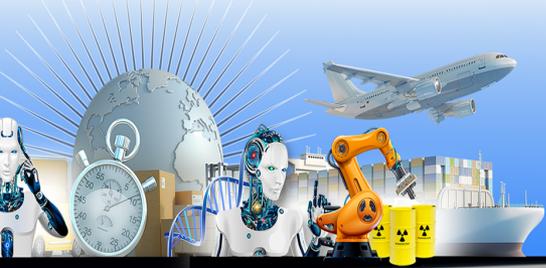




THE 11TH JOINT INDUSTRY OUTREACH SEMINAR ON STRATEGIC TRADE MANAGEMENT - SINGAPORE 2023

Regulatory Developments in Germany's Strategic Trade Management

Georg Pietsch
Director General
Federal Office for Economic Affairs and Export Control (BAFA)



Agenda

1. European Union and BAFA
2. Sanctions against Russia
3. Arms Export Control
4. Post-Shipment Control
5. Academia & Outreach

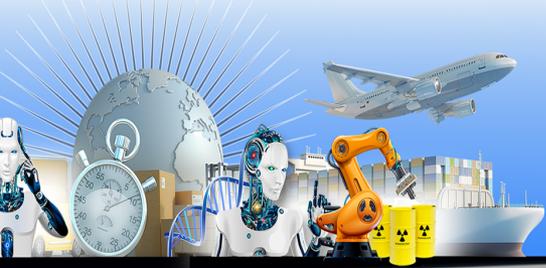




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BAFA – Tasks & Statistics

TASKS

- **Granting licences**, denials, blank notices, ratings, **general enquiries**
- **Cooperation** with customs, intelligence and other federal agencies
- Representation in **court**
- Reports for **parliament**
- **Post-shipment** controls, Outreach
- **Participation** in Regimes and EU Working Groups

STATISTICS 2022

- About 5,600 mostly medium-sized companies file applications
- About 44,500 **applications and enquiries**
- Applications reviewed have a value of approx. **33,3 billion Euro**;
(about 2.4 % of German foreign trade volume)
- About 85 % **decisions autonomously**
- **Average processing time**: about 55 % in less than **30 working days**

BAFA is the central licensing authority and **single point of contact** for exports of conventional armaments, dual-use and embargo items





Distribution of Powers between the EU and its Member States



Competences for Civil Trade

Dual-use items
Sanctions



Security Competences

Military items
National amendments

**Legislative
Powers**



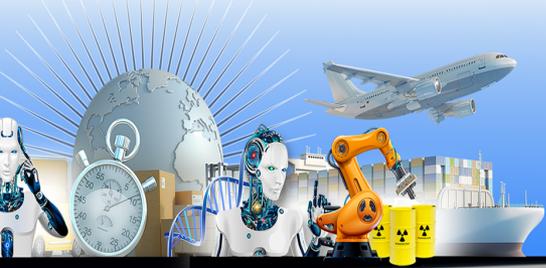
Federal Office
for Economic Affairs
and Export Control

Implementation of EU and National Law

BAFA: Licencing
Customs: Enforcement of BAFA decisions

**Executive
Powers**





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Sanctions against Russia

- All sanctions against Russia are **directly applicable EU law** as soon as they enter into force.
- There are **no purely national sanction** measures of Germany against Russia.
- **Sanctions** are
 - **not "regular** export control" – but special legal regulations; which overlay and/or supplement the usual regulations
 - include **prohibition** and **licensing** requirements
 - concern a **wide range of goods** (listed in annexes)
 - include **lists of persons** (individuals and legal entities)
 - cover a wide range of **foreign trade activities** (e.g. export/import)
 - refer to **framework activities** of foreign trade control (e.g. sale)
 - concern **services** and cover **financial activities and payments**





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Arms Export Control

New National Legislation on Arms Export Control - Discussion about (e.g.):

1. Legal definition of the **catalogue of criteria** decisive for the evaluation of export applications,
2. Consideration of **human rights, democracy and the rule of law** in the recipient country,
3. **Reliability** of exporting persons,
4. Foreign and **security policy aspects**,
5. **Post-shipment** controls,
6. Restrictive principles regarding export licensing **policy for SALW**,
7. **Transparency**.

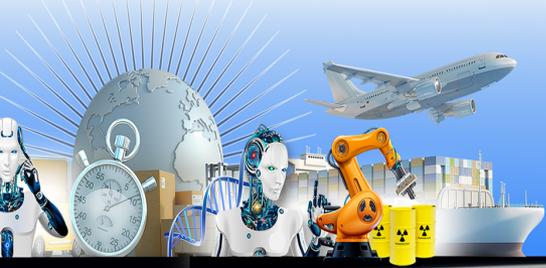
Additional transparency and control on EU level - NGO Suggestions:

1. proposing an **EU regulation**, using the eight criteria of the EU Common Position as a basis for the regulation, and to add the additional criterion of corruption
2. **enhance transparency** by making information on Member States' arms exports publicly available, including actual exports, quantity, type and name of the product, and the recommendation of the **Common Risk Assessment Body**

- Recast EU Firearms Regulation

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012R0258>





Common EU Rules Governing Control of Exports of Military Technology and Equipment

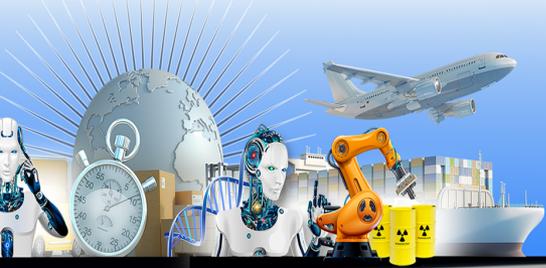
Eight Criteria of the EU Common Position (2008/944/CFSP):

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32008E0944>

<https://www.consilium.europa.eu/media/40658/st10707-en19.pdf>

1. Respect for the international obligations and commitments
2. Respect for human rights in the country of final destination as well as respect by that country of international humanitarian law
3. Internal situation in the country of final destination
4. Preservation of regional peace, security and stability
5. National security of the Member States
6. Behaviour of the buyer country with regard to the international community
7. Existence of a risk that the military technology or equipment will be diverted within the buyer country or re-exported under undesirable conditions
8. Compatibility of the exports of the military technology or equipment with the technical and economic capacity of the recipient country

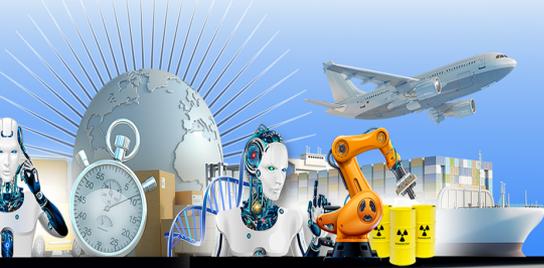




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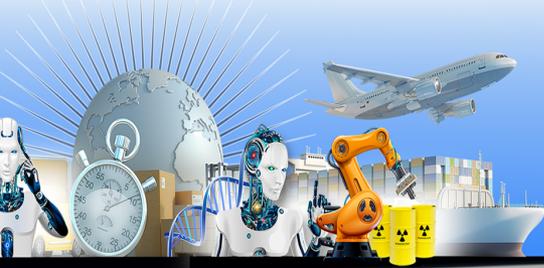




Post shipment controls Implementation and Practice

- Post-shipment controls can be an **important supplementary tool** to strengthen the **effectiveness** of national arms export control
- **2015:** Key Points for the Introduction of Post-shipment controls for German Arms Exports
– focus on SALW in Non-EU/NATO/-equivalent countries
- **2016:** Introduction of a new EUC:
„The end-user certifies that the German authorities have the right to verify the end-use of the specified SALW on-site upon their request at any time.”
- **2017:** Kickoff of evaluation-phase
- **On-site verification measures** in: India, UAE, Korea, Indonesia, Malaysia, Brazil, Jordan, Trinidad and Tobago, Oman, Mexico, Taiwan and Cape Verde





Post-Shipment Controls in Practice – the EUC

“...We (I) certify that the German authorities **have the right to verify the end-use** of the abovementioned SALW on-site upon their request at any time. ...”

1: EUC for military equipment (except for war weapons), re...

original, officially headed paper of end-user and complete this form in block capital letters.

**END-USE CERTIFICATE (EUC)
FOR PRESENTATION TO THE EXPORT CONTROL AUTHORITIES
OF THE FEDERAL REPUBLIC OF GERMANY**

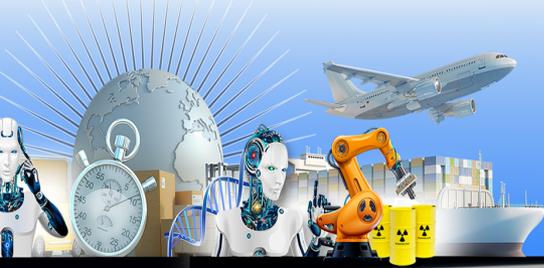
This EUC is not applicable for sniper rifles, pump-guns, pistols and revolvers.

Section A – Parties

consignee (name, address and contact details)

(details) if different from consignee

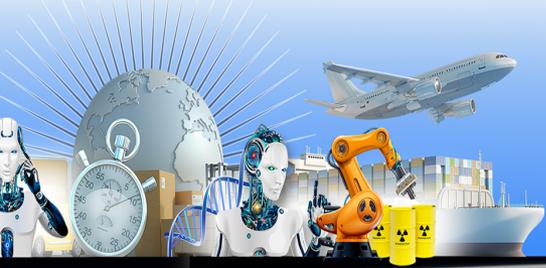




Post shipment controls Evaluation / Cooperative approach

- Tried and tested: “Post-Shipment Controls” will become a **permanent fixture in German arms export control policy** and will be integrated **into new legislation** on arms export control
- Essential to grasp instrument not simply as a one-sided control but
 - a mutually agreed-upon **confidence-building measure** of ex- and importing state that increases transparency and accountability at the post-delivery stage of arms exports in both countries
 - i.e. a joint demonstration and commitment against diversion

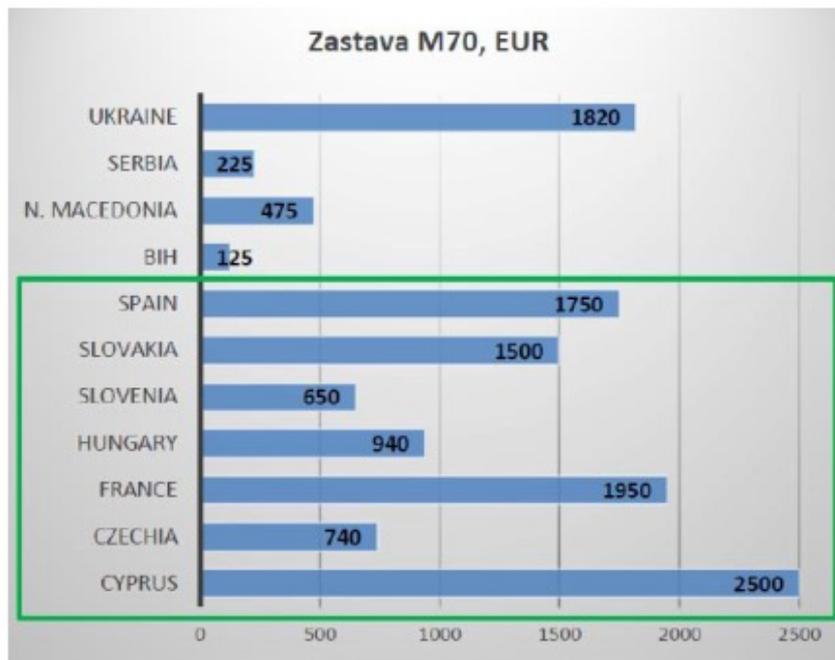


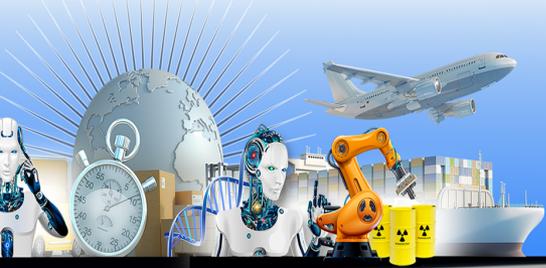


Impressions



PRICES ON THE CRIMINAL MARKET AK M-70





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5. **Academia & Outreach**



Outreach to Academia



2018
Outreach to six
universities and
non-university
research institutes



2023
UN-Res 1540
“Wiesbaden-Process”
&
“Erlangen-Process”



2019
Handbook “Export
Control and Academia”
and accompanying
Flyer

2020 -2023
“Road Show” at
different universities
and non-university
research institutes

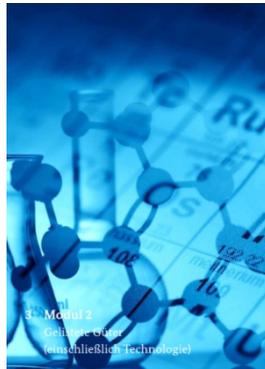


Handbook „Export Control and Academia“



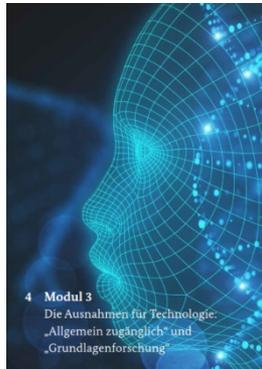
2 Modul 1
Genehmigungspflichten und Verbote

Part 1
Prohibitions
and licensing
requirements



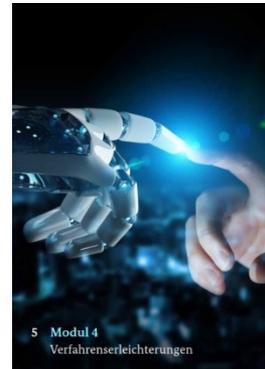
3 Modul 2
Grüne Güter
(ausschließlich Technologie)

Part 2
Listed items,
including
technology



4 Modul 3
Die Ausnahmen für Technologie:
„Allgemein zugänglich“ und
„Grundlagenforschung“

Part 3
De-control
notes: “in the
public domain”
and “basic
scientific
research”



5 Modul 4
Verfahrenserleichterungen

Part 4
Simplified
procedures



6 Modul 5
Ausführer, der Ausfuhrverantwortliche
und seine Verantwortung

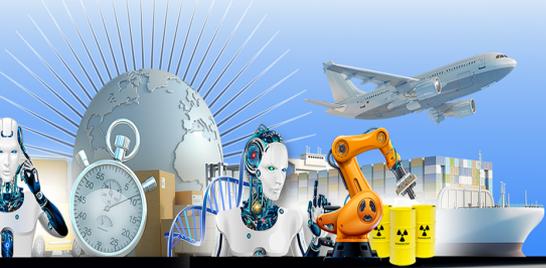
Part 5
Exporter,
person
responsible for
exports



7 Modul 6
Internal Compliance Program
für Unternehmen für
Forschungserleichterungen

Part 6
Internal
Compliance
Program (ICP)





BAFA – Outreach Overview: Current Projects – part 1 (EU funded)

DUAL-USE ITEMS

EU P2P Project no. 89 (2022-2024)

Middle East Countries (= Gulf Cooperation Council member states, Iraq, Jordan, Lebanon)

Cooperation in consortium with Expertise France in:

- EU P2P Project no. 64 (2017-2023)

Regional Coordinator for South East Europe: Albania, Bosnia and Hercegovina, North Macedonia, Kosovo*, Montenegro, Serbia

Key Expert Licensing for all partner countries (South East Europe, North Africa, Central Asia)

- EU P2P Project no. 90 (2022-2025)

Key Expert Licensing for all partner countries South East Asia

MILITARY ITEMS

ATT EU Outreach Project III (2022-2025)

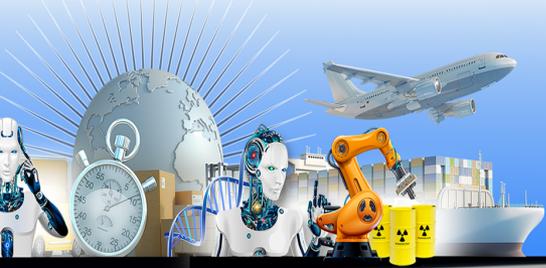
BAFA countries: Chile, Colombia, Costa Rica, Peru, Kazakhstan, Malaysia, Thailand, Zambia

COARM V (2020-2023)

24 countries, 4 regions,

Newest Partner Mongolia since May 2023





BAFA – Outreach Overview: Current Projects – part 2 (funded by Germany)

German support to implementation of UNSCR 1540

WIESBADEN PROCESS (SINCE 2012)

Establishment of a dialogue platform and communication process between government and industry on application of an export control system

Central Conferences

As a rule every 2 years (last in February 2023)

Regional Conferences

In average 2 per year (in 2023 one in Chile and one in Thailand)

ERLANGEN PROCESS (SINCE 2023)

Establishment of a dialogue platform and communication process between government and research and academia on application of an export control system

Central Conferences

First in November 2023 in Erlangen and Nuremberg (Germany); second in 2024; then every 2 years

Regional Conferences

In average 2 per year, starting in 2024





National Project Enhancing capacity for implementing of UNSC embargo resolutions and other sanction regimes in Southeast Asia 2023/24

Partner region: Southeast Asia

Focus: The project aims to strengthen capacities in Southeast Asia for implementing UNSC embargo and economic sanction regimes, including providing support for implementation of other sanctions and nonproliferation efforts

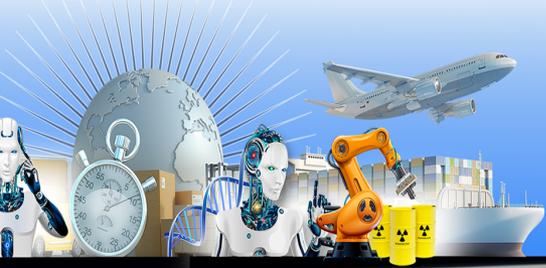
Partner States: Brunei, Cambodia, Indonesia, Lao PDR, Malaysia, Philippines, Singapore, Thailand, Vietnam

Activities: Regional conference to be held 21. – 22. November 2023 in Singapore

Funds: 150.000 Euro for 2023

Duration: One calendar year (since 2018, to be continued in 2024)

Contact: Sandra Raca, Head of Division, Outreach Projects / Policy, BAFA sandra.raca@bafa.bund.de



THANK YOU FOR YOUR ATTENTION

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