

Cabinet Decision no. (97) of 2024
Concerning the Implementing Regulation of Federal Decree Law no. (43) of 2021
On Commodities Subject to Non-Proliferation

The Cabinet,

- In accordance with the Constitution,
- Pursuant to Federal Decree Law no. (43) of 2021 on Commodities Subject to Non-Proliferation,
- Cabinet Decision no. (15) of 2021 on the Establishment of the Executive Office for Control and Non-Proliferation, and
- Based on the proposal of the Minister of Foreign Affairs and the approval of the Cabinet,

Hereby decides as follows:

Article (1)

Definitions

The definitions in the aforementioned Federal Decree Law no. (43) of 2021 shall apply to the present decision. Additionally, unless otherwise specified by context, the following words and expressions shall have the meanings assigned thereto:

Decree Law: Federal Decree Law no. (43) of 2021 on Commodities Subject to Non-Proliferation.

Competent Authority: the Executive Office for Control and Non-Proliferation (EOCN).

Permit: authorization issued by the competent authority allowing trade in any of the commodities listed in the relevant table and included in the Decree Law and the present decision. Trading shall include import, export, re-export, provisional shipping, transshipping, intra-port forwarding, or brokerage.

End-user certificate: a document from relevant authorities in the State or abroad or from relevant companies or individuals confirming the final owner or recipient of the commodity.

Prohibition: a ban on trading commodities and materials subject to the Decree Law whether to or from the UAE or specific states under certain conditions, in line with controls set out in conventions and treaties ratified by the UAE.

Restriction: Imposition of conditions and controls on trading in commodities or materials subject to the Decree Law whether to or from the UAE or specific states in certain situations, pursuant to controls set out in conventions and treaties ratified by the UAE.

Strategic commodities: Dual-use commodities in both civilian and military contexts or any other commodities that contribute to the proliferation of weapons of mass destruction, including associated technology and software, as well as commodities potentially harmful to public safety or health, the environment, natural resources or national security.

Chemicals: Dual-use materials in both civilian and military domains or any other commodities that contribute to the proliferation of weapons of mass destruction, including materials that may cause damage to public safety, health, the environment, natural resources or national security.

Armoured vehicles: civilian vehicles fitted with bulletproof glass and/or armour plating for protection against attacks, bullets and explosives.

Applicant: the natural or legal person applying for a permit for trading purposes.

Article (2)

Commodity Prohibition

The competent authority may prohibit trading of commodities listed in the commodities table in the following cases:

1. When the commodity poses a threat to public safety, health, the environment, or natural resources in the State.
2. When trading the commodity jeopardizes the safety and security of the State.
3. When trading the commodity in the State violates treaties and agreements ratified by the State.
4. When the commodity is prohibited under a UN Security Council resolution.
5. When the commodity contributes to the production or development of weapons of mass destruction and associated technology and delivery means.

Article (3)

Commodity Restriction

The competent authority may impose restrictions on commodities listed in the commodities table in the following cases:

1. The State may impose restrictions on the trade of some commodities for reasons related to domestic security or safety.
2. The State may impose restrictions on the export of some commodities to specific jurisdictions based on UN Security Council Resolutions.
3. The State may impose restrictions on the trade or export of some commodities pursuant to international treaties or agreements ratified by the UAE.

Article (4)

Conditions for Issuing Permits

Without prejudice to the requirements imposed by applicable legislation in the UAE and relevant international conventions ratified by the UAE, the competent authority may issue a permit to the applicant as per the following conditions:

1. The permit is in line with the applicant's licensed activity.
2. The end-user has obtained a permit from the relevant authorities in the destination country of the commodity according to its legislation if necessary.
3. The applicant has provided sufficient information on the commodity's transit route, in case it was passing through multiple jurisdictions.
4. The applicant is registered on the competent authority's website, in accordance with established forms.
5. The purpose of the application to obtain the permit is for the peaceful trade in the commodity, whereby it does not contribute in any way to the proliferation or development of weapons of mass destruction and their associated technology and delivery means.
6. The applicant holds a valid license to operate issued by relevant authorities in the State.
7. The end-user certificate was provided as deemed necessary by the competent authority.
8. The applicant has no prior convictions related to the Decree Law, unless rehabilitated.
9. Applicable fees for issuing the permit were paid.
10. The applicant or end-user is not listed on local ban lists.

In all cases, applications for permits to trade in strategic commodities and chemicals must be submitted separately, even if the applicant or end-user is the same.

Article (5)

Permit Categories

Permit categories for commodities governed by the Decree-Law and the present decision, shall be the following:

1. Strategic commodities.
2. Chemicals.
3. Armoured vehicles.

Article (6)

Permit Procedure

1. Applicants wishing to obtain a permit from the competent authority to trade in any of the commodities under the Decree Law and the present decision, shall follow these steps:
 - a. Register on the official website of the competent authority.
 - b. Submit all required documents as outlined by the competent authority.
 - c. Apply for a permit to trade in strategic commodities, chemicals, or armoured vehicles using the forms provided by the competent authority.
2. The competent authority will review the application to verify the validity of the provided documents and the extent to which the applicant meets the conditions set out in the Decree Law and the present decision.
3. The competent authority will issue the permit within 20 working days from the date of a valid application meeting all the conditions to obtain a permit. If no response is provided within this timeframe, the application will be deemed rejected.
4. The applicant must inform the competent authority of any changes to the information provided to obtain the permit as soon as they occur. Relevant supporting documents shall be annexed to the application.

Article (7)

Permit Templates

The competent authority will create and publish templates for each permit category on its official website.

Article (8)

Permit Duration

Permits are valid for a maximum of 60 days from the date of issuance.

Article (9)

Permit Renewal

Requests for permit renewal must be submitted using the prescribed template within five days prior to the permit's expiration date. The following conditions must be met for renewal:

1. Conditions to obtain the permit, as stipulated in the Decree Law and the present decisions, must still be fulfilled.
2. Renewal fees must be paid.

Article (10)

Controls on Permit Use

1. Without prejudice to the requirements of concerned authorities, permits must be issued in the name of the beneficiary and can only be used within the limits of the authorized scope. They cannot be waived or transferred to another party unless a new permit is issued as per the provisions of the Decree Law and the present decision.
2. Permit holders may not dispose of or deliver any commodity subject to the provisions of the Decree Law and the present decision to another party unless upon obtaining a new permit from the competent authority, in line with the conditions and procedures to issue permits as set out in Articles 4 and 6 of the present decision.
3. Permit holders shall not trade in any commodity included in the provisions of the Decree Law upon expiry of the permit.

Article (11)

Permit Cancellation

1. The competent authority may cancel a permit in any of the following cases:
 - a. If it becomes clear that trading in the commodity poses a risk to public safety, health, the environment, natural resources, or national security.
 - b. If trade in the commodities for which the permit was granted is prohibited or restricted.

- c. If the permit is used for purposes other than those specified.
 - d. If the permit was issued based on fraudulent or false documentation or information.
 - e. If the permit is used by a person other than the permit holder.
 - f. If the permit holder is listed on international ban and sanctions lists.
2. Any erasure or alteration in the permit shall render it null and void.

Article (12)

Record Keeping

Permit holders must maintain records related to the permit as per the following:

1. All trading transactions in the commodities subject to control and non-proliferation must be recorded on paper or electronically.
2. Paper or electronic records must be kept for five years starting from the expiry date of the permit to trade in commodities subject to control and non-proliferation.
3. All records and documents kept by the permit holder must be made available upon request by the competent authority or law enforcement officers. This shall be evidenced in the records or documents that were examined.

Article (13)

Controls on trading in restricted and hazardous materials

Without prejudice to applicable laws in the UAE, the competent authority may issue permits to trade in restricted and hazardous substances listed in the commodities table from the Weapons and Hazardous Substance Office upon the request of the authority licensing the activity. Additionally, all conditions and procedures for issuing the permit as stipulated under Articles (4) and (6) of the present decisions must be met, along with any other controls as determined by the competent authority in coordination with the Weapons and Hazardous Substance Office.

Article (14)

Commodities not Included in the Commodities Table

The competent authority may seize any commodity that is not listed in the commodities table in the following cases:

1. If there are sufficient grounds to suspect that such commodity will be used in a prohibited activity.
2. If the end-user is listed in the national sanction lists.
3. If any component of such commodity is prohibited or restricted as per the provisions of the Decree Law or the present decision.

4. If such commodity represents a raw material for another commodity that is included in the commodities table.

In all cases, the seizure of such commodities shall be coordinated with the relevant authorities, and search and seizure procedures for commodities listed in the table shall apply, in line with Articles (15) and (16) of the present decision.

Article (15)

Search Procedures

1. The competent authority may conduct search operations on commodities as part of its controls to ensure compliance with the requirements of the Decree Law and the present decision. This includes inspecting documents, testing, physical inspection, sampling, analysing samples and any other approved measures.
2. Law enforcement officers in charge of search and seizure must summon the owner or manager of the company to present documents related to the commodity. Upon presentation of such documents, a copy shall be made after matching it with the original.
3. During searches, law enforcement officers shall abide by the following:
 - a. Photograph the container seal identification number for comparison with the number included in the bill of lading, to ensure that the shipment was not opened during transit.
 - b. Open packages or containers in the presence of an employee from the relevant authorities or their representative.
 - c. Inspect commodities using technical means to verify the nature and location of the commodity.
 - d. Collect samples of the commodity if necessary for specialized laboratory testing. The permit holder or their representative shall cover any laboratory testing fees.
 - e. Law enforcement officers may request any additional documents to conduct their search and seizure functions.

In all cases, any commodity search must be coordinated with relevant authorities in the UAE.

Article (16)

Reporting Violations

In case a violation is detected, the law enforcement officer shall issue a seizure report in coordination with relevant authorities and in line with applicable laws in the UAE, to evidence actions in violation of the Decree Law, the present decision and other

implementing decisions for both. The report must also include measures taken by the officer, specifically the following information:

1. Date, time and place of issue of the report.
2. Name and title of the officer issuing the report, along with their authorization details to carry out their mandate.
3. Name and title of the person subjected to these measures, whether they were the owner or manager of the company.
4. Findings of the examination of the location where the commodity was placed.
5. Documents indicating the commodity source and information.
6. Description of the commodity, including type, quantity, technical specifications, value, and HS code.
7. Measures taken by the officer issuing the report to prepare for sampling, including the means and method used to take and move the sample and the number of samples taken.
8. All the information written on the seized commodity.
9. Signature of the company owner or manager on the report or proof of the relevant party's refusal to sign.

Article (17)

Provisional Seizure of Commodities

1. Suspected commodities may be provisionally seized according to the procedures followed by each concerned authority in the State as appropriate. If it is proven that the commodities were not in violation based on specialized laboratory reports, the provisional seizure is lifted and the relevant authority shall notify the concerned party or beneficiary upon coordination with the competent authority of the examination result.
2. If commodities are provisionally seized and found to be invalid, or if unclaimed by the owner, or if the owners are missing or unreachable, the competent authority in coordination with relevant authorities may dispose of the commodities according to established procedures, including:
 - a. Determining the time and place of an auction sale.
 - b. Announcing the entity in charge of the auction through various media.
 - c. Registering auction participants and providing the advance financial guarantees.
 - d. Bidders to inspect the sale location before the auction.
 - e. Receiving funds and handing over the sale location to the buyer or their representative.

Article (18)

Appealing the Decisions of the Competent Authority

1. Decisions of the competent authority issued to implement the Decree Law and the present decision may be appealed according to the following:
 - a. The appeal must be filed to the competent authority within no more than (7) business days from the date of being informed of the decision. The appeal shall include the following:
 - i. The appealing party's name, address and email.
 - ii. The date of the contested decision and the date of notification or knowledge of the concerned person.
 - iii. The appeal's subject and supporting reasons with supporting documents attached to the appeal.
2. The competent authority shall be in charge of receiving appeals and keeping a record of such in a dedicated register. It shall also provide the appealing party with proof of receipt and recording of their appeal.
3. The head of the competent authority shall issue a decision on the appeal within no more than 30 business days from the date the appeal was filed, based on valid supporting documents, information, or clarifications that might be requested by the competent authority as appropriate.
4. Decisions issued on appeals shall be final. The appealing party shall be notified of the decision, and in all cases, court challenges to revoke the decision are only accepted post-appeal.

Article (19)

Implementing Decisions

The Minister shall issue necessary decisions for implementing the present decision.

Article (20)

Publication and Entry into Force

The present decision shall be published in the official gazette and shall enter into force the day following its publication.

Mohammed bin Rashid Al Maktoum

Prime Minister

Issued on: 29 Safar 1446 AH

Corresponding to: 2 September 2024