



**Statement of Industry Consensus on AUKUS, Selected
Defense Trade Provisions, and other Policy Matters**

Aerospace Industries Association

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A Primer to AIA’s *Statement of Industry Consensus*

The *Statement of Industry Consensus on AUKUS, Selected Defense Trade Provisions, and other Policy Matters* represents the U.S. aerospace and defense (A&D) industry’s most comprehensive assessment to date of current proposed legislation affecting the Australia – United Kingdom – United States (AUKUS) partnership and broader defense trade environment, along with the corresponding policy and regulatory impacts. Backed by years of export control, policy, and regulatory compliance experience, Aerospace Industries Association (AIA) members and staff have developed this consensus-based document to guide the ongoing discussion on the AUKUS partnership and defense trade generally. It is our view that, if enacted, the proposed legislation discussed in this *Statement* will serve as the critical next step to successful implementation of a more modern U.S. defense trade system for the U.S. government, U.S. industry, and identified partners and allies.

The Legislation-Policy-Regulation Connection

The U.S. A&D industry looks holistically at the AUKUS and defense trade environment via three elements: *legislative authorization*; *policy guidance*; and *regulatory implementation*. While the *Statement of Industry Consensus* is rooted in the analysis of legislative actions pending before Congress, it is not limited to assessing only those pending legislative provisions. It also includes recommendations and assessments on both policy guidance and potential regulatory changes stemming from those same provisions. The generational AUKUS partnership proposal spans the legislative, policy, and regulatory environments and so, by necessity, our document must also focus upon those same elements as it addresses the pending legislation.

How did we get here?

Since the announcement of AUKUS in September 2021, the U.S. A&D industry has been keen to understand the partnership’s scope and scale to respond quickly to the requirements underpinning the announcement. With trilateral government discussions progressing, the role of industry in implementing AUKUS has grown; industry is working to understand both the benefits AUKUS affords along with the associated demands it anticipates will be generated because of this generational effort.

Industry is the *regulated implementer* called on to bring AUKUS to life. As such, industry in all three countries absorbed the strategic intent announced by President Biden and Prime Ministers Albanese and Sunak in March 2023 and immediately moved to assess the regulatory and implementation demands. With its deep knowledge of the U.S. export control system and the other regulatory requirements of defense trade, AIA immediately recognized the task at hand.

Guided by AIA’s recommendations on operationalizing AUKUS released in March 2023, which included recommendations on needed legislative changes, AIA and its members continued to work across the AUKUS stakeholder ecosystem. With proposals in the Senate-passed National Defense Authorization Act (NDAA) and passed out of the House Foreign Affairs Committee, industry gained a better understanding of the direction of intended legislative actions and began to assess the policy and regulatory impacts.

How did AIA and its members approach our analysis?

Fundamental to our approach are the legislative and regulatory prerogatives that the Congress and the Executive branch regulators share in the direction and oversight of the defense trade

environment. Our industry along with foreign partners and allies are daily users of that system. This document does not necessarily focus on Congress's or an executive agency's oversight choices, nor the delegation of that oversight to other empowered stakeholders. It does, however, provide perspective on the impacts of those oversight choices on the follow-on policy and regulatory implementation of AUKUS and defense trade processes.

What's the focus of AIA's *Statement of Industry Consensus*?

AIA prepared the *Statement of Industry Consensus* to offer feedback to Members of Congress on the AUKUS provisions currently under consideration in the Senate and House of Representatives. Since our industry will be called on to deliver AUKUS capabilities, we felt it vital to assess the predicted policy and regulatory outcomes as part of the legislative actions. AIA and its members are keenly aware of, and have experience in predicting, how legislative authorizations impact agency policy guidance and the corresponding regulatory environment and provide that perspective here on the proposed provisions.

Who should read AIA's *Statement of Industry Consensus*?

We believe that all AUKUS stakeholders could benefit from this submission. While the document is rooted in the analysis of legislative text pending before Congress and is geared toward those actions, the policy development and regulatory impacts will be profound. All AUKUS stakeholders, from Members of Congress to agency licensing officers, to military commanders, to our partners and allies in Australia and the UK, including their respective industrial bases, need a comprehensive perspective of how U.S. industry views the proposals as they stand.

How should an AUKUS stakeholder approach this document?

This document is best read from the perspective of industry as the *regulated implementor* that must comply with applicable U.S. law, interpret policy guidance regarding that law, and meet all applicable regulatory requirements. U.S. industry, from the largest Original Equipment Manufacturers (OEMs) to the smallest suppliers, and all those in between, is looking at AUKUS through the "legislation-policy-regulation" process and preparing to meet the strategic intent outlined by the President and the two Prime Ministers while also complying with U.S. and international law and regulations. Not surprisingly, an already challenging task is made more so in the face of formative, albeit positive, legislative proposals.

The AIA *Statement of Consensus* includes selected defense trade provisions that are not AUKUS-specific. Why include those in this document?

Beyond the AUKUS partnership, the defense trade provisions highlighted here represent some welcomed key changes to the U.S. Foreign Military Sales (FMS) program. Even with potential passage of many of the AUKUS proposals under consideration, both Australia and the UK, as well as all U.S. partners and allies, will need to continue to adhere to the policy and regulatory requirements of FMS.

What's the next step?

AIA and its members will continue to broadly engage with the AUKUS partners and defense trade stakeholders and be responsive as the final legislative, policy, and regulatory outcomes are determined. Even with the eventual, potential finalization of the legislative text, we anticipate additional adjustments will be needed once industry begins to execute the AUKUS partnership.



Statement of Industry Consensus

AUKUS, Select Defense Trade Provisions, and other Policy Matters

The Aerospace Industries Association (AIA) and our more than 320 U.S. aerospace and defense (A&D) companies welcome the opportunity to provide feedback on the following critical defense trade legislation in this year’s National Defense Authorization Act (NDAA): Title 68 “AUKUS Matters” and defense trade provisions in the Senate NDAA, *AUKUS Oversight and Accountability (AOA) Act of 2023*; *AUKUS Submarine Transfer Authorization Act of 2023*; *Keeping our Allies Leading in Advancement (KOALA) Act of 2023*; and *Bilateral Resilience in Industry Trade Security (BRITS) Act of 2023*.

This legislation is strongly supported by AIA. It will serve as the critical next step to successful implementation of a modern United States (U.S.) defense trade system with clearly defined standards for United States industry and identified U.S. allied nations. This, in turn, will permit us to jointly plan, produce, and acquire strategic and advanced capabilities to meet today’s pressing national security challenges. As Congress continues to address those challenges through the NDAA process, we respectfully urge you to consider the A&D industry’s evaluation of the legislative sections below.

As you consider our comments relative to the Australia-United Kingdom-United States (AUKUS) partnership, we want to highlight that non-U.S. supply chain companies will be essential for U.S., the United Kingdom (U.K.), and Australia (AUS) original equipment manufacturers (OEMs) as they meet their AUKUS commitments. Current legislative text does not explicitly address the AUKUS supply chain, and we have included a sense of industry on this matter for further consideration.

Thank you for considering AIA’s position on these critical national security matters. We look forward to working with you as the 2023 legislative process moves forward to completion.

AUKUS Provisions and Legislation

Title 68 “AUKUS Matters”

- **Sec. 6812. Senior Advisor for the AUKUS Partnership at the Department of State (DoS):** AIA supports the creation of the senior advisor position for the AUKUS partnership serving as a direct report to the Secretary of State. A dedicated senior official overseeing AUKUS is critical to coordination and management of AUKUS activities among the interagency, industry stakeholders, and foreign partners. Senior-level DoS oversight will improve policy harmonization, provide sustained leadership focus – to include addressing regulatory barriers to full AUKUS implementation, and promote accountability. Establishing the position also provides equivalent leadership at the DoS to that of the Department of Defense (DoD).
- **Sec. 6823. AUS, UK, and U.S. Submarine Security Training:** Providing authorization to train Australian private sector personnel to support the Australian submarine industrial base is essential. Training would be provided by U.S. contractors and the U.S. Navy. For submarine security cooperation between the U.K., AUS, and the U.S. to succeed, AUS must rapidly develop the capacity of its submarine industrial base to produce, maintain, and repair conventionally armed, nuclear-powered submarines.

The Australian defense workforce is small and requires public and private sector employees to support its activities. This section provides regulatory guidance that is required to include Australia's unique workforce in AUKUS initiatives. While this provision is welcomed, AIA recommends that Congress widen the authorization to include U.K. personnel; while the initial focus will be on induction of *Virginia-class* submarines into the Australian Navy, industry can imagine that similar authorities may be useful when the follow-on SSN-AUKUS initiative gets underway. This will provide additional regulatory clarity.

- **Subtitle C: Streamlining and Protecting Transfers of United States Military Technology from Compromise:** Subtitle C (Sections 6831-6835) provides a clear and logical set of measures that map defense trade processes from requirements to Congressional Notification.
 - **Sec. 6831. Priority for AUS and the UK in Foreign Military Sales (FMS) and Direct Commercial Sales (DCS):** Prioritizing, expediting, and streamlining FMS and DCS transfers to trusted partners of defense capabilities are a positive step toward improving development, production, and fielding of capabilities among the AUKUS partners.
 - **Sec. 6832. Identification and Pre-Clearance of Platforms, Technologies, and Equipment for Sale to AUS and the UK through FMS and DCS:** The current system of case-by-case foreign policy and technology security reviews almost always results in an approval for the AUS and the U.K. but requires months of processing time through the various Technology Security and Foreign Disclosure (TSFD) “pipes.” The result is that many U.S. companies often cannot respond in time to AUS and U.K. Ministry of Defense (MoD) requests for proposals. However, industry believes the process for developing a “pre-cleared” list for TSFD review may take more time than a shorter “restricted” list. AIA members advise that the development of any anticipatory policies must be complemented by simplified, flexible U.S. government policy development updates to meet new joint operational needs. Otherwise, to remain compliant, the A&D industry will be required to revert to the status quo TSFD and subsequent export license processes which cannot keep pace with national security imperatives.
 - **Sec. 6833. Export Control Exemptions and Standards:** AIA supports a broad export control exemption; however, one that sets vague limitations and fails to capture transactions involving advanced capabilities does not meet the objectives of Pillar II. Limitations would inhibit AUKUS implementation, increase operational complexity, frustrate the supply chain, and extend export approval timelines, ultimately driving up production costs. Non-U.S. supply chain companies will be essential for U.S., U.K., and AUS original equipment manufacturers (OEMs) as they meet their AUKUS commitments, and export control relief for non-U.S. supply chain at each tier should be considered to avoid issues in the export control approval process in the future.

Industry assesses that requiring the Secretary of State to certify that the U.K. and AUS export control regulatory systems are comparable to the U.S. could create a standard that is more narrow than current U.S. law. The requirement of an approved community also limits the use of the exemption to “persons or entities that are approved by the Secretary of State, the Ministry of Defense, the Ministry of Foreign Affairs, or other similar authority within those countries”. This language is like that of the U.K./AUS Defense Cooperation Treaty (treaties) on “approved communities” and is one of the primary reasons the treaties have not been utilized. This will unintentionally restrict the supply chain’s ability to

participate in AUKUS projects. AIA strongly encourages Congress not to bind an ITAR exemption to the membership requirement of an “approved community” and encourages Congress not to introduce a similar concept to the treaties to this exemption.

- **Sec. 6834. Expedited Review of Export Licenses for Exports of Advanced Technologies to AUS, U.K., and CAN:** An expedited decision-making process of export licenses for U.K., AUS, and Canada (CAN) for advanced capabilities not covered by an ITAR exemption is supported by AIA. Establishing a review process that is timebound adds certainty for our industry to plan and establish production requirements accordingly. AIA would like to recommend extending this expedited review to all licenses where the intended end users are only UK, AUS, and CAN, but where the supply chain may include entities in other partner countries. For these types of licenses, we recommend U.S. government end-user monitoring to ensure compliance with export controls.
- **Sec. 6835. U.S. Munitions List:** AIA supports exempting the U.K. and AUS from Congressional Notification for defense articles and services on the U.S. Munitions List. Doing so would reduce the regulatory burden and a three-year periodic review of the U.S. Munitions List in consultation with the Defense Trade Advisory Group and other interested parties is also welcomed to align current regulations with technology development.

Keeping our Allies Leading in Advancement (KOALA) Act/Bilateral Resilience in Industry Trade Security (BRITS) Act

- **Sec. 2. Exceptions for Australia/the United Kingdom relating to licensing of defense articles and services for export under the Arms Export Control Act:** AIA and its member companies support the general exemption provisions set forth in the Bilateral Resilience in Industry Trade Security Acts (BRITS Act) and Keeping our Allies Leading in Advance Act (Koala Act). These two exemptions will enable the benefits of collaboration among the U.S., U.K., and AUS and will alleviate capacity constraints. The elimination of congressional notification requirements for exports under the exemption will reduce acquisition lead and licensing timelines.

AUKUS Oversight and Accountability (AoA) Act

- **Sec. 2 Establishment of Senior Advisor:** The complementary bill “AUKUS Oversight and Accountability Act” (AOA Act) delineates in its Sec. 2, a nice framework to ensure the Executive branch can manage compliance with AUKUS (e.g., resourcing and agency structure). However, Congress should reconsider making the section’s 90-day operational reporting requirement semiannual to align with the Canadian exemption.
- **Sec. 3. Modifications to the Arms Export Control Act and other Authorities:** Sec. 3, reintroduces the requirement of having the Secretary of State certify that the U.K. and AUS export control regulatory systems are comparable to the U.S. This standard could lead to unintended consequences. As to other provisions in Sec. 3, AIA would like to highlight that it agrees with the triennial review of the USML, which was supposed to occur as part of US export control reform, but it is not clear to industry if it is an ongoing exercise at this point.

AUKUS Submarine Transfer Authorization (ASTA) Act

- **Sec. 3. Authorization of Sale of Virginia-class Submarines to Australia:** AIA supports congressional authorization for the sale of U.S. *Virginia-class* submarines to Australia in

addition to establishing the supporting financial infrastructure. Aside from national security benefits in the Indo-Pacific, the sale is an investment in the health of the U.S. ship building industry and will allow companies to plan for increased production capacity required to meet, and eventually exceed, two SSNs per year. Authorizing the export of these technologies to private sector U.K. and Australian companies is also welcome, as it will foster more seamless cooperation with AUS.

Other Policy Matters for Consideration

- **To support Pillar 1, Congressional support is requested to include the authority to transfer via sale to Australia, three *Virginia-class* Submarines in the FY24 NDAA conference process.**
 - The stated goal of AUKUS Pillar 1 is for the U.S. and UK to assist Australia in acquiring nuclear powered submarines to replace their aging *Collins-class* submarines. The agreement allows for the sale of three U.S. *Virginia-class* Fast Attack Submarines to AUS with an option for an additional two. The inclusion of three *Virginia-class* submarines as part of Australia's Naval Fleet will be a force multiplier for U.S. and UK efforts to ensure credible, persistent deterrence in the Indo-Pacific.
 - Two *Virginia-class* submarines were delivered to the U.S. Navy Fleet last year, and two are on track for delivery this year. To accommodate the additional submarine sales to AUS and maintain the planned number of submarines for the U.S. fleet, the U.S. industrial base must increase *Virginia-class* production to 2.3 submarines per year throughout the 2030s.
 - Legislative authorization is needed for the transfer of three *Virginia-class* submarines to the Government of Australia as part of the multi-decade project to develop, produce, train, and sustain a conventionally armed, nuclear-powered submarine force in AUS. The transfer would be in the form of a sale with the costs of the transfer covered by the Government of Australia.
 - The requested authority would also provide for a unique use of the proceeds from the sale of the submarines. This would allow funds to be used for improving public and private United States submarine construction and repair facilities, building up the submarine industrial base, and buying additional submarine nuclear propulsion plant equipment. In addition to the proceeds from the sale of the submarines, AUS plans to invest \$3B in the near term in the U.S. submarine industrial base to support the increased U.S. submarine construction rate of 2.3 per year. This funding will increase submarine production more quickly than the U.S. was planning on its own, supporting the build-up to a rate of construction of 2.3 *Virginia-class* submarines per year in the 2030s.
- **Export relief must consider the entire supply AUKUS supply chain**
 - A&D industry consensus of what it will take to produce end items in both Pillars I and II includes contractual relationships with non-U.S. country suppliers, both within the AUKUS countries and without, on collaboration on submarine construction, AI, quantum computing, cyber, and a host of other technologies set forth in the partnership. Even if the legislation results in fast tracked export licensing processes or general exemptions for named technologies among the AUKUS partners, we ask that you also consider some export control relief for AUKUS OEMs and their non-U.S. supply chain at each tier. If the non-U.S. supply chain is not addressed at some point it could create a bottleneck for U.S.

export control approvals. Moving forward, AIA stands ready to work with the Congress and the Executive branch to discuss legislative or regulatory solutions to this supply chain challenge.

Selected Defense Trade Provisions

- **Sec. 211 Updated guidance on planning for exportability features for future programs:** Industry supports updated guidance on planning for exportability features for future programs. Addressing exportability as early in the development phase as possible will drive down costs, streamline technology release evaluations, provide greater market access to industry, and reduce production timelines. While updated guidance is critical to successful evaluation of exportability requirements by DoD program offices, it should also apply to non-programs of record systems given that general DoD technology release policy applies to both. While updated guidance is developed, AIA supports consideration and inclusion of both types (i.e., program of record and non-program of record) of defense articles and capabilities that fall within the purview of the DoD for implementation of exportability features.
- **Sec. 831 Defense industrial base advanced capabilities pilot program:** AIA is encouraged by the steps Congress and the DoD are taking to incorporate advanced capabilities into the defense ecosystem and grow the U.S. defense industrial base. AIA supports the establishment of an advanced capabilities pilot program. AIA urges Congress to consider eliminating the need for participation in the pilot program to that of solely small businesses to be inclusive of the expertise across the defense industrial base. Moreover, many of these advanced capabilities, however, are not clearly outlined in DoD technology release or exportability policies. As referenced in Sec. 211, to drive down time and costs associated with Foreign Military Sales, the possibility of exportability must be considered as early in the development process as possible. We recommend as an element of the pilot program for the Under Secretary of Defense (Acquisition & Sustainment) in coordination with our industry participants to evaluate advanced capabilities from that perspective.
- **Sec. 1076 Program and processes relating to foreign acquisition:** Effective security cooperation to meet operational security needs and bolster U.S. relations with our foreign partners is reliant upon the expertise of the security cooperation workforce. AIA commends the Senate's willingness to test new and creative approaches for growing and developing acquisition specialists and contracting officers to advise the Geographic Combatant Commands on arms transfer processes.
- **Sec. 1309 Modification of Department of Defense security cooperation workforce development:** In alignment with Sec. 1076, industry commends the Senate's focus on growing and developing the U.S. security cooperation workforce. Given that security cooperation is executed by both government and industry, AIA urges Congress to consider a general sense encouraging the Executive branch, principally the DoD and State, that where possible, provide means for, including A&D industry participation in both the Foreign Military Sales Center of Excellence and the Defense Security Cooperation University activities to enhance transparency and effectiveness among key stakeholders.
- **Sec. 1353 Designation of senior official for Department of Defense activities relating to, and implementation plan for, security partnership among Australia, the United Kingdom, and the United States:** In tandem with Sec. 6812, AIA supports a dedicated senior

official for AUKUS as a direct report to the Secretary of Defense at the DoD. A point of contact overseeing AUKUS is critical to coordination and management of AUKUS activities among the interagency, industry stakeholders, and foreign partners. Industry assesses that senior-level DoD oversight will improve acquisition outcomes, overcome regulatory barriers, and promote the accountability required to carry out the arrangement. Equivalent leadership at the Department of State to that of the DoD on AUKUS is vital to its successful implementation.

- **Sec. 1399F Foreign Advance Acquisition Account:** Enhanced and expanded use of the Special Defense Acquisition Fund (SDAF) will allow DoD to anticipate and address future industrial base production challenges for critical capabilities in support of identified partners and allies. The creation and designation of the Foreign Advance Acquisition Account supports pooling timely resources for urgent capabilities, reduces the risk of misallocating funds, and offers clarity on their intended use. AIA supports the Senate’s promulgation of advance security cooperation planning as exuded by the establishment of this account.
- **Sec. 1399J Improvements to security cooperation workforce and defense acquisition workforce:** AIA fully supports creative investments in the defense trade and security cooperation workforce. This investment is important across the interagency, including DoD, DoS, and the Department of Commerce, and industry supports activities to professionalize and increase the resources of the respective workforces to streamline and expedite direct commercial sales and Foreign Military Sales. The approach to ensure consistent understanding of national security priorities and combatant commands’ security cooperation strategies among the workforces and how those relate to partner requirements is critical for effective capability delivery and timely deterrence. Moreover, creation of a formal senior-level advisory group via the Foreign Military Sales Continuous Process Improvement Board will provide focus to regularly solicit and receive input on areas of opportunity to improve FMS which our industry welcomes.
- **Sec. 1399K Modification of Foreign Military Sales processing:** U.S. responsiveness to our allies and partners through the defense trade and Foreign Military Sales process has significant impacts to the overall security, economic and trade relationship that can permeate into political, social, and diplomatic relations. Our industry welcomes measures to achieve practicable responsiveness, understanding our integral role in supporting the DoD with timely, accurate, and robust data that informs Letters of Request and Letters of Offer and Acceptance. Additionally, our industry welcomes measures that provide greater significance and prioritization through regulatory improvements for North Atlantic Treaty Organization (NATO) members, Major Non-NATO Allies, major defense partners, and major security partners of the United States. Statutory timelines, however, namely the 45-day deadline to respond to foreign partner requests, may introduce unintended consequences that industry cautions place pressure on the policy and acquisition process without achieving the goal of attentive responsiveness to the partner. Therefore, AIA recommends eliminating the 45-day response deadline.
- **Sec. 1608 Briefing on classification practices and foreign disclosure policies required for combined space operations:** AIA is encouraged by the Senate’s focus on combined space operations and the subsequent interest in the related foreign disclosure policy. While combined space operations is the near-term objective, the A&D industry keenly supports proactive and inclusive U.S. government – industry planning for security cooperation and Foreign Military



Sales or direct commercial sales tied to space systems, space-based capabilities, and emerging technologies, including efforts to address management of technology security and release policy, foreign disclosure, and exportability. Manufacturers and suppliers desire to be aligned with policy and well prepared for the burgeoning and expanding global space security market.

- **Sec. 6242 Eligibility of Taiwan for the Strategic Trade Authorization exception to certain export control licensing requirements:** As Congress continues to support streamlining and expediting exports of critical capabilities to Taiwan, AIA supports the authority provided to make Taiwan eligible for the Department of Commerce export license exception Strategic Trade Authorization (STA) under the Export Administration Regulations (EAR). That authority would simplify exports by expanding streamlined authorization for more aerospace end-items while maintaining vital EAR-based export control end-use and re-transfer assurances.
