

BUREAU OF INDUSTRY AND SECURITY

UPDATE CONFERENCE ON EXPORT CONTROLS AND POLICY

MARCH 18-20, 2025



Export Control Changes for the AUKUS Partnership

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Agenda

- BIS AUKUS Export Control Revisions
- AUKUS ITAR Exemption
- UK Reciprocal Exemption
- Australian Reciprocal Exemption
- Questions and Answers

BIS AUKUS Export Control Revisions

- Export Control Status of the UK and Australia pre-April 2024
- April 2024 AUKUS Revisions
- September 2024 Advanced Technology Controls
- October 2024 Space Export Control Revisions

EAR Status of Australia/UK Pre-April 2024

- Not subject to national security (NS2) and regional stability (RS2) controls
- Eligible to receive “600 series” and certain satellite-related (“9x515”) items under license exception STA.
- Some legacy dual-use NS1/RS1 items also eligible for export to the UK and Australia under STA.
- MTCR dual-use items generally required a license to the UK and Australia (MT1 controlled)

EAR Status of Australia/UK Pre-April 2024

- “Export Control Revisions for Australia, United Kingdom, United States (AUKUS) Enhanced Trilateral Security Partnership” published April 19, 2024 (89 FR 28594)
- Removal of *list-based license requirements*, *expansion of license exception eligibility*, and *removal of end-use and end-user-based license requirements*.

<https://www.federalregister.gov/documents/2024/04/19/2024-08446/export-control-revisions-for-australia-united-kingdom-united-states-aukus-enhanced-trilateral>

Part 1: Revisions to list-based license requirements:

Commerce Country Chart – Supplement No. 1 to Part 738

| Countries | Chemical and biological weapons | | | Nuclear nonproliferation | | National security | | Missile tech | Regional stability | | Firearms convention | Crime control | | | Anti-terrorism | |
|-----------------------------|---------------------------------|------|------|--------------------------|------|-------------------|------|--------------|--------------------|------|---------------------|---------------|------|------|----------------|------|
| | CB 1 | CB 2 | CB 3 | NP 1 | NP 2 | NS 1 | NS 2 | MT 1 | RS 1 | RS 2 | FC 1 | CC 1 | CC 2 | CC 3 | AT 1 | AT 2 |
| Australia ⁹ | X | | | | | | | | | | | | | | | |
| United Kingdom ⁹ | X | | | | | | | | | | | | | | | |

**“600 series” munitions items, many 9x515 satellite-related items, and Wassenaar Sensitive/Very Sensitive List items can be exported NLR.
 Significant Item (SI) hot section technology controls also removed.**

Part 2: Expansion of License Exceptions

- Revision to license exception aircraft, vessels, and spacecraft (**AVS**): UK and Australian airlines may now receive missile technology-controlled spare parts in most locations worldwide.
- Revisions to license exceptions for encryption items (**ENC**) and additional permissive reexports (**APR**): Clarified applicability of those exceptions and removed certain reporting requirements.

Part 3: Removal of End-Use and End-User License Requirements

- Removal of restrictions on high-speed cameras to military end users and on certain thermal imaging items to military end uses in the UK and Australia.
 - Revises § 744.9(a)(1)(i): impacts ECCN 6A003.a.3, 6A003.a.4, and 6A003.a.6
 - Revises § 744.9(a)(1)(iii): impacts ECCN 6A002, 6A003, 6A993.a, 8A002.d, incorporated into 0A919

Export Requirements that Remain Unchanged:

- Firearms, ammunition, and related items are the primary category of items still requiring a license for export
- Certain items controlled pursuant to the Chemical Weapons Convention continue to require a license to both destinations, as do items for torture/execution, surreptitious listening, and items controlled for short supply reasons (e.g., Western red cedar and horses exported by sea).
- Most EEI filing requirements will also remain in place for Australia and the UK (i.e., shipments valued >\$2,500 per Schedule B)
- Most existing end-use and end-user controls under the EAR also remain unchanged, such as those applicable to entities listed on U.S. government export screening lists (Entity List, Specially Designated Nationals and Blocked Persons List, etc.)

NEW! Advanced Technology Controls

- On September 6, 2024, BIS implemented controls consistent with international partners
 - Metal additive manufacturing
 - Quantum computing
 - Advanced Semiconductors

- These items require a license worldwide, including Australia/UK
- **However**, license exception Implemented Export Controls (IEC) may be available for items controlled by Australia/UK (www.bis.gov/IEC)

LICENSE EXCEPTION IMPLEMENTED EXPORT CONTROLS (IEC) ELIGIBLE ITEMS AND DESTINATIONS (Last Modified: December 2, 2024)

This table lists ECCNs and destinations authorized for export, reexport, and transfer (in-country) pursuant to License Exception Implemented Export Controls (IEC) in § 740.24 of the EAR.

| ECCN | Eligible Destinations | Eligibility Date |
|-------|------------------------------------------------------------------------------------------------------------|------------------|
| 3A901 | AUSTRALIA (3A901.a only), CANADA, FRANCE (for 3A901.a only), GERMANY, ITALY, UNITED KINGDOM, UNITED STATES | 9/6/2024 |
| | DENMARK (for 3A901.a only), FINLAND, JAPAN (for 3A901.a only) | 9/17/2024 |
| | NORWAY | 11/1/2024 |
| | THE NETHERLANDS, NEW ZEALAND, SLOVENIA (for 3A901.a only) | 12/2/2024 |

Impact of AUKUS EAR Revisions

- Foster defense trade and technological innovation with the UK and Australia
- Reduce over 800 public burden hours annually associated with over 1,800 licenses valued at over \$7.5 billion.
- Removal of license requirements for most exports and reexports to these countries saves on average three weeks of license processing time for industry and the time necessary to prepare and submit the initial license application.

NEW! Additional Space Export Control Revisions for AUKUS Partners

- Effective October 23, 2024
- Benefits Australia, Canada, and the United Kingdom
- Removes EAR license requirements for remote sensing and space-based logistics, assembly, and servicing spacecraft to these allies
- Should result in an additional reduction of 90 license applications annually

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ITAR AUKUS Exemption

New Defense Trade Exemptions

- **Exemption in ITAR § 126.7 for activities subject to the ITAR** (*i.e., exports, reexports, retransfers, and temporary imports of defense articles; performance of defense services; and brokering activities*) **between the U.S., Australia, and the United Kingdom**
- Interim final rule (*see* 89 FR 67270) **effective September 1**, public comment period ended November 18
- About **80% of the value of existing commercial defense trade** between U.S./UK & U.S./AUS eligible to go under the exemption
- **UK & Australia have comparable exemptions** to facilitate qualifying trade

Overview of ITAR § 126.7

There are three key questions to ask yourself in determining if the new ITAR exemption would work for a transaction:

1. **Where is the item going?** Needs to be within the physical territories of the U.S., Australia, or UK. See § 126.7(b)(1)
2. **Who are the parties to the transaction?** Transferor, recipient, or broker must each be one of the following (see § 126.7(b)(2)):
 - A U.S. government department or agency
 - U.S. persons registered with DDTC and not debarred
 - U.S. persons can opt-in to have their registration status confirmed by DDTC
 - Australian or UK Authorized Users listed in the Defense Export Control and Compliance System (DECCS)
 - These entities initiate enrollment process through their respective governments
3. **What are you sending?** Item cannot be on the Excluded Technology List (ETL): Supplement No. 2 to § 126.7. See § 126.7(b)(3)

Similarity to Other ITAR Exemptions

- **Self-certifying**
- **Recordkeeping requirements for exemptions:** *See ITAR § 122.5*
- **Congressional certification** still applies *per § 126.7(b)(4)*, so exemption not available if *Congressional certification is required*
- **Transferors must provide information**, *per § 123.9(b)*, about the defense articles to the recipient: *see § 126.7(b)(5)*
- **Re-exports or retransfers outside what is approved by § 126.7 require other authorization** (*e.g., another exemption, license, etc.*)
- **You still need to comply with other aspects of U.S. law** (*e.g., requirements for the transfer of classified defense articles and services*): *see § 126.7 Note 1*

If you use other exemptions, this one should be familiar

The Excluded Technology List (ETL)

- The vast majority of U.S. Munitions List (USML) items are eligible for the new exemption
- § 126.7(b)(3) references Supplement No. 2 to Part 126 – the ETL
- To determine if an item is on the ETL you must: 1) identify the USML paragraphs that describe the item; 2) determine if those categories are covered by the ETL (review the 1st column), and 3) see if the written exclusion in the “Exclusion” column applies to the item
- If no entry excludes the item, then the item is eligible for transfer under the exemption

Sample ETL entry:

| USML Entry | Exclusion |
|-------------------------------|--------------------------------------------------------------------------------------------------------------------|
| XI(a)(1)(i) and (ii), and (d) | Articles described in USML Category XI(a)(1)(i) and (ii); and directly related technical data and defense services |

Expedited Licensing

New Legal Requirement:

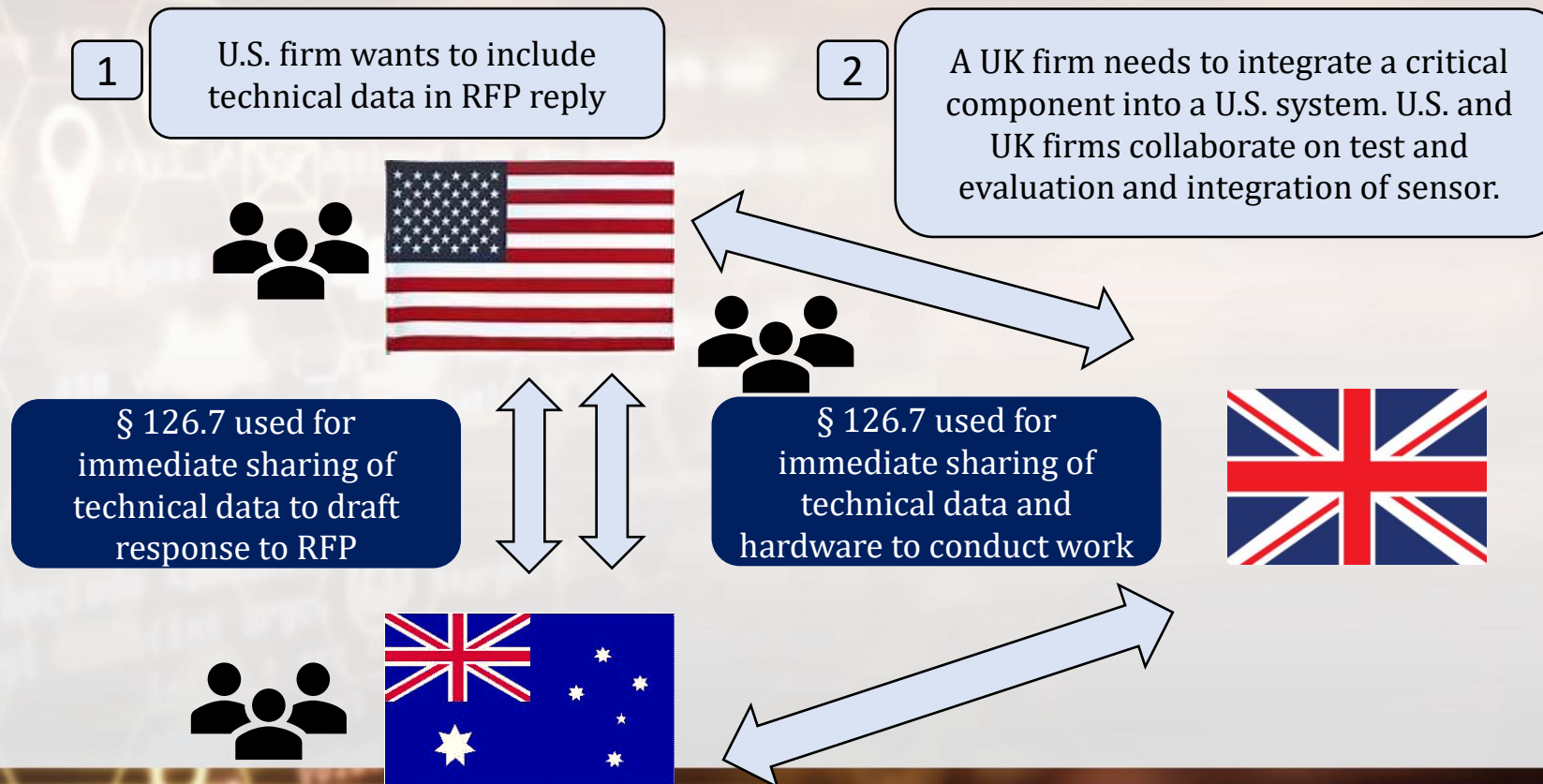
ITAR § 126.15 - Expedited processing of license applications for the export of defense articles and defense services to Australia, the United Kingdom, or Canada:

- Must not be eligible for transfer under an ITAR exemption.
- Must be to or within the physical territories of these countries and between governments or persons of these countries.
- Processing times, to the extent practicable:
 - If related to gov-to-gov agreement: within 30 days
 - All others: within 45 days
 - *Note:* congressional certification period is not included in these timelines

If the activity is not eligible for an exemption, then exporters can note expedited review eligibility in the licensing application's Purpose block.

Use Scenario:

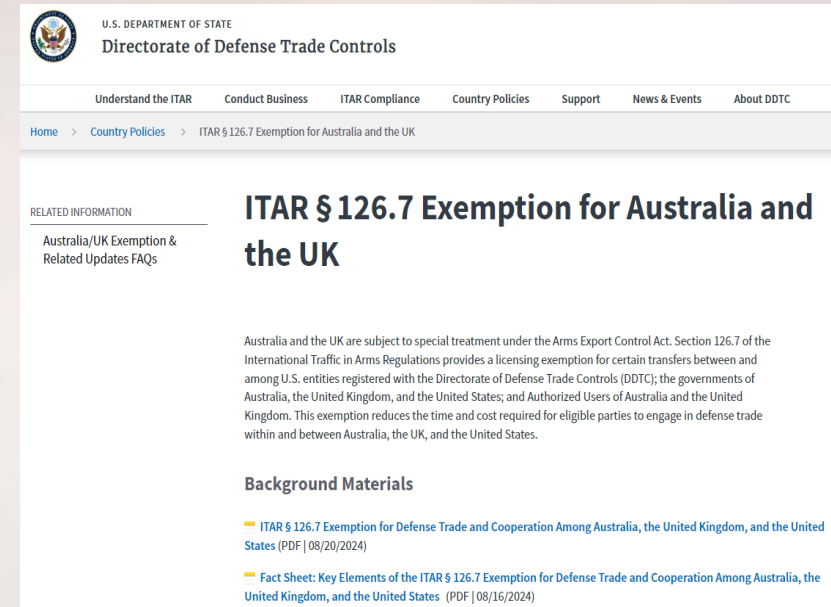
U.S. Government issues 60-day request for proposal (RFP) on sensor development for integration into an Electro-Optical/Infra-Red (EO/IR) system (non-ETL)



Resources

- U.S. resources to assist users with the exemption include new § 126.7 page on DDTC website. Links on that page include:
 - [Exemption Fact Sheet](#)
 - [FAQs](#)
 - [Authorized User Opt In and Opt Out Guide for U.S. Registrants](#)
 - [U.S. Registration Status Request Guide for Authorized Users of Australia and UK](#)
- The DDTC Help Desk and Response Team are available to answer questions by phone and email Monday-Friday, 8am to 5pm (DC) – *Links available through the DDTC website*
- UK and Australia also have resources on their systems available – *Links can be found on the DDTC website's § 126.7 page*

www.pmddtc.state.gov,
Country Policies,
Australia/UK Exemption



The screenshot shows the official website of the Directorate of Defense Trade Controls (DDTC). The header includes the U.S. Department of State logo and the DDTC name. A navigation bar lists various topics: Understand the ITAR, Conduct Business, ITAR Compliance, Country Policies, Support, News & Events, and About DDTC. The main content area is titled "ITAR § 126.7 Exemption for Australia and the UK". It provides a summary of the exemption, stating that Australia and the UK are subject to special treatment under the Arms Export Control Act. Below the summary, there is a section for "Background Materials" which includes links to two PDF documents: "ITAR § 126.7 Exemption for Defense Trade and Cooperation Among Australia, the United Kingdom, and the United States" (dated 08/20/2024) and "Fact Sheet: Key Elements of the ITAR § 126.7 Exemption for Defense Trade and Cooperation Among Australia, the United Kingdom, and the United States" (dated 08/16/2024).

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Australia's National Exemption for AUKUS Partners

Scope | Australia's National Exemption for US and UK

- Exemption for the US and UK was provided under section 5C of the *Defence Trade Controls Act 2012* and subregulation 13Ea (5A) of the Customs (Prohibited Exports) Regulations 1958.
- Who is covered?
 - An Australian person; **OR**
 - A citizen or permanent resident of the United Kingdom or United States; **OR**
 - A body corporate incorporated by or under a law of the United Kingdom or United States, or of a part of either of those countries; **OR**
 - The Government of the United Kingdom or United States, or the government of a part of either of those countries; **OR**
 - An authority of the Government of the United Kingdom or United States, or the government of a part of either of those countries; **AND**
 - The export or supply must be at a place in Australia, the United Kingdom, or the United States.

Key Elements | Australia's National Exemption for US and UK

- All exporters wishing to utilise the exception must register with Defence Export Controls, obtain a '**Defence Export Control Client Registration Number**', and enrol to become an authorised user of the licence-free environment.
- The **Excluded Technology List** specifies DSGI controlled goods and technologies excluded for export or supply under the national exemption for the US and UK.
 - The goods and technologies included on this instrument mirror those excluded under the national exemption for Australia from the Export Administration Regulations and the International Traffic in Arms Regulations and UK's Open General License.
- All exporters utilising the national exemption will be required to **notify DEC of all exports or supplies made to the US and UK.**

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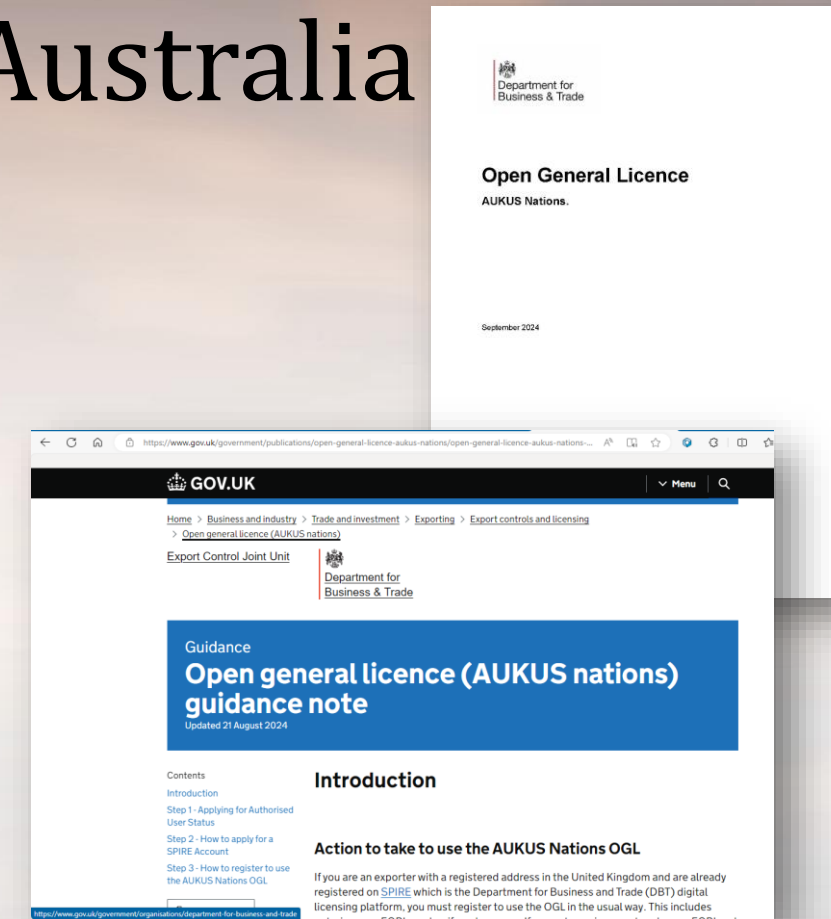
The UK's Open General Licence for AUKUS Nations

The UK Legislative Landscape

- A mature and comprehensive export control system
 - Export Control Act 2002
 - Export Control Order 2008
- Continually reviewed to address emerging threats and meet changing requirements.
 - May 2022, HMG expanded the scope of Military End-Use Controls to apply to a wider range of end-users and added China to the list of countries to which it applies.
 - Looking forward we are planning to consult on emerging technologies and how best to engage with expertise in UK Industry on future controls.
- Alongside, and working together with these export controls:
 - National Security Investment Act 2021
 - National Security Act 2023

National Exemption for US and Australia

- The AUKUS Nations Open General Licence (OGL)
 - Utilises the UK's well established OGL approach
 - Once registered for the OGL and included in the Authorised Users List it allows, without the need for individual licences:
 - Export, transfer and supply/delivery of dual use and military goods or technology, between and among Australia, USA and UK.
 - Covers all items on the UK Military List except those excluded in the OGL
 - Record keeping, security and audit requirements apply.
 - Any export, reexport or transfer outside the AUKUS nations requires separate approval



General information on Open General Licences is available on www.gov.uk

The Exemption in Practice

- Some examples of how the reciprocal arrangements are being used:
 - **MOD to Other UK Government Dept. Transfer** – Transfers of ITAR equipment between departments for use and disposal. No General Correspondence required for changes.
 - **MOD to UK Industry Transfer** – Transfer of ITAR controlled technical data to support a major Prime's staff on a UK platform where Prime not included on TAA. The transfer took place within a couple of days of the Prime being approved within the Authorised User Community.
 - **MOD to USG Transfer** – Transfer of ownership of military assets to the US Government so they could be used for Training Purposes. No third-party transfer applications required.
 - **MOD to AUSG Transfer** – UK MOD has used the exemption to allow Australian Military personnel to access ITAR controlled hardware and technical data as part of their training in UK MOD facilities. This has allowed rapid access by Australian personnel to all ITAR kit across the UK training programme (excluding ETL content). Use of the exemption has reduced the need to identify substantial quantities of legacy kit that would have taken months to identify, let alone licence, and remove the need to amend tens of TAAs to authorise Australian access.
 - **US Industry sale to UK Gov** – Urgent procurement from a US Company requiring export to the UK enabled within days.
 - **Industry to Industry Collaboration** – The exemption allowed a swift exchange of information between US and UK subsidiaries of a major Prime to support collaborative development work.