



**Australian Government**

**Department of Defence**

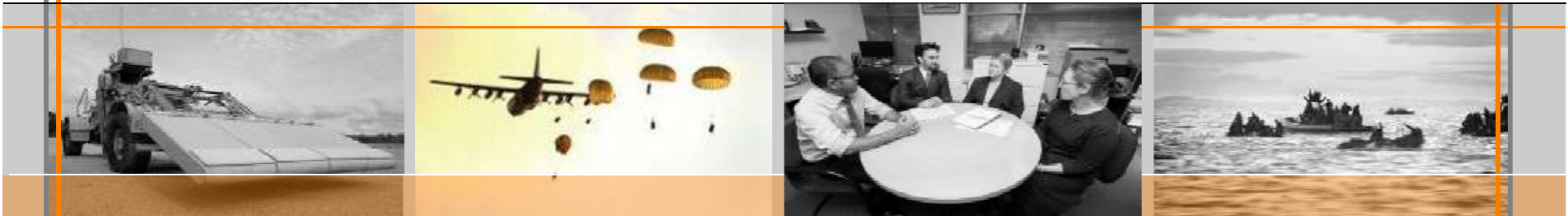
# **Australia's Catch-All Controls**

Defence Export Control Office (DECO)  
Department of Defence  
Commonwealth Government of Australia



# Australian Export Control System

- Australia regulates the flow of goods, services and technologies across its borders in 3 ways:
  - Requires permits for the export of listed goods and technologies (DECO)
  - Catch-all legislation to prohibit the supply/export/provision of unlisted dual-use and military goods and services (DECO)
  - Sanctions - United Nations and Australian Autonomous (Department of Foreign Affairs and Trade)



# Legislation administered by Defence Export Control Office (DECO)

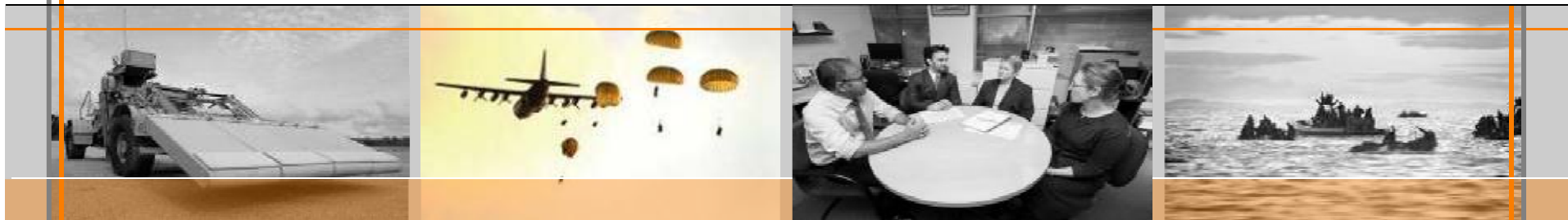
**Australia has different legislation to regulate controlled and ‘catch-all’**

## **Controlled:**

- Tangible exports
  - *Customs Act 1901*
  - *Customs (Prohibited Exports) Regulations 1958 – Regulation 13E*
  - *Defence and Strategic Goods List – control list*
- Intangibles and brokering
  - *Defence Trade Controls Act 2012*

## **Catch-all:**

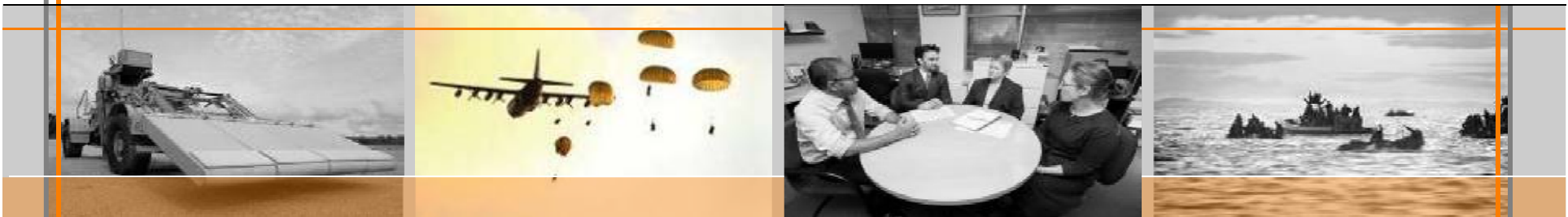
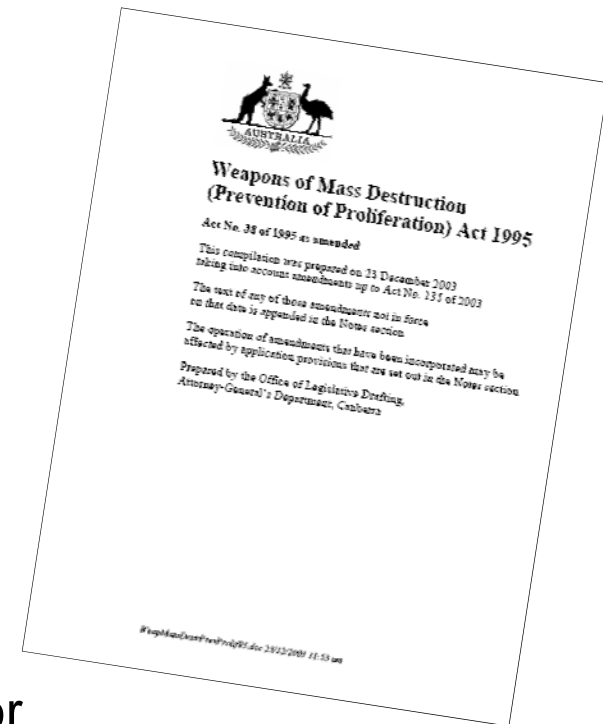
- *Weapons of Mass Destruction (Prevention of Proliferation) Act 1995 – WMD Act*
- Military end-use provision (s112BA) of the *Customs Act 1901*



# Catch-All Controls – WMD Act



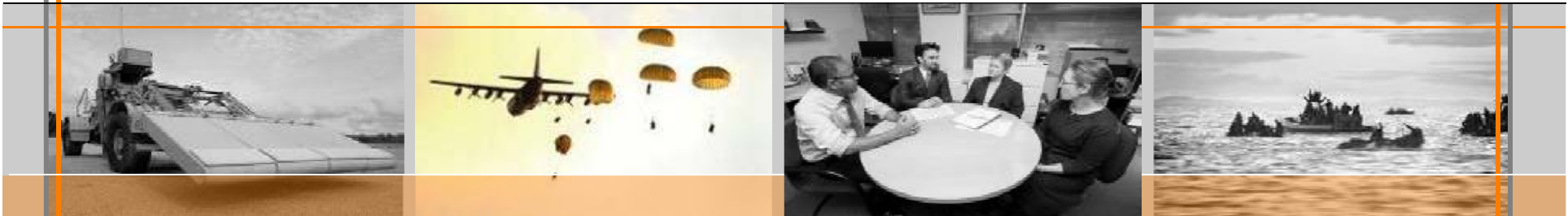
- WMD Act
  - Power to prohibit the supply/export/provision of non-regulated goods and services that may contribute to a WMD program
  - 13 prohibition notices have been issued since 1995
  - Offence to supply/export/provide goods or services to a WMD program without a permit



# Catch-All Controls - WMD Act

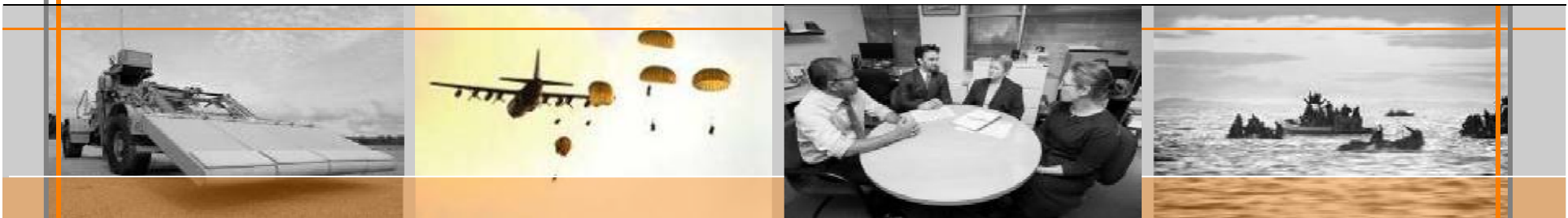
## Important to note:

- Only applies to non-regulated items
  - goods and technologies that are not listed in the Defence and Strategic Goods List or controlled by sanctions legislation
- **Supply**
  - *transfers within Australia*
- **Export**
- **Provision of services**
  - doing anything that confers a benefit on, grants a right or privilege to, provides a facility for, or otherwise assists someone
- **Low threshold**
  - Minister only has to believe or suspect



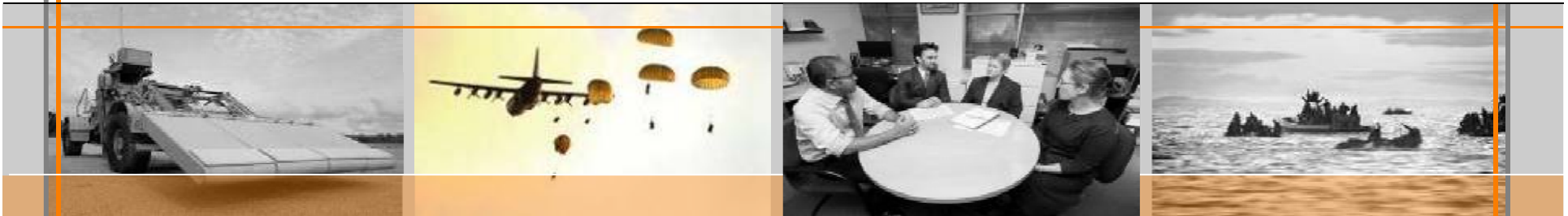
# Catch-All Controls - WMD Act Offences

- Offence to:
  - supply/export/provide goods or services
  - where a person believes or suspects that the goods or services may be used in a WMD program
  - the supply/export/provision is not authorised by a permit
- Penalty: imprisonment up to 8 yrs.



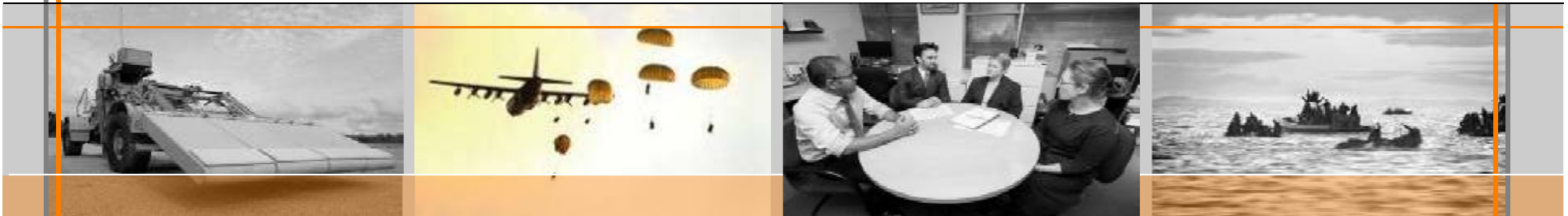
# Catch-All Controls - Military End-use Provision

- Minister has power to prohibit the export of unlisted goods where:
  - goods are not listed on the DGSL AND
  - may be for a military end-use AND
  - export may prejudice the security, defence or international relations of Australia
- Used once since it commenced in 2012



# DECO Case Example: WMD Act

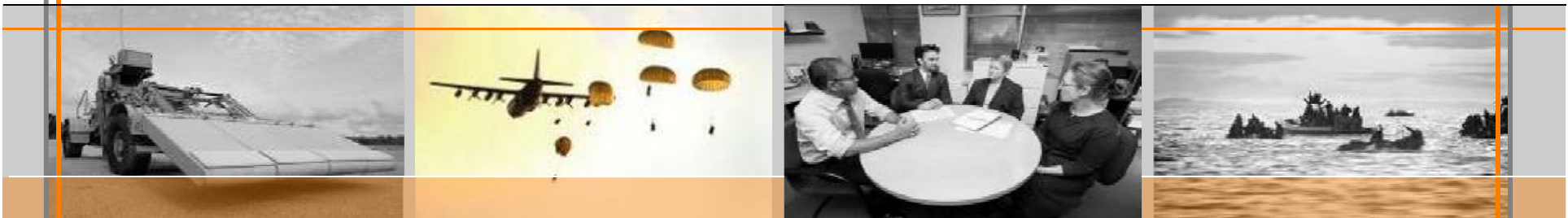
- Australian company applied to DECO for permission to export radiation-hardened electronic components to an end-user
- Technical assessors assessed goods:
  - not listed in the *Defence and Strategic Goods List*
  - but significant utility to a Weapons of Mass Destruction Program





# DECO Case Example: WMD Act

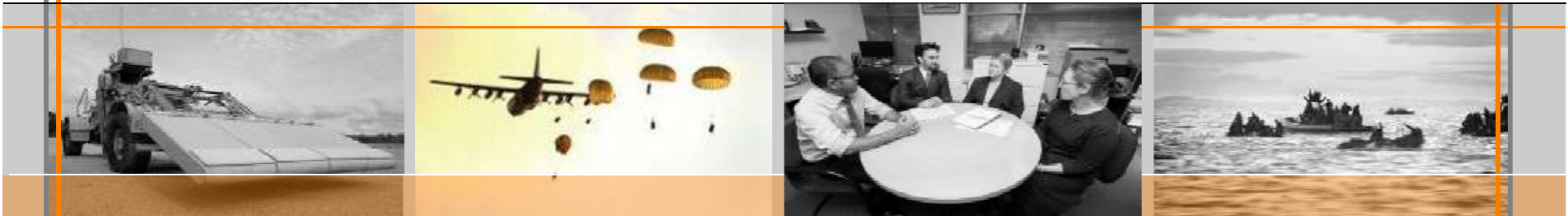
- DECO proceeded to assess the goods under the catch-all Weapons of Mass Destruction Act
- Goods were dual-use
  - legitimate uses for satellites
  - also essential in the development of a ballistic missile capability



# DECO Case Example: WMD Act

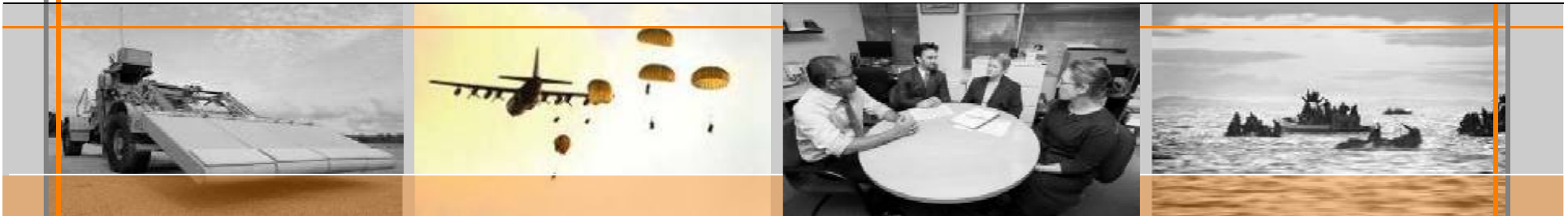
## Inputs included:

- Technical assessment of the goods
- Further information from the Australian company (natural justice)
- Intelligence
- Consultation with regime countries that had listed similar export denials
- Foreign policy advice
- Legal advice



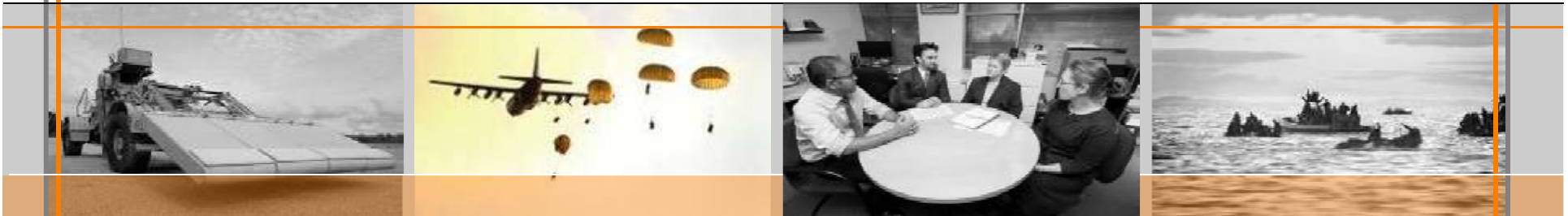
# DECO Case Example: WMD Act

- DECO recommended to the Minister for Defence to exercise the prohibition power under the WMD Act
  - utility of the goods
  - links of concern from the end-user to WMD program
  - similar regime denials
    - Similar utility of the goods
    - Same end-user
    - Age of the regime denials
    - Consult the country that listed the regime denial



# DECO Case Example: WMD Act

- Minister for Defence agreed to prohibit
- Australian company notified and outreached
- Australia listed a regime denial with the Nuclear Suppliers Group
- Prohibition not made public
  - no evidence that the company knew that the goods would be diverted

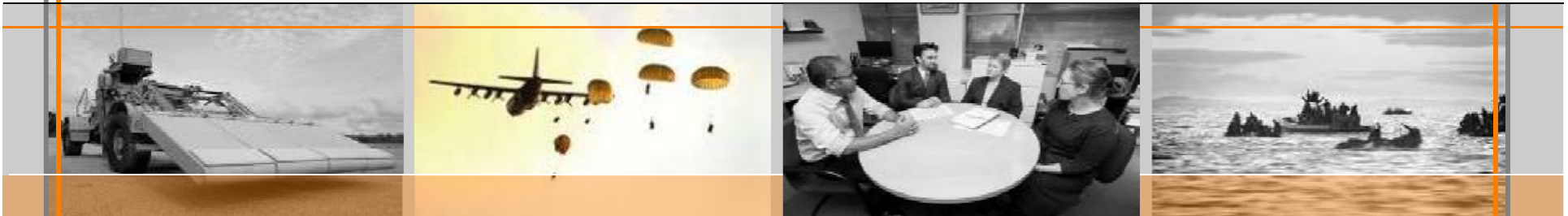


# References and Contact Points

## Defence Export Control Office

Email: [deco@defence.gov.au](mailto:deco@defence.gov.au)

Website: [www.defence.gov.au/deco](http://www.defence.gov.au/deco)





**Australian Government**

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**Department of Defence**  
Strategy Executive

**QUESTIONS**