

**Bundesamt
für Wirtschaft und Ausfuhrkontrolle
BAFA**

**Federal Office
of Economics and Export Control
BAFA**

Edition: 1 November 2000

**Export Controls
- Brief Outline -**

The new edition includes the following changes as compared to the brief outline dated 15 March 2000:

1. The new EC Dual-Use Regulation 1334/2000 of 22 June 2000 (OJ EC No. L 159 p. 1 of 30 June 2000)
2. The 51st Regulation Amending the Foreign Trade and Payments Regulation (Federal Law Gazette No. 176 of 16 September 2000)
3. The 52nd Regulation Amending the Foreign Trade and Payments Regulation (Federal Law Gazette No. 195 of 17 October 2000)
4. 98th Regulation Amending the Export List (Federal Law Gazette No. 176 of 16 September 2000)
5. Numerous Amendments referring to General Licences, in particular the introduction of General Export Licences of the Community No. EU 001, revocation of the General Licences No. 11, 14, 15 and 17, the announcement of a General Decree referring to section 5d AWV as well as the adaptation of all General Licences to the standards of EC Regulation 1334/2000.
6. Amendments referring to countries subject to embargoes (i. a. Myanmar, Yugoslavia)
7. Reduction of Country List K and abolition of country List L

Note: A more detailed explanation of the amendments due to the new EC Dual-Use Regulation as compared to the previous legislation can be found in various articles by *Simonsen* in AW-Prax 2000, p. 252 ff., p. 312 ff. and p. 358 ff. also reproduced in HADDEX Express Service Edition 6 /2000 of 28.9.2000

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Preliminary Remark:

The following pages describe the existing export restrictions with due regard to the European provisions and the national regulations. In addition, they give a survey of the embargoes presently in force as well as of the application and licensing procedure applied in the Federal Office of Economics and Export Control.

Please take note of the following restrictions: An export/transfer may also require an authorisation pursuant to other legal provisions (e.g. Waste Disposal Law, Law on the Supervision of Basic Materials, Pharmaceutical Products Law, Narcotics Law, Weapons Control Law). Information about the respective licensing authority may be obtained from your competent customs office.

This brief outline explains the main features of export control but 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) published by the Federal Office of Economics and Export Control.

The most important legal texts quoted in this outline (i. a. AWG, AWV, Export List, General Licences, EC Regulation No. 1334/2000) may also be obtained from BAFA's Internet web site (<http://www.bundesausfuhramt.de>).

I. Why are export controls necessary?

In its section 1, the Foreign Trade and Payments Act (AWG) bases on the principle of free foreign trade. Pursuant to section 7, however, restrictions are possible in order to

- guarantee the security of the Federal Republic of Germany,
- prevent a disturbance of peaceful coexistence between nations or to
- prevent a major disruption of the foreign relations of the Federal Republic of Germany.

Based on this policy, specific prohibitions and licensing requirements are laid down in the Foreign Trade and Payments Regulation (AWV). These provisions make it possible to particularly control the export of weapons and armaments. The Political Principles of the Federal Government for the Export of War Weapons and other Military Equipment of 19 January 2000 contain a number of criteria and principles governing the possibility of granting authorisations for the export of such goods.

The export control regulations of the European Union (EU) have to be taken into consideration for the export of goods which may be used for civil and military purposes (so-called „dual-use“ goods). The EC Regulation No. 1334/2000 (hereinafter referred to as „EC-REG“) stipulates a harmonised list of goods (Annex I to EC-REG), licensing requirements and procedures for the export and transfer of dual-use goods for all 15 Member States.

When deciding on licence applications, the Member States have to particularly take into account the following factors (see Article 8 EC-REG):


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

In addition, there are the embargoes which may overlap the above-mentioned general foreign trade regulations. Embargoes normally base on the resolutions of the United Nations, decisions of the OSCE or on common positions of the EC; in these cases they are implemented by existing or new export control provisions. Furthermore, embargo regulations of the EC have to be taken into consideration which are of immediate validity for the companies.

II. When are exports prohibited or subject to authorisation?

A) Prohibitions

Definite exports and activities in the field of export control 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), which also concern foreign trade transactions. The KWKG is subject to the jurisdiction of the Federal Ministry of Economics and Technology. In addition to this, there are embargoes involving prohibitions and restrictions on foreign trade.

 An information leaflet on „Embargoes“ is available from the Federal Office of Economics and Export Control or BAFA's Internet web site.

Presently, the following embargoes are in force and restrict trade with the countries concerned to a different extent:

1. The total embargo against Iraq


The embargo prohibits the following acts:

- the import of goods from Iraq;
- the export of goods to Iraq;
- any activity with the aim or effect to encourage forbidden imports and exports;
- the provision of services with the aim or effect to encourage the economy of Iraq;
- payments made in connection with forbidden trade transactions.

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In individual cases, export licences may be granted for the following goods and products:

- products exclusively intended for medical purposes;
- foodstuffs (competent authority is the Federal Office for Agriculture and Food);
- goods and supplies for the vital needs of the civil population as well as spare parts for the pipeline Kirkuk - Yumurtalik.

 *An Information Leaflet on the Iraq embargo, including the legal sources may be obtained from the Federal Office of Economics and Export Control or BAFA's Internet web site.*

2. Partial embargoes

a) Partial embargo against Angola


The partial embargo against Angola prohibits the delivery of armaments and the supply or sale of certain other goods (mineral oil and mineral oil products, mining equipment, water-craft and motor vehicles, including spare parts, etc.). Furthermore, the import of diamonds, the provision of certain services and contacts to UNITA are prohibited. In addition, there are restrictions on air traffic and the disposal of assets of UNITA.

The prohibitions do not only apply to exports but even to the conclusion of contracts. Exemptions are possible.

 *An Information Leaflet on the Angola-embargo, including the legal sources may be obtained from the Federal Office of Economics and Export Control Office or BAFA's Internet web site.*

b) Partial embargo against the Federal Republic of Yugoslavia and the Republic of Serbia

The partial embargo against the Federal Republic of Yugoslavia prohibits the delivery of armaments as well as the supply or sale of goods for internal repression or terrorist purposes. The foreign assets are frozen. Extensive restrictions have been imposed on payment transactions. In the case of trade with the Republic of Serbia, the provision or use of specific state finances as well as new investments are prohibited. The prohibition of air traffic and the prohibition of the sale of mineral oil products to Yugoslavia have been lifted (EC Regulation No. 2227 of 9 October 2000 and EC Regulation No. 2228 of 9 October 2000).

 *An Information Leaflet on the Yugoslavia-embargo, including the legal sources may be obtained from the Federal Office of Economics and Export Control or BAFA's Internet web sites. The embargo regulations against Yugoslavia have been subject to frequent changes. Due to the current political development this is to be expected in the future, too.*

c) Partial embargo against Libya

The sanctions imposed on Libya in the area of financial sanctions and the restrictions on aviation and mineral oil/natural gas extraction have been suspended. This was implemented by section 69 n (4) AWV and EC Regulation (cf. section 69 m (6) AWV). The arms embargo imposed in 1986 is still in force. The EC Regulation prohibiting the satisfying of claims continues to be valid.

An Information Leaflet on Libya with regard to foreign trade and legal sources is available at the Federal Office of Economics and Export Control or BAFA's Internet web site.

d) Partial embargo against Sierra Leone

The delivery of armaments and, thus, all related types of weapons as well as paramilitary equipment is prohibited. Supplies to the government or to military observers of the Economic Community of West African States are subject to authorisation (section 69 g AWV). Furthermore, the import of raw diamonds is prohibited.

An Information Leaflet on the Embargo on Sierra Leone, including the legal sources may be obtained from the Federal Office of Economics and Export Control or BAFA's Internet web site.

e) Partial embargo against Afghanistan (Taliban)

In addition to the existing arms embargo on Afghanistan, the EU has imposed further sanctions on the Taliban group with the aim to implement the resolutions of the UN Security Council (freezing of funds and other financial means as well as prohibition of flights for Taliban aircraft).

Cf. Regulation (EC) No. 337/2000 of 14 February 2000, published in Official Journal EC No. L 43, 1; Regulation (EC) No. 1272/2000 of 16 June 2000, OJ EC L 144, p. 16.

f) Partial embargo against Myanmar (former Burma/Birma)

In May 2000, the European Community decreed an extension of the existing arms embargo on Myanmar to a partial embargo. It is prohibited to export equipment intended for internal repression or terrorist purposes. Funds of certain persons with government functions are frozen.

Regulation (EC) No. 1081/2000 of 22 May 2000, OJ (EC) No, L 122, p. 29

3. Arms embargoes

As a result of resolutions taken by international organisations (United Nations, EU, OSCE), no authorisations shall be granted for the export of weapons, ammunition and armaments (goods of Part I section A of AL) to the following countries:

- **Afghanistan**
- **Angola** (UNITA)
- **Armenia**
- **Azerbaijan**
- **Bosnia-Herzegovina**
- **China ***
- **Croatia**
- **Eritrea**
- **Ethiopia**
- **Federal Republic of Yugoslavia (Serbia and Montenegro)**
- **Iraq**
- **Liberia**
- **Libya**
- **Myanmar (former name: Birma/Burma)**
- **Rwanda**
- **Sierra Leone**
- **Somalia**
- **Sudan**
- **Democratic Republic of Congo (former Zaire*)**

Except for the countries marked with an asterisk *) all the states are subject to embargo as defined by Art. 4 (2) EC-REG (see B)2) below).

B) Authorisation requirement for exports from the EU

1. Authorisation requirement for goods of the Export List (AL)

Irrespective of embargoes, it must be checked whether the goods to be exported are covered by Part I of the Export List. In practice, most restrictions result from the Export List.

Part I of the Export List consists of three sections:

Section A: List of weapons, ammunition and armaments

Section B: List of other goods

At present, the list only contains item 0101 (electric batons, electroshock devices, thumbscrews and shackles)

Section C: List of dual-use items

The list is identical to Annex I of the EC-REG 1334/2000, only extended by national items (900 numbering range).

Section C – List of dual-use goods – also contains items from the following areas:

- Nuclear materials, plants 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

The export of items covered by Part I of the Export List is subject to authorisation (cf. Article 3 EC-REG, section 5 AWW). The authorisation requirement applies to exports to all countries outside the Community (erga-omnes principle, including exports to OECD states, e.g. USA, Switzerland). The only exception are the national items of the 900 numbering range referring, as a rule, to certain countries only. Part of the goods listed in section A - i. e. war weapons - are subject to additional licensing requirements pursuant to the War Weapons Control Act (KWKG). Therefore, authorisations are required, among others, for the production, transportation and marketing of war weapons.

2. Authorisation requirement for goods not included in the Export List

The export of goods not included in the Export List may require an authorisation pursuant to Article 4 EC-REG, sections 5c or 5d AWW. The structure of these authorisation requirements is almost identical.

a) Conditions for authorisation requirements pursuant to Article 4 EC-REG:

- (1)** Use of goods for ABC weapons/missiles, conventional armaments or military items exported without authorisation. Paragraphs 1, 2 and 3 of Art. 4 EC-REG provide for the following types of use:
- The items are or may be intended, in their entirety or in part, for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of **chemical, biological or nuclear weapons or other nuclear explosive devices**, or the development, production, maintenance or storage of **missiles capable of delivering** such weapons (cf. Art. 4 paragraph 1 EC-REG);
 - The items are or may be intended, in their entirety or in part, for (conventional) **military end-use** and the purchasing country or country of destination is subject to an **arms embargo** decided by a common position adopted by EU, OSCE or a by a resolution of the UN Security Council (cf. Art. 4 para. 2 EC-REG). The meaning of "military end-use" is explained in Art. 4 paragraph 2. A list of the countries subject to embargo as defined by Art. 4 (2) EC-REG is given above under A) 3 of this brief outline as well as in Federal Law Gazette No. 187 of 5 October 2000, p. 19686;
 - The items are or may be intended, in their entirety or in part, for use as components of military items listed in Section A of the Export List that have been exported without authorisation (cf. Art. 4 para. 3 EC-REG);

and

- (2)** Information by the Federal Office of Economics and Export Control (Art. 4 par. 1, 2 and 3 EC-REG):
An authorisation shall be required only if the exporter has been informed by the Federal Office of Economics and Export Control that the items are or may be intended for any of the above-mentioned purposes (see no. 1). The exporter will be informed by an individual letter referring to the licensing requirement of a specific export transaction,

or

- (3)** Exporter's information and decision by the Federal Office of Economics and Export Control (Art. 4 para. 4):
If the exporter is aware that the items are intended for any of the uses referred to above (cf. No. 1), he must inform the Federal Office of Economics and Export Control accordingly. Then the Federal Office of Economics and Export Control decides whether an authorisation will be required or not.

b) Conditions for authorisation requirements pursuant to section 5c AWV:

(1) Use of the items for conventional armaments:

The items are or may be intended, in their entirety or in part, for (conventional) military end-use. The definition of "military end-use" is laid down in section 5c, para. 1 (1) to (3) AWV. This is identical with the definition in Art. 4 (2) EC-REG.

and

(2) Country of Country List K:

A licence pursuant to section 5c AWV shall only be required if the purchasing country or country of destination is contained in Country List K. At present Country List K includes the following countries:

Cuba, Iran, Lebanon, Mozambique, North Korea and Syria.

and

(3) Information by the Federal Office of Economics and Export Control:

An authorisation shall only be required if the exporter has been informed by the Federal Office of Economics and Export Control that the items are or may be intended, in their entirety or in part, for a military end-use in a country of Country List K. The exporter will be informed by an individual letter referring to the licensing requirement of a specific export transaction,

or

(4) Information of the exporter and decision by the Federal Office of Economics and Export Control:

If the exporter is aware that the items are intended for any of the uses referred to above in a country of Country List K (cf. No. 1 and 2), he must inform the Federal Office of Economics and Export Control accordingly. In order to simplify the procedure the information should be transmitted on the licence application form. Then the Federal Office of Economics and Export Control decides whether an authorisation will be required or not.

Section 5c (4) AWV stipulates a value limit.

c) Conditions for authorisation requirements pursuant to section 5d AWV:

(1) Use of the items in the nuclear area

The items are or may be intended for the setting-up or operation of a nuclear plant or for the installation in such a plant.

The term "nuclear plant" is defined in Part I Section C category 0 of the AL

and

(2) Specific countries

An authorisation pursuant to section 5d AWV shall only be required if the purchasing country or country of destination is one of the following: **Algeria, India, Iran, Iraq, Israel, Jordan, Libya, North Korea, Pakistan, Syria**

and

(3) Information by the Federal Office of Economics and Export Control:

An authorisation shall only be required if the exporter has been informed by the Federal Office of Economics and Export Control that the items are or may be intended, in their entirety or in part, for any of the uses referred to above in one of these countries (cf. nos. 1 and 2). The exporter will be informed by an individual letter referring to the licensing requirement of a specific export transaction

or

(4) Information of the exporter and decision by the Federal Office of Economics and Export Control:

If the exporter is aware that the items are intended for any of the uses referred to above in one of the above-mentioned countries (cf. nos. 1 and 2) he must inform the Federal Office of Economics and Export Control. In order to simplify the procedure the information should be transmitted on the licence application form. Then the Federal Office of Economics and Export Control decides whether an authorisation will be required or not.

Section 5d (4) AWV stipulates a value limit.

Where the exporter informed the Federal Office of Economics and Export Control about the destination of the items in accordance with Art. 4 EC-REG or sections 5c and 5d AWV, he must wait for the decision of the authority before exportation.

The export is only permitted when the Federal Office of Economics and Export Control granted an export authorisation or decided that such an authorisation is not required.

C) Authorisation requirements for transfers within the EU

To make a distinction to the export regulations in general, trade transactions among the EU Member States are called transfer (cf. Section 4c no. 2 AWW). The transfer of dual-use items to other EU Member States is basically free. There are only a few restrictions on Intra-EU-commodity transactions. The transfer of armaments, however, is subject to authorisation like their export.

(1) Authorisation requirement for items of the AL/Annex IV

An authorisation requirement for the transfer to another EU Member State applies to:

- goods listed in **Part I Section A** of the AL (weapons, ammunitions and armaments, cf. Section 7 paragraph 1 AWW); the area of hand-held firearms is subject to specific rules (cf. Section 7 paragraph 1 sentence 2 AWW),
- dual-use items listed in **Annex IV** of EC-REG which are considered very sensitive (cf. Art. 21, para. 1 sentence 1 EC-REG),
- goods listed in **Part I Sections B and C** of the AL if the operator is aware that the final destination is outside the EU (cf. Section 7, para. 2 AWW) **and** no general authorisation or global licence was granted for a direct export, or the items will not be processed in the EU Member State (cf. Section 7 paragraph 5 AWW).

(2) Authorisation requirement for goods not covered by AL

The transfer of goods not covered by AL to another EU Member State is subject to authorisation pursuant to section 7 paragraph 3 or 4 AWW if:

- the person carrying out the transfer is aware that the final destination of the goods is outside the EU **and**
- a direct export to this destination is subject to the regulations of sections 5c, d AWW or Art. 4 paragraph 2 EC-REG **and**
- no general authorisation or global licence was issued for this direct export or the goods will not be processed/worked in an EU Member State (cf. Section 7 para. 5 AWW).

Section 7 (6) stipulates a value limit.

D) Other authorisation requirements

1) Transit trade transactions

Pursuant to section 40 AWW, transit trade transactions are subject to authorisation if a resident purchases goods from a non-resident and those goods do not enter the economic territory and are sold to another non-resident. The items must be covered by Part I Section A of AL or Annex IV EC-REG. This does not apply to cases in which the purchasing country or country of destination is a country of Annex II Part 3 EC-REG or an EU Member State.

In addition, all the other goods covered by Part I Section B or C of AL require a transit trade authorisation if the purchasing country or country of destination is subject to embargo under Art. 4 paragraph 2 EC-REG or a country of List K.

☞ A definition of transit trade transaction is contained in section 4c no. 8 AWW. The terms resident and non-resident are explained in section 4 AWW.

2) Technical assistance

Sections 45 and 45 d AWW stipulate authorisation requirements for technical assistance.

The **definition of technical assistance** includes any technical service, as repair, maintenance, development, but also transmission of practical skills and knowledge, e.g. by consultation and training. Technical assistance can also be granted in oral form, by telephone or fax, or electronic form (cf. section 4c no. 9 AWW).

The same mechanism of information is also valid in the area of authorisation regulations for technical assistance, comparable to the export authorisation requirements pursuant to Art. 4 EC-REG, sections 5c, 5d AWW for non-listed goods. That means, an authorisation shall only be required if either the resident was informed by the Federal Office of Economics and Export Control that the technical assistance is intended for use in connection with certain items in the above-mentioned countries, or if the Federal Office of Economics and Export Control, after having been informed by the exporter, decided that an authorisation is required in that individual case. These authorisation requirements apply to all residents and all Germans, i. e. also non-resident Germans.

On this basis the **following authorisation requirements** are laid down in sections 45 and 45 d AWW:

- Technical assistance outside Community territory provided in connection with weapons of mass destruction and missiles (cf. Section 45 AWW). Exempt from this are countries under Annex II Part 3 of EC-REG.

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- Technical assistance outside Community territory in connection with any military end-use (cf. Art. 4 para. 2 EC-REG), to be provided in a country subject to embargo (cf. Art. 4 para. 2 EC-REG) or in a country of List K (cf. Section 45a AWV).
- Technical assistance inside economic territory provided in connection with weapons of mass destruction and missile technology (cf. Section 45 b para. 1 AWV). Exempt from this is the provision to non-residents established in a country of Annex II Part 3 EC-REG or an EU Member State. Controls only apply to assistance in oral form, by telephone or fax, electronic or written form.
- Technical support inside economic territory in connection with any other military end-use provided to a non-resident who is established in a country subject to embargo or a country of List K (cf. Section 45b para. 2 AWV). Controls only apply to technical assistance in oral form, by telephone or fax, electronic or written form.
- Technical assistance in connection with the setting-up or operation of a plant for nuclear purposes as defined by section 5d paragraph 1 AWV in the countries: Algeria, India, Iran, Iraq, Israel, Jordan, Libya, North Korea, Pakistan or Syria (cf. Section 45c AWV).

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 45 e AWV enumerates other cases for which no authorisation is required.

III. What types of licences exist?

A) Individual Licence/Maximum Amount Licence

The basic type of export/transfer licence is the individual licence.

It permits the shipment of one or several goods to one consignee, based on one order. A „maximum amount licence“, being a special type of individual licence, may be issued.

This licence 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.

B) Collective Export Licence

In case of a number of exports it is possible that certain exporters may be granted a collective export licence instead of applying for several individual licences. This licence permits the export of a group of goods to several consignees. A sub-group of the collective export licence pursuant to section 2 AWW is the global licence.


 *An information leaflet on the Collective Export Licence is available at the Federal Office of Economics and Export Control.*

C) General Licences

An individual licence cannot be issued if a general licence was already granted for an export procedure. The General Licences of BAFA are published in the Federal Gazette and need not be applied for by the exporter/person carrying out the transfer. This also applies to the General Export Authorisation of the Community no. EU001 which was published as Annex II to EC-REG and which was provided with additional collateral clauses by BAFA, published in the Federal Gazette.

Each General Licence is only valid for the respective specified goods and countries. General Licences for dual-use goods may also be used if the items are not in the German economic territory but in another EU Member State.

The use of all General Licences (except General Licence No. 18) has to be notified to BAFA prior to the first export/transfer or afterwards within a period of 30 days. The collateral clauses to the General Licences contain additional duties and provisions. Especially when using General Licences No. 9 and No. EU001 as well as, in part, General Licence No. 10, it has to be noted that the exports made must be reported to BAFA at the end of each half calendar year.

 *An information leaflet on the General Licences containing the required specimen for registration and the reporting procedure is available at the Federal Office of Economics and Export Control or from BAFA's homepage.*

At present there are the following General Licences (restricted on specific groups of items and countries):

1. General Export Authorisation of the Community No. EU001

The General Export Authorisation of the Community No. EU001 permits the export of all goods of Annex I to EC-REG to definite countries. Exempt from this are only those items listed in Annex IV EC-REG and a few other goods listed in Annex II Part 2 EC-REG.

This General Licence is valid for the following countries: Australia, Canada, Czech Republic, Hungary, Japan, New Zealand, Norway, Poland, Switzerland and United States of America.

Some collateral clauses are contained in Annex II EC-REG. Furthermore, some national collateral clauses referring to the use of this General Licence were adopted. They are published in the Federal Gazette and mainly provide for reporting procedures in some cases.

Due to the fact that General Authorisation No. EU001 substitutes General Licence No. 11 (AGG), the holders of an AGG-no. for the use of General Licence no. 11 may also use it for the General Licence No. EU001 without a new registration.

Where a definite export falls under the scope of application of General Authorisation No. EU001, it shall be used in any case. It is neither permissible to use another General Licence nor an individual licence application.

2. General Licence No. 9

General Licence No. 9 permits the export of some **graphites** listed in AL items 0C004 and 1C107a to a differentiated group of countries. There are reporting requirements.

3. General Licence No. 10

The General Licence No. 10 permits the export of some **computers and related equipment**; definite goods and countries have to be reported.

4. General Licence No. 11

The General Licence No. 11 was revoked as of 28 September 2000.

5. General Licence No. 12

The General Licence for the export of dual-use goods below a **specific value limit** (WGG) permits the export of goods listed in Annex I to EC-REG (*Note list of exceptions!*) and is valid for exports not exceeding a value of DM 5,000.- from the entire Community territory.

6. General Licence No. 13

General Licence No. 13 applies to the export of items listed in Annex I of the EC-REG (*Note list of exceptions*) pursuant to Article 3 of EC-REG regulation **in exactly defined groups of cases** in which the need to control is considered to be insignificant. For exports in accordance with sections 5, 5c, 5d, and transfers under section 7 AWW, section 19 AWW shall apply (if appropriate, in connection with section 21 AWW).

7. General Licence No. 14

The General Licence No. 14 was revoked as of 1 October 2000.

8. General Licence No. 15

The General Licence No. 15 was revoked as of 1 October 2000. It is replaced by the General Decree on section 5d AWW (see below 12).

9. General Licence No. 16

General Licence No. 16 permits the export of certain goods from the area of **telecommunications and information security**.

10. General Licence No. 17

General Licence No. 17 was revoked as of 28 September 2000. Due to the amendment of section 21a para. 2 (1) AWW an authorisation is no longer required so that a General Licence for the goods in questions is not necessary.

11. General Licence No. 18

General Licence No. 18 permits the export/transfer of **clothing and equipment with signature suppression** (AL item 0017h of Part I Section A).

12. General Decree on section 5d AWW

The "Announcement of the decision pursuant to section 5d AWW referring to the export of definite goods relevant for nuclear applications" having the character of a general decree fulfils the function of a general licence for **unlisted goods for civil nuclear plants** pursuant to section 5d AWW (analogous to the revoked General Licence No. 15). The content of the general decree is that, even if the requirements of section 5 d AWW are fulfilled, the export of the goods mentioned is free and the duty of information does no longer apply. The general decree refers to the following countries: Algeria, India, Israel, Jordan, Libya and Syria.

*Source of the General Licence No. EU001: OJ EC No. L 159 of 30 June 2000, p. 200 f.
Source of the Announcement referring to the use of the General Licence of the Community No. EU 001 and of the afore-mentioned General Licences no. 9, 10, 12, 13, 16, 18:
Federal Gazette No. 183 of 27 September 2000, p. 19229 ff. Source of the General Decree on section 5d is Federal Gazette no. 183 of 30 September 2000, p. 19551.*

IV. What is subject to the jurisdiction of BAFA?

In case of transfers pursuant to the EC dual-use regulation and the AWW as well as in case of all export licence requirements pursuant to AWW, the Federal Office of Economics and Export Control is responsible for granting authorisations if the goods are exported or transferred from the German economic territory. In case of exports pursuant to Art. 3 and 4 EC-REG those exporters **residing** in the Federal Republic of Germany may also file an application for an export licence if they intend to export the goods from another Member State (cf. Art. 7 (1) EC regulation). The exporter is considered to be resident of that Member State where his head office is established.

V. How to apply for an Individual Export Licence?

A) Application form

If you come to the conclusion, after reviewing your case, that your intended export transaction is subject to licensing, you have to file a formal application for an export/ transfer licence to the Federal Office of Economics and Export Control. Specific application forms AG, AG/W, AG/E1 and AG/E2 are required for this procedure. They are available from special form publishers (see XI.F) and most of the Chambers of Industry and Commerce. Detailed instructions on how to fill these forms are added. The application may also be made in "EURO".

☛ *The forms referring to the legal situation prior to 28 September 2000 (they still refer to EC-REG 3381/94) may be used by 30 April 2001. However, please take note of BAFA*

B) Customs number

The customs number of the exporter/person carrying out the transfer must be entered on the application form. If he/she has not yet been assigned a customs number it may be obtained from the Oberfinanzdirektion Karlsruhe - Zentralstelle Zolldateien (ZZD) (Regional Finance Office Karlsruhe), Postfach 4809, 76031 Karlsruhe. The application form „ZZD-Form BE-01/92“ is also available there.

C) Nomination of a person responsible for exports

In case of specific export transactions it is necessary to assign a person responsible for exports. 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. A person responsible for exports shall be nominated in case of applications for export/transfer licences under KWKG, Art. 3 of EC dual-use regulation or the provisions of AWG and AWW for goods

- specified in Part I, Section A of the Export List (AL);
- specified in Part I, Section C, category 0 of AL;
- specified in Part I, Section C items 1C350, 2B350, 2B351 or 2B352 provided that the purchasing country or country of destination is not an OECD Member;
- specified in the rest of Part I Section C, if the country of destination is one of the following:
Afghanistan, Albania, Algeria, Angola, Bulgaria, Cambodia, China, Cuba, Egypt, India, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Mauritania, Mozambique, Myanmar, North Korea, Pakistan, Qatar, Romania, Saudi Arabia, Somalia, South Africa, Syria, Taiwan, Yemen, the Territory of Yugoslavia as of 22 December 1991, Vietnam.

D) End-Use Documents

For the export/transfer of listed goods subject to authorisation an End-Use-Certificate must be enclosed with the application (section 17 AWW). The submission of end-use documents is normally not required

- if the export value is below certain limits;
- for temporary exports.

End-use certificates have to be distinguished as to private and official as well as governmental end-use certificates (International Import Certificates).

For details on End-Use Certificates see BAFA Announcement of 9 December 1997 (Federal Gazette of 19 February 1998, No. 34a, Supplement) and HADDEX, vol. 1, Mh 359 ff.)

1. Private End-Use Certificate (EVE)

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

See the models in the Announcement on section 17 (2) AWW.

2. Official End-Use Certificate (EVE)

Official end-use certificates are required if the exported items are to be supplied to a governmental end-user, i.e. consignee (or direct purchaser) is the receiving state. A private statement confirmed by a government authority is also considered to be an official end-use certificate.

3. International Import Certificate - IC

ICs are issued by the consignee state or by an authorised office, normally they have a more restricted content than an official EVE. The IC contains the statement of the consignee state that, after crossing its frontiers, the goods are subject to its export control regulations and that a possible subsequent re-export will be treated in accordance with these regulations.

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

Information leaflets on International Import Certificates and Delivery Verification Certificates may be obtained from the Federal Office of Economics and Export Control.

E) Sufficient 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 goods on the basis of the Export List (cf. also VI.). Please note that the goods must be exactly described; producer and type of the goods have to be indicated.

VI. How long does the licensing procedure take?

The time required for the processing of a licence application for dual-use goods to non-sensitive countries (e.g. countries listed in Annex II Part 3 EC-REG) is about two weeks. In case of exports to other countries the processing takes about one month. The processing time of applications for exports to critical countries (e.g. Country List K and countries subject to embargo) and of sensitive cases may exceed one month. In these cases more thorough inquiries and, if necessary, the participation of the competent Federal Ministries are necessary.

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.

VII. What is the Intra-EU Standardised Document?

The transfer of goods specified in Part I Section A of the Export List (Armaments) to EU states does not only require an export/transfer licence but also an Intra-EU Standardised Document. The latter has to accompany the transfer shipment. The customer must confirm the receipt of the goods on the standardised document. The same procedure applies if you import armaments from EU states.

☞ *Details concerning the Standardised Document are published in Federal Gazette No. 227 of 4 December 1997, p. 14322.*

☞ *An Information leaflet on Intra-EU-Standardised Document may be obtained from the Federal Office of Economics and Export Control.*

VIII. What is product-related information on the list of goods?

The information on the list of goods serves to prove to the customs authorities that certain goods are not covered by the Export List. The information on the list of goods replaced the „Negative Certificate“. This paper does not state that an export is basically exempt from licensing.

The respective application must be filed on a special form which is available from form publishers. Two copies of data sheets and brochures providing detailed information on the goods have to be enclosed with the application.

IX. What is a „Zero“-Notice?

If the review of an export/transfer licence application results in the fact that the export transaction is not subject to authorisation, the Federal Office of Economics and Export Control issues a so-called „Zero“-Notice. The „Zero“-Notice only applies to a specific export/transfer transaction for which the application was filed and is not transferable to other intended transactions.

X. What is the Chemical Weapons Convention ?

The Chemical Weapons Convention (CWC) is a treaty aiming at disarmament and arms control; it is directed on the prohibition of chemical weapons and the destruction of existing chemical weapons on a world-wide scale. It contains extensive mechanism 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. 2, 150 and 151. Details on the CWC are published in the Federal Gazette No. 231a of 10 December 1996 (Supplement), Federal Gazette No. 70 of 15 April 1997, p. 4901 and Federal Gazette No. 215 a of 18 November 1997 (Supplement) and Federal Gazette no. 204, p. 18125 of 28 October 1999.*

XI. Where are additional information and important working documents available?

A) Telephone information/inquiries by fax or e-mail

The staff of the Federal Office of Economics and Export Control is always prepared to provide information. The Federal Office of Economics and Export Control may be reached under

Telephone no.: 06196/908-0 and FAX No.: 06196/908-800.

e-mail: poststelle@bundesausfuhramt.de

B) Homepage

The Federal Office of Economics and Export Control provides current information and important laws in the Internet under <http://www.bafa.de>. The provided information does not only include charts on the structure and tasks of the Federal Office of Economics and Export Control 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, General Licences, legal instruments and resolutions adopted by the EC and UN and Information Leaflets.

The Official Journal of the EC is also published in the Internet under <http://www.europa.eu.int/eur-lex>. Resolutions of the UN Security Council under: <http://www.un.org/Depts/oip>.

C) Mailbox system „BAFA-INFOSYS“

In the mailbox system „BAFA-INFOSYS“, the companies may ask for the level of processing of their licence applications. For this purpose, they have to apply for an entry authorisation. For the access to „BAFA-INFOSYS“ a telephone and modem with the appropriate terminal software are necessary. The information system may be contacted via the telephone number 06196/908-900. The user manual is available free of charge upon submission of an envelope, DIN A-4 format, stamped with DM 3.-.

D) Working documents/information sheets

The information sheets mentioned above may be obtained (also upon submission of an envelope stamped with DM 3.-) from **Bundesausfuhramt, Postfach 5160, 65726 Eschborn**.

Latest editions of **AWG, AWV, AL (Export List)** and **Correlation List** may be ordered from

Bundesanzeiger Verlagsgesellschaft mbH
Postfach 100534
50445 Köln
Tel.: 0221/9 76 68-0
Fax: 0221/9 76 68- 271

The **Correlation List** shows which items of the Commodity Classification for Foreign Trade Statistics are included in the Export List.

Amendments to laws, and announcements of the Federal Office of Economics and Export Control are published in the **Federal Gazette**, a daily paper.

The **Handbook of German Export Control - HADDEX** published by the Federal Office of Economics and Export Control contains in volume 1 the existing prohibitions and licensing obligations, licensing procedures and simplified procedures. This volume is currently revised. Volume 2 contains the most important documents (AWG, AWV, Export List, Conversion List, Announcements, Forms and Samples). The loose-leaf type of publication including the provision of appropriate 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 mbH.

A brochure published by the Federal Office of Economics and Export Control provides information about BAFA's structure and tasks in the framework of export control. It is available free of charge in German and English language upon submission of an envelope stamped with DM 3.-.

E) FALEX Courses

Under the name „FALEX“ (Fachlehrgänge Exportkontrolle/ Außenwirtschaft = Special courses in the field of export control/foreign trade) business, government and university offer courses and seminars as a service for the exporting industry. The courses are a common initiative by the leading associations of German economy (BDI, DIHT, BGA and BDEx), of the Federal Ministry of Economics and Technology (BMWi), the Federal Office of Economics and Export Control (BAFA) and the Institute for Business and Projects in Foreign Countries e. V. (IFAA) at the Fachhochschule Worms. The aim is the training of „export specialists“. Information and registration forms are available from IFAA, Postfach 54, 55289 Saulheim/near Mainz (Tel.: 06732/1085, Fax: 06732/8155).

F) Application form

The set of application forms AG „**Application for Export/Transfer Licence**“ and supplements may be obtained from the following publishers:

Formularverlag CW Niemeyer, Walter-von-Selve-Str. 6, 31789 Hameln, Tel: 05151/989393; e-mail: info@formularverlag.de URL: [www. Formularverlag.de](http://www.Formularverlag.de);

Purschke und Hensel Kanalstr. 7, 12357 Berlin, Tel: 030/6609010; Fax: 030/66090111

Verlagsgruppe Jehle-Rehm, Einsteinstr. 172, 81675 München, Tel: 089/41979121, Fax 089/41979-144, e-mail: Verlagsgruppe@Jehle-Rehm.de, URL: www.Jehle-Rehm.de

Wilhelm Köhler Verlag, Postfach 1261, 32372 Minden, Tel: 0571/82823-0. Fax: 0751/8282323, e-mail: info@koehler-verlag.de, URL: www.koehler-verlag.de

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