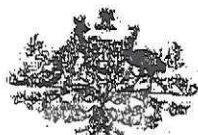


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Australian Government
Department of Defence

Attachment A

Submission on the Inquiry by the Senate Standing Committee on Foreign Affairs, Defence and Trade into the Autonomous Sanctions Bill 2010

Introduction

1. The Department of Defence (Defence) is pleased to participate in the inquiry by the Senate Standing Committee on Foreign Affairs, Defence and Trade into the Autonomous Sanctions Bill 2010 (the Bill).
2. This Bill, if passed, provides a framework for the implementation of autonomous sanctions in Australia consistent with the framework for the implementation of the United Nations Security Council sanctions. Defence believes this is an appropriate shift from the current implementation of Autonomous Sanctions which are administered through other regulations, designed for other purposes and which have restricted Australia's ability to implement autonomous sanctions to the same extent as other 'like-minded' countries.
3. Defence plays a role in supporting the administration of Australia's Sanctions Regime (including both the United Nations Security Council and Autonomous Sanctions) and works closely with the Department of Foreign Affairs and Trade (DFAT) in its administration of the regime. This involvement will continue if this Bill is passed.

Relationship of Autonomous Sanctions to Regulation 13E of the Customs (Prohibited Exports) Regulations 1958.

4. Currently, Autonomous Sanctions containing an arms embargo on the supply of military or strategic (dual use) goods are implemented under Regulation 13E of the *Customs (Prohibited Exports) Regulations 1958* (PE Regulations).
5. Defence is authorised to grant a licence or permission to export from Australia goods listed in the Defence and Strategic Goods List (DSGL)¹. In undertaking such a consideration, Defence must also have regard to Australia's Sanctions Regime, ensuring that licenses or permissions granted are not contrary to sanctions requirements. The DSGL is often used as the definitive list to assist in defining the arms embargo elements of any country-specific sanction.
6. The enactment of the Autonomous Sanctions Bill 2010 would extend the scope of measures that may be implemented as sanctions, consistent with that of other "like-minded" countries. This

¹ The Defence and Strategic Goods List (DSGL) is formulated and published under paragraph 112 (2A) (aa) of the *Customs Act 1901* by the Minister for Defence. Goods and technologies listed within the DSGL are prohibited from export from Australia without permission from the Minister for Defence or an authorised person.

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includes broadening the scope of the potential measures to include brokering² and the intangible transfer of DSGL items and military end-use for goods not listed on the DSGL. This is consistent with Defence's approach to implement the Government's counter-proliferation policies.

Attachment A

7. Defence understands that the Autonomous Sanctions Bill would establish a legislative framework for the imposition of sanctions under specific regulations. Defence will continue to support DFAT in its administration of the Sanctions Regime including by providing intelligence assessments where appropriate on matters of potential Weapons of Mass Destruction (WMD) proliferation concern, and by providing advice based on our experience in administering the DSGL and the *Weapons of Mass Destruction (Prevention of Proliferation) Act 1995* (WMD Act).

Relationship with the Weapons of Mass Destruction (Prevention of Proliferation) Act 1995

8. Defence is also responsible for the administration of the WMD Act. This Act allows the Minister for Defence to prohibit the export or supply of goods and technology (not listed on the DSGL) or the provision of services that will or may contribute to a WMD or related missile system where that transaction would be contrary to Australia's international or treaty obligations or the national interest. In addition to the Sanctions Regime the WMD Act is intended to give effect to Australia's broader commitments to international obligations and Australian non-proliferation objectives.
9. In consideration of a transaction under the WMD Act, Defence would firstly determine whether the export, supply of a good or provision of service would be in contravention of a Sanctions law. Where there is this possibility, the case would be referred to DFAT.

Defence involvement in industry engagement on Sanctions.

10. Defence, through the Defence Export Control Office (DECO), recently supported the industry consultation undertaken by DFAT on the Autonomous Sanctions Bill. This enabled Defence to respond to enquiries on the defence-related aspects of the Sanctions Regime.
11. DECO undertakes a bi-annual cycle of industry presentations in Australian capital cities addressing export controls. Such presentations and the supporting study guide contain introductory content on the Sanctions Regime in an attempt to broaden industry awareness. For more detailed information, industry is referred to DFAT or its website. Defence continues to provide technical assessments and analysis and advice to DFAT in development of specific regulations. Defence also provides advice in the implementation of various country-specific sanctions measures.

Conclusion

12. Defence has been initially consulted by DFAT in the development of the Autonomous Sanctions Bill, and has supported the industry consultation undertaken. Defence will continue to work closely with DFAT in implementing sanctions measures.

² Brokering is defined as those Australian persons involved in facilitating the supply of sanctioned goods, including those located extra-territorially.

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