

Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 553

Pretoria, 15 July 2011
Julie

No. 34457

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GENERAL NOTICE

NOTICE 485 OF 2011

DEPARTMENT OF DEFENCE

NATIONAL CONVENTIONAL ARMS CONTROL ACT, 2002

DRAFT NATIONAL CONVENTIONAL ARMS CONTROL REGULATIONS

The Minister of Defence has under section 27(1), read with sections 4(1)(f), 5(1)(4), 14(1), 14(5A) and 17(1)(f) of the National Conventional Arms Control Act, 2002 (Act No. 41 of 2002), and with the concurrence of the National Conventional Arms Control Committee, made the Regulations in the Schedule.

Interested persons are invited to submit written comments on these draft National Conventional Arms Regulations, 2011, to the Secretary for Defence, Department of Defence, within 30 days from the date of publication of this notice, to:

The Secretariat:

National Conventional Arms Control Committee

Private Bag X910

Pretoria 0001

SOUTH AFRICA; or

The Secretariat:

National Conventional Arms Control Committee

Armcor Building

Corner of Nossob and Delmas Roads

Erasmuskloof Extension 4

Pretoria

SOUTH AFRICA

SCHEDULE

1. In these Regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so defined and, unless the context otherwise indicates—

"apostille" means a certificate that authenticates the origin of a public document under The Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents of 5 October 1961;

"certificate of authentication" means a certificate issued under Rule 63 of the Uniform Rules of Court or Government Notice No. R277 of 3 March 1967, as the case may be, that authenticates the origin of a public document;

"end-user" in respect of the export of controlled items means a person declared as the final end-user of a controlled item in terms of section 17(1)(a) of the Act;

"Notice" means the notice published by the Committee under section 27(3) of the Act;

"the Act" means the National Conventional Arms Control Act, 2002 (Act No. 41 of 2002);

Register of persons involved in controlled items

2. The register kept by the Committee in terms of section 4(1)(f) of the Act must, in respect of each person involved in controlled items, reflect—

- (a) the name, address, telephone number, e-mail address, telefax number or any other relevant identifying and contact details of the person;
- (b) the date on which he or she was registered or granted a permit;
- (c) the conditions applicable to the permit; and
- (d) the address where the controlled items can be found.

Application for registration

3. (1) An application in terms of section 13(1) of the Act for registration to trade in or possess controlled items must—

- (a) be in writing on the form prescribed in Annexure A;
- (b) contain all the information required by the secretariat;
- (c) be submitted—

- (i) by sending it by registered post to:

The Secretariat:
National Conventional Arms Control Committee
Private Bag X910
Pretoria 0001
SOUTH AFRICA; or

- (ii) by delivering it to:

The Secretariat:
National Conventional Arms Control Committee
Armcor Building
Corner of Nossob and Delmas Roads
Erasmuskloof Extention 4
Pretoria
SOUTH AFRICA

(2) Upon the receipt of an application for registration to trade in or to possess controlled items, the secretariat must submit such an application to the Committees and if approved by the Committee the secretariat issue the applicant with a registration certificate.

Application for permit

4. (1) A person to whom a registration certificate has been issued in terms of regulation 3(2), may apply for—

- (a) a development and manufacturing permit;
- (b) a marketing permit;
- (c) a contracting permit;
- (d) an export permit;
- (e) an import permit;
- (f) a temporary two-way import/export permit without transfer of ownership of controlled items;
- (g) a conveyance permit;
- (h) a domestic transfer permit; or
- (i) a possession permit.

(2) An application to the Committee for a permit must be submitted to the secretariat at the addresses indicated in regulation 3(1)(c) and must be accompanied by—

- (a) a copy of the registration certificate issued by the secretariat in terms of regulation 3(2);
- (b) in the case of an application for a development and manufacturing permit, a tax clearance certificate from the South African Revenue Service certifying that the applicant's tax affairs are in order;

- (c) in the case of a conveyance permit, a diplomatic note, also referred to as a *note verbale* from the applicant's government; and
- (d) such other document as may be required by the Committee and communicated by the secretariat to the industry or any other interested person in a manner determined by the Committee.

Purposes for which permits may be issued

5. (1) The purposes for which the various permits contemplated in regulation 4(1) may be authorised and issued under the Act are as follows:

- (a) A development and manufacturing permit is required to—
 - (i) develop and manufacture controlled items; or
 - (ii) render brokering services or services related to controlled items as specified in the permit;
- (b) a marketing permit is required to—
 - (i) enable the permit holder to market or render services related to items controlled on the Munitions List in Schedule 1 of the Notice and specified in the permit; or
 - (ii) render brokering services or services related to controlled items as specified in the permit;
- (c) a contracting permit is required to enter into an agreement with a person resident in a foreign country—
 - (i) to trade in specified controlled items; or
 - (ii) to render brokering services or services relating to specified controlled items;

- (d) an export permit is required for—
 - (i) each consignment of controlled items for which a contracting permit was issued and which is exported from the Republic for the purpose of transferring ownership of the said controlled item; and
 - (ii) services which are exported relating to controlled items, and for which a contracting permit was issued;
- (e) an import permit is required for each consignment of controlled items in accordance with the control requirements indicated in Schedule 2 to the Notice and listed in the munitions list in Schedule 1 of the Notice and which is imported into the Republic for the purpose of transferring ownership of the said controlled items;
- (f) a temporary two-way import/export permit is required to enable the temporary import or export for the purpose of integration, repair, demonstration or evaluation, without transfer of ownership, whether the controlled item originates from or is destined for the Republic of South Africa or a foreign country, in respect of each consignment of controlled items listed in the munitions list to Schedule 1 of the Notice, in accordance with the control requirements indicated in Schedule 2 to the Notice;
- (g) a conveyance permit is required in respect of each consignment of controlled items to enable the conveyance of controlled items, owned by a person resident in a foreign country through or over the territory of the Republic, including its territorial waters, and such an application must include a diplomatic note (*note verbale*) from the government of the country who owns the

controlled items that are to be conveyed through the Republic requesting authorisation for such conveyance;

- (h) a domestic transfer permit is required to enable the transfer within the borders of the Republic controlled items on the munitions list of Schedule 1 to the Notice in accordance with the control requirements indicated in Schedule 2 to the Notice; and
- (i) a possession permit is required to enable a person to possess and use controlled items for lawful purposes without the intention to trade in such items and may be issued for possession of the controlled item specified therein for—
 - (i) private or business use as a tool;
 - (ii) private collection;
 - (iii) use as props in theatrical studios and film-production;
 - (iv) display at public museums;
 - (v) historic war and battlefield enactments; or
 - (vi) any other lawful purpose verified by the Inspector.

(2) Notwithstanding paragraphs (d),(e) and (f) of subregulation (1), a single import, export or temporary two-way import/export permit may be issued to cover more than one consignment.

Destruction of controlled items

6. (1) It is an explicit condition of every permit issued under the Act that no controlled item on the munitions list in Schedule 1 of the Notice and subject to the controls required in Schedule 2 to the Notice, which is in the

Republic of South Africa, may be destroyed without a written authorisation of the Committee and only in accordance with the instructions and conditions laid down by the Committee in respect of such destruction.

(2) Any controlled item that is destined for destruction in accordance with subregulation (1), including any sub-assembly or component thereof, must have its form, fit and function disrupted, deformed, dismantled or otherwise broken down to the extent the resultant item or items cannot be reconstituted or remanufactured into items controlled in Schedule 1 of the Notice.

(3) In instances where a component part, identified in Schedule 1, of the Notice that is to be recovered and recycled from a controlled item destined for destruction, a domestic transfer permit must be obtained for the controlled items so recovered by the owner.

(4) Further trade or possession in the controlled items so recovered by the owner will be subject to the appropriate permits or authorisations issued in terms of the Act.

(5) An export permit may not be issued for any firearm of a calibre of 12. 7mm (.50 inch) or smaller, including the ammunition for such a firearm, that is surplus to State or parastatal stock.

Conditions under which permits may be issued

7. (1) Without derogating from the powers of the Committee to prescribe specific conditions in respect of the issuing of a particular permit, the following general conditions apply to every type of permit contemplated in regulation 4(1):

- (a) A permit is only valid in its original form and may only be used for the intended purpose as specified in the permit and during the period of validity thereof as specified on the permit;

- (b) information contained in a permit is confidential and may not be disclosed for purposes other than activities related to the transfer, or otherwise required by law;
 - (c) the permit holder remains responsible and accountable for all actions authorised by such a permit, regardless of the involvement of transporters, freight forwarders or any other party;
 - (d) if a permit's validity period expire prior to the transfer of controlled items, the permit holder must return the permit to the secretariat with a letter requesting the cancellation of the permit and stating the reasons for non-use of the permit;
 - (e) if a permit is cancelled in terms of section 14(3) of the Act, the permit must be returned to the secretariat; and
- (2) A possession permit is issued subject to the following conditions:
- (a) the lending, selling, donation or any other disposal of the controlled item by the holder of a possession permit, is subject to the approval of the Committee and the possession of the controlled item may be transferred after a possession permit has been granted by the Committee to the person to whom it was sold, donated or handed over for disposal, unless it is transferred to a person who may lawfully be in possession of such controlled item; and
 - (b) the permit must be returned to the secretariat to be cancelled within 30 days from the date of transfer of the controlled item whereupon the holder of the possession permit must inform the secretariat of such transfer.

(3) Any condition, including a condition which the Committee may wish to impose in respect of a particular permit must be printed on the back of the permit or attached to the permit.

Amendments to permits

8. (1) Any changes by way of alterations or additions to any of the particulars contained in any application for a permit under this Act, whether intentional or unintentional, invalidate the basis on which the permit was issued.

(2) The permit holder must inform the Secretariat in writing of any changes to the information provided in the application for a permit.

(3) A request for amendments to a permit issued under this Act, may be—

- (a) refused, among other grounds, if conditions imposed on the original permit have not yet been complied with; or
- (b) authorized at the discretion of the Committee, subject thereto that—
 - (i) a permit amendment request cannot be used to change information about the applicant or exporter;
 - (ii) any existing export permits that need to be updated must be clearly identified so that new export permits may be issued with the new corporate details;
 - (iii) export permits are only valid for use by the exporter named therein;
 - (iv) exporters must ensure they are in possession of a legally amended export permit before any export takes place;

- (v) the secretariat must be informed of the date when the export is expected to leave the Republic of South Africa, if known, or of the desired duration of the permit for multiple shipments;
- (vi) any request for the extension of the time of temporary export must be lodged at least 60 days prior to the date specified in the permit;
- (vii) extensions of time are not automatically granted, but are considered on a case-by-case basis;
- (viii) exporters who wish to amend export permits to add new goods or technology must submit a new export permit application and may not use an application to amend the export permit to add new goods or technology; and
- (ix) export permit amendments may not be granted for export permits that have expired.

End-user certificates

9. (1) An end-user certificate in respect of the export of controlled items from the Republic of South Africa to another country must be issued by the person authorised by the government of the country to which the controlled items are exported on the form prescribed in Annexure B.

(2) An end-user certificate pertaining to the export of controlled items from the Republic is subject to authentication by either a Certificate of Authentication or an Apostille.

Terms and conditions: Exemptions under section 17(3)

10. (1) An exporter may be exempted from compliance with section 17(1) of the Act if—

- (a) the exporter applies for such exemption in writing to the secretariat motivating for such exemptions.
- (b) every application for an exemption is considered on a case-by-case basis; or
- (c) the export is limited to partners in a South African Government approved programme or venture involving the export of controlled items for a South African government weapons system acquisition programme for the purpose of main system transfer, systems integration, systems testing and evaluation and system operational life-cycle support, including repair and maintenance.

(2) An exemption granted subsequent to an application referred to in subregulation (1) is subject to the following conditions:

- (a) The export of any controlled item within the terms of the exemption must be reported to the secretariat prior to export thereof; and
- (b) upon approval of such exemption, the applicant must provide the following to the secretariat on a six monthly basis:
 - (i) A status report on all transfers of equipment being imports and export;
 - (ii) details of the equipment imported or exported;
 - (iii) serial numbers of all equipment exported;

- (iv) reconciliation of exports in relation to information on the basis on which exemption was granted;
- (v) all shipping and customs documentation relating to the export of the controlled item;
- (vi) a six monthly plan of expected, planned exports;
and
- (vii) confirmation of exports and a comprehensive reconciliation at the finalisation stage of the programme subjected to the exemption.

Keeping of records

11. (1) Any person who is a holder of a permit in terms of this Act must keep one or more registers including, but not limited to the following:

- (a) Details of each transaction that requires a permit in terms of the Act, reflecting—
 - (i) the type of transaction;
 - (ii) the date of application for the permit;
 - (iii) detail and description of controlled goods involved, including, but not limited to, the record of equipment identification numbers per contracting permit, export permit and domestic transfers, such as vehicle chassis numbers, weapon serial numbers and barrel serial numbers;
 - (iv) the type and value of the transaction; and

- (v) the responsible person, the countries involved, the transaction amount, dates and reference numbers of permits received, the date of execution of transactions, cancelled transactions and the disposal of permits; and
- (b) all supporting documents for the transactions referred to above, must be kept available for inspection at all times, including, but not limited to—
 - (i) approved permits;
 - (ii) clearing or shipping instruction issued in writing by exporter or importer to freight forwarder;
 - (iii) South African Revenue Service documentation relevant to imports or exports, including , but not limited to air waybill or bill of lading, customs declaration form, registration of goods for re-importation, customs release note, supplier invoice, packing list, admission temporaire/temporary admission (ATA) carnet forms and bank forms.

(2) The register must ensure the timeous detection of the expiry dates of permits in order to ensure that renewal applications can be made in time.

(3) The permit holder must keep the records, minutes, registers and financial statements contemplated in section 27(1)(d) of the Act up to date as determined by the Committee.

Applications for export of firearms and ammunition

12. The National Commissioner of the South African Police Service must submit for approval to the Committee any application for the export of firearms

and ammunition controlled in terms of the Firearms Control Act, 2000 (Act No. 60 of 2000), where the quantity of the firearms exceeds 10 firearms per type, and the quantity of ammunition exceeds 20 000 per calibre.

Reports

13. (1) The format for reports to be furnished by the Committee to Parliament as contemplated in section 27(1)(e) of the Act must, in respect of the type and description of controlled items, be as follows:

- (a) Main battle tanks;
- (b) armoured combat vehicles;
- (c) large calibre artillery;
- (d) combat aircraft;
- (e) attack helicopters;
- (f) warships;
- (g) missiles and missile launchers;
- (h) other munitions listed in Schedule 2 of the Notice; and
- (i) dual-use goods and technologies listed in Schedule 2 of the Notice.

(2) The following must also be indicated—

- (a) the final importer state;
- (b) number of items;
- (c) State of origin (if not the exporter);
- (d) intermediate location (if any);
- (e) remarks (including description of item and comments on transfer).

Request for reasons

14. (1) Any person who has an interest in a decision taken by a competent authority may in writing, within 90 days from the date that the decision was taken, request the authority for its reasons for the decision.

(2) A competent authority must, within 90 days after receipt of a request contemplated in subregulation (1) respond in writing to the person concerned.

Grading system

15. The grading system contemplated in section 25B(3) of the Act is as follows:

- (a) Grade A: Full compliance over a period of five years with the Industrial Compliance Programme;
- (b) Grade B: Compliance in general over a period of five years with the Industrial Compliance Programme, but minor inadvertent failures to comply with the Industrial Compliance Programme, have voluntarily been reported, full cooperation was provided in rectifying shortcomings and no criminal prosecutions were instituted and no administrative fines were imposed during the said period;
- (c) Grade C: Compliance in general over a period of five years with the Industrial Compliance Programme, but failures to comply with the Industrial Compliance Programme, have not in all instances been reported and administrative fines have been imposed;
- (d) Grade D: Compliance in general with the Industrial Compliance Programme, and there is still cooperation to rectify shortcomings and proof that causes have been adequately addressed, but within a five year period administrative fines as well as criminal prosecution and conviction followed non-compliance with the Industrial Compliance Programme; and
- (e) Grade E: Repeated non-compliance within a period of five years with the Industrial Compliance Programme, administrative fines were imposed, criminal prosecution and conviction followed, cancellation of permits took place and there is a lack of cooperation to rectify shortcomings.

Repeal of laws and transitional arrangements

15. (1) The regulations promulgated by Government Notice No. R. 634 of 28 May 2004 are hereby repealed.

(2) Any person who is—

(a) not in possession of a development and manufacturing permit issued in terms of the Act; and

(b) in possession of controlled items on the munitions list in Schedule 2 of the Notice, other than in the circumstances referred to in section 13(2),

must within one year after the commencement of these Regulations apply to the secretariat for a possession permit contemplated in regulation 5(i), and may lawfully remain in possession of such controlled item until such application has been decided.

(3) If an application contemplated in subregulation (3) is denied, or if no application has been made for a possession permit within the period stipulated in subregulation (3), the controlled item in question must be surrendered forthwith to the Inspectorate to dispose of in cooperation with the South African Police Service.

(4) All persons who have been registered with the secretariat in terms of section 13(1) of the Act before the commencement of the National Conventional Arms Control Amendment Act, 2008 (Act No. 73 of 2008), must be issued, upon request, with a registration certificate contemplated in regulation 3(3).

Short title and commencement

16. These Regulations are called the National Conventional Arms Control Regulations, 2011, and come into operation on the date on which the National Conventional Arms Control Amendment Act, 2008 (Act No. 73 of 2008), takes effect.

Annexure A

Application form to Register in terms of section 13(1) of the Act

PLEASE SEND TO:

The NCACC Secretariat
Private Bag X910
PRETORIA
0001

Date of application			
Applicant's Reference			
Date Received:		Registry No:	

DETAILS OF APPLICANT				
Name and Postal Address			Physical Address	
1.				
1.1	Trading As:		1.4	Facsimile:
1.2	Telephone No:		1.5	e-mail:
1.3	Website:			
DECLARATION BY APPLICANT				
2.	I, the applicant, duly authorised thereto, hereby apply for registration in terms of the National Conventional Arms Control Act, No 73 of 2008 for controlled items development, manufacturing or related services permit as detailed herein and declare that information furnished in this application is true and correct.			
NATURE AND PURPOSE OF APPLICATION				
3.				
COMPANY INFORMATION				
4.	List of the Principal Executive Officer, Directors, Partners and Owners of the company and identification numbers			
	Member	Position		Identification Number

4.1	Company's Bank or Financial Institution:			
4.2	Company Registration Number:			
Company's Appointed Compliance Representative Details				
4.3	Name:		Appointment:	
4.4	Address:		Telephone:	
			Facsimile:	

BUSINESS REFERENCES				
5.	Provide 5 business references below:			
5.1	Name:		e-mail:	
	Address:		Telephone:	
			Facsimile:	
5.2	Name:		e-mail:	
	Address:		Telephone:	
			Facsimile:	
5.3	Name:		e-mail:	
	Address:		Telephone:	
			Facsimile:	
5.4	Name:		e-mail:	
	Address:		Telephone:	
			Facsimile:	
5.5	Name:		e-mail:	
	Address:		Telephone:	
			Facsimile:	

APPLICANT'S DECLARATION ON LEGISLATION			
6.			
6.1	National Conventional Arms Control Act, No 73 of 2008	6.4	Firearms Control Act, No 60 2000
6.2	Regulations of Mercenary Activities Act, No. 68 of 2006	6.5	Explosives Act, No 26 of 1956
6.3	Non-proliferation of weapons of mass destruction Act, No 59 of 1996	6.6	Importation of Teargas Act, No 16 of 1964

7.5	<i>(I, the undersigned, hereby certify that the information provided above is true and correct).</i>		
 Signature:		

Annexure B

**END-USER CERTIFICATE
REQUIRED FOR EXPORT OF CONTROLLED ITEMS FROM THE
REPUBLIC OF SOUTH AFRICA
SECTION 5A**

(In terms of section 17(1) of the National Conventional Arms Control Act, 2002 (Act No. 41 of 2002), an end-user certificate must be issued by a person authorised by the Government of the country to which items controlled in terms of the said Act are exported or a person authorised under the Charter of the United Nations.)

1. Parties

Name and address of the South African exporter	Exporters reference		
Name of consignee	Consignee's address		
Name of declared end-user/user in own production	Declared end-user/user in own production address		
Is end-user; user in own production or consignee the armed forces or internal security forces of its country? (mark with X) <div style="text-align: center; margin-top: 10px;"> <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="padding: 5px 10px;">YES</td> <td style="padding: 5px 10px;">NO</td> </tr> </table> </div>	YES	NO	Specific location where goods will be used or based (if known and if different from consignee's address).
YES	NO		
If NO specify.....			
If any intermediaries are involved in the transfer, provide address and contact details:			

2. Controlled items

Description of controlled item	Quantity of controlled items

	If continuation sheets need to be used, each sheet must carry the exporter's reference, and must be signed and dated by the same person who signs this form.

3. Purpose

3.1 Set out the specific purpose for which the controlled item(s) are to be used:

3.2 Indicate whether the controlled items will be used in the developing or manufacturing of weapons of mass destruction or related purposes (mark with X)¹

YES

NO

3.3 Indicate whether it is intended to transfer or re-export the controlled items to another country whether as stand-alone or integrated into another product (mark with X)²

YES

NO

3.4 State whether the end-use of the controlled items is for commercial (civilian) (mark with X); military; or law enforcement use (mark with X)

Commercial/
civilian use

Military
use

Law
enforcement
use

3.5 Is the export temporary (mark with X)

YES

NO

3.6 If answer in 3.5 is YES, a detailed explanation of the reason for the export

¹ Note that in terms of section 17(2)(b) of the National Conventional Arms Control Act, 2002, a certificate may be required from a person authorised by the government of the country to which the controlled items are to be exported, undertaking that the controlled items shall not be used in the developing or manufacturing of weapons of mass destruction or related purposes.

² Note the undertaking required in paragraph 4, that the controlled items will not be transferred or re-exported to another country without the authorisation of the South African Government. In terms of section 17(3) of the National Conventional Arms Control Act, 2002, the National Conventional Arms Control Committee may, on the terms and conditions prescribed in the Regulations give exemptions to the requirements in section 17(1), of which this undertaking is a requirement.

(such as for repair or for demonstration at a trade show):
Explanation:

3.7 Will the exported controlled item remain in the possession of an employee of the exporter while outside the Republic of South Africa?

YES

NO

4. End-user/User in own production-undertaking

I, _____ full names and surname, duly authorised and competent to sign this undertaking as or on behalf of the end-user/user in own production, indicated in paragraph 1(e) hereby certify that –

- (a) I am or (or name of company/entity)..... is the end-user/user in own production of the controlled items described in paragraph 2, which are to be supplied by the exporter named in paragraph 1(a);
- (b) the said controlled item(s) must be used for the purposes described in paragraph 3;
- (c) proof of importation of the controlled items shall be supplied by way of a delivery verification.

An undertaking is hereby given that the controlled items will not be transferred or re-exported to any other person or country without the authorisation of the South African Government and that any transfer or re-export will only be carried out under the authority of the end-user's export licensing authority.³

It is undertaken to provide a delivery verification report within 14 days from shipment to the Directorate Conventional Arms Control at the following address:

The Secretariat: Conventional Arms Control Committee
 Private Bag X910
 Pretoria 0001
SOUTH AFRICA

³ (This is applicable unless an exemption under section 17(3) of the National Conventional Arms Control Act, 2002, has been granted).

It is agreed that on-site verification of the controlled items may be performed by an inspector designated by the Minister in terms of Section 9 of the Act.

.....
Signature of official of end-user / user in own production

Full names and

Surname:.....

Title:.....

Telephone Number:.....

Fax Number:.....

E Mail Address:.....

Corporate Website:.....

Date:..

5. Consignee⁴ undertaking (to be completed if controlled items are imported on behalf of an end-user)

As duly authorised representative of the person or body named at paragraph 1(c), I hereby certify that(name of entity or person) is the importer of the controlled item(s) described in paragraph 2. I further certify that the controlled item(s) are intended for stock to be held against future orders and (DELETE either (i) or (ii):

- (i) will not be transferred or re-exported from the country where we are based, namely..... **OR**
(ii) are likely to be transferred to the following countries.....

An undertaking is hereby given that the controlled items will not be transferred or re-exported to any other person or country without the authorisation of the South African Government and that any transfer or re-export will only be carried out under the authority of the end-user's export licensing authority.⁵

It is undertaken to provide a delivery verification report within 14 days from shipment to the Directorate Conventional Arms Control at the following address:

The Secretariat: Conventional Arms Control Committee

⁵ (This is applicable unless an exemption under section 17(3) of the National Conventional Arms Control Act, 2002, has been granted).

Private Bag X910
Pretoria 0001
SOUTH AFRICA

It is agreed that on-site verification of the controlled items may be performed.

Signature of official of consignee.....

Full names and

Surname:.....

Title:.....

Telephone Number:.....

Fax Number:.....

E Mail Address:.....

Corporate Website:.....

Date:.....

NOTES

Paragraph 1: Parties

- a) The exporter should be the person who makes the licence application.
- b) The exporter's reference can be completed by the exporter.
- c) d) The consignee is the person or body to whom the goods are to be sent. If the consignee is the same as the end-user, (d) can be left blank
- e)-h) The end-user details should be those of the person or body to whom the controlled items are exported.

Paragraph 2: Goods

We need to understand what the controlled items are and to be able to compare them with the controlled items described in the licence application. We need a detailed description of the main item or items. If, for example, the main item or items are accompanied by a long list of spares or accessories, you should indicate this, but it may not need to spell out all the items individually. If the goods are spares, components or accessories, you should indicate what they are to be used for, and describe clearly the item in or with which they will be used (e.g. turbine blades for XX engine for YY aircraft).

Paragraph 3: Purpose of the goods

If the controlled items are to be incorporated into another product, then *that* product – and its use – should also be described.

Paragraph 4: End-user undertaking

To be completed by the body or person, in the country of ultimate destination, to whom the controlled items are exported will make final use of the controlled item(s).

Paragraph 5: Consignee undertaking

If paragraph 4 cannot be completed, this must be completed by the person or body to whom the controlled are to be sent, by the importer if the importer is not the final user.

GOVERNMENT NOTICE

DEPARTMENT OF DEFENCE

NATIONAL CONVENTIONAL ARMS CONTROL COMMITTEE

No.2011

NOTICE UNDER SECTION 27(3) OF NATIONAL CONVENTIONAL ARMS CONTROL ACT, 2002

LIST OF ITEMS TO WHICH THE ACT IS APPLICABLE

The National Conventional Arms Control Committee, established by section 2 of the National Conventional Arms Control Act, 2002 (Act No. 41 of 2002), hereby, under section 27(3) of the said Act, publishes the list of controlled items to which the said Act is applicable, as Schedule 1 hereto, as well as an exposition of the manner in which it is applicable, thereto and which types of permits are required in terms of the Act, as Schedule 2 hereto.

Schedule 1: Wassenaar List

The Wassenaar List Schedule 2 to Government Notice in terms of section 27(3) is, which is attached to Government Notice R634 in Government Gazette No. 26372, dated 28 May 2004.

The Wassenaar List can be sourced electronically from:

<http://www.wassenaar.org/controllists/2010/WA-LIST%20%2810%29%201%20Corr/WA-LIST%20%2810%29%201%20Corr.pdf>

Schedule 2: The applicability of the List

An exposition of the manner in which the list is applicable.

SCHEDULE 2**SCHEDULE OF SOUTH AFRICAN CONTROLS RELATED TO ITEMS LISTED
IN SCHEDULE 1****KEY TO ABBREVIATIONS CONTAINED IN SCHEDULE 1**

Development and Manufacturing Permit: DMP

Marketing Permit: MKP

Import-related Permits: IMP

Export-related Permits: EXP

Contracting Permit: CP

Transit Permit: TP

Possession Permit: PP

End User Certificate: EUC

Delivery Verification Requirement (for Exports): DVR

Domestic Transfer Permit: DTP

Destruction Permit: DP

Refer remarks column alongside: R (Where followed by a number, this number refers to the applicable note number contained in that set of remarks)

No, not controlled: N

Yes, controlled: Y

GENERAL NOTICE

Note 1: For control in terms of the provisions of the Act and the Regulations, Schedule 2 makes reference to the control status of items listed in Schedule 1; and, decontrolling notes listed in Schedule 1 remain applicable.

Note 2: The requirement for import and export licensing in terms of the Act is not required for "insignificant items" as follows:

- a. "Insignificant items" means everyday items including commercially available equipment, spares, parts, components and accessories not identified on the Dual Use Goods and Technologies List nor identified on the Munitions List and as such are deemed exempt from control in terms of the Regulations of the National Conventional Arms Control Act.
- b. In instances where it is unclear whether an item of equipment, spare part, component or accessory is controlled under the Dual Use Goods and Technologies List or the Munitions List, the item will, unless otherwise determined by other legislation, be deemed controlled in instances where the item is specially designed for the parent item that is described as a controlled item on the Dual Use Goods and Technologies List or the Munitions List of which the item in question forms a part.

Note 3: The onus rests with the person wishing to develop and manufacture, import, export, broker in, use, possess, service, dispose of or otherwise trade in items controlled in Schedules 1 and 2 to verify the control status of such items, and, where necessary, apply for registration and the appropriate permits from the relevant authorities.

CONTROLS

2. The following controls apply to goods, services and technologies identified in Schedule 1:

List Index (See list in Schedule 1 for details)	Control Mechanisms											Remarks
	DMP	MKP	IMP	EXP	CP	TP	PP	EUC	DVR	DTP	DP	
DUAL USE GOODS & TECHNOLOGIES LIST												
Category 1 Special Materials and Related Equipment	N R	N R	N R	Y R	N	N	N R	N	N	N	N	1. Items of body armour capable of stopping bullets at Level IIA (typically 9mm/40 S&W low velocity), Level II (typically 9mm/357 Magnum high velocity), Level IIIA (typically 357 SIG/44 Magnum) and Level III (typically 7.62 Full Metal Jacket/Military Rifle) of the United States of America National Institute of Justice Standard (NIJ) Standard—0101.04 (July 2008) are considered Dual Use Goods under Category 1A5. 2. All explosives are controlled in terms of the Explosives Act, 1956 (Act No. 26 of 1956) 3. Category 1A8 — RDX and its derivatives mixed, integrated, shaped, cast or otherwise formed into items specially designed and destined for commercial end use, including for commercial demining purposes and the commercial removal of explosive remnants of war, are not controlled on the Munitions List.
Category 2 Materials Processing	N	N	N	Y	N	N	N	N	N	N	N	
Category 3 Electronics	N	N	N	Y	N	N	N	N	N	N	N	
Category 4 Computers	N	N	N	Y	N	N	N	N	N	N	N	
Category 5 - Part 1 Telecommunications	N	N	N	Y	N	N	N	N	N	N	N	
Category 5 - Part 2 "Information Security"	N	N	Y	Y	N	N	N	N	N	N	N	Note that an import permit is required for Category 5 - Part 2 Items
Category 6 Sensors and "Lasers"	N	N	N	Y	N	N	N	N	N	N	N	

List Index (See list in Schedule 1 for details)	Control Mechanisms											Remarks
	DMP	MKP	IMP	EXP	CP	TP	PP	EUC	DVR	DTP	DP	
Category 7 Navigation and Avionics	N	N	N	Y	N	N	N	N	N	N	N	
Category 8 Marine	N	N	N	Y	N	N	N	N	N	N	N	
Category 9 Aerospace and Propulsion	N	N	N	Y	N	N	N	N	N	N	N	
Sensitive List	N	N	N	Y	N	N	N	N	N	N	N	
Very Sensitive List	N	N	N	Y	N	N	N	N	N	N	N	

MUNITIONS LIST

List Index (See list in Schedule 1 for details)	Control Mechanisms											Remarks
	DMP	MKP	IMP	EXP	CP	TP	PP	EUC	DVR	DTP	DP	
ML1. (Light Weapons)	Y	Y	Y	Y R	Y	Y	R	Y	Y	Y R 5	Y	<p>1. Possession of a "firearm" as defined in the Firearms Control Act, 2000, is controlled in terms of the Firearms Control Act, 2000 (Act No. 60 of 2000).</p> <p>2. The trade in items listed under ML1 for purposes of dealing in firearms for private possession, private and public collection, private use, use for private security, use for business purposes, use for sports shooting and hunting, and use for law enforcement purposes, is regulated in terms of the Firearms Control Act, 2000, subject to section 4(3) of the National Conventional Arms Control Act, 2002 and Regulation 12 of the National Conventional Arms Control Regulations, 2011.</p> <p>3. Regulation under both the Firearms Control Act, 2000, and the National Conventional Arms Control Act, 2002, is applicable to the trade in items listed under ML1, intended for military uses.</p> <p>4. Under section 4(3), of the National Conventional Arms Control Act, 2002, read with Regulation 12. of the National Conventional Arms Control Regulations, 2011, the National Commissioner of the South African Police Service must submit to the National Conventional Arms Control Committee any application for the export of firearms which exceeds 10 per type.</p> <p>5. In terms of Regulation 6(4), an export permit, may not be issued for any conventional arms of a calibre of 12.7mm (0.5 inch) or smaller, including the ammunition for such arms, that is surplus to State or parastatal stock. Domestic transfers of such arms and ammunition for the purpose of destruction by contractors shall be authorised by the Committee by means of a destruction permit and a domestic transfer permit.</p>
ML2. (Heavy Weapons)	Y	Y	Y	Y	Y	Y	R	Y	Y	N	N	<p>1. The licensing and possession of items listed for control under ML2 which fall within the definition of "prohibited firearms" as referred to in section 4 of the Firearms Control Act, 2000, shall be regulated in terms of that Act, for purposes of private or public collection.</p> <p>2. The possession of and trade in such prohibited firearms for any other purpose as well as the possession of and trade in of all other items listed in ML2 are regulated in terms of the Conventional Arms Control Act, 2002.</p>

List Index (See list in Schedule 1 for details)	Control Mechanisms											Remarks
	DMP	MKP	IMP	EXP	CP	TP	PP	EUC	DVR	DTP	DP	
ML3 (Ammunition and related items)	Y	Y	Y R	Y R	Y	Y	N R	Y	Y	Y R 6	Y	<p>1. Possession of "ammunition" as defined in the Firearms Control Act, 2000, is controlled in terms of the Firearms Control Act, 2000, (Act No. 60 of 2000).</p> <p>2. The possession of ammunition which fall within the definition of "prohibited firearms" as referred to in section 4 of the Firearms Control Act, 2000, shall be regulated in terms of that Act for purposes of private or public collection. Possession of such item for any other purpose shall be regulated in terms of the National Conventional Arms Control Act, 2002.</p> <p>3. The trade in items listed under ML3 for purposes of dealing in ammunition for private possession, private and public collection, private use, use for private security, use for business purposes, use for sports shooting and hunting, and use for law enforcement purposes, is regulated in terms of the Firearms Control Act, 2000, subject to section 4(3) of the National Conventional Arms Control Act, 2002 and Regulation 12 of the National Conventional Arms Control Regulations, 2011.</p> <p>4. Regulation under both the Firearms Control Act, 2000, and the National Conventional Arms Control Act, 2002, is applicable to the trade in ammunition listed under ML3, intended for military use.</p> <p>5. Under section 4(3) of the National Conventional Arms Control Act, 2002, read with Regulation 12 of the National Conventional Arms Control Regulations, 2011, the National Commissioner of the South African Police Service must submit to the National Conventional Arms Control Committee any application for the export of ammunition which exceeds 20,000 per calibre.</p> <p>6. In terms of Regulation 6(4), an export permit, may not be issued for any conventional arms of a calibre of 12.7mm (0.5 inch) or smaller, including the ammunition for such arms, that is surplus to State or parastatal stock. Domestic transfers of such arms and ammunition for the purpose of destruction by contractors shall be authorised by the Committee by means of a destruction permit and a domestic transfer permit.</p> <p>7. Subject to the provisions of the Firearms Control Act, 2000, a person in private possession of ammunition components that are free of explosive content does not require a possession permit in cases where the person can show that such possession is not related to trading in arms and ammunition and arises from incidental acquisition of components for private use, (such as cartridge cases for reloading), keeping souvenirs or processing scrap metal.</p>

List Index (See list in Schedule 1 for details)	Control Mechanisms											Remarks
	DMP	MKP	IMP	EXP	CP	TP	PP	EUC	DVR	DTP	DP	
ML4. (Bombs, Rockets and related items)	Y R	Y R	Y R	Y R	Y R	Y R	Y R	Y R	Y R	N	N	Controls related to the explosive content of items listed under ML4 are also subject to the provisions of the SAPS Inspector of Explosives in terms of the Explosives Act, 1956.
ML5. (Fire Control Equipment and related items)	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	
ML6. (Ground Vehicles and related items)	Y R	Y R	Y R	Y R	Y R	Y R	Y R	Y R	Y R	Y 3	Y 4	<p>1. ML6a includes control over the SAMIL 20, SAMIL 50, SAMIL 100 range of soft-skinned vehicles unless the vehicles have had all of the following features removed or altered before buyers take over title or ownership in which case import, export, transit and possession and use is exempt from further control in terms of the NCAC Act –</p> <ol style="list-style-type: none"> removal of pneumatic tyre casings of a kind specially designed to be bullet-proof or to run when deflated; removal of armoured protection of vital parts, (e.g. fuel tanks or vehicle cabs); removal of special reinforcements or mountings for weapons; removal of black-out lighting; and alteration of colour and markings used by the SA National Defence Force, for example, the painting of a white, red or orange diagonal defacing stripe of approximately one metre wide on both sides of the vehicle. <p>2. In instances where a military vehicle specially designed for military use under ML6 is or will be licensed for regular use on National Roads in its original colour and markings such as by bona-fide collectors or film studios, the owner shall apply for a possession permit within one year of the Regulations coming into force or within 90 days of taking ownership thereof.</p> <p>3. Armoured vehicles, and where incomplete, their hulls, are subject to a domestic transfer permit when changing title or ownership.</p> <p>4. Armoured vehicles, and where incomplete, their hulls, are subject to a destruction permit when owner intends destroying.</p>

List Index (See list in Schedule I for details)	Control Mechanisms											Remarks
	DMP	MKP	IMP	EXP	CP	TP	PP	EUC	DVR	DTP	DP	
ML7. (Chemical & Biological Agents and related items)	Y R	Y R	Y R	Y R	Y R	Y R	Y R	Y R	Y R	N	N	<p>1. "Biological agents" referred to in ML7a are not controlled by the National Conventional Arms Control Act, 2002. Refer to other applicable legislation including the Non Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993), for the control of biological agents.</p> <p>2. The following items are not controlled by the National Conventional Arms Act, 2002, but are controlled under other legislation including the Non Proliferation of Weapons of Mass Destruction Act, 1993:</p> <ul style="list-style-type: none"> a. ML7b1a CW Nerve agents b. ML7b1b CW Nerve agents c. ML7b1c CW Nerve agents d. ML7b2a1-9 CW vesicant agents: Sulphur mustards e. ML7b2b1-3 CW vesicant agents: Lewisites f. ML7b2c1-3 CW vesicant agents: Nitrogen mustards g. ML7b3a CW incapacitating agents h. ML7b4a and b. CW defoliants i. ML7b4c1-4. CW binary precursors & key precursors <p>3. Trade in riot control agents listed under ML7d requires permits in terms of the National Conventional Arms Control Act, 2002, the Tear-gas Act, 1964 (Act No. 16 of 1964), and the Non Proliferation of Weapons of Mass Destruction Act, 1993.</p> <p>4. ML7d does not apply to "riot control agents" individually packaged for personal self defence purposes.</p> <p>5. ML7d does not apply to active constituent chemicals, and combinations thereof, identified and packaged for food production or medical purposes.</p>

List Index (See list in Schedule 1 for details)	Control Mechanisms											Remarks
	DMP	MKP	IMP	EXP	CP	TP	PP	EUC	DVR	DTP	DP	
ML8. (Energetic Materials and related items)	Y	Y	Y	Y	Y	Y	Y R	Y	Y	N	N	<p>1. Controls related to the possession of explosive content of items listed under ML8 are subject to regulation under the r the Explosives Act, 1956.</p> <p>2. ML8a21. - RDX and its derivatives mixed, integrated, shaped, cast or otherwise formed into items specially designed and destined for commercial end use (such as rock clearing in mineral mining operations), including for demining purposes (the removal of landmines) and the removal of explosive remnants of war, are controlled in terms of the Conventional Arms Control Act, 2002, as explosives on the Dual-Use Goods and Technologies List and in terms of the Explosives Act, 1956.</p> <p>3. Specially formulated pharmaceutical products containing ML8 materials for medicinal use (such as nitroglycerine for heart medications) are not controlled.</p>
ML9. (Vessels of War and related items)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y R 1	Y R 2	<p>1. Vessels of war, and where incomplete, their hulls, are subject to a domestic transfer permit when changing title or ownership.</p> <p>2. Vessels of war, and where incomplete, their hulls, are subject to a destruction permit when owner intends destroying.</p>
ML10. (Aircraft and related items)	Y	Y	Y	Y	Y	Y	Y R 1 2	Y	Y	Y R 1	Y R 3	<p>1. See Notes to ML10 Refer to the South African Civil Aviation Authority.</p> <p>2. Military parachutes kept for personal private use are exempt from control for possession.</p> <p>3. Military aircraft, and where incomplete, their airframes, that are subject to control in terms of ML10 and destined for destruction by South African owners, require a destruction permit.</p>
ML11. (Other Electronic Equipment and related items)	Y	Y	Y	Y	Y	Y	Y R	Y	Y	N	N	<p>1. Items of electronic equipment listed under ML11 and manufactured before 1978 are not controlled for possession in terms of the Act provided the items cannot easily be reintegrated into a functional military weapon system.</p>
ML12. (High Velocity Kinetic Energy Eqpt and related items)	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	See Note under ML3.

[illegible]

List Index (See list in Schedule 1 for details)	Control Mechanisms										Remarks	
	DMP	MKP	IMP	EXP	CP	TP	PP	EUC	DVR	DTP		
ML 21. (Software)	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	
ML22 (Tech- nology)	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	