DEPARTMENT OF TRADE AND INDUSTRY

NO. 491 **29 MARCH 2019**

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

DECLARATION OF CERTAIN MISSILE TECHNOLOGY AND RELATED ITEMS AS CONTROLLED GOODS AND CONTROL MEASURES APPLICABLE TO SUCH GOODS

Definitions

1. In this Notice a word or expression to which a meaning has been assigned in the Act bears 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;

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

"manufacture" includes research, development and fabrication;

"Missile Technology Control Regime" is an informal political understanding amongst states that seek to limit the proliferation of missiles, missile technology and weapons of mass destruction by controlling exports of goods and technologies that could make a contribution to delivery systems (other than manned aircraft) for such weapons;

"production facilities" means production equipment and specially designed software that are, or can be utilised in facilities for development or for one or more phases of production;

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"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;

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

"transfer" means the change of ownership or custodianship, or a change in the location, of goods, services and technology related to controlled goods, whether or not such goods, services and technology cross an international border.

Declaration

2. 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, hereinafter referred to as the Council, hereby declare—

(a) the goods listed in the Missile Technology Control Regime MTCR/TEM/2018/Annex dated 22 March 2018, hereinafter referred to as the MTCR Annex, as published on the Council website at http://www.thedti.gov.za/nonproliferation, to be controlled goods;

(b) that the implementation of the controls contained herein, on the controlled goods, would also be subject to consideration of the applicable guidelines as determined by the Missile Technology Control Regime;

(c) the services with regard to goods indicated in paragraph 2(d) of this Notice to be controlled goods; and

(d) component parts to be controlled goods.

3. I hereby—

(a) in terms of section 13(2)*(a)* of the Act, further prohibit the transfer of

Category I production facilities listed in the MTCR/TEM/2018/Annex dated 22 March 2018 (MTCR Annex);

(b) in terms of section 13(2)*(b)* of the Act, determine that the import, export, re-export or transit (including transshipment) of the controlled goods listed in the MTCR Annex, shall take place under a permit issued by the Council;

(c) 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 the controlled goods listed in the MTCR Annex; and

(d) in terms of section 13(2)*(f)* of the Act, determine that the manufacture of, and provision of services with respect to the controlled goods listed in paragraphs 1, 2, 19 and 20 of the MTCR Annex, shall take place under a permit issued by the Council.

Controlled goods

4. The list of missile-related controlled goods and related technology is contained in the MTCR Annex, as published on the Council website at http://www.thedti.gov.za/nonproliferation.

Guidelines

5. The implementation of controls contained herein on the controlled goods would also be subject to consideration of the Missile Technology Control Regime Guidelines published as Guidelines for Sensitive Missile-Relevant Transfers on the Council website at http://www.thedti.gov.za/nonproliferation, and any other obligation required in terms of section 6(1) of the Act.

Application forms

6. Application forms for permits contemplated in paragraph 3 of this Notice may be obtained from any of the following addresses:

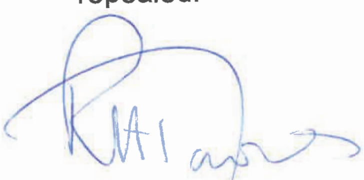
(a) Postal address:
The Secretariat
South African Council for the Non-Proliferation of Weapons of Mass Destruction
Private Bag X84
PRETORIA
0001; or

(b) Physical address:
The Secretariat
South African Council for the Non-Proliferation of Weapons of Mass Destruction
77 Meintjies Street
Sunnyside
PRETORIA; or

(c) Website of the South African Council for the Non-Proliferation of Weapons of Mass Destruction at http://www.thedti.gov.za/nonproliferation.

Repeal

7. Government Notice No. 22 of 3 February 2010, as amended by the Notice of Amendment, Government Notice No. 77 of 15 February 2015 is hereby repealed.



DR ROB DAVIES, MP
MINISTER OF TRADE AND INDUSTRY

DEPARTEMENT VAN HANDEL EN NYWERHEID

NO. 491 **29 MAART 2019**

WET OP NIE-PROLIFERASIE VAN WAPENS VAN GROOTSKAALSE VERNIETIGING, 1993 (WET NO. 87 VAN 1993)

VERKLARING VAN SEKERE MISSIELTEGNOLOGIE EN TERSAAKLIKE ITEMS TOT BEHEERDE GOEDERE EN BEHEERMAATREËLS VAN TOEPASSING OP DAARDIE GOEDERE

Woordomskrywing

1. In hierdie Kennisgewing het 'n woord of uitdrukking waarop 'n betekenis in die Wet toegeskryf die aldus toegeskrewe betekenis, tensy die samehang anders aandui, en beteken—

"Beheerbedeling oor Missieltegnologie" 'n informele politieke verstandhouding onder state wat die proliferasie van missiele, missieltegnologie en wapens van grootskaalse vernietiging wil beperk deur uitvoer van goedere en tegnologieë te beheer wat kan bydra tot die leweringstelsels (behalwe bemande lugvaartuie) vir daardie wapens;

"dienste" ook aanstuur van vrag, berging en opgegaarde voorraadopgaring (indien nie deel van die vervaardigings- en oordragprosesse nie), vervoer, onderhoud (herstel, opknapping, vernuwing), verhandeling, konsultasie, beskikking, en tegniese bystand;

"die Wet" die Wet op Nie-proliferasie van Wapens van Grootskaalse Vernietiging, 1993 (Wet No. 87 van 1993); en

"fabrikasie" ook produksie, prototipering, installering, ingebruikstelling en kontraktuele naverkoopdiens;

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"onderdele" 'n integrerende deel van installasies, sisteme, monterings of toerusting waarsonder die installasie, sisteem, monterings of toerusting nie hul beoogde funksie sal verrig of die kenmerke of werkverrigtingsvlak sal bereik wat die installasies, sisteme, monterings of toerusting beheerde goedere maak nie;

"oordrag" die verandering van eienaarskap of kuratorskap, of 'n verandering in die ligging, van die goedere, dienste en tegnologie wat met beheerde goedere verband hou, hetsy daardie goedere, dienste en tegnologie 'n internasionale grens oorsteek, al dan nie;

"produksiefasiliteite" produksietoerusting en spesiaal ontwerpte sagteware wat gebruik word of gebruik kan word in fasiliteite vir ontwikkeling of vir een of meer fases van produksie;

"vervaardiging" ook navorsing, ontwikkeling en fabrikasie.

Verklaring

2. Ek, Dr Rob Davies, Minister van Handel en Nywerheid, kragtens artikel 13(1) van die Wet op Nie-proliferasie van Wapens van Grootskaalse Vernietiging, 1993 (Wet No. 87 van 1993), en op aanbeveling van die Suid-Afrikaanse Raad vir die Nie-proliferasie van Wapens van Grootskaalse Vernietiging, hierna die Raad genoem, verklaar hierby—

(a) die goedere gelys in die *Missile Technology Control Regime MTCR/TEM/2018/Annex* gedateer 22 Maart 2018, hierna die MTCR-bylae genoem, soos gepubliseer op die Raad se webwerf by http://www.thedti.gov.za/nonproliferation, tot beheerde goedere;

(b) dat die inwerkingstelling van die beheermaatreëls hierin vervat, op die beheerde goedere, ook aan die oorweging van van die toepaslike riglyne soos bepaal deur die Beheerbedeling oor Missieltegnologie, onderhewig sal wees;

(c) die dienste ten opsigte van goedere in paragraaf 2(d) van hierdie Kennisgewing tot beheerde goedere; en

(d) onderdele tot beheerde goedere.

3. Hierby—

(a) verbied ek verder, ingevolge artikel 13(2)*(a)* van die Wet, die oordrag van Kategorie I-produksiefasiliteite gelys in die *MTCR/TEM/2018/Annex* gedateer 22 Maart 2018 (MTCR-bylae);

(b) bepaal ek, ingevolge artikel 13(2)*(b)* van die Wet, dat die invoer, uitvoer, heruitvoer of vervoer (met inbegrip van oorlaai) van die beheerde goedere gelys in die MTCR-bylae, kragtens 'n permit deur die Raad uitgereik, moet geskied;

(c) bepaal ek, ingevolge artikel 13(2)*(c)* van die Wet, dat die Raad 'n Staat-na-Staat versekering, of 'n eindgebruikersertifikaat of eindgebruiksertifikaat vir die uitvoer of heruitvoer van beheerde goedere gelys op die MTCR-bylae kan vereis; en

(d) bepaal ek, ingevolge artikel 13(2)*(f)* van die Wet, dat die vervaardiging van, en voorsiening van dienste ten opsigte van die beheerde goedere in paragrawe 1, 2, 19 en 20 van die MTCR-bylae, kragtens 'n permit deur die Raad uitgereik, moet geskied.

Beheerde goedere

4. Die lys van missielverwante beheerde goedere en verwante tegnologie word vervat in die MTCR-anneks, soos gepubliseer op die Raad se webwerf by http://www.thedti.gov.za/nonproliferation.

Riglyne

5. Die instelling van beheermaatreëls hierin vervat op die beheerde goedere sal ook onderhewig wees aan oorweging van die *Missile Technology Control Regime Guidelines published as Guidelines for Sensitive Missile-Relevant Transfers* op die Raad se webwerf by http://www.thedti.gov.za/nonproliferation, en enige ander verpligting vereis ingevolge artikel 6(1) van die Wet.

Aansoekvorms

6. Aansoekvorms vir permitte in paragraaf 3 van hierdie Kennisgewing beoog,

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kan by enige van die volgende adresse verkry word:

(a) Posadres:
Die Sekretariaat
Suid-Afrikaanse Raad vir die Nie-proliferasie van Wapens van Grootskaalse Vernietiging
Privaat Sak X84
PRETORIA
0001; of

(b) Liggingsadres:
Die Sekretariaat
Suid-Afrikaanse Raad vir die Nie-proliferasie van Wapens van Grootskaalse Vernietiging
Meintjiesstraat 77
Sunnyside
PRETORIA; of

(c) Webwerf van die Suid-Afrikaanse Raad vir die Nie-proliferasie van Wapens van Grootskaalse Vernietiging by http://www.thedti.gov.za/nonproliferation.

Herroeping

7. Goewermentskennisgewing No. 22 van 3 Februarie 2010, soos gewysig deur die Kennisgewing van Wysiging, Goewermentskennisgewing No. 77 van 15 Februarie 2015 word hierby herroep.

DR ROB DAVIES, LP
MINISTER VAN HANDEL EN NYWERHEID