

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. R. 4979

14 June 2024

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), as amended.

Declaration

2. I, Mr Ebrahim Patel, Minister of Trade, Industry and Competition, under section 13(1) of the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993) as amended, 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) of this notice to be controlled;

- (b) the services with regard to goods listed in paragraph 4(1) of this notice to be controlled; 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://non-proliferation.thedtic.gov.za/> 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) of this notice 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;
- (c) in terms of section 13(2)(d) of the Act, determine that all import, export, re-export or transit of controlled goods within the Republic of South Africa be declared to the Council within 21 calendar days of such import, export, re-export or transit; and
- (d) 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).

Applications

5. The applications for the permits contemplated in paragraph 3 of this Notice should be submitted through the Non-Proliferation Council Registration and Permit Online System:

<https://npcos.thedtic.gov.za/fcDTiNPAApplicantPortal/Account/LogOn>

Repeal

6. Government Notice No. 493 of 29 March 2019 is hereby repealed.

MR EBRAHIM PATEL

MINISTER OF TRADE, INDUSTRY AND COMPETITION

Ebrahim Patel 7/6/2024