Australian Government

Department of Defence

The Australia - United States Defence Trade Cooperation Treaty

Background and Progress
April 2014

Defence Trade Cooperation Treaty

- Designed to allow easier access to US Defence goods/technology and improve interoperability.

- Creates a framework for transferring certain controlled goods without applying for export licences, within an Approved Community of AU and US members.

- Provides an export licence exemption for controlled goods.

- Implemented in Australia through the *Defence Trade Controls Act 2013* and in the US through §126.16 of the ITAR.

Treaty vs Licence System

- ## Treaty
  - Use without applying or waiting for approval - important when bidding on contracts.

  - Known scope and conditions.

  - Authorisation allows you to broaden scope of activities through project.

  - Valid indefinitely.

- ## Licence (e.g. TAA)
  - Apply and wait for approval.

  - Wait to see what is approved and what the conditions are.

  - Limited to what is applied for - any amendments require further approval.

  - Valid for a limited time.

Eligibility

- Transfers can only occur between AU and/or US Approved Community members, using an approved Intermediate Consignee.

- Goods must be Treaty eligible (see *Defence Trade Cooperation Munitions List*).

- Transfer must be in support of an eligible activity - Australian Government End-Use, AU-US Cooperative Programs, Combined Operations & Exercises or US Government End Use Projects Lists.
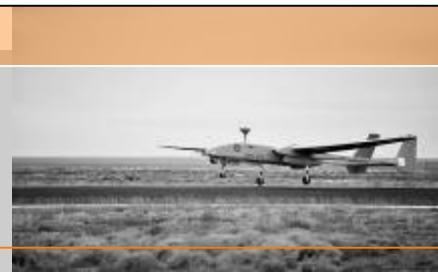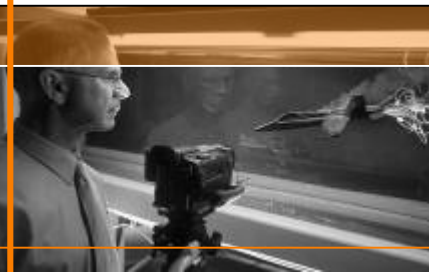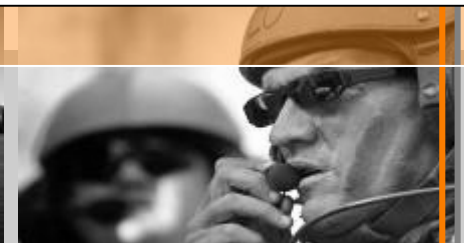
Australian Community (AC)

- Organisations that currently, or expect to, require access to Treaty eligible defense articles in support of eligible end-uses can apply for membership to the AC.

- Organisations that currently access goods or technologies controlled under ITAR may already be involved in eligible business activities.

- Joining the AC is a voluntary business decision.
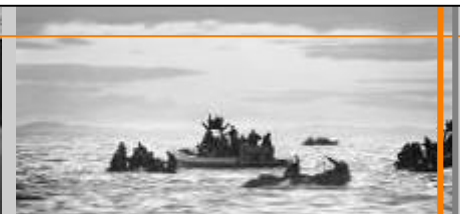
Australian Community Application Process

1. Application to Join the Australian Community
2. Company assessment
3. Foreign Ownership, Control & Influence assessment
4. ICT system accreditation
5. Facility accreditation
6. US Government approval
7. Membership notice
8. ACID number (Approved Community ID)

Using the Treaty

- Confirm Approved Community membership of both the supplier and recipient.

- Confirm scope list and article eligibility.

- Use an approved Intermediate Consignee.

- Articles already in Australia can be transitioned into the Treaty.

Compliance

- Australian Community members, including Defence, must comply with Treaty requirements

    – Transfer only eligible goods within Approved Community

    – Control access

    – Storage & Handling

    – Recordkeeping

    – Annual Compliance Reporting

US Export Control Reform

- Review of the USML has resulted in movement of USML items to the '600 series' on the Commerce Control List.

- Only goods listed on the USML are eligible for transition to Treaty arrangements.

- Expected reduction in the scope of the Treaty Exempted Technologies List.

FMS
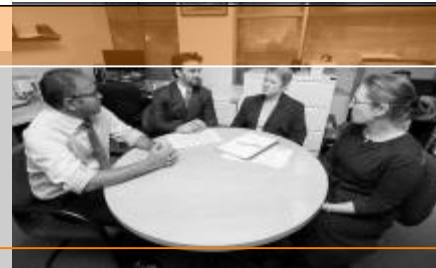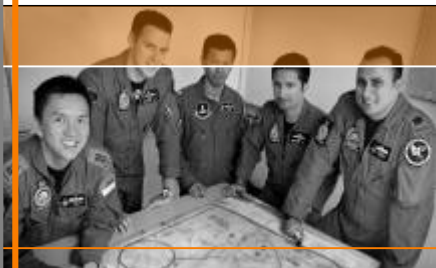
- Goods and technology acquired under FMS may be treated as Treaty Articles once delivered to GOA.

- Same rules apply – i.e. only goods listed in USML are eligible for transition to Treaty.

- TPR's will still be required for CCL goods delivered under FMS.

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Treaty Myths

- *U.S. Export Control Reform will negate Treaty usefulness.*
  - **FALSE:** Reforms will not provide the benefits available under the Treaty, which is here today.

- *Programs with exempted technology cannot use Treaty.*
  - **FALSE:** An authorisation is required only for the exempted technology.

- *Programs involving entities outside the Approved Community cannot use the Treaty.*
  - **FALSE:** An authorisation for access by the other entities is required.

- *An ACID number is required for each project.*
  - **FALSE:** One ACID number will cover all Treaty activity at an AC member's facility.

Other Treaty Comments

- *Marking of Treaty Articles is difficult.*
  - Marking of physical goods required only 'where practicable'. GOA and USG are working to clarify the marking requirements.

- *Record keeping requirements too onerous.*
  - Requirements based on good business practice and current expectations.

- *Exempted Technology List too large.*
  - ETL will reduce as USML changes occur. ETL currently under review by USG and GOA.

Treaty Progress

- Steady growth in number of Australian Community members and approved Intermediate Consignees.

- Consulting Defence and industry to identify additional suitable projects for Treaty use.

- Encouraging use of the Treaty by Government and industry.

- Combined outreach activities to support scheduled Treaty Management Board meetings.

- First successful use in March 2014

Contact
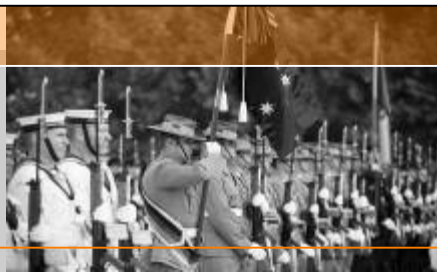
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