

EXPLANATORY STATEMENT

Defence Trade Cooperation Munitions List 2013

The Defence Trade Cooperation Munitions List (DTCML) is the document formulated and published under section 36(1) of the *Defence Trade Controls Act 2012* (the Act) by the Minister for Defence. The purpose of the DTCML is to identify goods that are eligible for trade under the Defence Trade Cooperation Treaty (the Treaty) referred to in the Act.

The Treaty creates a framework for trade between Australia and the US in certain defence articles, technologies and services without the need for individual US or Australian export licences. The Treaty is intended to enhance interoperability and increase collaboration between Australian and US defence industries. It is also expected to improve delivery times, sustainment and provide Australian industry better access to technical data to tender for US contracts.

The identification of goods eligible for trade under the Treaty informs Australian Community members, including section 27 approval holders, of what articles they can supply without applying for an export license. The DTCML also supports the main Treaty offence provisions in the Act which relate to the supply of articles outside of the Treaty framework.

The DTCML comprises of two parts, which must be read together. Part 1 contains a list of goods that are on the United States Munitions Lists (USML) in the *International Traffic in Arms Regulations*.¹ Future amendments may incorporate goods and technology listed in the Defence and Strategic Goods List (DSGL) that are not otherwise covered under USML categories. Goods listed in Part 1 are eligible for trade under the Treaty provided that they are not also listed on Part 2 of the DTCML. Part 2 contains a list of technologies that are exempt from the scope of the Treaty. Part 2 is based on the bilaterally agreed and managed Exempted Technologies List.² Exempted technologies are technologies that are considered sensitive and remain subject to the existing export controls.

Updates to the DTCML will be managed by the Australian Government to ensure the DTCML maintains currency with the USML and Exempted Technologies List. Changes to the DTCML will be communicated to Australian Community members, publicised on the Department of Defence's US Trade Treaty website (www.defence.gov.au/ustradetreaty) as well as through other industry engagement activities.

It is expected that the majority of Australian companies seeking membership to the Australian Community will already be trading in ITAR-controlled articles and would have a high level of familiarity with the USML. As the DTCML is based on the USML, and the use of the Treaty framework is voluntary, public consultation of the DTCML was not considered necessary.

¹ The USML is available on the United States Department of State website, available at http://pmddtc.state.gov/regulations_laws/itar_official.html .

² The Exempted Technologies List will be available on the Defence website <http://www.defence.gov.au/ustradetreaty>.

The Office of Best Practice Regulation (OBPR) has been consulted in the making of this instrument and agreed that a Regulatory Impact Statement is not required on the basis that the DTCML is required under the Act and subject to limited discretion to amend.

The DTCML is expected to be amended as the use of the Treaty increases and this will allow feedback from Australian industry to be incorporated in those amendments.

The DTCML is a legislative instrument but is not subject to disallowance under section 42 of the *Legislative Instruments Act 2003*.

OVERVIEW OF THE DTCML 2013

Part 1 of the DTCML includes the goods that are on the USML. As many Australian companies are familiar with the USML, the categories and layout used in the USML to identify goods has been retained as closely as possible. The categories are as follows:

- Category I – Firearms, Close Assault Weapons And Combat Shotguns
- Category II – Guns and Armament
- Category III – Ammunition/Ordnance
- Category IV – Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines
- Category V – Explosives and Energetic Materials, Propellants, Incendiary Agents and their Constituents
- Category VI – Vessels of War and Special Naval Equipment
- Category VII – Tanks and Military Vehicles
- Category VIII – Aircraft and Associated Equipment
- Category IX – Military Training Equipment and Training
- Category X – Protective Personnel Equipment and Shelters
- Category XI – Military Electronics
- Category XII – Fire Control, Range Finder, Optical and Guidance and Control Equipment
- Category XIII – Auxiliary Military Equipment
- Category XIV – Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment
- Category XV – Spacecraft Systems and Associated Equipment
- Category XVI – Nuclear Weapons, Design And Testing Related Items
- Category XVII – Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated
- Category XVIII – Directed Energy Weapons
- Category XIX – [Reserved]
- Category XX – Submersible Vessels, Oceanographic and Associated Equipment

- Category XXI – Miscellaneous Articles

Sections marked “Reserved” are included to reflect the USML “Reserved” sections and allow the DTCML to be updated in line with the USML without disrupting section numbers or categories.

Australia and the United States have agreed to cooperate in providing Australian Community confirmation on eligibility of a particular good, technology or service.

Part 2 is based on the bilaterally agreed Exempted Technologies List. This List includes categories of goods or technologies that are not eligible for trade under the Treaty. These goods remain subject to the existing export controls in the United States and, if imported to Australia, will be subject to Australian export controls.