CSIS Translation: Updated Dutch Export Controls on Semiconductor Manufacturing Equipment and Related Government Documents

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Description: The following are translations of Dutch government documents related to export controls, national security, and technology policy.

The first document is a full English translation of the Netherlands’ new export control regulations on advanced semiconductor manufacturing equipment. These regulations specify which types of semiconductor manufacturing equipment—based on either usage of a specific type of technology or performance beyond a specific threshold—now require a license in order to be legally exported from the Netherlands.

The other three documents are official government communications between the responsible government ministries and the Dutch Parliament, which provide useful insights into the strategic rationale and political context behind the new policy.

Sources: Dutch government websites; see individual document section for more details.

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Regulation of the Minister of Foreign Trade and Development Collaboration of June 23, 2023 no MinBuza.2023.15246-27 concerning the implementation of a licensing obligation for exporting advanced manufacturing equipment for semiconductors not specified in appendix I of Decree 2021/821 (Regulation for advanced manufacturing equipment for semiconductors)

Second Document (Pages 8–11)

Letter of 8 March 2023 from the Minister for Foreign Trade and Development Cooperation to the President of the House of Representatives of the States General announcing forthcoming export control measures concerning advanced semiconductor manufacturing equipment

Third Document (Pages 12–15)

Letter of 1 December from the Minister for Foreign Trade and Development Cooperation to the President of the House of Representatives of the States General Concerning Export Control Policy for Semiconductor Technology

Fourth Document (Pages 16–19)

Decision note for answers to questions about the supply of chip machines to China
Publication Name: Government Gazette (Kingdom of the Netherlands)

Document Identifier: stcrt-2023-18212

Document Type: Generally binding prescription (ministerial regulation)

English Title: Regulation of the Minister of Foreign Trade and Development Collaboration of June 23, 2023 no MinBuza.2023.15246-27 concerning the implementation of a licensing obligation for exporting advanced manufacturing equipment for semiconductors not specified in appendix I of Decree 2021/821 (Regulation for advanced manufacturing equipment for semiconductors)

Dutch Title: Regeling van de Minister voor Buitenlandse Handel en Ontwikkelingssamenwerking van 23 juni 2023, nr. MinBuza.2023.15246-27 houdende invoering van een vergunningplicht voor de uitvoer van geavanceerde productieapparatuur voor halfgeleiders die niet zijn genoemd in bijlage I van Verordening 2021/821 (Regeling geavanceerde productieapparatuur voor halfgeleiders)

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Translator: Etcetera Language Group, Inc.
Regulation of the Minister of Foreign Trade and Development Collaboration of June 23, 2023 no MinBuza.2023.15246-27 concerning the implementation of a licensing obligation for exporting advanced manufacturing equipment for semiconductors not specified in appendix I of Decree 2021/821 (Regulation for advanced manufacturing equipment for semiconductors)

The Minister of Foreign Trade and Development Collaboration,

In the view of article 4 of the Strategic Goods Decree;

Decree:

Article 1
The following definitions apply in this regulation:
− Exporter: exporter as meant in article 2, sub 3 of the Regulation on dual-use items;
− Advanced production equipment for semiconductors: production equipment, software and technology, and specially-designed components and accessories for it, as meant in the appendix to this regulation;
− Inspector: the Customs director-general;
− Minister: The Minister of Foreign Trade and Development Collaboration;
− Export: export as meant in article 2, sub 2 of the Regulation on dual-use items;
− Regulation on dual-use items: Regulation (EU) 2021/821 of the European parliament and the Council of 20 May 2021 to implement a Union regulation for the control of export, brokering, technical assistance, transit and transfer of dual-use items (re-structuring) (PbEU 2021, L 206).

Article 2
Advanced manufacturing equipment for semiconductors may not be exported from the Netherlands without a permit issued by the Minister.

Article 3
1. The exporter must apply for the permit referred to in article 2 and submit it to the inspector.
2. The application must always contain the following:
   a. The name and address of the exporter;
   b. The destination, including the final destination of the advanced semiconductor manufacturing equipment;
   c. The name and address of the recipient and end user of the advanced semiconductor manufacturing equipment
3. After submitting the application, the inspector may request the contract related to the export and a statement about the final use.

Article 4
1. A permit as referred to in article 2 may be subjected to certain terms and conditions and prescriptions.
2. A permit as meant in article 2 may be issued subject to certain reservations.
**Article 5**
A permit as meant in article 2 may be revoked if:

a. The permit was issued based on incorrect or incomplete information;
b. The prescriptions, terms and conditions and restrictions of the permit were not taken into account;
c. Considerations of national foreign and security policy give rise to this.

**Article 6**
This regulation will come into force on September 1, 2023.

**Article 7**
This regulation is quoted as: Regulation on advanced manufacturing equipment for semiconductors.

This regulation will be attached with the appendix and notes to the Government Gazette.

_The Minister of Foreign Trade and Development Collaboration,_
_E.N.A.J. Schreinemacher_
APPENDIX TO THE REGULATION ON ADVANCED MANUFACTURING EQUIPMENT FOR SEMICONDUCTORS

Manufacturing equipment, software and technology for semiconductor devices or materials, not controlled under 3B001, 3D001, 3D002 and 3E001 of Annex I to the Dual-Use Regulation, as follows, and specially designed components and accessories therefor:

<table>
<thead>
<tr>
<th>3B001.l</th>
<th>EUV pellicles</th>
</tr>
</thead>
<tbody>
<tr>
<td>3B001.m</td>
<td>Manufacturing equipment for EUV pellicles</td>
</tr>
<tr>
<td>3B001.f.4</td>
<td>Lithographic equipment, as below:</td>
</tr>
<tr>
<td>a.</td>
<td>repeaters (step and repeat (direct step on wafer) equipment or step and scan (scanner) equipment) for alignment and exposure for wafer processing using photo-optical or x-ray methods, having one or both of the following properties:</td>
</tr>
<tr>
<td>1.</td>
<td>wavelength of the light source shorter than 193 nm, or</td>
</tr>
<tr>
<td>2.</td>
<td>wavelength of the light source equal to or longer than 193 nm:</td>
</tr>
<tr>
<td>a.</td>
<td>able to produce patterns with a ‘minimum resolvable feature size’ (MRF) of 45 nm or less; and</td>
</tr>
<tr>
<td>b.</td>
<td>A maximum ‘dedicated chuck overlay’ (DCO) value of less than or equal to 1.50 nm.</td>
</tr>
<tr>
<td>Technical note:</td>
<td></td>
</tr>
<tr>
<td>1.</td>
<td>The ‘minimum resolvable feature size’ (MRF) is calculated according to the following formula:</td>
</tr>
<tr>
<td>[ MRF = \frac{\text{maximum numerical aperture}}{(\text{wavelength of the light source in nm}) \times (K\text{-factor})} ]</td>
<td></td>
</tr>
<tr>
<td>Where the K-factor = 0.25</td>
<td></td>
</tr>
<tr>
<td>(MRF) is the same as resolution.</td>
<td></td>
</tr>
<tr>
<td>2. DCO is the degree of accuracy of alignment of a new pattern to an existing pattern exposed on a wafer by the same lithography system.</td>
<td></td>
</tr>
<tr>
<td>3B001.d.12</td>
<td>Equipment for atomic layer deposition (ALD) of ‘work function’ metals</td>
</tr>
<tr>
<td>a.</td>
<td>that have all of the following properties:</td>
</tr>
<tr>
<td>1.</td>
<td>More than one metal source, one of which has been developed for an aluminum (Al) precursor; and</td>
</tr>
<tr>
<td>2.</td>
<td>Precursor vessel designed for temperatures above 45 °C; and</td>
</tr>
<tr>
<td>b.</td>
<td>Designed for deposition of “work function” metals with all of the following properties:</td>
</tr>
<tr>
<td>1.</td>
<td>Deposition of titanium aluminum carbide (TiAlC); and</td>
</tr>
<tr>
<td>2.</td>
<td>The possibility of a “work function” of more than 4.0eV.</td>
</tr>
<tr>
<td>Technical note:</td>
<td></td>
</tr>
<tr>
<td>1. “Work function metal” is a material that regulates the threshold voltage of a transistor.</td>
<td></td>
</tr>
<tr>
<td>3B001.a.4</td>
<td>Equipment designed for epitaxial growth of silicon (Si), carbon-doped silicon, silicon germanium (SiGe), or carbon-doped SiGe</td>
</tr>
<tr>
<td>a.</td>
<td>that have all of the following properties:</td>
</tr>
<tr>
<td>1.</td>
<td>Multiple chambers and means to maintain high vacuum (less than or equal to 0.01 Pa) or an inert atmosphere (water and oxygen partial pressure less than 0.01 Pa) between process steps;</td>
</tr>
<tr>
<td>2.</td>
<td>At least one pre-treatment room designed for surface pre-treatments intended to clean the surfaces of wafers; and</td>
</tr>
<tr>
<td>3.</td>
<td>Epitaxial deposition operating temperature of 685°C or less.</td>
</tr>
<tr>
<td>3B001.d.19</td>
<td>Equipment designed for the void-free plasma-enhanced deposition of low-k void-free low-k dielectric in spaces less than 25 nm wide with a depth-to-height ratio (aspect ratio, AR) equal to or greater than 1.1 between metal lines with dielectric constant less than 3.3</td>
</tr>
<tr>
<td>3D007</td>
<td>Software especially designed for the development, production or use of equipment specified in this Regulation under headings 3B001.l, 3B001.m, 3B001.f.4, 3B001.d.12, 3B001.a.4 or 3B001.d.19.</td>
</tr>
<tr>
<td>3E005</td>
<td>Technology that is required for the development, manufacture or use of equipment specified in this Regulation under headings 3B001.l, 3B001.m, 3B001.f.4, 3B001.d.12, 3B001.a.4 or 3B001.d.19.</td>
</tr>
</tbody>
</table>
I. General

Introduction and purpose
There is a possibility that advanced manufacturing equipment for semiconductors, which is not specified on appendix I of Regulation (EU) 2021/821 of the European parliament and the Council of May 20, 2021 concerning the implementation of a Union regulation to control the export, brokering, the technical assistance, the transit and transfer of dual-use items (hereinafter the Dual-use products Regulation), exported from the Netherlands to destinations outside the European Union and that this creates a risk for public safety.

The export of dual-use goods and technology to destinations outside the EU is regulated by the Dual-use products Regulation. Based on article 4 of the Strategic Goods Decree (hereinafter: the decree), which is based on the space provided for this in article 9 of the Regulation on dual-use items, the Minister of Foreign Trade and Development Collaboration is authorized to, due to public safety considerations, which includes the prevention of terrorist acts, or from human rights considerations, institute a ban on, or make the acquisition of a permit compulsory for exporting dual-use goods that are not specified in appendix I of the Regulation on dual-use products.

This regulation for additional dual-use goods and technology imposes a permit obligation, because the uncontrolled export thereof could lead to risks for the public safety.

Globally, the Netherlands play an important role in the manufacturing equipment for semiconductors. The dual-use goods and technology included in this regulation are intended for the development and production of semiconductors with an advanced architecture. These semiconductors can, due to their specific uses, make a crucial contribution to certain advanced military applications and can be used for the development of valuable military (weapon) systems and weapons of mass destruction. Uncontrolled export of the manufacturing equipment specified in the appendix to this regulation thus has implications for public safety interests, including international safety and stability.

Also, due to the relevance of the manufacturing equipment specified in the appendix to this regulation for the (further) development of the defense industry and advanced weapon systems, it is possible to be able to test the end user and the end use of the manufacturing equipment in advance, to prevent possible undesirable uses of the goods and technology as much as possible.

Apart from the safety interests related to the development of advanced weapon systems, an uncontrolled export of the goods and technology specified on the appendix to this regulation could also have other, significant implications on public safety interests of the Netherlands and confederates in the long-term.
In the view of the (inter) national safety implications of uncontrolled export and the exceptional position of the Netherlands in the international semiconductor value chain, the permit obligation imposed is a proportional measure.

Administrative costs
It is expected that the introduction of the permit obligation would require 24 permits once off and then 20 permits per year. This regulation concerns specific equipment that is manufactured by a very limited number of companies in the Netherlands. The permit obligation will only be applicable for a small portion of the total product portfolio of the companies that fall under this regulation.

The once off administrative costs of the implementation will cost the business sector between EUR 188,000 and EUR 334,000. The annual increase in expenses for businesses will be between EUR 20,000 and EUR 54,000 per year that the regulation is valid.

The Regulatory Burden Advisory Board (ATR) has not selected the proposal for formal advice because it has only minor consequences for the regulatory burden.
II. Articles

Article 1
This regulation is based on article 4 of the Strategic Goods Decree. This regulation uses the opportunity offered by article 9 of the Regulation on dual-use items to impose a licensing obligation through national legislation, on the export of products that is not automatically subject to a licensing obligation based on this regulation. For the sake of certainty, the definitions of this article indicate that the terms used are the same as those used in the Regulation. For example, export means sending the products outside the customs territory of the Union and not moving them within the Union.

This regulation concerns advanced manufacturing equipment of semiconductors.

Article 2
This article creates a licensing obligation for exporting the manufacturing equipment, software and technology for semiconductors described in this regulation. The reasons for this are described in the general notes to this regulation.

Refer to the Regulation on dual-use items for the type of permits that can be granted.

Article 3
Permit applications are submitted with the Customs director general (hereinafter: the inspector). The required forms are available from the Central Import and Export Service and can be downloaded via the Tax department’s website.

The information required for applying for a permit concerns the most important characteristics of the transaction. That is, among others, the information about the goods, the receiver, the end user of the goods and the end use. In addition to the information requested in the application form, the inspector may also request additional information and documents, for example the agreement that forms the foundation of the export, technical specifications or a statement about the end use.

Article 4
Terms and conditions and restrictions could be linked to a permit. This is especially the case when additional guarantees are necessary to ensure the arrival and the correct end use of the goods at the specified (end) destination.

Article 5
This article gives the reason why a permit that was issued can be revoked.

Article 6
This regulation is set to come into force on September 1, 2023. The minimum implementation term between publication and commencement was taken into consideration.

Article 7
This article determines the cited title of the regulation that reads as follows: Regulation on advanced manufacturing equipment for semiconductors.

The Minister of Foreign Trade and Development Collaboration,
E.N.A.J. Schreinemacher
Letter of 8 March 2023 from the Minister for Foreign Trade and Development Cooperation to the President of the House of Representatives of the States General announcing forthcoming export control measures concerning advanced semiconductor manufacturing equipment

Aankondiging aankomende exportcontrolemaatregelen voor geavanceerde productieapparatuur voor halfgeleiders

Original URLs:

(Dutch)
https://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2023Z04037&did=2023D09406

(English)

Original Publication Date: March 8, 2023

CSIS Publication Date: July 21, 2023

22 054  Weapon export policy

No 384  LETTER OF THE MINISTER OF FOREIGN TRADE AND DEVELOPMENT COLLABORATION

To the Chairman of the House of Representatives of the States General

The Hague, March 8, 2023

I am writing in conjunction with the Minister of Foreign Affairs to inform the House about additional national export control measures that are being prepared in regard to advanced semiconductor manufacturing equipment. Semiconductors are of major strategic importance when it comes to future military and civil applications. The Netherlands plays a key role globally in this value chain. Given the technological developments and the geopolitical context, the government has come to the conclusion that the existing export control framework for specific equipment used for the manufacture of semiconductors needs to be expanded, in the interests of national and international security. To this end the government will submit proposals at multilateral level aimed at ensuring that appropriate international export controls are put in place with regard to these leading-edge technologies. At the same time, the government will also take the necessary steps at national and EU level.

Export control framework of advanced semiconductor technology

As described in its letter to parliament of 1 December 2022 (Parliament paper 22 054, no 376), the government has drawn up a supplementary strategic framework for export controls on semiconductor technology. This framework defines three strategic goals, taking national and international security as its point of departure:

1. preventing a situation in which Dutch goods contribute to undesirable end use, such as military deployment or weapons of mass destruction;
2. preventing undesirable long-term strategic dependencies; and
3. preserving the Netherlands’ technological leadership position.

In this regard it is important to note that the government does not view this export control framework in isolation, but as part of a broader effort designed to benefit the semiconductor value chain. That effort includes measures within the framework referred to above to protect certain technologies, such as the investment screening (in
accordance with the Security Assessment (Investments, Mergers and Acquisitions) Act) and other measures in the area of knowledge security. At the same time, measures are also necessary to preserve the Netherlands’ technological leadership position. At EU level the government is working to spur the development of the semiconductor industry through the Chips Act, for example. For more information on the investment climate, I would refer the House to the Minister of Economic Affairs and Climate Policy.

When assessing an export authorisation application, specific considerations are weighed in each case, on the basis of the above three strategic goals. The government analyses the risk that one or more of these goals may be jeopardised, examining, for example, the characteristics of the product in question, the potential applications of the product, the end user, and the country of destination.

It also analyses technological developments in the sector. The technology used to make semiconductors is constantly advancing, potentially changing the impact that the export of these products has on national and international security. The same is true of technologies and goods in this sector which are not yet subject to controls. Given those technological developments, the government has concluded that additional export control measures are needed in respect of advanced semiconductor manufacturing equipment. The Netherlands has also held discussions with international partners about safeguarding national and international security when it comes to the export of this technology. From those discussions it also emerged that specific additional national export control measures are needed.

The additional measures concern highly specific technologies in the semiconductor manufacturing cycle in which the Netherlands holds a unique, leading position, such as the most advanced deep ultraviolet (DUV) immersion lithography and deposition. These technologies, in combination with certain other advanced technologies produced elsewhere, play a crucial role in the manufacture of advanced semiconductors. The ultimate decision to apply additional export control measures was taken with due care and the most surgical precision possible, in order to prevent unnecessary disruption to the relevant value chains and take due account of the international level playing field.

New legislation

Additional export control measures should ideally be applied at multilateral level to ensure optimal effectiveness. To this end, the Netherlands will submit proposals in the framework of the relevant multilateral export control regime, the Wassenaar Arrangement. Such proposals are confidential, as are any discussions held in the context of an export control regime. Decision-making under the Wassenaar Arrangement takes place on the basis of consensus. The likelihood of consensus being reached at the present time is small, however. The government expects that the altered geopolitical context will be reflected in the regime, since the Russian Federation is a member and can block the proposal. Proposals that are ultimately adopted by the regime are subsequently automatically included in Annex I to the European Dual-Use Regulation, which contains a list of all controlled goods and technologies.

Since the Netherlands considers it necessary, for reasons of national and international security, to impose controls on this technology with the utmost urgency, the government will also set up a national control list by public ministerial order, in parallel and complementarity with the multilateral process.
Regulation (EU) 2021/821 on dual-use items\(^1\) allows EU member states to take additional export control measures based on public security interests or human rights considerations. To this end, the Netherlands enacted the Strategic Goods Decree. Under this legislation the Netherlands may by ministerial order set up a national control list imposing an authorisation requirement in respect of designated goods, software and technology.

In accordance with Articles 9 and 10 of the Regulation, the Netherlands will notify the European Commission and the EU member states about the national control measure, after which other member states may also adopt it. It remains to be seen, however, whether other countries will (immediately) proceed with the adoption of the Dutch authorisation requirement: this advanced semiconductor manufacturing equipment can be found in only a small number of countries, and so for many member states there is no immediate reason to impose an authorisation requirement of this kind. Furthermore, the provision in the Dual-Use Regulation on member states adopting another country’s national control measures is new, and has not previously been applied. The Netherlands has recently held close consultations with the European Commission and EU member states to explain the importance of this specific control measure in the light of national security, and to gain support for it. In the months ahead, the government will continue these efforts with a view to establishing the national control list in the EU landscape as effectively as possible.

Naturally, in setting up the national control measures the Netherlands is also working closely with industry. It is important for companies to know exactly where they stand and to be given time to adapt their business processes to the new legislation.

The government aims to publish the ministerial order on advanced semiconductor manufacturing equipment in the Government Gazette before the summer.

The Minister of Foreign Trade and Development Collaboration,

E.N.A.J. Schreinemacher

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\(^1\) Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (recast).
Esteemed Chairman,

On November 22, your Committee requested a (confidential) letter about the export control policy for semiconductor technology in preparation for the confidential briefings held on December 1 and 8, respectively. With this public letter with confidential appendix, I, also on behalf of the Minister of Foreign Affairs, will answer your question.

In this letter, I would like to explain the policy related to export control of dual use goods and the additional framework of considerations of the cabinet for semiconductor technology. During the Committee’s deliberations held on November 22, a question was raised about the position of international partners. Due to the confidentiality of conversations with third party countries, I can unfortunately not discuss their positions in the conversations with the Dutch government. I will also discuss the measures of the American administration with regard to semiconductors dated October 7.

**Export control of dual use goods**

The minister of Foreign Trade and Development Collaboration is responsible for the export control on military and dual use goods. The Minister of Foreign Affairs works closely with the Customs department in the execution of the policy. As known, the decision to issue export permits for dual use goods is a national authority, but the overall legal framework for export control is agreed on in EU context.

The purpose of the export control of dual use goods, services and technology focuses on preventing that the export thereof, directly or via transit operations, could have undesirable consequences, such as for proliferation of weapons of mass destruction, conventional military input or for human rights violations. As stated in the Open Strategic Autonomy House letter, export control policy is a way to prevent undesirable technological transfer\(^1\).

\(^{1}\) House letter about open strategic autonomy, November 8, Rijksoverheid.nl
The Netherlands assess every permit application for export of dual use goods and technology on a case-by-case basis for the risk of undesirable end use. This assessment takes place before the export. The government performs this risk analysis in the framework of the (inter)national safety based on the criteria applicable for this, for example the properties of the product to be exported, the applicability of the product, the end user and the destination country. When analyzing the possible risks, the government uses different sources, both confidential and public, including the State Actors Threat Assessment\(^2\) and information from the reports of the AIVD and MIVD\(^3\).

**Principles of export control of semiconductor technology**

The export control framework described above is not sufficient for the unique nature and the major importance of semiconductor technology, and all (future) technological uses. After all, semiconductors are used in all electronics, from mobile telephones and refrigerators to vital infrastructure and military uses, and are thus inherently dual use. The role of the Netherlands (companies) in the semiconductor chain is crucial and unique, especially in the view of the machines used to manufacture advanced semiconductors. This does not only concern lithography-machines, but also machines that play an essential role in other steps of the semiconductor manufacturing process.

Multiple factors play a role in export control policy in this sector, which include risk estimates for the (inter)national safety, the strategic position of the Dutch corporate world within the global semiconductor industry and the interest of this strong position for the EU as a whole, the mondial interconnectedness of the semiconductor value chain, and the geopolitical dynamic. In order to take these factors into consideration when testing the export of such technology, the cabinet developed an additional strategic framework for export control of the semiconductor technology that is compatible with the existing export control policy. In this framework, three strategic objectives were defined with national safety as point of departure:

1. Preventing Dutch goods from contributing to undesirable end use, such as military use or in weapons of mass destruction.
2. Preventing undesirable strategic dependencies.
3. Maintaining Dutch technological leadership and western standards.

When assessing a case relating to semiconductor technology, a specific consideration is made on a case-by-case basis, based on these three principles. The way in which this consideration is made may change over time. This framework was adopted by the Council of Ministers on December 18, 2020, and your House was informed confidentially on the same date.\(^4\)

**Other factors**

It is important to state here that the cabinet did not consider this export control framework in a vacuum, but as part of a broader input of the semiconductor value chain. This includes measures to protect certain technology in the context of the abovementioned framework, for example the investment test (safety test, investments, mergers and acquisitions act)

\(^2\) [State Actors Threat Assessment 2, November 28, 2022 Rijksoverheid.nl](https://rijksoverheid.nl)

\(^3\) [AIVD-annual report 2021, April 28, 2022, AIVD; MIVD annual report 2021, April 28, 2022, Defensie.nl](https://www.defensie.nl)

\(^4\) [House letter with announcement confidential information about additional framework export control semiconductor industry | Parliamentary document | Rijksoverheid.nl](https://rijksoverheid.nl)
and measures related to knowledge safety. At the same time, measures are necessary to maintain technological leadership. For example, work is being done specifically for the semiconductor sector in a European context on the Chips Act. For more information about the investment climate, I refer you to the Minister of Economic Affairs and Climate.

Naturally, it is important to stand still with the international dimension of export control. International collaboration is an essential part of export control policy. The conversations and arrangements in multilateral export control regimes are particularly relevant. Arrangements in these regimes are implemented in European (and national) regulations. European legislation is the foundation of the Dutch export control policy, and the Netherlands strive to the unanimous implementation thereof. The Netherlands is also continuously in bilateral conversations with partners about export control. The primary partners are the EU member states and the European Committee. Furthermore, it is also in conversations with the USA, Japan, South Korea, and other like-minded countries. There is also a more-structured dialogue about export control between Europe and the USA with the EU-USA Trade and Technology Council (TTC).

**American measures of October 7.**

On October 7, the American government approved unilateral measures that focus on exporting semiconductors and semiconductor technology to China. The Minister of Interior promised during Committee deliberations held on October 13, to inform the House about the consequences of these measures. With this letter, the cabinet fulfills this promise. These measures mean that very advanced semiconductors and American semiconductor technology (used, for example in the AI field), may in principle no longer be exported by American companies to China. "US persons", which include American citizens and residents, may also no longer be used for the advanced semiconductor manufacturing in China. The American measures indirectly affect Dutch companies due to American subsidiaries and American staff.

The Dutch input is especially aimed to ensure that matters are clarified as much as possible for the Dutch companies. In addition to this, deliberations were held with the USA about mitigating the unforeseen consequences of these measures for the equal playing field within the value chain. These measures were also discussed between the EU and the USA, among others in the context of the TTC.

The Minister of Foreign Trade and Development Collaboration,
Liesje Schreiinemacher

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5 Commitment TZ202210-131
FOURTH DOCUMENT

Publication Name: Parliamentary Papers of the House of Representatives of the States General

Document Identifier: BZDOC-1862181091-33

Document Type: Written questions and answers

English Title: Questions asked by members of the House, with the answers supplied in reply by the government

Dutch Title: Vragen gesteld door de leden der Kamer, met de daarop door de regering gegeven antwoorden

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Original Publication Date: April 11, 2023

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Translator: Etcetera Language Group, Inc.
Questions asked by members of the House, with the answers supplied in reply by the government

2213

Questions by member Eppink (IA21) to the Minister of Foreign Trade and Development Collaboration, about the supply of chip machines to China (sent in on March 28, 2023).

Answer of Minister Schreinemacher (Foreign Trade and Development collaboration) (received April 11, 2023).

Question 1
Why did you not mention «China» specifically in your letter to the House dated March 8, 2023 with regard to the extensive export control of semiconductors?

Answer 1
The Dutch export control policy is country-neutral. When assessing an export permit application, considerations are made and tested against the additional strategic character for export control (House document 22 054, no 376), on a case by case basis, where among others the properties of the product to be exported, the use of the product, the end user and destination country are taken into account.

Questions 2 and 3
Is it possible that Dutch manufacturing equipment of semiconductors could still land in China’s hands via brokers and via other countries? Could you please explain your answer?
How will you prevent and monitor that Dutch chip machines do not go to China via-via, for example via other countries and companies that China have good relationships with?

Answers 2 and 3
The risk for transit to another end user is part of the assessment of a permit application. If there are any doubts about this, the application will not be approved. Further, advanced manufacturing equipment for semiconductor technology means that users can normally not install these systems at a different location. This is among others due to the complexity of the systems and the technical requirements for the installation location. Employees from the Netherlands will always be involved in setting up and commissioning the machine. Export permits are required for this.
Question 4
Do you support forming an international collaboration between similar countries that manufacture chip machines, for example similar to the Organization of the Petroleum Exporting Countries (OPEC)? If not, why not?

Answer 4
There is already an international forum for discussing export control of (upcoming) technology in multilateral context: the Wassenaar Arrangement. The Netherlands is part of this. In addition to this, the Netherlands had extensive deliberations with various countries who have a leading position in the semiconductor value chain and/or specific manufacturing equipment for this, such as the United States, Japan, South Korea and EU member states.

Question 5
Does other chip-manufacturing countries like Germany have the same opinions as the Netherlands with regard to export restrictions of chip technology to China?

Answer 5
The Dutch industry manufactures unique products in the semiconductor value chain and that is why the Netherlands is playing a leading role in this. The export control measure that the Netherlands announced to your house on March 8 only concerns Dutch technology. Further, the Netherlands strives, as stated in the letter, for European embedding of national decisions, so there is intensive contact with European partners. Pursuant to articles 9 and 10 of the Dual Use Regulation, the Netherlands will inform the European Commission and the member states about the national control measure, where after member states can take this over.

Question 6
Why will the Netherlands assess export permit applications on a case-by-case basis? Would a clear distinction not create more clarity and would a case-by-case assessment not lead to more gray areas that would cause the Dutch chip technology to eventually end up in undesirable places?

Answer 6
The Dutch export control policy focuses on guaranteeing (inter)national safety, but the risks of undesirable end use is not the same for all transactions to the same country. That is why the government carefully assesses every permit applicable before every individual export.

Question 7
Does your statement that you will grant export permits 'on a case-by-case basis means that each permit will become a kind of 'international bargaining', which will also have to be negotiated on a case-by-case basis?

Answer 7
No. Every request for an export permit application will be assessed on its own merit and in a national context.

Question 8
How long will this export restriction be applicable?

Answer 8
No end date has been set for the upcoming ministerial regulation. In general, it is always possible to revoke a ministerial regulation, if the reason for the regulation expires.
Question 9
What other steps can the Netherlands also take to broaden the export restriction, for example by not only restricting chip technology, but also the more common technology?

Answer 9
With export control of advanced manufacturing equipment for semiconductor technology it is important for the Netherlands to prevent unnecessary interruptions in the value chains for acceptable technology. The decision to choose additional control measures is made with utmost care and in the most accurate way and is thus aimed at specific equipment.

When it appears that the export of more common technology could possibly have a negative impact on (inter)national safety, the cabinet will consider taking additional measures. The Netherlands will also take a level international playing field into consideration with this.

Question 10
Could you please answer these questions before April 4, 5:00 PM (due to the scheduled China commission meeting on April 5)?

Answer 10
The questions will be answered as quickly as possible.