Australian Government
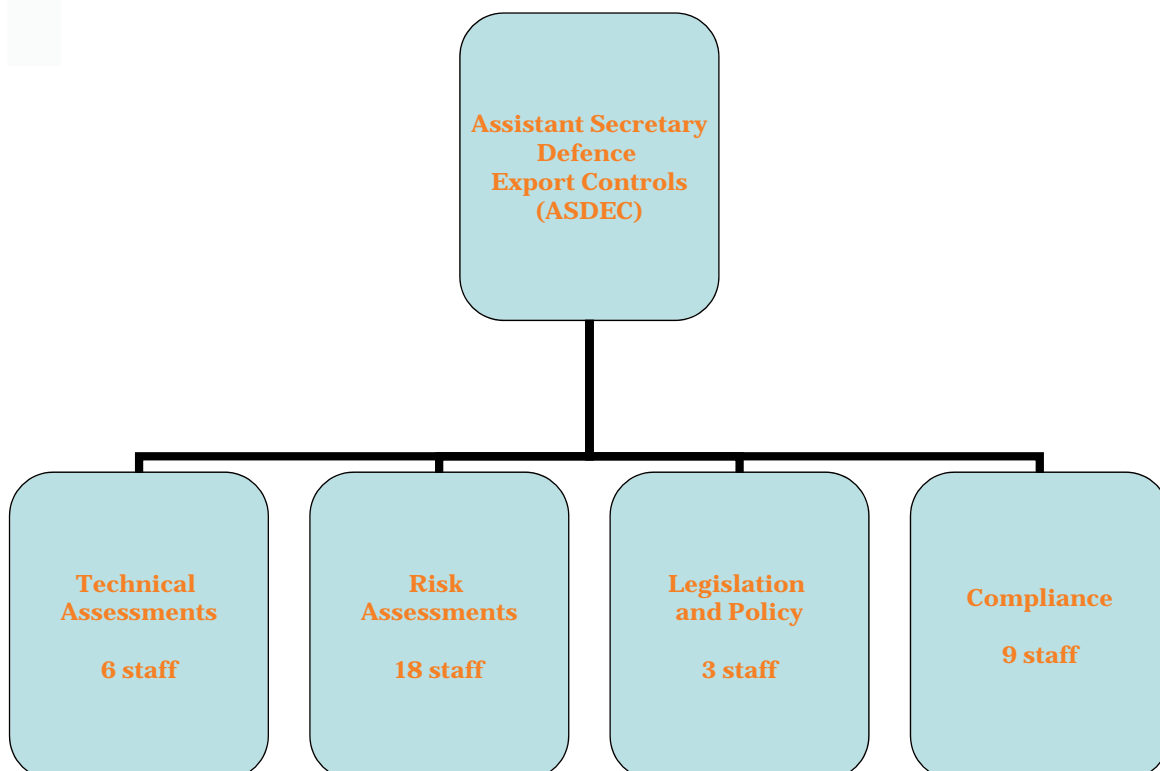**Department of Defence**
Defence Export Control Office

Challenges of Introducing Intangible Controls to Australia's University Sector

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Defending Australia and its National Interests
www.defence.gov.au

Defence Export Controls (DEC) Structure

Assistant Secretary
Defence
Export Controls
(ASDEC)

Technical Assessments	Risk Assessments	Legislation and Policy	Compliance
6 staff	18 staff	3 staff	9 staff

How Australia controls exports?

- Military + dual-use items regulated by the Department of Defence
- Permits required:

    - Physical <u>export</u> of *controlled* goods and technology
    - <u>Intangible transfer</u> of *controlled* technology
        - <u>Supply</u>
        - <u>publication</u>
    - <u>Brokering</u> of *controlled* goods and technology

    + Catch-all controls for goods and technology <u>under</u> the control threshold – if they have utility for WMD or military programs

New intangible transfer 'supply' control

- Need an intangible transfer ('supply') permit if:
    - controlled technology is being …
    - supplied by a person in Australia to a person outside Australia
        - 'supply' includes providing access to controlled technology (e.g. providing passwords to access electronic files)

- E.g. If a researcher in Australia, collaborates with a researcher in Japan to create a new method of developing a pathogen (e.g. Lassa fever virus) <u>and</u> the Australian researcher emails her research findings to the Japanese researcher = **PERMIT REQUIRED**

New intangible transfer controls

- New controls passed Parliament in November 2012
  - but came into effect 2 April 2016

- 3.5-year transition period allowed time for:
  - policy development
  - creating new permit types (e.g. project permits)
  - extensive outreach to industry, universities and researchers
    - Each institute appointed an export control compliance officer
  - developing:
    - online tools
    - web content (FAQs, scenarios)
    - sector-specific guides (life sciences, ICT)

Biggest Challenges

- Understanding University culture
  - Use different Government agencies to connect

- Addressing misunderstandings:
  - Not all aspects of technology is controlled
  - What amounts to a 'supply'

- Accepting some stakeholders will never be happy

- Some academic sectors require more outreach and assistance than others:
  - ICT (especially cryptography)
  - Life sciences

Online self assessment tool

To assist new stakeholders - self-assessment tool to assist to determine if a permit is required

- **Activity Questionnaire** assists stakeholders to determine if their export, supply, publishing or brokering activity is controlled
- **Control List (DSGL) Search** tool assists researchers to identify whether their goods, software or technology are controlled

- Results can be saved and printed for records

https://dsgl.defence.gov.au

Case Study (Slide 1)

- Situation: Research institute wanted to provide data to an international research institute as part of research collaboration
  - Data included methods and results

- Process:
  - Institute applied to DEC for an initial technology assessment

  - DEC's Technical Assessors worked with Institute (researchers and compliance officer) to understand the technology and what would be provided
    - Labour intensive phase (15 working days)

  - DEC gave formal assessment that technology was controlled

Case Study (Slide 2)

Process (cont):

– Once advised that technology controlled, Institute then applied for a supply permit

– DEC's risk assessors needed to understand:

- nature of the project
- risks posed by international collaboration partners
- which permit type would be best fit
- if permit conditions could mitigate risk

– DEC provided 4-year project permit within 10 days

- shorter assessment time due to earlier technical assessment
- Imposed permit condition to report transfers every 6 months

- Result: Institute able to provide data with supporting documentation from DEC. 6-monthly reports have been supplied.

More Information?

- Defence Export Controls:
  http://www.defence.gov.au/ExportControls/

Questions?

Thank you