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## GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

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### DEPARTMENT OF TRADE AND INDUSTRY DEPARTEMENT VAN HANDEL EN NYWERHEID

No. 21

3 February 2010

#### NON-PROLIFERATION OF WEAPONS OF MASS DESTRUCTION ACT, 1993 (ACT NO. 87 OF 1993)

#### ADDITIONAL DECLARATION OF CERTAIN NUCLEAR-RELATED DUAL-USE EQUIPMENT, MATERIALS AND SOFTWARE AND RELATED TECHNOLOGY AS CONTROLLED GOODS, AND CONTROL MEASURES APPLICABLE TO SUCH GOODS

##### Declaration

1. I, Dr Rob Davies, Minister of Trade and Industry, under section 13(1) of the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993), and on the recommendation of the South African Council for the Non-Proliferation of Weapons of Mass Destruction, hereby declare—

- (a) the goods listed in paragraph 4(1) to be controlled goods; and
- (b) services with regard to goods listed in paragraph 4(1) to be controlled goods.

2. I hereby—

- (a) in terms of section 13(2)(b) of the Act, further determine that the import, export, re-export and transit (including transshipment) of the controlled goods listed in paragraph 4(1) shall take place only under a permit issued by the Council;
- (b) in terms of section 13(2)(c) of the Act, determine that the Council may require a State-to-State assurance or an end-user or end-use certificate for the export or re-export of such controlled goods; and

- (c) in terms of section 13(2)(f) of the Act, determine that the manufacture of, and provision of services with regard to, such controlled goods shall take place under a permit issued by the Council.

### **Definitions**

3. In this notice any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and, unless the context otherwise indicates—

**"component parts"** means an integral part of plants, systems, assemblies or equipment without which the plant, system, assemblies or equipment will not perform their intended function or achieve the characteristics or performance level that make the plants, systems, assemblies or equipment controlled goods;

**"design research"** means an experimental or theoretical work that is undertaken principally to acquire new knowledge of the fundamental principles of phenomena and observable facts and that is not primarily directed toward a specific practical aim or objective;

**"development"** means—

- (a) design;
- (b) design research;
- (c) design analysis;
- (d) design concepts;
- (e) assembly and testing of prototypes;
- (f) pilot production schemes;
- (g) design data;
- (h) process of transforming design data into a product;
- (i) configuration design;
- (j) integration design; and
- (k) layouts;

**"fabrication"** includes production, prototyping, installation, commissioning and contractual after-sales servicing;

**"manufacture"** includes research, development and fabrication;

**"microprogram"** means a sequence of elementary instructions, maintained in a special storage, the execution of which is initiated by the introduction of its reference instruction into an instruction register;

**"other elements"** means all elements other than hydrogen, uranium and plutonium;

**"program"** means a sequence of instructions to carry out a process in a form, or convertible into a form, executable by an electronic computer;

**"services"** includes freight forwarding, storing and stockpiling (if not part of the manufacture and transfer processes), transporting, maintaining (repairing, overhauling, refurbishing), trading, consulting, disposing, and technical assistance;

**"software"** means a collection of one or more programs or microprograms fixed in any tangible medium of expression;

**"the Act"** means the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993).

**Nuclear-related dual-use controlled goods**

4. (1) Nuclear-related dual-use equipment, materials and software, and related technology, which can be used in their entirety or in part for the separation of uranium isotopes, are as follows:

- (a) Equipment, assemblies and components of any plant or component parts of such plants, including the separating elements, which match all of the following conditions:
  - (i) designed for the separation of other elements;
  - (ii) can be used directly or can be modified to separate uranium isotopes; and
  - (iii) are made of materials resistant to uranium hexafluoride (UF<sub>6</sub>);

- (b) software that is designed specifically for the use of equipment indicated in paragraph (a); and
- (c) technology directly applicable to the development, production or use of equipment, materials or software as indicated in paragraph (a) or (b).

(2) Plants, equipment and technology specially designed or prepared for the separation of uranium isotopes, as contemplated in paragraph 4(1), have, in many instances, a direct relationship to plants, equipment and technology designed or prepared for the isotope separation of other elements. Control over plants, equipment and technology for the isotope separation of other elements is, in terms of the Act, additional to control over plants, equipment and technology specially designed or prepared for the processing, use or production of special nuclear material in terms of the Nuclear Energy Act, 1999 (Act No. 46 of 1999).

#### **Application forms**

5. Application forms for permits contemplated in paragraph 2 of this notice may be obtained from any of the following addresses:

- (a) Postal address:  
The Secretariat  
South African Council for the Non-Proliferation of Weapons of Mass  
Destruction  
Private Bag X84  
PRETORIA  
0001; or
- (b) physical address:  
The Secretariat  
South African Council for the Non-Proliferation of Weapons of Mass  
Destruction  
77 Meintjies Street  
Sunnyside  
PRETORIA.

**Repeal**

6. Government Notice No. 310 of 11 April 2007 is hereby repealed.

A handwritten signature in black ink, appearing to read 'Rob Davies', is written over the text of the repeal notice.

**DR ROB DAVIES, MP**

**MINISTER OF TRADE AND INDUSTRY**