



16 May 2013

Dr Kathleen Dermody
Committee Secretary
Foreign Affairs, Defence and Trade Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Level 2
44 Sydney Avenue
FORREST ACT 2603
PO Box 4986
KINGSTON ACT 2604
AUSTRALIA
Telephone: +612 6233 0700
Facsimile: +612 6233 0799
www.aigroup.asn.au

Dear Dr Dermody

Thank you for the opportunity to comment on the Committee's work on ongoing scrutiny into the implementation of the Defence Trade Controls Act 2011.

Ai Group Defence Council members are reasonably supportive of progress on implementation of the Act, whilst offering the following comments:

- Ongoing government-to-industry dialogue and collaboration will be critical to industry's ability to adapt more quickly and efficiently to the new export control environment established under the Act.
- As transition moves forward, defence companies in Australia will be assessing what changes to their processes and tools, training and instructions etc. may be required as a result of the new compliance requirements in DECO's Export Controls Regulations 2013 Consultation Draft.
- Since the regulations have been published in draft form, all preparations to comply will have an element of uncertainty and, for that reason; it is recommended that final regulations be published as soon as possible to include transition guidance and, preferably, a delayed date of effect.
- Australia's export control system now captures three key elements of trade controls: defence services, brokering and intangible technology transfers. Neither the legislation nor the draft regulations provide sufficient clarity with respect to the requirements that would be attached to these new controls. These concepts may be new to many Australian companies, particularly small and medium enterprises (SMEs). Therefore, it would be helpful to issue regulations soon. Additionally, the new controls reflect Wassenaar Arrangement commitments that have been in place for several years and, for that reason, it may be appropriate to introduce industry at-large to these requirements as soon as possible.

- Should DECO choose to delay publishing the regulations to allow sufficient time to address challenges that may arise during the transition period, members have suggested that the following be available to industry as soon as possible:
 - Clear definitions of those terms that are particularly relevant to the new system, since they will be critical for proper interpretation of, and compliance with, requirements. Examples are: *goods*, *intangible technology transfers* and *broker* (as opposed to *registered broker*, as found in the legislation).
 - Transition guidance – or actual regulations. Defence sales in particular have long lead times and it will be important to ensure that potential changes in requirements for obtaining export permits, complying with record keeping requirements etc. be addressed early enough within the transition period to establish the internal processes which will be necessary to maintain a seamless environment in support of defence exports, once that period ends.

Finally, members have indicated that all of the information that exporters will need to comply with the new export control system, including definitions, should be clearly spelled out in the regulations. Members recognise that export compliance will initially be challenging. Having the information needed to comply in one place would make it easier, particularly for SMEs, to understand and comply with all the changes.

The Ai Group Defence Council offers our continued, constructive engagement with the Committee on this important issue.

Yours sincerely

John (Johnno) O'Callaghan