Defence Export Controls Policy

Responsible Officer
Deputy Vice-Chancellor (Research)

Approved by
Vice-Chancellor

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April, 2016

Review by
April, 2019

Relevant Legislation, Ordinance, Rule and/or Governance Level Principle

- Customs Act 1901 (Cth)
- Customs (Prohibited Exports) Regulations 1958 (Cth)
- Customs (Prohibited Imports) Regulations 1956 (Cth)
- Defence and Strategic Goods List - November 1996 (Cth)
- Defence and Strategic Goods List Amendment Instrument 2015 (Cth)
- Defence Trade Controls Act 2012 (Cth)
- Weapons of Mass Destruction (Prevention of Proliferation) Act 1995 (Cth)

Responsible Organisational Unit
Office of Research Services

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Objective

The objective of this Policy is to ensure that the University of Tasmania complies with Australia’s export control measures.

Australia’s defence export controls regulate the export of defence and strategic goods, technology and software from Australia. This includes the supply and publication of certain controlled information. While research or teaching activities may not be specifically related to weapons or defence, they may involve defence and strategic goods, technology or software. Export of these items from Australia to a place outside Australia requires a permit.

This Policy also demonstrates the commitment of the University to providing appropriate resources to assist staff, students and associates to:

- be aware of their obligations as individuals to comply with Australia’s export control laws
- monitor compliance with Australia’s export control laws, and
- review and improve the University’s control and compliance policies and procedures.

Scope

This Policy applies to all staff, visiting fellows and scholars, people holding discretionary or honorary titles and students, including those based internationally or studying by distance, at the University of Tasmania involved in the conduct of research associated with the University.

This Policy covers tangible and intangible export of or providing access to controlled goods, publishing and brokering overseas supply of controlled goods, including defence and related goods and dual-use goods and technologies.

Policy Provisions

The following provisions broadly provide direction on complying with Australia’s export control measures. Detailed information can be found on the University’s Defence Export Control webpage and the Commonwealth Government’s Defence Export Control website.

3.1 Export controls

Australia’s export controls legislation affects the tangible and intangible export of defence and related goods and dual use goods and technologies. Where there is:

- a tangible or intangible export from Australia to a place outside Australia of items or technology on the Defence and Strategic Goods List (DSGL)
- publication of military use technology on the DSGL
- brokering overseas supply of military use items or technology on the DSGL.

Anyone involved in the conduct of research associated with the University of Tasmania must be aware of and comply with Australian export controls legislation.
The Defence and Strategic Goods List (DSGL) is a Legislative instrument that is amended from time to time to reflect changes in the various multilateral non-proliferation and export control regimes of which Australia is a member. The DSGL can be accessed online here. The DSGL is divided into two parts.

Part 1 is the Munitions List which lists certain goods and technologies designed or adapted for military use or goods that are inherently lethal. It has two categories: Military Goods and Non Military Lethal Goods.

Part 2 is the Dual-Use List which lists equipment and technologies developed to meet commercial needs but which may be used either as military components or for the development or production of military systems or weapons of mass destruction. It has 10 categories.

- Category 0: Nuclear Materials, Facilities and Equipment
- Category 1: Materials, Chemicals, Microorganisms and Toxins
- Category 2: Materials Processing
- Category 3: Electronics
- Category 4: Computers
- Category 5: Telecommunications and Information Security
- Category 6: Sensors and Lasers
- Category 7: Navigation and Avionics
- Category 8: Marine
- Category 9: Aerospace and Propulsion

An export occurs when defence and strategic goods, technology and software are moved from Australia to a place outside Australia. Exports can be tangible or intangible and may require a permit or approval.

### 3.1.1 Tangible export

Under regulation 13E of the *Customs (Prohibited Exports) Regulations 1958*, the DSGL is recognised as part of Australia’s export controls. Goods included in the DSGL may not be exported from Australia in tangible form unless a licence or permission has been granted by the Minister for Defence, or an authorised person, and that licence or permission is produced to a Collector of Customs before exportation.

A tangible export is a physical export of defence and strategic goods, technology and software - for example items exported by ship, aircraft, post or courier or carried in checked-in or hand-held luggage. A tangible export can be in the form of technology stored on a physical medium such as a CD, DVD, USB or computer hard drive or in the form of blueprints, diagrams or notes.

### 3.1.2 Intangible export

The *Defence Trade Controls Act 2012* further strengthens Australia’s existing export controls by regulating the intangible export of technology items on the DSGL list. Export of such items is controlled by the issue of permits where applicable and it is an offence to export without the appropriate permit or licence. Such export may be by supplying DSGL technology from a place in Australia to a place outside Australia. DSGL technology includes information relating to goods such as information relating
to the design, development and modification of goods and includes for example blueprints, drawings, algorithms or software.

An intangible export occurs when a person in Australia supplies or provides a person located outside Australia with access to DSGL Technology – for example by email, fax, telephone, video conferencing, presenting at a conference or providing a password to access electronic files.

There are also offences for

- publishing DSGL military use technology, and
- arranging for (or ‘brokering’) other persons to perform the overseas supply of military use DSGL items or military use DSGL technology.

There are exceptions in the legislation including technology that is already in the public domain or that is for basic scientific research as defined.

University staff must ensure that assessment for compliance with the Defence Export Control legislation occurs in respect of intangible export of items on the DSGL or items of DSGL technology or if access to DSGL technology is to be provided. Publication of DSGL military-use technology must also be assessed for compliance under the Defence Export Control legislation.

There are significant penalties for failure to comply with the legislation.

3.2 Record keeping

Records and Information supporting the activities of this policy will be created, managed and retained in accordance with the Defence Export Control Legislation.

4 Responsibilities

The University is required to:

- Develop and implement policy and procedures to ensure compliance with Australian export controls laws
- Provide training and support for researchers to ensure compliance with Australian export controls laws

Researchers are required to:

- Comply with Australian export controls laws by assessing whether their teaching or research involves controlled items, and identifying whether permits may be required in accordance with this policy and supporting procedures. Researchers should use the Online DSGL Tool (available here) to establish whether a permit is required to export, supply, publish or broker controlled goods, software of technology.
## Definitions and Acronyms

<table>
<thead>
<tr>
<th>Term/Acronym</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Basic scientific research</td>
<td>Experimental or theoretical work undertaken principally to acquire new knowledge of the fundamental principles of phenomena or observable facts, not primarily directed towards a specific practical aim or objective.</td>
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<tr>
<td>Broker</td>
<td>Arranging for another person to supply goods or DSGL technology, where the goods are listed in the Defence and Strategic Goods List and the supply is, or is to be, from a place outside Australia to another place outside Australia.</td>
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<tr>
<td>DECO</td>
<td>Defence Export Control Office.</td>
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<tr>
<td>DSGL</td>
<td>Defence and Strategic Goods List. Australia's list of regulated goods and technology which require a permit or license before exportation.</td>
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<tr>
<td>DSGL technology</td>
<td>A thing that is:</td>
</tr>
<tr>
<td></td>
<td>(a) technology, or software, as defined in the Defence and Strategic Goods List; and</td>
</tr>
<tr>
<td></td>
<td>(b) within the scope of that list.</td>
</tr>
<tr>
<td>Intangible</td>
<td>Not having a physical presence.</td>
</tr>
<tr>
<td>In the public domain</td>
<td>“Technology” or “software” which has been made available without restrictions upon its further dissemination (copyright restrictions do not remove “technology” or “software” from being “in the public domain”).</td>
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<tr>
<td>Organisational Unit</td>
<td>Faculty, School, Centre, University Institute, other University Entity, Division, Section or University Business Enterprise.</td>
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<td>Publish</td>
<td>Making DSGL technology available to the public by placing it in the public domain, for example via a journal or website, without access restrictions.</td>
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<td>Researcher</td>
<td>Anyone associated with the University of Tasmania involved in the conduct of research. This includes staff, visiting fellows and scholars, people holding discretionary titles and students.</td>
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<tr>
<td>Supply</td>
<td>Supply by way of sale, exchange, gift, lease, hire or hire-purchase and in relation to DSGL technology—including providing access to DSGL technology.</td>
</tr>
<tr>
<td>Tangible</td>
<td>Clear and definite.</td>
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6 Supporting Documentation

- Responsible Conduct of Research Policy
- Legal Compliance Policy
- Travel Policy
- Admissions Policy
- Collaborative Research Policy
- Dangerous Goods Handling Policy
- National Code of Practice for Chemicals
- Purchasing Policy
- Ordinance 18, Intellectual Property
- Workplace Inspection Procedure and Checklist

7 Versioning