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STATUTORY INSTRUMENTS

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**2008 No. 3231**

**The Export Control Order 2008**

**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(1);

“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;

“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\(2\)](#);

“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;

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(2) 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).

“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;

“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.