IMPACT OF CHANGES TO THE DEFENCE TRADE CONTROLS ACT ON INDUSTRY

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Executive Summary

This report explores the impact of the 2024 changes to the Defence Trade Controls Act (DTCA) for Australian Defence and non-Defence industries. The amendments aim to harmonise Australia's export controls with international frameworks, particularly within the AUKUS partnership, to strengthen national security and foster international collaboration.

The report has three major objectives:

1) Understand and evaluate the changes introduced by the Amendment.
2) Assess the potential impact (challenges and opportunities) to industry.
3) Provide recommendations to support Government, Defence and non-Defence industries and maximise the change benefits.

Understanding the DTCA

The legislative changes include new export controls, updates to the Defence Strategic Goods List (DSGL), and the establishment of a licence-free trading environment for AUKUS nations. These measures are designed to streamline defence trade, enhance security, and foster innovation. However, they introduce significant complexities for various sectors.

Impact to Industry

Large defence companies (Primes) face new risks related to compliance ambiguities and extended liability for re-exports. Small to Medium Enterprises (SMEs) benefit from expanded access to international defence markets, but compliance costs, competitive pressures, and operational challenges hinder their ability to capitalize on these opportunities. Academia encounters administrative burdens and risks to international research collaborations, particularly regarding foreign students and compliance with export regulations. Parallel industries are also affected, particularly those dealing with dual-use technologies and secondary supply chains, requiring extensive adjustments to align with the new controls.

Despite these challenges, the amendments offer considerable opportunities. AUKUS partnerships enhance access to advanced technologies, fostering innovation in defence and dual-use technologies. Streamlined compliance for international collaboration bolsters Australia's competitiveness in global defence markets, benefiting both industry and academia.

Recommendations

The report recommends that the government provide clear guidance, financial support, and training to industry and academia while fostering collaboration to address compliance ambiguities. For industry, investing in robust governance and leveraging international partnerships will be crucial. Academic institutions are encouraged to enhance administrative capacities and focus on strategic research that aligns with the national security framework.

By addressing these challenges and seizing the opportunities presented by the DTCA amendments, Australian industries can strengthen their global position and contribute to Australia’s national security.

TABLE OF CONTENTS

LIST OF FIGURES

ACKNOWLEDGEMENTS

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- Group Mentor: Travis Shueard, Piper Alderman
- AI Group
- AllianceSA
- Australian Government – Office of Impact Analysis
- Defence Export Control (DEC)
- Defence Teaming Centre (DTC)
- United States Studies Centre
- Various Defence Company's Export Control, Strategy, Supply Chain, Program and Executive Leadership Teams

RESEARCH PROJECT TEAM

Combined, the team brings over fifty-five years of experience within the Defence industry, encompassing a diverse range of roles, from technical officer positions to senior leadership. This extensive experience provides a unique perspective, representing the individuals and businesses directly affected by industry changes. The team embodies the non-legal, operational workforce—the "boots on the ground"—whose day-to-day tasks, responsibilities, and livelihoods are most significantly impacted by evolving policies and regulations. This practical understanding ensures a deep connection to the realities faced by those navigating the complex Defence landscape.

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DISCLAIMERS

This report was compiled as part of Defence Teaming Centre (DTC's) Defence Industry Leadership Program (DILP), in which participants complete a Research Project on an assigned topic with assigned team members as part of the activities to earn a nationally recognised Diploma of Leadership and Management.

This Research Project is often done in the participant's free time and any recommendations, opinions or information shared does not constitute the position of the participant's employer, or necessarily the participant themselves.

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ACRONYMS

ABF	Australian Border Force
ABN	Australian Business Number
ACN	Australian Company Number
AFP	Australian Federal Police
AIDN	Australian Industry Defence Network
ASIC	Australian Securities and Investment Commission
DCRN	Defence Client Registration Number
DILP	Defence Industry Leadership Program
DTC	Defence Teaming Centre
DEC	Defence Export Controls
DSGL	Defence Strategic Goods List
DSR	Defence Strategic Review
DTCA	Defence Trade Controls Act
FCL	Foreign Country List
ITAR	International Traffic in Arms Regulations
ITAR	International Traffic in Arms Regulations
MADE	My Australian Defence Exports
MTCR	Missile Technology Control Regime
MSP	Major Service Provider
ODIS	Office of Defence Industry Support
RFT	Request for Tender
SME	Small to Medium Enterprises
UK	United Kingdom
US	United States (of America)

1 INTRODUCTION

1.1 Context

Australia faces a deteriorating geopolitical environment and unprecedented militarisation within the Indo-Pacific region. The 2023 Defence Strategic Review (DSR) outlined a new National Defence strategy that focuses on potential threats in our region. This new strategy requires a whole-of-nation approach to Australia's security, already seen through initiatives such as the AUKUS trilateral agreement between Australia, the United Kingdom (UK) and the United States (US). To fully realise the opportunities of AUKUS, Australia sought to amend the Defence Trade Controls Act (DTCA) to harmonise Australia's export control framework with the US framework.

The Defence Trade Controls Amendment Act 2024 was passed in Parliament on the 27 of March 2024, leaving much of the impact to Australian Industry to be determined.

1.2 Aim

To assess the impact of changes to the Defence Trade Controls Act (DTCA) on Australian Defence and non-Defence industries.

1.3 Objectives

1) Understand and evaluate the changes introduced by the Amendment.
2) Assess the potential impact (challenges and opportunities) to industry.
3) Provide recommendations to support Government, Defence and non-Defence industries and maximise the change benefits.

1.4 Limitations

This report is based on several key assumptions and acknowledges inherent limitations. It assumes the accuracy and reliability of data sourced from regulatory bodies, industry surveys, and economic reports, as well as the consistency of stakeholder feedback in representing broader industry sentiment.

The legislative framework, as currently interpreted, is presumed stable throughout the analysis period. However, the report is constrained by limitations, including the availability of comprehensive data, particularly from small to medium-sized enterprises (SMEs), and the focus on short- to medium-term impacts, which may not fully account for long-term consequences.

While efforts were made to gather diverse perspectives, some industry voices may be underrepresented or not engaged entirely. Additionally, the analysis is primarily domestic and does not extensively account for external global factors that could influence outcomes.

1.5 Research Project Resources

The research for this paper began in May 2024, during a period when industry was trying to understand the changes from the recent announcement of the DTCA 2024 Amendments' bill passing.

1.5.1 Review of Legislation

The first step was to determine the nature of the Act and the specifics of the amendments. This involved accessing the existing 2012 Act, the new amendment, and the explanatory memorandum. Confronted with hundreds of pages of complex legal terminology, it quickly became evident how challenging it would be for individuals to understand the amendments.

1.5.2 Engage with Industry Stakeholders

After reviewing Legislation, interviews were conducted with industry peers and workplaces, including alliance networks, industry associations, small to medium enterprises (SMEs), and major service providers (MSPs)/Primes, including:

- AllianceSA
- PMB Defence
- DEWC Services
- Lockheed Martin
- BAE Systems Australia
- AI Group
- Defence Teaming Centre (DTC)
- Defence Export Controls (DEC)
- Piper Alderman

1.5.3 Attend Information sessions

Several online and in-person information sessions were attended, including:

- 20th May 2024: Export Licence Free Environment for AUKUS Nations, Online
- 3rd July 2024: Navigating Defence Series, Adelaide
- 27th August 2024: Australian Defence Magazine – Sth. Aust. Summit, Adelaide
- 13th September 2024: Land Forces Conference, Melbourne
- 23rd October 2024: Defence Teaming Centre & Piper Alderman, Adelaide
- 14th November 2024: DEC Session 2: Section 10A – Deemed Exports, online

1.5.4 Review online resources

Numerous articles were read online from reputable providers. Submissions from industry bodies available online to the public highlighted the uncertainties and confusion industry felt regarding the changes (Ref. J). Research became clearer once the My Australian Defence Export (MADE) portal launched. Definitions of the amendments were given clarity, however, there is still a lot of confusion surrounding the impacts and complexities of the amendments across Industry (Ref. BB)

2 UNDERSTANDING THE ACT

2.1 The Defence Trade Controls Act (DTCA)

Established in 2012, the primary objective of the Defence Trade Controls Act 2012 (DTCA) is to regulate the export of Defence and strategic goods, technologies, and services which are specified on the Defence and Strategic Goods List (DSGL).

2.2 2024 Act Amendment Strategic Objectives

The 2023 Defence Strategic Review (DSR) made clear that Australia's strategic environment has radically deteriorated. We now face an Indo-Pacific defined by major power competition of unrivalled intensity and the rapid militarisation of emerging and disruptive technologies. To keep pace with these challenges, it is critical that Australia has a robust export control regime (Ref. AA).

The four key Objectives of the Amendment include (Ref. AA):

1) Fast-track the delivery of leading-edge defence capabilities into the hands of our forces more efficiently, maintaining Australia's competitive edge.
2) Certification by the US Secretary of State that Australia's export control framework is at least comparable to the US. This will allow Australia to access the country-based exemption proposed by the US Congress for AUKUS partners.
3) Prevent unwanted proliferation of controlled goods and technology and reduce the risk of controlled goods and technology being acquired by entities not aligned with Australian interests, thereby better protecting Australia's national security.
4) Limit the regulatory burden on Australian industry, higher education and research sectors to encourage innovation and cooperation at an unprecedented pace. To provide Australia and our international partners, with a genuine capability development and innovative edge.

2.3 2024 Act Amendment Consultation Process and Timeline

The 2021 AUKUS announcement was the precursor for the amendments to the DTCA which began in late 2022.

Defence implemented two (2) working groups:

- The Industry and Investment Working Group
- The Higher Education and Research Sector Working Group

The groups undertook confidential, targeted consultation with approximately 100 stakeholders across government, industry, higher education and research sectors. (Ref. A)

From June 2023 through to October 2023 an impact analysis was developed drawing from the targeted research of the working groups to outline the proposed policy options which was submitted to the Office of Impact Analysis. (Ref. B)

In November 2023 a draft bill was open for three weeks for public consultation to provide feedback with an official bill subsequently introduced to Australian parliament. One could argue that this wasn't enough time to analyse and implement the wider industry community's consultation to the draft bill before submission. (Ref. C)

On 8th April 2024, legislation passed and received Royal Assent. Government education initiatives rolled out from July until September, with the launch of the 2024 DTCA amendments and a tailored 'My Australian Defence Exports, known as the "MADE" portal on the 1st of September. (Ref. D)

A sixth month grace period has been granted before offences will come into effect on 1st March 2025. (Ref. A)

2.4 2024 Act Amendment Key Changes

The 2024 Amendments key changes include:

- Introduction of three (3) new Controls
- DSGL Modification
- Penalties for breaching Controls
- Introduction of Licence-Free Environment

2.4.1 New Controls within DTCA

1. **Section 10A:** Supply of Defence and Strategic Goods List (DSGL) technology to a non-exempt foreign person within Australia.

Figure 1: Defence Export Controls – DTCA Section 10A

2. **Section 10B:** Supply of goods and technology on Part 1 (Munitions) and Part 2 (Dual Use) 'Sensitive' and 'Very Sensitive' Lists of the DSGL, that was previously exported or supplied from Australia.

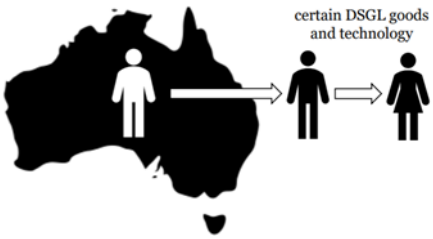

Figure 2: Defence Export Controls – DTCA Section 10B

3. **Section 10C:** Provision of DSGL services related to Part 1 of the DSGL to foreign nationals outside of Australia.

Figure 3: Defence Export Controls – DTCA Section 10C

2.4.2 Defence Strategic Goods List (DSGL)

The Defence Strategic Goods List (DSGL) outlines military and dual-use goods, software, and technologies regulated under Australia's export control laws. It serves as a critical tool for exporters and suppliers to identify items that require permits before they can be exported, supplied, published, or brokered.

Defence Export Controls (DEC) manages this process by issuing authorisations in the form of permits and approvals, ensuring that Australia's exports align with its national security and international obligations.

The DSGL is regularly updated—typically every 12 to 24 months—to maintain its relevance considering technological advancements and international control agreements. The most recent update occurred in August 2021.

The DSGL is structured in two parts:

1) **Part 1 - Munitions List**: Covers military and related goods specifically designed or adapted for defence purposes, including inherently lethal items like weapons, military vehicles, and combat software.
2) **Part 2 - Dual-Use List**: Includes goods, software, and technologies originally developed for commercial purposes but with potential military applications, such as components for military systems or technologies usable in weapons of mass destruction.

The DSGL reflects Australia's commitments to international non-proliferation and export control regimes, incorporating items such as production equipment, materials, and technologies identified in global multilateral control lists.

The DSGL 2024 repeals the DSGL 2021 and incorporates 278 updates, ensuring Australia's export controls align with international control regimes such as the Wassenaar Arrangement and the Missile Technology Control Regime (MTCR).

The amendments are categorised as follows:

- **231 Clarifications and Editorial Changes**: These changes improve definitions and usability but do not expand the scope of controls.
- **19 Scope-Expanding Updates**: These involve new controls or modifications to existing ones, capturing additional technologies, particularly in fields like advanced manufacturing, artificial intelligence, and quantum computing.
- **13 Scope-Reducing Amendments**: These remove or reduce the need for export permits for certain items.
- **15 Scope-Neutral Adjustments**: These are administrative updates with no direct impact on the scope of control.

DEC has assessed that overall, the updates will have a limited impact on Australian exporters and researchers. Consultation on these amendments occurred previously at the regime proposal stage. (Ref. F)

2.4.3 Penalties

Penalties under the DTCA exist to ensure compliance with export control laws and safeguard Australia's national security and international obligations. These penalties address unauthorised export, supply, publication, or brokering of controlled goods, technologies, and services, particularly those with military or dual-use applications.

2.4.3.1 Rationale for Penalties

Penalties are imposed to:

- Prevent the misuse of sensitive goods and technologies that could threaten national security or global stability.

- Ensure that Australia meets its obligations under international agreements, including the Wassenaar Arrangement, Missile Technology Control Regime, and Australia Group.
- Deter unauthorised transfers that could lead to the proliferation of weapons of mass destruction or other military applications by hostile entities (Ref. W).

2.4.3.2 Types of Penalties

The DTCA specifies both criminal and civil penalties for breaches, including:

- **Imprisonment**: Up to 10 years for severe offences, such as exporting controlled items without a permit.
- **Fines**: Up to 2,500 penalty units (currently AUD $782,500) for individuals and organisations.
- **Seizure of Goods**: Unauthorised exports may be confiscated by authorities.
- Revocation of Permits: Breaches can lead to withdrawal of existing export licences, impacting an organisation's ability to operate (Ref. W).

2.4.3.3 Enforcement Mechanisms

Enforcement is carried out by DEC branch of the Australian Department of Defence in collaboration with law enforcement and border protection agencies:

- **Monitoring and Compliance**: DEC oversees the issuance of permits and conducts audits to ensure organisations adhere to export control laws.
- **Investigations and Prosecutions**: The Australian Federal Police (AFP) and the Australian Border Force (ABF) investigate breaches, while cases are prosecuted under criminal law.
- **Reporting Obligations**: Organisations must maintain detailed records of exports and report any suspected breaches, ensuring transparency in operations.

DEC is dedicated to working with individuals, companies/businesses to ensure compliance and encourage voluntary disclosure if/when they suspect non-compliance (Ref. I).

2.4.4 Licence-Free Environment

The 2024 amendment seeks to facilitate increased trade between Australian, United Kingdom (UK) and United States (US) (AUKUS) nations, through creation of a tri-lateral licence-free environment, which should allow for faster and securer information sharing. Achieved through removing barriers for defence trade, collaboration, co-development, research and innovation.

Prior to the Amendment, all items on the DSGL required individual permits for each export, and this permit was either granted or denied by DEC.

With the Licence-Free environment now in-place instead of needing to apply for a permit prior to each-and-every export, Individuals can now apply to hold a DEC Client Registration Number (a DCRN), which if granted would provide exemption from needing individual export permits for trade with AUKUS nations for a specified period; as you would be considered part of the AUKUS Authorised Community (Ref. Y)

In 2012, DEC assessed over 3,000 applications each year with approximately 900 of these relating to an export to the UK or US. The value of these export was approximately AUD $8.75 billion; with exports to US and UK estimated at AUD $5 billion, equivalent to over 50%.

Total Applications	*Total: All Destinations*	*Total: UK and US*
All Stakeholders	***3,158***	***924***
Australian Higher Education	67	20
Australian Government	137	32
Foreign Government	7	0
Australian Industry	2947	872

Figure 4: 2022 DEC assessed export applications (Ref. B)

3 AMENDMENT CHALLENGES

Sections 10A, 10B and 10C are the key changes in the 2024 Amendment of the DTCA. This section explores key complexities that each of these sections introduce to the Act, and the impact they have on industry.

3.1 Section 10A

The 2024 amendments to the DTCA introduced section 10A, a provision aimed at tightening control over the distribution and handling of defence-related goods and information within Australia. While this section intends to enhance national security, it introduces several challenges for individuals and organisations dealing with controlled items.

A significant change under section 10A is the new requirement for individuals, rather than just organisations, to obtain an exemption or permit to supply controlled defence-related goods and services within Australia. Previously, such permits were not required for domestic transfers, and the responsibility lay largely with organisations. This shift means that individuals must now navigate complex licensing processes themselves, leading to an increased compliance burden (Ref. K). Additionally, applying at an individual level rather than an organisational level introduces logistical challenges, as individuals may lack the resources or expertise typically available within a corporate compliance department.

This change impacts not only contractors but also consultants and freelance professionals in defence-related sectors, who must now ensure that they are fully licensed independently, adding to administrative and legal costs.

3.1.1 Ambiguity in Defining an ‘Employee’

Another complexity in section 10A lies in the ambiguity surrounding the definition of an “employee.” While the term may seem straightforward legally, industry communication with government defence agencies reveals considerable confusion. The Legal Services Commission South Australia states “The rights and obligations of employees [someone who performs work under a contract of employment] are very different to those who are self-employed as independent contractors” (Ref. L). The rights and obligations mentioned here extend to the DTCA. Questions persist regarding how contractors, freelancers, and other non-traditional workers fit into this category.

The DTCA does not clearly delineate how these roles, which are increasingly common in defence-related industries, should be treated under the new licensing requirements The University of Melbourne emphasises this by stating that “the Bill remains silent on the definition of officers and employees” (Ref. M).

This ambiguity raises compliance issues, particularly for organisations relying on a flexible workforce. If contractors are not clearly classified, companies may face difficulties determining who is subject to DTCA regulations, potentially leaving them at risk of unintentional non-compliance.

3.1.2 Uncertainty in Information Transfer Boundaries

Section 10A also introduces uncertainties regarding when information is transferred to an individual versus a company. In today's globalised industry, where information flow frequently crosses borders and organisational boundaries, understanding this distinction is essential for legal and compliance purposes. This section defines the terms of an "Australian Person" and "Foreign Person", businesses impacted by these changes need to ensure they are completely aware of how and when information transfers to individuals differs from corporate transfers, especially in the context of multinational and cross-border operations (Ref. M).

This grey area could lead to complications in determining legal responsibility, as organisations may struggle to decide who is accountable for compliance: the individual handling the data, the department, or the organisation itself. This issue is particularly relevant for multinational corporations, where information often crosses national and organisational lines, making it challenging to establish where the liability lies.

3.2 Section 10B

The 2024 amendments to the DTCA introduced section 10B, a provision aimed at expanding regulatory control over the re-export, and international transfer of defence-related goods and technology containing Australian content.

3.2.1 Ambiguity in Defining 'Australian Content'

One of the most significant complexities introduced by section 10B is that any goods, technology, or intellectual property containing Australian content are subject to export control regulations. However, the Act provides limited guidance on what qualifies as Australian content, leaving businesses uncertain about the scope of their obligations. There is no clear advice if the act is limited to goods manufactured in Australia, or if it does in fact extend to items with any Australian-sourced components, intellectual property, or software (Ref. M).

This ambiguity is particularly challenging for industries that produce dual-use technologies, which are often subject to export regulations in other countries as well. Without a clear definition, businesses may face difficulties identifying what falls under DTCA's control, increasing the risk of accidental non-compliance. Companies involved in advanced manufacturing, telecommunications, and software development, where products may have components sourced from various countries, now require legal interpretation or clarification from regulatory bodies to confidently navigate export obligations under section 10B.

3.2.2 Criminal Liability for Re-Export of previously Exported Goods

One of the more significant changes in section 10B is the introduction of criminal liability for the re-export of goods that have already been exported from Australia.

This provision means that even if goods were initially exported legally, their subsequent re-export without additional authorisation can now lead to criminal charges. This change places an additional compliance burden on companies that deal with global supply chains, where goods may move between multiple jurisdictions after leaving Australia (Ref. O).

This aspect of section 10B is particularly concerning for industries with long and complex supply chains, such as electronics, aerospace, and pharmaceuticals, where products or components often pass through several countries.

Companies now face the risk of unknowingly facilitating unauthorised re-exports if their products are resold or transferred without the necessary permits. Compliance teams must closely monitor and manage the movement of their goods post-export, potentially increasing administrative costs and impacting the efficiency of global operations.

3.2.3 Extraterritorial reach of Australian Export Controls

Section 10B also extends the reach of Australian export controls beyond national borders, meaning that supply chains and exports involving Australian content are now subject to compliance and enforcement even when operating outside of Australia. This extraterritorial application of Australian law introduces significant challenges for multinational corporations, which may now be subject to dual or conflicting compliance requirements from multiple jurisdictions.

For example, company manufacturing electronics in another country using Australian components may now need to adhere to DTCA regulations, regardless of where its production facilities or customers are located. This requirement could necessitate additional resources to ensure compliance with Australian laws in international operations. Furthermore, it raises the possibility of enforcement actions by Australian authorities against individuals or entities outside Australia, adding a new layer of complexity to risk management strategies for multinational companies.

This extraterritorial reach also affects business relationships with non-Australian partners who may be wary of the extended control over their operations. To mitigate risks, companies with Australian content in their supply chains may need to establish international compliance teams or seek specialised legal advice to ensure adherence to DTCA standards worldwide.

3.3 Section 10C

The 2024 amendments to the DTCA, along with the introduction of the *Defence Amendment (Safeguarding Australia's Military Secrets) Act 2024*, an amendment to the Defence Act 1903 (Cth), introduced significant controls over the provision of training by Australian persons to foreign persons.

Section 10C prohibits the unauthorised provision of "DSGL Services" to a foreign person outside Australia.

3.3.1 Expansion of Services Classified Under the Act

One of the key updates in Section 10C is the broadened classification of DSGL services.

The amended DTCA now explicitly includes consultancy, maintenance, and other support services related to defence and strategic goods and technologies within its regulatory framework (Ref. P). This expansion means that activities previously considered ancillary, such as technical support, consulting, or training, are now clearly defined as controlled services and thus subject to compliance with DTCA regulations. There is also an overlap between the Amended DTCA and the SAMS Act which allows Australian Parties to provide overseas services by way of a “Foreign Work Authorisation” form (Ref. Q). This contradicts the intention of the DTCA amendments.

For industries such as engineering, defence consulting, and technology services, this expansion introduces new compliance challenges. Professionals providing expertise related to defence technologies must now assess their activities closely to determine whether they fall under the expanded definition of controlled services. Additionally, this may affect research collaborations, technical advisory roles, and other support functions that were not previously regulated under the DTCA, making it critical for individuals and organisations to reassess their compliance frameworks. This is already an area of concern for universities who clearly state that “All international research collaboration is important” (Ref. R).

3.3.2 Extraterritorial Application of Australian Law

Another significant complexity in Section 10C is the extension of Australian law to foreign nationals operating outside of Australia. Under the amended section, foreign nationals who engage in activities involving Australian-controlled goods or services can now be subject to prosecution under Australian law, even if they are located outside Australia. This extraterritorial reach represents a substantial expansion of the DTCA’s enforcement capabilities and aligns with global trends in export control laws where national regulations extend beyond domestic borders.

This provision has considerable implications for multinational corporations and foreign consultants. Companies that employ foreign nationals or work with international partners must now consider Australian compliance requirements, even if their activities occur entirely outside Australia. This may deter foreign nationals from engaging in Australian-related defence projects and necessitates that companies develop comprehensive compliance programs to manage risks across borders

4 INDUSTRY IMPACTS

4.1 Primes Companies

Whilst this section has been written from the perspective of a Prime Defence Company; many of the points raised and recommendations raised may impact; or be beneficial to any sized company within the Defence Industry.

4.1.1 Top-line growth impacts and opportunities

Top-line growth is described as the increase of a company's revenue or sales (not profit); reflecting its ability to expand its market reach, attract higher prices (for products or services) and attract more customers.

4.1.1.1 Top-line growth: challenges and impacts

The Amendment could have actual or perceived impacts to a companies' top-line growth if:

1) International and Domestic companies become hesitant to import Australian products as the export requirements imposed in Section 10B, now make the transaction unfeasible.
2) International companies seek alternative suppliers, as procuring an Australian widget will make their whole product assembly subject to Australian export controls.
3) Current Product Development strategies and pursuits are deemed no longer feasible, due to perceived reputational risks associated with re-export.
4) Reputational penalties are realised; because of re-export of DSGL to a non-exempt party.

While the intent of introducing the licence-free environment is to boost trade to and from Australia, with AUKUS nations, if not actively monitored by Government Australia may find the tri-lateral agreement to not be beneficial to Australia.

4.1.1.2 Top-line growth: opportunities and recommendations

To support industry, Government should consider:

1) Ensuring adequate global trade offset governance is in place, ensuring that all trade is considered mutually beneficial.
2) Implementing a threshold to prevent one relatively minor widget making a whole product assembly subject to export control requirements.
3) Continuing to assess the feasibility of aligning Foreign Country Lists (FCLs) between AUKUS nations to reduce the impacts of Section 10B.

4.1.2 Bottom-line growth impacts and opportunities

Bottom-line growth is described as the increase in a company's net profit.

4.1.2.1 Bottom-line growth: challenges and impacts

The Amendment could have actual impacts to companies' bottom-line growth if:

1) Financial Penalties are realised because of un-intended breaches of the DTCA, because of ambiguity in Act definitions or breach of requirements by Importer (party who has received Exported item).
2) Increase in overhead and operating costs which may not currently be recoverable under current contracting model.

4.1.2.2 Bottom-line growth: opportunities and recommendations

To support industry, Government should consider:

1) Encourage companies to contract with procurement strategies that will best enable recovery of any additional costs.
2) In turn, encourage Primes to adopt these strategies with their supply chain, who are often small to medium enterprises. If these small to medium enterprises (SME's) are negatively impacted, and their business is no longer viable – everyone fails.
3) Allocate budget to support Primes support to their supply chain; and be prepared to see these costs in Primes request-for-tender responses.
4) Remedy existing inefficiencies within the wider Export Controls Framework: for example, remove the requirement for a Foreign Work Authorisation (FWA) in the Safeguarding Australia's Military Secrets or SAMS Act, as this requirement could be considered duplicate as already covered in DTCA.
5) Implement a company-wide Security Accreditation process, to remove the requirement for individual exemption permits.
6) Providing clear, well communicated guidance to exporters, to ensure they are aware that they are responsible for end-use of product/service and are liable if the entity they supply to re-supplies a non-allowable party.

4.2 Practical Challenges for SMEs

4.2.1 Opportunities for SMEs

The recent amendment to the DTCA has unlocked substantial growth opportunities for Australian SME's by improving access to larger international defence markets, The amendment effectively eases restrictions on exports and enhances cooperation with international defence partners, especially in key markets like the United States (US) and the United Kingdom (UK).

The size and demand in these foreign defence markets vastly exceed that of Australia's, offering Australian SMEs an unprecedented growth potential. Even a marginal penetration of the US defence market, the world's largest, or the sizeable UK market could provide revenues far greater than those available domestically. (Ref S). The scale and demand for innovative defence solutions in these markets are immense, making this amendment a pivotal step in positioning Australian SMEs to capture lucrative contract opportunities.

Furthermore, this regulatory change fosters greater collaboration on defence research, development, and supply chain integration, allowing Australian SMEs to contribute unique technologies and capabilities to international projects. By leveraging this amendment, SMEs in the Australian defence industry can expand their global footprint, increase their resilience against domestic market fluctuations, and achieve scalable growth that was previously challenging under the original trade restrictions (Ref T). This shift not only aligns Australian defence firms with global partners but also supports long-term industry sustainability and competitiveness on the international stage.

4.2.2 Business Challenges for SMEs

The amendment to the DTCA represents a significant opportunity for Australian SME's, small and medium enterprises. However, with this expanded access comes an array of challenges that SMEs must overcome to compete successfully. These challenges arise primarily from the intensified competition, increased operational and compliance costs, and the need for substantial investment to establish a foothold in these markets.

4.2.2.1 Intense Competition with Established International Players

The amendment now allows Australian SMEs to participate in international tenders more readily, putting them in direct competition with well-established defence companies from the US, UK, and other countries. Large multinational companies often have substantial resources, long-standing relationships with defence agencies, and familiarity with procurement processes, giving them an inherent advantage over smaller, newer entrants from Australia (Ref U). These companies benefit from economies of scale, enabling them to lower production and service costs, thereby offering more competitive pricing that Australian SMEs may struggle to match.

Many U.S. defence contractors may already certified and compliant with US ITAR and other export controls, positioning them to enter new markets with minimal additional compliance efforts. Australian SMEs, on the other hand, may find it challenging to obtain similar certifications and meet complex requirements, which can be both time-consuming and costly. Competing against firms that are already compliant with international standards can make it harder for Australian SMEs to gain a competitive edge, as they must allocate resources toward meeting these same regulatory standards, which may detract from other business development activities.

4.2.2.2 Compliance and Certification Challenges

The defence industry is highly regulated, with strict standards governing the export of sensitive technology and information. Compliance with international defence trade regulations, such as ITAR for US markets or the UK Export Control Joint Unit (ECJU) requirements, is essential for securing contracts but presents a significant challenge for SMEs that may lack the resources or experience in handling these complex legal frameworks (Ref V). Each market often requires adherence to distinct legal requirements and certifications, necessitating specialised knowledge and processes that can be resource intensive.

For Australian SMEs, compliance with these regulations typically involves hiring legal and compliance experts, which can be prohibitively expensive. Additionally, they must develop internal processes for handling sensitive data, obtain export licences, and ensure all products meet specific technical and security standards. These efforts require significant upfront investment, potentially straining cash flow and diverting resources from other growth initiatives. In many cases, the costs associated with compliance can offset the financial gains of new market entry, limiting the potential for SMEs to compete effectively.

4.2.2.3 Increased Operational Costs and Investment Requirements

In addition to compliance, Australian SMEs must make substantial investments in research, development, and operational capabilities to match the scale and sophistication of their international competitors. Defence projects often require advanced technology, precision manufacturing, and robust quality assurance processes, all of which come at a high cost. Larger firms can absorb these expenses more easily due to their greater revenue streams and established infrastructure, whereas SMEs must make significant financial commitments to meet similar standards.

Moreover, defence procurement processes are often lengthy and complex, with multi-year contract negotiations that require consistent financial stability and operational readiness. SMEs may find it challenging to sustain the necessary cash flow over long contract cycles, particularly when payments are delayed or tied to project milestones. This extended timeline can create a financial strain on SMEs, especially those that lack external funding or access to government grants and subsidies (Ref K).

4.2.2.4 Strategic and Financial Barriers to Growth

For SMEs, growth within the international defence market often requires building strategic partnerships, securing financing, and strengthening international supply chains, all of which can be complex and resource intensive. Partnering with larger defence companies or establishing joint ventures can help SMEs access additional expertise and resources, but forming such alliances can be difficult due to competitive interests or perceived risks by larger firms. Moreover, SMEs may face barriers to obtaining funding for expansion, as traditional financing channels may view defence contracts as high-risk, particularly for smaller, less-established firms.

Additionally, the bureaucratic and regulatory hurdles associated with defence projects are time-intensive, requiring SMEs to navigate extensive documentation, security clearance processes, and contractual obligations. These challenges can deter smaller firms from entering new markets altogether or prevent them from pursuing projects that could drive growth. Without adequate resources or support, SMEs may find it difficult to overcome these barriers and establish a strong presence in international markets.

4.2.3 Practical Challenges for SMEs

The amendment to the DTCA introduces a host of practical challenges for SME's, especially as they attempt to balance increased regulatory demands with limited resources. Feedback from multiple SMEs has highlighted their difficulty in finding time and expertise to fully understand and implement the new compliance requirements. The operational impact of these changes is significant, straining small teams and adding complexity to daily functions.

4.2.3.1 Increased Workload and Resource Diversion

For many SMEs, the amendment means that existing staff must now take on additional roles, handling intricate compliance, governance, export controls, and contract reviews. This multifaceted responsibility is challenging for small teams that already operate at capacity, leading to an increased risk of errors and oversights. Compliance with the Act requires thorough knowledge of legal and regulatory frameworks, which small teams may lack the bandwidth to address, often forcing key personnel to focus on administrative tasks rather than core business activities, such as innovation and product development. This diversion of resources from growth-oriented activities can slow a company's trajectory and limit its competitiveness.

4.2.3.2 Compliance Risk and the Fine Balance of Over- and Under-Compliance

A significant challenge for SMEs lies in navigating the complex compliance requirements of the amended DTCA without falling into traps of over- or under-compliance. Over-compliance, such as exceeding regulatory requirements, can result in inefficiencies, added costs, and slower project execution times, as SMEs invest time and resources beyond what is necessary (Ref U). On the other hand, under-compliance, such as failing to meet required standards exposes SMEs to potential legal risks, penalties, and fines that could jeopardise their business. The fine line between over- and under-compliance requires nuanced understanding and often specialised compliance support, which can be difficult for smaller businesses to afford.

Navigating this balance requires frequent training and updates on regulatory changes, which can be particularly burdensome for SMEs with limited access to compliance expertise. For instance, the requirement for accurate export control management means that SMEs must monitor all stages of the export process and ensure that all stakeholders understand and implement controls effectively, adding another layer of operational complexity and potential risk.

4.2.3.3 The Impact on Business Agility and Innovation

These practical challenges have a direct impact on the agility of SMEs, as their focus shifts from growth and innovation to meeting administrative and compliance obligations. SMEs must adjust their workflows, potentially slowing their ability to respond to new market opportunities or changing customer demands. The diversion of resources to comply with the DTCA can limit investment in research and development, reducing the innovative capacity of SMEs and their competitiveness on the global stage.

4.3 Academia

4.3.1 The University Perspective

Australian universities, including the Group of Eight (Go8) (Ref. DD), the University of Melbourne (Ref. M), and Universities Australia (UA) (Ref. R), have broadly supported the goals of the Defence Trade Controls Amendment Bill 2023, recognising its role in safeguarding national security and advancing AUKUS objectives. However, they emphasise the need for clarity and balance in the legislation to avoid adverse impacts on international research collaborations. A key concern across submissions is the absence of a precise definition for "fundamental research." Universities argue that defining this term is essential to exempt basic scientific research from unnecessary regulatory oversight while ensuring compliance with national security objectives. This clarity would prevent inadvertent restrictions on academic activities that do not pose significant security risks.

The Universities highlight the risks posed by overly broad regulatory provisions. For instance, Universities Australia notes that amendments must carefully consider the complex and multifaceted nature of international research partnerships, which involve dynamic exchanges of ideas, personnel, and resources rather than simple bilateral transfers of information. Similarly, the University of Melbourne and the Go8 caution that imprecise legislative language could unintentionally encompass low-risk research activities or deter collaboration with researchers from non-AUKUS countries, who account for nearly half of Australia's international research partnerships. This could undermine Australia's research competitiveness and soft power, especially within the Indo-Pacific region.

Universities advocate for a tailored approach to the legislation, including narrowing the scope to high-risk items on Part 1 of the DSGL and aligning compliance measures with the capacities of smaller institutions. UA has recommended the inclusion of principles-based guidelines to complement any regulatory criteria, ensuring that the legislation remains flexible and forward-looking while addressing emerging security challenges. By engaging in sustained dialogue with the academic sector, the government can refine the amendment to support national security goals without compromising Australia's global research leadership or collaborative innovation networks.

4.3.2 Fundamental Research

Fundamental research is a cornerstone of academia, but prior to the passing of the amendment, its future faced uncertainty. A significant concern among academic institutions across Australia was the lack of a clear definition for "fundamental research" in the amendment (Ref. DD, M). This ambiguity left researchers uncertain about its boundaries, raised fears of personal liability, and led to apprehensions that such research could be unduly restricted. Fortunately, this feedback was acknowledged.

According to the DTCA 2012, as amended in 2024, "fundamental research" is defined as basic or applied research conducted under conditions where the results are:

1) Intended for public disclosure, publication, or broad sharing; and
2) Not subject to any restrictions on disclosure, such as security classifications or foreign policy limitations.

This definition is intended to ensure that fundamental research remains exempt from the scope of the DSGL, thereby safeguarding academic freedom and promoting open scientific collaboration.

However, companies wishing to collaborate with universities to undertake product research, development or commercialisation activities will unlikely be exempt from the DSGL, as this would not fall under the definition of fundamental research.

4.3.3 Challenges for Academia

4.3.3.1 Size and Scope: Foreign Students

To fully understand the scale and complexity of the challenges posed by the DTCA 2024, it is crucial to examine the demographic composition of students studying in Australia. In 2023, approximately 800,000 foreign students studying on a student visa were enrolled in Australian educational institutions (Ref. EE), making a significant contribution to both the academic and economic landscape. Looking further into the student numbers for 2023, according to the department of education 246,599 students with overseas citizenship were enrolled in postgraduate level courses, with 14,171 in natural and physical sciences, 41,762 in information technology and 23,845 in engineering (Ref. FF).

Under the DTCA, these students are classified as "foreign persons" because they do not hold Australian citizenship or permanent residency. This classification is important, as their involvement in research or access to controlled technologies may trigger compliance obligations under the DTCA.

4.3.3.2 Administrative Implications for Academic Institutions and Researchers

The large number of foreign students studying in Australia introduces significant administrative and compliance challenges for universities and research institutions. To ensure compliance with the DTCA, researchers and institutions are required to track and document all interactions with foreign persons, especially those involving access to controlled technologies or information. This includes applying for export permits or recording exemptions for each relevant instance, placing a heavy administrative burden on academic institutions.

For individual researchers, the DTCA introduces the need for detailed record-keeping of interactions with foreign collaborators, students, and scholars involved in projects linked to controlled technologies. This responsibility often falls on academics who may lack the necessary legal or administrative support, drawing their focus away from research and innovation. Furthermore, institutions must allocate additional resources to develop monitoring systems, train staff, and handle compliance documentation. These requirements place further strain on already stretched operational budgets, increasing the overall cost and complexity of conducting research.

4.3.3.3 Impact on Research Engagement and Innovation

The administrative challenges and risks associated with the DTCA are likely to discourage researchers from engaging with projects that involve controlled technologies. Navigating complex permitting processes, coupled with the fear of potential legal repercussions for non-compliance, may push academics to avoid areas of research that intersect with national security concerns. This hesitation poses a threat to Australia's leadership in critical fields such as artificial intelligence, quantum computing, and biotechnology, where dual-use applications are prevalent and international competition is intense.

In some cases, researchers may choose to bypass compliance due to a lack of understanding or resources, inadvertently placing themselves and their institutions at legal risk. This uncertainty and reluctance can create a chilling effect, where academics opt to focus on less sensitive research topics to avoid the administrative burden and risks associated with controlled technologies. Such a trend not only limits innovation within critical areas but also risks undermining Australia's reputation as a global hub for scientific and technological advancement.

4.3.3.4 Barriers to International Collaboration

The DTCA's influence extends beyond domestic research, with significant implications for Australia's ability to engage in international collaborations. Major research partners which are not included on the FCL, may view Australia's compliance requirements as overly restrictive and burdensome. This perception could discourage collaborative projects, as researchers and institutions in non-FCL countries may prefer to partner with jurisdictions that impose fewer constraints on the sharing of knowledge and technology.

Additionally, the administrative complexity associated with compliance may deter Australian academics from pursuing or maintaining international partnerships. This could lead to a decline in Australia's participation in global research networks, isolating its academic community. The risk of "export taint," where Australian researchers are perceived as operating under excessive regulatory barriers, could further damage international confidence in Australia's academic sector. This reputational challenge may deter top-tier international scholars and students from engaging with Australian institutions, compounding the long-term impact on the country's research capacity and its standing within the global academic and innovation ecosystem.

4.3.4 Opportunities for Academia

4.3.4.1 Leveraging AUKUS Collaborations for Research Advancements

The 2024 data from the Australian Research Council's National Competitive Grants Program highlights that Australia's strongest international research collaborations are with the United States and the United Kingdom—key partners in the AUKUS alliance—and that most of the top ten collaborators are on the Foreign Countries List (FCL). This alignment offers Australian universities a unique opportunity to deepen these existing partnerships under the DTCA 2024. The amendment streamlines regulatory processes, reducing administrative barriers and enabling smoother collaboration on defence-related research.

By capitalising on the licence-free environment provided under AUKUS agreements, universities can gain access to advanced technologies and resources that were previously challenging to share. This opens new possibilities for joint innovation in areas critical to national defence, such as advanced manufacturing, artificial intelligence, and quantum technologies. To fully realise these benefits, Australian academia must proactively engage with the AUKUS Authorised Community, enabling researchers to contribute to and benefit from cutting-edge, trilateral defence research initiatives. This engagement not only strengthens Australia's role in the alliance but also positions universities as leaders in global defence innovation.

4.3.4.2 Advancing National Security and Defence Innovation

The DTCA presents Australian universities with significant opportunities to enhance their contributions to national security and defence innovation. By aligning research efforts with the Act's provisions, universities can play a pivotal role in advancing technologies critical to Australia's strategic interests. This alignment not only supports national defence objectives but also positions academic institutions as key partners in the development of cutting-edge solutions (Ref. DD).

4.3.4.3 Strengthening Government and Industry Partnerships

Engaging with the DTCA enables universities to strengthen collaborations with government agencies and industry partners. By ensuring compliance with export control regulations, academic institutions can build trust and credibility, facilitating deeper partnerships in defence-related research and development. These collaborations can lead to increased funding opportunities, access to specialised resources, and participation in high-impact projects that drive innovation and technological advancement (Ref. R).

4.3.4.4 Enhancing Governance and Global Credibility

The DTCA also encourages universities to develop robust compliance frameworks and governance structures. Implementing these measures not only ensures adherence to legal requirements but also enhances the institution's reputation for responsible research practices. This commitment to compliance can attract international collaborations, as global partners seek institutions with strong governance in managing sensitive technologies and information (Ref. R).

4.3.4.5 Building Capacity Through Specialised Training

Furthermore, the DTCA provides an impetus for universities to invest in specialised training and capacity-building initiatives. By equipping researchers and staff with the knowledge and skills to navigate export control regulations, institutions can foster a culture of compliance and innovation. This proactive approach not only mitigates risks but also empowers researchers to explore new avenues in defence-related research, contributing to Australia's technological leadership on the global stage (Ref. DD).

4.4 Parallel Industry

4.4.1 What is a Parallel Industry?

Parallel industries are also being significantly impacted by the DTCA 2024 amendments, especially the new clauses 10A, B, and C. While not directly part of the defence sector, these industries share overlapping technologies, expertise, and markets, making them integral to the broader ecosystem of national security and technological advancement. They provide essential products and services that not only enhance defence capabilities but also serve vital civilian and commercial applications.

These industries often act as innovation hubs, driving the development of dual-use technologies that can be applied in both defence and non-defence contexts. For example, advancements in aerospace materials, cybersecurity solutions, or telecommunications infrastructure frequently originate from collaborations between defence and civilian entities. This intersection of capabilities underscores their strategic importance in meeting evolving defence needs while maintaining commercial viability.

The DTCA 2024 amendments introduce stricter controls and compliance requirements, affecting industries that interact with defence-related technologies or services. For example, organisations within these parallel industries may need to reevaluate their export control policies, intellectual property management, and supply chain security to align with the updated regulations.

Key parallel industries include:

- **Aerospace**: Developing materials, unmanned aerial systems (UAS), and other cutting-edge technologies with applications in both defence and civilian aviation.
- **Space**: Designing satellites, launch systems, and related technologies that are increasingly vital for surveillance, communications, and scientific exploration.
- **Cybersecurity**: Providing critical infrastructure protection and advanced software solutions to secure sensitive data for governments and private entities.
- **Manufacturing**: Producing high-performance components and systems, such as advanced composites or precision engineering, that can be adapted for defence or civilian use.
- **Engineering**: Delivering innovative solutions for structural, mechanical, and systems challenges, benefiting both military projects and large-scale civil initiatives.
- **Telecommunications**: Creating secure, high-speed communication networks that support both defence operations and global commercial connectivity.

4.4.2 Challenges for Parallel Industry

The DTCA 2024 amendments introduce a range of compliance and operational challenges for parallel industries. These industries, while not directly tied to defence, intersect with it through the production of dual-use technologies, provision of secondary supply, or engagement in export activities.

An industry peer from AllianceSA, noted that many parallel industry stakeholders remain unaware of these amendments and their potential impact. While pilot programs for defence export markets are being developed, similar initiatives for parallel industries are lacking, leaving a significant gap in guidance and support.

H&B Defence is conducting supply chain gap analyses to identify missing security and compliance measures for SMEs. This is critical for industries like mining and renewables, which face similar workforce and compliance hurdles due to large-scale projects, such as hydrogen development and Northern Waters initiatives. These industries must decide whether to invest in accreditation and licensing, especially when future work opportunities remain uncertain.

Pilot programs by HII and the Australian Submarine Agency are being trialled to assist companies in entering international defence supply chains, providing opportunities for consultancy firms to guide SMEs in compliance and accreditation (Ref. E). However, it is unknown whether parallel industry associations or regulatory bodies provide similar initiatives.

Key Challenges include:

- **Awareness:** Many organisations are unaware that their technologies now fall under DSGL controls.
- **Compliance:** Updating internal compliance frameworks to reflect new obligations can be time intensive.
- **Delays**: Securing permits for newly controlled items may disrupt timelines.
- Industries must now thoroughly review the DSGL 2024 and align their compliance practices to avoid penalties or disruptions.

4.4.2.1 Dual-Use Technology

One of the major challenges faced by parallel industries is identifying whether their products or technologies now fall under the updated DSGL. Dual-use technologies, which have both civilian and military applications, are particularly susceptible to these changes.

Despite the DEC assessment that these updates will have a limited impact on exporters and researchers, companies in parallel industries face significant challenges in understanding and implementing the new requirements (Ref. F).

4.4.2.2 Secondary Supply

The secondary supply of DSGL items presents unique challenges for parallel industries, even though these industries might not directly associate themselves with defence. Secondary supply refers to the situation where a person or company outside Australia lawfully receives DSGL goods or technology and then supplies or re-exports them elsewhere without a permit. This provision under the DTCA amendments has far-reaching implications, as it holds Australian companies responsible for tracking and, to some extent, controlling the end-use of exported technologies once they leave Australia.

4.4.2.3 Non-Compliance

Non-compliance with the DTCA 2024 amendments can have severe consequences, particularly regarding the supply of DSGL technical assistance or technology to individuals or organisations not on the FCL (Ref. G).

Key Risks:

- Providing instruction, training, or consulting services involving DSGL technology to unauthorised foreign workers.
- Sharing technical data, such as blueprints or engineering specifications, with unauthorised foreign workers.

Parallel industry companies will need to become vigilant in hiring workforce personnel to ensure safeguarding the DTCA amendments. One compliance pathway involves ensuring employees hold a 'covered security clearance' (Negative Vetting 1 (NV1) or higher) from recognised countries such as Australia, the UK, the US, Canada, or New Zealand (Ref. H).

4.4.2.4 Record Keeping

Another challenge is the stringent record-keeping requirements introduced by the amendments. Companies must maintain detailed records of all DSGL-related transactions for five years, which can be a complex and resource-heavy task for organisations unaccustomed to such standards.

4.4.3 Opportunities for Parallel Industry

The DTCA 2024 amendments not only introduce stricter compliance measures but also provide exceptions and opportunities that parallel industries can leverage to foster growth and innovation. These exceptions are designed to encourage collaboration, streamline processes, and reduce administrative barriers for companies working within the scope of regulated technologies.

4.4.3.1 Trilateral export licence-free environment

The AUKUS trilateral export licence-free environment will enable streamlined export, re-export, supply and re-supply of most DSGL technologies without the need for a permit or licence, therefore, enhancing international collaboration and strategic Research and Development capabilities with not only AUKUS countries but also the countries on the FCL.

4.4.3.2 Consultancy

Cybersecurity companies, legal firms and professional services can begin offering consultancy on the DTCA and assist companies across all industry sectors in remaining compliant with the 2024 amendments.

4.4.3.3 Overall assessment

By navigating the complexities of the DTCA, parallel industries can mitigate risks, capitalise on new opportunities for innovation and growth, and maintain their competitive edge in their chosen sector.

5 RECOMMENDATIONS

The following recommendations are what industry will require to adapt to the new DTCA.

5.1 Recommendations for Defence Industry

The recent amendments to the DTCA have brought about significant changes to the Australian defence industry landscape. To ensure compliance and minimise disruption, defence industries must implement strategic adjustments and adopt best practices.

A crucial step is to establish robust record-keeping and compliance mechanisms. This includes centralising record storage, conducting regular internal audits, and providing comprehensive staff training, and awareness programs.

Prime contractors play a vital role in supporting SMEs by securing adequate funding to help them meet increased compliance requirements. Fostering knowledge sharing, collaboration, and robust subcontractor management practices can further streamline processes and reduce compliance costs.

The Office of Defence Industry Support (ODIS) and industry associations i.e., Defence Teaming Centre (DTC) and the Australian Industry Defence Network (AIDN) should continue to provide regular updates, training programs, and targeted outreach campaigns to keep industry stakeholders informed about the latest DTCA amendments and compliance requirements. Creating a comprehensive online resource hub can also assist industry in meeting their obligations.

To improve efficiency and reduce administrative burdens, defence industries should identify and eliminate unnecessary bureaucratic hurdles, leverage digital technologies to automate processes, and explore procurement strategies that allow for the recovery of costs incurred due to the DTCA amendments. Fostering strong partnerships between government and industry can lead to innovative solutions to compliance challenges.

By implementing these recommendations, defence industries can effectively adapt to the new DTCA landscape. A proactive approach to compliance, coupled with strategic partnerships and technological advancements, will ensure the long-term sustainability and competitiveness of the Australian defence sector.

5.2 Recommendations for Non-Defence Industry

The recent amendments to the Defence Trade Controls Act, particularly Section 10A,10B and 10C, have a significant impact on parallel industries. The new regulations place a higher level of awareness and compliance on non-defence organisations that may be unaware of the DTCA and the implications to their business.

To mitigate risks and ensure adherence to the new regulations, parallel industries are strongly advised to take the following steps:

1) **Engage with Industry Awareness Groups:** Actively participate in industry forums and workshops to stay informed about the latest developments, best practices, and potential pitfalls.
2) **Familiarise Themselves with the DTCA:** Thoroughly understand the provisions of the Defence Trade Controls Act, with particular attention to Sections 10A-C and its implications for parallel industries.
3) **Seek Legal Advice:** Consult with legal experts specialising in trade controls to obtain tailored guidance and ensure compliance with the complex regulatory landscape.

By taking these proactive measures, parallel industries can effectively navigate the increased regulatory burden, minimise the risk of non-compliance, and maintain their operational integrity.

5.3 Recommendations for Government

The recent amendments to the DTCA necessitate a comprehensive approach to support businesses and ensure compliance. The following sections outline key recommendations for the government to consider.

5.3.1 Provide Financial Subsidies for Impacted Businesses

The amendments could place significant financial strain on businesses, potentially disrupting their operations. To mitigate these challenges and support continuity, a subsidy program tailored to affected businesses should be implemented. Such a program would benefit from well-defined eligibility criteria and a streamlined application process, ensuring it remains accessible and effective in addressing the financial pressures caused by the regulatory changes.

5.3.2 Provide Annual Awareness Courses

Ongoing education is crucial for businesses to stay informed about regulatory changes and compliance requirements. To maintain high levels of compliance and understanding, annual awareness courses focused on the latest updates to the DTCA should be developed and made accessible to all relevant stakeholders. Additionally, allocating specific funding for free training and guidance programs will help businesses navigate the new regulations, reducing the risk of non-compliance and fostering a culture of adherence to the DTCA. To further enhance industry expertise, establishing or endorsing an accredited export practitioner course will equip professionals with the knowledge and skills required to manage export controls effectively, ensuring compliance with the DTCA. This comprehensive approach will support businesses in understanding and implementing the necessary changes, contributing to a strong and compliant export industry.

5.3.3 Collaborate with Australian Securities and Investments Commission (ASIC)

To enhance awareness and address the challenges faced by parallel industries, we recommend that the Australian Securities and Investments Commission (ASIC) review the Australian Business Number (ABN) and Australian Company Number (ACN) registers. This proactive approach will enable ASIC to identify businesses within the parallel industry category and directly notify them about the potential impacts and opportunities arising from the recent DTCA amendments.

5.3.4 Prepare for increased Request-for-Tender (RFT) Responses

Supporting businesses in adapting to the amendments is crucial for maintaining supply chain integrity. Accepting RFT responses that include costs for adapting to the amendment requirements, ensuring that necessary support is provided to the supply chain.

5.3.5 Continue to Support Industry and Academia

The recent changes to the act have led to significant uncertainty and confusion within the industry. The government must continue to provide clear guidance and support to industry and academia to ensure a comprehensive understanding of the recent changes. This ongoing collaboration will help to mitigate confusion.

6 CONCLUSION

The 2024 amendments to the DTCA represent a pivotal shift in Australia's regulatory framework for defence and parallel industries. While the amendments aim to simplify trade with key partners and improve access to advanced defence markets, they also present substantial compliance and operational challenges.

Businesses, particularly SMEs, face increased administrative and financial burdens, while academia must navigate complex regulatory landscapes that could hinder international research collaborations. Parallel industries, which overlap with defence capabilities, must also adapt to heightened controls, emphasizing the need for robust compliance frameworks.

To fully leverage the benefits of these amendments, coordinated efforts are essential across government, industry, and academia. Clear guidance, targeted support, and proactive stakeholder engagement will be key to mitigating risks and fostering innovation. By addressing ambiguities, streamlining compliance, and investing in capacity building, Australia can not only safeguard its strategic interests but also position itself as a global leader in defence innovation and collaboration.

The recommendations outlined in this report emphasize the importance of this proactive attitude that is required, and the need for adoption of strategies for the defence and parallel industries, including robust compliance mechanisms, strategic partnerships, and leveraging digital technologies. Non-defence industries must increase awareness of the DTCA, seek expert advice, and engage with industry forums to navigate the evolving regulatory landscape. By addressing the perceived lack of clarity through dedicated roles, targeted training, robust procedures, and active engagement with industry bodies and the government, the defence industry can effectively navigate these changes and continue to contribute to Australia's defence and security objectives.

This collaborative approach will not only address immediate challenges but also strengthen the foundations for long-term resilience and innovation. Through strategic adaptation and partnership, the Australian defence ecosystem can overcome these transitional challenges, strengthen its international standing, and contribute meaningfully to national security and economic resilience in an increasingly complex geopolitical environment.

7 REFERENCES

A. ACT, R. (2024) *Department of Defence*, *Defence*. Available at: https://www.defence.gov.au/about/reviews-inquiries/defence-trade-controls-amendment-act-2024-defence-trade-legislation-amendment-regulations-2024.

B. https://www.defence.gov.au/sites/default/files/2024-08/ImpactAnalysis-StrengtheningAustraliasExportControlFramework.pdf

C. *Release of Defence Trade Controls Amendment Bill 2023 for Public Consultation | AIDN* (2023) *Spark Template*. Available at: https://aidn.org.au/release-of-defence-trade-controls-amendment-bill-2023-for-public-consultation/ (Accessed: 14 November 2024).

D. ACT, R. (2024) *Department of Defence*, *Defence*. Available at: https://www.defence.gov.au/business-industry/exporting/outreach-training (Accessed: 14 November 2024).

E. AllianceSA (2024) 'Impact to Parallel Industries'.

F. scheme=AGLSTERMS.AglsAgent; corporateName=Home Affairs (2024) *Federal Register of Legislation - Defence and Strategic Goods List 2024*, *Legislation.gov.au*. Available at: https://www.legislation.gov.au/F2024L01024/asmade/text/explanatory-statement (Accessed: 16 November 2024).

G. Australian Government 2024, *Defence and Strategic Goods List 2024: Explanatory Statement*, available at: https://www.legislation.gov.au/F2024L01024/asmade/text/explanatory-statement.

H. Australian Government 2024b, *Rules for Supplying DSGL Technology within Australia*, available at: https://www.defence.gov.au/sites/default/files/2024-10/Rules-for-supplying-DSGL-technology-within-Australia.pdf.

I. ACT, R. (2024) *Department of Defence*, *Defence*. Available at: https://www.defence.gov.au/business-industry/exporting/compliance/voluntary-disclosure (Accessed: 16 November 2024).

J. Louis, K. (no date) *Defence Trade Controls Amendment Bill 2023 -Submission Guidance 1. Name*. Available at: https://www.aigroup.com.au/globalassets/news/submissions/2023/defence_trade_control_amendment_bill_2023_guidance.pdf (Accessed: 18 November 2024).

K. Galfi, E. (2024). Impact unknown? AUKUS-friendly amendments pose industry challenges. [online] International Trade Advisors. Available at: https://internationaltradeadvisors.com.au/wp-content/uploads/2024/05/Eva-Galfi-AUKUS-Impact-Article-May-2024.pdf [Accessed 21 Nov. 2024].

L. Legal Services Commission South Australia (2024). Employees and Independent Contractors. [online] www.lawhandbook.sa.gov.au. Available at: https://www.lawhandbook.sa.gov.au/ch18s03.php

M. The University of Melbourne (2024). The Defence Trade Controls Amendment Bill 2023. [online] Available at: https://about.unimelb.edu.au/__data/assets/pdf_file/0027/414198/UoM-Submission-DTC-Amendment-Bill-2023-Senate-Inquiry-Final.pdf

N. Moulis, D. and Bridges, A. (2015). Does sending emails require an export licence | ML. [online] Moulislegal.com. Available at: https://moulislegal.com/knowledge-centre/before-you-hit-send-does-your-email-require-an-export-licence/ [Accessed 21 Nov. 2024].

O. Greenwalt, D.W. and Corben, T. (2024). AUKUS enablers? Assessing defence trade control reforms in Australia and the United States. [online] Ussc.edu.au. Available at: https://www.ussc.edu.au/aukus-assessing-defence-trade-control-reforms-in-australia-and-the-united-states [Accessed 21 Nov. 2024].

P. DEC (2024). INFORMATION SESSION FREIGHT AND TRADE ALLIANCE. [online] Available at: https://ftalliance.com.au/data/news_attachments/freight%20and%20trade%20alliance.pdf [Accessed 21 Nov. 2024].

Q. ACT, R. (2024). Department of Defence. [online] Defence. Available at: https://www.defence.gov.au/business-industry/industry-governance/industry-regulators/safeguarding-australias-military-secrets/legislation [Accessed 21 Nov. 2024].

R. Universities Australia (2023). SUBMISSION ON AMENDMENTS TO THE DEFENCE TRADE CONTROLS ACT 2012. Available at: https://universitiesaustralia.edu.au/wp-content/uploads/2023/11/UA-Submission-2023-Review-of-the-Defence-Trade-Controls-Act-2012.pdf

S. ACT, R. (2024). *Department of Defence*. [online] Defence. Available at: https://www.defence.gov.au/business-industry/exporting/export-controls-framework/changes-export-controls [Accessed 22 Nov. 2024].

T. Henneke, G. (2024). *AUKUS Pillar 2 critical pathways: a road map to enabling international collaboration*. [online] Aspi.org.au. Available at: https://www.aspi.org.au/report/aukus-pillar-2-critical-pathways-road-map-enabling-international-collaboration.

U. Australian Defence Manual (2024). *Navigating the compliance dilemma of Defence export controls - Australian Defence Magazine*. [online] Australiandefence.com.au. Available at: https://www.australiandefence.com.au/business/navigating-the-compliance-dilemma-of-defence-export-controls.

V. Australian Industry and Defence Network (2024). *Export Controls Australia Group Partners with Australian Industry & Defence Network to Bolster SMEs under AUKUS Agenda | AIDN*. [online] Spark Template. Available at: https://aidn.org.au/export-controls-australia-group-partners-with-australian-industry-defence-network-to-bolster-smes-under-aukus-agenda [Accessed 22 Nov. 2024].

W. ACT, R. (2024) *Department of Defence*, *Defence*. Available at: https://www.defence.gov.au/business-industry/exporting/compliance/penalties-breaches (Accessed: 23 November 2024).

X. Australian Government Defence (2024), Defence Trade Controls Amendment Act 2024, and Defence Trade Legislation Amendment Regulations 2024, [Last accessed 21 Nov 2024], Defence Trade Controls Amendment Act 2024 and Defence Trade Legislation Amendment Regulations 2024 | About | Defence

Y. Australian Government Defence (2024), Export Controls Framework, [Last accessed 21 Nov 24), Export controls framework | Defence

Z. Australian Government, Office of Impact Analysis: Department of the Prime Minister and Cabinet, Impact Analysis Strengthening Australia's Export Control Framework [Last accessed 21 Nov 24],Impact-Analysis-Australia's-Export-Control-Framework.pdf

AA. ACT, R. (2024a). Defence Trade Controls Amendment Act 2024 and Defence Trade Legislation Amendment Regulations 2024. [online] Defence. Available at: https://www.defence.gov.au/about/reviews-inquiries/defence-trade-controls-amendment-act-2024-defence-trade-legislation-amendment-regulations-2024.

BB. Louis, K. (n.d.). Defence Trade Controls Amendment Bill 2023 -Submission Guidance 1. Name. [online] Available at: https://www.aigroup.com.au/globalassets/news/submissions/2023/defence_trade_control_amendment_bill_2023_guidance.pdf.

CC. Bill (2023). *Go8 submission to Senate Inquiry into Defence Trade Controls Amendment Bill 2023[Provisions]*. [online] Group of Eight. Available at: https://go8.edu.au/go8-submission-to-senate-inquiry-into-defence-trade-controls-amendment-bill-2023provisions

DD. Bill (2023). *Go8 submission to Senate Inquiry into Defence Trade Controls Amendment Bill 2023[Provisions]*. [online] Group of Eight. Available at: https://go8.edu.au/go8-submission-to-senate-inquiry-into-defence-trade-controls-amendment-bill-2023provisions

EE. Australian Government Department of Education (2023). *International student numbers by country, by state and territory*. [online] Department of Education. Available at: https://www.education.gov.au/international-education-data-and-research/international-student-numbers-country-state-and-territory

FF. Clarke, M. (2024). *Perturbed Student Enrolments Pivot Table 2023 - Department of Education, Australian Government*. [online] Department of Education. Available at: https://www.education.gov.au/higher-education-statistics/resources/student-enrolments-pivot-table-2023.