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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

DEFENCE TRADE CONTROLS BILL 2011

ADDENDUM TO THE EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Defence,
the Honourable Stephen Smith MP)

This Addendum responds to comments raised by the Scrutiny of Bills Committee in the Alert Digest No 14 of 2011 dated 23 November 2011. The following adjustments provide further clarification to the Explanatory Memorandum in accordance with the response by the Minister for Defence to that Committee in the First Report of 2012 dated 8 February 2012.

The Addendum also responds to a recommendation of the Preliminary Report of the Senate Foreign Affairs, Defence and Trade Legislation Committee of August 2012. The recommendation was to provide examples to illustrate the scope of the definition of 'intangibles' and 'intangible transfer' in the Explanatory Memorandum.

After paragraph 17 add:

Other examples of intangible transfers of technology include a person explaining to someone overseas how to make or use controlled items, sending conference presentations overseas where the presentation content communicates controlled technology, or, access technology from a server or virtual private network.

After paragraph 25 add:

Where the content of an exception to an offence, such as those listed above, involves a necessary level of detail, it is appropriate that the exception be delegated to the regulations.

At the end of paragraph 33 add:

It is appropriate that the Minister have the ability to consider a wide range of criteria in order to assist in protecting Australia's national interests and contributing to the reduction of threats to regional and international security.

At the end of paragraph 48 add:

It is appropriate that the Minister has the ability to consider a wide range of criteria in order to assist in protecting Australia's national interests and contributing to the reduction of threats to regional and international security.

At the end of paragraph 66 add:

This approach has been adopted because any exception that may be proposed is likely to include a level of detail which would unnecessarily complicate the Bill.

At the end of paragraph 74 add:

It is appropriate that the Minister have the ability to consider a wide range of criteria in order to assist in protecting Australia's national interests and contributing to the reduction of threats to regional and international security.

After the first sentence in paragraph 148 insert:

This approach has been adopted because any exception that may be proposed is likely to include a level of detail which would unnecessarily complicate the Bill.