Council Regulation (EU) No 1228/2009 of 15 December 2009 amending Regulation (EC) No 423/2007 concerning restrictive measures against Iran

COUNCIL REGULATION (EU) No 1228/2009

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215 (1) and (2) thereof,

Having regard to Council Common Position 2007/140/CFSP of 27 February 2007 concerning restrictive measures against Iran[(1)],

Having regard to the joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission,

Whereas:

(1) In line with Common Position 2007/140/CFSP, Regulation (EC) No 423/2007[(2)] in particular prohibits the supply, sale or transfer to Iran of goods and technology, in addition to those determined by the United Nations Security Council or the Sanctions Committee, that could contribute to Iran's enrichment-related, reprocessing or heavy water-related activities, to the development of nuclear weapon delivery systems or to the pursuit of activities related to other topics about which the International Atomic Energy Agency (IAEA) has expressed concerns or identified as outstanding.

(2) These items are listed in Annex IA to Regulation (EC) No 423/2007. Certain references in that Annex need to be corrected.

(3) Regulation (EC) No 423/2007 also restricts the export of certain other goods and technology listed in its Annex II. The list needs to be revised in order to maintain its effectiveness.

(4) For reasons of expediency, the Commission should be empowered to maintain the lists of prohibited and controlled goods and technology and to amend them on the basis of information provided by either the United Nations Security Council or the Sanctions Committee, or by Member States.

(5) Regulation (EC) No 423/2007 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 423/2007 is hereby amended as follows:

(1) in Article 3, paragraph 1a shall be replaced by the following:

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 1228/2009. (See end of Document for details)*

1a. For all exports for which an authorisation is required under this Regulation, such authorisation shall be granted by the competent authorities of the Member State where the exporter is established and shall be in accordance with the detailed rules laid down in Article 11 of Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items[3]. The authorisation shall be valid throughout the Union.;

(2) in Article 15, paragraph 1 shall be replaced by the following:

1. The Commission shall:

a amend Annex I on the basis of determinations made by either the United Nations Security Council or the Sanctions Committee;

b amend Annex IA and Annex II on the basis of information supplied by Member States;

c amend Annex III on the basis of information supplied by Member States;

d amend Annex IV on the basis of determinations made by either the United Nations Security Council or the Sanctions Committee;

e amend Annex VI on the basis of decisions taken in respect of Annexes III and IV to Council Common Position 2007/140/CFSP.;

(3) Annex IA shall be amended as set out in Annex I to this Regulation;

(4) Annex II shall be replaced by the text in Annex II to this Regulation.

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 December 2009.

For the Council

The President

E. ERLANDSSON

ANNEX I

Annex IA to Regulation (EC) No 423/2007 is amended as follows:

1) The description in entry IA.A1.009 is replaced by the following:

"Fibrous or filamentary materials" or prepregs, as follows:

a. Carbon or aramid "fibrous or filamentary materials" having either of the following characteristics:

1. A "specific modulus" exceeding 10×10^6 m; or

2. A "specific tensile strength" exceeding 17×10^4 m;

b. Glass "fibrous or filamentary materials" having either of the following characteristics:

1. A "specific modulus" exceeding $3{,}18 \times 10^6$ m; or

2. A "specific tensile strength" exceeding $76{,}2 \times 10^3$ m;

c. Thermoset resin-impregnated continuous "yarns", "rovings", "tows" or "tapes" with a width of 15 mm or less (once prepregs), made from carbon or glass "fibrous or filamentary materials" other than those specified in IA.A1.010.a. or b.

Note: This item does not cover "fibrous or filamentary materials" defined in items 1C010.a, 1C010.b, 1C210.a and 1C210.b.

2) The description in entry IA.A1.010 is replaced by the following:

Resin-impregnated or pitch-impregnated fibres (prepregs), metal or carboncoated fibres (preforms) or "carbon fibre preforms", as follows:

a. Made from "fibrous or filamentary materials" specified in IA.A1.009 above;

b. Epoxy resin "matrix" impregnated carbon "fibrous or filamentary materials" (prepregs), specified in 1C010.a, 1C010.b or 1C010.c, for the repair of aircraft structures or laminates, of which the size of individual sheets does not exceed 50 cm × 90 cm;

c. Prepregs specified in 1C010.a, 1C010.b or 1C010.c, when impregnated with phenolic or epoxy resins having a glass transition temperature (Tg) less than 433 K (160 °C) and a cure temperature lower than the glass transition temperature.

Note: This item does not cover "fibrous or filamentary materials" defined in item 1C010.e.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 1228/2009. (See end of Document for details)*

ANNEX II

ANNEX II

Goods and technology referred to in Article 3

INTRODUCTORY NOTES

1. Unless otherwise stated, reference numbers used in the column below entitled "Description" refer to the descriptions of dual use items and technology set out in Annex I to Regulation (EC) No 428/2009.

2. A reference number in the column below entitled "Related item from Annex I to Regulation (EC) No 428/2009" means that the characteristics of the item described in the "Description" column lie outside the parameters set out in the description of the dual use entry referred to.

3. Definitions of terms between "single quotation marks" are given in a technical note to the relevant item.

4. Definitions of terms between "double quotation marks" can be found in Annex I to Regulation (EC) No 428/2009.

GENERAL NOTES

1. The object of the controls contained in this Annex should not be defeated by the export of any non-controlled goods (including plant) containing one or more controlled components when the controlled component or components is/are the principal element of the goods and can feasibly be removed or used for other purposes.

N.B.: In judging whether the controlled component or components is/are to be considered the principal element, it is necessary to weigh the factors of quantity, value and technological know-how involved and other special circumstances which might establish the controlled component or components as the principal element of the goods being procured.

2. Goods specified in this Annex include both new and used goods.

GENERAL TECHNOLOGY NOTE (GTN)(To be read in conjunction with Section II.B)

1. The sale, supply, transfer or export of "technology" which is "required" for the "development", "production" or "use" of goods the sale, supply, transfer or export of which is controlled in Part A (Goods) below, is controlled in accordance with the provisions of Section II.B.

2. The "technology""required" for the "development", "production" or "use" of goods under control remains under control even when it is applicable to non-controlled goods.

3. Controls do not apply to that "technology" which is the minimum necessary for the installation, operation, maintenance (checking) and repair of those goods which are not controlled or the export of which has been authorised in accordance with Regulation (EC) No 423/2007.

4. Controls on "technology" transfer do not apply to information "in the public domain", to "basic scientific research" or to the minimum necessary information for patent applications.

II.A. **GOODS**

***Changes to legislation:** There are currently no known outstanding effects for the Council Regulation (EU) No 1228/2009. (See end of Document for details)*

A0.

NUCLEAR MATERIALS, FACILITIES, AND EQUIPMENT

No	**Description**	**Related item from Annex I to Regulation (EC) No 428/2009**
II.A0.002	Faraday isolators in the wavelength range 500 nm – 650 nm	—
II.A0.003	Optical gratings in the wavelength range 500 nm – 650 nm	—
II.A0.004	Optical fibres in the wavelength range 500 nm – 650 nm coated with anti-reflecting layers in the wavelength range 500 nm – 650 nm and having a core diameter greater than 0,4 mm but not exceeding 2 mm	—
II.A0.008	Laser mirrors, other than those specified in 6A005.e, consisting of substrates having a thermal expansion coefficient of $10^{-6}K^{-1}$ or less at 20°C (e.g. fused silica or sapphire). *Note: This item does not cover optical systems specially designed for astronomical applications, except if the mirrors contain fused silica.*	0B001.g.5, 6A005.e
II.A0.009	Laser lenses, other than those specified in 6A005.e.2, consisting of substrates having a thermal expansion coefficient of $10-^{6}K-^{1}$ or less at 20°C (e.g. fused silica).	0B001.g, 6A005.e.2
II.A0.010	Pipes, piping, flanges, fittings made of, or lined with, nickel or nickel alloy containing more than 40 % nickel by weight, other than those specified in 2B350.h.1.	2B350
II.A0.011	Vacuum pumps other than those specified in 0B002.f.2., or 2B231, as follows:	0B002.f.2, 2B231