



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

BILLS

**Defence Trade Controls Bill 2011,
Customs Amendment (Military
End-Use) Bill 2011, Second Reading**

SPEECH

Monday, 29 October 2012

BY AUTHORITY OF THE SENATE

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Date Monday, 29 October 2012
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Questioner
Speaker Fawcett, Sen David

Source Senate
Proof No
Responder
Question No.

Senator FAWCETT (South Australia) (12:18): I rise also to address the Defence Trade Controls Bills 2011. I will touch briefly on just four areas: firstly, the context of the bill; secondly, the process and some of the detail; and then have a couple of comments about the future implementation of this government's agenda on defence.

On the context of the Defence Trade Controls Bill, there should be nobody in Australia who has a concern with the fact that this government seeks to have controls over the movement of munitions or technology that can be used for ways that will harm people. Out of the Cold War the Wassenaar process was developed—the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. It focuses primarily on the transparency of national export control regimes such that we can have an insight into what is happening around the world. It was important in the sense of the Cold War, when nations were looking at an arms race. But, today, with the rise of powerful non-state actors, it is even more important that Australia, along with other responsible members of the international community, have a good view on where arms and related technologies from any nation are going. So our support of the Wassenaar process and making sure that our legislation ties in with that are important.

The other context that is important in this bill is ITAR, the International Traffic in Arms Regulations. That is United States government regulation that controls the export and import of defence related articles and services on the United States Munitions List. Our relationship with the United States is crucial not only for intelligence sharing and joint operations but also for technology. Over the decades, we have become a trusted partner of the US. That is based on a couple of aspects. One aspect is that they can trust us with their technology because we have proven to be reliable custodians of their technology through abiding by the ITAR requirements and making sure that our defence force and our industry abide by those requirements. Another aspect is that we have become trusted partners in this defence space because we have been able to bring valuable things to the table through our research institutions such as our universities and our defence industry players, and places like the Defence Science and Technology Organisation.

The support of ITAR and our relationship with the Americans are the basis for the origins of this treaty, which was to provide a framework whereby we could cooperate more closely with counterparts in the US to the benefit of our national defence as well as the taxpayer, because we have increased capital productivity—the money we put into defence is more productive—and, hopefully, remove the burdens on the defence industry and make it easier for them to work. That is where implementation is such an important part of this discussion. That is a great vision to have. But if in the process of implementation we increase the cost burden on small business or we decrease the ability of universities or industry to do research that benefits Australia and benefits the bottom line, and importantly also benefits our relationship with the United States, then we have perversely failed in the vision that led to the treaty in the first place.

Research in Australia is important and we are making significant contributions. My background is in defence. One of the areas I was involved with was the flight test world and running the range at Woomera, where the University of Queensland and the HyShot team literally lead the world with things like scram jet technologies. It is interesting to see the make-up of the team that they have worked with. Sponsorship for the HyShot program included support from NASA; the US Air Force; the German Aerospace Center, DLR; the National University of Seoul in Korea; the National Aerospace Laboratory in Japan; and what used to be the Defence Evaluation and Research Agency of the UK. So there, in one small snapshot, is a great example of why we need to get this right. We have world leading research occurring in Australian universities in collaboration with our defence industry and US defence as well as a number of international partners. If we do not get this legislation right, if the implementation does not achieve the outcomes, we will close the door not only on that kind of world leading research in Australia; perversely, we will also make it more difficult to have a seat at the table with the Americans, because we will start to not have something to bring to the table in terms of sharing technology.

Process is the other part that is important. I am not going to talk at any length about that because a number of colleagues here from the crossbenches, the government and the opposition have highlighted how the process with this bill has been woeful, to put it

politely. That comes down in large part to transparency of process and consultation, and allowing dissenting voices to be heard. I will say no more; the transcripts from this session highlight very clearly a number of deficiencies that need to be rectified in that process.

In terms of the detail of this bill, I am conscious that there are many aspects. The one aspect that has caused most angst is that of the research sector and universities and the lack of consultation and potential for impact upon their research. I do not propose to go through that in detail now for the simple reason that during the committee stage we will be going through clause by clause and looking at significant amendments that have been put forward by the government, the Greens and the opposition and during the process we will have an opportunity to tease those out. Suffice it to say that I do want to recognise the work of the Chief Scientist and the head of DSTO, who have engaged with Universities Australia and other stakeholders in the roundtable process. I just wish that that had occurred some months, if not years beforehand, as was quite possible given the time frame of this bill. We could perhaps have avoided a lot of this angst if that had occurred earlier. I look forward to the committee stage to tease those out.

In terms of the future, assuming this bill passes, along with many other things this government is putting forward we come back to the point of implementation. I look at a media release just issued today about Australia in the Asian century—the white paper. This is from the Australian Technology Network Group of Universities. They had said it is a good start but implementation is critical to success. In light of what has just happened with this bill, there could be no more salient or timely message from the universities sector to the government about implementing policies that have great vision, but I say that vision without dollars is hallucination and vision that is poorly implemented is a nightmare.

The government's budget at the moment is a classic case in point. During estimates this year—in fact the last estimates, only a week or two ago—we raised quite clearly the fact that, whilst a lot of focus is on future capabilities, Force 2030 and whether or not the government can afford in out years to fund the capabilities they have said they want to buy, the real focus of the taxpayer in Australia should be on Defence's inability to adequately fund the equipment they already have. To go back to the report that this government commissioned—the Pappas audit in 2008, which ministers and Defence all agreed with and in which Mr Pappas came up with a rationale for calculating cost growth pressures, Defence, even in the small area of specialist military equipment, is underfunded by more than \$4 billion over the forward estimates. That perhaps explains why we see tanks on

chocks, vehicles in garages and aircraft not flying their hours. When I speak to soldiers in the field during visits, they tell me that their joint logistics units do not have the funds to repair much of their equipment.

Having a vision of a relationship, having a vision of this community partnership and having visions of things like Australia in the Asian century are all well and good, but it needs to be funded appropriately and implemented well; and, as this process has shown, part of that implementation needs to include adequate transparency and the ability for dissenting voices to be heard.

I close on one good example: the APB program, where Australia partners with America on the combat system for the submarines. We are told that this is a fantastic thing for Australia because we get access to the best technology and our companies can compete on a level playing field with America. I have to tell you that the way the American system works is very different from our system and makes it almost impossible for Australian companies to compete. The reason is that the United States Department of Defense spends over \$80 billion a year on research and development. They fund well over half of the R&D that occurs in universities around this area. So, when an American company in the APB program brings forward IP—and one of the conditions of the program is that you lay your IP on the table and share it so everyone can benefit from it and decide if it is worth rolling into the common configuration—they can do that at no risk because the government owns the IP. It has paid them for their research.

Here in Australia we do not pay defence industry in the same way to do that research so, when industry build a good solution, they do not want to go and lay that IP on the table because that is where the future viability of their company comes from. If we really want a level playing field, we need to ask: what is good for Australia? How can this work for Australia? We need to work constructively with our alliance partners. For example, of the 15 per cent that we pay into that APB program, perhaps five per cent of that should be funded directly to Australian industry or Australian government agencies like DSTO who are working on the APB program so that our contribution can be on a level playing field, where the IP is owned by the government and we can work with them.

With this whole program around the Defence Trade Controls Bill 2011, the same mindset as we look forward has to be there: what is good for Australia and not just what mirrors what happens in the United States, because that may not actually work for Australia. We must look at what works for Australia and make sure that we advocate and work tirelessly to support our

Defence Force and our defence industry, which are part of our capability and our academic institutions.