

DEPARTMENT OF TRADE AND INDUSTRY

NO. 493

29 MARCH 2019

**NON-PROLIFERATION OF WEAPONS OF MASS DESTRUCTION ACT, 1993
(ACT NO. 87 OF 1993)****DECLARATION OF CERTAIN NUCLEAR-RELATED DUAL-USE EQUIPMENT,
MATERIALS AND SOFTWARE AND RELATED TECHNOLOGY 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 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 towards 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;

"Nuclear Suppliers Group" means a group of nuclear supplier countries that seeks to contribute to the non-proliferation of nuclear weapons through the implementation of two sets of guidelines for nuclear exports and nuclear-related exports;

"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).

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 paragraph 4(1) to be controlled goods;
- (b) the services with regard to goods listed in paragraph 4(1) to be controlled goods; and
- (c) that the implementation of controls contained herein on the controlled goods shall be subject to the consideration of the Nuclear Suppliers Group Guidelines for Isotope Separation Activities Involving “Other Elements” as published 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.

3. I hereby—

- (a) in terms of section 13(2)(b) of the Act, further determine that the import, export, re-export or 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.

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 is modified to separate uranium isotopes; and
 - (iii) are made of materials resistant to uranium hexafluoride (UF₆).
- (b) software that is designed 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 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, complementary 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 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) The website of the South African Council for the Non-Proliferation of
Weapons of Mass Destruction at
<http://www.thedti.gov.za/nonproliferation>.

Repeal

6. Government Notice No. 21 of 3 February 2010 is hereby repealed.



DR ROB DAVIES, MP

MINISTER OF TRADE AND INDUSTRY

DATE

5/3/19

KITSISO YA PUSO
LEFAPHA LA KGWEBISANO LE MADIRELO

NON-PROLIFERATION OF WEAPONS OF MASS DESTRUCTION ACT, 1993
(MOLAO 87 WA 1993)

TLHOMAMISO YA DIDIRISWAGABEDI TSE DI RILENG TSE DI AMANANG LE NYUTLELIA, DIKAROLOFEFO LE THEKENOLOJI E E MALEBA JAAKA DITHOTO TSE DI KA FA TLASE GA TAOLO, LE MEKGWATAOLO E E DIRISWANG MO DITHOTONG TSEO

Ditlhaloso

1. Mo Kitsisong eno, lefoko kgotsa tlhagiso nngwe le nngwe e e neilweng bokao mo Molaong e na le bokao jo e bo neilweng e bile, ntle le fa bokao bo kaya ka mokgwa mongwe—

"dikarolo tsa komponente" di kaya karolo ya botlhokwa ya dipolante, disisitime, diagwa kgotsa didiriswa tseo ntle le tsona polante, sisitime, diagwa kgotsa didiriswa di ka se direng tiro e e ikaeletsweng kgotsa di ka se fitlheleleng dipharologantsho kgotsa maemo a tiragatso a a dirang gore dipolante, disisitime, diagwa kgotsa didiriswa di nne dithoto tse di ka fa tlase ga taolo;

"tlhotlhomisokakanyetso" e kaya tiro ya tekelelo kgotsa ya tiori e e dirwang ka lebakalegolo la go fitlhelela kitso e ntšhwa ya meono e e botlhokwa ya ponagalo le dintlha tse di kgonang go lemogwa le gape e e sa lebiswang segolo kwa maitlhomong a a tsepameng a a kgonang go direga kgotsa kwa maikaelelong;

"tshimololo" e kaya—

- (a) kakanyetso;
- (b) tlhotlhomisokakanyetso;
- (c) tshekatsheko ya kakanyetso;
- (d) megopolo ya kakanyetso;
- (e) kago le tlhatlhobo ya dikaotheo;
- (f) dikema tsa tekeletso tsa tlhagiso;
- (g) tshedimosetso ya kakanyetso;
- (h) kgato ya go fetolela tshedimosetso ya kakanyetso go setlhagiswa;

- (i) kakanyetso ya sebopego;
- (j) Kakanyetso ya tetlanyo; le
- (k) mekgwathulaganyo;

"tlhagiso" e akaretsa tlhagisokumo, go dira dikaotheo, kgokelelo, go dira ditlathobho le dikonteraka tsa morago ga theko ya ditlhagiso;

"popo" e akaretsa tlhotlhomiso, tshimololo le tlhagiso;

"lenaneolennye" le kaya tatelano ya ditaelo tsa tshimologo, tse di babaletsweng mo polokelong e e kgethegileng, tiragatso ya tsona e simololwa ka go itsisiwe ga taelokaello ya tsona mo rejisetareng ya ditaelo;

"Setlhopha sa Batlamedi ba Nyutlelia" ke setlhopha sa dinaga tse di tlamelang ka nyutlelia tse di batlang go tshegetsisa thibelo ya kanamo ya dibetsa tsa nyutlelia ka go tsenya mo tirisong disete tse pedi tsa ditaelo tsa dithomelontle tsa nyutlelia le dithomelontle tse di amanang le nyutlelia;

"dielemente tse dingwe" di kaya dielemente tsotlhe ntle le haeterojene, yureniamo le pulutoniumo;

"lenaneo" le kaya tatelano ya ditaelo tsa go diragatsa kgato ka mokgwa, kgotsa phetolelo mo mokgweng, o o diragatswang ke khomputara ya seileteroniki;

"ditirelo" di akaretsa keteletsopole ya morwalo, peo le poloko ya dithoto (fa e se karolo ya dikgato tsa popo le phuduso), thwalo, pabalelo (go baakanya, go ntšhwafatsa, go tlhabolola), kgwebisano, therisano, thotloetso le thuso ya setegeniki;

"karolofefo" e kaya kgobokanyo ya porokerama e le esi kgotsa go feta kgotsa mananeomannye a a rulagantsweng ka mokgwa mongwe le mongwe wa tlhagiso o o ka tshwaregang;

"Molao" o kaya *Non-Proliferation of Weapons of Mass Destruction Act, 1993* (Molao 87 wa 1993).

Tlhomamiso

2. Nna, Ngaka Rob Davies, Tona ya Kgwebisano le Madirelo, ka fa tlase ga karolo 13(1) ya *Non-Proliferation of Weapons of Mass Destruction Act, 1993* (Molao 87 wa 1993), le ka katlanegiso ya Khansele ya Aforikaborwa ya Thibelo ya Kanamo ya Dibetsa tsa Tshenyo ka Mogoso, e fano e bidiwang Khansele, ke tlhomamisa—

- (a) dithoto tse di tlhagisitsweng mo temaneng 4(1) go nna dithoto tse di ka fa tlase ga taolo;
- (b) ditirelo mabapi le dithoto tse di tlhagisitsweng mo temaneng 4(1) go nna dithoto tse di ka fa tlase ga taolo; le
- (c) gore go tsenngwa mo tirisong ga ditaolo tse di fitlhelwang fano, mo dithotong tse di ka fa tlase ga taolo, go tla dirwa go ya ka kelotlhoko ya *Nuclear Suppliers Group Guidelines for Isotope Separation Activities Involving "Other Elements"* jaaka e phasaladitswe mo webesaeteng ya Khansele mo <http://www.thedti.gov.za/nonproliferation>, le ditlamego dingwe le dingwe tse di tlhokegang go ya ka karolo 6(1) ya Molao.

3. Ke—

- (a) go ya ka karolo 13(2)(b) ya Molao, tlhomamisa gape gore thomeloteng, thomelontle, thomelogape le phetiso (go akaretsa le thomelo kwa lefelogareng) ya dithoto tse di tlhagisitsweng mo temaneng 4(1) e tla dirwa fela ka fa tlase ga tumelelo e e rebotsweng ke Khansele;
- (b) go ya ka karolo 13(2)(c) ya Molao, tlhomamisa gore Khansele e ka lopa netefatso ya go tswa kwa Pusong go ya kwa Pusong kgotsa kwa modirising kgotsa setifikeiti sa tiriso mabapi le thomelontle kgotsa thomelogape ya dithoto tse di ka fa tlase ga taolo; le

- (c) go ya ka karolo 13(2)(f) tlhomamisa gore popo ya, le tlanelo ya, ditirelo mabapi le, dithoto tseo tse di ka fa tlase ga taolo, e tla diragala ka fa tlase ga tumelelo e e rebotsweng ke Khansele.

Dithoto tse di ka fa tlase ga taolo

4. (1) Didiriswagabedi tse di amanang le nyutlelia, dimateriale le dikarolofefo, le thekenoloji e e maleba, tse di ka diriswang ka gotlhe kgotsa ka dikarolwana mabapi le kgaoganyo ya diaesothoupo tsa yureniamo, di eme jaana:

- (a) Didiriswa, diagwa le dikomponente tsa polante nngwe le nngwe kgotsa dikarolo tsa komponente tsa dipolante tseo, go akaretsa le dielemente tse di kgaoganyang, tse di tsamaelanang le dipeelo tsotlhe tse di latelang:
- (i) Di bopetswe go kgaoganya dielemente tse dingwe;
- (ii) di ka diriswa ka tshamallalo kgotsa di fetotswe go le gonnye gore di kgaoganye diaesothoupo tsa yureniamo; e bile
- (iii) di dirilwe ka dimateriale tse di palelang hekesafoloraete ya yureniamo (uranium hexafluoride) (UF₆).
- (b) karolofefo e e bopetsweng go dirisetswa didiriswa tse di tlhagisitsweng mo temaneng (a); le
- (c) thekenoloji e e diriswang ka tshamallalo mo tshimololong, tlhagisong kgotsa tirisong ya didiriswa, dimateriale kgotsa karolofefo jaaka go kailwe mo temaneng (a) kgotsa (b).

(2) Dipolante, didiriswa le thekenoloji e e bopetsweng ka tsepamo kgotsa e e baakanyeditweng kgaoganyo ya diaesothoupo tsa yureniamo e, ka makgetlo a le mantsi, na le kamano ka tshamallalo mo dipolanteng, didirisweng le thekenolojing e e bopetsweng kgotsa e e baakanyeditweng kgaoganyo ya diaesothoupo tsa dielemente tse dingwe. Taolo ya dipolante, didiriswa le thekenoloji mabapi le kgaoganyo ya diaesothoupo tsa dielemente tse dingwe, go ya ka Molao, e tlaletsa mo godimo ga taolo ya dipolante, didiriswa le thekenoloji e e bopilweng ka tsepamo

kgotsa e e baakantsweng mabapi le go dirwa, tiriso kgotsa tlhagiso ya materiale wa nyutlelia o o kgethegileng go ya ka *Nuclear Energy Act, 1999* (Molao 46 wa 1999).

Diforomo tsa kopo

5. Diforomo tsa kopo tsa ditumelelo tse di kailweng mo temaneng 3 ya Kitsiso eno di ka fitlhelwa mo nngweng ya diaterese tse di latelang:

(a) Aterese ya poso:

The Secretariat

South African Council for the Non-Proliferation of Weapons of Mass Destruction

Private Bag X84

PRETORIA

0001; kgotsa

(b) Aterese ya ofisi:

The Secretariat

South African Council for the Non-Proliferation of Weapons of Mass Destruction

77 Meintjies Street

Sunnyside

PRETORIA

0001 ; kgotsa

(c) Webesaete ya Khansele ya Aforikaborwa ya Thibelo ya Kanamo ya

Dibetsa tsa Tshenyo ka Mogoso

mo <http://www.thedti.gov.za/nonproliferation>.

Phimolo

6. Kitsiso ya Puso Nmr. 21 ya di 3 Tlhakole 2010, jaaka e tlhabolotswe, e a phimolwa.

NGAKA ROB DAVIES, MP

TONA YA KGWEBISANO LE MADIRELO

LETLHA