Commission Directive (EU) 2017/433 of 7 March 2017 amending Directive 2009/43/EC of the European Parliament and of the Council as regards the list of defence-related products (Text with EEA relevance)

COMMISSION DIRECTIVE (EU) 2017/433

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amending Directive 2009/43/EC of the European Parliament and of the Council as regards the list of defence-related products

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2009/43/EC of the European Parliament and the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community[(1)], and in particular Article 13 thereof,

Whereas:

(1) Directive 2009/43/EC covers all defence-related products as specified in the Annex, which should correspond to the Common Military List of the European Union, originally adopted by the Council on 19 March 2007.

(2) On 14 March 2016, the Council adopted an updated Common Military List of the European Union[(2)].

(3) The Annex to Directive 2009/43/EC should therefore be amended accordingly.

(4) In accordance with the Joint Political Declaration of Member States and the Commission of 28 September 2011 on explanatory documents[(3)], Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments.

(5) The measures provided for in this Directive are in accordance with the opinion of the Committee on EU Transfers of Defence-related Products,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The Annex to Directive 2009/43/EC is replaced by the text set out in the Annex to this Directive.

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Article 2

1 Member States shall adopt and publish, by 15 June 2017 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 22 June 2017.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 7 March 2017.

For the Commission

The President

Jean-Claude JUNCKER

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ANNEX

List of Defence-related Products

Note 1 Terms in "quotation"s are defined terms. Refer to 'Definitions of Terms used in this List' annexed to this List.

Note 2 In some instances chemicals are listed by name and CAS number. The list applies to chemicals of the same structural formula (including hydrates) regardless of name or CAS number. CAS numbers are shown to assist in identifying a particular chemical or mixture, 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.

Smooth-bore weapons with a calibre of less than 20 mm, other arms 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:

Note ML1. does not apply to:

a. *Firearms specially designed for dummy ammunition and which are incapable of discharging a projectile;*

b. *Firearms specially designed to launch tethered projectiles having no high explosive charge or communications link, to a range of less than or equal to 500 m;*

c. *Weapons using non-centre fire cased ammunition and which are not of the fully automatic firing type;*

d. *"Deactivated firearm"s.*

a. Rifles and combination guns, handguns, machine, sub-machine and volley guns;

Note ML1.a. does not apply to the following:

a. *Rifles and combination guns, manufactured earlier than 1938;*

b. *Reproductions of rifles and combination guns, the originals of which were manufactured earlier than 1890;*

c. *Handguns, volley guns and machine guns manufactured earlier than 1890, and their reproductions;*

d. *Rifles or handguns, specially designed to discharge an inert projectile by compressed air or CO_2.*

b. Smooth-bore weapons as follows:

1. Smooth-bore weapons specially designed for military use;

2. Other smooth-bore weapons as follows:

a. Fully automatic type weapons;

b. Semi-automatic or pump-action type weapons;

Note ML1.b.2. does not apply to weapons specially designed to discharge an inert projectile by compressed air or CO_2.

Note ML1.b. does not apply to the following:

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a. *Smooth-bore weapons manufactured earlier than 1938;*

b. *Reproductions of smooth-bore weapons, the originals of which were manufactured earlier than 1890;*

c. *Smooth-bore weapons used for hunting or sporting purposes. These weapons must not be specially designed for military use or of the fully automatic firing type;*

d. *Smooth-bore weapons specially designed for any of the following:*

1. *Slaughtering of domestic animals;*

2 *Tranquilizing of animals;*

3. *Seismic testing;*

4. *Firing of industrial projectiles; or*

5. *Disrupting Improvised Explosive Devices (IEDs).*

N.B. *For disruptors, see ML4. and entry 1A006 on the EU Dual-Use List.*

c. Weapons using caseless ammunition;

d. Detachable cartridge magazines, sound suppressors or moderators, special gun-mountings, optical weapon-sights and flash suppressors, for arms specified by ML1.a., ML1.b. or ML1.c.

Note *ML1.d. does not apply to optical weapon-sights without electronic image processing, with a magnification of 9 times or less, provided they are not specially designed or modified for military use, or incorporate any reticles specially designed for military use.*

Smooth-bore weapons with a calibre of 20 mm or more, other weapons or armament 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;

Note 1 *ML2.a. includes injectors, metering devices, storage tanks and other specially designed components for use with liquid propelling charges for any of the equipment specified by ML2.a.*

Note 2 *ML2.a. does not apply to weapons as follows:*

a. *Rifles, smooth-bore weapons and combination guns, manufactured earlier than 1938;*

b. *Reproductions of rifles, smooth-bore weapons and combination guns, the originals of which were manufactured earlier than 1890;*

c. *Guns, howitzers, cannons and mortars, manufactured earlier than 1890;*

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d. *Smooth-bore weapons used for hunting or sporting purposes. These weapons must not be specially designed for military use or of the fully automatic firing type;*

e. *Smooth-bore weapons specially designed for any of the following:*

1. *Slaughtering of domestic animals;*

2. *Tranquilizing of animals;*

3. *Seismic testing;*

4. *Firing of industrial projectiles; or*

5. *Disrupting Improvised Explosive Devices (IEDs);*

N.B. *For disruptors, see ML4. and entry 1A006 on the EU Dual-Use List.*

f. *Hand-held projectile launchers specially designed to launch tethered projectiles having no high explosive charge or communications link, to a range of less than or equal to 500 m.*

b. Smoke, gas and pyrotechnic projectors or generators, specially designed or modified for military use;

Note *ML2.b. does not apply to signal pistols.*

c. Weapons sights and weapon sight mounts, having all of the following:

1. Specially designed for military use; and

2. Specially designed for weapons specified in ML2.a.;

d. Mountings and detachable cartridge magazines, specially designed for the weapons specified in ML2.a.

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

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

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

Note 1 *Specially designed components specified by ML3 include:*

a. *Metal or plastic fabrications such as primer anvils, bullet cups, cartridge links, rotating bands and munitions metal parts;*

b. *Safing and arming devices, fuzes, sensors and initiation devices;*

c. *Power supplies with high one-time operational output;*

d. *Combustible cases for charges;*

e. *Submunitions including bomblets, minelets and terminally guided projectiles.*

Note 2 *ML3.a. does not apply to any of the following:*

a. *Ammunition crimped without a projectile (blank star);*