

Federal Decree Law No. (43) of 2021
On the Commodities Subject to Non-Proliferation

We, Khalifa Bin Zayed Al Nahyan, President of the United Arab Emirates, After reviewing the Constitution, and

- Federal Law No. (1) of 1972 on the Mandates of Ministries and Powers of Ministers, as amended;
- Federal Law No. (40) of 2006 on the Prohibition of Development, Production, Storage and Usage of Chemical Weapons, as amended;
- Federal Law No. (13) of 2007 on Commodities Subject to Import and Export Control, as amended;
- Federal Law No. (14) of 2016 on Administrative Offences and Penalties in the Federal Government;
- Federal Decree Law No. (17) of 2019 on Weapons, Ammunitions, Explosives, Military Equipment and Hazardous Materials;
- Federal Decree Law No. (31) of 2021 on the Promulgation of Crimes and Punishment Code;
- Federal Decree No. (35) of 2008 on the Convention of 1971 on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction; and
- In accordance with the proposals of the Minister of Foreign Affairs and International Cooperation and the approval of the Council of Ministers,

Have enacted the following Decree Law:

Article (1)
Definitions

In the implementation of the provisions of this Decree-Law, the following words and expressions shall have the meanings assigned there to, unless the context requires otherwise:

State : The United Arab Emirates.

Competent authority : The authority determined and regulated by resolution of the Council of Ministers based on the proposal of the

Minister of foreign Affairs and International Cooperation.

- Concerned authority** : Federal or local authorities concerned with the trading of commodities subjected to this Decree Law.
- Non-Proliferation** : Preventing the illegal and unauthorized trading of goods that contribute to the production or development of weapons of mass destruction, associated technology and means of delivery.
- Commodity/ Commodities** : The materials, systems, equipment, components, software or technology listed in the Table of Goods.
- Commodity Table** : The commodity table issued by the Council of Ministers' resolution.
- Trade** : Import, export, re-export, transshipping, transit shipping, intra-port forwarding or brokerage by a natural or corporate person.
- Import** : The entry of commodity into the state through customs ports or free zones.
- Export** : The exit of commodity from the state, including commodities produced in free zones, through customs ports.
- Re-export** : The export of previously imported commodities, including the return of commodity to the country of origin, through the State's customs ports of free zones.
- Transshipping** : The transit of goods loaded on a means of transport in a customs port in the State, and their exit again, without removing the commodity from the means of transport, while remaining under customs control.
- Provisional shipping** : The transit of goods loaded on a means of transport at a customs port in the State by removing them from the means of transport and placing them on another means

of transport for the sake of shipment outside the country while remaining under customs control.

- Intra-port forwarding** : The transfer of goods loaded on a means of transport from one customs port to another customs port within the State without opening the shipment, while remaining under customs control.
- Permit** : The prior permission to trade in the commodities provided for in Article (2) of this Decree Law.
- Applicant** : The natural or legal person who applies for a permit.
- Transportation Means** : any means of transportation be that by land, sea or air.
- Technology** : A specific information required to the development, production or use of commodities. Such information may take the form of technical data embedded in or integrated with design schemes, plans, diagrams, concepts, equations, tables or engineering designs, or embedded in or integrated with detailed information, manuals or instructions whether written or recorded on devices.
- Document** : Any instrument or record or part thereof whether in paper or electronic form saved in an electronic, optical or chemical means and any photograph or map or scheme or graph or image or drawing.
- Device** : Any tangible medium recorded on it, stored in it, or embodied in it a technology that can, through other equipment, or without it, retrieve or produce the information or data contained therein.
- Related Activity** : Any practices meant to create, develop, produce, handle, operate, maintain, store, deploy or use any weapons, including nuclear, chemical, biological or radiological weapons or missiles capable of carrying

such weapons or any other activity related to weapons of mass destruction.

Weapons of Mass Destruction : Weapons that can cause harm to numerous human beings and cause threat to life and biosphere through their catastrophic consequences, such as nuclear, biological, chemical and radiological weapons.

Full seizure of Goods : The seizure of a commodity not listed in the commodity table due to its suspicious use or suspicious end-user or because its end-user is listed on national or international sanction or ban lists.

Brokerage : Mediation between seller and buyer to facilitate a business deal in return for a benefit or agreed on payment.

Article (2)

Scope of application of the Decree-Law

The provisions of this Decree-Law shall apply to all territories of the State, including free zones, with respect to the following commodities:

1. The commodities determined in a resolution issued by the Council of Ministers.
2. The commodities listed as per the resolutions of the Security Council.

The resolution of the Council of Ministers provided for in this Article shall be effective in the following day after the date of its publication in the Official Gazette.

Article (3)

Prohibition or restriction of commodity trading

Without prejudice to the jurisdictions of the concerned authorities, and subject to the legislations applicable in the State and the international agreements in which the State is a party, the competent authority shall have the right to prohibit or restrict trading in any of the commodities provided for in Article (2) of this Decree Law in accordance with the Executive Regulations of this Decree Law.

Article (4)

Requirements for permit issuance

Without prejudice to the obligations provided for in the legislations applicable in the State and the relevant international agreements in which the State is a party, the competent authority shall issue permit to applicants in accordance with the following requirements:

1. The permit shall be compatible with the licensed activity of the applicant.
2. If required, the end-user shall obtain a permission or permit by the relevant authorities in the destination state of the commodity in accordance with its respective legislations.
3. Applicant shall provide any information or data relevant to the track route of the commodity if it passes through more than one state.
4. Any other requirements as provided for in the Executive Regulations of this Decree Law.

Article (5)

Controls of permit application

Application shall be submitted to the competent authority in accordance with the categories, procedures, time limits and forms provided for in the Executive Regulations of this Decree Law.

Article (6)

Controls of permit use

1. Subject to the requirements of the concerned authorities, the permit shall be issued under the name of the applicant and shall be used only within the limits of its permitted subject matter. The permit shall not be assigned or transferred to third party unless a new permit is obtained in accordance with the provisions of this Decree Law and its Executive Regulations.
2. Holder of the permit shall not dispose of or surrender to a third party any commodity provided for in Article (20 of this Decree Law unless the holder obtains a new permit from the competent authority in accordance with the provisions of this Decree Law and its Executive Regulations.

Article (7)

Events of permit cancellation

1. The competent authority may cancel the permit in any of the following events:
 - a. If it is evident that trading in the commodity for which the permit has been issued is detriment to the public safety and health, environment, natural resources or national security.
 - b. If the trading in the commodity for which the permit has been issued is prohibited or restricted.
 - c. If the permit is used for a purpose other than that for which it has been issued.
 - d. If the permit has been given based on a deception or fraud, or based on information or documents contrary to the truth.
 - e. If the permit is used by a person other than the permit holder.
 - f. If the permit holder is listed on international sanction or ban lists.
2. Any erase in or change to the permit shall render it null and void.

Article (8)

Appeal against the competent authority's decisions

Decisions taken by the competent authority while implementing the provisions of this Decree Law and its Executive regulations may be appealed within seven (7) days from being notified, in accordance with the procedures provided for in the Executive Regulations of this Decree Law. The decision on such appeals shall be final and the appellants shall be notified thereof. In any case, courts shall not accept any lawsuit to cancel a decision before such decision has been appealed.

Article (9)

Prohibited dispositions

1. No person may perform any of the following actions before obtaining a permit:
 - a. Trading in any of the commodities provided for in Article (2) of this Decree Law.
 - b. Delivering, forwarding, publishing, disclosing or sharing any document or device related to any commodities provided for in Article (2) of this Decree Law.
2. Notwithstanding the provisions of Clause (1) above, no person may trade in any commodities listed in the commodity table or deliver, forward, publish, disclose

or share any document or device related to any of such commodities in any of the following events:

- a. If notified by the competent authority that such commodity, document or device will or may be used, in part or in whole, in an activity related to the commodities provided for in Article (2) of this Decree Law.
- b. If the person knows that such commodity, document or device will or may be used, in part or in whole, in an activity related to the commodities provided for in Article (2) of this Decree Law.
- c. Any other event as provided for in the Executive Regulations of this Decree Law.

Article (10)

Exception to the application of Article (9) of this Decree Law

The following two events shall not be subject to the provisions of Article (9) of this Decree Law:

1. If the information or documents are shared upon request of the judiciary in the State.
2. If the information or documents are shared to enable a foreign government from interrogating or prosecuting a foreigner for a crime committed on its territories and such a crime is related to any of the commodities provided for in Article (2) of this Decree Law or any of the documents related to such commodity, subject to the legislations applicable in the state and in accordance with the following conditions:
 - a. The competent authority decides to share information or documents.
 - b. Such information and documents shall not be used for any purpose other than the interrogation or prosecution for which they have been requested.
 - c. The foreign government shall undertake not to compromise the State's sovereignty, security or any considerable interest and shall abide by any condition stipulated by the State with respect to the use of such information or documents.

Article (11)

Prohibited agreements and contracts

No person may conduct any action of brokerage or negotiation to facilitate the execution of any of the following contracts:

1. Possession or disposition contracts related to any of the following commodities below if the person knows or has good reasons to suspect that the contract will or may lead to the transfer of the commodity from one state to another:
 - a. Commodities provided for in Article (2) of this Decree Law.
 - b. Commodities that such person is notified about in writing by the competent authority that they will or may be used, in part or in whole, in activity related to weapons of mass destruction.
 - c. Commodities that such person knows that they will be used, in part or in whole, in activity related to weapons of mass destruction.
 - d. Commodities that such persons has good reasons to suspect that they will or may be be used, in part or in whole, in an activity related to weapon of mass destruction.
2. Possession, disposition or publication contract of any document, device of technology related to any of the following commodities below if the person knows or has good reasons to suspect that the contract will or may lead to the transfer of the technology, document or device from one state to another:
 - a. Commodities provided for in Article (2) of this Decree Law.
 - b. Commodities that such person is notified about in writing by the competent authority that they will or may be used, in part or in whole, in activity related to weapons of mass destruction.
 - c. Commodities that such person knows that they will be used, in part or in whole, in activity related to weapons of mass destruction.

Article (12)

Exception to the application of Article (11) of this Decree Law

The following shall not be subject to the provisions of Article (11) of this Decree Law:

1. Any disposition by a person who holds a permit given by the competent authority and relates to any of the commodities provided for in Article (2) of this Decree Law.
2. Any disposition approved by the competent authority and relates to any of the commodities provided for in (b, c and d) of Clause (1) of Article (11) of this Decree Law or relates to any technology, document or device provided for in Clause (2) of article (11) of this Decree Law.

Article (13)

Obligations of the permit holder

Permit holder who has obtained a permit shall:

1. Maintain records related to the permit in accordance with the provisions of the Executive Regulations of this Decree Law.
2. Provide the competent authority with any documents or information it requests in relation to the permit or the method of its use.
3. Provide records and any other kept documents or instruments if requested to do so by the competent authority or judicial official, provided that such action shall be made evident in the records, documents or instruments that have been reviewed.

Article (14)

Seizure of commodities

The competent authority shall have the right to seize any commodity not listed in the commodity table if it has sufficient evidence to suspect that such commodity is used in a related activity or if the end-user is listed in national or international sanction lists. The Executive Regulations of this Decree Law shall provide for the rules and controls for the implementation of the provisions of this Article, including the provisions related to the full seizure and inspections in coordination with the concerned authorities.

Article (15)

Controls of trading in restricted and hazardous materials

Without prejudice to the legislations applicable in the State, the competent authority shall issue permit to trade in the materials restricted by the Bureau of Weapons and Hazardous Materials and listed in the commodity table based on the application submitted by the competent licensing authority in accordance with the provisions of the Executive Regulations of this Decree Law.

Article (16)

Reporting illegal trading in commodities

The competent authority shall have the right to grant a financial reward to any person who report or provide information about illegal trading in commodities subject to this Decree Law if such report leads to the detection of such trading in

accordance with the rules and controls provided for by a resolution of the Council of Ministers based on a proposal of the competent authority.

Article (17)

Penalties

Penalties provided for in this Decree Law shall not preclude or prevent any severer penalty provided for in any other law.

Article (18)

1. Any person who commits any of the following actions below shall be sentenced to imprisonment for no less than one year and fined no less than AED One Hundred Thousand (AED 100,000) and no more than AED One Million (AED 1,000,000) or either of these two penalties:
 - a. Violation of any of the provisions of Articles (9) and (11) of this Decree Law.
 - b. Provision of false or misleading information or provision of documents containing false or untrue data to obtain permit.
 - c. Forgery or alteration in the permit.
2. The crimes provided for in Clause (1) of this Article shall be deemed as crimes against the State security.
3. Penalties shall be doubled in the case of repetition.
4. If convicted, the court shall order the forfeit of the commodities in question.
5. The court shall order the deportation of convicted foreigner after serving the sentence.

Article (19)

Any person who violates the provisions of Article (13) of this Decree Law shall be fined no less than AED Fifty Thousand (AED 50,000) and no more than AED Two Hundred Thousand (AED 200,000).

Article (20)

1. Any corporate person whose representative, manager or agent commits on its behalf or in its name any of the crimes provided for in this Decree Law shall be

fined no less than AED Two Hundred Thousand (AED 200,000) and no more than AED Two Million (AED 2,000,000).

2. If convicted, the court may order the dissolution or permanent or temporary closure of the corporate person or the closure of any of its branches.

Article (21)

Attempt of any crime provided for in Clause (1) of Article (18) of this Decree Law shall receive the same penalty of a full crime.

Article (22)

Penalty waiver

Any persons who promptly report any information they know about any crime provided for in this Decree Law to the judicial or administrative authorities before such crime is attempted shall be relived from penalties provided for in this Decree Law if such report leads to the detection or prevention of the crime before it is committed. If such information is reported after such crime is committed, the penalty of the convicted may be waived or mitigated if the convicted helps the authorities during investigation to arrest other accomplices.

Article (23)

Law Enforcement Officers

Employees of the competent authority as determined pursuant to the resolution of the Minster of Justice, in agreement with the competent authority, shall have the capacity of judicial official while evidencing any violation of the provisions of this Decree Law, its Executive Regulations and its executive resolutions issued for its implementation, each within their scope of mandate.

Article (24)

Administrative offences and penalties

1. The competent authority shall have the right to impose any of the following administrative penalties below against permit holders if they violate any of the provisions of this Decree Law, its Executive Regulations and its executive resolutions issued for its implementation.

- a. Warning.
 - b. Permit cancelation.
 - c. Administrative fine of no less than AED Fifty Thousand (AED 50,000) and no more than AED Two Hundred Thousand (AED 200,000).
 - d. Doubling the administrative fine in case of violation repetition up to AED four Hundred Thousand (AED 400,000).
 - e. Permanent closure or temporary closure up to six months after coordination with the concerned authorities.
2. The administrative penalties provided for in Clause (1) of this Article may be imposed only after hearing the statements of the violators or their legally appointed agents and receiving their defense in writing. If they do not attend or if they attend but do not present their defense, penalty may be imposed based on the documents available in their dockets.
 3. Imposing the penalties provided for in this Decree Law shall not preclude or prevent imposing any administrative penalties provided for in clause (1) of this Article.
 4. The Council of Ministers- based on the proposal of the competent authority- may:
 - a. Change the amounts of administrative penalties provided for in this Article.
 - b. Issue the list of administrative offences and penalties applicable in accordance with this Article.

Article (25)

Commodity forfeiture

The competent authority, in coordination with the concerned authorities, may forfeit the seized commodities if they owners do not appear, escape or have not been identified. In such event, it may dispose of such commodities in accordance with the procedures and controls provided for in the Executive Regulations of this Decree Law.

Article (26)

Collected rate of the forfeited commodity sale proceeds

The Council of Ministers, based on the proposal of the competent authority prepared in coordination with the Ministry of Finance, may decide to collect a certain rate of the sale proceeds of the violating commodities, seized by the

competent authority, on which a federal judicial order or judgement of forfeiture has been issued. Such decision shall specify the rate to be collected by such authority in addition to the method and conditions of spending such rate.

The competent authority may agree with the concerned authority in any emirate of the State to collect certain rate of the sale proceeds of commodities on which a forfeiture judgement has been issued by the courts in such emirate in accordance with the provisions of this Decree Law, if the seizure of such commodities has been made by the competent authority or based on its contribution.

Article (27)

Amendment of commodity table

The Council of Ministers, or any party authorized by the Council of Ministers, may amend the commodity table provided for in this Decree Law, whether by addition, deletion or replacement.

Article (28)

Fees

The Council of Ministers shall issue a resolution determining the fees required to implement this Decree Law.

Article (29)

Executive Regulation

The Council of Ministers shall issue the Executive Regulations of this Decree Law.

Article (30)

Repeals

1. The Federal Law No. (13) of 2007 on Commodities Subject to Import and Export Control shall be null and void.
2. Any provision in contradiction with or contrary to the provisions of this Decree Law shall be null and void.
3. The Committee of Commodities Subject to Import and Export Control created pursuant to the said Federal Law No. (13) of 2007 and the Executive Bureau of the Committee shall continue exercising their jurisdictions until the Council of

Ministers' Resolution determining the competent authority is issued. Upon the issuance of the said Council of Ministers' Resolution, the Committee and the Bureau shall be terminated.

4. The competent authority, after the issuance of the said Council of Ministers' Resolution, shall replace the Committee of Commodities Subject to Import and Export Control and its Executive Bureau in all of their jurisdictions, legislations and financial and legal rights liabilities. All of their assets and resources shall belong to the competent authority.
5. Regulations and resolutions issued prior to the application of the provisions of this Decree Law, to the limit of not contradicting the same, shall stay applicable until the issuance of the regulations and resolutions replacing them in accordance with the provisions of this Decree Law.

Article (31)

Publication and Effectiveness of the Decree Law

This Decree Law shall be published in the Official Gazette and shall be effective as of 2 January 2022.

Khalifa bin Zayed Al Nahyan

President of the United Arab Emirates

Issued by us at the Presidential Palace in Abu Dhabi:

Date: 13 Safar 1442 H.

Corresponding to 20 September 2021

The Arabic language version of this Decree-law shall be controlling in all respects and shall prevail in case of any inconsistencies with translated versions, if any.