NEW ZEALAND
FOREIGN AFFAIRS & TRADE
Manatū Aorere

NOVEMBER 2025

STRENGTHENING NEW ZEALAND'S EXPORT CONTROLS REGIME

Proposals to address changing proliferation challenges involving strategic (military related) goods and technology

Disclaimer: Information contained in this consultation document is provided purely for the purposes of seeking public input into the future administration of the Export Controls regime by the Ministry of Foreign Affairs and Trade. As such, the information in this document, including without limitation to the views expressed therein, does not constitute legal advice. The information is subject to change and shall not be construed as the final views of the Ministry in its administration of the Export Controls regime. We recommend you seek independent advice on matters specific to your situation, including legal advice.

Contents

Have your say

This discussion document includes proposals for strengthening New Zealand's export controls regime to address changing proliferation challenges relating to strategic goods and technology. This includes technology intended for military use or that may have military applications (i.e. dual-use applications).

The Ministry of Foreign Affairs and Trade ('MFAT') seeks feedback on the proposals by **5pm** on **16 January 2026.** You are welcome to provide feedback on the whole document or to comment on parts most relevant to you.

There are several ways you can have your say on the proposals. You can make a written submission by:

	using the online submission tool at https://www.mfat.govt.nz/export-controls-consultation
	emailing your submission to: ecrreview@mfat.govt.nz
	posting your submission to: *Export Controls Consultation, Ministry of Foreign Affairs and Trade,* *195 Lambton Quay, Private Bag 18 901, Wellington 6160*

You may wish to register at https://www.mfat.govt.nz/export-controls-consultation by **5 December 2025** to take part in one of the consultation events being hosted by MFAT.

Alternatively, you may prefer to arrange an individual meeting with Ministry staff to discuss the proposals and provide feedback. This option is intended for respondents who wish to discuss matters that they are unable to raise in a workshop or hui, for example due to commercial confidentiality or security reasons. If you think this applies to you, or if you would like more information about the consultation process, please contact ecrreview@mfat.govt.nz.

Use and release of information

Information obtained by MFAT as a result of this consultation, including discussions and feedback, is considered 'official information' held by MFAT for the purposes of the Official Information Act 1982 (OIA). As such, MFAT may release information obtained through the consultation in response to an official information request, or in proactively released papers, subject to redactions under the OIA. Where you consider there are legitimate reasons all or part of the information you provide should be withheld, please indicate this in your feedback, along with your supporting rationale. Although this shall not be construed as final, it will be taken into consideration by MFAT, and we may consult you.

Foreword from the Secretary of Foreign Affairs and Trade

New Zealand's strategic environment has become more challenging and uncertain. Negative global trends have accelerated in recent years, marked by conflict and suffering in Ukraine, the Middle East and Africa, the destructive impacts of a changing climate and natural disasters, and increasing trade and economic protectionism. International competition has sharpened, including in our region. Long-standing international rules and relationships have been challenged or disrupted. More specifically, proliferators are increasingly looking to acquire knowledge (instead of goods) for their programmes and production of military equipment. This more challenging strategic context means that New Zealand has to work harder, and with greater agility, to advance and defend its key interests and values and must ensure the right regulatory regimes are in place to protect our national security.

Our export controls regime is an important part of our protective security framework to minimise the unwanted proliferation of military-related technology. In 2021, an independent review undertaken by David Smol recommended several operational changes, which have been implemented. The review also recommended that consideration be given to legislative change to mitigate emerging proliferation challenges, through development of a stronger regulatory system that is modern, efficient, and flexible.

Alongside protecting our national security, consolidating our credentials as a trusted and responsible export controls partner will be critical if we are to realise the full potential of international collaboration. This includes by ensuring our export control regime can regulate transfers of certain sensitive technologies, including intangible technologies, with implications for our security, economy, and international relations. Being able to regulate these types of transfers effectively, will support our national security, business, higher education, and research sectors.

At the same time, any additional regulatory measures need to be proportionate to the risks and not unnecessarily limit fundamental freedoms, or enterprise. Any new controls should be appropriate to the New Zealand setting and reflect stakeholder needs where practicable.

These proposals will be of particular interest to many, including the business community, universities, researchers, civil society, and Māori Treaty partners. Understanding the impact of proposed changes on those most likely to be affected, will be crucial to developing solutions that can work.

I encourage you to have your say. Your contributions will be essential to moving this significant work forward.

BEDE CORRY

SECRETARY OF FOREIGN AFFAIRS AND TRADE
TE HEKERETARI O MANATŪ AORERE

Executive summary

- The New Zealand Export Controls regime is one part of a multi-layered security framework to minimise the unwanted proliferation of strategic goods and technology.
- It regulates the export of controlled military and dual-use goods, software and technology listed on the New Zealand Strategic Goods List (NZSGL), and certain other goods and technical data intended for export to military and police end-users.
- Export controls safeguard our national security and economic interests, and fulfil our domestic and international obligations, commitments (including under four multilateral export control regimes) and policies on controlling the export of these items. They also give effect to our commitment to being a responsible exporter.
- The Ministry of Foreign Affairs and Trade manages this permitting regime under the Customs and Excise Act 2018 (Customs and Excise Act).
- The current regime is no longer fit-for-purpose to address contemporary and changing proliferation challenges, putting our national security, our national and economic interests, and our international reputation at risk.
- Shifts in the international order reflect a more contested and less stable global landscape. Intensifying competition between states is a key driver for the increase in foreign interference and espionage targeting New Zealand and our international partners.
- NZSIS threat assessments identify foreign interference and espionage as ongoing and evolving threats to New Zealand's national interests. Our innovative sectors have been identified as particularly vulnerable and prime targets (including through the insider threat), especially those involved in novel, niche and dual-use technologies.
- Proliferators are increasingly looking to acquire 'know-how' (instead of goods) to support programmes of concern. Technology can be easily acquired domestically and shared overseas without leaving any trace of the exchange, thereby circumventing export controls. As our export controls partners have introduced domestic controls, proliferators are increasingly looking to attract people with the knowledge and skills to their own countries to support production of technological development programmes and strategic goods.
- Our current regime cannot control Intangible Technology Transfers (ITT), (such as through teaching, on-the-job training, joint research, services) or sensitive technology transferred domestically, as it focuses on movement of tangible goods and electronic documents across New Zealand's territorial limits. To protect our national security and retain our reputation as a trusted and responsible international partner, we need to ensure that we can control these types of transfers.

- With rapidly growing advanced technology sectors, enhancing our export controls is also important to help protect our intellectual property, economic potential and opportunities for cooperative research in future.
- We invite stakeholder and Treaty partners' feedback on proposed new measures, including:
  - Controls on:
    - Transfers of technology within New Zealand (referred to as 'deemed exports'), including the placing (publishing) of that technology in the public domain within New Zealand;
    - ITT carried out by someone in New Zealand to an overseas recipient(s);
    - ITT carried out by New Zealanders and permanent residents when overseas (for example, to control disclosure of sensitive technical 'know-how' while travelling offshore);
    - The subsequent 're-export' or 're-transfer' of certain goods and technology previously supplied from New Zealand under an export controls permit;
  - Extending exemptions for primary systems through-life support from catch-all primary systems to also include NZSGL primary systems, and to include upgrades;
  - Introducing a range of warnings and penalties for 'lower-level', less serious offences;
  - A provisional decision-making process, to address the absence of a formal appeal mechanism.
- The proposals have been developed specifically in the New Zealand context, balancing risk against additional regulatory and administrative burden (including the impact on research and trade).
- They focus on exports and technology transfers with the highest proliferation risk. In line with international best practice, the proposals have been designed not to prohibit activities but to regulate who is eligible to participate in those activities in certain circumstances, with appropriate safeguards.
- The changes are intended to position New Zealand to benefit from potential reciprocal licensing exemptions and streamlined compliance processes, through achieving comparability with our closest export controls partners.
- A new stand-alone export controls Bill, incorporating existing export controls in the Customs and Excise Act and any new controls, will be needed to implement changes. Outreach and education will be key to implementation and enforcement.
- Feedback on this discussion document will inform further policy development and decisions by Cabinet. We are seeking feedback from you on the impact, including the costs and benefits, of the proposals.
- Consultation closes on 16 January 2026.

Definitions and terminology

“applied research”	unlike basic research, which aims to expand knowledge without a specific goal, applied research is directed toward a specific, practical outcome.
“basic research”	experimental or theoretical work undertaken principally to acquire new knowledge of the fundamental principles of phenomena or observable facts, not primarily directed towards a specific practical aim or objective.
“catch-all controls” (also known as 'military end-use provisions')	control the export of items not listed in the New Zealand Strategic Goods List (NZSGL), but which may be intended for a military use, or which may have military applications.
“controlled goods and technologies”	in a generic sense, means the same as for “strategic goods and technologies”. However, when used in the context of a specific set of controls, it refers to the particular range of goods and technologies stipulated.
“country exemption list”	is as for New Zealand’s current catch-all controls exempt list: Australia, Canada, Iceland, Japan, Norway, South Korea, Switzerland, UK, US, and EU member states.
“deemed export”	the disclosure, transfer, or provision of access to controlled technology to a foreign person within New Zealand, regardless of whether the technology physically leaves New Zealand (such a transfer becomes an “export” when it actually leaves New Zealand).
“development”	is related to all stages prior to serial production, such as: design, design research, design analyses, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, configuration design, integration design, layouts.
“dual-use”	goods and technologies developed for commercial purposes, but which may be used for military purposes. These items are detailed in Part 2 of the NZSGL. The Sensitive and Very Sensitive Lists contain a sub-set of the items controlled in NZSGL Part 2 Dual-Use List, and are items which require additional care in their transfer.
“end user certificate”	is an assurance required for goods and technology produced in New Zealand from the ultimate end-user that no onward transfer will occur without the Secretary of Foreign Affairs and Trade’s approval.
“espionage”	refers to various intelligence activities involving the clandestine collection of information or materials for the purpose of gaining advantage over a rival.

“foreign interference”	is an act by a foreign state, often acting through a proxy, which is intended to improperly influence, disrupt or subvert New Zealand’s national interests by deceptive, corruptive or coercive means. Normal diplomatic activity, lobbying and other genuine, overt efforts to gain influence are not considered interference.
“foreign person”	any individual who is not a New Zealand citizen or permanent resident (including those that hold other citizenships), and includes any foreign-incorporated entity, foreign government, or foreign organisation, whether operating within or outside New Zealand.
“fundamental research”	basic or applied research conducted in circumstances where the results of the research: are intended for public disclosure, or would ordinarily be published or shared broadly; and are not subject to any restrictions on disclosure (however imposed) for purposes connected with the security or defence of New Zealand or any foreign country.
“goods and technology”	the military and dual-use goods (including software) and technology listed in the New Zealand Strategic Goods List.
“intangible technology transfer” (ITT)	means the same as “technical assistance”.
“military use” or “military applications” in relation to the “catch-all controls”	goods and technology incorporated into weapons, or used in the production, maintenance or testing of weapons, or to materially enable or support operations and activities of a military or internal security nature.
“New Zealand Strategic Goods List”	includes controlled military and dual-use goods, software and technology which are subject to the current export controls. The List is largely derived from the control lists produced by the four export control regimes to which New Zealand belongs. It is amended from time to time to ensure it is up-to-date.
“non-proliferation”	policies and practices designed to prevent the spread of goods and technologies that have military or security uses that could be used for undesirable purposes.
“persons”	includes both individuals (natural persons) and legal entities (corporations, etc.).
“primary system”	a complete single item or a group of items forming a system.
“production”	all production phases, such as: construction, production engineering, manufacture, integration, assembly (mounting), inspection, testing, quality assurance.
“program(s)”	a sequence of instructions to carry out a process in, or convertible into, a form executable by an electronic computer.

“proliferators”	state or non-state actors that attempt to develop, acquire, manufacture, possess, transport or transfer military or dual-use goods and technology.
“public domain”	refers to “technology” or “software” which has been made available without restrictions upon its further dissemination (copyright restrictions do not remove “technology” or “software” from being “in the public domain”).
“required”, as applied to “technology”	refers to only that portion of “technology” which is peculiarly responsible for achieving or extending the controlled performance levels, characteristics or functions. Such “required” “technology” may be shared by different goods.
“software”	a collection of one or more “programs” or “microprograms” fixed in any tangible medium of expression.
“strategic goods and technologies”	those items listed on the New Zealand Strategic Goods List (NZSGL).
“technical assistance” or “intangible technology transfer” (ITT)	may include teaching and training; the provision of services or consultancies; exposure to technical data as part of research or work; practical skills experience working with technology; access to publications (including for patent applications); visual inspection of hardware and software; and meetings, discussions, presentations, seminars and other personal interactions.
“technical data”	may take forms such as blueprints; plans; diagrams; models; formulae; tables; engineering designs and specifications; manuals; and instructions. “Technical data” may be written or recorded on other media or devices such as disk, tape, read-only memories.
“technology”	the information required for the development, production, or use of military or dual-use goods listed in the NZSGL. Develop, produce and use can include: design; development; engineering; manufacture; production; assembly; testing; repair; maintenance; modification; operation; demilitarisation; destruction; processing; or use. “Technology” takes the form of “technical data” and “technical assistance”.
“use”	includes operation, installation (including on-site installation), maintenance (checking), repair, overhaul and refurbishing.

Part 1: Introduction

About this Consultation

We are seeking public feedback on proposals to strengthen New Zealand's export controls regime to address contemporary (and changing) proliferation challenges involving strategic goods and technology. Your feedback will be used to inform further policy development and decisions by Cabinet on reforms.

In 2024, the Government reaffirmed an earlier commitment to modernise the regime. This included confirming the Ministry of Foreign Affairs and Trade (MFAT) mandate to look at controls to address the increasing use of services and other intangible technology transfers (ITT) internationally by proliferators, to gain knowledge for the technological development and production of strategic goods.

An independent review of the regime in 2021[1] also identified the need for a strengthened regulatory regime that is modern, efficient, and flexible to meet contemporary and future proliferation challenges. Non-legislative changes were implemented[2] following that review, with a view to later progressing legislative reform and making some improvements to regulatory practice.

How to read this document

The document is split into 9 parts relating to the different types of controls being proposed. You will find a description, with questions, to guide your feedback. Important definitions and terminology for this consultation are found on pages 7-9. A full list of the consultation questions can be found in Appendix 1.

[1] A Review of MFAT of Foreign Affairs and Trade's Export Controls Regime July 2021
[2] This included implementing revised assessment criteria for assessing export control permit applications, a new purpose statement and adoption of a formal transparency approach to the permitting process.

Background on Existing Export Controls Regime

PURPOSE OF THE REGIME

New Zealand implements export controls to regulate the export of goods and technology which may be intended for uses that could:

- Be to the detriment of New Zealand's security or national interests; or
- Contribute to human rights abuse or the contravention of international humanitarian law.

These include strategic goods, listed on the New Zealand Strategic Goods List (NZSGL), and certain other goods intended for export to military and police end-users.

The export controls regime is intended to fulfil New Zealand's domestic and international obligations, commitments and policies on controlling the export of these goods and give effect to our commitment to being a responsible exporter.

New Zealand is a member of the four Multilateral Export Control Regimes (MECRs) and the Arms Trade Treaty (ATT), which form the basis of our export controls regime (refer to Appendix 2). The items on the NZSGL are largely derived from the four MECRS[3]:

- The Wassenaar Arrangement, which controls conventional weapons and dual-use goods and technology;
- The Missile Technology Control Regime, which controls missile-related goods and technologies;
- The Australia Group, which controls chemical and biological weapons-related materials;
- The Nuclear Suppliers Group which controls nuclear material, equipment, and technology; and
- The Arms Trade Treaty, which controls some conventional weapons and their associated ammunition/munitions.

New Zealand benefits from being a member of the MECRs and the ATT. Membership contributes to keeping sensitive goods and technology out of the wrong hands and bolsters New Zealand's credentials as a trusted international export controls partner and a strong supporter of the international rules based system. This is also key to facilitating the importation of sensitive and advanced technology for use by New Zealand industry, academia, and our research community.

[3] The NZSGL also includes some unilateral controls that New Zealand has put in place.

THE CHANGING NATIONAL SECURITY ENVIRONMENT

MFAT's 2023 Strategic Foreign Policy Assessment[4] identified three major geopolitical shifts from rules to power, economics to security, and efficiency to resilience. These shifts reflect a more contested and less stable global landscape, demonstrated through great power competition, the rise of authoritarianism, the undermining of the international order (including rights and freedoms), the impact of disinformation, and illegal and unjustified conflicts. This has magnified the proliferation challenges that have been with us for many years. Intensifying geopolitical competition between states is a key driver of the increase in foreign interference and espionage targeting New Zealand and our international partners.

More recently, the NZSIS 2025 Security Threat Environment Assessment[5] has highlighted the increasing complexity and severity of threats facing New Zealand, marking this period as one of the most challenging in recent history.

The assessment identifies foreign interference and espionage (also highlighted in the 2023 and 2024 assessments), as ongoing and evolving threats to New Zealand's national interests. Foreign interference manifests through deceptive, coercive, or corruptive tactics aimed at exploiting individuals within public and private sector organisations to further a foreign state's influence and interests. Foreign states also continue to undertake espionage, targeting New Zealand's critical organisations, infrastructure and technology to steal sensitive information.

Our innovative sectors have been identified as particularly vulnerable —especially those involved in niche and dual-use technologies—which are prime targets for this type of threat activity.

The assessment also describes how some states seeking to enhance their military and economic capabilities frequently attempt to gain covert access to sensitive research and intellectual property. This often involves a 'whole-of-state' approach, utilising not just intelligence officers, but also businesses, universities, and think tanks to act on their behalf. Common methods include using cover companies and research collaborations.

Additionally, insider threat activity —whether intentional or accidental— is noted as posing significant risks to public and private organisations, such as through the unauthorised disclosure of sensitive information or technology.

Alongside this, with our rapidly growing advanced technology sectors, threats to our economic security are heightened. There is an increasing need to ensure that our intellectual property, our economic security and potential, and our opportunities for cooperative research are protected. Access to advanced technology from our export controls partners, rests on having adequate export controls in place.

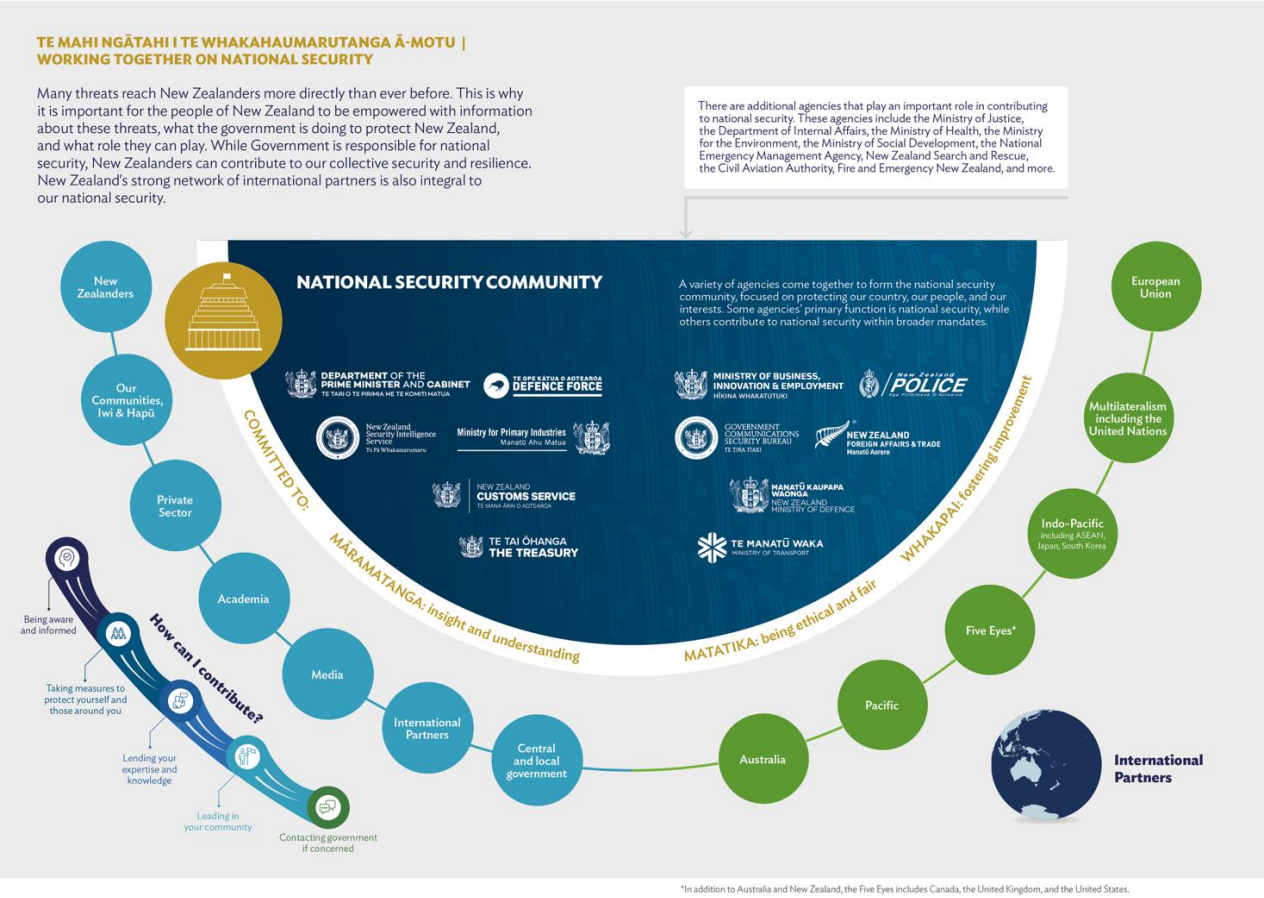
[4] https://www.mfat.govt.nz/assets/About-us-Corporate/MFAT-strategies-and-frameworks/MFATs-2023-Strategic-Foreign-Policy-Assessment-Navigating-a-shifting-world-June-2023.pdf
[5] https://www.nzsis.govt.nz/our-work/new-zealands-security-threat-environment

Export Controls are one part of New Zealand's National Security Framework

New Zealand's export controls regime is one component of a multi-layered framework designed to prevent the unwanted proliferation of strategic technology and safeguard our national interests. This framework reflects a whole-of-government approach to national security - integrating regulatory, intelligence, and policy mechanisms - to address evolving threats in a dynamic strategic environment.

APPLYING AN INTEGRATED APPROACH TO NATIONAL SECURITY

The Government's broad strategic direction to national security is set out in New Zealand's first National Security Strategy - Secure Together Tō Tātou Korowai Manaaki [6]. The strategy promotes an 'Act Early' framework, emphasising prevention, resilience, and taking an integrated approach. It identifies foreign interference, espionage, and the misuse of advanced technology as priority issues requiring coordinated responses across agencies and sectors.



Source: *Secure Together Tō Tātou Korowai Manaaki, New Zealand's National Security Strategy 2023-2028*

[6]This triennial document provides a long-term view of New Zealand's strategic environment.

The NZSIS provides practical security advice to help protect against and mitigate these threats, reinforcing the principle that national security is a shared responsibility.

Together, these elements (which include a broad range of components such as export controls, across multiple agencies and sectors), form a cohesive and flexible system to enable New Zealand to respond effectively to security challenges, while maintaining transparency, accountability, and public trust.

SOME COMPONENTS OF OUR NATIONAL SECURITY FRAMEWORK COMPLEMENT IMPLEMENTATION OF EXPORT CONTROLS

While export controls form one component of our integrated security framework, some of the other components of that framework, such as visa assessments, directly link to or complement export controls (refer Table 1). The scope of those components and how they interact with export controls, have been considered when developing proposals in this document (for example, to limit duplication arising from, and using existing guidance to implement, any new controls).

Table 1: Components of our National Security Framework that complement export controls

Immigration visa settings	Under the Immigration Act 2009 - helps mitigate risk associated with the granting of a visa to individuals who may pose a risk to New Zealand's international reputation or who may pose a risk or threat to security.
Investment screening	Under the Overseas Investment Act 2005 - ensures that foreign investments do not compromise national security.
Protective Security Requirements (PSR)	New Zealand Government's expectations for managing personnel, physical and information security. Government entities are mandated to implement the PSR, which is publicly available for use by others including the private sector.
Trusted Research-PSR	A Universities New Zealand guide which helps New Zealand research institutions and funders in identifying and managing foreign interference and espionage risks in international collaborations, ensuring research integrity, protecting sensitive data and technologies, and aligning with national security interests[7].
Legal provisions on foreign interference/espionage	Work is under way to modernise the foreign interference and espionage provisions of the Crimes Act 1961 – to reflect the increasing complexity and sophistication of state-sponsored threats.
Brokering controls	Under the Brokering (Weapons and Related Items) Controls Act 2018 - those wishing to engage in brokering of weapons and dual-use items for military use, are required to register with the Secretary for Foreign Affairs, and obtain a permit for each brokering activity.
Proliferation financing measures	Currently being considered as part of proposed amendments to the Anti-Money Laundering and Countering Financing of Terrorism Act 2009. If this were to be expanded to include financing of proliferation-related ITT, it would further strengthen NZ's integrated security framework.

[7] This framework is coordinated by the Ministry of Business, Innovation & Employment in collaboration with the NZSIS, and is embedded in due diligence processes for research funding, including Crown grants.

How the export controls regime currently works

The Secretary of Foreign Affairs and Trade ('the Secretary') has the authority to grant approval for the export of military and dual-use goods and technology (i.e. strategic items listed on the NZSGL) under section 96 of the Customs and Excise Act 2018, and goods not on the NZSGL but subject to 'catch-all' provisions (identified through a Gazette Notice under section 97 of the Customs and Excise Act).

The Secretary also has the authority to grant approval for the export or import of any toxic chemical or precursor listed in Schedules 1, 2, and 3 of the Annex on Chemicals of the Chemical Weapons (Prohibition) Act 1996.

These exports and imports are prohibited unless a permit has been granted.

The New Zealand Strategic Goods List (NZSGL) includes controlled military and dual-use goods, software and technology. The list is divided into two parts.

- Part 1 military list, which covers defence and related goods and technology and includes:
    - military goods and technologies – defence and related goods or technology designed or adapted for military purposes including parts and accessories; and
    - non-military lethal goods – goods that are inherently lethal, incapacitating or destructive such as non-military firearms, non-military ammunition and commercial explosives and initiators.

- Part 2 dual-use list, which covers goods and technologies developed to meet commercial needs, but which may be used either as military components or for the development or production of military systems or weapons of mass destruction. This part is further subdivided into the following categories:
    - Category 0 – Nuclear Materials, Facilities and Equipment;
    - Category 1 – Materials, Chemicals, Microorganisms and Toxins;
    - Category 2 – Materials Processing;
    - Category 3 – Electronics;
    - Category 4 – Computers;
    - Category 5 – Telecommunications and Information Security;
    - Category 6 – Sensors and Lasers;
    - Category 7 – Navigation and Avionics;
    - Category 8 – Marine;
    - Category 9 – Aerospace and Propulsion;
    - Sensitive list of dual-use goods and technologies, which contains a sub-set of the items listed in Categories 1 to 9 of the Part 2 Dual-Use List. The items in this list are considered to be sensitive, with a high proliferation risk and requiring additional care in their transfer; and

- **The Very Sensitive list of dual-use goods and technologies,** which contains Category 0 (nuclear) of the Dual-Use List and a subset of the items contained in the Sensitive List. The items in this list are considered to be very sensitive, with a very high proliferation risk and requiring extreme care in their transfer.

The NZSGL is amended from time to time to ensure it is up-to-date – it was last updated on 23 October 2025: New Zealand Strategic Goods List October 2025

The catch-all controls (also known as 'military end -use provisions') control the export of items which are not listed in the NZSGL, but which may be intended for military (including police) use, or which may have military applications.

For a step-by-step guide on how the regime currently works please see our videos and reference guides in the following link: Training and engagement | New Zealand Ministry of Foreign Affairs and Trade.

For information on the number and types of export permits processed, see our annual reports:

- 2023 Export Controls Annual Report
- 2022 Export Controls Annual Report

Our export controls regime needs strengthening

New Zealand's export controls regime is no longer fit-for-purpose to address contemporary and changing proliferation challenges, putting our national security, our national and economic interests, and our international reputation at risk.

As mentioned earlier, the strategic environment is becoming more difficult. Proliferators[8] are increasingly looking to acquire 'know-how' (instead of goods) to support programmes of concern, as it is relatively low cost and an indirect way of doing so. Technology can be easily acquired domestically and shared overseas without leaving any trace of the exchange, thereby circumventing export controls. Foreign interference and espionage is also growing in this context.

In the face of increased domestic controls being introduced by our export controls partners to prevent unwanted technology transfers, proliferators are also looking to attract people with the knowledge and skills they are seeking to their own countries, or to safe locations in third countries, to support their technological development programmes and production of strategic goods.

[8] Proliferators are state or non-state actors that attempt to develop, acquire, manufacture, possess, transport or transfer military or dual-use goods and technology.

Our current export controls regime focuses on movement of tangible goods and documents across New Zealand's borders and cannot control the transfer of sensitive technology domestically or ITT, such as through sharing 'know-how', teaching, on-the-job training, joint research, or services taking place overseas.

To retain our reputation as a trusted and responsible international partner, we need to ensure that we can control these types of transfers, to protect our information and technology, and keep pace with the best practices of, and our commitments to, the international export controls regimes. With rapidly growing advanced technology sectors, enhanced export controls are also important to protect our intellectual property, economic potential and opportunities for cooperative research in future.

Additional regulation and associated administrative requirements will be needed to make the regime fit for purpose.

Government has committed to boosting the economy and exports, for example, by increasing international research cooperation, especially in advanced technologies[9]. To achieve these outcomes, New Zealand will need to demonstrate that it has robust export controls (including 'deemed export'/domestic controls) in place to manage proliferation risks and protect leading-edge strategic technology that may be shared with us as part of cooperative arrangements and trade.

Countries with comprehensive and comparable export control regimes are more likely to benefit from reciprocal licensing exemptions, streamlined compliance processes, and deeper research partnerships. Putting controls in place that are comparable to our closest export controls partners—such as Australia, the United States, the EU, the UK, Japan, Korea and Canada— would directly support our participation in trusted research collaborations, joint technology development, and secure supply chains in future. It would also help protect our own intellectual property and reduce the risk of sensitive research developed in New Zealand, being misused or exploited.

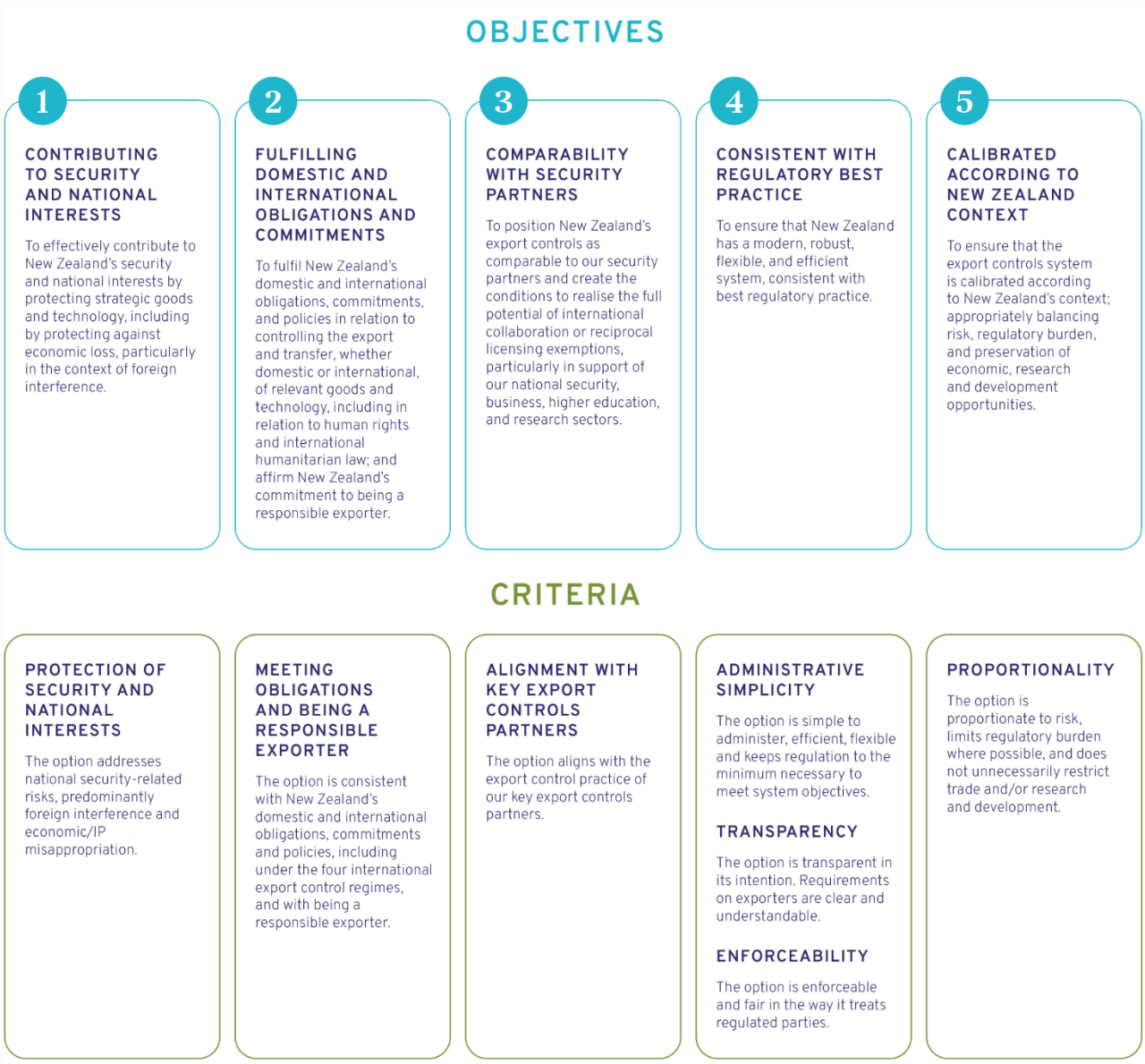
Questions

1. Do you have any feedback on our description of problems/issues to be addressed?

[9] These goals are reflected in strategic documents such as the Ministry of Foreign Affairs and Trade's Strategic Intentions 2024–2028, which emphasises the need to grow export value and resilience, deepen international partnerships, and support a safe, secure, and prosperous future for New Zealanders.

Objectives and Criteria

We have five overarching policy objectives that we are seeking to achieve with proposed changes to our export controls regime. Those objectives and the criteria that we have used to assess specific options in this discussion document, are set out below. Initial impact assessments of the options set out in Parts 3 – 6 are included in Appendix 4.



Questions

2. Do you have any feedback on our objectives?
3. Do you have any feedback on our criteria for assessing the options?

Part 2: Proposals

Addressing problems in the current regime

To address the problems and achieve the objectives outlined above, we propose to introduce a range of controls on:

- Transfers of technology within New Zealand (referred to as 'deemed exports), including the placing (publishing) of that technology in the public domain within New Zealand;
- ITT carried out by someone in New Zealand to an overseas recipient(s);
- ITT carried out by New Zealanders and permanent residents when overseas (for example, to control disclosure of sensitive technical 'know-how' while travelling offshore); and
- The subsequent 're-export' or 're-transfer' of certain goods and technology previously suppled under an export control permit, from New Zealand.

These controls would introduce a step-change to the current regime by bringing in domestic ('deemed export') controls and controls that are applied extraterritorially (i.e. outside a country's territory). Given that technology can be shared overseas, extraterritorial controls, while not common, like the proposed domestic controls, are necessary in this particular context.

It is important that any new controls are proportionate to the security and proliferation risks associated with the transfer of NZSGL items and do not unnecessarily add regulatory burden or limit academic freedom or trade. In line with international best practice, the proposals in this document are intended to regulate the end-user of an activity involving NZSGL items, rather than prohibiting that activity itself. Only technology required for the development, production, or use of items listed on the NZSGL would be subject to the proposed new controls.

The 2021 independent review of New Zealand's export control regime highlighted several administrative areas which could be improved and brought into line with best regulatory practice. Proposals are also included in this document to:

- Introduce a range of warnings and penalties for MFAT to employ, short of prosecution, to encourage compliance; and
- Formalise a mechanism to review decisions to decline permit applications.

Legislation will be required to implement the changes proposed in this document. We assess that this would be best achieved through a new bespoke, standalone export controls Bill, incorporating existing export controls in the Customs and Excise Act 2018 and any new controls and improvements to regulatory practice.

The proposals also provide for the Secretary to have the ability to extend (or reduce) exemptions in line with changing circumstances.

Matters out of scope of this consultation

Regulations	Operational detail needed to implement the changes would predominantly be contained in regulations. Development of regulations will be subject to a separate policy development and consultation process.
Export application assessment criteria	The current assessment criteria used when assessing permit applications were consulted on publicly in 2022 and approved by Cabinet in March 2023. It is anticipated that the same assessment criteria will apply to permit applications for exports of goods and transfers of technology via tangible and intangible means.
Proliferation financing	This is being considered under a separate work stream led by the Ministry of Justice in the context of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.
Provisions maintained from the current regime, e.g. Catch All controls	It is intended that many provisions/aspects of the current export controls regime will simply be carried over and combined with legislation on new controls. Some provisions will be moderately enhanced when doing so, to ensure they are fit for purpose going forward. Unless there is a significant new dimension proposed, for example changes to penalties, provisions in the existing regime will be treated as out of scope of this consultation.
Brokering (Weapons and Related Items) Controls Act 2018	Amendments to and/or incorporation of this legislation with new export controls legislation is out of scope of this consultation.
Internal Compliance Programmes (ICPs)	It is not intended to require mandatory ICPs as a condition of obtaining a permit as this approach is considered overly burdensome, especially on small and medium enterprises. ICPs may be encouraged depending on circumstances as a compliance/security measure to be considered, noting that these may already be in place in some enterprises and institutions.

Sectors affected by the proposed changes

The proposals in this discussion document would likely affect higher education and research sectors, business, and advanced technology sectors such as space and aerospace.

Māori interests may exist in relation to specific export control applications or more broadly. While it is for Māori to say what those interests are, and how they may best be protected, the types of interests relating to the export controls regime may include:

- A mātauranga Māori (Māori knowledge) interest, which might be engaged in a situation where mātauranga has been used in the development of a technology that is the subject of an export controls application;

- The Māori economy; trade and export interests such as those of Māori businesses seeking to develop technology or to export goods; and
- Māori intellectual property.

Bill of Rights and Academic Freedom

In order to meet national security and other objectives sought from changes to our export controls regime, the proposals may include limitations on the freedom of expression, freedom of association, freedom from discrimination and academic freedom.

The proposed new controls have been designed not to prohibit activities (for example, exchanging information, teaching subjects or conducting research), but to regulate who is eligible to participate in those activities in certain circumstances.

Any limitations to rights proposed, are intended to be proportionate to the proliferation risks and set only at reasonable levels (with minimal impairment of rights), that can be clearly justified in a free and democratic society.

Permit applications will be assessed against the existing assessment criteria published on MFAT's website[10]. A range of exemptions are proposed to ensure that low-risk activities are not unnecessarily captured under the proposed controls.

Bill of Rights

- Under the New Zealand Bill of Rights Act 1990 "Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form".
- Section 5 of the New Zealand Bill of Rights Act provides for justifiable limitations on rights "if it is a reasonable limit prescribed by law as can be demonstrably justified in a free and democratic society".

Academic Freedom

- Under section 267 of the Education and Training Act 2020 there is "the freedom of academic staff and students to engage in research".
- Under section 266 of the Act the object of its provisions relating to institutions is to give them as much independence and freedom to make academic, operational, and management decisions as is consistent with the nature of the services they provide, the efficient use of national resources, the national interest, and the demands of accountability.

[10] Assessment criteria: Criterion 1: Consistency with New Zealand's disarmament, arms control and non-proliferation obligations, commitments and policies; Criterion 2: Consistency with New Zealand's obligations, commitments and policies regarding fundamental principles of international law, as well as international human rights law and international humanitarian law; Criterion 3: Consistency with New Zealand's other international obligations, commitments and policies; Criterion 4: Whether the export may compromise New Zealand's national interests including, without limitation: security, international relationships, international reputation and obligations under The Treaty of Waitangi / Te Tiriti o Waitangi; Criterion 5: The impact the export is expected to have on peace, security and stability; Criterion 6: Whether the export may undermine confidence in New Zealand's commitment to being a responsible exporter of strategic and military end-use goods.

Important points to note before reading the proposals

Topic	Summary
Scope of proposed new controls	The proposed new controls would capture exports and transfers with the highest proliferation risk, particularly those that could contribute to the development of weapons or other strategic capabilities.
Exemptions	A range of exemptions are proposed to ensure that low-risk activities are not unnecessarily captured under the proposed controls. Fundamental research is one example of an activity that is exempt under these proposals.
Technology in scope of new controls	Only technology required for the development, production, or use of items listed on the New Zealand Strategic Goods List (NZSGL) would be subject to the proposed new controls. This includes technical data and technical assistance/ITT. See below for more detail.
Deemed Exports & Domestic Controls	Controls may apply to transfers of technology within New Zealand to non-exempt foreign nationals, reflecting the important role of domestic controls in a comprehensive export control regime.
Regulatory Approach	Our export controls regime is designed to be as permissive as possible, balancing national and international security requirements with the need to minimise regulatory and administrative burden and not unnecessarily limit trade and research. The proposed new controls have been designed to be consistent with that approach.
Enforcement Philosophy	Enforcement would be focused on education and outreach, supporting compliance through guidance and engagement, backed by a range of graduated warnings and penalties to address 'lower level', less serious offences to complement the criminal penalties when necessary.
Rights and Freedoms	Any limitations on rights are intended to be proportionate and subject only to reasonable limits that can be clearly justified in a free and democratic society.
Continuation of permit system (noting one permit application could apply to multiple actions (for example a 'deemed export' and an 'ITT export')	Currently, every application for a permit is assessed individually against specific assessment criteria which are published on MFAT's website. Routine applications are handled by the export controls team, while more complex assessments undergo additional scrutiny at senior levels within MFAT (ministers may also be advised before the Secretary makes a final decision). It is intended to continue with the permit system for exports and to extend it to any new controls[11].

[11] This would mean that the Secretary would continue to have the authority to determine the permits required, application requirements, end-user certificates and other regulatory requirements as well as set conditions, revoke permits or withdraw the provision of through-life support.

Technology in scope of the proposed new controls

- *'Technical Assistance'* or *'Intangible Technology Transfer'(ITT)* may include teaching and training; the provision of services or consultancies; exposure to technical data as part of research or work; practical skills experience working with technology; access to publications (including for patent applications); visual inspection of hardware and software; and meetings, discussions, presentations, seminars and other personal interactions.
- *'Technical data'* may take forms such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals and instructions – which can be written or recorded on other media or devices such as disk, tape, read-only memories.

To be in scope technology must be necessary to achieve or enable the performance, function, or integration of a controlled item, and specifically relevant to meeting the technical parameters or capabilities described in the NZSGL.

General Technology Exemptions

The intention of the proposals is to enhance controls on the most sensitive technology which New Zealand needs to protect, to mitigate risks to national security, while keeping the scope of controls to the minimum necessary. In order to achieve this, certain baseline exemptions would apply to the proposals set out in this document. Specifically, proposed controls would not apply to:

- Information in the public domain – including published materials and publicly accessible data.
- Fundamental research – including where the results of research are intended for public dissemination.
- Minimum necessary information for: patent applications; installation, operation, maintenance (including checking), and repair of non-controlled goods and controlled goods that have already been authorised for export.

Parts 3 – 6 set out proposals for new controls. Illustrative case studies of preferred proposals are set out in Appendix 3. A preliminary impact assessment of each option against our criteria is included in Appendix 4. We are very interested in receiving your feedback on the impact of the proposals, including the costs and benefits to you and/or your organisation, of the various options.

Part 3: Deemed Export/Domestic Controls

The aim of domestic controls is to prevent the illicit export of controlled technology that has been acquired domestically. These controls are usually assigned to national export control regimes to implement and are commonly referred to as 'deemed export' controls. Controls on 'deemed exports' are increasingly important to the viability of export control regimes and have been implemented by our closest export controls partners.

Deemed exports take place through Intangible Technology Transfers (ITT) or providing access to, or possession of, technical data. Intangible technology is essentially knowledge and information which is carried in people's minds rather than in tangible information storage devices. It can be passed on verbally or manually through personal exchange. Supply of intangible technology or technical assistance, may take a variety of forms, such as instruction, skills training, consulting services, scientific or technical cooperation on research or in the workplace, or seminars.

As noted, the current export controls regime focuses on permitting tangible goods, including software, and documents. It does not and cannot regulate ITT. Introducing enhanced technology controls, particularly for ITT, is important to help address national security risks and to meet our international non-proliferation commitments (in the MECRs). New Zealand's advanced technology sectors are developing rapidly and ITT controls are also important for protecting our intellectual property, the value contained within it, and to position our country well for future economic and research opportunities.

There are two elements to our proposed 'deemed export'/domestic controls discussed below:

- Element 1: Transfers of controlled technology (to non-exempt foreign persons);
- Element 2: Disclosure of controlled information through domestic publication.

Element 1: Deemed Export/Domestic Controls: Controlled Technology Transfers

OPTION 1: STATUS QUO

There are currently no controls as part of our export control settings, on the supply of *controlled technology* to foreign persons[12] *within* New Zealand.

[12] Foreign person means any individual who is not a New Zealand citizen or permanent resident (including those that hold other citizenships), and includes any foreign-incorporated entity, foreign government, or foreign organisation, whether operating within or outside New Zealand.

While Immigration New Zealand (INZ) provides a partial safeguard through its visa assessments, this is primarily designed to assess applicants' eligibility and intentions at the time of visa application. INZ may identify individuals with affiliations or backgrounds of concern, but its screening is not tailored to detect or manage risks related to accessing strategic technology after the applicant is granted the visa.

Moreover, this screening does not provide ongoing oversight or monitoring of individuals' activities, affiliations, or employment circumstances between visa applications. This creates a gap in risk management, particularly when individuals' roles or access to strategic technology evolve over time in ways not foreseen during the visa application process[13].

OPTION 2: DEEMED EXPORT/DOMESTIC CONTROLS: NZSGL PART 1 AND PART 2 SENSITIVE AND VERY SENSITIVE TECHNOLOGY (PREFERRED)

A permit would be required to supply **NZSGL Part 1 and Part 2 Sensitive and Very Sensitive technology**[14] to a *foreign person within* New Zealand. This would include giving them access to, or possession of that technology.

A permit *would not* be required when supply of that technology *within* New Zealand:

- Is being made to New Zealand citizens or permanent residents (including those holding other citizenships); or
- Is being made to foreign persons who are a citizen of a country on the *country exemption list*; or
- Is being made to someone eligible for the workplace and research exemption below; or
- Is being made in the course of official New Zealand business (as part of the executive branch of government); or
- Involves NZSGL Part 1 non-military lethal technology, as defined in ML901 to ML910, relating to goods such as non-military firearms and accessories, non-military ammunition and commercial explosives and initiators; or

Scope: NZSGL Part 1 + Sensitive/Very Sensitive Part 2 technology only

Technology must be required to develop, produce, or use a listed NZSGL good.

Examples In Scope:

- Access to design specifications for a military radar system (NZSGL ML11 – Part 1), required for system development.
- Calibration data and modelling techniques for quantum sensors (Very Sensitive Part 2), required for surveillance.
- Engineering know-how for AI-enabled targeting systems (Part 1), required for operational deployment.
- Verbal explanation of knowhow required to integrate a controlled inertial navigation system (Part 1) into a missile platform.
- Whiteboard session explaining required technology for flight control logic for a controlled UAV (Sensitive Part 2).

Examples Out of Scope:

- Access to fundamental research intended for public dissemination without restrictions.
- General-purpose computer aided design engineering data not required for any NZSGL-listed item.
- Non-sensitive Part 2 materials such as basic biotech lab protocols.

[13] People who may have entered New Zealand for one purpose, subsequently change their study, research or employment activities.
[14] The items listed in the Sensitive/Very Sensitive sections of the NZSGL are drawn from the Part 2 List. In determining if a Part 2 item is exempt a cross-check with the Sensitive/ Very Sensitive Lists is required.

- Is covered by one or more of the General Technology Exemptions detailed on page 23.

The persons[15] supplying the technology would be required to obtain a permit, irrespective of whether they are New Zealand-owned or controlled entities, New Zealand citizens or permanent residents, or foreign persons.

Supply of technology includes transfers (i.e. through access) made via the Cloud, regardless of where the sever is located. Issuing a password to allow access to controlled technology would be treated as a transfer. There would be *no mandatory requirements* on encryption, service providers or the location of servers, though guidance on best practice would be provided by MFAT.

The Secretary would have the ability to extend the scope of these controls in future if necessary to respond to changing circumstances, including to directly align with our closest export controls partners, such as Australia which includes all of Part 2 technology in these types of controls.

Sharing controlled technology in the workplace or research environment

Under this proposal, staff, students or researchers engaged in industry, higher education and research entities, may need a permit to access, or gain possession of, controlled technology.

To minimise disruption, foreign employees, students or researchers already engaging with controlled technology at the date any deemed export controls come into effect, would not require a permit. However, they would need to apply for a permit if:

- There is a material change to the type or scope of controlled technology they are accessing; or
- There is a change to their employment status (for example, they change roles or become a consultant).

The Secretary would also reserve the right to remove the exemption for those already engaging with controlled technology, for example, in response to national security risk. A permit would be required in those instances to access to controlled technology.

New staff, students and researchers from countries not included in the country exemption list would be required to obtain a permit before accessing controlled technology.

The permits would cover access to specified controlled technology, with a requirement to seek a renewal after a period of time, for example, after 2 years.

Employers would be encouraged to put in place their own risk mitigation measures such as through the Trusted Research framework or drawing on New Zealand's Protective Security Requirements. They could also choose to apply for a permit to assure themselves and/or any entity from which they may seek to receive, transfer to, or supply strategic goods and/or technology.

Option 2 imposes controls on the transfer of the most sensitive technology on the NZSGL. It is intended to balance risks associated with transferring the most sensitive technology, with creating additional regulatory and administrative burden and placing limits on academic freedom and trade.

[15] Persons includes both individuals (natural persons) and legal entities (corporations, etc.).

OPTION 3: DEEMED EXPORT/DOMESTIC CONTROLS: NZSGL PART 1 AND PART 2 SENSITIVE AND VERY SENSITIVE WITH TRUSTED SUPPLIERS HAVING DELEGATED AUTHORITY TO SELF-ADMINISTER CONTROLS

A permit would be required to supply **NZSGL Part 1 and Part 2 Sensitive and Very Sensitive technology** to a *foreign person within* New Zealand. The same inclusions, obligations and exemptions would apply as under Option 2. However, individuals or entities that are approved as 'trusted suppliers' would be granted authority by the Secretary to self-administer these controls.

While the requirement to apply for a permit would be removed, it is unclear whether the costs borne by organisations in the business, higher education, and research sectors in establishing processes and complying with being a 'trusted supplier' would be lower than the costs of complying with a permitting process fully administered by MFAT. 'Trusted suppliers' would also bear increased risk of decision-making, particularly given the potential national security implications. A different mechanism (potentially akin to applying to MFAT for a permit), would likely be needed to ensure 'trusted suppliers' would have certainty that a proposed technology transfer would be within the scope of the law.

Given the national security context, MFAT would also need to establish a process for approving 'trusted suppliers' and play a supervisory role, likely involving an audit function and to ensure consistency between suppliers. This would be in addition to administering the permitting process for persons not deemed to be 'trusted suppliers'.

Questions

4. What is your preferred option and why?
5. Is there anything you would change in any of the options? If so, what and why?
6. What in your view, would be the impacts, i.e. the costs (monetised and non-monetised) and benefits of:
   - Option 1?
   - Option 2?
   - Option 3?

   Please include one-off and ongoing impacts, including in the workplace and research environment, and compliance costs.
7. Is there another option(s) not covered here that you think should be considered? If so, what and why?

Element 2: Disclosure of Controlled Information through Domestic Publication

If controlled information (i.e. technology) is published domestically, it is then available to others, including overseas. Controlled information is rarely published due to commercial propriety, contractual obligations, and military security. It is anticipated that the volume of publications requiring permits would be relatively low. However, the consequences of publication can be significant in a national security context.

Placing controls on domestic publication of such information is part of other export control regimes.

OPTION 1: STATUS QUO

There are currently no controls as part of our export control regime on publishing controlled information (i.e. technology) within New Zealand.

OPTION 2: CONTROLS ON DISCLOSURE OF CONTROLLED INFORMATION THROUGH DOMESTIC PUBLICATION (PREFERRED)

A permit would be required to publish **NZSGL Part 1 and Part 2 Sensitive and Very Sensitive information**[16] *within New Zealand*.

This technology could include but not be limited to:

- blueprints;
- schematics;
- engineering designs and specifications;
- plans, diagrams and models;
- data;
- formulae and tables; and
- manuals and instructions.

General Technology Exemptions as detailed on page 23 would apply. This control would only apply *within* New Zealand, not overseas[17], though relevant domestic controls, if any, of an overseas jurisdiction may apply.

Scope: NZSGL Part 1 + Sensitive/Very Sensitive Part 2 technology only

Technology must be required to develop, produce, or use a listed NZSGL good.

Examples In Scope:

- Publishing design details for missile propulsion systems (NZSGL ML4 – Part 1), required for manufacture.
- Technical report on Very Sensitive Part 2 surveillance platforms, required for intelligence use.
- Dataset describing quantum imaging systems (Sensitive Part 2), required for military-grade (but non-military) sensing.

Examples Out of Scope:

- Publishing fundamental research intended for open dissemination.
- Work on non-sensitive Part 2 technologies not required for controlled items.
- General AI ethics or governance frameworks.

[16] While the minimum necessary for patent applications is exempt, i.e. the information is strictly limited to what is necessary to describe the vinvention for the purposes of obtaining patent protection, that does not include additional technical data that could be used to develop, produce, or use the controlled item or technology beyond what is required for the patent process. An amendment would be required to section 132 of the Patents Act 2013.

[17] Moving controlled information offshore for publication would, however, require a permit.

The person(s) seeking to publish the controlled information would be required to obtain a permit irrespective of whether they are New Zealand-owned or controlled entities, New Zealand citizens or permanent residents, or foreign persons.

OPTION 3: DOMESTIC AND OVERSEAS APPLICATION OF CONTROLS ON PUBLICATION

The controls in Option 2 would be extended to New Zealand citizens and permanent residents ***located overseas***, who have created and intend to publish **NZSGL Part 1 and Part 2 Sensitive and Very Sensitive information (i.e. technology) *while* overseas**, (i.e. predominantly where there has been no export from New Zealand).

These controls would capture a higher number of publications than Option 2 and could create considerable additional regulatory burden. This may result in duplication of other New Zealand or international controls. For example, publication of controlled information may be covered by export controls proposed later in this document, and/or relevant domestic controls, if any, in the country where the disclosure is being made.

Questions

8. What is your preferred option and why?

9. Is there anything you would change in any of the options? If so, what and why?

10. What in your view, would be the impacts, i.e. the costs (monetised and non-monetised) and benefits of:

- Option 1?
- Option 2?
- Option 3?

Please include one-off and ongoing impacts, including compliance costs.

11. Is there another option(s) not covered here that you think should be considered?

Part 4: Intangible Technology Transfers from New Zealand to persons overseas

Modern technology enables face to face verbal and visual contact from New Zealand to anywhere overseas and as such this is now an additional path for making Intangible Technology Transfers.

Option 1: Status Quo

The export of technical data (including in the form of electronic documents) and software is currently controlled, including where it is transferred to cloud servers located overseas. However, there are currently no controls on ITT (technical assistance) for example, teaching and meetings about controlled technology held online between someone located in New Zealand and a recipient(s) overseas.

Option 2: Controls on NZSGL Part 1 and Part 2 ITT from New Zealand to recipients overseas (preferred)

A permit would be required to carry out NZSGL Part 1 and Part 2 ITT, from New Zealand to a recipient(s) overseas. The ITT could occur via visual (for example video-conferencing) or verbal calls.

This would include providing access using a cloud server, including servers located in New Zealand. Allowing someone offshore to have access to *strategic technology* would be treated as an export, even if a physical transfer from New Zealand does not take place.

Issuing a password to provide a person(s) overseas with access to controlled technology (including through a cloud server), from New Zealand, would be treated as an export. There would be no mandatory requirements on encryption, service providers or location of cloud servers, though guidance on best practice would be provided by MFAT.

The person/s carrying out the ITT or providing access would be required to obtain a permit irrespective of whether they are New Zealand-owned or controlled entities, New Zealand citizens or permanent residents, or foreign persons.

General Technology Exemptions as detailed on page 23 would apply. An exemption would also apply when ITT is being made (or access provided) in the course of official New Zealand business (as part of the executive branch of government).

Option 2 aligns directly with the existing controls on exports of tangible goods, including software, and technical data listed in NZSGL Part 1 and Part 2. This approach would address national security and economic security risks and meet New Zealand's non-proliferation commitments.

Scope: All NZSGL Part 1 + All Part 2 items (intangible technology)

Control condition: All listed items are in scope, but only if the technology is required for those listed NZSGL goods.

Examples In Scope:

- Visual access via VTC to files and engineering drawings for a satellite imaging system (NZSGL 6A008 – Part 2).
- Visual access via VTC to technical manuals and integration instructions for dual-use biotech equipment (Part 2).
- Know-how via verbal explanation and visual access via VTC to modelling data for quantum computing systems (Very Sensitive Part 2).
- Visual access via VTC to algorithmic descriptions and training data for military AI models (Part 1).
- Verbal guidance on how to assemble or operate a controlled UAV system designed for military use (Part 1).

Examples Out of Scope:

- Visual access to fundamental research intended for public dissemination.
- Verbal reference to open-source technical content to service a military item.
- Commercial tools for logistics.

Option 3: Controls on a narrower range of ITT from New Zealand to recipients overseas and/or with exemptions for transfers to some countries

A permit would be required to carry out ITT or provide access relating to the NZSGL Part 1 and Part 2 Sensitive and Very Sensitive lists, from New Zealand to a recipient(s) overseas. In addition, some country exemptions (for example, as stated in the *country exemption list*[18]) may be permitted.

This option places controls on the most sensitive technology in the NZSGL and would be consistent with the proposed controls on deemed exports, domestic publications, and ITT by New Zealanders and permanent residents overseas (Part 5). It would not, however, align with the existing controls on the export of tangible goods (including software) and technical data listed in NZSGL Part 1 and Part 2. There are no country exemptions for these exports, an approach which was carefully designed when they were introduced, to manage proliferation risks. Option 3 would not fully meet our non-proliferation commitments and would not be comparable with the approach taken by our export controls partners.

Questions

12. What is your preferred option and why?

13. Is there anything you would change in any of the options? If so, what and why?

14. What in your view, would be the impacts, i.e. the costs (monetised and non-monetised) and benefits of:

- Option 1?
- Option 2?
- Option 3?

Please include one-off and ongoing impacts, including compliance costs.

15. Is there another option(s) not covered here that you think should be considered? If so, what and why?

[18] The *country exemption list* is as for New Zealand's current catch-all controls exempt list: Australia, Canada, Iceland, Japan, Norway, South Korea, Switzerland, UK, US, and EU member states.

Part 5: Intangible Technology Transfers made by New Zealanders and Permanent Residents when Overseas

As noted, intangible technology is essentially knowledge and information which is carried in people's minds rather than in tangible information storage devices. To provide comprehensive and effective export controls, in line with best international practice and to mitigate national security risks, controls on ITT need to cover situations where a New Zealand citizen or permanent resident is overseas and may share controlled technology (information, know how or assistance) to a foreign-national.

Option 1: Status Quo

There are currently no export controls on New Zealand citizens and permanent residents (including those holding other citizenships) carrying out ITT when overseas. Changes proposed to the Crimes Act 1961[19] which would make unauthorised disclosure of official information, including *military tactics, techniques and procedures*, an offence, are currently under consideration by Parliament. Those amendments would apply if the specified offences (for example unauthorised ITT relating to official government information) were committed, including outside New Zealand. However, the proposed changes alone, are not broad enough to capture the range of ITT that could be used to develop, produce or use strategic goods, in an export controls context, for example, through a business consultancy or research project.

[19] Refer to the Crimes (Countering Foreign Interference) Amendment Bill.

Option 2: Controls on NZSGL Part 1 and Part 2 Sensitive & Very Sensitive ITT transfers made by New Zealand persons and permanent residents when overseas (preferred)

New Zealand citizens and permanent residents (including those holding other citizenships) would require a permit to carry out NZSGL Part 1 and Part 2 Sensitive and Very Sensitive ITT to foreign persons, *when located outside New Zealand.*

The ITT could occur, for example, through training, teaching or conferences.

This technical assistance could be in relation to the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarisation, destruction, processing or use, of NZSGL Part 1 and Part 2 Sensitive & Very Sensitive goods. For the avoidance of doubt, ITT includes the training/teaching of military tactics, techniques and procedures.

A permit *would not* be required when the ITT:

- Is being made to other New Zealand citizens and/or permanent residents (including those holding other citizenships); or
- Is being made to a person:
  - who is a citizen (or dual citizen) of one of the countries on the country exemption list; AND
  - who is located in a country on the country exemption list; or
- Relates to items on the NZSGL Part 1 non-military lethal technology, as defined in ML901 to ML910, relating to goods such as non-military firearms, non-military ammunition and commercial explosives and initiators; or
- Is being made in the course of official New Zealand business (as part of the executive branch of government); or
- Is covered by one or more of the General Technology Exemptions detailed on page 23.

Scope: NZSGL Part 1 + Sensitive/Very Sensitive Part 2 (intangible technology)

Control condition: Technology must be required to develop, produce, or use of a listed NZSGL good.

Examples In Scope:

- Sharing orally cryptographic design technology (Part 1), required for secure military communications.
- Providing technical advice and guidance on modelling data for drone swarming systems (Part 1), required for autonomous weapons.
- Providing an oral briefing on surveillance technologies (Sensitive Part 2), required for strategic monitoring.
- Participating in a technical workshop explaining missile guidance algorithms (Part 1), required for targeting.

Examples Out of Scope:

- Presenting fundamental research intended for open dissemination.
- Sharing know-how about developing non-sensitive Part 2 items or technology.
- Discussing publicly available AI tools or open-source models.

The person carrying out the ITT would be required to obtain the permit. The scope of the exemptions would be kept under review with the Secretary having the ability to narrow or widen exemptions, for example, in line with national security considerations.

This approach has been designed to effectively address national security considerations while keeping regulatory and administrative impact to the minimum necessary.

Taking into account the technology, the location of the ITT (which is important for physical protective security) and the recipient's citizenship, provides the wider assurance needed to extend exemptions to a broad range of nationalities.

The proposed approach is consistent with the preferred options on deemed export/domestic controls and domestic publications, which would also apply controls to NZSGL Part 1 and Part 2 Sensitive & Very Sensitive items.

Option 3: Introduce controls on NZSGL Part 1 ITT made by New Zealand citizens and permanent residents when overseas with fewer country exemptions

New Zealand citizens and permanent residents (including those holding other citizenships) would require a permit to carry out NZSGL Part 1 ITT to foreign person(s), when *located outside New Zealand.*

A permit *would not* be required when the ITT:

- Is being made to other New Zealand citizens and/or permanent residents (including those holding other citizenships); or
- Is being made to citizens from the US, the UK, Canada and Australia (regardless of the recipient's physical location); or
- Relates to items on the NZSGL Part 1 non-military lethal technology, as defined in ML901 to ML910; or
- Is being made in the course of official New Zealand business (as part of the executive branch of government); or
- Is covered by one or more of the General Technology Exemptions detailed on page 23.

The person carrying out the ITT would be required to obtain the permit.

Option 3 is more consistent with the Australian controls on provision of defence services (ITT) to foreign persons outside of Australia. Those controls relate to Part 1 of the Defence Strategic Goods List[20] and include a small number of country exemptions, namely the US, the UK, Canada and New Zealand. The exemptions apply regardless of the recipient's physical location (which may pose challenges in certain circumstances for protective security).

[20] The equivalent of the NZSGL.

This option would not be consistent with the approach in our preferred options for deemed exports and domestic publication which include controls on technology in the NZSGL Part 2 Sensitive and Very Sensitive lists. It includes exemptions for considerably fewer countries and is thereby (in that sense), more restrictive than Option 2.

Questions

16. What is your preferred option and why?

17. Is there anything you would change in any of the options? If so, what and why?

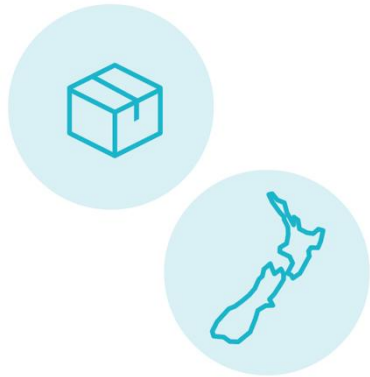
18. What in your view, would be the impacts, i.e. the costs (monetised and non-monetised) and benefits of:

- Option 1?
- Option 2?
- Option 3?

Please include one-off and ongoing impacts, including compliance costs.

19. Is there another option(s) not covered here that you think should be considered? If so, what and why?

Part 6: Controls on Goods and Technology Previously Supplied from New Zealand



Strategic goods and technology—once exported from New Zealand—can be re-exported or re-transferred in ways that circumvent original export conditions, and end up in the wrong hands.

There is recognition among our closest export controls partners—including the US, Australia and UK—that post-export controls are essential to prevent unauthorised proliferation and maintain strategic oversight of controlled goods and technology. For example, Australia's Defence Trade Controls Amendment Act 2024 criminalises the supply of the most sensitive goods and technology that were previously exported or supplied from Australia, if re-supplied without a permit.

To align with international best practice and address our national security imperatives, controls are necessary to regulate the onward export or transfer of the most sensitive military and dual-use goods and technology that were previously exported from New Zealand.

Option 1: Status Quo

Currently, MFAT may require persons applying for a permit to export controlled goods and technology *manufactured or developed in New Zealand*, to obtain an end-user certificate (EUC).

If an EUC is required, the exporter must ask the ultimate end-user of the goods and/or technology to certify:

- That they are the end-user,
- That the goods and/or technology will only be used for the stated end-purpose, and
- That the goods and/or technology will not be re-exported, re-sold, leased, donated or lent or otherwise transferred to another entity, except with the express prior written authorisation of the Secretary.

There is, however, no explicit legal framework in the Customs and Excise Act 2018 for EUCs. While the recipients of the goods and technology risk future permits being declined should onward transfer take place to an unapproved destination or importer, there are currently no controls or penalties under our export controls regime that can be enforced, when such activity takes place.

Option 2: Controls on New Zealand origin NZSGL Part 1 and Part 2 Sensitive & Very Sensitive goods and technology previously supplied from New Zealand (preferred)

UNDER THIS OPTION:

- EUCs would be required for the export **from New Zealand of New Zealand-origin NZSGL Part 1 and Part 2 Sensitive and Very Sensitive** goods and technology. The Secretary would have the ability to waive this requirement, for example for firearms and their accessories.
- The Secretary would have the discretion to require EUCs for **New Zealand origin NZSGL Part 2 goods and technology, and foreign origin NZSGL goods and technology**, based on an assessment of proliferation risk. We anticipate that this discretion would be used sparingly.
- EUCs would be required for any **re-export/re-transfer of New Zealand-origin NZSGL Part 1 and Part 2 Sensitive and Very Sensitive** goods and technology, previously supplied from New Zealand. The Secretary would have the ability to waive this requirement.

CONDITIONS

- The Secretary would have the ability to include conditions on EUCs, for example, facilitation of post-delivery verification of goods, or a longer than standard EUC time limitation, should national security or proliferation risks require this.

OBTAINING AN EUC

- The person in New Zealand applying for an export permit would be required to obtain an EUC from the ultimate end user (where an EUC is at the Secretary's discretion, MFAT would advise at the time of application if an EUC is needed).
- The party applying to re-export/re-transfer goods and/or technology controlled through an EUC, would be required to obtain a further EUC from the ultimate end-user.
- The ultimate end user(s) would be required to certify that the goods and/or technology will only be used for the end purpose stated in the export permit application, or EUC, and not re-exported/re-transferred without the express prior written authorisation of the Secretary.

AN EUC WOULD NOT BE REQUIRED FOR:

- **New Zealand-origin NZSGL Part 1 and Part 2 Sensitive and Very Sensitive** goods and technology exported/transferred to Australia, Canada, the UK and the US, including when re-exported/re-transferred *within* or *between* those four countries. The Secretary would have the discretion to require an EUC in specific cases, e.g. where there may be risk relating to nuclear weapons.

- NZSGL goods and technology *returning* to New Zealand.

EUCs would generally be in place for three years, including for New Zealand-origin NZSGL Part 1 and Part 2 Sensitive and Very Sensitive goods and technology (to be set out in regulations), from when the export permit is issued. From that time, the obligations would no longer apply.

These new EUC obligations would apply from the time that new export controls come into effect. They would not apply retrospectively to previous exports.

Option 3: Controls on New Zealand and foreign origin goods and technology previously supplied from New Zealand

As for Option 2, but an EUC would be a required for NZSGL Part1 and Part 2 Sensitive & Very Sensitive goods and technology of *any origin*, rather than New Zealand origin only.

In many instances this option would create overlapping responsibilities between New Zealand and the country of origin, as the latter would often apply its own through-life controls. This could create considerable additional and unnecessary regulatory burden.

EUC Enforcement and penalties

The Secretary would have the legal ability to issue warnings and other penalties, where appropriate, to any person or entity in breach of their EUC obligations. While the ability to enforce penalties in court for those located outside New Zealand may be limited, having a clear legal framework in place could provide a basis for making extradition requests where offences meet the requirements of the Extradition Act 1999. Individuals and entities overseas would also have an incentive to comply with EUC obligations and conditions given the risk that failure to do so could result in the Secretary declining future applications for export permits involving them as a recipient or listing them as being in breach of their obligations.

Questions

20. What is your preferred option and why?

21. Is there anything you would change in any of the options? If so, what and why?

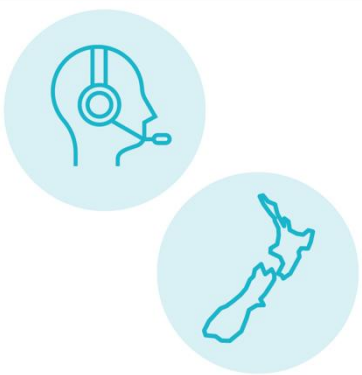
22. What in your view, would be the impacts, i.e. the costs (monetised and non-monetised) and benefits of:

- Option 1?
- Option 2?
- Option 3?

Please include one-off and ongoing impacts, including compliance costs.

23. Is there another option(s) not covered here that you think should be considered? If so, what and why?

Part 7: Extending exemptions for primary system through-life support



A primary system is a *complete single item (e.g. an artillery piece) or a group of items (e.g. a communications network) forming a system*. The need to replace component items or to provide support for the ongoing operation of a primary system (such as through a help line), is an integral part of doing business. Requiring a permit to export replacement items or provide other 'through-life support', when the primary system has already been approved for export, and there has been no significant change in security circumstances, can be unnecessarily time consuming and administratively burdensome.

Option 1: Status quo

Under current *catch-all (military end-use) controls*, an export permit is not required for the subsequent supply of parts, components, replacement items or support (i.e. through-life support) for a primary system that has been exported under permit. Similar through-life support for NZSGL goods does, however, require a permit, disadvantaging some exporters.

The current catch-all exemption for *replacement items* applies to one-for-one replacement of lost, damaged or items that are no longer operable, with a like item. A replacement item could include a compatible and more advanced model because the original is no longer available and includes *software upgrades and software patches*. It does not, however, include items which constitute an upgrade of a primary system. Items which constitute an upgrade require a separate export permit.

A permit is also required for through-life support where there has been a significant change in the security circumstances of the end-user or end-use country, and the Secretary has given notification that the exemption has been revoked. For example, where civil war breaks out in a country after the original primary system catch-all permit was issued, exporters will be advised that the exemption for a particular country has been withdrawn. The withdrawal of an exemption does not mean that all exports will be prohibited, but that permits will be required, with consideration given to the changed security circumstances through the assessment process.

Option 2: Extend permit exemptions for 'through-life' support to all NZSGL primary systems exported from New Zealand (preferred)

The ability to provide through-life support without needing an export permit would be extended in regulation from catch-all primary systems to also include NZSGL primary systems, that have been granted an export permit. The conditions would be the same as for the current catch-all controls, but with the inclusion of upgrades.

This means that a new export permit would not be required for:

- *Parts, components, sub-systems, replacement items or support for an NZSGL (or Catch-All) primary system* as long as:
    - they are being exported to the same end-user, are for the original primary system, and for the same end-use as detailed in the original permit granted for that primary system; and
    - the security situation under which the original permit for the primary system was granted has not significantly changed;
- Items specified above which constitute an *upgrade* of a primary system, i.e. an item which improves the performance characteristics of a primary system.

Exporters would be required to provide prior notification to MFAT of transfers of relevant items, citing them against their original permit. The prior notification would need to be made to MFAT at least 10 working days before the intended export date, though MFAT's confirmation that no permit is required would likely happen in quick order, e.g. within a working day or two (at which stage the export could take place). This would provide visibility in case the exemption needed to be withdrawn, for example due to a change in the security situation at a later date.

Through-life support provided by intangible means (i.e. through visual or verbal communication such as a help line) would not need to be notified.

The Secretary would retain the discretion to require permits for through-life support for a primary system exported under permit if deemed necessary for New Zealand's national or security interests. It is anticipated that this would be used rarely.

Extending through-life support permit exemptions to NZSGL primary systems would give importers greater certainty that their purchase can be supported throughout its life. This can be a significant factor in the decision to purchase primary systems and reduces the compliance overheads for all concerned. This proposal could potentially enhance trade prospects for New Zealand suppliers.

Option 3: Permit exemptions for through-life support, excluding most upgrades, for all NZSGL primary systems exported from New Zealand

The through-life support conditions and notification requirements would be the same as in Option 2, but exemptions for *upgrades* would apply only to *software upgrades* and *software patches.*

Unless the security situation has significantly changed from the time when the original permit for the primary system was approved, there is unlikely to be reason to decline an application for an upgrade. Requiring permits for upgrades as described would essentially create unnecessary processing and administrative burden on exporters and MFAT.

Questions

24. What is your preferred option and why?

25. Is there anything you would change in any of the options? If so, what and why?

26. Do you have any other feedback on through-life support provisions?

Part 8: Introducing Graduated Warnings & Penalties

Good regulatory practice dictates that regulatory agencies maintain a transparent compliance and enforcement strategy that is evidence-informed, risk-based, responsive, and proportionate to the risks or harms being managed.

Having a system of graduated warnings and penalties in place, enables regulators to respond to non-compliance in ways that are proportionate to the scale and seriousness of the breaches. Responses may range, for example, from warnings and notices through to fines and criminal penalties (for more serious breaches).

Graduated warnings and penalties provide an incentive to take reasonable care when carrying out regulated activities, e.g. when applying for a permit. Giving a regulator the power to address 'lower level' offences at the time they occur and the means to waive or reduce penalties where there may be good reason for doing so, can help to promote voluntary disclosure of breaches and mitigate the risk of more severe offences (and penalties) further down the track.

The 2021 independent review of export controls identified that challenges enforcing the criminal penalties currently imposed for some export control breaches, may reduce their effectiveness as a deterrent against illegal activity. In addition, it noted that the limited range of penalties at the regulator's disposal, is not consistent with good regulatory practice and recommended that this be reviewed.

Option 1: Status Quo

The Customs and Excise Act 2018 allows for criminal penalties to be imposed, predominantly imprisonment and fines, for export controls offences. These offences include unlawfully attempting to export controlled goods without a permit or failing to comply with a condition of a permit.

More graduated measures to address 'lower-level' offending are not formally prescribed. MFAT does, however, issue letters from time-to-time to inform, educate, question and encourage a positive change in behaviour by

There are penalties for non-compliance
Individual penalties

For an individual, penalties can be a fine of up to $20,000 or an amount equal to three times the value of the goods or imprisonment for up to 6 months.

Company penalties

For a company, penalties can be a fine up to $100,000 or an amount equal to three times the value of the goods.

More detail on penalties can be found in sections 388 and 389 of the Customs and Excise Act 2018.

exporters. This engagement can provide a basis for consideration of any enforcement action should wrongdoing by the recipient of such a letter occur going forward.

Overall, the current penalties are limited in scope, challenging to enforce and do not act as a strong deterrent to non-compliance.

The current approach to penalties is not consistent with good regulatory practice and is out of step with our closest export controls partners. For example, in Australia the regulator can apply warnings and financial penalties, severe fines and imprisonment depending on the nature and scale of the offence.

Option 2: Introducing a range of graduated warnings and penalties (preferred)

We propose to introduce a range of graduated warnings and penalties to address 'lower level', less serious offences and to complement the criminal penalties for serious and repeated export control breaches that are included in the Customs and Excise Act 2018.

Our intention is to educate and encourage people to comply with export controls and focus prosecutions on the most serious offending.

Applying this approach, there would be an escalatory system starting with formal warnings (for example, relating to an error or omission in a permit application) through to, and including, prosecution for deliberate and more severe breaches of export controls prescribed in legislation.

Enforcement measures could, for example, include:

- Formal warnings (formalising current administrative warning letters);
- Enforceable undertakings (see below);
- Public notification of breaches (and/or a short-term suspension of the ability of a person to apply for a permit); and
- Criminal penalties.

Enforceable undertakings (which are included in the Brokering (Weapons and Related Items) Controls Act 2018 and the Russia Sanctions Act 2022), are voluntary arrangements between either a regulator (in this case MFAT) or the Attorney-General and a duty holder (for example, an exporter), in connection with the duty holder's legal obligations. These agreements are legally binding and are a civil enforcement mechanism.

The duty holder agrees to specific actions to improve future compliance, for example by putting in place a new or updated internal compliance programme. Enforceable undertakings are not imposed by the regulator. The duty holder must initiate the process by expressing an interest and applying for an undertaking. The regulator is not compelled to accept an application but once in place, the agreements are legally enforceable.

Given the significant reputational damage that could arise from public notification of breaches, we anticipate that this measure would be applied sparingly and for more serious, repeated and deliberate offending. That said, having the ability to issue a public notification would likely have a significant deterrent effect. Another option for responding to offending at the more serious end of the spectrum would be, in addition to publication, to suspend the ability to apply for a permit for a period of time (for example for 1 -3 months).

Seeking a court injunction, where we have information on a possible intended breach of controls (particularly in relation to domestic publication of information (technology)), is another measure that could be implemented.

MFAT would have the ability to waive warnings or penalties in certain circumstances, for example, if the permit applicant voluntarily discloses the relevant error or omission before a decision on their application has been made.

Warnings and penalties are currently and would continue to be issued to the person who makes the application, e.g. for a permit, or holds the compliance obligation. Similarly, the level and type of liability would continue to vary between individuals and body corporates.

By introducing a graduated system of warnings and penalties as described, MFAT would have the ability to respond appropriately to different levels of non-compliance, including by taking into account a range of potentially mitigating factors. This approach would be consistent with good regulatory practice and would provide a stronger deterrent to non-compliance. It would also likely incentivise the voluntary disclosure of breaches.

Any formal warnings and new penalties would be complemented by extensive outreach and education to exporters before they would come into effect. We anticipate that ongoing education and outreach would be an important part of implementing new controls and ongoing compliance.

Other matters

Under this approach, the monetary value of the criminal penalties would be largely in line with those currently included in the Customs and Excise Act 2018, allowing for updating, which hasn't occurred since their introduction in 2018. Application of these criminal penalties in relation to breaches of proposed controls on intangible technology transfers, likely through a fixed fine, would also need to be considered when any changes to export controls are made.

Application of penalties to individuals and entities that have breached controls when engaging in relevant activities overseas, is discussed in Part 6 (page 37).

Questions

27. Do you agree with the proposal to introduce a range of graduated warnings and penalties for 'lower level'/less serious offences? Why or why not?

28. Do you have any other feedback on the proposed enforcement measures for export control breaches?

Part 9: Provisional Decision (Appeals) Process

The Secretary is responsible for granting permits to export controlled goods or technology and has delegated approval authority to certain officials within MFAT. From time-to-time, an applicant may disagree with the Secretary's decision to decline their permit application. The 2021 Independent Review noted that the Customs and Excise Act 2018 (which governs the export controls regime) does not include a formal mechanism to appeal decisions by the Secretary on export permit applications[21], and that this should be given consideration to better align the regime with other regulatory regimes and good regulatory practice.

Option 1: Status Quo

Currently, applicants who disagree with decisions on their permit applications may request that MFAT review the decision. Additional information may be sought from the applicant as part of the review. The volume of review requests is not high. A total of 2031 permits were approved in the combined years of 2023 and 2024 and a further 10 were declined, with only three of those reviewed (on request).

Alternatively, applicants may apply to the High Court for a judicial review of the process used to make the decision or make a complaint to the Ombudsman if they feel that MFAT acted unfairly, unreasonably or wrongly. Judicial review proceedings can be expensive and time consuming and are not always a practical option for stakeholders and applicants. Recommendations by the Ombudsman do not have the full legal power of a dedicated statutory process.

Option 2: Introduce provisional decision-making process (preferred)

MFAT would formally notify and consult with applicants if, following assessment of their permit application, it is intending to decline the application or approve it with extraordinary restrictions (for example, 'geo-fencing' a particular item of equipment to restrict its operating area).

After formal notification of the provisional decision, the applicant would have 20 working days to provide additional information, material to their application. Once additional

[21] The Customs and Excise Act establishes a process for the Customs Appeal Authority to deal with matters related to appeals that are authorised by this Act or any other Act against assessments, decisions, rulings, determinations, and directions by the chief executive of the New Zealand Customs Service. The Customs Appeal Authority does not hear appeals to decisions made by the Secretary of Foreign Affairs and Trade.

information has been received, MFAT would have 20 working days to make a final decision on whether to decline, approve with conditions or approve the permit application. As currently, if the applicant disagreed with the final decision, they could choose to apply to the courts for a judicial review or make a complaint to the Ombudsman.

A provisional decision-making process, involving consultation with the affected party before a final decision to decline a permit is made, would provide a transparent and timely process for applicants to challenge and seek a review of the original assessment, balanced against effective risk management by MFAT. Given the low volume of decisions currently reviewed, this option would also provide a cost-effective pathway for review. This approach is consistent with good regulatory practice.

Question

29. Do you agree with the proposal to introduce a formal provisional decision-making process as set out in Option 2? This would establish a specific timeframe for applicants to provide additional information to MFAT before a final decision on declining an application is made. Why or why not?

Implementation

Legislation would be required for the new controls proposed in this document to be implemented. To ensure the effective implementation of a new Act, supporting regulations would also be needed. These would specify, for example, the Secretary's powers to set exemptions and conditions necessary for the operation of the regime. These regulations would be subject to a separate public consultation process.

Transition period

We anticipate that there would be a transition period (for example, 6-9 months) between legislation being passed, regulations being made and the changes coming into force. This would provide time for exporters to learn about the changes and introduce new compliance processes before new controls take effect. MFAT intends to build awareness and understanding about compliance through extensive education and outreach during the transition period and as part of ongoing implementation support.

Enforcement

Under the proposed changes, the New Zealand Customs Service would continue to enforce the existing export controls. The New Zealand Police would have responsibility for enforcing the proposed domestic ('deemed export') and ITT controls. As noted earlier, education and outreach will form the predominant enforcement measure during the transition period and beyond, with a focus on prosecuting deliberate and repeated offending.

Internal compliance programmes

As part of the changes, persons dealing with controlled technology would be encouraged to put appropriate internal compliance programmes in place to prevent unauthorised access and to protect IP. Guidance would be provided by MFAT and updated as circumstances change over time.

Questions

30. Do you have any feedback on implementing changes to the export controls regime?

31. Do you have any other feedback on the proposals in this discussion document?

Next steps

The deadline for written submissions is 5pm on 16 January 2026. You can find information about the submission process at the beginning of this document and on the Ministry of Foreign Affairs and Trade website.

At the end of the consultation period MFAT will analyse feedback. This analysis will inform further policy development and decisions by Cabinet on strengthening New Zealand's export controls regime.

We plan to release a summary of the consultation feedback following Cabinet consideration. The summary will be posted on MFAT's website.

If you would like to receive a copy of the summary of consultation feedback, please provide your email address to ecrreview@mfat.govt.nz

Appendix 1 – List of all consultation questions

Part 1 **Introduction**	1. Do you have any feedback on our description of problems/issues to be addressed? 2. Do you have any feedback on our objectives? 3. Do you have any feedback on our criteria for assessing the options?
Part 3 **Deemed Export/Domestic Controls** Element 1: Controlled Technology Transfers	4. What is your preferred option and why? 5. Is there anything you would change in any of the options? If so, what and why? 6. What in your view, would be the impacts, i.e. the costs (monetised and non-monetised) and benefits of: • Option 1? • Option 2? • Option 3? Please include one-off and ongoing impacts, including in the workplace and research environment, and compliance costs. 7. Is there another option(s) not covered here that you think should be considered? If so, what and why?
Part 3 **Deemed Export/Domestic Controls** Element 2: Disclosure of Controlled Information through Domestic Publication	8. What is your preferred option and why? 9. Is there anything you would change in any of the options? If so, what and why? 10. What in your view, would be the impacts, i.e. the costs (monetised and non-monetised) and benefits of: • Option 1? • Option 2? • Option 3? Please include one-off and ongoing impacts, including compliance costs. 11. Is there another option(s) not covered here that you think should be considered?
Part 4 **Intangible Technology Transfers from New Zealand to persons overseas**	12. What is your preferred option and why? 13. Is there anything you would change in any of the options? If so, what and why? 14. What in your view, would be the impacts, i.e. the costs (monetised and non-monetised) and benefits of: • Option 1? • Option 2? • Option 3? Please include one-off and ongoing impacts, including compliance costs. 15. Is there another option(s) not covered here that you think should be considered? If so, what and why?
Part 5 **Intangible Technology Transfers made by New Zealanders and Permanent Residents when Overseas**	16. What is your preferred option and why? 17. Is there anything you would change in any of the options? If so, what and why? 18. What in your view, would be the impacts, i.e. the costs (monetised and non-monetised) and benefits of: • Option 1? • Option 2? • Option 3? Please include one-off and ongoing impacts, including compliance costs. 19. Is there another option(s) not covered here that you think should be considered? If so, what and why?
Part 6	20. What is your preferred option and why? 21. Is there anything you would change in any of the options? If so, what and why?

Controls on Goods and Technology Previously Supplied from New Zealand	**22.** What in your view, would be the impacts, i.e. the costs (monetised and non-monetised) and benefits of: • Option 1? • Option 2? • Option 3? Please include one-off and ongoing impacts, including compliance costs. **23.** Is there another option(s) not covered here that you think should be considered? If so, what and why?
Part 7 Extending exemptions for primary system through-life support	**24.** What is your preferred option and why? **25.** Is there anything you would change in any of the options? If so, what and why? **26.** Do you have any other feedback on through-life support provisions?
Part 8 Introducing Graduated Warnings & Penalties	**27.** Do you agree with the proposal to introduce a range of graduated warnings and penalties for 'lower level'/less serious offences? Why or why not? **28.** Do you have any other feedback on the proposed enforcement measures for export control breaches?
Part 9 Provisional Decision (Appeals) Process	**29.** Do you agree with the proposal to introduce a formal provisional decision-making process as set out in Option 2? This would establish a specific timeframe for applicants to provide additional information to MFAT before a final decision on declining an application is made. Why or why not?
Implementation	**30.** Do you have any feedback on implementing changes to the export controls regime? **31.** Do you have any other feedback on the proposals in this discussion document?

Appendix 2 - Disarmament, arms control and non-proliferation obligations, commitments and policies

New Zealand has undertaken both the legal obligations and non-legally binding commitments in respect of disarmament, arms control and non-proliferation. Relevant policies are also taken into account to ensure consistency with New Zealand's broader approach to these issues.

Legal obligations

Legal obligations include the international disarmament and non-proliferation treaties New Zealand is party to, related domestic legislative or regulatory requirements, and obligations contained in resolutions of the United Nations Security Council (UNSC). They include obligations relating to weapons of mass destruction as well as conventional weapons, which may be prohibited, regulated or illegal in New Zealand under domestic legislation such as:

- New Zealand Nuclear Free Zone, Disarmament and Arms Control Act 1987
- Chemical Weapons (Prohibition) Act 1996
- Anti-Personnel Mines Prohibition Act 1998
- Cluster Munitions Prohibition Act 2009
- Arms Act 1983

New Zealand's also has obligations under treaties to which New Zealand is a party but which are not the subject of specific implementing legislation. These include:

- Arms Trade Treaty (2014)
- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed Excessively Injurious or to Have Indiscriminate Effects (Convention on Certain Conventional Weapons) (1980) and its Protocols

New Zealand's international obligations may also engage other binding international obligations such as international humanitarian law.

Non-legally binding commitments and policies

New Zealand has signed up to a number of non-legally binding commitments in the field of disarmament, arms control and non-proliferation. These include the guidelines and best practices adopted at meetings of state parties to the Arms Trade Treaty and by members of the international control regimes set up under the Wassenaar Arrangement, Missile Technology Control Regime, Australia Group and Nuclear Suppliers Group.

POLICIES

Commitments also include those made in international political declarations and national or joint statements on arms control, disarmament or non-proliferation. For example, the Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences arising from the use of Explosive Weapons in Populated Areas (2022) is a non-legally binding commitment.

Appendix 3: Illustrative Case Studies

These illustrative examples should not be read as definitive of final legislative and regulatory outcomes. They provide an indication of the likely requirements and outcomes under New Zealand's proposed export control framework.

Explanation of 'Required' Technology

Under the New Zealand Strategic Goods List (NZSGL), technology is controlled only if it is 'required' to develop, produce, or use a listed item. This means the technology must be necessary to achieve or enable the performance, function, or integration of a controlled item, and specifically relevant to meeting the technical parameters or capabilities described in the NZSGL.

Controlled technology comprises two elements:

- Technical Data: Recorded information such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, and instructions.
- Intangible Technology Transfer (ITT): The oral or visual transmission of controlled technology, including training, briefings, demonstrations, or other forms of knowledge sharing.

Technology is 'required' when it:

- Is required for the design, engineering, or prototyping of a listed item.
- Is required for the manufacture, assembly, or integration of a listed item.
- Is required to operate, calibrate, maintain, or deploy a listed item in a way that meets its controlled specifications.

Technology is not 'required' when it:

- Is general-purpose or broadly applicable across multiple domains.
- Is not specific to the performance or function of a listed item.
- Is used in support of a listed item but not necessary to meet its controlled parameters.

Example 1

An international postgraduate research student from a non-exempt country is jointly supervised by academics in New Zealand and offshore. The student's research involves developing software in a NZSGL-listed area for space industry applications.

1. Domestic deemed export controls apply only if the technical data or ITT involved is listed in NZSGL Part 1 or Sensitive/Very Sensitive Part 2 and is required for the development, production, or use of a controlled item.
2. A permit is required for deemed export of technical data and/or ITT to the student as a non-exempt foreign national.
3. If the student is from an exempt country, no permit is required.
4. The permit must cover supervision and transfer of controlled technology from New Zealand to the student while offshore.
5. The permit must cover access to the research by the offshore supervisor and potentially an offshore examiner.
6. The permit must cover export of research material to the offshore location, including final research outputs. End-user undertakings may be required for further transfers.
7. Collaboration with non-exempt foreign nationals in NZ or offshore must be covered by the permit. Collaboration with exempt persons in exempt countries does not require a permit.
8. If the NZ supervisor travels offshore to interact with non-exempt persons, this must be covered by the permit under extraterritorial ITT controls.
9. ITT export controls from New Zealand apply to all Part 1 and Part 2 items. Cloud storage access and access by offshore supervisors or any other persons requires a permit.
10. Cloud access by non-exempt persons in NZ of controlled technology transferred from New Zealand requires a permit regardless of server location.
11. Public disclosure of controlled research within New Zealand must be covered by the permit.

Example 2

A New Zealand academic delivers an online postgraduate course covering controlled biotechnology topics.

1. Domestic ITT controls apply only to Part 1 and Sensitive/Very Sensitive Part 2 items. A permit is required for domestic ITT and technical data transfers to named non-exempt foreign persons.
2. A permit is required for ITT and technical data transfers to any offshore persons attending the course, covering all Part 1 and Part 2 items.

Example 3

A non-exempt international student is supervised by a New Zealand academic on a project funded by an international company. The IP is intended to be retained by the company.

1. A permit is required for ITT and technical data transfer to the student if the technology relates to Part 1 or Sensitive/Very Sensitive Part 2 items.
2. An export permit is required for transfer of the research to the international company, covering all Part 1 and Part 2 items.
3. It is recommended that the company seek in-principle approval before funding the research.

Example 4

A research partnership between a New Zealand university and an international university involves shared background and foreground IP.

1. A permit is required to export background and foreground IP to the international university involving controlled technology relating to Part 1 or Part 2 items.
2. Non-exempt persons involved within New Zealand must be listed in the permit. New additions must be notified and approved.
3. Both universities must consider public disclosure risks and regulatory obligations for the research.

Appendix 4 – Preliminary/initial impact assessment

TABLE 1

Preliminary Impact Assessment Part 3 – Element 1 – Deemed Export/Domestic Control Settings

− − − **Much worse** than the status quo	− − **Worse** than the status quo	− **Slightly worse** than the status quo	0 **Same** as the status quo	+ **Slightly Better** than the status quo	+ + **Better** than the status quo	+ + + **Much better** than the status quo

Criteria (see page 19 for full explanation)	**OPTION 1** Status quo – Do nothing	**OPTION 2** Deemed Export/Domestic Controls: NZSGL Part 1 and Part 2 Sensitive and Very Sensitive	**OPTION 3** Deemed Export/Domestic Controls: NZSGL Part 1 and Part 2 Sensitive and Very Sensitive with trusted suppliers
Protection of security and national interests	Does not address national security-related risks or protect sensitive New Zealand intellectual property (IP). Visa screening provides some risk mitigation but is limited in scope and does not address the broader set of national and economic security risks that exist in an export controls context. 0	Addresses real and present national security risks, including foreign interference (in line with threat assessments). Protects sensitive New Zealand IP and improves economic security. + + +	Improvement on status quo but reliance on third parties to administer controls in some instances creates risk of inconsistent application. Administering export controls is a government function which has national security implications and requires government-to-government international interaction, as well as access to classified information to manage these risks. +
Meeting obligations and being a responsible exporter	Risk of illicit export of technology through domestic transfers remains. Is not consistent with non-proliferation commitments. 0	Consistent with non-proliferation commitments. Enhances status as responsible exporter. + + +	Improvement on status quo. Reliance on third party to administer controls in some instances risks inconsistent application, making it challenging to comply with non-proliferation commitments. +
Alignment with key export control partners	Does not align with the export control practice of our key export control partners, risking status as trusted research partner. 0	Comparable (albeit not in direct alignment) with key export control partners. Risks associated with narrower scope of NZSGL Part 2 controls are mitigated by ability to extend controls if necessary, including to align directly with key export control partners. Cements credentials as trusted research partner and creates the conditions for potential arrangements with partners on sensitive exports to New Zealand. + +	Improvement on the status quo but not comparable with international partners. Implications for standing as safe export destination or trusted partner for research and development cooperation. +
Administrative simplicity	0	Additional administrative burden. Controls are permissive in nature and are placed on transfers with highest proliferation risks, while keeping regulatory/administrative burden to the minimum necessary. Controls align with those proposed for domestic publications and ITT extraterritorial measures, supporting administrative simplicity. + +	Burden of applying for permit reduced in some instances. Trusted suppliers bear increased risk of decision-making. Unclear if costs would be less than interacting with government administered system. Would require additional MFAT process for approving, supervising, auditing 'trusted suppliers' and mechanism to ensure suppliers have certainty in their interpretation of export control requirements. +
Transparency	0	Transparent in its objective to prevent the illicit export of controlled technology. Guidance on implementing controls will help ensure that those affected have a clear understanding of their obligations. + +	Reliance on third parties to administer controls in some instances would be less transparent, compared to Option 2. +
Enforceability	0	Enforcement would rely mainly on building awareness of requirements through education and outreach, with graduated warnings and penalties used when necessary. + +	Additional MFAT processes required to enforce trusted supplier programme and audit administration by trusted suppliers. Otherwise, as for Option 2. +
Proportionality	Not proportionate to risks. Does not address the national security-related and other risks that have been identified with the current export controls regime. 0	Controls regulate who may be able to participate when an activity involves controlled technology; a range of exemptions apply. Limitations relating to rights protected in legislation (for example BORA) are proportionate to the proliferation risks and set only at reasonable levels that can be clearly justified in a free and democratic society. + + +	Challenging to make this option proportionate to risk in a way that limits regulatory burden. +

TABLE 2
Preliminary Impact Assessment Part 3 – Element 2 – Disclosure of Controlled Information through Domestic Publication

---	--	-	0	+	++	+++
Much worse than the status quo	**Worse** than the status quo	**Slightly worse** than the status quo	**Same** as the status quo	**Slightly Better** than the status quo	**Better** than the status quo	**Much better** than the status quo

Criteria (see page 19 for full explanation)	**OPTION 1** Status quo – Do nothing	**OPTION 2** Controls on domestic disclosure of controlled information through domestic publication	**OPTION 3** Domestic and extraterritorial application of controls relating to publication of controlled information
Protection of security and national interests	Does not address national security-related risks nor mitigate the risk of economic/IP misappropriation. 0	Addresses national security and economic security risks. +++	Addresses national security and economic security risks. Would duplicate other controls in many cases. +++
Meeting obligations and being a responsible exporter	Does not meet international non-proliferation commitments.. 0	Consistent with non-proliferation commitments. Enhances status as responsible exporter. +++	Meets non-proliferation commitments. Enhances status as responsible exporter. +++
Alignment with key export control partners	Not comparable to key export control partners, risking status as trusted research partner. 0	Generally comparable with key export control partners. Cements credentials as trusted export controls partner and creates the conditions for potential arrangements with partners on sensitive exports to New Zealand. +++	Excessive when compared to key export control partners. Cements credentials as trusted research partner and creates the conditions for potential arrangements with partners on sensitive exports to New Zealand. ++
Administrative simplicity	0	Controls placed on highest risk transfers (with range of exemptions) to manage proliferation risks, while keeping regulatory/ administrative burden to the minimum necessary. Relatively simple to amend controls in response to future challenges. Aligns with proposal for domestic technology transfers and ITT extraterritorial controls. ++	Excessive in terms of regulatory/ administrative burden, as such controls would be disproportionate relative to risk. Overseas publication would be very rare due to commercial/ proprietary sensitivity. +
Transparency	0	Transparent in its objective to address reality that once controlled information is published in New Zealand it would then be readily available overseas, thereby undermining our export controls regime. Guidance on implementing controls will help ensure that those affected have a clear understanding of their obligations. ++	The intent behind controlling overseas publications from New Zealand would not be clear as other controls would likey apply in such situations. +
Enforceability	0	Enforcement would rely mainly on building awareness of requirements through education and outreach, with graduated warnings and penalties only used when necessary. ++	Regulating overseas publications would rely on enforcing controls ('extraterritorial controls') outside our domestic jurisdiction which can be difficult to do. ++
Proportionality	The option is not proportionate to the risks. Does not address the national security-related and other risks that have been identified with the export controls regime. 0	Introduces (limited) controls for domestic publications with some regulatory impact. Limitations relating to rights protected in legislation are proportionate to the proliferation risks and set only at reasonable levels that can be clearly justified in a free and democratic society. +++	Would be disproportionate to risk as where such an overseas publication would involve military or sensitive dual use technology it would likely be covered by relevant extraterritorial controls and/or domestic controls, if any, in that jurisdiction. +
TOTAL SCORE	0 **Same** as the status quo	+++ **Much better** than the status quo	++ **Better** than the status quo

TABLE 3

Preliminary Regulatory Impact Analysis Part 4 – Intangible Technology Transfers from New Zealand to Overseas

– – –	– –	–	0	+	+ +	+ + +
Much worse than the status quo	**Worse** than the status quo	**Slightly worse** than the status quo	**Same** as the status quo	**Slightly Better** than the status quo	**Better** than the status quo	**Much better** than the status quo

Criteria (see page 19 for full explanation)	**OPTION 1** Status quo – Do nothing	**OPTION 2** Intangible technology transfers from New Zealand to overseas: NZSGL Part 1 and Part 2	**OPTION 3** Intangible technology transfers from New Zealand to overseas: Part 1 and Part 2 Sensitive and Very Sensitive and/or country exemptions
Protection of security and national interests	Would not address national security-related risks such as foreign interference or mitigate the risk of economic/intellectual property (IP) misappropriation. 0	Addresses national security and economic security risks. + + +	Does not fully address national security and economic security risks. +
Meeting obligations and being a responsible exporter	Does not meet international non-proliferation commitments. 0	Consistent with New Zealand's international proliferation commitments and international best practice. Enhances status as responsible exporter. + + +	Improvement on status quo but does not meet international non-proliferation commitments. +
Alignment with key export control partners	Not comparable to practice of key international partners, risking status as trusted research partner and responsible exporter. 0	In line with key export controls partners. Cements credentials as trusted export controls partner and creates the conditions for potential arrangements with partners on sensitive exports to New Zealand. + + +	Not comparable to international partners, risking status as trusted research partner and responsible exporter. +
Administrative simplicity	There would be no change to regulatory requirements to be administered, but the status quo does not meet regime objectives. 0	Creates an additional regulatory burden, but only to the minimum necessary to meet regime objectives. + +	Limits additional regulatory/ administrative burden for exporters but does not fully meet regime objectives. +
Transparency	0	Clear in its intention to respond to changing behaviour of proliferators and address inconsistencies within existing controls. Guidance on implementing ITT controls will help ensure that those affected have a clear understanding of their obligations. + +	Intent may be unclear as inconsistent with approach in existing controls in regime which has been carefully designed to manage proliferation risks and has no country exemptions for standard exports. +
Enforceability	0	With ITT and the increasing use of electronic transmission, identifying compliance breaches (short of overly intrusive electronic surveillance) is difficult. Enforcement within New Zealand would rely mainly on building awareness of requirements through education and outreach. A range of graduated warnings and penalties are being proposed to support the effective and efficient implementation of ITT controls and the wider operation of the export controls regime, including to promote compliance. + +	As for Option 2. + +
Proportionality	The option is not proportionate to the risks. Does not address the national security-related and other risks that have been identified with the export controls regime. 0	Introduces controls with regulatory impact. Limitations relating to rights protected in legislation are proportionate to the proliferation risks and set only at reasonable levels that can be clearly justified in a free and democratic society. The proposed control is compatible with existing (standard export) controls. + + +	Similar to Option 2 but not as proportionate to the proliferation risks. Less compatible with the existing controls. + +
TOTAL SCORE	0 **Same** as the status quo	+ + + **Much better** than the status quo	+ **Slightly better** than the status quo

TABLE 4

Preliminary Regulatory Impact Analysis Part 5 – Intangible Technology Transfers made by New Zealanders and Permanent Residents when Overseas

– – –	– –	–	0	+	+ +	+ + +
Much worse than the status quo	**Worse** than the status quo	**Slightly worse** than the status quo	**Same** as the status quo	**Slightly Better** than the status quo	**Better** than the status quo	**Much better** than the status quo

Criteria (see page 19 for full explanation)	**OPTION 1** Status quo – Do nothing	**OPTION 2** Intangible Technology Transfers made by New Zealanders and Permanent Residents when Overseas: NZSGL Part 1 and Part 2 Sensitive & Very Sensitive ITT with some country-related exemptions	**OPTION 3** Intangible Technology Transfers made by New Zealanders and Permanent Residents when Overseas: NZSGL Part 1 and shorter list of exempt countries
Protection of security and national interests	Would not address national security-related risks or mitigate the risk of economic/ intellectual property (IP) misappropriation. 0	Addresses an evident and existing national security vulnerability relating to those who may disclose strategic ITT while overseas. + + +	Similar outcome to Option 2 but scope of technology covered is slightly narrower. Country exemptions, while narrower, take nationality of recipient into account but not their location. + +
Meeting obligations and being a responsible exporter	Does not meet international non-proliferation commitments. 0	Consistent with New Zealand's commitments and international best practice. Enhances status as responsible exporter. + + +	As for option 2. Slightly narrower scope of ITT covered than in option 2, which would be comparable with Australian controls (essentially covers Part 1 ITT). + +
Alignment with key export control partners	Not comparable to international partners, risking our status as trusted destination for strategic technology. 0	Generally aligns with export controls of like-minded partners. Range of technology covered is slightly wider than comparable controls for consistency with deemed export/ domestic controls, and to allow greater flexibility. Proposed country exemptions are wider than Australia's. They have been calibrated specifically to our context. take The nationality of recipient(s) and their location are taken into account enabling assessment of surrounding threat environment. Scope of the exemptions would be kept under active review and, if necessary, updated in line with changing national security requirements. + + +	Aligns with the export controls of like-minded partners including Australia. + + +
Administrative simplicity	0	Creates an additional regulatory burden, but only to the minimum necessary to meet regime objectives. Approach consistent with controls on deemed export/domestic controls. + + +	As for option 2, but there would be some discrepancy between the range of technology covered between these controls and those on deemed exports/domestic technology transfers. There would be two elements to the core exemption, which may add a little complexity, though minimal and necessary for national security reasons. + +
Transparency	0	Transparent in intention to respond to changing behaviour of proliferators and address a vulnerability within existing controls. Guidance will be provided to help ensure that those affected have a clear understanding of their obligations. + +	As for option 2. + +
Enforceability	0	Given the difficulty in detecting breaches, enforcement would rely mainly on building awareness of requirements through education and outreach. A range of graduated warnings and penalties are being proposed to support the effective and efficient implementation of ITT controls and the wider operation of the export controls regime, including to promote compliance. + +	As for Option 2. + +
Proportionality	The option is not proportionate to risks. This option does not meet our commitment to introduce controls on extraterritorial ITT like our international partners. 0	Introduces controls with regulatory impact. Limitations relating to rights protected in legislation are designed to be proportionate to the proliferation risks, including through various exemptions (for example for fundamental research) and set only at reasonable levels that can be clearly justified in a free and democratic society. + + +	As for option 2. + + +
TOTAL SCORE	0 **Same** as the status quo	+ + + **Much better** than the status quo	+ + **Better** than the status quo

TABLE 5

Preliminary Regulatory Impact Analysis Part 6 – Controls on Goods and Technology Previously Supplied from New Zealand

− − −	− −	−	0	+	+ +	+ + +
Much worse than the status quo	**Worse** than the status quo	**Slightly worse** than the status quo	**Same** as the status quo	**Slightly Better** than the status quo	**Better** than the status quo	**Much better** than the status quo

Criteria (see page 19 for full explanation)	**OPTION 1** Status quo – Do nothing	**OPTION 2** Give legal force to EUCs and create extraterritorial application: New Zealand-origin goods and technology in NZSGL Part 1 and Part 2 Sensitive and Very Sensitive	**OPTION 3** Give legal force to EUCs and create extraterritorial application: All-origin goods and technology in NZSGL Part 1 and Part 2 Sensitive and Very Sensitive
Protection of security and national interests	Does not fully address national security and national interest requirements, predominantly due to a lack of an explicit legal framework to enforce. 0	Addresses national security risks and national interest requirements. The controls proposed would help to mitigate national security-related risks in a targeted manner and provide a legal basis to track 'through-life' exports/transfers. + + +	Addresses national security risks and national interest requirements. + + +
Meeting obligations and being a responsible exporter	The lack of an explicit legal framework is problematic, as is having no mechanism to require EUCs for foreign items where required. 0	Meets our multilateral commitments and satisfies international expectations that New Zealand has robust through-life controls on the highest risk strategic goods and technology (noting that EUCs can also be required for foreign items in high risk situations). + + +	Meets multilateral commitments and satisfies international expectations that New Zealand has robust through-life controls in place. + + +
Alignment with key export control partners	Would not align with likeminded export controls partners due to the lack of an explicit legal framework. 0	Would generally align with likeminded export controls partners. Enables controls on partner goods and technology if needed. + + +	Would generally align with likeminded export controls partners. + + +
Administrative simplicity	0	The targeted scope, time limitations and exemptions proposed are anticipated to keep the number of EUCs and regulatory/ administrative burden at a manageable level, while meeting our security and national interests. The proposed approach would be similar in nature to what we have now, so should be simple and efficient to administer. + +	Would often create overlapping responsibilities between New Zealand and the country of origin for foreign goods and technology, which would be inefficient and fail to keep regulation to the minimum necessary to meet regime objectives. − −
Transparency	0	The proposed controls are similar in nature to what we have now, so the requirements, and intention behind them, should be relatively clear and understandable. Guidance will be provided to help ensure that those affected have a clear understanding of their obligations. + +	Guidance would be provided to help ensure that those affected have a clear understanding of their obligations. Rationale for covering all foreign origin goods and technology would be unclear. −
Enforceability	0	Identifying compliance breaches by overseas end-users subject to EUCs would be difficult. Ability to enforce may be limited but could provide a basis for an extradition request. Failure to comply could result in the Secretary declining permits for exports/ transfers to that end-user in future which could act as a deterrent. + +	As for Option 2. + +
Proportionality	The option is not proportionate to the risk and does not address the national security-related and other risks that have been identified with these controls. 0	Proposed controls are similar in nature to what we have now, and are assessed to be proportionate to risk (noting there are various exemptions), while keeping regulatory burden to a minimum. Time limitations will significantly reduce regulatory burden. + + +	The option is not proportionate to risk and would not keep the regulatory burden to a minimum. It would take a zero-risk approach to managing such proliferation risks and controls would duplicate controls of partners in most cases. − −
TOTAL SCORE	0 **Same** as the status quo	+ + + **Much better** than the status quo	+ **Slightly better** than the status quo

TABLE 6
Preliminary Regulatory Impact Analysis Part 6 – Through-life Support

− − − **Much worse** than the status quo	− − **Worse** than the status quo	− **Slightly worse** than the status quo	0 **Same** as the status quo	+ **Slightly Better** than the status quo	+ + **Better** than the status quo	+ + + **Much better** than the status quo

Criteria (see page 19 for full explanation)	**OPTION 1** Status quo – Do nothing	**OPTION 2** Through-life support provisions for all NZSGL goods, software and technology for primary systems exported from New Zealand	**OPTION 3** Through-life support provisions, excluding most upgrades, for all NZSGL goods, software and technology for primary systems exported from New Zealand
Protection of security and national interests	Meets national security-related risks, noting there are inconsistencies in application of rules across Catch-Alls and NZSGL goods and software. 0	Proposed controls take a pragmatic approach to removing unnecessary regulatory requirements. Addressees New Zealand's national security and national interest requirements. + + +	As for option 2. + + +
Meeting obligations and being a responsible exporter	Meets international non-proliferation commitments but permit requirements are generally excessive. 0	The proposed controls would meet our multilateral commitments and satisfy international expectations that New Zealand is a responsible exporter. + + +	As for option 2. + + +
Alignment with key export control partners	Generally aligns with likeminded export controls partners though with questions over efficiency. 0	The proposed controls would generally align with likeminded export controls partners, including in terms of efficiency. + + +	As for option 2. + + +
Administrative simplicity	No provision for through-life support of NZSGL goods and software. Requirement to issue a permit essentially unnecessary in certain cases, creating more regulatory burden than necessary. 0	Extends current practice for Catch Alls so should be simple and efficient to administer. Clearly defines what constitutes an upgrade. Would help remove regulatory burden in instances where permitting considered unnecessary. + + +	As for option 2, though would continue difficulties of defining and interpreting what constitutes an upgrade. +
Transparency	While requirements are clear the intent is less so. 0	Guidance and outreach to be provided. Essentially an extension of current practice for Catch All controls, so requirements, and intention behind them, should be relatively clear and understandable. + + +	As for option 2, though would continue difficulties of understanding what constitutes an upgrade. +
Enforceability	The status quo is enforceable, but the unnecessary regulatory burden could be construed as unfair. 0	Enforceable as essentially extension of current practice under Catch All controls, removing regulatory burden in instances where gaining a permit is considered unnecessary. + + +	As for option 2, though would continue difficulties of defining and interpreting and enforcing what constitutes an upgrade. +
Proportionality	The status quo is not proportionate to risk and creates unnecessary regulatory burden in most cases. 0	Similar in nature to current requirements for Catch Alls. Proportionate to risk, keeps regulatory burden to a minimum. Provides greater certainty for importers that their purchase can be supported throughout its life and reduces compliance overheads for exporter and importer. + + +	As for Option 2, though with slightly more regulatory burden on through-life support for primary systems. + +
TOTAL SCORE	0 **Same** as the status quo	+ + + **Much better** than the status quo	+ + **Better** than the status quo

Te Kāwanatanga o Aotearoa
New Zealand Government

MANATŪ AORERE

MINISTRY OF FOREIGN AFFAIRS AND TRADE