



Australian Government
Defence



DEFENCE EXPORT CONTROLS

INFORMATION SESSION

FREIGHT AND TRADE ALLIANCE

Monday, 14 October 2024

1. The Defence Export Controls Framework

Overview of Defence Export Controls

Defence Export Controls (DEC) is responsible for administering export controls legislation on behalf of the Minister for Defence.

- Australian legislation enables the control of military and dual-use exports by:
 - requiring a permit to be in place to export or supply certain ‘controlled’ military or dual-use goods, software and technology.
 - » Those goods, software, and technologies are specified in a legislative instrument, the Defence and Strategic Goods List (DSGL).
 - providing the Minister with the power to prohibit the export or supply of ‘uncontrolled’ dual-use goods, technology or services (not specified in the DSGL) in certain circumstances. These are referred to as ‘catch all’ controls.
- Only the Minister may refuse an export or supply permit or prohibit an export.



DEC's current work program

Statistics

- In 2023 calendar year, Defence Export Controls (DEC) assessed around **3759** applications for the export of military goods or dual use goods and technology.
- Of these:
 - Export Permit Approvals, Supported In-Principle Assessments and Advice issued — **3548**
 - Prohibitions under the Military End-Use provision — **15**
 - Prohibitions under the Weapons of Mass Destruction (WMD) Act — **10**
 - Export denials under Regulations 13E of the Customs Act 1901 — **7**
 - In-principle assessments not supported — **3**
- The remaining applications were withdrawn, made inactive, lapsed, and no further action required.



2. What is changing?

Background to the Australian Legislative Changes

- In July 2023, Australian, US and UK leaders committed to:
 - streamlining defence trade among AUKUS partners through the creation of a trilateral export licence-free environment; and
 - strengthening our collective abilities to protect critical technologies.
- This AUKUS Licence-Free Environment will support industry, higher education and research sectors in all three nations to cooperate with reduced technology transfer barriers and costs of trade.
- The changes that we have made to the Australian export control framework are a direct result of the requirements in the *FY2024 National Defense Authorisation Act* to have a comparable export control framework and to provide the trilateral licence-free environment.

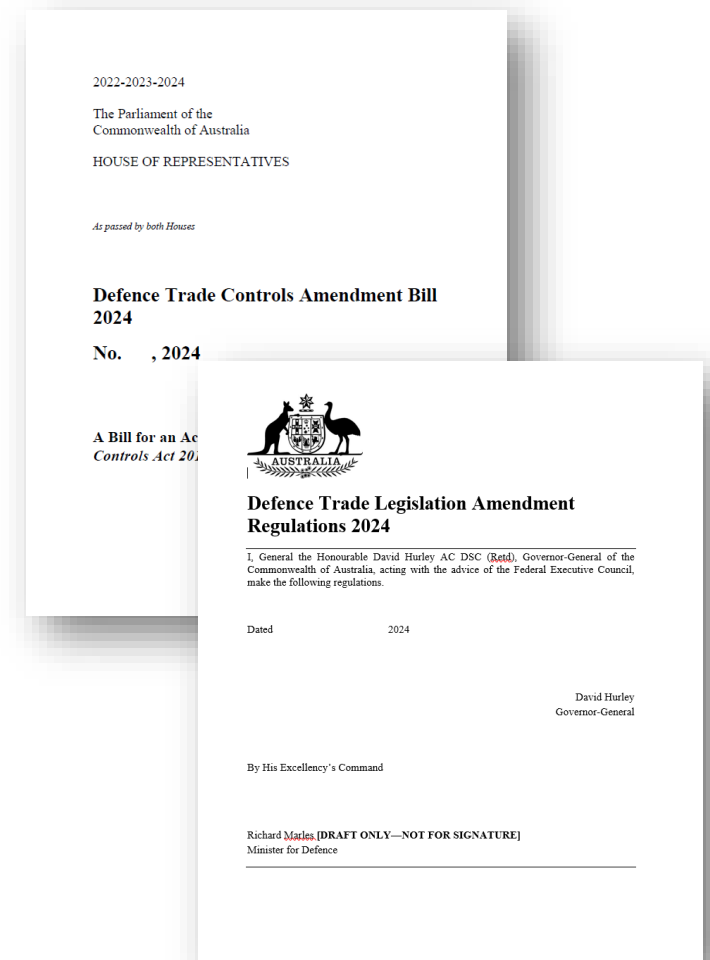


Australia's Legislative Amendments

The legislative amendments are changing Australia's export control framework in two significant ways:

- **AUKUS Licence-Free Environment** among the US, UK and Australia, where no permit is required.
- **3 new controls** which require a permit unless an exception is met:
 - Section 10A
 - Section 10B
 - Section 10C

Exceptions include but are not limited to: Build-to-Print; Fundamental Research, the Foreign Country List; grandfathering provisions, and more...



AUKUS Licence-Free Environment

Australia's national exemption for the US and UK via the AUKUS Licence-Free Environment contains **three key elements**:

1. All exporters wishing to utilise the AUKUS Licence-Free Environment must register with Defence Export Controls and obtain an **'DEC Client Registration Number (DCRN)'**.
2. The *DTC Amendment Act* includes a provision create a **legislative instrument that specifies DSGL controlled goods and technologies excluded for export or supply** to the US and UK under the AUKUS Licence-Free Environment.
 - The goods and technologies included on this instrument largely mirrors those excluded under the national exemption for Australia from the *Export Administration Regulations* and the *International Traffic in Arms Regulations*.
3. All exporters utilising the AUKUS Licence-Free Environment will be required to **provide DEC notification prior to** any exports or supplies made to the US and UK.



Eligibility for the AUKUS Licence-Free Environment

- An Australian person; **OR**
- A citizen or permanent resident of the UK or US; **OR**
- A body corporate incorporated by, or under a law of the UK or US; **OR**
- The Government of the UK or US; **OR**
- An authority of the Government of the UK or US.

AND

- The export or supply must be to, or occur wholly at a place in Australia, the UK or US.



Overview of New Controls

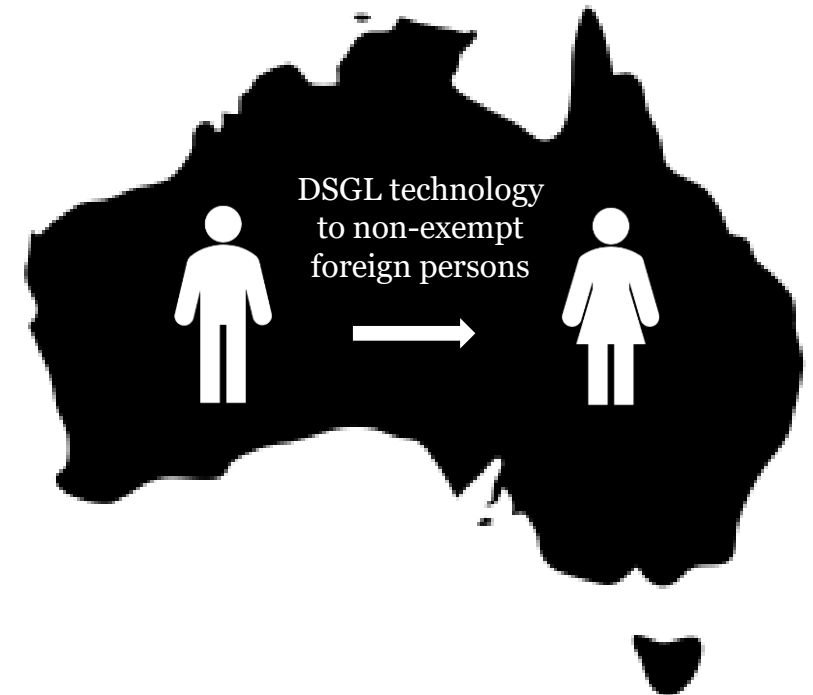
The *Defence Trade Controls Amendment Act 2024* **creates three new controls, Sections 10A, 10B and 10C**

- **Section 10A** regulates the supply of DSGL technology, as defined in the DSGL, to a non-exempt foreign person within Australia.
- **Section 10B** regulates the supply of DSGL goods and technology that are listed in Part 1 (Munitions) or the 'Sensitive' and 'Very Sensitive' Lists in Part 2 (Dual Use) of the DSGL, that were previously exported or supplied from Australia, from a foreign country to another country, or within the same foreign country.
- **Section 10C** regulates the provision of DSGL services related to Part 1 (Munitions) of the DSGL to foreign persons or entities outside of Australia.



Section 10A

- Section 10A regulates the supply of certain Defence and Strategic Goods List (DSGL) technology to a non-exempt foreign person within Australia.
 - In the US system this is equivalent to a ‘deemed export’ control.
- DSGL technology is defined on the DSGL as specific information necessary for the development, production or use of a product
- A non-exempt foreign person is from a country that is not on the *Defence Trade Controls Act 2012*’s Foreign Country List.
 - The US and UK are included on the Foreign Country List.
- The *DTC Amendment Act* and *DTL Amendment Regulations* includes a number of exceptions to this control.



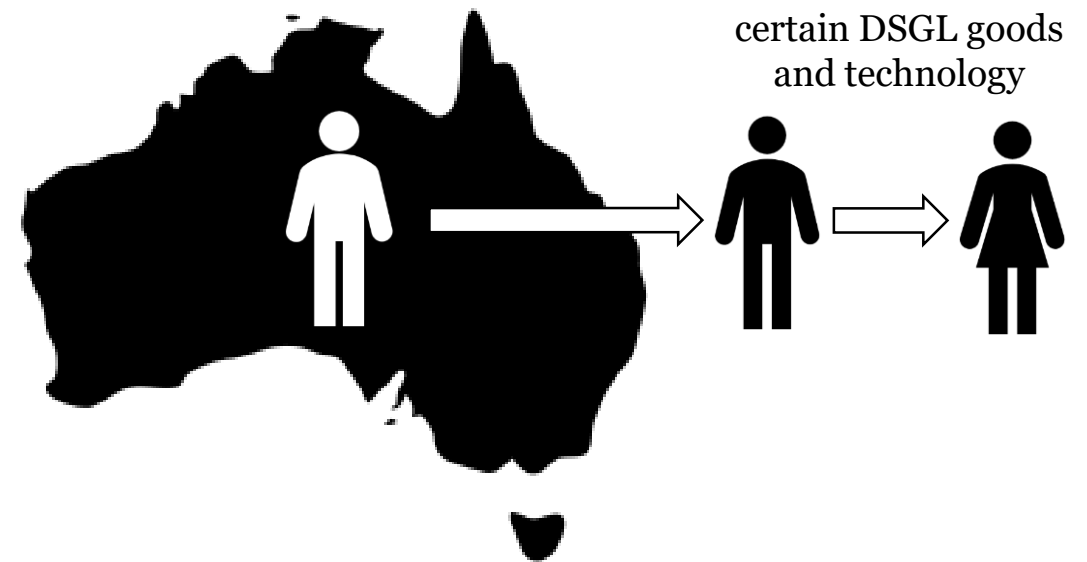
Key Exceptions from the 10A Control

- An exception for **Fundamental Research**, which means ‘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 Australia or any foreign country.
 - » The meaning of ‘basic research’ and ‘applied research’ are taken from the Organisation for Economic Co-operation and Development Frascati Manual 2015.
 - » ‘basic research’ means experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundation of phenomena and observable facts, without any particular application or use in view.
 - » ‘Applied research’ means original investigation undertaken in order to acquire new knowledge. Applied research is directed primarily towards a specific, practical aim or objective.
- An exception for citizens and permanent residents of countries on the **Foreign Country List**.
- An exception for the supply of DSSL technology to a person who holds a **covered security clearance** issued by the governments of Australia, the UK, the US, Canada or New Zealand.
- An exception for **Build-to-Print**.
- An exception for supplies by **Australian Government employees** in the course of their work or duties.
- An exemption for the **AUKUS trilateral partners**.



Section 10B

- Section 10B regulates the supply of certain DSGL goods and technology, that was previously exported or supplied from Australia.
- In the US system this is equivalent to a 'deemed re-export', re-export' or 're-transfer' control.
- Section 10B is confined to:
 - DSGL goods and technology that are listed in Part 1 (Munitions List) of the DSGL.
 - DSGL goods and technology on the Sensitive and Very Sensitive Lists in Part 2 (Dual-Use List) of the DSGL for countries not included on the Foreign Country List.
- The *DTC Amendment Act* and *DTL Amendment Regulations* includes a number of exceptions to this control.



Important – The Section 10B Control Lapses

- The *DTC Amendment Act* prescribes that the 10B control will lapse after a certain period prescribed in the Amendment Regulations following the original export.
- *Section 7B of the Amendment Regulations* prescribes the periods of time that must elapse after the earlier export or supply for the exception to the Section 10B control to apply.
 - For items on Part 1 (Munitions) of the DSGL, the requirement will **lapse 12 months** after the original supply.
 - For items on the ‘Very Sensitive List’ in Part 2 (Dual-Use) of the DSGL, the requirement will **lapse 12 months** after the original supply.
 - For items on the ‘Sensitive List’ in Part 2 (Dual-Use) of the DSGL, the requirement will **lapse 6 months** after the original supply.



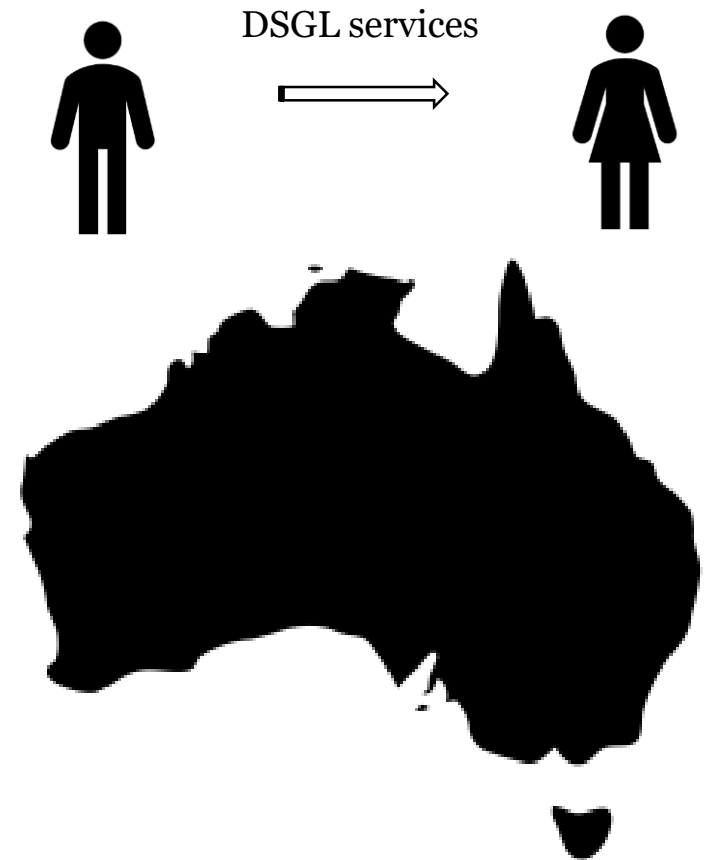
Key Exceptions from the 10B Control

- An exception for **Fundamental Research**.
- An exception for supplies of goods or technology on the 'Sensitive List' or 'Very Sensitive List' on Part 2 (Dual-Use List) of the DSGL made within, to or from a country on the **Foreign Country List**.
- An exception for the re-supply of goods or technology **back to Australia**.
- An exception for goods or technology being returned to the **original equipment manufacturer**.
- An exception for certain supplies (DSGL Part 2 only) made by an employer to an **employee or officer as part of their duties** in their role.
 - Requires the employee to be an Australian citizen or permanent resident, or a citizen or permanent resident of a country listed on the Foreign Country List.
- An exception for exports and re-exports of **firearms with serial numbers**.
- An exception for exports and re-exports by **Australian Government employees or contractors** of the Australian Government in the course of their work or duties.
- An exception for exports and re-exports to a person who holds a **covered security clearance** issued by the governments of Australia, the UK, the US, Canada or New Zealand.
- An exception for re-exports where a **specific timeframe has lapsed**, as defined in the *DTL Amendment Regulation*.
- An exception for the re-supply of goods or technology initially supplied under **existing permits** granted prior to the commencement of the *DTC Amendment Act*.
- An exemption for the **AUKUS trilateral partners**.



Section 10C

- Section 10C regulates the provision of services related to Part 1 (Munitions List) of the DSGL to foreign persons outside Australia.
 - In the US system this is equivalent to a ‘defense service’ control.
- The giving of assistance (including training) in relation to the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operating, demilitarisation, destruction, processing or use of DSGL goods that are or DSGL technology that is, within the scope of the Part 1 (Munitions List) of the DSGL.
- The *DTC Amendment Act* and *DTL Amendment Regulations* includes a number of exceptions to this control.



Key Exceptions from the 10C Control

- An exception for services provided in connection with an **existing permit** granted prior to commencement of the DTC Amendment Act.
- An exception for the provision of DSGL services to persons from the **AUKUS partners**.
- An exception for the provision of DSGL services to foreign persons from **Five Eyes nations** (UK, US, Canada and New Zealand).
- An exception if the individual holds a **Foreign Work Authorisation under the SAMS Act**.
- An exception for the provision of DSGL services by **Australian Government employees or contractors** of the Australian Government in the course of their work or duties.
- An exception for the provision of DSGL services to a person who holds a **covered security clearance** issued by the governments of Australia, the UK, the US, Canada or New Zealand.



Other Changes – Pre-Notification and Records

- When using the AUKUS Licence-Free Environment, **pre-notification is required.**
- When operating under a permit, **records must be retained.**

AUKUS Pre-Notification	Permit Records	You will need to provide...
✓	✓	Description of DSGL goods, technology, or services provided
	✓	Unique identifier of permit
✓	✓	Name of person who received DSGL goods, technology, or services
✓		Country in which DSGL goods, technology, or services were received
✓	✓	Date(s) of activity / activities under permit

Permit records must be retained for 5 years from the date of export/supply, or provision of services. Failure to retain or produce records is an offence under the *DTC Act*.

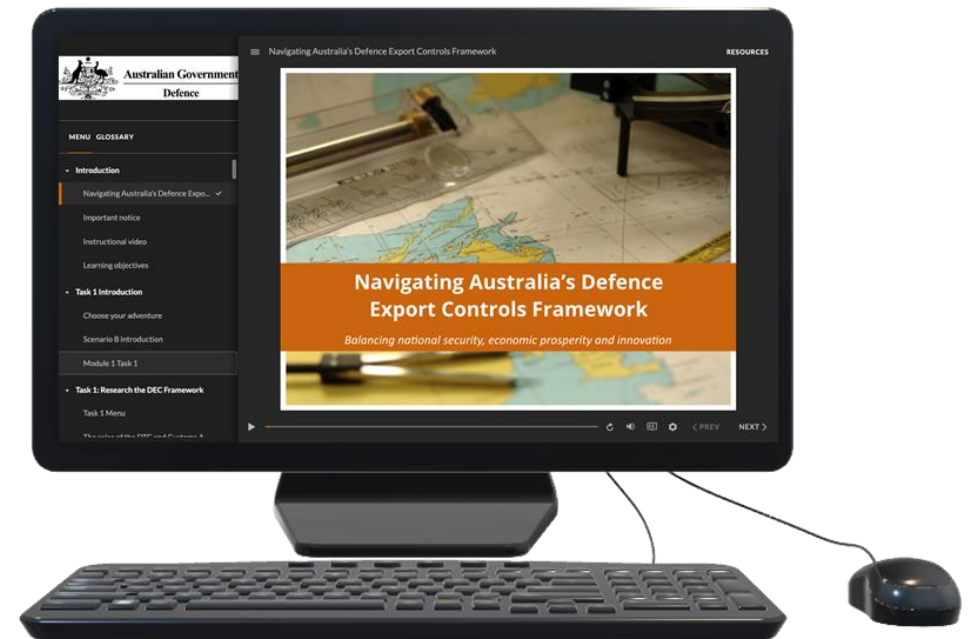


3. How can we support you?

Implementing the DTC Amendment Act

Support is available to help you navigate and prepare for changes to the Defence export control framework, which took effect on 1 September 2024:

- **New** – DEC’s new public-facing portal
- **New** – Self-Help Tool
- **New** – eLearning and guidance materials
- Website Resources
- Information sessions



New – My Australian Defence Exports (MADE) Portal

MADE is the **one-stop portal** for Defence export applications in Australia.

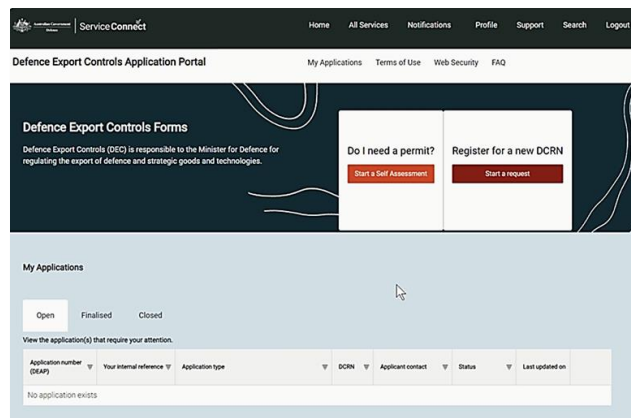
Use MADE
to apply for:

DEC Client Registration
Number (DCRN)

DEC Permits

AUKUS Authorised
User

Benefits



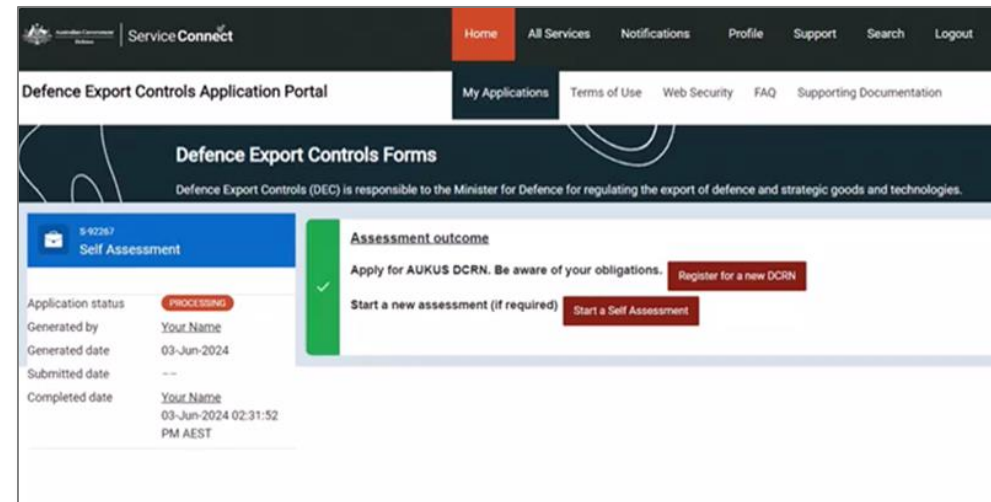
- Greater security
- Faster submission process
- Previous pre-populated data can be selected and used
- More intuitive and user friendly digital capability
- Increased self-help capability
- Greater access to guidance



New – Self-Help Tool

The MADE portal includes a **Self-Help Tool**. Its aim is to **clarify the control status of your goods, technology, or services and guide you to the next steps.**

- This is a **new tool** for the customer
- **Increases upfront export information** provided to customers
- **Export guidance** is intended to provide more clarity on expected next steps for customers
- Link provided in the assessment outcome will **route customers to a recommended form**



New eLearning

Navigating Australia's Defence Export Controls Framework



- Comprehensive and interactive
- Topics covered include:
 - the DEC framework
 - permits and exceptions
 - complying with the DEC framework; and
 - the application process
- Scenario based
- Access through our new *LXP Global*



Things to Remember

- Take this time to **understand the new regulations.**
- **1 March 2025: Compliance enforcement begins.**
- We are now in a **grace period** to help you adjust to the new rules. During this period, **you won't be penalised for non-compliance** as you transition.
- **Adjust any of your processes and procedures** to ensure compliance.
- **Reach out to Defence Export Controls** if you need any assistance or have any questions. **We are here to help!**





Where to Get Help and Assistance?

- **Visit** – Defence Exports Booth at Exhibition, Ground Level
- **Email** – exportcontrols@defence.gov.au
- **Call** – 1800 333 362 (Option 4) between 8.30 -16.30 EST
- **Visit the Defence Export Controls website** – www.defence.gov.au/business-industry/export/controls

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