

**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**

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 for advanced semiconductor technology

As described in its letter to parliament of 1 December 2022, 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<sup>1</sup> 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.

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<sup>1</sup> 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).