
STATUTORY INSTRUMENTS

2008 No. 3231

CUSTOMS

The Export Control Order 2008

Made - - - - *15th December 2008*
Laid before Parliament *17th December 2008*
Coming into force - - *6th April 2009*

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(1) in relation to—

- (a) measures relating to trade in dual-use items, including the transmission of software or technology in intangible form(2); and
- (b) matters relating to trade in certain goods, including technical assistance, which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment(3).

It appears to the Secretary of State that it is expedient for the references in this Order to Council Regulation (EC) No 1334/2000(4), Council Regulation (EC) No 1236/2005(5), Article 3 of Council Regulation (EEC) No 2913/92(6) and Article 3 of Council Regulation (EC) No 450/2008(7) to be construed as references to those instruments and provisions as amended from time to time.

To the extent that this Order regulates any of the activities listed in section 8(1) of the Export Control Act 2002(8), the Secretary of State, having considered the reasons for the relevant controls and the need to respect the freedom to carry on the relevant activities, has determined that such regulation is necessary in the circumstances prevailing at the time of this Order.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(9), by paragraph 1A of Schedule 2 to that Act(10) and by sections 1, 2, 3, 4, 5 and 7 of the Export Control Act 2002(11), makes the following Order:

(1) 1972 c. 68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1).
(2) S.I. 2000/1813.
(3) S.I. 2006/1461.
(4) OJ No L 159, 30.6.2000, p1; relevant amending instruments are Council Regulation (EC) No 2432/2001 (OJ No L 338, 20.12.2001, p1) and Council Regulation (EC) No 1167/2008 (OJ No L 325, 3.12.2008, p1).
(5) OJ No L 200, 30.7.2005, p1, to which there are amendments not relevant to this Order.
(6) OJ No L 302, 19.10.1992, p1; relevant amending instruments are the Act of Accession of Austria, Sweden and Finland (OJ No C 241, 29.8.1994, p21) adapted by Council Decision 95/1/EC, Euratom, ECSC (OJ No L 1, 1.1.2005, p1), Regulation (EC) No 82/97 of the European Parliament and of the Council (OJ No L 17, 21.1.1997, p1), the Act concerning the conditions of accession of the Czech Republic and others and Council Regulation (EC) No 1791/2006 (OJ No L 363, 20.12.2006, p1).
(7) OJ No L 145, 4.6.2008, p1.
(8) 2002 c. 28.
(9) 1972 c. 68.
(10) Paragraph 1A of Schedule 2 was inserted by the Legislative and Regulatory Reform Act 2006, section 28.
(11) 2002 c. 28.

PART 1

INTRODUCTORY

Citation and commencement

1. This Order may be cited as the Export Control Order 2008 and shall come into force on 6th April 2009.

Interpretation

2.—(1) In this Order, the following expressions have the meanings given below, save where an expression is also defined in a Schedule where it has, for the purposes of that Schedule, that meaning

“aircraft” means a fixed wing, swivel wing, rotary wing, tilt rotor or tilt wing vehicle or helicopter;

“category A goods” means goods specified in Part 1 of Schedule 1;

“category B goods” means goods specified in Part 2 of Schedule 1;

“category C goods” means—

- (a) military goods other than goods specified in Schedule 1;
- (b) portable devices for the purpose of riot control or self-protection by the administration or dissemination of an incapacitating chemical substance;
- (c) pelargonic acid vanillylamide (PAVA) (CAS 2444-46-4);
- (d) oleoresin capsicum (OC) (CAS 8023-77-6);

“CEMA” means the Customs and Excise Management Act 1979(12);

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“the Community General Export Authorisation” means the authorisation constituted by Article 6(1) (rules about authorisations) of and Annex II to the dual-use Regulation;

“competent authority” means the Secretary of State or any other authority that is from time to time empowered to grant authorisations under the dual-use Regulation;

“contract promotion activity” means any act calculated to promote the arrangement or negotiation of a contract for the acquisition, disposal or movement of goods or any agreement to do such an act;

“country” includes territory;

“the customs and excise Acts” has the same meaning as in section 1 of CEMA;

“the customs territory” means the customs territory described in Article 3 of [Council Regulation \(EEC\) No 2913/92](#) as amended from time to time until its repeal by [Council Regulation \(EC\) No 450/2008](#) and then the customs territory described in Article 3 of the latter Regulation as amended from time to time;

“dual-use” in relation to goods, software or technology, means usable for both civil and military purposes;

“the dual-use Regulation” means [Council Regulation \(EC\) No 1334/2000](#) as amended from time to time;

“embargoed destination” means a country listed in Part 1 or 2 of Schedule 4;

(12) 1979 c. 2.

“exportation” shall be construed as follows—

- (a) unless the context otherwise requires, it only includes removal from the United Kingdom to a destination outside the United Kingdom and the Isle of Man;
- (b) it includes shipment as stores;
- (c) in relation to a vessel, vehicle, submersible vehicle or aircraft, it includes taking it out of the United Kingdom, notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power

and cognate expressions shall be construed accordingly;

“the firearms Directive” means Council Directive [91/477/EEC\(13\)](#);

“general” in relation to a licence, means not granted to a particular person but available for use generally;

“goods subject to trade controls” means goods that are category A goods, category B goods or category C goods.

“importation” in relation to a vessel, vehicle, submersible vehicle or aircraft means taking it into the United Kingdom, notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power and cognate expressions shall be construed accordingly;

“information security items” means goods, software and technology specified in Part 2 of Category 5 in Annex I to the dual-use Regulation;

“licence” except in article 45(2), means a UK licence or an authorisation granted under the dual-use Regulation or the torture Regulation;

“licence user” means a person who is registered under article 28 to use a general licence or who is entitled to use a general licence without registration owing to the terms of that general licence;

“microprogramme” 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;

“military” in relation to goods, software and technology, means listed in Schedule 2;

“payment” includes a payment in money or money’s worth or in kind whether referable to a particular act or made from time to time but does not include a payment made by way of wages or salary;

“programme” means a sequence of instructions to carry out a process in, or convertible into, a form executable by an electronic computer;

“proper” has the same meaning as in CEMA;

“in the public domain” means available without restriction upon further dissemination (no account being taken of restrictions arising solely from copyright);

“scheduled journey” means one of a series of journeys which are undertaken between the same two places and which together amount to a systematic service operated in such a manner that its benefits are available to members of the public from time to time seeking to take advantage of it;

“shipment” (and cognate expressions) and “stores” have the same meanings as in CEMA;

“software” means one or more programmes or microprogrammes fixed in any tangible medium of expression;

(13) OJ No L 256, 13.9.1991, p51 as amended by Directive [2008/51/EC](#) of the European Parliament and of the Council (OJ No L 179, 8.7.2008, p5).

“surface effect vehicle” means any air cushion vehicle (whether side wall or skirted) and any vehicle using the wing-in-ground effect for positive lift;

“technical assistance” means any technical support related to repairs, development, manufacture, assembly, testing, use, maintenance or any other technical service;

“technology” means information (including but not limited to information comprised in software and documents such as blueprints, manuals, diagrams and designs) that is capable of use in connection with the development, production or use of any goods;

“a third country” means any country that is not the United Kingdom or the Isle of Man except that, for the purposes of Part 4 of this Order, goods that are goods in transit are considered to be located in a third country;

“the torture Regulation” means Council Regulation (EC) No 1236/2005 as amended from time to time;

“transfer”, in relation to software or technology, means transfer by electronic or non-electronic means (or any combination of electronic and non-electronic means) from a person or place within the United Kingdom to a person or place outside the United Kingdom, except in articles 10 and 11 where the limitations as to the origin and destination of the transfer do not apply, and cognate expressions shall be construed accordingly;

“transfer by electronic means”, in relation to software or technology, means transmission by facsimile, telephone or other electronic media (except that oral transmission of technology by telephone is included only where the technology is contained in a document the relevant part of which is read out over the telephone, or is described over the telephone in such a way as to achieve substantially the same result as if it had been so read);

“transfer by non-electronic means”, in relation to software or technology, means disclosure of software or technology by any means (or combination of means), including oral communication, other than as the exportation of goods or the transfer by electronic means;

“in transit” means imported into the United Kingdom for transit or transshipment;

“transit or transshipment”, in relation to goods, means transit through the United Kingdom or transshipment with a view to re-exportation of the goods or transshipment of the goods for use as stores;

“UK controlled” in relation to dual-use goods, software and technology, means listed in Schedule 3;

“UK licence” means a licence in writing granted by the Secretary of State that authorises an act or acts that would otherwise be prohibited by this Order;

“vehicle” includes a railway carriage;

“vessel” includes any ship, surface effect vehicle, vessel of small waterplane area or hydrofoil, and the hull or part of the hull of a vessel;

“WMD purposes” means use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons.

(2) Except in the definition of category C goods, tangible storage media on which military or dual-use software or technology is recorded are taken to be military or dual-use goods respectively.

(3) Any reference in this Order to time after an event is a reference to a period of that length of time beginning on the day of that event.

PART 2

EXPORT AND TRANSFER CONTROLS

Military goods, etc.

3. Subject to articles 13 to 18 and 26, no person shall—
- (a) export military goods; or
 - (b) transfer military software or technology by electronic means.

Movement of UK controlled dual-use goods, etc. to certain destinations

4. Subject to articles 13, 14, 17, 18 and 26, no person shall—
- (a) export UK controlled dual-use goods; or
 - (b) transfer UK controlled dual-use software or technology by electronic means

to a destination specified in Schedule 3 as a prohibited destination in relation to the goods, software or technology in question.

Movement of UK controlled dual-use goods, etc. within the customs territory

- 5.—(1) This article applies where—
- (a) a person (“the relevant person”) knows—
 - (i) that the final destination of UK controlled dual-use goods, software or technology is outside the customs territory; and
 - (ii) that no processing or working is to be performed on the goods, software or technology in question within the customs territory; and
 - (b) the goods, software or technology in question are of a kind that is specified in Schedule 3 as prohibited for a particular destination or destinations rather than any destination.
- (2) Subject to articles 13, 14, 17, 18 and 26, the relevant person shall not—
- (a) export the goods in question; or
 - (b) transfer the software or technology in question by electronic means

to a destination within the customs territory.

WMD purposes end-use control supplementing the dual-use Regulation

- 6.—(1) This article applies where—
- (a) a person (“the enquirer”) has grounds for suspecting that dual-use goods, software or technology are or may be intended, in their entirety or in part, for WMD purposes; and
 - (b) the goods, software or technology in question are not specified in Annex I to the dual-use Regulation.
- (2) Subject to article 26, the enquirer shall not—
- (a) export the goods in question; or
 - (b) transfer the software or technology in question by electronic means

to a destination outside the customs territory unless, having made all reasonable enquiries as to the proposed use of the goods, software or technology in question, the enquirer is satisfied that they will not be used for WMD purposes.

Control on transfers within the customs territory supplementing the dual-use Regulation

7.—(1) This article applies where—

(a) a person (“the relevant person”) knows—

(i) that the final destination of dual-use goods, software or technology is outside the customs territory; and

(ii) that no processing or working is to be performed on the goods, software or technology in question within the customs territory;

(b) the relevant person would only be permitted to export or transfer the goods, software or technology in question to a destination outside the customs territory to the extent authorised to do so under Article 3 (controls on listed goods) or 4 (end-use controls) of the dual-use Regulation; and

(c) the goods, software or technology in question are not specified in Annex IV to the dual-use Regulation.

(2) Subject to articles 17 and 26, the relevant person shall not—

(a) export the goods in question; or

(b) transfer the software or technology in question by electronic means

to a destination within the customs territory.

Transit controls supplementing the dual-use Regulation

8.—(1) Subject to articles 17 and 26, no person shall export goods specified in Annex I to the dual-use Regulation in relation to which there is no export authorisation requirement under Article 3(1) (controls on listed goods) of that Regulation because the goods are in transit.

(2) Paragraph (3) applies where a person (“the exporter”) would only be permitted to export dual-use goods—

(a) to the extent authorised to do so under Article 4(1) (WMD purposes end-use control) of the dual-use Regulation; or

(b) after complying with Article 4(4) (requirement to notify competent authority in the case of awareness of end-use for WMD purposes) of the dual-use Regulation,

if those provisions applied but the provisions do not apply because the goods are in transit.

(3) Subject to article 26, the exporter shall not export the goods in question.

Provisions supplementing the torture Regulation

9.—(1) This article applies to—

(a) gangchains and leg-irons specially designed for restraining human beings;

(b) goods within item 2.1 in Annex II to the torture Regulation (electric-shock belts); and

(c) goods within item 2.1 in Annex III to the torture Regulation (portable electric shock devices).

(2) Subject to article 26, no person shall export goods to which this article applies to a destination within the customs territory.

(3) Subject to article 26, no person shall export goods within paragraph (1)(a) or (c) in relation to which there is no export authorisation requirement under Article 5 (export authorisation requirement) of the torture Regulation because the goods are in transit.

Transfers within the United Kingdom for WMD purposes

10.—(1) This article applies where a person (“the transferor”)—

- (a) has been informed by the Secretary of State that software or technology is or may be intended, in its entirety or in part, for WMD purposes; or
- (b) is aware that software or technology is intended, in its entirety or in part, for WMD purposes

and knows that it may be or is intended to be used outside the customs territory or has been informed by the Secretary of State that it may be or is intended to be so used.

(2) Subject to articles 18 and 26, the transferor shall not transfer the software or technology in question to a person or place within the United Kingdom.

Transfers from outside the customs territory for WMD purposes

11.—(1) This article applies where a United Kingdom person (“the transferor”)—

- (a) has been informed by a competent authority that software or technology is or may be intended, in its entirety or in part, for WMD purposes; or
- (b) is aware that software or technology is intended, in its entirety or in part, for WMD purposes.

(2) Subject to articles 18 and 26, the transferor shall not transfer the software or technology in question from a place outside the customs territory to—

- (a) a destination outside the customs territory; or
- (b) a destination within the customs territory if the transferor—
 - (i) knows that the final destination of the software or technology is outside the customs territory; and
 - (ii) knows that no processing or working is to be performed on the software or technology within the customs territory,

or, if the destination is the United Kingdom, knows that the software or technology may be or is intended to be used outside the customs territory or has been informed by the Secretary of State that it may be or is intended to be so used.

Transfers by non-electronic means from the United Kingdom for WMD purposes

12.—(1) This article applies where a person (“the transferor”)—

- (a) has been informed by the Secretary of State that software or technology is or may be intended, in its entirety or part, for WMD purposes; or
- (b) is aware that software or technology is intended, in its entirety or in part, for WMD purposes.

(2) Subject to articles 18 and 26, the transferor shall not transfer the software or technology in question by non-electronic means to—

- (a) a destination outside the customs territory; or
- (b) a destination within the customs territory if the transferor—
 - (i) knows that the final destination of the software or technology is outside the customs territory; and
 - (ii) knows that no processing or working is to be performed on the software or technology within the customs territory.

Exceptions for aircraft

13.—(1) Nothing in article 4 or 5 shall be taken to prohibit the exportation of any aircraft the immediately preceding importation of which was on a scheduled journey and which is intended for further scheduled journeys.

(2) Nothing in article 3 shall be taken to prohibit the exportation of any aircraft which is being exported (except to a country or destination specified in Part 1, 2 or 3 of Schedule 4) after temporary importation into the United Kingdom provided that—

- (a) there has been no change of ownership or registration since such importation; and
- (b) no military goods have been incorporated into the aircraft since such importation other than by way of replacement for a component essential for the departure of the aircraft.

(3) Nothing in article 4 or 5 shall be taken to prohibit the exportation of any aircraft on a scheduled journey.

(4) Nothing in article 3, 4 or 5 shall be taken to prohibit the exportation of any aircraft which is departing temporarily from the United Kingdom on trials.

Exceptions for vessels

14.—(1) Nothing in article 3 shall be taken to prohibit the exportation of any vessel registered or constructed outside the United Kingdom which is being exported (except to a country or destination specified in Part 1, 2 or 3 of Schedule 4) after temporary importation into the United Kingdom provided that no military goods have been incorporated into the vessel since such importation other than by way of replacement for a component essential for the departure of the vessel.

(2) Nothing in article 4 or 5 shall be taken to prohibit the exportation of any vessel proceeding on a journey providing transport services in the ordinary course of business.

(3) Nothing in article 3, 4 or 5 shall be taken to prohibit the exportation of any vessel which is departing temporarily from the United Kingdom on trials.

Exception for firearms – European firearms pass

15.—(1) Nothing in article 3 shall be taken to prohibit the exportation of any firearm falling within category B, C or D of Annex I to the firearms Directive, related ammunition and sight using non-electronic image enhancement for use with such a firearm to any destination in a member State if paragraphs (2) and (3) apply.

(2) This paragraph applies if the firearm, ammunition and sight using non-electronic image enhancement form part of the personal effects of a person (“the holder”) who is in possession of—

- (a) a European firearms pass which has been issued to the holder under section 32A of the Firearms Act 1968(14); or
- (b) a document which has been issued to the holder under the provisions of the law of a member State corresponding to the provisions of that section,

which, in either case, relates to the firearm.

(3) This paragraph applies if either—

- (a) the pass or document referred to in paragraph (2) contains authorisation for the possession of the firearm from the member State of destination and any other member State through which the holder intends that the firearm will pass on its way to that destination; or

(14) 1968 c. 27; section 32A was inserted by the Firearms Acts (Amendment) Regulations (S.I. 1992/2823), regulation 5(1) and amended by the Firearms Amendment Act 1997 (c. 5), Schedule 2, paragraph 6.

- (b) the holder on request satisfies the proper officer of Her Majesty's Revenue and Customs at the place of exportation that—
- (i) the exportation of the firearm is necessary to enable the holder to participate in one of the activities specified in Article 12(2) (hunters and marksmen) of the firearms Directive;
 - (ii) the firearm falls within the category appropriate to that activity in accordance with that Article; and
 - (iii) the exportation or passage of the firearm is not to or through a member State which prohibits or requires an authorisation for the acquisition or possession of the firearm.

Exception for firearms – firearm or shot gun certificate or permit

16.—(1) This article applies to firearms authorised to be possessed or, as the case may be, purchased or acquired by—

- (a) a firearm certificate or shot gun certificate granted under the Firearms Act 1968;
- (b) a visitor's firearm or shot gun permit granted under section 17 of the Firearms (Amendment) Act 1988⁽¹⁵⁾;
- (c) a firearm certificate granted under the Firearms (Northern Ireland) Order 1981⁽¹⁶⁾; or
- (d) a firearm certificate granted under the Firearms Act 1947 (an Act of Tynwald)⁽¹⁷⁾ as amended by the Firearms Act 1968 (an Act of Tynwald)⁽¹⁸⁾ and the Air Guns and Shot Guns, etc Act 1968 (an Act of Tynwald)⁽¹⁹⁾.

(2) Subject to paragraph (3), nothing in article 3 shall be taken to prohibit the exportation of any firearm to which this article applies, related ammunition and sight using non-electronic image enhancement for use with such a firearm to—

- (a) any destination in a member State by—
 - (i) any person or body specified in Article 2(2) (Directive not to apply in relation to armed forces, police, public authorities, collectors, etc.) of the firearms Directive; or
 - (ii) the holder of a firearm certificate within paragraph (1)(d); or
- (b) any other destination other than a country or destination specified in Part 1, 2 or 3 of Schedule 4.

(3) The exception in this article only applies if the firearm, related ammunition and sight using non-electronic image enhancement form part of the personal effects of the holder of the relevant certificate or permit and, in a case to which paragraph (2)(b) applies, the certificate or permit is produced by the holder, or the holder's duly authorised agent, with the firearm and, if carried, ammunition and sight to the proper officer of Her Majesty's Revenue and Customs at the place of exportation.

Transit or transhipment exception

17.—(1) Subject to paragraphs (2) and (3), nothing in articles 3, 4, 5, 7 or 8(1) shall be taken to prohibit the exportation of any goods which are goods in transit provided that the conditions in paragraph (4) are met.

(2) Paragraph (1) does not apply to—

⁽¹⁵⁾ 1988 c. 45; section 17 was amended by the Firearms Acts (Amendment) Regulations, regulations 6(1) and 7(1) and the Firearms Amendment Act 1997, Schedule 2, paragraph 19.

⁽¹⁶⁾ S.I. 1981/155 (N.I. 2); relevant amending instruments are S.I. 1989/1338 (N.I. 10), 1992/1723 (N.I. 14).

⁽¹⁷⁾ Acts of Tynwald 1947, p586.

⁽¹⁸⁾ Acts of Tynwald 1968, p464.

⁽¹⁹⁾ Acts of Tynwald 1968, p509.

- (a) anti-personnel landmines and components specially designed for them;
 - (b) category A goods;
 - (c) equipment, software or technology falling within entry ML18, ML21 or ML22 in Schedule 2, specifically related to anti-personnel landmines or Category A goods;
 - (d) goods being exported to a destination specified in Part 1 of Schedule 4;
 - (e) military goods being exported to any country or destination specified in Part 2 or 3 of Schedule 4;
 - (f) category B goods being exported to any country or destination specified in Part 4 of Schedule 4.
- (3) Paragraph (1) does not apply to the extent that—
- (a) the exporter (or, if the exporter is not within the United Kingdom, any agent of the exporter within the United Kingdom concerned in the exportation or intended exportation) has been informed by a competent authority that the goods are or may be intended, in their entirety or in part, for WMD purposes;
 - (b) the exporter is aware that the goods are intended, in their entirety or in part, for WMD purposes; or
 - (c) the exporter has grounds for suspecting that the goods are or may be intended, in their entirety or in part, for WMD purposes, unless the exporter has made all reasonable enquiries as to their proposed use and is satisfied that they will not be so used.
- (4) The conditions are that—
- (a) the goods in question remain on board a vessel or aircraft for the entire period that they remain in the United Kingdom or are goods on a through bill of lading or through air waybill and in any event are exported before the end of the period of 30 days beginning with the date of their importation;
 - (b) the destination of the goods in question following exportation from the United Kingdom has been determined in the country from which they were originally exported prior to their original exportation in connection with the transaction which has given rise to transit or transshipment and has not been changed prior to their exportation from the United Kingdom, or the goods are being returned to that country; and
 - (c) the goods in question were exported from that country in accordance with any laws or regulations relating to the exportation of goods applying there at the time of exportation of the goods.

Software and technology exceptions

- 18.**—(1) Nothing in article 3, 4 or 5 shall be taken to prohibit the transfer of technology—
- (a) that is in the public domain;
 - (b) that is the minimum technology required for—
 - (i) the installation, operation, maintenance or repair of goods or software that are not military goods or software or UK controlled dual-use goods or software; or
 - (ii) a patent application; or
 - (c) in the course of basic scientific research.
- (2) Nothing in article 10, 11 or 12 shall be taken to prohibit the transfer of software or technology in the public domain.

(3) In this article, “basic scientific research” means experimental or theoretical work undertaken principally to acquire new knowledge of the fundamental principles of phenomena or observable facts and not primarily directed towards a specific practical aim or objective.

PART 3

TECHNICAL ASSISTANCE CONTROLS

End-use control on technical assistance

19.—(1) Subject to article 26, no person shall directly or indirectly provide to a person or place outside the customs territory any technical assistance related to the supply, delivery, manufacture, maintenance or use of anything which—

- (a) that person has been informed by the Secretary of State is or may be intended, in its entirety or in part, for WMD purposes; or
- (b) that person is aware is intended, in its entirety or in part, for WMD purposes.

(2) Subject to article 26, no United Kingdom person shall directly or indirectly provide from a place outside the customs territory to any person or place outside the customs territory any technical assistance related to the supply, delivery, manufacture, maintenance or use of anything which—

- (a) that person has been informed by the Secretary of State is or may be intended, in its entirety or in part, for WMD purposes; or
- (b) that person is aware is intended, in its entirety or in part, for WMD purposes.

(3) For the purposes of paragraphs (1) and (2)—

- (a) directly providing technical assistance includes providing technical assistance or agreeing to do so; and
- (b) indirectly providing technical assistance includes making arrangements under which another person provides technical assistance or agrees to do so.

PART 4

TRADE CONTROLS

Embargoed destinations

20.—(1) This article applies to—

- (a) persons carrying out activities in the United Kingdom; and
- (b) United Kingdom persons.

(2) Subject to articles 25 and 26, no person to whom this article applies shall directly or indirectly

- (a) supply or deliver;
- (b) agree to supply or deliver; or
- (c) do any act calculated to promote the supply or delivery of

any goods subject to trade controls from one third country to another third country that is an embargoed destination.

Category A goods

21.—(1) This article applies to—

- (a) persons carrying out activities in the United Kingdom; and
- (b) United Kingdom persons.

(2) Subject to articles 24, 25 and 26, no person to whom this article applies shall directly or indirectly—

- (a) supply or deliver;
- (b) agree to supply or deliver; or
- (c) do any act calculated to promote the supply or delivery of

any category A goods, where that person knows or has reason to believe that such action or actions will, or may, result in the removal of those goods from one third country to another third country.

Category B goods

22.—(1) This article applies to—

- (a) persons carrying out activities in the United Kingdom; and
- (b) United Kingdom persons.

(2) Subject to paragraphs (3), (4) and (7) and to articles 25 and 26, no person to whom this article applies shall directly or indirectly—

- (a) supply or deliver;
- (b) agree to supply or deliver; or
- (c) do any act calculated to promote the supply or delivery of

any category B goods, where that person knows or has reason to believe that such action or actions will, or may, result in the removal of those goods from one third country to another third country.

(3) Nothing in this article shall be taken to prohibit the provision of—

- (a) financing or financial services;
- (b) insurance or reinsurance services; or
- (c) general advertising or promotion services

by a person whose only involvement in the activities described in paragraph (2) is to provide or agree to provide such services.

(4) A person (“the transporter”) whose only involvement in the activities described in paragraph (2) is to provide or agree to provide transportation services in relation to category B goods (“the relevant goods”) only contravenes the prohibition in this article if paragraph (5) or (6) applies.

(5) This paragraph applies if the transporter arranges the removal of the relevant goods from one third country to another third country.

(6) This paragraph applies if the transporter, otherwise than in the course of providing services to another person—

- (a) to whom this article applies; and
- (b) who has agreed to provide transportation services in relation to the relevant goods,

removes or agrees to remove the relevant goods from one third country to another third country.

(7) Nothing in this article shall be taken to prohibit any contract promotion activity that is carried out otherwise than for payment.

Category C goods

23.—(1) Subject to paragraphs (2) and (3) and to articles 24, 25 and 26, no person shall directly or indirectly—

- (a) agree to supply or deliver; or
- (b) do any act calculated to promote the supply or delivery of

any category C goods, where that person knows or has reason to believe that such action or actions will, or may, result in the removal of those goods from one third country to another third country.

(2) Nothing in this article shall be taken to prohibit the provision of—

- (a) transportation services;
- (b) financing or financial services;
- (c) insurance or reinsurance services; or
- (d) general advertising or promotion services

by a person whose only involvement in the activities described in paragraph (1) is to provide or agree to provide such services.

(3) Nothing in this article shall be taken to prohibit any contract promotion activity that is carried out otherwise than for payment.

Exception for movement of goods within the customs territory

24. Nothing in article 21 or 23 shall be taken to prohibit activities related to the movement of the following goods within the customs territory—

- (a) the goods listed in paragraph 1 of Schedule 1;
- (b) individual cuffs;
- (c) shackles except those shackles which have an overall dimension including chain, when measured from the outer edge of one cuff to the outer edge of the other cuff, of between 240mm and 280mm when locked and have not been modified to cause physical pain or suffering;
- (d) the goods listed in paragraphs 2(b), (c) and (d) and 4 of Schedule 1;
- (e) portable devices for the purpose of riot control or self-protection by the administration or dissemination of an incapacitating chemical substance;
- (f) pelargonic acid vanillylamide (PAVA) (CAS 2444-46-4);
- (g) oleoresin capsicum (OC) (CAS 8023-77-6).

Exception for activities carried out in the Isle of Man

25. Nothing in this Part shall be taken to prohibit activities carried out in the Isle of Man.

PART 5

LICENCES, ETC.

Licences

26.—(1) Nothing in Part 2, 3 or 4 prohibits an activity that is carried out under the authority of a UK licence.

(2) Unless it provides otherwise, a UK licence to export military goods also authorises the export or transfer of the minimum technology required for the installation, operation, maintenance and repair of the goods to the same destination as the goods.

(3) A UK licence to supply or deliver goods subject to trade controls also authorises—

- (a) agreeing to supply or deliver; or
- (b) doing any act calculated to promote the supply or delivery of

the goods.

(4) For the purposes of Article 6 (rules about authorisations) of the dual-use Regulation, the Secretary of State is empowered to grant authorisations.

(5) The authorisation required by Article 21(1) (exportation or transfer of sensitive items within the customs territory) of the dual-use Regulation for exportation or transfer of goods, software or technology from the United Kingdom is a licence granted by the Secretary of State.

(6) A licence granted by the Secretary of State may be—

- (a) either general or granted to a particular person (except that a licence granted under the torture Regulation may not be a general licence);
- (b) limited so as to expire on a specified date unless renewed;
- (c) subject to, or without, conditions and any such condition may require any act or omission before or after the doing of the act authorised by the licence.

Person authorised by UK licence to export goods

27.—(1) For the purpose of article 26(1), but subject to paragraph (2) below, the exportation of goods to any destination outside the customs territory shall be regarded as being under the authority of a UK licence to, or for the benefit of, a particular person (“the licence holder”) only if—

- (a) the licence holder is the person on whose behalf the exportation declaration is made; and
- (b) the licence holder is established within the customs territory and either—
 - (i) the licence holder is the owner of the goods or has a similar right of disposal over them; or
 - (ii) if no person who is the owner of the goods or has a similar right of disposal over them is established within the customs territory, the licence holder is a party to one or more contracts under which the ownership of the goods or a similar right of disposal over them has passed to a person not established within the customs territory and pursuant to which the goods are to be, are being or have been exported from the customs territory.

(2) Paragraph (1) does not apply if no person falls within sub-paragraph (b) of that paragraph or if the exportation is of goods imported into the United Kingdom for transit or transshipment.

Registration with the Secretary of State

28.—(1) Not later than 30 days after—

- (a) any person first does any act under the authority of a general licence granted by the Secretary of State that does not provide otherwise;
- (b) any person established in the United Kingdom first does any act under the authority of the Community General Export Authorisation,

the person in question shall give to the Secretary of State written notice of their name and the address at which copies of the records referred to in article 29(1) or 30(3) of this Order or Article

16(1) (record-keeping) of the dual-use Regulation may be inspected by any person authorised by the Secretary of State or the Commissioners under article 31.

(2) A person who has given to the Secretary of State written notice of particulars under paragraph (1) shall, not later than 30 days after any change in those particulars, give to the Secretary of State notice of the changed particulars.

Record keeping – general

29.—(1) A person who—

- (a) acts under the authority of a general licence granted by the Secretary of State; or
- (b) acts under the authority of the Community General Export Authorisation whilst established in the United Kingdom

shall keep detailed registers or records.

(2) The registers or records shall contain sufficient detail as may be necessary to allow the following information, where appropriate, to be identified in relation to each act carried out under the authority referred to in paragraph (1)—

- (a) a description of the act;
- (b) a description of the goods, software or technology to which the act relates;
- (c) the date of the act or the dates between which the act took place;
- (d) the quantity of the goods (if any) to which the act relates;
- (e) the name and address of the person referred to in paragraph (1);
- (f) the name and address of any consignee of the goods to which the act relates or any recipient of the software or technology to which the act relates;
- (g) in so far as it is known to the person referred to in paragraph (1), the name and address of the end-user of the goods, software or technology to which the act relates;
- (h) if different from the person referred to in paragraph (1), the name and address of the supplier of the goods (if any) to which the act relates;
- (i) any further information required by the licence or authorisation referred to in paragraph (1).

(3) The registers or records referred to in paragraph (1) shall be kept—

- (a) in the case of a general licence authorising an activity that would otherwise be prohibited by Part 4 of this Order, for at least four years from the end of the calendar year in which the authorised act took place;
- (b) in any other case, for at least three years from the end of the calendar year in which the authorised act took place

or for such longer period as may be specified in the licence or authorisation referred to in paragraph (1).

(4) The documents and records to be kept in accordance with Article 21(5) (records of exportation and transfer of listed items within the customs territory) of the dual-use Regulation are the registers or records referred to in paragraph (2)(a) to (i).

Registration and record keeping – information security items

30.—(1) Not later than 30 days after the first exportation or transfer of information security items not specified in Schedule 5 to this Order from the United Kingdom under the authority of the Community General Export Authorisation by any person, that person shall (in addition to any notice given under article 28(1)) give to the Secretary of State in relation to those goods or that software

or technology written notice of such of the information specified in Schedule 5 to this Order as is in their possession and such other of that information as they can reasonably be expected to obtain within that time.

(2) A person who has given to the Secretary of State written notice of information under paragraph (1) shall, not later than 30 days after any change in that information, give to the Secretary of State written notice of the changed information.

(3) A person who exports or transfers information security items not specified in Annex IV to the dual-use Regulation to a destination within the customs territory shall maintain registers or records in relation to each such exportation or transfer that contain such of the information specified in Schedule 5 to this Order as they can reasonably be expected to obtain and such other of that information as comes into their possession.

(4) The registers or records referred to in paragraph (3) shall be kept for at least three years from the end of the calendar year in which the exportation or transfer took place.

Inspection of records

31.—(1) A person (“a relevant person”) who is required under article 29 or 30 of this Order or under Article 16 (record-keeping) or 21(5) (records of exportation and transfer of listed items within the customs territory) of the dual-use Regulation to keep registers, records or documents (“compulsory records”) shall permit those compulsory records to be inspected and copied by a person authorised by the Secretary of State or the Commissioners.

(2) A person authorised by the Secretary of State or the Commissioners who produces, if required to do so, a duly authenticated document showing their authority, shall have the right at any reasonable hour to enter for the purpose of paragraph (1)—

- (a) in the case of compulsory records required to be kept under article 29 or 30 of this Order, the premises the address of which has been most recently notified to the Secretary of State under article 28 in relation to the records; or
- (b) in the case of compulsory records required to be kept under Article 16 or 21(5) of the dual-use Regulation, the premises the address of which has been most recently notified to the Secretary of State under article 28 in relation to the records or, if none, such other premises the address of which has been notified for this purpose.

(3) Where a relevant person keeps compulsory records in a form which is not legible, the relevant person shall at the request of a person authorised by the Secretary of State or the Commissioners reproduce the relevant records in a legible form.

Amendment, suspension and revocation of licences

32.—(1) The Secretary of State may by notice—

- (a) amend, suspend or revoke a licence granted by the Secretary of State;
- (b) suspend or revoke a general licence granted by the Secretary of State as it applies to a particular licence user.

(2) A notice by the Secretary of State under paragraph (1), under Article 9(2) (suspension, revocation, etc. of authorisations) of the dual-use Regulation or under Article 9(4) (suspension, revocation, etc. of authorisations) of the torture Regulation shall not take effect until—

- (a) in the case of a notice affecting all users of a general licence, it has been published in a manner appearing to the Secretary of State to be suitable for securing that the notice is seen by persons likely to be affected by it;
- (b) in any other case, it has been served on the holder of the licence or on the licence user affected.

Licence refusals, etc. and appeals

33.—(1) In the event that the Secretary of State decides not to grant a licence to any person who has applied for one, the applicant shall be provided with a written notification setting out the reason or reasons for the decision.

(2) In the event that the Secretary of State decides to suspend a licence other than a general licence, or to suspend a general licence as it applies to a particular licence user, the licence holder or licence user shall be provided with a written notification setting out the terms of the suspension and the reason or reasons for the decision.

(3) In the event that the Secretary of State decides to revoke a licence other than a general licence, or to revoke a general licence as it applies to a particular licence user, the licence holder or licence user shall be provided with a written notification setting out the reason or reasons for the decision.

(4) In the event that the Secretary of State decides to amend a licence other than a general licence, and does not do so at the request of the licence holder, the licence holder shall be provided with a written notification setting out the reason or reasons for the decision.

(5) Any person who has a right under any of paragraphs (1) to (4) to a written notification in respect of a decision made by the Secretary of State shall have 28 days beginning with the date of the written notification in which to submit an appeal against the decision in writing to the Secretary of State, Export Control Organisation, Department for Business, Enterprise and Regulatory Reform.

(6) Any appeal submitted under paragraph (5) shall specify the grounds on which that appeal is made and may provide further information or arguments in support of the appeal.

(7) Pending determination of any appeal submitted under paragraph (5), any decision taken by the Secretary of State shall continue to have effect.

PART 6

OFFENCES, ENFORCEMENT AND PENALTIES

Offences relating to prohibitions in Parts 2, 3 and 4

34.—(1) Subject to paragraphs (2) and (7), a person who contravenes a prohibition in Part 2 or 4 of this Order commits an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) A person who—

(a) did not know, and had no reason to suppose, that the goods referred to in article 20 were destined for an embargoed destination; and

(b) is able to show the matters stated in sub-paragraph (a)

shall not be guilty of an offence under paragraph (1) by reason of a contravention of the prohibition in article 20.

(3) A person who contravenes a prohibition in Part 2 or 3 of this Order that is engaged because the person—

(a) has been informed;

(b) is aware; or

(c) has grounds for suspecting

that goods, software or technology are or may be intended, in their entirety or in part, for WMD purposes commits an offence and may be arrested.

(4) A person guilty of an offence under paragraph (3) shall be liable—

- (a) on summary conviction—
 - (i) in England and Wales or Scotland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding twelve months, or to both;
 - (ii) in Northern Ireland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or to both; or
 - (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding two years, or to both.
- (5) Subject to paragraph (7), a person knowingly concerned in activity prohibited by Part 2, 3 or 4 of this Order with intent to evade the relevant prohibition commits an offence and may be arrested.
- (6) A person guilty of an offence under paragraph (5) shall be liable—
- (a) on summary conviction—
 - (i) in England and Wales or Scotland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding twelve months, or to both;
 - (ii) in Northern Ireland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or to both; or
 - (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding ten years, or to both.
- (7) Paragraphs (1) and (5) do not create offences related to prohibitions on the exportation of goods (as to which see CEMA).
- (8) In paragraphs (4)(a)(i) and (6)(a)(i) as they apply to England and Wales in the case of an offence committed before section 154(1) of the Criminal Justice Act 2003(20) comes into force, for “twelve months” substitute “six months”.

Offences relating to prohibitions and restrictions in the dual-use Regulation

35.—(1) Subject to paragraph (8), a person who contravenes a prohibition or restriction in Article 3(1) (controls on listed goods), 4(2) (military end-use control), 4(3) (end-use control relating to use in items exported or transferred without authorisation) or 21(1) (exportation or transfer of sensitive items within the customs territory) of the dual-use Regulation commits an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (2) A person who—
- (a) contravenes a prohibition or restriction in Article 4(1) (WMD purposes end-use control) of the dual-use Regulation; or
 - (b) fails to comply with the requirement in Article 4(4) (requirement to notify competent authority in the case of awareness of end-use for WMD purposes) of the dual-use Regulation

commits an offence and may be arrested.

- (3) A person guilty of an offence under paragraph (2) shall be liable—
- (a) on summary conviction—
 - (i) in England and Wales or Scotland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding twelve months, or to both;
 - (ii) in Northern Ireland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or to both; or

(20) 2003 c. 44; at the date of this Order, section 154(1) had not been commenced.

- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding two years, or to both.
- (4) Subject to paragraph (8), a person knowingly concerned in an activity prohibited or restricted by Article 3(1), 4(1), 4(2), 4(3) or 21(1) of the dual-use Regulation with intent to evade the relevant prohibition or restriction commits an offence and may be arrested.
- (5) A person guilty of an offence under paragraph (4) shall be liable—
- (a) on summary conviction—
- (i) in England and Wales or Scotland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding twelve months, or to both;
- (ii) in Northern Ireland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or to both; or
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding ten years, or to both.
- (6) A person who fails to comply with Article 9(1) (provision of relevant information for licence applications) of the dual-use Regulation commits an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and any licence which may have been granted in connection with the application shall be void as from the time it was granted.
- (7) A person who fails to comply with Article 16 (record-keeping), 21(5) (records of exportation and transfer of listed items within the customs territory) or 21(7) (requirement in relation to commercial documents for exportation and transfer of listed items within the customs territory) of the dual-use Regulation commits an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) Paragraphs (1) and (4) do not create offences related to prohibitions or restrictions on the exportation of goods from the United Kingdom (as to which see CEMA).
- (9) In paragraphs (3)(a)(i) and (5)(a)(i) as they apply to England and Wales in the case of an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, for “twelve months” substitute “six months”.

Offences relating to prohibitions and restrictions in the torture Regulation

- 36.**—(1) A person who contravenes a prohibition or restriction in Article 3(1) (export prohibition) of the torture Regulation in respect of the supply of technical assistance as defined in the torture regulation commits an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) A person knowingly concerned in the provision of technical assistance as defined in the torture Regulation with intent to evade the prohibition on the provision of technical assistance in article 3(1) of the torture Regulation commits an offence and may be arrested.
- (3) A person guilty of an offence under paragraph (2) shall be liable—
- (a) on summary conviction—
- (i) in England and Wales or Scotland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding twelve months, or to both;
- (ii) in Northern Ireland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or to both; or
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding ten years, or to both.
- (4) A person who contravenes a prohibition or restriction in Article 4(1) (import prohibition) of the torture Regulation in respect of the acceptance of technical assistance as defined in the torture

Regulation commits an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) A person knowingly concerned in the acceptance of technical assistance as defined in the torture Regulation with intent to evade the prohibition on the acceptance of technical assistance in article 4(1) of the torture Regulation commits an offence and may be arrested.

(6) A person guilty of an offence under paragraph (5) shall be liable—

(a) on summary conviction—

- (i) in England and Wales or Northern Ireland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months, or to both; or
- (ii) in Scotland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding twelve months, or to both; or

(b) on conviction on indictment to a fine or to imprisonment for a term not exceeding two years, or to both.

(7) A person who fails to comply with Article 8(2) (provision of relevant information for licence applications) of the torture Regulation commits an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and any licence which may have been granted in connection with the application shall be void as from the time it was granted.

(8) In paragraph (3)(a)(i) as it applies to England and Wales in the case of an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, for “twelve months” substitute “six months”.

Misleading applications for licences

37.—(1) Where for the purpose of obtaining a licence a person (“the applicant”) either—

- (a) makes a statement or furnishes a document or information which to the applicant’s knowledge is false in a material particular; or
- (b) recklessly makes a statement or furnishes a document or information which is false in a material particular

the applicant commits an offence and any licence that has been granted in connection with the application for which the false statement was made or the false document or information was furnished is void as from the time it was granted.

(2) A person guilty of an offence under paragraph (1) shall be liable—

(a) on summary conviction—

- (i) in England and Wales or Northern Ireland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months, or to both;
- (ii) in Scotland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding twelve months, or to both; or

(b) on conviction on indictment to a fine or to imprisonment for a term not exceeding two years, or to both.

Failure to comply with licence conditions

38.—(1) A person who, having acted under the authority of a licence or the Community General Export Authorisation, fails to comply with—

- (a) any of the requirements or conditions to which the licence or the Community General Export Authorisation is subject; or
- (b) any obligation under article 28, 29, 30 or 31

commits an offence unless paragraph (2) applies.

- (2) This paragraph applies if—
 - (a) the licence was modified after the completion of the act authorised; and
 - (b) the alleged failure to comply would not have been a failure had the licence not been so modified.
- (3) A person guilty of an offence under paragraph (1) shall be liable—
 - (a) on summary conviction—
 - (i) in England and Wales or Northern Ireland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months, or to both;
 - (ii) in Scotland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding twelve months, or to both; or
 - (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding two years, or to both.

Customs powers to require evidence of destination

39.—(1) This article applies where a person (“the exporter”) has exported goods and required a licence to do so.

(2) The Commissioners may require the exporter to provide within such time as the Commissioners may determine evidence of the destination to which the goods in question were delivered.

(3) A person who fails to comply with a requirement imposed by the Commissioners under paragraph (2) commits an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Customs powers relating to dual-use goods

40.—(1) Goods in relation to which a licence has not been granted and which are brought to any place in the United Kingdom for the purpose of being exported may be detained by the proper officer of Her Majesty’s Revenue and Customs as if they were liable to forfeiture, if and so long as that officer has reason to believe that a competent authority (after, if necessary, having had the impending exportation brought to its attention) might inform the exporter—

- (a) that the goods are or may be intended, in their entirety or in part, for WMD purposes; or
- (b) as provided in Article 4(2) (military end-use control) or 4(3) (end-use control relating to use in items exported or transferred without authorisation) of the dual-use Regulation.

(2) Any goods listed in Annex I to the dual-use Regulation in relation to which a licence has been granted which are brought to any place in the United Kingdom for the purpose of being exported to a destination outside the customs territory may be detained by a proper officer of Her Majesty’s Revenue and Customs for a period of ten working days as if they were liable to forfeiture where that officer or the Secretary of State has grounds for suspicion that—

- (a) relevant information was not taken into account when the licence was granted; or
- (b) circumstances have materially changed since the issue of the licence,

provided that the period shall be extended to 30 working days where the Secretary of State certifies that a request for such an extension in accordance with Article 12(4) (customs procedures) of the dual-use Regulation has been received from the member State which granted the licence.

(3) In this article, “working day” means a day that is not a Saturday or Sunday, Christmas Day, Good Friday or any day that is a bank holiday under the Banking and Financial Dealings Act

1971(21) in the part of the United Kingdom where the goods referred to in paragraph (2) have been detained.

Application of CEMA in respect of offences

41.—(1) Where the Commissioners for Her Majesty’s Revenue and Customs investigate or propose to investigate any matter with a view to determining—

- (a) whether there are grounds for believing that an offence has been committed by reason of a contravention of—
 - (i) article 3, 4, 5, 6, 7, 8, 9, 11, 12, 19, 20, 21, 22, 23, 37, 38 or 39 of this Order;
 - (ii) article 31 of this Order so far as it relates to the powers of the Commissioners;
 - (iii) the dual-use Regulation; or
 - (iv) the torture Regulation; or
- (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter.

(2) Section 77A of CEMA (provision as to information powers)(22) shall apply to a person concerned in an activity which, if not authorised by a licence, would contravene—

- (a) article 3, 4, 5, 6, 7, 8, 9, 11, 12, 19, 20, 21, 22 or 23 of this Order;
- (b) the dual-use Regulation; or
- (c) the torture Regulation,

and accordingly references in section 77A of CEMA to exportation shall be read as including any such activity.

(3) Section 138 of CEMA (provision as to arrest of persons)(23) shall apply to the arrest of a person for an offence under this Order as it applies to the arrest of a person for an offence under the customs and excise Acts.

(4) Sections 145(24), 146(25), 146A(26), 147(27), 148, 150(28), 151(29), 152(30), 154(31), and 155(32) of CEMA (proceedings for offences, mitigation of penalties, proof and other matters) shall apply in relation to offences and penalties under this Order as they apply in relation to offences and penalties under the customs and excise Acts.

(21) 1971 c. 80.

(22) Section 77A was inserted by the Finance Act 1987 (c. 16), section 10 and amended by the Customs and Excise (Single Market etc.) Regulations 1992 (S.I. 1992/3095), Schedule 1, paragraph 7.

(23) Section 138 was amended by the Police and Criminal Evidence Act 1984 (c. 60), sections 114(1) and 119, Schedule 6, paragraph 37 and Schedule 7, Part 1; by the Finance Act 1988 (c. 39), section 11; by the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341), article 90(1) and Schedule 6, paragraph 9; and by the Serious Organised Crime and Police Act 2005 (c. 15), Schedule 7, paragraph 54.

(24) Section 145 was amended by the Police and Criminal Evidence Act 1984, section 114(1); and by the Commissioners for Revenue and Customs Act 2005 (c. 11), Schedule 4, paragraphs 20 and 23.

(25) Section 146 was modified by the Channel Tunnel (Customs and Excise) Order 1990 (S.I. 1990/2167), article 4 and the Schedule, paragraph 22.

(26) Section 146A was inserted by the Finance Act 1989 (c. 26), section 16(1) and amended by the Commissioners for Revenue and Customs Act 2005, Schedule 4, paragraphs 20 and 24.

(27) Section 147 was amended by the Magistrates’ Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 176; by the Criminal Justice Act 1982 (c. 48), sections 77 and 78, Schedule 14, paragraph 42 and Schedule 16; and by the Finance Act 1989, section 16(2).

(28) Section 150 was amended by the Commissioners for Revenue and Customs Act 2005, Schedule 4, paragraphs 20 and 25.

(29) Section 151 was amended by the Magistrates’ Courts Act 1980, section 154 and Schedule 7, paragraph 177.

(30) Section 152 was amended by the Commissioners for Revenue and Customs Act 2005, section 52, Schedule 4, paragraphs 20 and 26 and Schedule 5.

(31) Section 154 was modified by the Channel Tunnel (Customs and Excise) Order 1990 (S.I. 1990/2167), article 4 and the Schedule, paragraph 23.

(32) Section 155 was amended by the Commissioners for Revenue and Customs Act 2005, Schedule 4, paragraphs 20, 21 and 27.

(5) For the purposes of the application of section 145 of CEMA to this Order, only offences related to contraventions of the provisions referred to in paragraph (1)(a) are offences under the customs and excise Acts.

Increase of maximum penalty for prohibited exportation provided for in CEMA

42. In the case of an offence committed in connection with a prohibition or restriction on exportation in Part 2 of this Order, the dual-use Regulation or the torture Regulation, sections 68(3)(b) and 170(3)(b)(**33**) of CEMA shall have effect as if for the words “7 years” there were substituted the words “10 years”.

PART 7

GENERAL

Use and disclosure of information

43.—(1) This article applies to information which is held from time to time by the Secretary of State or the Commissioners in connection with the operation of controls imposed by

- (a) this Order; or
- (b) any directly applicable Community provision on the export of goods, the transfer of software or technology, participation in the provision of technical assistance, or activities which facilitate, or are otherwise connected with, the acquisition, disposal or movement of goods.

(2) Information to which this article applies may be used for the purposes of, or for any purposes connected with—

- (a) the exercise of functions in relation to any control imposed by this Order or by any other order made under the Export Control Act 2002;
- (b) giving effect to any Community provision or other international obligation of the United Kingdom;
- (c) facilitating the exercise by an authority or international organisation outside the United Kingdom of functions which correspond to functions conferred by or in connection with any activity subject to control by this Order or any other order made under the Export Control Act 2002,

and may be disclosed to any person for use for these purposes.

(3) No disclosure of information shall be made by virtue of this article unless the making of the disclosure is proportionate to the object of the disclosure.

(4) For the purposes of this article, “information” is any information that relates to a particular business or other activity carried on by a person.

(5) Nothing in this article shall affect any power to disclose information that exists apart from this article.

(6) The information that may be disclosed by virtue of this article includes information obtained before this Order came into force.

(33) Sections 68(3)(b) and 170(3)(b) were amended by the Finance Act 1988 (c. 39), section 12(1), (6).

Service of notices

44. Any notice to be given to the Secretary of State by a person under this Order may be given by an agent of that person; and shall be sent by post or delivered to the Secretary of State at the Export Control Organisation, Department for Business, Enterprise and Regulatory Reform.

Revocations and transitional arrangements

45.—(1) Subject to paragraphs (2) and (3), the legislation specified in column (1) of Schedule 6 is revoked to the extent specified in column (3) of that Schedule.

(2) This Order does not apply to—

- (a) any export of goods, transfer of technology or participation in the provision of technical assistance; or
- (b) any activity which facilitates, or is otherwise connected with, the acquisition, disposal or movement of goods

that takes place in accordance with the terms of a licence granted before 6th April 2009 under the legislation referred to in paragraph (1), the dual-use Regulation or the torture Regulation or to any such licence.

(3) To the extent that, owing to paragraph (2), this Order does not apply, the legislation referred to in paragraph (1) continues to apply.

15th December 2008

Ian Pearson
Economic and Business Minister
Department for Business, Enterprise and
Regulatory Reform

SCHEDULE 1

Articles 2, 24

GOODS SUBJECT TO STRICTER EXPORT AND TRADE CONTROLS

Note: In this Schedule, defined terms are printed in quotation marks.

Definitions

In this Schedule:

“cluster munitions” means conventional munitions designed to disperse or release “explosive submunitions”;

“explosive bomblets” means conventional munitions, weighing less than 20 kilograms each, which are not self propelled and which, in order to perform their task, are specially designed to be dispersed or released by a dispenser affixed to an aircraft, and are designed to function by detonating an explosive charge prior to, on or after impact;

“explosive submunitions” means conventional munitions, weighing less than 20 kilograms each, which in order to perform their task are dispersed or released by another conventional munition and are designed to function by detonating an explosive charge prior to, on or after impact;

“ordinary handcuffs” means handcuffs which have an overall dimension including chain, measured from the outer edge of one cuff to the outer edge of the other cuff, between 150 and 240mm when locked and have not been modified to cause physical pain or suffering;

“production” has the same meaning as in Schedule 2;

“a self-deactivating feature” is one which automatically renders a munition inoperable by means of the irreversible exhaustion of a component (eg, a battery) that is essential to the operation of the munition;

“a self-destruction mechanism” is an incorporated, automatically-functioning mechanism which is in addition to the primary initiating mechanism of a munition and which secures the destruction of the munition into which it is incorporated.

PART 1

CATEGORY A GOODS

Certain Security and Para-Military Police Equipment

1. Goods designed for the execution of human beings, as follows—
 - (a) Gallows and guillotines;
 - (b) Electric chairs;
 - (c) Air-tight vaults made of eg, steel and glass, designed for the purpose of execution of human beings by the administration of lethal gas or substance;
 - (d) Automatic drug injection systems designed for the purpose of execution of human beings by the administration of a lethal chemical substance.
2. Restraints specially designed for restraining human beings, as follows—
 - (a) Leg-irons, gangchains, shackles and individual cuffs or shackle bracelets except those that are “ordinary handcuffs”;
 - (b) Restraint chairs unless designed for disabled persons;
 - (c) Shackle boards;

- (d) Thumb-cuffs and thumb-screws, including serrated thumb-cuffs;
 - (e) Electric shock belts.
3. Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an electric shock (eg, electric-shock batons, electric-shock shields, stun-guns and electric-shock dart-guns).
4. Components specially designed or modified for the devices in paragraph 3.
5. Hand-held, spiked batons.

Cluster munitions, explosive submunitions and explosive bomblets

6. “Cluster munitions” other than those munitions described at paragraph 10.
7. “Explosive submunitions” other than those submunitions described at paragraph 10.
8. “Explosive bomblets”.
9. Components specially designed for “cluster munitions”, “explosive submunitions” or “explosive bomblets”.
10. Paragraphs 6 and 7 do not include the following conventional munitions:
- (a) a munition or submunition designed to dispense flares, smoke, pyrotechnics or chaff; or a munition designed exclusively for an air defence role;
 - (b) a munition or submunition designed to produce electrical or electronic effects;
 - (c) a munition that has all of the following characteristics:
 - (i) each munition contains fewer than ten “explosive submunitions”;
 - (ii) each “explosive submunition” weighs more than four kilograms;
 - (iii) each “explosive submunition” is designed to detect and engage a single target object;
 - (iv) each “explosive submunition” is equipped with an electronic “self-destruction mechanism”;
 - (v) each “explosive submunition” is equipped with an electronic “self-deactivating feature”.

PART 2

CATEGORY B GOODS

Small arms and light weapons within ML1 and ML2

11. “Goods” specified in entry ML1.a., ML1.b., ML1.c. or ML2 in Schedule 2 that are designed to be carried, operated and fired by an individual or by three or fewer individuals acting together, other than—
- (a) “goods” specified in entry ML2.b. in that Schedule; and
 - (b) mortars with a calibre of 100mm or more.

Accessories and ammunition for small arms and light weapons within ML1 and ML2

12. The following “goods”—
- (a) accessories specified in entry ML1.d. that are capable of being used in connection with weapons falling within paragraph 11; and

- (b) ammunition that is capable of being fired or launched by weapons falling within paragraph 11.

Light weapons within ML4

- 13. Equipment specified in entry ML4.b. in Schedule 2 that is—
 - (a) specially designed for firing or launching rockets, grenades, missiles or other explosive devices; and
 - (b) designed to be carried, operated and fired by an individual or by three or fewer individuals acting together.

Ammunition for light weapons within ML4

- 14. Rockets, grenades, missiles and other explosive devices that are—
 - (a) specified in entry ML4 in Schedule 2; and
 - (b) capable of being fired or launched from equipment falling within paragraph 13.

Hand grenades

- 15. Grenades specified in entry ML4 in Schedule 2 that are designed to be thrown.

MANPADS, missiles for them, associated equipment and their specially designed components

- 16. To the extent they do not fall within paragraph 13 or 14, the following “goods”—
 - (a) man-portable air defence systems (MANPADS), as follows:
 - (i) surface-to-air missile systems designed to be man-portable and operated and fired by a single individual;
 - (ii) surface-to-air missile systems designed to be operated and fired by more than one individual acting as a crew and portable by several individuals;
 - (b) missiles for MANPADS;
 - (c) “production” equipment specially designed for MANPADS;
 - (d) field test equipment specially designed for MANPADS;
 - (e) specialised training equipment and simulators for MANPADS.

Long-range missiles

- 17. Missiles capable of a range of 300km or more that fall within Schedule 2.

Components for “goods” within this Part

- 18. Components specially designed for “goods” falling within any of paragraphs 11 to 17.

SCHEDULE 2

Article 2

MILITARY GOODS, SOFTWARE AND TECHNOLOGY

Note: In this Schedule, defined terms are printed in quotation marks.

Definitions

In this Schedule:

“adapted for use in war” means any modification or selection (eg, altering purity, shelf life, virulence, dissemination characteristics, or resistance to ultra violet (UV) radiation) designed to increase the effectiveness in producing casualties in humans or animals, degrading equipment or damaging crops or the environment;

“biocatalyst” means enzymes for specific chemical or biochemical reactions and other biological compounds which bind to and accelerate the degradation of chemical warfare (CW) agents;

“biopolymer” means the following biological macromolecules:

- a. enzymes for specific chemical or biochemical reactions;
- b. ‘monoclonal antibodies’, ‘polyclonal antibodies’ or ‘anti-idiotypic antibodies’;
- c. specially designed or specially processed ‘receptors’;

Technical Note:

‘Monoclonal antibodies’ means proteins which bind to a specific antigenic site and are produced by a single clone of cells;

‘Polyclonal antibodies’ means a mixture of proteins which bind to a specific antigen and are produced by more than one clone of cells;

‘Anti-idiotypic antibodies’ means antibodies which bind to the specific antigen binding sites of other antibodies;

‘Receptors’ means biological macromolecular structures capable of binding ligands, the binding of which affects physiological functions.

“development” means all stages prior to “production” (eg, design, design research, design analyses, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into “goods” or “software”, configuration design, integration design, layouts);

“end-effectors” means grippers, active tooling units (ie, devices for applying motive power, process energy or sensing to the workpiece) and any other tooling that is attached to the baseplate on the end of a “robot” manipulator arm;

“energetic materials” means substances or mixtures that react chemically to release energy required for their intended application; “explosives”, “pyrotechnics” and “propellants” are sub-classes of energetic materials;

“explosive signatures” are features which are characteristic of explosives in any form prior to their initiation, as detected using technology including, but not limited to, ion mobility spectrometry, chemiluminescence, fluorescence, nuclear, acoustic or electromagnetic techniques;

“explosives” means solid, liquid or gaseous substances or mixtures of substances which, in their application as primary, booster, or main charges in warheads, demolition and other applications, are required to detonate;

“expression vectors” means carriers (eg, plasmid or virus) used to introduce genetic material into host cells;

“first generation image intensifier tubes” means electrostatically focused tubes, employing input and output fibre optic or glass face plates, multi-alkali photocathodes (S-20 or S-25), but not microchannel plate amplifiers;

“improvised explosive devices” means devices fabricated or intended to be placed in an improvised manner incorporating destructive, lethal, noxious, “pyrotechnic” or incendiary chemicals designed to destroy, disfigure or harass; they may incorporate military stores, but are normally devised from non-military components;

“laser” means an assembly of components which produce both spatially and temporally coherent light which is amplified by stimulated emission of radiation;

“lighter-than-air vehicles” means balloons and airships that rely on hot air or on lighter-than-air gases such as helium or hydrogen for their lift;

“nuclear reactor” means the “goods” within or attached directly to the reactor vessel, the equipment which controls the level of power in the core, and the components which normally contain, come into direct contact with or control the primary coolant of the reactor core;

“production” means all production stages (eg, product engineering, manufacture, integration, assembly (mounting), inspection, testing, quality assurance);

“propellants” means substances or mixtures that react chemically to produce large volumes of hot gases at controlled rates to perform mechanical work;

“pyrotechnic(s)” means mixtures of solid or liquid fuels and oxidisers which, when ignited, undergo an energetic chemical reaction at a controlled rate intended to produce specific time delays, or quantities of heat, noise, smoke, visible light or infrared radiation; pyrophorics are a subclass of pyrotechnics, which contain no oxidisers but ignite spontaneously on contact with air;

“required” as applied to “technology”, refers to only that portion of “technology” which is peculiarly responsible for achieving or exceeding the controlled performance levels, characteristics or functions. Such “required” “technology” may be shared by different “goods” and the intended use of “technology” is irrelevant to whether it is “required”;

“riot control agents” means substances which under the expected conditions of use for riot control purposes, produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure;

Technical Note:

Tear gases are a subset of “riot control agents”.

“robot” means a manipulation mechanism, which may be of the continuous path or of the point-to-point variety, may use sensors, and which:

- a. is multifunctional;
- b. is capable of positioning or orienting material, parts, tools or special devices through variable movements in three dimensional space;
- c. incorporates three or more closed or open loop servo-devices which may include stepping motors; and
- d. has “user-accessible programmability” by means of the teach/playback method or by means of an electronic computer which may be a programmable logic controller, ie, without mechanical intervention;

Note: This definition does not include:

- a. Manipulation mechanisms which are only manually/teleoperator controllable;
- b. Fixed sequence manipulation mechanisms, which are automated moving devices, operating according to “programmes” where the motions are limited by fixed stops, such as pins or cams and the sequence of motions and the selection of paths or angles are not variable or changeable by mechanical, electronic or electrical means;
- c. Mechanically controlled variable sequence manipulation mechanisms, which are automated moving devices, operating according to “programmes” where the motions are limited by fixed, but adjustable stops, such as pins or cams and the sequence of motions and the selection of paths or angles are variable within the fixed programme pattern; variations or modifications of the programme pattern (such as changes of pins or exchanges of cams) in one or more motion axes are accomplished only through mechanical operations;
- d. Non-servo-controlled variable sequence manipulation mechanisms, which are automated moving devices, operating according to mechanically fixed programmed motions; the “programme” is variable but the sequence proceeds only by the binary signal from mechanically fixed electrical binary devices or adjustable stops;
- e. Stacker cranes defined as Cartesian coordinate manipulator systems manufactured as an integral part of a vertical array of storage bins and designed to access the contents of those bins for storage or retrieval.

“special gun-mounting” means any fixture designed to mount a gun;

“superconductive” in relation to materials (eg, metals, alloys or compounds) means those which can lose all electrical resistance (ie, which can attain infinite electrical conductivity and carry very large electrical currents without Joule heating); the superconductive state of a material is individually characterised by a ‘critical temperature’, a critical magnetic field, which is a function of temperature, and a critical current density which is a function of both magnetic field and temperature;

Technical Note:

‘Critical temperature’ (also known as the transition temperature) of a specific “superconductive” material means the temperature at which the specific material loses all resistance to the flow of direct electrical current.

“technology” means specific ‘information’ necessary for the “development”, “production” or “use” of “goods” or “software”;

Technical Note:

'Information' may take forms including, not limited to: blueprints, plans, diagrams, models, formulae, tables, 'source code', engineering designs and specifications, manuals and instructions written or recorded on other media or devices (eg, disk, tape, read-only memories);

'source code' (or source language) is a convenient expression of one or more processes which may be turned by a programming system into equipment executable form.

“use” means operation, installation (eg, on-site installation), maintenance, checking, repair, overhaul and refurbishing;

“user-accessible programmability” means the facility allowing a user to insert, modify or replace “programmes” by means other than:

- a. A physical change in writing or interconnections; or
- b. The setting of function controls including entry of parameters.

PART 1

MILITARY, SECURITY AND PARA-MILITARY GOODS, SOFTWARE AND TECHNOLOGY AND ARMS, AMMUNITION AND RELATED MATERIEL

ML1 Smooth-bore weapons with a calibre of less than 20 mm, other firearms and automatic weapons with a calibre of 12.7 mm (calibre 0.50 inches) or less and accessories, as follows, and specially designed components therefor:

- a. Rifles, carbines, revolvers, pistols, machine pistols and machine guns;
- b. Smooth-bore weapons;
- c. Weapons using caseless ammunition;
- d. Silencers, “special gun-mountings”, weapon sights, clips and flash suppressors for firearms specified in ML1.a., ML1.b. or ML1.c.

Note: *ML1 does not control:*

- a. *Air weapons (other than those declared by the Firearms (Dangerous Air Weapons) Rules 1969(34) to be specially dangerous);*
- b. *Firearms specially designed for dummy ammunition and which are incapable of firing any ammunition in this Part of this Schedule;*
- c. *Firearms certified by a registered UK Proof House as having been rendered incapable of firing any ammunition in this Part of this Schedule;*
- d. *Bayonets;*

- e. Air (pneumatic) or cartridge (explosive) powered guns or pistols designed as:
 - 1. Industrial tools; or
 - 2. Humane stunning devices employed specifically for animal slaughter;
- f. Signal pistols
- g. Optical weapon sights without electronic image processing (ie, using only lenses to view the target), with a magnification of 4 times or less, provided they are not specifically designed or modified for military use.

ML2 Smooth-bore weapons with a calibre of 20 mm or more, other armament or weapons with a calibre greater than 12.7 mm (calibre 0.50 inches), projectors and accessories, as follows, and specially designed components therefor:

- a. Guns, howitzers, cannon, mortars, anti-tank weapons, projectile launchers, military flame throwers, rifles, recoilless rifles, smooth-bore weapons and signature reduction devices therefor;
- b. Military smoke, gas and “pyrotechnic” projectors or generators;
- c. Weapons sights for firearms specified in ML2.a. or ML2.b.

Note 1: ML2 does not control signal pistols.

Note 2: ML2.a. does not apply to hand-held projectile launchers specially designed to launch tethered projectiles, having no high explosive charge or communications link, to a range of 500m or less.

ML3 Ammunition and fuze setting devices, as follows, and specially designed components therefor:

- a. Ammunition for weapons specified in ML1, ML2 or ML12;

Note: ML3.a. does not control:

- a. Ammunition crimped without a projectile (blank star) and dummy ammunition with a pierced powder chamber;
- b. Lead or lead alloy pellet ammunition specially designed for air weapons;
- c. Cartridges specially designed for signalling, bird scaring or lighting of gas flares at oil wells.

- b. Fuze setting devices specially designed for ammunition specified in ML3.a.

ML4 Bombs, torpedoes, rockets, missiles, other explosive devices and charges, and related equipment and accessories, as follows, and specially designed components therefor:

N.B. 1: Electronic guidance and navigation equipment is controlled in ML11.a.

N.B. 2: Aircraft missile protection systems are controlled in ML4.c.

- a. Bombs, torpedoes, grenades, smoke canisters, rockets, mines, missiles, depth charges, demolition-charges, demolition-devices, demolition-kits, devices that contain “pyrotechnics”, cartridges and simulators (ie, equipment simulating the characteristics of any of these “goods”), specially designed for military use;
- b. Equipment that is both specially designed for military use and specially designed for the handling, controlling, activating, powering with one-time operational output, launching, laying, sweeping, discharging, decoying, jamming, detonating, disrupting or detecting of any of the following:
 - 1. “goods” specified in ML4.a.; or
 - 2. “improvised explosive devices”;

Note: ML4.b. does not control hand held devices limited by design solely to the detection of metal objects and incapable of distinguishing between mines and other metal objects.

- c. Aircraft missile protection systems (AMPS).

ML5 Fire control equipment and related alerting and warning equipment, related systems, test and alignment and countermeasure equipment, as follows, specially designed for military use, and specially designed components and accessories therefor:

- a. Weapon sights, bombing computers, gun laying equipment and weapon control systems;
- b. Target acquisition, designation, range-finding, surveillance or tracking systems; detection, data fusion, recognition or identification equipment; and sensor integration equipment;
- c. Countermeasure equipment for “goods” specified in ML5.a. or ML5.b.;
- d. Field test or alignment equipment, specially designed for “goods” specified in ML5.a. or ML5.b.

ML6 Ground “vehicles” and components as follows:

N.B. Electronic guidance and navigation equipment is controlled in ML.II.a.

- a. Ground “vehicles” and components therefor, specially designed or modified for military use;

Technical Note:

For the purposes of ML6.a.. the term ground “vehicles” includes trailers.

Note: In ML6.a. modification of a ground “vehicle” for military use entails a structural, electrical or mechanical change involving one or more specially designed military components.

- b. All-wheel drive “vehicles” capable of off-road use which have been manufactured or fitted with metallic or non-metallic materials to provide ballistic protection, other than those specified in ML6.a.

Note 1: ML6.b. does not control “vehicles” designed or fitted out for the transportation of valuables or funds.

Note 2: ML6.b. does not control “vehicles” fitted with, or designed or modified to be fitted with, a plough, flail or tiller for the purpose of land mine clearance.

PL5035 Components that are both specially designed to provide ballistic protection and specially designed or modified for “vehicles” specified in ML6.b.

N.B. See also ML13.a. for armoured plate.

ML7 Chemical or biological toxic agents, toxic chemicals and mixtures containing such agents or chemicals, “riot control agents”, radioactive materials, related equipment, components and materials as follows:

Note: Chemicals are listed by name and Chemical Abstract Service (CAS) number. Chemicals of the same structural formula (eg, hydrates) are controlled regardless of name or CAS number. CAS numbers are shown to assist in identifying whether a particular chemical or mixture is controlled, irrespective of nomenclature. CAS numbers cannot be used as unique identifiers because some forms of the listed chemical have different CAS numbers, and mixtures containing a listed chemical may also have different CAS numbers.

- a. Biological agents and radioactive materials “adapted for use in war” to produce casualties in humans or animals, degrade equipment or damage crops or the environment;

- b. Chemical warfare (CW) agents including, but not limited to, the following:

1. CW nerve agents:

- a. O-Alkyl (equal to or less than C₁₀, including cycloalkyl) alkyl (Methyl, Ethyl, n-Propyl or Isopropyl)-phosphonofluoridates, such as:

Sarin (GB):O-Isopropyl methylphosphonofluoridate (CAS 107-44-8); and

Soman (GD):O-Pinacolyl methylphosphonofluoridate (CAS 96-64-0);

- b. O-Alkyl (equal to or less than C₁₀, including cycloalkyl) N,N-dialkyl (Methyl, Ethyl, n-Propyl or Isopropyl) phosphoramidocyanidates, such as:

Tabun (GA):O-Ethyl N,N-dimethylphosphoramidocyanidate (CAS 77-81-6);

- c. O-Alkyl (H or equal to or less than C₁₀, including cycloalkyl) S-2-dialkyl (Methyl, Ethyl, n-Propyl or

Isopropyl)-aminoethyl alkyl (Methyl, Ethyl, n-Propyl or Isopropyl) phosphonothiolates and corresponding alkylated and protonated salts, such as:

VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate (CAS 50782-69-9);

2. CW vesicant agents:
 - a. Sulphur mustards, such as:
 1. 2-Chloroethylchloromethylsulphide (CAS 2625-76-5);
 2. Bis(2-chloroethyl) sulphide (CAS 505-60-2);
 3. Bis(2-chloroethylthio) methane (CAS 63869-13-6);
 4. 1,2-bis (2-chloroethylthio) ethane (CAS 3563-36-8);
 5. 1,3-bis (2-chloroethylthio)-n-propane (CAS 63905-10-2);
 6. 1,4-bis (2-chloroethylthio)-n-butane (CAS 142868-93-7);
 7. 1,5-bis (2-chloroethylthio)-n-pentane (CAS 142868-94-8);
 8. Bis (2-chloroethylthiomethyl) ether (CAS 63918-90-1);
 9. Bis (2-chloroethylthioethyl) ether (CAS 63918-89-8);
 - b. Lewisites, such as:
 1. 2-chlorovinyl dichloroarsine (CAS 541-25-3);
 2. Tris (2-chlorovinyl) arsine (CAS 40334-70-1);
 3. Bis (2-chlorovinyl) chloroarsine (CAS 40334-69-8);
 - c. Nitrogen mustards, such as:
 1. HN1: bis (2-chloroethyl) ethylamine (CAS 538-07-8);
 2. HN2: bis (2-chloroethyl) methylamine (CAS 51-75-2);
 3. HN3: tris (2-chloroethyl) amine (CAS 555-77-1);
3. CW Incapacitating agents, such as:
 - a. 3-Quinuclidinyl benzilate (BZ) (CAS 6581-06-2);
4. CW defoliants, such as:
 - a. Butyl 2-chloro-4-fluorophenoxyacetate (LNF);
 - b. 2,4,5-trichlorophenoxyacetic acid mixed with 2,4-dichlorophenoxyacetic acid (Agent Orange);

- c. CW binary precursors and key precursors, as follows, and chemical mixtures containing one or more of these precursors:
1. Alkyl (Methyl, Ethyl, n-Propyl or Isopropyl) Phosphonyl Difluorides, such as:
DF: Methyl Phosphonyldifluoride (CAS 676-99-3);
 2. O-Alkyl (H equal to or less than C₁₀, including cycloalkyl) O-2-dialkyl (Methyl, Ethyl, n-Propyl or Isopropyl) phosphonite and corresponding alkylated and protonated salts, such as:
QL: O-Ethyl-2-di-isopropylaminoethyl methylphosphonite (CAS 57856-11-8);
 3. Chlorosarin: Q-Isopropyl methylphosphonochloridate (CAS 1445-76-7);
 4. Chlorosoman O-Pinacolyl methylphosphonochloridate (CAS 7040-57-5);
- d. “Riot control agents”, active constituent chemicals and combinations thereof including:
1. α -Bromobenzeneacetonitrile, (Bromobenzyl cyanide) (CA) (CAS 5798-79-8);
 2. [2-chlorophenyl] methylene] propanedinitrile, (o-Chlorobenzylidenemalononitrile) (CS) (CAS 2698-41-1);
 3. 2-Chloro-1-phenylethanone, Phenylacetyl chloride (ω -chloroacetophenone) (CN) CAS 532-27-4);
 4. Dibenz-(b,f)-1,4-oxazepine (CR) (CAS 257-07-8);
 5. 10-Chloro-5,10-dihydrophenarsazine, (Phenarsazine chloride), (Adamsite), (DM) (CAS 578-94-9);
 6. N-Nonanoylmorpholine, (MPA) (CAS 5299-64-9);
- Note 1:* ML7.d. does not control “riot control agents” individually packaged for personal self-defence purposes.
- Note 2:* ML7.d. does not control active constituent chemicals and combinations thereof identified and packaged for food production or medical purposes.
- e. Equipment specially designed or modified for military use, designed or modified for the dissemination of any of the following, and specially designed components therefor:
1. Materials or agents specified in ML7.a., ML7.b. or ML7.d.;
 2. CW agents made up of precursors specified in ML7.c.;
- f. Protective and decontamination “goods”, specially designed or modified for military use, components and chemical mixtures as follows:
1. “Goods” designed or modified for defence against materials specified in ML7.a., ML7.b. or ML7.d. and specially designed components therefor;

N.B.: See also 1A of Annex I to “the dual-use Regulation”.

2. “Goods” designed or modified for decontamination of “goods” contaminated with materials specified in ML7.a. or ML7.b. and specially designed components therefor;
 3. Chemical mixtures specially developed or formulated for the decontamination of “goods” contaminated with materials specified in ML7.a. or ML7.b.;
- g. “Goods” specially designed or modified for military use, designed or modified for the detection or identification of materials specified in ML7.a., ML7.b. or ML7.d. and specially designed components therefor;
- N.B.:* See also 1A in Annex I to “the dual-use Regulation”.
- Note:* ML7.g. does not control personal radiation monitoring dosimeters.
- h. “Biopolymers” specially designed or processed for the detection or identification of CW agents specified in ML7.b., and the cultures of specific cells used to produce them;
- i. “Biocatalysts” for the decontamination or degradation of CW agents, and biological systems therefor, as follows:
1. “Biocatalysts” specially designed for the decontamination or degradation of CW agents specified in ML7.b. resulting from directed laboratory selection or genetic manipulation of biological systems;
 2. Biological systems as follows: “expression vectors”, viruses or cultures of cells containing the genetic information specific to the “production” of “biocatalysts” specified in ML7.i.1.

Note 1: ML7.b. and ML7.d. do not control:

- a. Cyanogen chloride (CAS 506-77-4);
N.B.: See 1C of Annex I to “the dual-use Regulation”.
- b. Hydrocyanic acid (CAS 74-90-8);
- c. Chlorine (CAS 7782-50-5);
- d. Carbonyl chloride (phosgene) (CAS 75-44-5);
N.B.: See 1C of Annex I to “the dual-use Regulation”.
- e. Diphosgene (trichloromethyl-1-chloroformate) (CAS 503-38-8);
- f. Not used;
- g. Xylyl bromide: ortho: (CAS 89-92-9), meta: (CAS 620-13-3), para: (CAS 104-81-4);
- h. Benzyl bromide (CAS 100-39-01);
- i. Benzyl iodide (CAS 620-05-3);

- j.* Bromo acetone (CAS 598-31-2);
- k.* Cyanogen bromide (CAS 506-68-3);
- l.* Bromo methylethylketone (CAS 816-40-0);
- m.* Chloro acetone (CAS 78-95-5);
- n.* Ethyl iodoacetate (CAS 623-48-3);
- o.* Iodo acetone (CAS 3019-04-3);
- p.* Chloropicrin (CAS 76-06-2);
N.B.: See IC of Annex I to “the dual-use Regulation”.
- q.* Pelargonic acid vanillylamide (PAVA) (CAS 2444-46-4);
N.B.: See 3.2. of Annex III to “the torture Regulation”.
- r.* Oleoresin capsicum (OC) (CAS 8023-77-6).
N.B.: See 3.3. of Annex III to “the torture Regulation”.

Note 2: The cultures of cells and biological systems specified in ML7.h. and ML7.i.2. are exclusive and ML7.h. and ML7.i.2 do not include cells or biological systems for civil purposes, (eg, agricultural, pharmaceutical, medical, veterinary, environmental, waste management, or in the food industry).

ML8 “Energetic materials”, and related substances, as follows

Note: Chemicals are listed by name and Chemical Abstract Service (CAS) number. Chemicals of the same structural formula (eg, hydrates) are controlled regardless of name or CAS number. CAS numbers are shown to assist in identifying whether a particular chemical or mixture is controlled, irrespective of nomenclature. CAS numbers cannot be used as unique identifiers because some forms of the listed chemical have different CAS numbers, and mixtures containing a listed chemical may also have different CAS numbers.

Technical Note:

A ‘mixture’ refers to a composition of two or more substances with at least one substance being controlled in ML8.

- a.* “Explosives”, as follows, and ‘mixtures’ thereof:
 1. ADNBF (aminodinitrobenzofuroxan or 7-amino-4,6-dinitrobenzofurazane-1-oxide) (CAS 97096-78-1);
 2. BNCP (cis-bis (5-nitrotetrazolato) tetra amine-cobalt (III) perchlorate) (CAS 117412-28-9);

3. CL-14 (diamino dinitrobenzofuroxan or 5,7-diamino-4,6-dinitrobenzofurazane-1-oxide) (CAS 117907-74-1);
4. CL-20 (HNIW or Hexanitrohexaazaisowurtzitane) (CAS 135285-90-4; chlathrates of CL-20);
5. CP (2-(5-cyanotetrazolato)penta amine-cobalt (III) perchlorate) (CAS 70247-32-4);
6. DADE (1,1-diamino-2,2-dinitroethylene, FOX7);
7. DATB (diaminotrinitrobenzene) (CAS 1630-08-6);
8. DDFP (1,4-dinitrodifurazanopiperazine);
9. DDPO (2,6-diamino-3,5-dinitropyrazine-1-oxide, PZO) (CAS 194486-77-6);
10. DIPAM (3,3'-diamino-2,2',4,4',6,6'-hexanitrobiphenyl or dipicramide) (CAS 17215-44-0);
11. DNGU (DINGU or dinitroglycoluril) (CAS 55510-04-8);
12. Furazans as follows:
 - a. DAAOF (diaminoazoxyfurazan);
 - b. DAAzF (diaminoazofurazan) (CAS 78644-90-3);
13. HMX and derivatives as follows:
 - a. HMX (Cylotetramethylenetetranitramine, octahydro-1,3,5,7-tetranitro-1,3,5,7-tetrazine, 1,3,5,7-tetranitro-1,3,5,7-tetraza-cyclooctane, octogen or octogene) (CAS 2691-41-0);
 - b. Difluoroaminated analogs of HMX;
 - c. K-55 (2,4,6,8-tetranitro-2,4,6,8-tetraazabicyclo-[3,3,0]-octanone-3, tetranitrosemiglycouril or keto-bicyclic HMX) (CAS 130256-72-3);
14. HNAD (hexanitroadamantane) (CAS 143850-71-9);
15. HNS (hexanitrostilbene) (CAS 2006-22-0);
16. Imidazoles as follows:
 - a. BNNII (Octahydro-2,5-bis(nitroimino)imidazo [4,5-d]imidazole);
 - b. DNI (2,4-dinitroimidazole) (CAS 5213-49-0);
 - c. FDIA (1-fluoro-2,4-dinitroimidazole);
 - d. NTDNIA (N-(2-nitrotriazolo)-2,4-dinitroimidazole);
 - e. PTIA (1-picryl-2,4,5-trinitroimidazole);
17. NTNMH (1-(2-nitrotriazolo)-2-dinitromethylene hydrazine);
18. NTO (ONTA or 3-nitro-1,2,4-triazol-5-one) (CAS 932-64-9);
19. Polynitrocubanes with more than four nitro groups;

20. PYX (2,6-bis(picrylamino)-3,5-dinitropyridine) (CAS 38082-89-2);
21. RDA and derivatives as follows:
- a. RDX (cyclotrimethylenetrinitramine, cyclonite, T4, hexahydro-1,3,5-trinitro-1,3,5-triazine, 1,3,5-trinitro-1,3,5-triaza-cyclohexane, hexogen or hexogene) (CAS 121-82-4);
 - b. Keto-RDX (K-6 or 2,4,6-trinitro-2,4,6-triazacyclohexanone) (CAS 115029-35-1);
22. TAGN (tranimoguanidinenitrate) (CAS 4000-16-2);
23. TATB (triaminotrinitrobenzene) (CAS 3058-38-6);
24. TEDDZ (3,3,7,7-tetrabis(difluoroamine) octahydro-1,5-dinitro-1,5-diazocine);
25. Tetrazoles as follows:
- a. NTAT (nitrotriazol aminotetrazole);
 - b. NTNT (1-N-(2-nitrotriazolo)-4-nitrotetrazole);
26. Tetryl (trinitrophenylmethylnitramine) (CAS 479-45-8);
27. TNAD (1,4,5,8-tetranitro-1,4,5,8-tetraazadecalin) (CAS 135877-16-6);
28. TNAZ (1,3,3-trinitroazetidine) (CAS 97645-24-4);
29. TNGU (SORGUYL or tetranitroglycoluril) (CAS 55510-03-7);
30. TNP (1,4,5,8-tetranitro-pyridazino[4,5-d]pyridazine) (CAS 229176-04-9);
31. Triazines as follows:
- a. DNAM (2-oxy-4,6-dinitroamino-s-triazine) (CAS 19899-80-0);
 - b. NNHT (2-nitroimino-5-nitro-hexahydro-1,3,5-triazine) (CAS 130400-13-4);
32. Triazoles as follows:
- a. 5-azido-2-nitrotriazole;
 - b. ADHTDN (4-amino-3,5-dihydrazino-1,2,4-triazole dinitramide) (CAS 1614-08-0);
 - c. ADNT (1-amino-3,5-dinitro-1,2,4-triazole);
 - d. BDNTA ([bis-dinitrotriazole]amine);
 - e. DBT (3,3'-dinitro-5,5-bi-1,2,4-triazole) (CAS 30003-46-4);
 - f. DNBT (dinitrobistriazole) (CAS 70890-46-9);
 - g. NTDNA (2-nitrotriazole-5-dinitramide) (CAS 75393-84-9);

- h. NTDNT (1-N-(2-nitrotriazolo)-3,5-dinitrotriazole);
 - i. PDNT (1-picryl-3,5-dinitrotriazole);
 - j. TACOT (tetranitrobenzotriazolobenzotriazole) (CAS 25243-36-1);
33. “Explosives” not listed elsewhere in ML8.a. having a detonation velocity exceeding 8,700 m/s at maximum density or a detonation pressure exceeding 34 GPa (340 kbar)
34. Organic “explosives” not listed elsewhere in ML8.a. yielding detonation pressures of 25 GPa (250 kbar) or more that will remain stable at temperatures of 523 K (250°C) or higher for periods of 5 minutes or longer;
- b. “Propellants” as follows:
- 1. Any United Nations (UN) Class 1.1 solid “propellant” with a theoretical specific impulse (under standard conditions) of more than 250 seconds for non-metallised, or more than 270 seconds for aluminised compositions;
 - 2. Any UN Class 1.3 solid “propellant” with a theoretical specific impulse (under standard conditions) of more than 230 seconds for non-halogenised, 250 seconds for non metallised compositions and 266 seconds for metallised compositions;
 - 3. “Propellants” having a force constant of more than 1,200 kJ/kg;
 - 4. “Propellants” that can sustain a stead-state linear burning rate of more than 38 mm/s under standard conditions (as measured in the form of an inhibited single strand) of 6.89 MPa (68.9 bar) pressure and 294 K (21°C);
 - 5. Elastomer modified cast double base (EMCDB) “propellants” with extensibility at maximum stress of more than 5% at 233 K (-40°C);
 - 6. Any “propellant” containing substances specified in ML8.a.;
- c. “Pyrotechnics”, fuels and related substances, as follows, and ‘mixtures’ thereof:
- 1. Aircraft fuels specifically formulated for military purposes;
Note: Aircraft fuels in ML8.c.1. are finished “goods”, not their constituents.
 - 2. Alane (aluminium hydride) (CAS 7784-21-6);
 - 3. Carboranes; decaborane (CAS 17702-41-9); pentaboranes (CAS 19624-22-7 and 18433-84-6) and their derivatives;
 - 4. Hydrazine and derivatives as follows (see also ML8.d.8. and ML8.d.9. for oxidising hydrazine derivatives);
 - a. Hydrazine (CAS 302-01-2) in concentrations of 70% or more;

Note: ML8.c.4.a. does not control hydrazine 'mixtures' specially formulated for corrosion control.

- b. Monomethyl hydrazine (CAS 60-34-4);
 - c. Symmetrical dimethyl hydrazine (CAS 540-73-8);
 - d. Unsymmetrical dimethyl hydrazine (CAS 57-14-7);
5. Metal fuels in particle form whether spherical, atomised, spheroidal, flaked or ground, manufactured from material consisting of 99% or more of any of the following:
- a. Metals as follows and 'mixtures' thereof:
 - 1. Beryllium (CAS 7440-41-7) in particle sizes of less than 60µm;
 - 2. Iron powder (CAS 7439-89-6) with particle size of 3µm or less produced by reduction of iron oxide with hydrogen;
 - b. 'Mixtures' containing any of the following:
 - 1. Zirconium (CAS 7440-67-7), magnesium (CAS 7439-95-4) or alloys of these in particle sizes of less than 60µm;
 - 2. Boron (CAS 7440-42-8) or boron carbide (CAS 12069-32-8) fuels of 85% purity or higher and particle sizes of less than 60µm;

Note: ML8.c.5.b.2. does not control boron and boron carbide enriched with boron-10 (20% or more of total boron-10 content).

Note: "Explosives" and fuels containing the metals or alloys specified in ML8.c.5. are controlled whether or not the metals or alloys are encapsulated in aluminium, magnesium, zirconium, or beryllium.
6. Military materiel containing thickeners for hydrocarbon fuels specifically formulated for use in flame throwers or incendiary munitions, such as metal stearates or palmates (eg, octal (CAS 637-12-7) and M1, M2 and M3 thickeners;
7. Perchlorates, Chlorates and chromates composited with powdered metal or other high energy fuel components;
8. Spherical aluminium powder (CAS 7429-90-5) with a particle size of 60µm or less, manufactured from material with an aluminium content of 99% or more;
9. Titanium subhydride (TiH_n) of stoichiometry equivalent to n = 0.65-1.68;
- d. Oxidisers, as follows, and 'mixtures' thereof:
- 1. ADN (ammonium dinitramide or SR 12) (CAS 140456-78-6);
 - 2. AP (ammonium perchlorate) (CAS 7790-98-9);

3. Compounds composed of fluorine and any of the following:
 - a. Other halogens;
 - b. Oxygen; or
 - c. Nitrogen;

Note 1: ML8.d.3. does not control chlorine trifluoride.

Note 2: ML8.d.3. does not control nitrogen trifluoride in its gaseous state.

N.B.: See also IC of Annex 1 to "the dual-use Regulation".
 4. DNAD (1,3-dinitro-1,3-diazetidene) (CAS 78246-06-7);
 5. HAN (hydroxylammonium nitrate) (CAS 13465-08-2);
 6. HAP (hydroxylammonium perchlorate) (CAS 15588-62-2);
 7. HNF (hydrazinium nitroformate) (CAS 20773-28-8);
 8. Hydrazine nitrate (CAS 37836-27-4);
 9. Hydrazine perchlorate (CAS 27978-54-7);
 10. Liquid oxidisers comprised of or containing inhibited red fuming nitric acid (IRFNA) (CAS 8007-58-7);
- e. Binders, plasticizers, monomers and polymers as follows:
1. AMMO (azidomethylmethyloxetane and its polymers) (CAS 90683-29-7);
 2. BAMO (bisazidomethylmethyloxetane and its polymers) (CAS 17607-20-4);
 3. BDNPA (bis (2,2-dinitropropyl)acetal) (CAS 5108-69-0);
 4. BDNPF (bis (2,2-dinitropropyl)formal) (CAS 5917-61-3);
 5. BTTN (butanetrioltrinitrate) (CAS 6659-60-5);
 6. Energetic monomers, plasticisers and polymers containing nitro, azido, nitrate, nitraza or difluoroamino groups specially formulated for military use;
 7. FAMAO (3-difluoroaminomethyl-3-azidomethyl oxetane) and its polymers;
 8. FEFO (bis-(2-fluoro-2,2-dinitroethyl) formal) (CAS 17003-79-1);
 9. FPF-1 (poly-2,2,3,3,4,4-hexafluoropentane-1,5-diol formal) (CAS 376-90-9);
 10. FPF-3 (poly-2,4,4,5,5,6,6-heptafluoro-2-tri-fluoromethyl-3-oxaheptane-1,7-diol formal);
 11. GAP (glycidylazide polymer) (CAS 143178-24-9) and its derivatives;
 12. HTPB (hydroxyl terminated polybutadiene) with a hydroxyl functionality equal to or greater than 2.2 and less than or equal to

- 2.4, a hydroxyl value of less than 0.77 meq/g, and a viscosity at 30°C of less than 47 poise (CAS 69102-90-5);
13. Low (less than 10,000) molecular weight, alcohol functionalised, poly(epichlorohydrin); poly(epichlorohydrindiol) and triol;
 14. NENAs (nitrateethylnitramine compounds) (CAS 17096-47-8, 85068-73-1, 82486-83-7, 82486-82-6 and 85954-06-9);
 15. PGN (poly-GLYN, polyglycidynitrate or poly(nitratomethyl oxirane) (CAS 27814-48-8);
 16. Poly-NIMMO (poly nitratomethylmethyloxetane) or poly-NMMO (poly[3-Nitratomethyl-3-methyloxetane]) (CAS 84051-81-0);
 17. Polynitroorthocarbonates;
 18. TVOPA (1,2,3-tris[1,2-bis(difluoroamino)ethoxy] propane or tris vinoxyl propane adduct) (CAS 53159-39-0);
- f. Additives as follows:
1. Basic copper salicylate (CAS 62320-94-9);
 2. BHEGA (bis-(2-hydroxyethyl) glycolamide) (CAS 17409-41-5);
 3. BNO (butadienenitrileoxide) (CAS 9003-18-3);
 4. Ferrocene derivatives as follows:
 - a. Butacene (CAS 125856-62-4);
 - b. Catocene (2,2-bis-ethylferrocenyl propane) (CAS 37206-42-1);
 - c. Ferrocene carboxylic acids;
 - d. n-butyl-ferrocene (CAS 31904-29-7);
 - e. Other adducted polymer ferrocene derivatives;
 5. Lead beta-resorcylate (CAS 20936-32-7);
 6. Lead citrate (CAS 14450-60-3);
 7. Lead-copper chelates of beta-resorcylate or salicylates (CAS 68411-07-4);
 8. Lead maleate (CAS 19136-34-6);
 9. Lead salicylate (CAS 15748-73-9);
 10. Lead stannate (CAS 12036-31-6);
 11. MAPO (tris-1-(2-methyl)aziridinyl phosphine oxide) (CAS 57-39-6), and BOBBA 8 (bis(2-methyl aziridinyl)-2-(2-hydroxypropanoxy) propylamino phosphine oxide); and other MAPO derivatives;
 12. Methyl BAPO (bis(2-methyl aziridinyl) methylamino phosphine oxide) (CAS 85068-72-0);
 13. N-methyl-p-nitroaniline (CAS 100-15-2);
 14. 3-Nitroaza-1,5-pentane diisocyanate (CAS 7406-61-9);

15. Organo-metallic coupling agents as follows:
 - a. Neopentyl[diallyl]oxy, tri[diethyl]phosphato-titanate (CAS 103850-22-2); also known as titanium IV, 2,2-[bis 2-propenolatomethyl, butanolato, tris (diethyl) phosphato] (CAS 110438-25-0); or LICA 12 (CAS 103850-22-2);
 - b. Titanium IV, [(2-propenolato-1) methyl, n-propanolatomethyl] butanolato-1, tris[diethyl] pyrophosphate or KR3538;
 - c. Titanium IV, [(2-propenolato-1) methyl, n-propanolatomethyl] butanolato-1, tris(diethyl)phosphate;
 16. Polycyanodifluoroaminoethyleneoxide;
 17. Polyfunctional aziridine amides with isophthalic, trimesic (BITA or butyleneimine trimesamide), isocyanuric or trimethyladipic backbone structures and 2-methyl or 2-ethyl substitutions on the aziridine ring;
 18. Propyleneimine (2-methylaziridine) (CAS 75-55-8);
 19. Superfine iron oxide (Fe₂O₃) with a specific surface area more than 250 m²/g and an average particle size of 3.0 nm or less;
 20. TEPAN (tetraethylenepentaamineacrylonitrile) (CAS 68412-45-3); cyanoethylated polyamines and their salts;
 21. TEPANOL (tetraethylenepentaamineacrylonitrileglycidol) (CAS 68412-46-4); cyanoethylated polyamines adducted with glycidol and their salts;
 22. TPB (triphenyl bismuth) (CAS 603-33-8);
- g. Precursors as follows:
1. BCMO (bischloromethyloxetane) (CAS 142173-26-0);
 2. Dinitroazetidide-t-butyl salt (CAS 125735-38-8);
 3. HBIW (hexabenzylhexaazaisowurtzitane) (CAS 124782-15-6);
 4. TAIW (tetraacetyldibenzylhexaazaisowurtzitane);
 5. TAT (1,3,5,7-tetraacetyl-1,3,5,7-tetraaza cyclo-octane) (CAS 41378-98-7);
 6. 1,4,5,8-tetraazadecalin (CAS 5409-42-7);
 7. 1,3,5-trichlorobenzene (CAS 108-70-3);
 8. 1,2,4-trihydroxybutane (1,2,4-butanetriol) (CAS 3068-00-6);

Note: ML8 does not control charges and devices.

N.B.: Charges and devices are controlled in ML4.

ML9 “Vessels”, special naval equipment and accessories, as follows, and components therefor, specially designed or modified for military use:

N.B.: *Electronic guidance and navigation equipment is controlled in ML11.a.*

- a. Combatant “vessels” and “vessels” (surface or underwater) specially designed or modified for offensive or defensive action, whether or not converted to non-military use, regardless of current state of repair or operating conditions, and whether or not they contain weapon delivery systems or armour;
- b. Submarine and torpedo nets;
- c. Hull penetrators and connectors specially designed for military use that enable interaction with equipment external to a “vessel”.

ML10 “Aircraft”, “lighter-than-air vehicles”, unmanned aerial vehicles, aero-engines, “aircraft” equipment and related “goods”, as follows, specially designed or modified for military use and specially designed components therefor:

N.B.: *Electronic guidance and navigation equipment is controlled in ML11.a.*

- a. Combat “aircraft”;
- b. Other “aircraft” and “lighter-than-air vehicles” (eg, military reconnaissance, assault, military training, transporting and airdropping troops or military equipment, logistics support);
- c. Unmanned aerial vehicles (UAV) (eg, remotely piloted air vehicles (RPVs), autonomous programmable vehicles (APV) and “lighter-than-air vehicles”), and their launchers, ground support equipment and related equipment for command and control;
- d. Aero-engines;
- e. Airborne equipment (eg, airborne refuelling equipment), specially designed for “use” with “aircraft” specified in ML10.a. or ML10.b. or aero-engines specified in ML10.d.;
- f. Pressure refuellers, pressure refuelling equipment, equipment specially designed to facilitate operations in confined areas and ‘ground equipment’, specially designed or modified for “use” with “aircraft” specified in ML10.a. or ML10.b., or aero-engines specified in ML10.d.;

Technical note:

‘Ground equipment’ means ground-based equipment for the operation, handling, maintenance, checking, repair, overhaul and refurbishment of “aircraft” or aero-engines.

- g. Military aircrew protective headgear and masks, pressurised breathing equipment and partial pressure suits for use in “aircraft”, and anti-g suits, liquid oxygen converters used for “aircraft” or missiles, and catapults and cartridge actuated devices for emergency escape of personnel from “aircraft”;
- h. Parachutes and related equipment used for combat personnel, cargo dropping or “aircraft” deceleration, as follows:
 1. Parachutes for:
 - a. Pin point dropping of military personnel;

- b. Dropping of paratroopers;
- 2. Cargo parachutes;
- 3. Paragliders, drag parachutes, drogue parachutes for stabilisation and attitude control of dropping bodies;
- 4. Drogue parachutes for use with ejection seat systems for deployment and inflation sequence regulation of emergency parachutes;
- 5. Recovery parachutes for guided missiles, drones or space vehicles;
- 6. Approach parachutes and landing deceleration parachutes;
- 7. Other military parachutes;
- 8. Equipment specially designed for high altitude parachutists;
- i. Automatic piloting systems for parachuted loads and equipment for controlled opening of parachutes at any pre-determined height.

ML11 Electronic equipment, not specified elsewhere in this Part of this Schedule, as follows, and specially designed components therefor:

- a. Electronic equipment specially designed or modified for military use;
- b. Global navigation satellite systems (GNSS) jamming equipment.

Note: ML11.a. controls all electronic guidance and navigation equipment.

ML12 High velocity kinetic energy weapon (KEW) systems and related equipment, as follows, and specially designed components therefor:

- a. Kinetic energy weapon systems specially designed for destruction or effecting mission abort of a target;
N.B.: For weapon systems using sub-calibre ammunition or employing solely chemical propulsion, and ammunition therefor, see ML1 to ML4.
- b. Specially designed test and evaluation facilities and test models (eg, diagnostic instrumentation and targets), or dynamic testing of kinetic energy projectiles and systems.

ML13 Armoured or protective “goods” and constructions, as follows, and specially designed components therefor:

- a. Armoured plate, having any of the following characteristics:
 - 1. Manufactured to comply with a military standard or specification;
or
 - 2. Suitable for military use;
- b. Constructions of metallic or non-metallic materials or combinations thereof specially designed to provide ballistic protection for military systems;

- c. Helmets manufactured according to military standards or specifications, or comparable national standards;

Note: ML13.c. does not control;

- a. Conventional steel helmets, neither modified nor designed to accept, nor equipped with, any type of accessory device;
- b. Helmets manufactured before 1945;
- c. Individual helmets not specially designed for military use when accompanying their users.

N.B. 1: Military aircrew protective headgear is controlled in ML10.g.

N.B. 2: Military high altitude parachutists' protective headgear is controlled in ML10.h.8.

- d. Body armour and ballistic protective garments manufactured according to military standards or specifications, or equivalent.

Note: ML13.d. does not control individual suits of body armour or ballistic protective garments for personal protection and accessories therefor when accompanying their users.

N.B.: See also 1A of Annex I to "the dual-use Regulation".

ML14 Specialised equipment for military training or for simulating military scenarios, simulators specially designed for training in the "use" of any firearm or weapon specified in ML1 or ML2, and specially designed components and accessories therefor.

ML15 Imaging or countermeasure equipment, as follows, specially designed for military use, and specially designed components and accessories therefor:

- a. Recorders and image processing equipment;
- b. Cameras, photographic equipment and film processing equipment;
- c. Image intensifier equipment;
- d. Infrared or thermal imaging equipment;
- e. Imaging radar sensor equipment;
- f. Countermeasure or counter-countermeasure equipment for the equipment specified in ML15.a. to ML15.e.

Note: ML15 does not control "first generation image intensifier tubes" or equipment specially designed so that only "first generation image intensifier tubes" are or can be incorporated in it.

N.B.1: For weapons sights incorporating "first generation image intensifier tubes" see ML1, ML2 and ML5.

N.B.2: See also 6A of Annex I to "the dual-use Regulation".

ML16 Forgings, castings and other unfinished "goods", the use of which in controlled "goods" is identifiable by material composition, geometry or function, and which are specially

designed for any of the “goods” specified in ML1 to ML4, ML6, ML9, ML10, ML12 or ML19.

ML17 Miscellaneous “goods”, material and ‘libraries’, as follows, and specially designed components therefor:

- a. Self-contained diving and underwater swimming apparatus as follows:
 1. Closed or semi-closed circuit (rebreathing) apparatus specially designed for military use (ie, specially designed to be non-magnetic);
 2. Specially designed components for use in the conversion of open-circuit apparatus to military use;
 3. “Goods” designed exclusively for military use with self-contained diving and underwater swimming apparatus;
- b. Construction equipment specially designed for military use;
- c. Fittings, coatings and treatments for signature suppression, specially designed for military use;
- d. Field engineer equipment specially designed for “use” in a combat zone;
- e. “Robots”, “robot” controllers and “robot” “end-effectors”, having any of the following characteristics:
 1. Specially designed for military use;
 2. Incorporating means of protecting hydraulic lines against externally induced punctures caused by ballistic fragments (eg, incorporating self-sealing lines) and designed to use hydraulic fluids with flash points higher than 839 K (566°C); or
 3. Specially designed or rated for operating in an electro-magnetic pulse (EMP) environment;

Technical Note:

Electro-magnetic pulse does not refer to unintentional interference caused by electromagnetic radiation from nearby equipment (eg, machinery, appliances or electronics) or lightning.

- f. ‘Libraries’ (parametric technical databases) specially designed for military use with equipment specified in this Part of this Schedule;

Technical Note:

For the purpose of ML17, the term ‘libraries’ (parametric technical databases) means a collection of technical information of a military nature, reference to which may enhance the performance of military equipment or systems.

- g. Nuclear power generating equipment or propulsion equipment (eg, “nuclear reactors”), specially designed for military use and components therefor, specially designed or modified for military use;

- h. “Goods” and material, coated, treated or prepared to provide signature suppression, specially designed for military use, other than those controlled elsewhere in this Part of this Schedule;
- i. Simulators specially designed for military “nuclear reactors”;
- j. Mobile repair shops specially designed or modified to service military equipment;
- k. Field generators specially designed or modified for military use;
- l. Containers specially designed or modified for military use;
- m. Ferries, other than those controlled elsewhere in this Part of this Schedule, rafts, bridges and pontoons, specially designed for military use;
- n. Test models specially designed for the “development” of “goods” or “technology” specified in ML4, ML6, ML9 or ML10;
- o. Laser protection equipment (eg, eye and sensor protection) specially designed for military use.

ML18 Production equipment and components, as follows:

- a. Specially designed for modified production equipment for the “production” of “goods” specified in this Part of this Schedule, and specially designed components therefor;
- b. Specially designed environmental test facilities and specially designed equipment therefor, for the certification, qualification or testing of “goods” specified in this Part of this Schedule.

PL5017 Equipment and test models other than those specified in ML11, ML12.b., ML17.n. or ML19.e. specially designed or modified for the “development” or “use” of military “goods” specified in this Part of this Schedule.

ML19 Directed energy weapon (DEW) systems, related or countermeasure equipment and test models, as follows, and specially designed components therefor:

- a. “Laser” systems specially designed for destruction or effecting mission-abort of a target;
- b. Particle beam systems capable of destruction or effecting mission-abort of a target;
- c. High power radio-frequency (RF) systems capable of destruction or effecting mission-abort of a target;
- d. Equipment specially designed for the detection or identification of, or defence against, systems specified in ML19.a. to ML19.c.;
- e. Physical test models for the systems, equipment and components specified in ML19;
- f. Continuous wave or pulsed “laser” systems specially designed to cause permanent blindness to un-enhanced vision (ie, to the naked eye or to the eye with corrective eyesight devices).

ML20 Cryogenic and “superconductive” equipment, as follows, and specially designed components and accessories therefor:

- a. Equipment specially designed or configured to be installed in a vehicle for military ground, marine, airborne or space applications, capable of operating while in motion and of producing or maintaining temperatures below 103 K

(-170°C);

- b. “superconductive” electrical equipment (rotating machinery and transformers) specially designed or configured to be installed in a vehicle for military ground, marine, airborne or space applications and capable of operating while in motion.

Note: ML20 does not control direct-current hybrid homopolar generators that have single-pole normal metal armatures which rotate in a magnetic field produced by superconducting windings, provided those windings are the only superconducting component in the generator.

ML21 “Software” as follows:

- a. “Software” specially designed or modified for the “development”, “production” or “use” of equipment, materiel or “software” specified in this Part of this Schedule;

- b. Specific “software”, other than that specified in ML21.a., as follows:

1. “Software” that is both specially designed for military use and specially designed for modelling, simulating or evaluating military weapons systems;
2. “Software” that is both specially designed for military use and specially designed for modelling or simulating military operational scenarios;
3. “Software” for determining the effects of conventional, nuclear, chemical or biological weapons;
4. “Software” that is both specially designed for military use and specially designed for Command, Communications, Control and Intelligence (C³I) applications or Command, Communications, Control, Computer and Intelligence (C⁴I) applications;

- c. “Software”, not specified in ML21.a. or b., specially designed or modified to enable equipment not specified in this Part of this Schedule to perform the military functions of equipment specified in this Part of this Schedule;

- d. Other “software” specially designed or modified for military use.

N.B.: Source code for “software” is controlled in ML22.

PL5001 Other security and para-military police “goods” as follows:

- a. Acoustic devices represented by the manufacturers or suppliers thereof as suitable for riot control purposes, and specially designed components thereof;
- b. Anti-riot and ballistic shields and specially designed components thereof;
- c. Shackles designed for restraining human beings having an overall dimension including chain, when measured from the outer edge of one cuff to the outer edge of the other cuff, of between 240mm and 280mm when locked;
N.B.: See also 1.2 of Annex III to “the torture Regulation” and article 9 of this Order.
- d. Electric-shock belts designed for restraining human being by the administration of electric shocks having a no-load voltage not exceeding 10,000 volts;
N.B.: See also 2.1 of Annex II to “the torture Regulation” and article 9 of this Order.
- e. Water cannon and specially designed components thereof;
- f. Riot control vehicles which have been specially designed or modified to be electrified to repel boarders and components thereof specially designed or modified for that purpose;
- g. Electric-shock dart guns having a no load voltage not exceeding 10,000 volts;
N.B.: See also 2.1 of Annex III to “the torture Regulation” and article 9 of this Order.
- h. Components specially designed or modified for portable devices designed or modified for the purposes of riot control or self-protection by the administration of an electric shock (eg, electric-shock batons, electric-shock shields, stun-guns and electric-shock dart-guns);
- i. Hand-held, spiked batons.

ML22 “Technology” as follows:

- a. “Technology”, other than “technology” specified in ML22.b., which is “required” for the “development”, “production” or “use” of “goods” or “software” specified in this Part of this Schedule;
- b. “Technology” as follows:
 - 1. “Technology” “required” for the design of, the assembly of components into, and the operation, maintenance and repair of complete production installations for “goods” specified in this Part of this Schedule, even if the components of such production installations are not specified;
 - 2. “Technology” “required” for the “development”, “production” or “use” of toxicological agents, related equipment or components specified in ML7.a. to ML7.g.;
 - 3. “Technology” “required” for the “development, “production” or “use” of “biopolymers” or cultures of specific cells specified in ML7.h.;

4. “Technology” “required” exclusively for the incorporation of “biocatalysts”, specified in ML7.i.1, into military carrier substances or military materiel.

N.B. See article 18 of this Order for exceptions from the controls on technology.

PART 2

EXPLOSIVE-RELATED GOODS AND TECHNOLOGY

PL8001 Explosive-related “goods” and “technology” as follows:

- a. Equipment and devices, other than those in Part I of this Schedule or in 1A005, 1A006, 1A007, 3A229 or 3A232 in Annex I to “the dual-use Regulation”, for detection of or “use” with “explosives” or for dealing with or protecting against “improvised explosive devices”, as follows, and specially designed components therefor:
 1. Electronic equipment designed to detect “explosives” or “explosive signatures”;
Note: PL8001.a.1. does not control equipment requiring operator judgment to establish the presence of “explosives” or “explosive signatures”.
 2. Electronic jamming equipment specially designed to prevent the detonation by radio remote control of “improvised explosive devices”;
 3. Equipment and devices specially designed to initiate explosions by electrical or non-electrical means, (eg, firing sets, detonators and igniters);
N.B.: See also 1A007, 3A229 and 3A232 in Annex I to “the dual-use Regulation”.
Note: PL8001.a.3. does not control:
 - a. Equipment and devices specially designed for a specific commercial use consisting of the actuation or operation by explosive means of other equipment or devices the function of which is not the initiation or creation of explosions;
 - b. Pressure controlled equipment specially designed for down-hole oilfield equipment applications and which are incapable of use at atmospheric pressure; and
 - c. Detonating cord.
 4. Equipment and devices, including, but not limited to: shields and helmets, specially designed for the disposal of “improvised explosive devices”;

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N.B.: *N.B.:* See also IA005 and IA006 in Annex I to “the Regulation”.

Note: *PL8001.a.4. does not control bomb blankets, mechanical handling equipment for manoeuvring or exposing “improvised explosive devices”, containers designed for holding “improvised explosive devices” or objects suspected of being such devices or other equipment specially designed to temporarily protect against “improvised explosive devices” or objects suspected of being such devices.*

- b. Linear cutting explosive charges;
- c. “Technology” “required” for the “use” of “goods” in this Part of this Schedule.”

N.B. See article 18 of this Order for exceptions from the controls on technology.

SCHEDULE 3

Articles 2, 4 and 5

UK CONTROLLED DUAL-USE GOODS, SOFTWARE AND TECHNOLOGY

Note: In this Schedule, defined terms are printed in quotation marks.

Definitions

In this Schedule:

“development” means all stages prior to “production” (eg, design, design research, design analyses, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into “goods” or “software”, configuration design, integration design, layouts);

“energetic materials” means substances or mixtures that react chemically to release energy required for their intended application; “explosives”, “pyrotechnics” and “propellants” are sub-classes of energetic materials;

“explosives” means solid, liquid or gaseous substances or mixtures of substances which, in their application as primary, booster, or main charges in warheads, demolition and other applications, are required to detonate;

“lighter-than-air vehicles” means balloons and airships that rely on hot air or on lighter-than-air gases such as helium or hydrogen for their lift;

“previously separated” in relation to a controlled isotope in any form, means after the application of any process intended to increase the concentration of the controlled isotope;

“production” means all production stages (eg, product engineering, manufacture, integration, assembly (mounting), inspection, testing, quality assurance);

“propellants” means substances or mixtures that react chemically to produce large volumes of hot gases at controlled rates to perform mechanical work;

“pyrotechnic(s)” means mixtures of solid or liquid fuels and oxidisers which, when ignited, undergo an energetic chemical reaction at a controlled rate intended to produce specific time delays, or quantities of heat, noise, smoke, visible light or infrared radiation; pyrophorics are a subclass of pyrotechnics, which contain no oxidisers but ignite spontaneously on contact with air;

“required” as applied to “technology”, refers to only that portion of “technology” which is peculiarly responsible for achieving or exceeding the controlled performance levels, characteristics or functions. Such “required” “technology” may be shared by different “goods” and the intended use of “technology” is irrelevant to whether it is “required”;

“technology” means specific ‘information’ necessary for the “development”, “production” or “use” of “goods” or “software”;

Technical Note:

‘Information’ may take forms including, not limited to: blueprints, plans, diagrams, models, formulae, tables, ‘source code’, engineering designs and specifications, manuals and instructions written or recorded on other media or devices (eg, disk, tape, read-only memories);

‘source code’ (or source language) is a convenient expression of one or more processes which may be turned by a programming system into equipment executable form.

“use” means operation, installation (eg, on-site installation), maintenance, checking, repair, overhaul and refurbishing;

“vaccines” are medical products in a pharmaceutical formulation licensed by, or having marketing or clinical trial authorisation from, the regulatory authorities of either the country of manufacture or of use, which is intended to stimulate a protective immunological response in humans or animals in order to prevent disease in those to whom or to which it is administered.

Materials, chemicals, micro-organisms and toxins

PL9002 The export of the following goods is prohibited to any destination:

“Energetic materials”, as follows, and mixtures containing one or more thereof:

- a. Nitrocellulose (containing more than 12.5% nitrogen);
- b. Nitroglycerol;
- c. Pentaerythritol tetranitrate (PETN);
- d. Picryl chloride;
- e. Trinitrophenylmethylnitramine (tetryl);
- f. 2,4,6-Trinitrotoluene (TNT).

Note: PL9002 does not control single, double and triple base “propellants”.

PL9003 The export of the following goods is prohibited to any destination:

“Vaccines” for protection against:

- a. bacillus anthracis;
- b. botulinum toxin.

PL9004 The export of the following goods is prohibited to any destination:

“Previously separated” americium-241, -242m or -243 in any form.

Note: PL9004 does not control “goods” with an americium content of 10 grams or less.

Telecommunications and related technology

PL9005 The export or “transfer by electronic means” of the following “goods”, “software” or “technology” is prohibited to any destination in Iran:

- a. Tropospheric scatter communication equipment using analogue or digital modulation techniques and specially designed components therefor;
- b. “Technology” for the “development”, “production” or “use” of “goods” specified in PL9005.a.

N.B. See article 18 of this Order for exceptions from the controls on technology.

Vessels and related software and technology

PL9008 The export or “transfer by electronic means” of the following “goods”, “software” or “technology” is prohibited to any destination in Iran:

- a. “Vessels”, inflatable craft and ‘submersible vehicles’, and related equipment and components, as follows, other than those specified in Part 1 of Schedule 2 to this Order or Annex I to “the dual-use Regulation”:
 - 1. Marine “vessels” (surface or underwater), inflatable craft and ‘submersible vehicles’;
 - 2. Equipment and components, designed for “vessels”, inflatable craft and ‘submersible vehicles’, as follows:
 - a. Hull and keel structures and components;
 - b. Propulsive engines designed or modified for marine use and specially designed components therefor;
 - c. Marine radar, sonar and speed log equipment, and specially designed components therefor;
- b. “Software” designed for the “development”, “production” or “use” of “goods” specified in PL9008.a.
- c. “Technology” for the “development”, “production”, or “use” of “goods” or “software” specified in PL9008.a. or PL9008.b.

N.B. See article 18 of this Order for exceptions from the controls on technology.

Technical note:

'Submersible vehicles' include manned, unmanned, tethered or untethered vehicles.

Aircraft and related technology

PL9009 The export or “transfer by electronic means” of the following “goods” or “technology” is prohibited to any destination in Iran:

- a. “Aircraft”, “lighter-than-air vehicles” and steerable parachutes, and related equipment and components, as follows, other than those specified in Part 1 of Schedule 2 to this Order or Annex I to “the dual-use Regulation”:
 1. “Aircraft”, “lighter-than-air vehicles” and steerable parachutes;
 2. Equipment and components, designed for “aircraft” and “lighter-than-air vehicles”, as follows:
 - a. Airframe structures and components;
 - b. Aero-engines and specially designed components therefor;
 - c. Avionics and navigation equipment and specially designed components therefor;
 - d. Landing gear and specially designed components therefor, and aircraft tyres;
 - e. Propellers and rotors;
 - f. Transmissions and gearboxes, and specially designed components therefor;
 - g. Unmanned aerial vehicle (UAV) recovery systems;
- b. Not used;
- c. Technology for the “development”, “production” or “use” of “goods” specified in PL9009.a.

N.B. See article 18 of this Order for exceptions from the controls on technology.

Note: PL9009.c. does not control technical data, drawings or documentation for maintenance activities directly associated with calibration, removal or replacement of damaged or unserviceable “goods” that are necessary for the continuing airworthiness and safe operation of civil “aircraft”

SCHEDULE 4

Articles 2, 13, 14, 16 and 17

COUNTRIES AND DESTINATIONS SUBJECT
TO STRICTER EXPORT OR TRADE CONTROLS

PART 1

EMBARGOED AND NO EXCEPTION FOR TRANSIT

Democratic People's Republic of Korea

Iran

PART 2

EMBARGOED AND SUBJECT TO TRANSIT
CONTROL FOR MILITARY GOODS

Armenia

Azerbaijan

Burma (Myanmar)

Democratic Republic of the Congo

Ivory Coast (Côte d'Ivoire)

Lebanon

Sudan

Uzbekistan

Zimbabwe

PART 3

SUBJECT TO TRANSIT CONTROL FOR MILITARY GOODS

Afghanistan

Argentina

Burundi

China (People's Republic other than the Special Administrative Regions)

Iraq

Liberia

Macao Special Administrative Region

Rwanda

Sierra Leone

Somalia

Tanzania

Uganda

PART 4

SUBJECT TO TRANSIT CONTROL FOR CATEGORY B GOODS

Albania
Belarus
Benin
Bosnia/Herzegovina
Burkina Faso
Cameroon
Cape Verde
Central African Republic
Chad
Colombia
Congo (Brazzaville)
Dubai
East Timor (Timor-Leste)
Eritrea
Ethiopia
Gambia
Georgia
Ghana
Guinea
Guinea Bissau
Haiti
Hong Kong Special Administrative Region
Jamaica
Kenya
Krygyzstan
Libya
Mali
Mauritania
Moldova
Montenegro
Morocco
Nepal
Niger
Nigeria
Oman
Pakistan
Russia

Senegal
Serbia
Sri Lanka
Syria
Taiwan
Tajikistan
Togo
Trinidad & Tobago
Turkmenistan
Ukraine
Venezuela
Yemen

SCHEDULE 5

Article 30

INFORMATION SECURITY ITEMS

1. In this Schedule—

“business or academic collaborator”, in relation to an exporter, means a person who is either—

- (a) working by way of business in research and development of cryptography or cryptographic goods or software; or
- (b) is teaching, or undertaking research as a member of or at a university or institution of higher education into, cryptography or cryptographic goods or software,

and with whom the exporter has previously entered into a collaboration agreement;

“collaboration agreement” means an agreement for the carrying out of work comprising or related to research into the development of cryptography or cryptographic goods or software;

“development” has the same meaning as in Schedule 2;

“intra-group or collaborative end-use” means—

- (a) use by the exporter, or a subsidiary undertaking or parent undertaking of the exporter, in that person’s own commercial cryptographic goods; or
- (b) use by a business or academic collaborator of the exporter in that person’s own commercial cryptographic goods in accordance with the terms of a collaboration agreement with the exporter;

“parent undertaking” and “subsidiary undertaking” have the same meanings as in the Companies Act 2006(35) (see section 1162 of, and Schedule 7 to, that Act);

“production”, “technology” and “use” have the same meanings as in Schedule 2.

2. The information security items specified in this Schedule are the following software and technology—

- (a) cryptography development software specified in entry 5D002 of Annex I to the dual-use Regulation, other than software having the characteristics, or performing or simulating the functions, of equipment designed or modified to perform cryptanalytic functions;

(35) 2006 c. 46.

- (b) cryptography development technology specified in entry 5E002 of Annex I to the dual-use Regulation, other than technology for the development, production or use of—
- (i) equipment designed or modified to perform cryptanalytic functions; or
 - (ii) software having the characteristics, or performing or simulating the functions, of equipment designed or modified to perform cryptanalytic functions

but only to the extent that such software or technology is for an intra-group or collaborative end-use.

3. The information specified in this Schedule is—

- (a) a general description of the goods, software or technology, such as might be contained in a product brochure;
- (b) descriptions of all relevant encryption algorithms and key management schemes, and descriptions of how they are used by the goods, software or technology (eg, which algorithm is used for authentication, which for confidentiality and which for key exchange); and details (eg, source code) of how they are implemented (eg, how keys are generated and distributed, how key length is governed and how the algorithm and keys are called by the software);
- (c) details of any measures taken to preclude user modification of the encryption algorithm, key management scheme or key length;
- (d) details of pre- or post-processing of data, such as compression of plain text or packetisation of encrypted data;
- (e) details of programming interfaces that can be used to gain access to the cryptographic functionality of the goods, software or technology; and
- (f) a list of any protocols to which the goods, software or technology adhere.

SCHEDULE 6

Article 45

REVOCATIONS

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
Order or Regulations revoked	References	Extent of revocation
The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003	S.I. 2003/2764	The whole Order
The Trade in Goods (Control) Order 2003	S.I. 2003/2765	The whole Order
The Trade in Controlled Goods (Embargoed Destinations) Order 2004	S.I. 2004/318	The whole Order
The Trade in Controlled Goods (Embargoed Destinations) (Amendment) Order 2004	S.I. 2004/1049	The whole Order
The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Amendment) Order 2004	S.I. 2004/1050	The whole Order
The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Amendment No. 2) Order 2004	S.I. 2004/2561	The whole Order

The Export Control (Libya Embargo) Order 2004	S.I. 2004/2741	The whole Order
The Export Control (Iraq and Ivory Coast) Order 2005	S.I. 2005/232	In article 1, the definition of “the 2003 Order” Articles 6 and 7
The Trade in Goods (Control) (Amendment) Order 2005	S.I. 2005/443	The whole Order
The Trade in Controlled Goods (Embargoed Destinations) (Amendment) Order 2005	S.I. 2005/445	The whole Order
The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Amendment) Order 2005	S.I. 2005/468	The whole Order
The Export Control (Uzbekistan) Order 2005	S.I. 2005/3257	In article 1, the definition of “the 2003 Order” Articles 7 and 8
The Export Control (Bosnia and Herzegovina) Order 2006	S.I. 2006/300	The whole Order
The Export Control Order 2006	S.I. 2006/1331	The whole Order
The Export Control (Security and Para-military Goods) Order 2006	S.I. 2006/1696	The whole Order
The Technical Assistance Control Regulations 2006	S.I. 2006/1719	The whole Regulations
The Export Control (Amendment) Order 2006	S.I. 2006/2271	The whole Order
The Export Control (Lebanon) Order 2006	S.I. 2006/2683	The whole Order
The Export Control (North Korea) Order 2007	S.I. 2007/1334	In article 1, the definitions of “the 2003 Order” and “the 2004 Order” Articles 2 and 3
The Export and Trade Control Order 2007	S.I. 2007/1863	The whole Order
The Export Control (Security and Para-military Goods) Order 2008	S.I. 2008/639	The whole Order
The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Amendment) Order 2008	S.I. 2008/1281	The whole Order
The Trade in Goods (Categories of Controlled Goods) Order 2008	S.I. 2008/1805	The whole Order
The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Amendment) (No. 2) Order 2008	S.I. 2008/3161	The whole Order

EXPLANATORY NOTE

(This note is not part of the Order)

This Order consolidates Orders made under the Export Control Act 2002, with some changes. As a consequence the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003, the Trade in Goods (Control) Order 2003, the Trade in Controlled Goods (Embargoed Destinations) Order 2004 and the Technical Assistance Control Regulations 2006 and various provisions amending them are revoked (article 45).

This Order is now where penalty and licensing provisions are to be found relating to Council Regulation (EC) No 1334/2000 (the “dual-use Regulation”) and Council Regulation (EC) No 1236/2005 (the “torture Regulation”). These cover, respectively, goods, software and technology that can be used for both civil and military purposes and goods that can be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. Part 2 of the Order also supplements the directly applicable provisions of these Regulations by extending their controls, in particular to cover additional goods (see articles 4 and 5), intra-Community transfers and goods in transit (in the circumstances set out in 6, 7, 8 and 9) and different types of transfers of technology (see articles 10, 11 and 12).

Military goods, software and technology are not covered by the Community legislation so these are the subject of article 3. The list of military goods, software and technology in Schedule 2 is based on the Wassenaar Arrangement military list (the Wassenaar Arrangement is an international regime for controlling conventional arms) but national controls (listed as “PL . . .”) have been added.

The remaining provisions of Part 2 are exceptions from the controls, notably covering scheduled flights and other low-risk movements of aircraft and vessels, firearms (to the extent they are the subject of other controls pursuant to Council Directive 91/477/EEC), transit and transshipment, and transfers of software and technology that are of little concern. The extent of the transit and transshipment exception varies according to the type of goods and their destination. A change from the previous Orders is that a more extensive list of countries is subject to transit and transshipment controls in relation to a range of sensitive items including small arms and light weapons.

Part 3 contains a prohibition relating to the provision of technical assistance in relation to chemical, biological or nuclear weapons programmes.

Part 4 contains controls relating to movements of goods between countries other than the United Kingdom and the Isle of Man. The level of control varies according to the sensitivity of the goods, which are organised into three categories (A to C, A being goods with the highest level of sensitivity such as torture equipment), and category B now includes light weapons. In relation to both category A and B there are controls on United Kingdom persons acting outside the United Kingdom. However, for category B, certain ancillary activities are not covered (see article 22(3)). Transportation services are newly covered for this category but drivers, pilots etc. providing services to transport contractors already within the controls are not caught in their own right. Category C exempts transportation services completely along with other ancillary activities (see article 23(2)).

Parts 5 to 7 all relate back to the earlier provisions. Part 5 contains provisions about licences. In particular, there are provisions about record keeping by licence holders (articles 29 and 30) and inspection of the relevant records (article 31) and appeals from licensing decisions (article 33). Part 6 contains provisions about offences and the powers of Her Majesty’s Revenue and Customs who will enforce the Order. Offences relating to exportation out of the United Kingdom without a licence are dealt with in the Customs and Excise Management Act 1979 (sections 68 and 170). Part 7, as

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well as the revocations noted above, contains provisions about the use of information received in the course of operating the controls (article 43).

An Impact Assessment has been prepared in respect of this Order and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.