

**Mr Peter Tesch and Professor Graeme Samuel AC**

Co-leads, Review of Defence Trade Controls Act 2012  
Department of Defence

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**3 November 2023**

Dear Mr Tesch and Professor Samuel

The Australian Technology Network of Universities (ATN) welcomes the opportunity to provide a submission to the five yearly review of the *Defence Trade Controls Act 2012*.

Australia's capacity to conduct research, safeguard resulting intellectual property, share that with trusted partners, and engage in secure product development will be crucial to protecting and promoting Australia's interests.

Australia's universities are well positioned to participate in this research and development due to an ever increasing awareness of and vigilance towards security risks. Universities have worked diligently with the Government through initiatives such as defence trade controls, the University Foreign Interference Taskforce, Defence Industry Security Protocol, sanctions regimes and critical infrastructure reforms.

The primary aim of the Department of Defence is and should be the defence of Australia, but in order to meet the current and future needs of the Australian Defence Force, especially in times of crisis, we need a sovereign industrial and research capability and capacity. This necessitates international cooperation and collaboration – particularly in the context of AUKUS. Department of Defence and broader Government support is required to establish and foster trusted international research partnerships in specific areas of interest.

To capitalise on the foundation provided by AUKUS, researchers and industry will need to develop products and capability with increased collaboration. This is vital for increased interoperability and developing joint capability and knowledge. The AUKUS partnership is reliant on this kind of cooperation, particularly in Pillar Two where Innovation and Information Sharing are specified.

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ATN has three recommendations – the Government should:

**1. Enable preferential arrangements for trusted partners**

The collaboration, cooperation and exchange envisioned in the AUKUS agreement will rely on free transfer of people and technology between AUKUS partners. This security environment will require preferential arrangements that may require additional controls for transfers between other partners. This might mean restricting or giving up other opportunities, but the Government should be prepared to make difficult decisions about this.

Universities need more support for exports from the Government, especially to encourage activities with key national partners. If export and intellectual property controls with preferred partners like the United States are too restrictive, then researchers may look for opportunities with other countries. This would have an adverse impact on the success of the AUKUS partnership.

**2. Ensure the whole system of security and regulation is operating cohesively**

We currently have a fast moving and dynamic environment with multiple intersecting regulatory components both within Australia and with our partners. The Act must be adaptable enough to enable us to operate in this complex environment.

For example, there are currently discussions regarding relaxation of United States International Traffic in Arms Regulations (ITAR) and export controls under AUKUS. At the same time there are discussions regarding a tightening of defence classifications, for example OFFICIAL: SENSITIVE becoming a security classification rather than a dissemination limiting marker (DLM). The Act needs to tread this line carefully and ensure that there are not unintended consequences of limiting defence research with overseas collaborators.

**3. Proactively engage with decision making and provide advice and training**

Universities would benefit from a clearing up of the ‘grey zone’ of defence research. In so far as it is possible, decisions on who we can and should not collaborate with on defence and dual use technologies should be made in partnership with the Government. This should be viewed as a positive opportunity for the Government and universities to engage. Currently, advice received from Government is often lacking in the specificity needed for it to be useful and actionable.

Universities – and industry – would benefit from ongoing training and engagement on this particularly as the security risks, reputational damage and financial loss in the event of getting it

wrong is critical. As a result of it being such a complicated issue many organisations end up foregoing opportunities or investing too much responsibility in a single person with the requisite expertise. Access to training and secure, ongoing advice would be ideal.

We look forward to further engagement in securing Australia's interests and enhancing our defence research capability. If you need any further information from ATN or our member universities, please contact me at [info@atn.edu.au](mailto:info@atn.edu.au).

Yours sincerely,

Luke Sheehy

ATN Executive Director