly supports the proposed amendments put forward in the Bill and looks forward to continued consultation on the implementation of the Act.

The Act in its current form appears to be unworkable, placing an exceptionally heavy regulatory burden on researchers and research organisations. As such there is a pressing need for this amendment Bill to be passed before the transition period expires and the strengthened export controls offence provisions come into force in May 2015.

The Academy appreciates the extensive efforts that have been made by the Chief Scientist, the Strengthened Export Controls Group, the Department of Industry and Science, and the Department of Defence, in reviewing the Act's operation and implementation during the two-year transition period. It is clear from the work undertaken during this transition period that amendments to the Act are necessary to ensure that it strikes a better balance in terms of managing Australia's national security interests, whilst not unduly hindering innovation, research, international collaboration, and trade.

Therefore the Academy welcomes the proposed amendments and the efforts that have been made to ensure the Act focuses on those instances where the supply, publication or brokering of controlled military technology is likely to present a risk.

SUPPORT FOR SPECIFIC AMENDMENTS IN THE BILL

The Academy would like to note its strong support for the following amendments proposed in the Bill:

Supply of controlled military and controlled dual-use technology

The Academy strongly supports the proposed exemptions covering the verbal supply of controlled technology, noting that this will allow researchers to continue to have telephone discussions and participate in international conferences via video link where controlled dual-use technology will be discussed.

As it is proposed to no longer require Ministerial approval for the publication of controlled dual-use technology (see below), the proposed exemption to cover 'pre-publication' supply of controlled dual-use technology is supported by the Academy. This will allow researchers to submit publications

to academic journals and conferences for peer review without requiring a permit, reducing the regulatory burden on research organisations and researchers.

Publication of controlled military technology

The Academy supports the proposal to allow the Minister to delegate approvals for the publication of controlled military technology, noting that this should allow for more timely decisions to be made.

Publication of controlled dual-use technology

The Academy strongly supports the proposal to remove the need for Ministerial approval for the publication of controlled dual-use technology, and in its place allow the Minister to prohibit specific publications that the Minister believes would be prejudicial to Australia’s security or international obligations.

LEGISLATIVE REVIEW

As the experience with the current Act has shown there will probably be unintended consequences that arise from the implementation of the Act’s provisions. Therefore the Academy welcomes the proposal in the Bill to undertake a legislative review of the Act after two years of operation, and every five years thereafter.

IMPLEMENTATION

Managing institutional and individual responsibilities under the Act will require a significant amount of effort with new policies, procedures and systems needing to be put into place to ensure compliance with the Act. The Academy welcomes the efforts made by the Department of Defence to provide information on how the implementation of the Act will work, particularly with regards to the permit system, and the potential development of online tools which will provide further information. This collaborative approach is to be commended, but given that there will be a very short period of time between the consideration of the Bill by Parliament, and the start date of the offence provisions on 17 May 2015, the Academy suggest that a further twelve-month extension to the current transition period is needed. This will allow the government and stakeholders to work together to ensure a smooth transition to the new regulatory regime, and for the necessary permits to be granted by the Defence Trade Control Office for those projects covered by the Act.