



Bundesamt  
für Wirtschaft und  
Ausfuhrkontrolle

# Brief Outline on Export Controls

Licensing requirements, application procedure, information sources





## **Introduction**

This new edition refers to the relevant development of the recent years. In addition to the presentation of the current legislation regarding exports and transfers, it gives an overview of the following amendments:

1. The amendment of the Foreign Trade and Payments Act (AWG) and of the Foreign Trade and Payments Regulation (AWV)
2. Introduction of the new General Licences No. 26 and 27.
3. Update of embargo provisions
4. The firearms regulation

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## **Objectives of the Brief Outline on Export Controls**

The Brief Outline on Export Controls provides a first orientation on the provisions of German and European export control legislation.

In order to facilitate the understanding of the export control system, the existing prohibitions, in particular embargoes are described first and then the relevant licences required for exports, transfers and other transactions are explained. This will be followed by an overview of the application and licensing procedures in the Federal Office of Economics and Export Control (BAFA). In conclusion, additional sources of information and materials are mentioned.

This brief outline explains the main features of export control. It is, however, not legally binding and, therefore, cannot substitute a thorough study of the subject.

A systematic description of foreign trade legislation is contained in the Handbook of German Export Control, HADDEX, (see section L, V 3 below) published by BAFA.

### **Please take note of the following restrictions**

An export/transfer may also require an authorisation pursuant to other laws or regulations (e.g. Weapons Act, Waste Disposal Law, Law on the Supervision of Basic Materials, Pharmaceutical Products Law, Narcotics Law, Radiation Protection Regulation). Information on the respective licensing authority may be obtained from your competent customs office or the Customs Information Management Centre.

## **A. WHY ARE EXPORT CONTROLS NECESSARY?**

Foreign trade at national and European levels is governed by the principle of the free movement of goods. However, restrictions and directions are possible if this necessary to safeguard certain superior interests.

In accordance with section 4 (1) of the Foreign Trade and Payments Act (AWG), restrictions and statutory duties requiring action may be imposed. The central aim is to prevent threats to Germany or its allies by conventional arms and other weapons of mass destruction.

German exports should neither enhance conflicts in crisis areas nor contribute to internal repression or other serious human rights violations. Due to its international commitment the Federal Republic of Germany is obliged not to burden the foreign relations by critical exports.

Last but not least, export controls are to implement the embargo resolutions adopted by the UN Security Council and the EU embargo regulations.

Based on sect. 4 AWG, specific prohibitions and licensing requirements are laid down in the Foreign Trade and Payments Regulation (AWV). The provisions make it possible to control in particular the export of weapons and armaments. Part I of Annex AL (Export List) to AWV mainly contains the list of controlled military equipment. In case of the export of certain firearms, the firearms regulation should be taken into account.

The Regulation (EC) No. 428/2009 (so-called Dual-Use Regulation) has to be observed in case of items which may be used for civil and military purposes (so-called dual-use items). It stipulates a harmonised list of items (Annex I to EC Dual-Use Regulation), licensing requirements and procedures for the export and transfer of dual-use items in all EU Member States. It also contains provisions on brokering activities related to dual-use items and prohibitions of their transit. The objective is to prevent the proliferation of weapons of mass destruction.

When deciding on the granting of authorisations for items of Annex I, the Member States have to particularly take into account the following points of view (cf. Article 12 (1) EC Dual-use Regulation):

- their obligations and commitments arising from international non-proliferation regimes and export control arrangements of sensitive items;
- their obligations under sanctions imposed by the United Nations Security Council or agreed upon by other international organisations;
- considerations of the national foreign and security policy;
- considerations of intended end-use and the risk of diversion.

Furthermore, there are embargo provisions which may overlap the aforementioned general foreign trade regulations by e. g. prohibitions and create licensing requirements.

**All the above-mentioned provisions and its annexes are subject to regular amendments.**

**The current versions of these provisions are published at BAFA's web sites at:**

[www.ausfuhrkontrolle.info](http://www.ausfuhrkontrolle.info)

## **B. WHEN ARE EXPORTS PROHIBITED?**

Certain exports and activities in foreign trade are prohibited. This applies in particular to a number of activities in connection with weapons of mass destruction in accordance with sections 17 and 18 of the War Weapons Control Act (KWKG). The Federal Ministry of Economics and Technology (BMW) is the competent licensing authority in case of the KWKG. In addition, there are a number of embargoes containing prohibitions and restrictions on foreign trade. The embargoes are imposed on specific countries as well as individual persons and organisations. These are for instance embargo measures to combat terrorism.

## **I. Restrictions based on embargoes and to combat terrorism**

Depending on the scope of restrictions, there are **three types of embargoes**: total embargoes, partial embargoes and arms embargoes. Please note that content and scope of the embargoes in force may differ in dependence of the specific country and may involve various restrictions and prohibitions.

Embargo regulations may not only apply to the export of an item, but also to the import and transit of goods, the provision of services, investments and payment transactions (financial sanctions). In addition, embargoes may also be imposed on goods that are normally not subject to export control. When dealing with embargoed destinations, it must always be checked carefully whether the intended action and/or legal transaction is subject to restrictions.

### **1. Total embargoes**

Total embargoes involve extensive prohibitions of foreign trade, which can only be diminished by certain exceptions (e. g. for humanitarian purposes). A total embargo against a specific country is presently not in force.

However, the restrictions imposed independently of specific countries with the aim to combat international terrorism involve extensive restrictions which are, in fact, the same as a total embargo.

### **2. Partial embargoes**

Partial embargo means that specific restrictions and prohibitions only concern certain branches of the economy and prohibit or restrict certain actions and/or certain legal transactions.

### **3. Arms embargoes**

Arms embargoes contain explicit restrictions on and prohibitions of the delivery of weapons, ammunition and other military equipment within the meaning of Part I Section A of the Export List (AL) as well as paramilitary equipment and the provision of related technical assistance.

**Current information about the embargo measures may be found at BAFA's web sites. There you find an overview of country-related embargoes and an Information Leaflet on Foreign Trade with embargoed destinations. These publications are regularly updated.**

With the Regulations (EC) No. 881/2002, No. 2580/2001 and (EU) No. 753/2011, the European Union adopted restrictive **measures to combat terrorism**. In accordance with these provisions, it is prohibited to directly or indirectly provide certain persons, entities or organisations, listed in the Annexes to the above regulations, with economic resources and financial assets. In addition, the property of these persons, groups and entities is frozen (freezing of funds). The term economic resources includes any type of financial assets (including money), regardless of tangible or intangible, movable or immovable forms that may be used for the purchase of money, goods or services. Therefore the direct or indirect delivery of goods to persons, entities or organisations mentioned in those lists is prohibited regardless of the country of destination.

Please note that these prohibitions refer to all persons involved in the delivery. It is not enough to check whether the final recipient of the delivery is named in the above-mentioned lists. Likewise it does not play any role whether the goods to be supplied are armaments, dual-use items or goods not controlled by the Export List since the term economic resources is comprehensive in scope and refers to all goods that are not meant for personal consumption or use.

**Please note that these regulations are subject to continuous amendments.**

**As part of HADDEX a CD-ROM was published containing the sanctions lists which can be ordered from the Bundesanzeiger Verlag. It contains the names of the relevant persons and entities and can be fed into the**

**DP-system of your company which will be informed by email about list amendments that can be downloaded from the server of the Bundesanzeiger.**

**An Information Leaflet on embargo measures to combat terrorism - which is updated regularly - is published at BAFA's web sites and may be downloaded (Embargoes → Terrorism).**

## **C. WHEN ARE AUTHORISATIONS REQUIRED?**

Authorisation requirements may result from the EC Dual-Use Regulation, the AWG and AWV, the firearms regulation and the anti-torture regulation. Licences may be required for the export and transfer of goods as well as for trafficking and brokering transactions and the provision of technical assistance. The term "goods/items" includes commodities, technology and data processing programmes.

Details on the licensing requirements and prohibitions resulting from the anti-torture regulation are contained in Section I of this Leaflet.

### **I. Are licences also required for the use of electronic media, i. e. a-mails, intranet and internet?**

The following licensing requirements apply independently of how the commodity gets to other states. It does not play any role whether the software or technology (technical documents) is sent to other states in tangible form (paper, CD, DVD) or whether they are transmitted electronically, particularly by e-mail. The provision of software and technology in the companies' intranets or in the internet is also subject to licensing if the access to software and technology is possible from third states. Please note that a licensing requirement does not presuppose that the access took place or not.

A licence is, in fact, already required when the possibility of access is created.

**For more details see BAFA's Information Leaflet on Technology Transfer and Non-Proliferation (Arbeitshilfen/Publikationen → Merkblätter).**

## **II. Authorisation requirements for exports to countries outside EU**

The term export is defined in section 2 (3) AWG referring to the national export control provisions and Art. 2 no. 2 EC Dual-Use Regulation referring to the dual-use items listed in its Annex I. In simple terms, export means the delivery of goods from the German domestic territory or EU customs territory to a third country, i. e. a territory situated outside the European Union.

### **1. Authorisation requirement for goods controlled by the Export List (AL)/Annex I to EC Dual-use Regulation or Annex I to Firearms Regulation**

Irrespective of embargoes, it must be checked whether the goods to be exported are controlled by Part I of the Export List/Annex I to EC Dual-Use Regulation or Annex I to the Firearms Regulation because the export of these listed goods must be approved by BAFA in advance. In practice, most restrictions result from the list coverage of goods.

With regard to the question which **armaments and firearms** are subject to export authorisation, Part I Section A of the Export List and Annex I to the Firearms Regulation must be taken into consideration.

- **Part I Section A of the Export List:** List of weapons, ammunition and armaments (items 0001-0022 of AL). The licensing requirement is based on Sect. 8 (1) no. 1 AWV.

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- **Annex I to Firearms Regulation:** EU-wide list of firearms, their parts, essential components and ammunition. The export authorisation requirement is based on Art. 4 (1) of firearms regulation (details may be taken from Section M of this Information Leaflet).

When checking which **listed dual-use items** are subject to export authorisation, Annex I to the EC Dual-use Regulation and Part I Section B of the Export List have to be taken into account.

**Annex I to EC Dual-Use Regulation** stipulates a uniform list of goods applicable in all EU Member States. The export of these goods should be controlled by all Member States in accordance with the Decisions of the International Export Control Regimes. The authorisation requirement for exports is laid down in Art. 3 EC Dual-Use Regulation.

Annex I to the EC Dual-Use Regulation presently covers about 650 items and contains goods of the following areas:

- Nuclear materials, plant and equipment
- Materials, chemicals, micro-organisms and toxins
- Materials processing
- General electronics
- Computers
- Telecommunications, information security
- Sensors and lasers
- Aviation electronics and navigation
- Oceanographic and naval technology
- Propulsion systems, spacecraft and related equipment

Annex I to EC Dual-Use REG is supplemented by the national dual-use items of Part I B of the Export List (900 numbering range). The licensing requirement results from sect. 8 (1) no. 2 AWV.

**The content of the Export List and of Annex I to EC Dual-Use Regulation, including introductory remarks, definitions and index of headings is published at BAFA's web sites (<http://www.ausfuhrkontrolle.inof/ausfuhrkontrolle/de/gueterlisten/index.html>) and may be downloaded.**

## 2. Authorisation requirement for items not controlled by the goods lists

The export of items not contained in the Export List/Annex I to EC Dual-Use Regulation may require an authorisation under Article 4 EC Dual-Use Regulation, section 9 AWV. The structure of these licensing requirements is almost identical. The goods are or may be intended for certain purposes of use. These are i. a. use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or a military end-use in a purchasing country or country of destination that is subject to an arms embargo. Another condition is that the exporter is aware of this use or has been informed about a potential use by BAFA.

- **Information by BAFA:**

An authorisation shall be required if the exporter has been informed by BAFA that the items are or may be intended for any of the above-mentioned purposes, in part in connection with the countries mentioned. The exporter will be informed by an individual letter referring to the licensing requirement of a specific export transaction, or

- **Exporter's awareness:**

If the exporter is aware that the items are intended for any of the uses referred to above - in part in connection with the countries mentioned - he must inform BAFA accordingly.



This information should be provided on the licence application form. In this case, BAFA will decide whether an authorisation will be required or not.

### III. Authorisation requirements for transfers

In order to make a distinction to the rules applying to exports to countries outside the EU customs territory, the shipment from the domestic territory to the customs territory of the European Union is called a transfer (cf. Section 2 para. 21 AWG).

#### We have to distinguish between

- authorisation requirements for transfers where the goods remain in the EU
- authorisation requirements for transfers followed by an export to countries outside the EU:

#### 1. Authorisation requirement for goods of Part I Section A of AL/Annex IV to EC Dual-Use REG with final destination in EU

The transfer of armaments (listed in Part I A of AL) is subject to authorisation just like their export (cf. sect. 11 (1) sentence 2 no. 1 – 3 AWV). However, the transfer of dual-use items to other EU Member States is basically free. The transfer of goods listed in Annex IV to EC Dual-use Regulation only (a part of goods listed in Annex I) is subject to authorisation (cf. Art. 22 (1) sentence 1 EC Dual-Use Regulation). Please note that the entries in Annex IV do not always contain the complete description of the item concerned and the respective notes. The complete description of the goods results from Annex I to the EC Dual-Use Regulation.

#### 2. Authorisation requirement for transfers followed by an export to countries outside EU

- Goods of **Part I Section A** of AL are not subject to any peculiarities as compared to transfers that are described above under figure II 1. The licensing requirement is based on section 11 (1) AWV.
- Items listed in **Part I Section B** of AL (dual-use items on the national list, so-called 900 numbering range) are subject to licensing when the transferor is aware that the final destination is outside the EU (cf. Section 11 (2) AWV). This does not apply when a general authorisation or global licence was granted for a direct export, or when the items are processed in the EU Member State or if the value of the goods delivered is not exceeding € 5,000 (cf. Section 11 (5) AWV).
- The transfer of **items not controlled by AL or Annex I to EC Dual-Use Regulation** with subsequent export to a country outside EU requires an authorisation under section 11 (3) AWV if the transferor was informed by BAFA that the goods are or may be intended, entirely or in part, for the establishment or operation of a nuclear plant within the meaning of Category 0 of Annex I to EC Dual-Use Regulation and the country of destination is mentioned in sect. 9 (1) no. 2. In this case, too, the exemptions of sect. 11 (5) AWV apply.

### IV. Other licensing requirements and controls

#### 1. Trafficking and brokering transactions

In accordance with Art. 5 EC Dual-Use Regulations and sections 46 and 47 AWV, trafficking and brokering transactions are subject to authorisation. This includes various ways of arranging or concluding a contract:

- the brokering of a contract on the acquisition or disposal of goods,
- the proof of an opportunity to conclude such a contract, or
- the conclusion of a contract on the disposal of goods.

The licensing requirement only applies to trafficking and brokering related to goods that

1. are located in a third country, i. e. in a non-EU member state,  
and
2. should be exported to another third country.

The term trafficking and brokering transaction is defined in sect. 2 (14) AWG or in Art. 2 No. 5 EC Dual-Use Regulation.

Under Art. 5 of the EC Dual-Use Regulation only use-related controls of trafficking and brokering transactions related to goods listed in Annex I to the EC Regulation based on the model of Art. 4 (1) EC Dual-Use Regulation apply. As with the export of non-listed goods, authorisations or information are only required if either the domestic resident has been informed by BAFA that the goods listed in Annex I are or may be intended for the above-mentioned uses, or if the broker knows that the goods are intended for the above-mentioned use. These requirements result from sect. 47 (2) and (3) and apply to trafficking and brokering transactions undertaken by German nationals in a third country.

Sect. 46 AWV, however, provides for a general authorisation requirement for trafficking and brokering transactions in connection with armaments listed in Part I Section A of AL. In addition, sect. 47 (1) stipulates a licensing requirement for trafficking and brokering transactions that are undertaken by German nationals in a third country and are related to certain war weapons.

**Further details are contained in the Information Leaflet Trafficking and Brokering Transactions published at BAFA's web sites ([www. ausfuhrkontrolle.info](http://www.ausfuhrkontrolle.info) → Arbeitshilfen/Publikationen → Merkblätter).**

## **2. Technical assistance**

Sections 49 to 52 AWV stipulate information and authorisation requirements for the provision of technical assistance.

The definition of "technical assistance" comprises any technical service, as repair, maintenance, development, but also transfer of practical skills and knowledge, e.g. by consultation and training. Technical assistance can also be granted in oral or electronic form, by telephone or fax (cf. section 2 (16) AWG). The mechanism of information also applies in the area of licensing provisions for technical assistance, comparable to the export authorisation requirements under Art. 4 EC Dual-Use Regulation, section 9 AWV for non-listed items (cf. Section C, fig. I.2).

That means, an authorisation or information shall only be required if either the service provider was informed by BAFA that the technical assistance is in connection with a certain use in the above-mentioned countries, or if the service provider is aware that the technical assistance is in connection with a certain use.

These authorisation and information requirements apply to all domestic residents and all German nationals, i. e. also non-resident Germans.

The transmission of information that is "in the public domain" or is a part of basic scientific research is exempt from the authorisation requirement. In addition, section 53 AWV enumerates other cases not subject to licensing.

**BAFA has published an Information Leaflet on Technology Transfer and Non-proliferation on its web sites which may be downloaded (Arbeitshilfen → Merkblätter).**

## **D. When can a transit be prohibited?**

Art. 6 of the EC Dual-Use Regulation created the possibility to control the transit of goods listed in its Annex I across the European Union. Transit means the transport of goods entering, passing through and leaving the customs territory of the European Union with final destination outside the Union. The prohibition will only apply to dual-use items of Annex I to EC Dual-Use Regulation that are not imported into the customs territory of the European Union and not released for free circulation (non-Community goods).

The transit of dual-use items will only be prohibited if they are intended for use in connection with nuclear, biological or chemical weapons and missiles (within the meaning of Art. 4 (1) EC Dual-Use Regulation). Thus, there is no global authorisation requirement for the transit of dual-use items through the European Union.

## **E. WHAT TYPES OF AUTHORISATIONS EXIST?**

### **I. Individual Export Licences/Maximum Amount Licences**

The basic type of export/transfer licence is the individual licence. It permits the shipment of one or several items to one consignee, based on one order.

A „maximum amount licence“, being a special type of individual licence, may be issued. This authorisation permits the shipment to one consignee up to the authorised „maximum amount“ (expected annual sales) on the basis of several orders, e.g. in connection with a general contract.

### **II. Global Export Licences**

Given certain conditions, it is possible for certain exporters to apply for a global export licence (SAG) instead of applying for several individual licences. The SAG is a privileged procedure for reliable exporters with a high number of foreign trade transactions. This licence permits the export of a group of items to several consignees.

**An Information Leaflet on the Global Export Licence is available at BAFA or may be downloaded from its web sites (Arbeitshilfen / Publikationen → Merkblätter).**

### **III. General Licences**

Special licence forms are the general licences. They are published by BAFA in the Federal Gazette and need not be applied for by the exporter /transferor. It is sufficient if the exporter registers as the user. This also applies to the Community General Export Authorisations EU001 to EU006 that were published as Annexes IIa to II f to the EC Dual-Use Regulation and which were provided with additional terms and conditions by BAFA and published in the Federal Gazette.

Each General Licence is only valid for the specific items and countries (as laid down in nos. 4 or 5 of the General Licences).

**An Information Leaflet on General Licences containing information on registration and reporting is available at BAFA's web sites and may be downloaded (Arbeitshilfen / Publikationen → Merkblätter).**

### **IV. Terms and conditions**

Export and transfer licences may be provided with terms and conditions in accordance with Art. 6 (2) EC Dual-Use Regulation or sect. 14 (1) AWG i. c. w. sect. 36 Administrative Procedures Act. These are e. g. time limitation, conditions, revocation, requirements or reservations. They are issued to adapt the licence to the requirements of the individual case. In many cases they create the pre-requisite for the granting of an export or transfer licence.

All licences are granted for a limited period of time that means that the licence may only be used within a certain time limit.

## **F. WHAT IS SUBJECT TO THE JURISDICTION OF BAFA IN THE AREA OF EXPORT CONTROL?**

If an authorisation is required under Art. 22 EC Dual-Use REG or the AWV provisions BAFA is the competent authority for the granting of the licence provided that the item to be delivered is located on the domestic territory (so-called situs principle).

Where the authorisation requirement is based on Art. 3 and 4 EC Dual-Use Regulation, BAFA is responsible for the granting of the licence only if the exporter/transferor is established in Germany. The exporter/transferor is considered to be a resident of that EU Member State where his head office is established (principle of establishment, cf. Art. 9 (2) EC Dual-Use REG). In case of exports subject to authorisation under Art. 3, 4 EC Dual-Use REG, the export licence application should also be submitted to BAFA when the item to be exported is located in another EU Member State.

## **G. HOW TO APPLY FOR AN INDIVIDUAL EXPORT LICENCE?**

If you come to the conclusion, after reviewing your case that your intended export is subject to licensing you have to file a formal application for an export/transfer licence at BAFA.

**Detailed instructions on how to file applications may be derived from the check list at BAFA's web sites and may be downloaded (Arbeitshilfen / Publikationen → Merkblätter).**

### **I. Fully electronic application procedure ELAN K2**

Under the name ELAN K2 (Electronic Application Registration and Communication) BAFA developed an innovative export portal permitting a faster filing of applications, a more transparent communication and processing as well as easier compliance with reporting requirements. With the ELAN K2 system it is not only possible to apply electronically for export/transfer licences to BAFA, but for almost all other licences needed in the export sector. The access is possible via a link on BAFA's website ("Antragstellung → ELAN K2 Informationen").

### **II. Application form**

As an alternative you can also file applications in paper form. In this case, you have to submit a formal application for the granting of an export/transfer licence to BAFA. Specific application forms AG, AG/W, AG/E1 and AG/E2 are required for this purpose. They are available from special form publishers (see Section L, fig. VI) and most of the Chambers of Industry and Commerce. Instructions on how to complete the forms are published at BAFA's web sites and may be downloaded. The forms presently valid reflect the status of 1 January 2001. However, the use of the ELAN K2 online portal is recommended because this system permits the paperless filing of licence applications, including the uploading of all the required documents. The new system enables BAFA to transmit questions and enquiries very quickly. In addition ELAN K2 makes it possible to process a high number of applications at the same time and to create templates for applications of repeating business transactions.

### **III. Customs number (EORI)**

The exporter /transferor must enter the EORI number and branch number in the application form. If no EORI number has been assigned yet it may be obtained from the Customs Information Management Centre, Carusufer 3-5, 01099 Dresden. All the information on the EORI number and the required application form 0870 (Beteiligte – Stammdaten – EORI numbers) is also available at the Homepage of the customs authority [www.zoll.de](http://www.zoll.de).

## **IV. Nomination of a person responsible for exports**

Export transactions normally require the nomination of a person responsible for exports to BAFA. He/she is personally responsible for the compliance with the export control regulations and must be a member of the board of directors or executive management.

- The legal basis is sect. 8 (2) AWG i. c. w. the "Principles of the Federal Government to check the reliability of exporters" of 10.08.2001.  
The principles may be downloaded from BAFA's web sites (Vorschriften → Zuverlässigkeit / Ausfuhrverantwortlicher).

A person responsible for exports shall be nominated in case of the following applications for export/ transfer licences:

- Export and transfer of items specified in Part I, Section A of the Export List (AL), including items subject to the War Weapons List;
- Export of items specified in Annex I of EC Dual-use Regulation except exports to countries listed in Annex IIa Part 2 EC Dual-Use REG (cf. section C above);
- Export of items specified in Part I Section B of the Export List (AL) except exports to countries listed in Annex IIa Part 2 EC Dual-Use REG.

The forms are available at BAFA's web sites ([www.ausfuhrkontrolle.info](http://www.ausfuhrkontrolle.info)) "Antragstellung". Please complete form AV1 to nominate the person responsible for exports and submit it with a current excerpt from the commercial register. Form AV2 is to be completed for the acceptance of responsibilities by the person responsible for exports and to be renewed annually.

## **V. End-Use Documents**

In case of the export/transfer of listed items subject to authorisation an End-Use-Certificate must be enclosed with the application (cf. section 21 (1) AWV). The submission of end-use documents is normally not required for temporary exports only or if the export value is below certain limits;

End-Use Certificates are distinguished as to private and official EUC as well as governmental end-use certificates (International Import Certificates - IC).

For details on End-Use Certificates see BAFA's Announcement on section 17 (2) AWV of 12.02.2002. This announcement is also published at BAFA's web sites (Antragstellung → Endverbleibsdokumente) and may be downloaded.

### **1. Private End-Use Certificate (EUC)**

A private EUC contains statements by consignee or end-user, being subject to private law, referring to the final destination and use of the items. The content of EUC may vary as to country of destination, consignee, end-user and type of items. The EUC must correspond with the standard text given by BAFA and contain the consignee's letterhead.

The model is contained in the above-mentioned BAFA Announcement on section 17 (2) AWV of 12.02.2002. This announcement and the models are also published at BAFA's web sites and may be downloaded.

### **2. Official End-Use Certificate (EUC)**

Official End-Use Certificates are required if the exported items are to be delivered to a governmental end-user, i. e. the purchaser (or at least indirect purchaser) is the recipient state. An official end-use certificate is also a private statement confirmed by a government authority.

### **3. International Import Certificate (IC)**

ICs are issued by the recipient country or an authorised office; as a rule, the content of the statement is more restricted than in the official EUC. The IC contains the official declaration of the recipient country that it took note of the intended import of items and that a possible subsequent re-export will be monitored in accordance with its export control regulations.

Such ICs are mainly issued by the following countries: Australia, Austria, Belgium, Canada, China (“Importer Statement on End-User and End-Use”), Czech Republic, Denmark, Finland, France, Greece, Hungary, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Singapore, Slovak Republic, Spain, Special Administrative Region of Hong Kong, Sweden, Switzerland, Turkey, United Kingdom and United States of America.

## **VI. Technical documents**

Please enclose all the necessary (technical) documents with the application, e.g. brochures and data sheets permitting a technical assessment of the export items on the basis of the Export List.

Please note that the items must be exactly described; producer and type of the items have to be indicated.

- Correct and complete specification of the item (including trade name, type, article number)
- Detailed technical description, at best based on a technical data sheet, a brochure or another technical document (please note that there are special questionnaires for certain goods you may find at BAFA’s web sites “Ausfuhrkontrolle” go to “Güterlisten”; a material security data sheet (MSDS) is normally not sufficient.
- Description of use (i. e. general and typical uses).

In order to facilitate this description BAFA worked out a questionnaire referring to coordinate measuring machines and machine tools; it should be enclosed with the export licence application. In this way, time-consuming enquiries can be avoided.

Besides this, BAFA published further hints to facilitate the individual evaluation and rating of goods as well as on necessary information to be provided when applying for export licences or other technical information focusing on Iran.

The questionnaires and hints on technical information may be found at [http://www.ausfuhrkontrolle.info/ausfuhrkontrolle/de/gueterlisten/frageboegen\\_einstufung/index.html](http://www.ausfuhrkontrolle.info/ausfuhrkontrolle/de/gueterlisten/frageboegen_einstufung/index.html) or at <http://www.ausfuhrkontrolle.info/ausfuhrkontrolle/de/gueterlisten/auskunft/index.html>.

## **H. HOW LONG DOES THE LICENSING PROCEDURE TAKE?**

The duration of the licensing procedure depends on the facts and circumstances of the individual case and may take more than a month, particularly in case of exports to sensitive countries. In these cases more thorough investigation and, if necessary, the participation of the competent federal ministries is required.

For a speedy processing it is essential to submit completely and correctly filled applications and to enclose all the necessary documents. In particular, the intended end-use by the consignee must be as detailed as possible.

## **I. Enquiry of processing status via ELAN K2**

Companies can enquire for the processing status of their electronic licence applications online via ELAN K2. All you have to do is to register for the ELAN K2 online portal. Further hints, e. g. a checklist for the optimised filing of application may be found at BAFA’s Homepage (Arbeitshilfen /Publikationen → Merkblätter).

## **I. WHAT IS A PRODUCT-RELATED ADVICE ON THE LIST OF GOODS (AZG)?**

The advice on the list of goods is to prove to the customs authorities that certain items are not covered by the Export List. The need for such a proof arises when the item of the Commodity Classification of Foreign Trade Statistics is provided with the note “aus” (see “Correlation List, Section M fig. V2). The advice on the list of goods does not state that an export is basically exempt from licensing. It is recommended to use ELAN K2 to file an application. The relevant application may also be filed on a special form that is available from form publishers and many Chambers of Industry and Commerce. Two copies of data sheets and brochures providing detailed information on the items have to be enclosed with the application.

## **J. WHAT IS A “BLANK NOTICE”?**

If you have doubts whether the intended export is subject to licensing or prohibition you may contact BAFA which offers the possibility to apply for a so-called blank notice or answers your enquiry by way of “other information” related to foreign trade.

A blank notice is a legally binding statement indicating that your intended export transaction is neither prohibited nor subject to licensing. This statement only applies to a specific export at a definite period of time when the application was filed and is not transferrable to other or future transactions. Thus, the “blank notice” does not refer to the permissibility of future exports of identical or comparable goods to identical or different consignees. Due to the formal character of the “blank notice” it must be issued in a formal administrative procedure, i. e. a formal application is required. Furthermore, all documents relevant for the application, especially application documents, technical documentation and end-use certificates have to be submitted.

In contrast to this, it is possible to request any “other information” on foreign trade. The submission of additional documents is helpful but not mandatory. Generally, it is sufficient to explain in your request the type of goods you intend to export, the consignee and their specific end-use. The processing of such a request for “other” information will certainly take less time than the application processing of a “blank notice”.

It should be taken into consideration, however, that the legal character of information given by BAFA in response to “other requests” is not the same as a “blank notice”. Therefore, please note the content of the relevant information.

On the other hand, the “other information” may be an alternative to the “blank notice”. This mainly applies to those cases where banks, suppliers or customers involved in an export transaction expect a statement by BAFA. It is also a good choice when your own arrangements within the internal compliance programme suggest a review of the export procedure, but do not require a formal application procedure.

## **K. WHAT IS THE CHEMICAL WEAPONS CONVENTION?**

The Chemical Weapons Convention (CWC) is a treaty aiming at disarmament and arms control which is directed on the world-wide prohibition of chemical weapons and the destruction of existing chemical stockpiles. It contains extensive mechanisms of control for the chemical industry and related industries, their purchasers and traders with chemicals.

The Act Implementing the CWC and the Implementing Regulation stipulate in detail the duties of the companies, especially authorisation and declaration requirements.

For the Act and the Regulation implementing the CWC see HADDEX, vol. 3 400 and 401, and the BAFA Announcements see vol. 4, 771 – 776. Comprehensive Information on CWC may be found at BAFA's web sites and at [www.opcw.org](http://www.opcw.org).

## **L. WHAT IS THE “ANTI-TORTURE” REGULATION?**

The Regulation (EC) No. 1236/2005 – in general terms the "Anti-torture regulation" - contains prohibitions and licensing requirements on foreign trade with certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

It contains two lists of goods in its Annexes II and III:

- Annex II contains goods that are of no practical use, except for capital punishment, torture or other cruel or degrading treatment. Third-country trade with those goods, in particular their export and import as well as the provision of technical assistance related to those items is prohibited. There are exceptions if it is proved that the goods, due to their historical importance, are exclusively used for public exhibition in museums in the country to which they are exported.
- Annex III contains goods that may be used, apart from legitimate purposes, also for the purpose of torture or other cruel, inhuman or degrading treatment. Since a legitimate use of these goods cannot be excluded, the export of those items is subject to authorisation. The import of these goods and the provision and acceptance of technical assistance in connection with them is free. This also applies to the transit of goods of Annex III on the conditions of Article 5 (1) sentence 2.

At <http://www.ausfuhrkontrolle.info> you can find and download an Information Leaflet on this issue (Arbeitshilfen / Publikationen → Merkblätter). The Regulation (EC) No. 1236/2005 may also be downloaded there (Vorschriften → Anti-Folter-Verordnung).

## **M. WHAT IS THE FIREARMS REGULATION?**

On 30 September 2013 the Regulation (EU) No. 258/2012 (firearms regulation) enters into force. It contains uniform provisions for the export of certain firearms which are applicable throughout the European Union. From this date exports of firearms listed in Annex I to this regulation shall require a licence under Art. 4 of the firearms regulation unless an authorisation is already required pursuant to sect. 8 (1) of the Foreign Trade and Payments Regulation (AWV):

A licence for the export of firearms should be applied for on the form “application for export /transfer licence” by using the ELAN K2 system from 30.9. 2013. Applications for exports of firearms have to be supplemented with additional data, therefore, Annex FW-VO has to be enclosed. Supplementary information on the goods and their way of delivery is to be provided on this form. The Enclosure FW-VO is offered for downloading on this page. Later on it will be integrated into ELAN K2.

For firearms being subject to licensing in accordance with the firearms regulation it is necessary to notify the weapon serial numbers. This report shall be provided by the exporter after receiving the licence using the ELAN K2 system.

For this purpose, a registration mask is offered by which the serial numbers are directly entered in ELAN K2. This type of registration is especially useful for licences with a low number of weapons. If the licence covers a high number of weapons exports it is more advantageous to use a XML-file. The XML-file must be generated in accordance with BAFA’s standards. As soon as the formal requirements are at hand they will be published on this page.

## **N. WHERE ARE ADDITIONAL INFORMATION AND IMPORTANT WORKING DOCUMENTS AVAILABLE?**

### **I. Contact by telephone, fax or e-mail**

The staff of the BAFA is always prepared to provide information. You can contact BAFA at



**Federal Office of Economics and Export Control**  
**Frankfurter Str. 29-35, 65760 Eschborn or**  
**PO Box: 5160, 65726 Eschborn**  
**Telephone: 06196/908-0**  
**Fax: 06196/908-800**  
**E-mail: [ausfuhrkontrolle@bafa.bund.de](mailto:ausfuhrkontrolle@bafa.bund.de)**

If you have specific questions you can also use the contact form at BAFA's web sites under "Kontakt".

### **III. BAFA's Internet sites**

The Federal Office of Economics and Export Control has published topical information and important laws in the Internet at <http://www.ausfuhrkontrolle.info>. This does not only include charts on the structure and tasks of BAFA but also important regulations, documents and announcements of foreign trade and payments, like e.g. EC Dual-Use Regulation, extracts from AWG and AWV, the Export List (AL), the Correlation List, General Licences, legal instruments and decisions adopted by EC and UN, and Information Leaflets.

### **III. Internet addresses**

The Customs Information and Management Centre may be contacted at the following address:

Carusufer 3-5

01099 Dresden

Fax: +49 (0) 351/44834-444

Internet: [http://www.zoll.de/h0\\_wir\\_ueber\\_uns/k0\\_ivm\\_zoll/kontaktdaten/index.html](http://www.zoll.de/h0_wir_ueber_uns/k0_ivm_zoll/kontaktdaten/index.html)

[http://www.zoll.de/b0\\_zoll\\_und\\_steuern/a0\\_zoelle/a1\\_grundlage\\_zollrecht/e0\\_azr\\_zollnummer/index.html](http://www.zoll.de/b0_zoll_und_steuern/a0_zoelle/a1_grundlage_zollrecht/e0_azr_zollnummer/index.html)

The Official Journal of the EC is also posted on the Internet at: <http://eur-lex.europa.eu/en/index.htm>

Resolutions and decisions of the UN Security Council are available at: <http://www.un.org/Docs/sc>

The table of contents of the Federal Gazette is published at: [www.bundesanzeiger.de](http://www.bundesanzeiger.de) as well as excerpts from the legal texts published in the Federal Law Gazette as from 1998 that are free of charge.

Contributions to export control issues and embargo measures by the Federal Ministry of Economics and Technology are published at:

<http://www.bmwi.de/BMWi/Navigation/Aussenwirtschaft/aussenwirtschaftsrecht.html>

The following international regimes deal with export control:

- In the field of armaments the "Wassenaar Arrangement" (<http://www.wassenaar.org>)
- In the field of missile technology the "Missile Technology Control Regime" - MTCR - ([www.mtcr.info](http://www.mtcr.info))
- In the field of chemical and biological weapons the "Australia Group" (<http://www.australiagroup.net>)
- In the field of goods that can be used for the development and production of nuclear weapons the "Nuclear Suppliers Group" (<http://www.nuclearsuppliersgroup.org>)

BAFA is not competent for US export control legislation. The Bureau of Industry and Security (BIS) has published comprehensive information in the Internet at: <http://www.bis.doc.gov>.

## **IV. Information Leaflets / Working Documents / HADDEX**

### **1. Information Leaflets/ BAFA's publications**

## Brief Outline on Export Controls

BAFA has published a number of Information Leaflets, giving more detailed explanation about relevant areas of foreign trade legislation. Reference to these leaflets was already made in the different sections.

The Information Leaflets and publications may be found and downloaded from BAFA's Homepage at <http://www.ausfuhrkontrolle.info/ausfuhrkontrolle/de/arbeitshilfen/index.html>

In case of questions or remarks referring to the content and design of our Internet sites or the above Information Leaflets, please contact the division of press and public relations, Tel.: +49(0)6196/908-452, Fax: +49(0)6196/908-496,

Email: [pressestelle@bafa.bund.de](mailto:pressestelle@bafa.bund.de)

### **2. Correlation List**

The Correlation List (list of indicators) shows whether and which items of the Commodity Classification for Foreign Trade Statistics may be subject to control under the Export List. A detailed explanation on the handling of the Correlation List is contained in the preface to the announcement referring to the revised Correlation List.

The Correlation List with its Preface is published at BAFA's web sites and may be downloaded.

### **3. HADDEX**

The Handbook of German Export Control - HADDEX - published by BAFA explains in volume 1 the existing prohibitions and licensing requirements, licensing procedures and simplified procedures. Volumes 2, 3 and 4 contain the most important documents (AWG, AWV, Export List, Correlation List, Announcements, forms and specimen). All volumes are regularly revised and updated. The loose-leaf type of publication including the provision of relevant supplements and express information service ensure that the reader is always informed about the current legal situation in the case of amendments and additions.

The handbook may be obtained from the Bundesanzeiger Verlagsgesellschaft.

Questions and suggestions referring to this handbook are welcome and may be submitted by email to [haddex@bafa.bund.de](mailto:haddex@bafa.bund.de)

You can also order the CD-ROM Sanctions Lists from the Bundesanzeiger Verlagsgesellschaft. The subscriber is informed by email about amendments which can be downloaded by the help of an access code from the server of the Bundesanzeiger.

The current text of AWG, AWV, Export List and Correlation List may be ordered from

Bundesanzeiger Verlagsgesellschaft mbH,

Phone: +49(0)221/97668-0

Fax: +49(0)221/97668-115

Legal amendments, but also announcements of BAFA are contained in the "Bundesanzeiger", an official newspaper published on working days.

### **4. "Export Control in Practice"**

Information and valuable advice referring to the practical implementation of export control in the company are contained in a new publication issued by BAFA "Export Control in Practice" that is also published by the Bundesanzeiger Verlag and may be ordered there.

## Publishing data

### Publisher

Federal Office of Economics and Export Control  
Press and Special Tasks  
Frankfurter Straße 29 – 35  
65760 Eschborn

<http://www.bafa.de>

The Federal Office of Economics and Export Control (BAFA) was awarded the audit certificate berufundfamilie for its family-friendly staff policy. This certificate is conferred by berufundfamilie GmbH, an initiative /of the non-profit Hertie Foundation.

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**Edition:** September 2013

### Photos

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