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Non-Proliferation of Weapons of Mass Destruction Act (87/1993): 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			Wet op die Nie-proliferasie van Wapens van Grootsekaalse Vernietiging (87/1993): Bykomende verklaring van sekere kernverwante dubbeldoelige toerusting, materiaal en programmatuur en verwante tegnologie tot beheerde goedere, en beheermaatreëls wat op sodanige goedere van toepassing is		
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GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

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 (UF₆);

- (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 'R. Davies', is written over the text of the repeal notice.

DR ROB DAVIES, MP

MINISTER OF TRADE AND INDUSTRY

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

**BYKOMENDE VERKLARING VAN SEKERE KERNVERWANTE
DUBBELDOELIGE TOERUSTING, MATERIAAL EN PROGRAMMATUUR EN
VERWANTE TEKNOLOGIE TOT BEHEERDE GOEDERE, EN
BEHEERMAATREËLS WAT OP SODANIGE GOEDERE VAN TOEPASSING IS**

Verklaring

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

- (a) die goedere gelys in paragraaf 4(1) tot beheerde goedere; en
- (b) dienste met betrekking tot die goedere gelys in paragraaf 4(1) tot beheerde goedere.

2. Voorts bepaal ek—

- (a) ingevolge artikel 13(2)(b) van die Wet dat die invoer, uitvoer, heruitvoer en deurvoer (ook oorlaai) van die beheerde goedere gelys in paragraaf 4(1) slegs mag plaasvind kragtens 'n permit wat deur die Raad uitgereik is;
- (b) ingevolge artikel 13(2)(c) van die Wet dat die Raad 'n Staat-tot-Staat-versekering of 'n eindgebruiker- of eindgebruiksertifikaat kan vereis vir die uitvoer of heruitvoer van sodanige beheerde goedere; en

- (c) ingevolge artikel 13(2)(f) van die Wet dat die vervaardiging van, en die verskaffing van dienste met betrekking tot, sodanige beheerde goedere slegs mag plaasvind kragtens 'n permit wat deur die Raad uitgereik is.

Woordomskrywing

3. In hierdie kennisgewing het 'n uitdrukking waaraan die Wet 'n betekenis heg, daardie betekenis en, tensy uit die samehang anders blyk, beteken—

"ander elemente" alle ander elemente as waterstof, uraan en plutonium;

"dienste" ook vragversending, -berging en -opberging (indien nie deel van die vervaardigings- en oordragprosesse nie), vervoer, onderhoud (herstel, opknapping, heropknapping), handel, oorlegpleging, beskikking en tegniese bystand;

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

"fabrikasie" ook die produksie, prototipering, installering, ingebruikneming en kontraktuele naverkopediens;

"mikroprogram" 'n sekwensie van elementêre instruksies, gehou in 'n bepaalde geheue, waarvan die uitvoering geïnisieer word deur die invoering van sy verwysingsinstruksie in 'n instruksieregister;

"onderdele" 'n integrerende deel van aanlegte, stelsels, opstellings of toerusting waarsonder die aanleg, stelsel, opstellings of toerusting nie die beoogde werkzaamheid sal verrig of die eienskappe sal vertoon of die werkverrigtingsvlak sal bereik nie wat maak dat die aanlegte, stelsels, opstellings of toerusting beheerde goedere is;

"ontwerpnavoring" 'n eksperimentele of teoretiese werk wat hoofsaaklik onderneem word om nuwe kennis te verkry van die grondbeginsels van fenomene en waarneembare feite, en wat nie hoofsaaklik op 'n bepaalde doel of doelwit gerig is nie;

"ontwikkeling"–

- (a) ontwerp;
- (b) ontwerpnavoring;
- (c) ontwerpanalise;
- (d) ontwerpkonsepte;
- (e) opstelling en toetsing van prototipes;
- (f) loodsproduksieskemas;
- (g) ontwerpdata;
- (h) die proses om ontwerpdata in 'n produk te omvorm;
- (i) konfigurasieontwerp;
- (j) integrasieontwerp; en
- (k) uitlegte;

"program" 'n sekwensie van instruksies om uitvoering te gee aan 'n proses in 'n vorm, of wat omsitbaar is in 'n vorm, wat deur 'n elektroniese rekenaar uitgevoer kan word;

"programmatuur" 'n versameling van een of meer programme of mikroprogramme wat in 'n tasbare medium van uitdrukking vasgelê is;

"vervaardiging" ook navorsing, ontwikkeling en fabrikasie.

Kernverwante dubbeldoelige beheerde goedere

4. (1) Kernverwante dubbeldoelige toerusting, materiaal en programmatuur, en verwante tegnologie, wat in die geheel of gedeeltelik vir die skeiding van uraanisotope gebruik kan word, is soos volg:

- (a) Die toerusting, opstellings en komponente van 'n aanleg of onderdele van sodanige aanlegte, ook die skeidingselemente, wat aan al die volgende voorwaardes voldoen:
 - (i) wat ontwerp is vir die skeiding van ander elemente;
 - (ii) wat regstreeks gebruik of verander kan word om uraanisotope te skei; en

(iii) wat van materiaal gemaak is wat uraanheksafluoried (UF₆)-weerstandig is;

(b) programmatuur wat spesifiek ontwerp is vir die gebruik van toerusting gemeld in paragraaf (a); en

(c) tegnologie wat regstreeks van toepassing is op die ontwikkeling, produksie of gebruik van toerusting, materiaal of programmatuur vermeld in paragraaf (a) of (b).

(2) Aanlegte, toerusting en tegnologie wat in die besonder ontwerp of berei is vir die skeiding van uraanisotope, soos in paragraaf 4(1) beoog, het in baie gevalle 'n regstreekse verband met aanlegte, toerusting en tegnologie wat vir die isotoopskeiding van ander elemente ontwerp of berei is. Die beheer oor aanlegte, toerusting en tegnologie vir die isotoopskeiding van ander elemente is, ingevolge die Wet, bykomend tot die beheer oor aanlegte, toerusting en tegnologie wat ingevolge die Wet op Kernenergie, 1999 (Wet No. 46 van 1999), in die besonder ontwerp is vir die verwerking, gebruik of produksie van spesiale kernmateriaal.

Aansoekvorms

5. Aansoekvorms vir permitte bedoel in paragraaf 2 van hierdie kennisgewing is verkrygbaar by enige van die volgende adresse:

(a) Posadres:

Die Sekretariaat

Suid-Afrikaanse Raad vir die Nie-proliferasie van Wapens van Grootse Kaalse

Vernietiging

Privaat Sak X84

PRETORIA

0001; of

(b) fisiese adres:

Die Sekretariaat

Suid-Afrikaanse Raad vir die Nie-proliferasie van Wapens van Grootse Kaalse

Vernietiging

Meintjiesstraat 77

Sunnyside
PRETORIA.

Herroeping

6. Goewermentskennisgewing No. 310 van 11 April 2007 word hierby herroep.

A handwritten signature in black ink, appearing to read 'R. Davies', is positioned above the printed name.

DR ROB DAVIES, MP

MINISTER VAN HANDEL EN NYWERHEID
