



**Aerospace Industries Association Summarized Submitted Comments:  
“International Traffic in Arms Regulations: Exemption for Defense Trade and Cooperation  
Among Australia, the United Kingdom, and the United States.”**

May 31, 2024

**OVERVIEW:**

The U.S. aerospace and defense (A&D) industry serves as a symbol of U.S. global leadership and is critical in delivering the capabilities necessary to achieve national security and foreign policy goals. Representing more than 300 companies in the A&D sector, the Aerospace Industries Association (AIA) welcomes the opportunity to submit comments to the Directorate of Defense Trade Controls (DDTC) in response to the proposed rule, “*International Traffic in Arms Regulations: Exemption for Defense Trade and Cooperation Among Australia, the United Kingdom, and the United States*” (“AUKUS Exemption”).

The AUKUS Exemption must prioritize flexibility over rigidity and reflect the comparable systems of controls in Australia and the United Kingdom (UK). While the proposed rule reflects real intent to liberalize defense trade among the partner nations, AIA and its members have provided recommendations to ensure the Exemption is utilized by industry. A summary below details the topline recommendations.

**SUMMARY RECOMMENDATION**

- 1. Expand the authorized transfer territory to the armed forces of Australia, the UK, and the U.S., and registered entities deployed to support such armed forces (§ 126.7(b)(1))**
  - The draft AUKUS Exemption limits its scope to transfers within and between the physical territories of Australia, the UK, and the U.S., thereby restricting the delivery of maintenance, repair, and overhaul (MRO) and other critical services.
  - There is no statutory barrier preventing the AUKUS Exemption from including deployed locations outside the physical territories of the three countries.
- 2. Simplify and streamline the Authorized User enrollment process (§ 126.7(b)(2))**
  - Authorized User registration and its criteria should be simple to incentivize industry enrollment and mitigate unnecessary burdens placed on small and sub-tier companies.
  - Partner countries should publish the Authorized User list on a public-facing website and ensure data is regularly updated to support AUKUS success.
- 3. Remove the requirement for Non-Transfer and Use Assurances (“DSP-83”) for transfer of Significant Military Equipment (SME) (§ 126.7(b)(6))**
  - Non-transfer and use assurances requirements for SME are unnecessary and redundant given the requirement for partner nations to have comparable systems of controls.
- 4. Clarify that defense articles produced in the UK or Australia are not subject to the International Traffic in Arms Regulations (ITAR) if they contain U.S. origin technical data or defense services exported through the AUKUS Exemption.**
  - Defense articles originating from the UK and Australia should be subject to their respective export control laws, regardless of incorporated U.S. technology, to reflect the AUKUS Exemption’s fundamental principle requiring comparable systems of controls.
  - Current ITAR jurisdiction applies to non-U.S. origin defense articles that are “produced or manufactured from” U.S. technical data or defense services (§ 124.8(5)). Absent action, this “see-through” rule would inhibit the co-development objectives of AUKUS.

- 5. Excluded Technology List (ETL) exclusions should be limited to defense articles restricted by law, international obligations, or specific national security concerns.**
  - ETL exclusions restrict the ability to meet Pillar I and Pillar II objectives and potentially contradict the assumption that Australia and the UK have comparable systems of control.
  - ETL should cite the specific reason for control and only reflect Arms Export Control Act (AECA) limitations or critical national security concerns.
- 6. Require a periodic review of ETL, including a formal process for industry feedback.**
  - DDTC should regularly consult industry and implement a formal review of the ETL, at least every two years, to ensure it reflects the ongoing implementation of AUKUS.
- 7. Establish an efficient process with interagency partners to field questions regarding ETL technology exclusions and compliance.**
  - DDTC should establish an expedited process with the Department of Defense to quickly adjudicate ETL questions and support small exporters in remaining compliant.
- 8. Revise the ETL to appropriately reflect the objectives of AUKUS Pillar I and Pillar II.**
  - Remove Unmanned Aerial Systems (UAS) exclusions that are not subject to AECA provisions governing Missile Technology Control Regime (MTCR) articles.
  - Narrow exclusions related to U.S. Munitions List (USML) Category XX in support of the AUKUS effort to build infrastructure for nuclear-powered submarines in Australia.
  - Omit technologies that are required for development of products and technologies currently described in Pillar II.
  - Ensure consistency with UK and Australia exclusion lists as well as the Export Control Reform determinations of USML Categories.
- 9. Expand expedited licensing eligibility to meet the objectives of AUKUS.**
  - Expedited licenses should be expanded to include retransfer, reexports, and temporary imports among and within AUKUS nations.
  - Expedited licensing should apply to members of the armed forces of AUKUS nations and deployed support entities outside of the physical territory of the countries.
- 10. Minimize license requirements related to government-to-government agreements.**
  - Government-to-government agreements (ex. Memorandums of Understanding and Foreign Military Sales) should benefit from the expedited processing.
  - DDTC should modify the proposed rule to follow the statutory requirement by expanding expedited licensing to any applications “not covered” by the AUKUS Exemption.
- 11. Implement clear processes for expedited licensing to ensure its effectiveness.**
  - Regularly engage with industry during application review to ensure final adjudications of license applications are provided within 45 days.
  - Expand expedited licensing to applications including non-AUKUS partners (ex. third-party sublicensees and sub-contractors) that are in support of an AUKUS end-user.
  - Remove requirements to staff license applications through multi-agency review.
- 12. Create a new Open General License (OGL) to allow UK and Australia Authorized Users to reexport unclassified ITAR items outside of AUKUS nations.**
  - Due to the certification of comparable UK and Australian export control systems, there is no reason to require duplicative licensing for reexports of unclassified ITAR items outside of AUKUS members to destinations not prohibited under Section 126.1.