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## **Customs & Trade in Israel**

### **A Legal Newsletter**

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#### **Defense Export Control- Dual-Use Export Control: The Wassenaar Arrangement**

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The intent behind the Defense Export Control law, 2007 ("the law"), and the various regulations and orders enacted thereunder, is to regulate defense export on the grounds of national security, foreign policy, international commitments and other crucial interests of the State of Israel.

The law dictates regulation not only of goods whose primary usage is for military purposes, but also of dual-use goods. These goods are used primarily for civilian purposes, but can potentially be utilized for militaristic purposes, and are therefore subject to export control.

#### **The Wassenaar Arrangement and its Nomenclature**

As discussed in previous articles on this subject, control of dual-use goods is regulated by the Wassenaar Arrangement, an international arrangement adopted by the State of Israel. The Wassenaar Arrangement establishes a detailed list of goods categorized as "dual-use" goods. The control of these goods is intended to prevent the covert armament of various entities by purchasing goods supposedly used for civilian purposes.

The list divides goods into nine categories of potential dual-use goods:

- (1) Advanced Materials and Related Equipment; (2) Materials Processing; (3) Electronics;
- (4) Computers; (5.1) Telecommunications; (5.2) Information Security; (6) Sensors and "Lasers";
- (7) Navigation and Avionics; (8) Marine; (9) Aerospace and Propulsion.

Each category is divided into five subcategories:

- A. Systems, Equipment and Components

B. Test, Inspection and Production Equipment

C. Materials

D. Software

E. Technology

Each subcategory is divided into sections and subsections in order to provide the most comprehensive description possible of qualifying goods. This allows exporters to accurately compare the goods they wish to export with the goods described by the list. The list refers to hundreds of products.

In this manner, each good receives a "Wassenaar" code (Wassenaar Nomenclature): the code is composed of the main category's number, followed by a letter indicating the subcategory, followed by a letter and a number indicating the specific section and subsection.

For example, the code 3.B.1.f refers to goods defined as electronic goods (category 3), classified as manufacturing equipment (subcategory B) of semiconductor devices or materials (section 1) of the lithography type (subsection f).

The universal coding system adopted by all countries implementing the arrangement, including Israel, eases the export control process. It allows all participating countries to simply classify an export product as correlating to a specific, codified section of the arrangement, rather than attempting the near impossible feat of defining each exported good separately. This allows for a uniform export coding of the aforementioned goods among the countries signed on the arrangement.

Although the Wassenaar Arrangement is relatively detailed and refers to many products, the task of correlating a specific product to a "Wassenaar code" is complex. Therefore, it is recommended to consult with product development and manufacturing experts with intimate knowledge of the product's characteristics. Export control experts, experienced in conducting such correlations, should also be consulted. The importance of expert assistance is highlighted by the fact that the Wassenaar Arrangement is regularly updated. Thus the legal status of goods may change, leaving the exporter oblivious (e.g. controlled export goods became freely tradable, and vice versa).

Another important point to consider is the existence of other export control lists (which we will discuss in detail in the following articles) that may contain the dual-use goods. In some cases, an exporter will be required to maintain multiple export licenses, obtaining an export license for each export control regimen separately. This amplifies the importance of carefully examining the goods intended for export, and properly correlating them with the various control agencies. For example,

separate export control agencies exist for chemical, biological and nuclear components, encryption devices and technology and more.

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**The review provided above is a condensed summary. The information contained therein is provided for information purposes only and does not constitute legal advice. For further details, please contact Adv. Gill Nadel - Chair of the firm's Import, Export and International Trade Law Practice, Tax Department. Email: [Gill.Nadel@goldfarb.com](mailto:Gill.Nadel@goldfarb.com), phone: +972-3-6089979.**