STATUTORY INSTRUMENTS

2017 No. 85

CUSTOMS

The Export Control (Amendment) Order 2017

Made - - - -	*27th January 2017*
Laid before Parliament	*1st February 2017*
Coming into force - -	*22nd February 2017*

The Secretary of State, in exercise of the powers conferred by sections 1, 2, 4, 5 and 7 of the Export Control Act 2002(**1**), makes the following Order.

Citation and commencement

1. This Order may be cited as the Export Control (Amendment) Order 2017 and comes into force on 22nd February 2017.

Amendments to the Export Control Order 2008

2.—(1) The Export Control Order 2008(**2**) is amended as follows.

(2) In article 2(1), in the definition of "European military items", omit "PL5017 or".

(3) In article 26(2)—

(a) for "military goods", substitute "goods, or to transfer software, specified in Schedule 2 or 3";

(b) after "repair of the goods", insert "or software"; and

(c) at the end, insert "or software".

(4) In article 28(1), omit "or 30(3)".

(5) Omit article 30.

(6) In article 31—

(a) in paragraph (1), omit "or 30"; and

(b) in paragraph (2)(a), omit "or 30".

(7) In article 38(1)(b), omit ", 30".

(**1**) 2002 c. 28.

(**2**) S.I. 2008/3231, relevant amending instruments are S.I. 2009/2151, S.I. 2010/121, S.I. 2010/2007, S.I. 2011/1296, S.I. 2012/1910, S.I. 2013/428, S.I. 2014/1069, S.I. 2015/351, S.I 2015/940.

(8) For Schedule 2 to the Export Control Order 2008 (Military goods, software and technology), substitute the replacement Schedule 2 set out in the Schedule to this Order.

(9) In Schedule 3 (UK controlled dual-use goods, software and technology)—

(a) in the definition of "firearm", for "short" substitute "shot";

(b) in the definition of "parts"—

(i) omit ", and any device designed or adopted to diminish the sound caused by firing a "firearm""; and

(ii) for "received", substitute "receiver".

(10) Omit Schedule 5.

Mark Garnier
Parliamentary Under-Secretary of State for International Trade
Department for International Trade

27th January 2017

SCHEDULE Article 2

Replacement Schedule 2 to the Export Control Order 2008

"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 (e.g. 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 or 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.

"Deactivation Regulation" means Commission Implementing Regulation (EU) 2015/2403 establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable(**3**);

"development" means all stages prior to "production" (e.g. 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 (i.e. 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

(**3**) OJ N L 333, 19.12.2015, p. 62.

“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;

“expression vectors” means carriers (e.g. 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;

“fuel cell” means an electrochemical device that converts chemical energy directly into Direct Current (DC) electricity by consuming fuel from an external source;

“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;

“library” (parametric technical database) means a collection of technical information, reference to which may enhance the performance of relevant systems, equipment or components;

“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 (e.g. 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, i.e. 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.

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

"spacecraft" means active and passive satellites and space probes;

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

"superconductive" in relation to materials (e.g. metals, alloys or compounds) means those which can lose all electrical resistance (i.e. 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: