

LIVING IN A SAFE ENVIRONMENT

Technology for peace and freedom



German Export Control & Transit for Norwegian Goods through Germany

FSi Eksportkontrollseminar

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01

German Export Controls



Kriegswaffenkontrollgesetz



Bundessicherheitsrat

BAFA

Bundesamt für Wirtschaft und Ausfuhrkontrolle

German Export Controls

Mainly based on 4 pillars

War Weapon Control Act



Foreign Trade Law



Dual-Use-Regulation



Embargoes/Sanctions



- ❑ Covers production (!) and delivery of listed items (only hardware) within Germany, out of Germany and transit
- ❑ ABC-Weapons
- ❑ Total Weapon Systems (Fighters, Tanks, Missiles, etc.)
- ❑ Import Sub-Assemblies (Missile: Seeker)
- ❑ All transactions (productions, deliveries) have to be reported to BAFA twice a year
- ❑ All companies handling War Weapons have to keep record in a certain “War Weapon Book”
- ❑ If something is not in the licence, it’s not allowed
- ❑ Special EUC requirements:
 - Always signed by the End-User and/or a government agency
- ❑ Responsible Authority: Ministry of Economics
- ❑ Also involved: MoD and Foreign Affairs

Time is a funny thing

❑ Decision in

- Days



- Weeks



- Months



- Years



- Unless for the Ukraine...
- Double licence requirement for War Weapons

02

Facilitations 2023



- ❑ Long-going application process
- ❑ Even for EU/NATO partners

- ❑ Goal for facilitation:
- ❑ “Export control procedures to be made more efficient Cooperation with partners in the Alliance and those with shared values to be accelerated plus more targeted control for third countries”
- ❑ Approval procedures for deliveries to selected EU and NATO partners and close partner countries will be sped up in that these decisions will no longer be made on a case-by-case basis, but will be bundled together more as general instructions.
- ❑ In the case of third countries, assessments will continue to be made primarily on a case-by-case basis in order to ensure targeted control
- ❑ For third countries: more in-depth examination procedures on human rights and difficult security situations
- ❑ 3 packages of facilitation

- ❑ 1st package: starting September 1st 2023
- ❑ For military euquipment:
 - The introduction of a new General Licence (AGG33) for the export and transfer of other military equipment (with exceptions) to EU countries, certain NATO countries, countries with NATO-equivalent status and the Republic of Korea.
 - The introduction of a new General Licence (AGG34) for the export and transfer of software for articles already licenced (except: upgrades) to EU countries, certain NATO countries, countries with NATO-equivalent status, the Republic of Korea, Singapore, Chile and Uruguay.
 - Changes made to the existing General Licences No. 20 (Brokering transactions), No. 21 (Protective equipment), No. 22 (Explosives), No. 24 (Temporary exports), No. 25 (Special categories), and No. 26 (Armed forces), by expanding the scope of countries to include certain NATO countries, countries with NATO-equivalent status, the Republic of Korea, Singapore, Chile and Uruguay.
 - Further substantive changes and extensions to General Licences No. 18 (Military clothing), No. 24 (Extending the re-transfer period to 24 months in all categories), No. 25 (Introduction of a new category for the export of ships for testing international territorial waters, No. 26 (Extending the existing category 4.1 c) by including an additional civil intermediate consignee), and No. 28 (Including de minimis re-exports in line with the trilateral Franco-German-Spanish agreement).

❑ For dual-use-goods:

- The introduction of a new General Licence (an addition identical in content to General Licence EU001) for exports to the Republic of Korea, Singapore, Chile, Uruguay, Mexico and Argentina (AGG37).
- The introduction of a new General Licence for goods of list position 2D002 (Software for electronic components) for certain countries (AGG38).
- The introduction of a new General Licence (AGG39) for the intra-EU transfer of goods listed in Annex IV Part I of the EU Dual-Use Regulation.
- Changes made to the existing General Licences No. 12 (Doubling the threshold), No. 13 (Addition of three categories: (1) affected exports for marine and polar research if the owner of the ship is a federal or Land ministry; (2) the export of statutory marine equipment on ships flying the flag of an EU Member State provided that the intention is for the equipment to remain on the ship; (3) the export of goods for temporary use or for consumption during archaeological research) and General Licence No. 14 (Pumps and valves) by adding to the list of privileged goods and expanding the scope of countries.

- ❑ 2nd package: starting January 2024
- ❑ For military euquipment:
 - The introduction of a new General Licence (AGG33) for the export and transfer of other military equipment (with exceptions) to EU countries, certain NATO countries, countries with NATO-equivalent status and the Republic of Korea and Singapore
 - Changes in the General Licence (AGG19) for Military Vehicles and expanding the scope of countries.
 - Changes in the General Licence (AGG24)for return-deliveries (no need to provide the licence for the initial export).
 - Changes in the General Licence for special categories (expanding the scope by adding categories for export to Germany abroad – AGG25).
 - Changes in the General Licence for Armed Forces (adding Armed Forces abroad – AGG26).
 - The introduction of a new General Licence AAGG35) for the export of spares with an value of up to 25% of the original exported good to certain countries (despite weapon embargo countries + Afghanistan, Armenia, Azerbaidshan, Burkina Faso, China, Jemen, Liberia, Mali, Niger, KSA, Turkey).

□ For dual-use-goods:

- The introduction of a new General Licence (an addition identical in content to General Licence EU001) for exports to the Republic of Korea, Singapore, Chile, Uruguay, Mexico and Argentina **and Brasil** (AGG37).
- Changes made to the existing General Licences No. 13 (Adding 2B201a) and General Licence No. 14 (Adding 1B118).
- The introduction of a new General Licence for the export of spares with an value of up to 25% of the original exported good to certain countries (despite weapon embargo countries + Afghanistan, Armenia, Azerbaidshan, Burkina Faso, China, Jemen, Liberia, Mali, Niger, KSA, Turkey – AGG41).

- ❑ Basic rules:
 - No export licence in place, that covers the export
 - No War Weapon
 - No end-use in embargoed countries
 - No ABC, MTCR or military end-use(r) (Art. 4 2021/821)
 - Certain classified goods
 - No ML01, ML02, ML03, ML21b, ML22

- ❑ Receipts:
 - Entities and end-user in EU, NATO (w/o Turkey), Australia, Japan, Liechtenstein, New Zealand, Korea, Singapore, Switzerland

- ❑ Re-Exports:
 - Allowed with the countries above

- ❑ Mandatory:
 - EUC (official BAFA draft) for permanent exports

03

Facilitations 2024



- ❑ 3rd package: starting April 2024
- ❑ In general: more power to BAFA for decision making (no need to include „Berlin“) should speed up process
- ❑ More General Licences should reduce licence applications
- ❑ Reducing notification requirements for General Licences
- ❑ For military equipment:
 - The introduction of a new General Licence for the export of naval goods to certain countries (AGG36).
 - Changes in the General Licence (AGG21) for Protective equipment (Adding new countries).
 - Changes in the General Licence (AGG19) for military vehicles (adding the ML and Ukraine).
 - Changes in the General Licence (AGG24) for temporary exports (adding certain trade shows: LAAD, IDEX, NAVDEX).
 - Changes in the General Licence (AGG25) for special categories (adding “in the frame of Bundeswehr contracts” and “technical assistance”).
- ❑ For dual-use-goods:
 - Changes in General Licence (AGG39) for Annex IV items (cancellation of nuclear, military or MTCR application).

- ❑ All changes and facilitations do not cover War Weapons
- ❑ Turkey is special

- ❑ What we wish for (German Aerospace Industry Association):
 - Facilitation on War Weapons
 - Digitalisation
 - General Licence for ToT for personal use abroad

04 | Transit



- ❑ Licence requirement for transit of **War Weapons** through Germany
- ❑ Responsible Authority: Ministry of Economics

- ❑ No licence requirement for transit of defence articles through Germany

- ❑ Prohibition of transitting defence articles with end-use in embargo countries

- ❑ Licence requirement for transit of dual-use-goods if ABC/MTCR/military end-use (see Art. 4 2021/821)

05 | Outlook



- ❑ New German Export Control Act



- ❑ What helps?

- ❑ Time
- ❑ Preliminary Inquiry:
 - Will the German grant an export licence, if the end-use/end-user/political situation do not change
 - Process can be started in acquisition phase
- ❑ Any kind of supporting documentation
 - Your export licence
 - Your government support
 - ...

❑ Trilateral agreement

- On the 40th anniversary of the Élysée Treaty, 22 January was proclaimed Franco-German Day. The Treaty of Aachen, signed on 22 January 2019, complements the Élysée Treaty and gears the bilateral relations to the challenges of the future. Germany and France are significant trading partners for each other in Europe.
- Trilateral agreement on exports came into force on October 23 2019
- Spain joined during Paris Airshow 2021
- Facilitation for
 - Intergovernmental programmes
 - Industrial cooperation
 - Products for integration (outside such cooperation)
 - It also includes a more specific “de minimis” rule to facilitate transfers of items from one manufacturer to another, applicable below a threshold of 20% and accompanied by simplified licence issuance methods
- Contract under international law (!)

QUESTIONS, COMMENTS



BACKUP





Annex
(to section 1 para. 1)

War Weapons List
(as amended by the ninth regulation amending the
War Weapons List of 26 February 1998, Federal Law Gazette I, p. 385)

Part A

War Weapons
that the Federal Republic of Germany undertakes not to manufacture
(Nuclear weapons, biological and chemical weapons)

All apparatus, parts, equipment, installations, substances and organisms, which are used for civilian purposes or for scientific, medical and industrial research in the fields of pure and applied science shall be excluded from this definition. The substances and organisms of numbers 3 and 5, as far as they serve the purpose of prevention, protection and proof shall also be excluded¹.

I. Nuclear Weapons

1. Any weapon which contains, or is designed to contain or utilise, nuclear fuel or radioactive isotopes and which is capable of mass destruction, mass injury or mass poisoning.
2. Any part, device, assembly or material especially designed for, or primarily useful in, any weapon as set forth under paragraph (1), where no licences subject to the Atomic Energy Act have been granted.

Definition:

Nuclear fuel includes plutonium, uranium 233, uranium 235 (including uranium 235 contained in uranium enriched to over 2.1 per cent by weight of uranium 235) and any other material capable of releasing substantial quantities of atomic energy through nuclear fission or fusion or other nuclear reaction of the material. The foregoing material shall be considered to be nuclear fuel regardless of the chemical or physical form in which they exist.

II. Biological Weapons

3. Biological warfare agents
 - a) harmful insects and their toxic products
 - b) biological agents (micro-organisms, viruses, fungi and toxins); in particular:
 - 3.1 human and animal pathogens as well as toxins
 - a) viruses as follows:
 1. Chikunguya virus
 2. Congo-Crimean haemorrhagic fever virus,
 3. Dengue fever virus,
 4. Eastern equine encephalitis virus,
 5. Ebola virus,
 6. Hantaan virus,
 7. Junin virus
 8. Lassa fever virus,
 9. Lymphocytic choriomeningitis virus,
 10. Machupo virus,
 11. Marburg virus,
 12. Monkey pox virus,
 13. Rift Valley fever virus,
 14. Tick-borne encephalitis virus (Russian Spring-Summer encephalitis virus)
 15. Variola virus,
 16. Venezuelan equine encephalitis virus,
 17. Western equine encephalitis virus,
 18. White pox virus,
 19. Yellow fever virus,
 20. Japanese encephalitis virus,
 - b) Rickettsiae as follows:
 1. Coxiella burnetii,
 2. Bartonella quintana (Rochalimaea quintana, Rickettsia quintana),
 3. Rickettsia prowazekii,
 4. Rickettsia rickettsii;
 - c) Bacteria as follows:
 1. Bacillus anthracis,
 2. Brucella abortus,
 3. Brucella melitensis,
 4. Brucella suis,

5. *Chlamydia psittaci*,
 6. *Clostridium botulinum*,
 7. *Francisella tularensis*,
 8. *Burkholderia mallei* (*Pseudomonas pseudomallei*),
 9. *Burkholderia pseudomallei* (*Pseudomonas pseudomallei*)
 10. *Salmonella typhi*,
 11. *Shigella dysenteriae*,
 12. *Vibrio cholerae*,
 13. *Yersinia pestis*;
 - d) Toxins as follows:
 1. Clostridium botulinum toxins
 2. Clostridium perfringens toxins,
 3. Conotoxin,
 4. Ricin
 5. Saxitoxin
 6. Shiga toxin
 7. Staphylococcus aureus toxins
 8. Tetrodotoxin
 9. Verotoxin
 10. Microcystin (Cyanoginonson);
- 3.2 Animal pathogens as follows:
- a) Viruses as follows:
 1. African swine fever virus,
 2. Avian influenza viruses as follows:
 - a) uncharacterised or
 - b) viruses with high pathogenicity as defined in Council Directive 92/40/EEC of 19 June 1992 introducing Community measures for the control of avian influenza (OJ EC, No. L 167, p. 1) as follows:
 - aa) type A viruses with an IVPI (intravenous pathogenicity index) in six week old chickens of greater than 1.2, or
 - bb) type A viruses of subtype H5 or H7 for which the nucleotide sequencing has demonstrated multiple basic amino acids at the cleavage site of haemagglutinine,
 3. Bluetongue virus
 4. Foot and mouth disease virus,
 5. Goat pox virus,
 6. Herpes virus (Aujeszky's disease)
 7. Hog cholera virus (swine fever virus),
 8. Lyssa virus,
 9. Newcastle disease virus
 10. Peste des petits ruminants virus
 11. Porcine enterovirus type 9 (swine vesicular disease virus)
 12. Rinderpest virus,
 13. Sheep pox virus,
 14. Teschen disease virus,
 15. Vesicular stomatitis virus;
 - b) Bacteria as follows:

Mycoplasma mycoides;
- 3.3. plant pathogens
- a) Bacteria as follows:
 1. *Xanthomonas albilineans*,
 2. *Xanthomonas campestris* pv. citri, including stems arising therefrom like *Xanthomonas campestris* pv. citri types A, B, C, D, E or differently classified ones, like *Xanthomonas citri*, *Xanthomonas campestris* pv. arantifolia or *Xanthomonas* pv. campestris pv. citromelo;
 - b) Fungi as follows:
 1. *Colletotrichum coffeanum* var. *virulans* (*Colletotrichum kahawae*),
 2. *Cochliobolus miyabeanus* (*Helminthosporium oryzae*),
 3. *Micricyclus ulei* (syn. *Dothidella ulei*),
 4. *Puccinia graminis* (sy. *Puccinia graminis* f. sp. tritici),
 5. *Puccinia striiformis* (syn. *Puccinia glumarum*),
 6. *Magnaporthe grisea* (*Pyricularia grisea*/*Pyricularia oryzae*);
- 3.4 genetically modified micro-organisms as follows:
- a) genetically modified micro-organisms or genetic elements that contain nucleic acid sequences associated with the pathogenicity of any of the micro-organisms listed in sub-item 3.1 letters a, b, or c or sub-items 3.2 or 3.3,
 - b) genetically modified micro-organisms or genetic elements that contain nucleic acid sequences coding for any of the toxins referred to in sub-item 3.1 letter d.
4. Facilities or devices specially designed to use the biological agents specified in item 3 for military purposes, as well as components and assemblies specially designed for use in such a weapon.

III. Chemical weapons

5. A Toxic chemicals

(Chemical Abstracts Service Registry Number: CAS)

- a) O-Alkyl ($\leq C_{10}$ incl. cycloalkyl) alkyl (Me, Et, n-Pr oder i-Pr)-phosphonofluoridates, e. g.
 Sarin: O-Isopropyl methylphosphonofluoridate (107-44-8)
 Soman: O-Pinacolyl methylphosphonofluoridate (96-64-0)
- b) O-Alkyl ($\leq C_{10}$ incl. cycloalkyl)-N,N-dialkyl (Me, Et, n-Pr oder i-Pr)-phosphoramido-cyanidates, e. g.
 Tabun: O-Ethyl N,N-dimethyl phosphoramido cyanidate (77-81-6)
- c) O-Alkyl (H oder $\leq C_{10}$ incl. cycloalkyl)-S-2-dialkyl (Me, Et, n-Pr oder i-Pr)-aminoethyl alkyl (Me, Et, n-Pr oder i-Pr)-phosphonothiolates and corresponding alkylated or protonated salts, e. g.
 VX: O-Ethyl-S-2-diisopropyl-minoethyl methyl phosphonothiolate (50782-69-9)
- d) Sulfur mustards: 2-Chloroethylchloromethylsulfide (2625-76-5)
 Mustard gas: Bis(2-chloroethyl)-sulfide (505-60-2)
 Bis(2-chlorethylthio)-methane (63869-13-6)
 Sesquimustard: 1,2-Bis(2-chloroethylthio)ethane (3563-36-8)
 1,3-Bis(2-chloroethylthio)-n-propane (63905-10-2)
 1,4-Bis(2-chloroethylthio)-n-butane. (142868-93-7)
 1,5-Bis(2-chloroethylthio)-n-pentane (142868-94-8)
 Bis(2-chloroethylthiomethyl)ether (63918-90-1)
 O-Mustard: Bis(2-chloroethylthioethyl)ether (63918-89-8)
- e) Lewisites: Lewisite 1: 2-Chlorovinylidichloroarsine (541-25-3)
 Lewisite 2: Bis(2-chlorovinyl)-chloroarsine (40334-69-8)
 Lewisite 3: Tris(2-chlorovinyl)-arsine (40334-70-1)
- f) Nitrogen mustards: HN1: Bis(2-chloroethyl)-ethylamine (538-07-8)
 HN2: Bis(2-chloroethyl)-methylamine (51-75-2)
 HN3: Tris(2-chloroethyl)-amine (555-77-1)
- g) BZ: 3-Chinuclidinylbenzilate (6581-06-2)

B. Precursors

- a) Alkyl (ME, ET, n-Pr or i-Pr)-phosphonyl-difluorides, e. g.
 DF: Methylphosphonyl difluoride (676-99-3)
- b) O-Alkyl(H oder $\leq C_{10}$ incl. cycloalkyl)-O-2-dialkyl(Me, Et, n-Pr oder i-Pr)-aminoethyl alkyl (Me, Et, n-Pr oder i-Pr) phosphonites and corresponding alkylated and protonated salts, e. g.
 QL: O-Ethyl-O-2-diisopropylaminoethylmethyl-phosphonite (57856-11-8)
- c) Chlorosarin O-Isopropyl methyl phosphonochloridate (1445-76-7)

d) Chlorosoman O-Pinacolyl methylphosphonochloridate (7040-57-5)

6. Facilities or devices specially designed to use the chemical agents specified in item 5 for military purposes, as well as components or assemblies specially designed for use in such weapons.

Part B

Other War Weapons

I. Projectiles

7. Guided projectiles
8. Unguided projectiles (missiles)
9. Other projectiles
10. Firing devices (launchers and launching equipment) for the weapons listed in items 7 to 9, including portable firing devices for guided projectiles to combat tanks and aircraft
11. Firing devices for weapons listed in item 8, including portable firing devices as well as rocket launchers
12. Aero-engines for the propulsion of the weapons specified in items 7 to 9

II. Combat Aircraft and Helicopters

13. Combat aircraft having at least one of the following features:
 1. integrated weapon system equipped particularly with target acquisition, firing control and relevant interfaces for avionics,
 2. integrated electronic armaments
 3. integrated electronic combat system
14. Combat helicopters having at least on of the following features:
 1. integrated weapon system equipped particularly with target acquisition, firing control and relevant interfaces for avionics,
 2. integrated electronic armaments,
 3. integrated electronic combat system
15. Cells for the weapons listed in items 13 and 14
16. Jet, turboprop and rocket engines for the weapons under item 13

III. Vessels of War and Special Naval Equipment

- 17. Vessels of war, including those for military training
- 18. Submarines
- 19. Small vessels with a speed of more than 30 knots, equipped with offensive weapons
- 20. Mine sweeping boats, mine hunting boats, mine layers, mine breakers as well as other mine combat boats
- 21. Landing crafts, landing vessels
- 22. Tenders, ammunition transporters
- 23. Hulls for the weapons listed under items 17 to 22

IV. Combat Vehicles

- 24. Combat tanks
- 25. Other armoured combat vehicles, including combat-supporting armoured vehicles
- 26. Any type of special vehicles, exclusively designed for the use of weapons listed under items 1 to 6
- 27. Carriages for the weapons listed under items 24 and 25
- 28. Turrets for combat tanks

V. Barrel Weapons

- 29. a) Machine guns, except those with water cooling
- b) Machine pistols, except those introduced as a model in a military armed force before 1 September 1939*
- c) Fully automatic rifles, except those introduced as a model in a military armed force before 2 September 1945
- d) Semiautomatic rifles except those introduced as a model in a military armed force before 2 September 1945, and rifles for hunting and sporting purposes **.
- 30. Machine guns, rifles, pistols for combat grenades
- 31. Cannons, howitzers, any kind of mortars
- 32. Automatic cannons
- 33. Armoured self-propelled guns for the weapons listed under items 31 and 32
- 34. Barrels for the weapons listed under items 29, 31 and 32
- 35. Breech blocks for weapons listed under items 29, 31 and 32
- 36. Revolving breeches for automatic cannons

VI. Light Anti-Tank Weapons, Military Flame Throwers, Mine-Laying and Mine-Throwing Systems

- 37. Recoilless, unguided, portable anti-tank weapons
- 38. Flame throwers
- 39. Mine laying and mine-throwing systems for land mines

VII. Torpedoes, Mines, Bombs. Independent Ammunition

- 40. Torpedoes
- 41. Torpedoes without warheads (explosives)
- 42. Torpedo bodies (torpedoes without warhead – explosive – and without target detection device)
- 43. Mines of all types
- 44. Bombs of all types, including water bombs
- 45. Hand flame cartridges
- 46. Hand grenades
- 47. Infantry explosive devices, adhesive and hollow charges as well as mine-sweeping devices
- 48. Explosive charges for the weapons of item 43

VIII. Other Ammunition

- 49. Ammunition for the weapons listed under items 31 and 32
- 50. Ammunition for the weapons listed under item 29a, c and d, except cartridge ammunition having a soft core projectile with full casing, provided that the projectile does not contain any accessories, particularly a flare, incendiary or explosive charge, and where cartridge ammunition of the same calibre is used for hunting and sporting purposes
- 51. Ammunition for weapons of item 30
- 52. Ammunition for the weapons listed under items 37 and 39
- 53. Rifle grenades
- 54. Projectiles for the weapons listed under items 49 and 52.
- 55. Propelling charges for the weapons listed under items 49 and 52.

IX. Other Essential Components

- 56. War heads for the weapons listed under items 7 to 9 and 40

- 57. Ignition charges for the weapons listed under items 7 to 9, 40, 43, 44, 46, 47, 49, 51 to 53 and 59, except propellant charge ignitors
- 58. Target detection heads for the weapons listed under items 7, 9, 40, 44, 49, 59 and 60
- 59. Submunition for the weapons listed under items 7 to 9, 44, 49 and 61
- 60. Submunition without ignition for the weapons listed under items 7 to 9, 44, 49 and 61

X. Dispensers

- 61. Dispensers for the systematic distribution of submunition

XI. Laser weapons

- 62. Laser weapons specially designed for causing permanent loss of eyesight

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FOR MISSION
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