

**Regulation
Implementing the Foreign Trade and Payments Act
(Foreign Trade and Payments Regulation – AWW)
of 18 December 1986**

as amended by the Announcement of 22 November 1993 (Federal Law Gazette I, p. 1934, 2493, as amended by the 79th Regulation Amending the Foreign Trade and Payments Regulation of 24 April 2007),

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Chapter I

General Provisions

Section 1

Application

- (1) Applications for the granting of a licence, unless otherwise provided hereinafter, may be filed by anyone who performs a transaction or an act subject to licensing. An application may also be filed by anyone who derives a claim from the transaction or asserts a claim to the performance of an act.
- (2) Licences in the form of a general order (section 35 sentence 2 of the *Verwaltungsverfahrensgesetz – Administrative Procedures Act*) shall be granted ex officio.

Section 2

Collective Licences

The applicant may be granted a licence for a limited period of time for an indefinite number of legal transactions or acts of the same kind (collective licence), if this proves expedient due to the intended repetition of the transactions or acts by the applicant.

Section 3

Return of Licences

- (1) A licence shall be returned without delay to the licensing authority if
 1. the issued licence becomes invalid before it was used,
 2. the beneficiary abandons the intention to use the licence, or
 3. the licence originally granted, which was lost and substituted by a duplicate, was retrieved.
- (2) The duty of return basing on regulations of the European Community shall remain unaffected.

Section 3 a

Safekeeping of Licences

A licence shall be kept safely for a period of five years after its validity expires, unless it must be returned. A licence that was completely used may also be retained on data carriers.

Section 4

Value of Commodities and Value Limits

- (1) Value of a commodity or item is the price billed to the consignee; if there is no consignee or determinable price, it is the statistic value as defined by the provisions on the statistics of cross-border trade.
- (2) If a transaction or act proves to be part of an integral economic operation, the value of the whole operation shall be taken as a basis when applying the value limits of this Regulation.

Section 4 a
Restriction under Section 7 para 1 no. 3 AWG

A statement in foreign trade and payments by which a resident declares his participation in a boycott against another state (boycott declaration) shall be prohibited.

Section 4 b
(rescinded)

Section 4 c
Definitions

For the purposes of this Regulation, the following definitions shall apply:

1. exporter:

any natural or legal person who, at the time of export, holds the contract with the consignee in the third country and has the power for determining the sending of the goods out of the economic territory to a third country. If no export contract has been concluded or if the holder of the contract does not act on his own behalf, it shall be decisive who actually determines the sending of the goods out of the economic territory to a third country. Exporter shall also be any natural or legal person who decides to transmit data processing programmes (software) or technology by electronic media, fax or telephone from the economic territory to a third country. Where the benefit of a right to dispose of the goods belongs to a person outside the economic territory, according to the contract on which the export is based, the exporter shall be the contracting party established in the economic territory;

2. transferor:

any natural or legal person who, at the time of transfer, holds the contract with the consignee in another Member State of the European Union and has the power to determine the sending of the goods out of the economic territory to another Member State of the European Union. If no transfer contract has been concluded or if the holder of the contract does not act on his own behalf, it shall be decisive who determines the sending of the items out of the economic territory to another Member State of the European Union. Transferor shall also be any natural or legal person who decides to transmit data processing programmes (software) or technology by electronic media, fax or telephone from the economic territory to another Member State of the European Union. Where the benefit of a right to dispose of the items belongs to a person outside the economic territory pursuant to the contract on which the transfer is based, the transferor shall be the contracting party established in the economic territory;

3. export consignment:

the quantity of items exported simultaneously by an exporter via the same customs office of exit for the same purchasing country to the same country of destination;

4. purchasing country:

the country where the non-resident who buys the goods from the resident is established. In other respects, the purchasing country shall be the country of destination;

5. country of destination:

the country where the goods are to be used or consumed, worked upon or processed; if this country is not known, the country of destination shall be the last known country to which the goods are to be transferred;

6. trafficking and brokering:

the brokering of a contract referring to the acquisition or disposal of goods, or the proof of an opportunity to conclude such a contract, or the conclusion of a contract referring to the disposal of goods;

7. technical assistance:

any technical support in connection with repair, development, production, assembly, testing, maintenance or any other technical service; the technical support can take the form of instruction, training, transfer of practical knowledge or abilities, or the form of consultation, including assistance provided orally, by telephone and electronic media;

8. transit trade transaction:

transaction where uncleared goods, that are located outside the economic territory or were brought into the economic territory, are acquired by residents from non-residents and are sold to non-residents; this is identical with legal transactions where these goods are sold to other residents prior to the sale to non-residents.

**Chapter II
Export of Goods**

**1st Title:
Restrictions**

**1st Subtitle
Export Subject to Licensing to Territories
Outside the Community and Export Prohibitions**

**Section 5
Restriction under Section 7 para. 1 AWG**

- (1) The export of goods specified in Part I, Section A of the Export Control List (Annex AL) shall require a licence.
- (2) The export of goods specified in Part I, Section C, of the numbering range 901 to 999 of the Export Control List (Annex AL) shall require a licence.
- (3) A licence under paragraph 2 shall not be required if, according to the contract on which the export is based, the value of the goods to be supplied does not exceed € 2,500. Sentence 1 shall not apply to goods of Part I Section C item 5A901 of the Export Control List. Sentence 1 does also not apply to technology documents and data processing programmes (software).

Section 5 a
(lapsed)

Section 5 b
(lapsed)

**Section 5 c
Restrictions under Section 7 para. 1 AWG**

- (1) The export of goods not specified in the Export Control List (Annex AL) shall require a licence if the exporter has been informed by the Federal Office of Economics and Export Control (BAFA) that these goods are or may be intended, in their entirety or in part, for a military end-use and the purchasing country or country of destination is contained in Country List K. Military end-use shall mean:

1. incorporation into goods specified in Part I Section A of the Export Control List (AL),
 2. use of production-, test- or analytical equipment and components therefor, for the development, production or maintenance of goods specified in Part I Section A of the Export Control List (Annex AL), or
 3. use of any unfinished products in a plant for the production of goods specified in Part I Section A of the Export Control List (Annex AL).
- (2) If an exporter is aware that the goods to be exported are not mentioned in the Export Control List (Annex AL), but are intended for a military end-use within the meaning of paragraph 1 above and the purchasing country or country of destination is a country of Country List K, he must notify the Federal Office of Economics and Export Control (BAFA), which will decide whether the export is subject to licensing or not. The goods may only be exported if the Federal Office of Economics and Export Control (BAFA) approved the export or decided that a licence is not required.
- (3) Paragraphs 1 and 2 above shall not apply to Article 4 of Council Regulation (EC) No. 1334/2000 of 22 June 2001 setting up a Community regime for the control of exports of dual-use items and technology (OJ EC No. L 159 p. 1) as amended.
- (4) Paragraphs 1 and 2 shall not apply if, according to the contract on which the export is based, the value of the goods to be supplied does not exceed € 2,500. Sentence 1 does not apply to data processing programmes (software) and technology.

Section 5 d
Restriction under Section 7 para. 1 AWG

- (1) The export of goods not specified in the Export Control List (Annex AL) shall require a licence if the exporter has been informed by the Federal Office of Economics and Export Control (BAFA) that the goods are or may be intended, in their entirety or in part, for the setting-up, operation or incorporation into a plant for nuclear purposes within the meaning of category 0 of Part I Section C of the Export Control List (Annex AL) and if the purchasing country or country of destination is Algeria, India, Iran, Iraq, Israel, Jordan, Libya, North Korea, Pakistan or Syria.
- (2) If an exporter is aware that the goods to be exported are not mentioned in the Export Control List (Annex AL), but are intended for a purpose referred to in paragraph 1 and the purchasing country or country of destination is Algeria, India, Iran, Iraq, Israel, Jordan, Libya, North Korea, Pakistan or Syria, he must notify the Federal Office of Economics and Export Control (BAFA) which decides whether or not the export requires a licence. The goods may only be exported if the Federal Office of Economics and Export Control (BAFA) approved the export or decided that a licence is not required.
- (3) Paragraphs 1 and 2 shall not apply to the purview of Article 4 of Regulation (EC) No. 1334/2000.
- (4) Paragraphs 1 and 2 shall not apply if, according to the contract on which the export is based, the value of the goods to be supplied does not exceed € 2,500. Sentence 1 does not apply to data processing programmes (software) and technology.

Section 5 e
(lapsed)

Section 6

(lapsed)

Section 6 a
Restriction under Section 5 AWG

(1) The export of goods marked with “G” in the 3rd Column of Part II of the Export Control List (Annex AL) to countries outside the European Economic Community shall require a licence. This does not apply if the goods meet the common marketing or quality standards or minimum requirements, published by the Official Journal of the European Communities, laid down on the basis of Articles 36 and 37 of the Treaty Establishing the European Economic Community (Federal Law Gazette 1957, II, p. 753, 766),

1. in the Commission regulations, as amended and adopted on the basis of the Council Regulation (EC) No. 2200/96 of 28 October 1996 on the Common organization of the market in fruit and vegetables (OJ EC No. L 297, p. 1), or
2. in the Commission regulations, as amended and adopted on the basis of the Council Regulation (EC) No. 2201/96 of 28 October 1996 on the Common organization of the markets in processed fruit and vegetable products (OJ EC No. L 297, p. 29), or
3. in the Commission or Council regulations, as amended, referring to quality standards based on Regulation (EEC) No. 234/68 of 27 February 1968 (OJ EC No. L 55, p. 1)

provided that these regulations do not stipulate any exceptions concerning the compliance with marketing or quality standards or minimum requirements.

(2) The export of goods marked with “G1” in the third column of Part II of the Export Control List (Annex AL) to third countries shall require a licence. This does not apply if the goods meet the quality standards mentioned in paragraph 1 no. 3 and they do not fall below the minimum prices fixed by Council or Commission regulations based on (EEC) regulation No. 234/68 as amended.

(3) (lapsed)

(4) (lapsed)

2nd Subtitle

Transfers Subject to Authorisation to Member States of the European Union

Section 7

**Restriction under Article 21 para. 2 letter a of the Regulation (EC) 1334/2000
and under Section 7 para. 1 AWG**

(1) Transfers of goods specified in Part I Section A of the Export Control List (Annex AL) shall require a licence. This does not apply to

1. firearms as defined by section 1 para. 4 of the Law on Arms in connection with Annex 1 chapter 1 para. 1 no. 2 and chapter 3 of the Law on Arms, where the Law on Arms and the related legal provisions apply, including irrelevant components and accessories.
2. ammunition as defined by section 1 para. 4 of the Law on Arms in connection with Annex 1 chapter 1 para. 3 nos. 1 and 2 of the Law on Arms, including ammunition parts, where they are intended for firearms as defined by no. 1 above, and
3. re-charging devices, where they are intended for ammunition as defined by no. 2 above.

- (2) The transfer of goods specified in Part I Section C of the Export Control List (Annex AL) shall require a licence if the transferor is aware that the final destination of the goods is outside the European Union. Sentence 1 does not apply if the transfer already requires an authorisation under Article 21 para. 1 sentence 1 of the Regulation (EC) No. 1334/2000.
- (3) The transfer of goods not specified in the Export Control List (AL) shall require a licence if the final destination of the goods is outside the European Union and if the transferor has been informed by the Federal Office of Economics and Export Control (BAFA) that the goods are or may be intended, in their entirety or in part, for a military end-use as defined by section 5 c para. 1 sentence 2 and the purchasing country or country of destination is a country on Country List K or a country under embargo as defined by Article 4 para. 2 of the Regulation (EC) 1334/2000. If the transferor is aware that the items, as defined by sentence 1 above, which he proposes to transfer and the final destination of which is outside the European Union, are intended for a military use, and the purchasing country or country of destination is a country on Country List K or a country under embargo as defined by Article 4 para. 2 of Regulation (EC) 1334/2000, he must notify the Federal Office of Economics and Export Control (BAFA); it will decide whether or not the transfer is subject to licensing. The goods may only be transferred after the Federal Office of Economics and Export Control (BAFA) approved the transfer or decided that an authorisation is not required.
- (4) The transfer of the goods not specified in the Export Control List (Annex AL) shall require a licence if the final destination of the goods is outside the European Union and the transferor has been informed by the Federal Office of Economics and Export Control that the goods are or may be intended, in their entirety or in part, for the setting-up, operation or incorporation into a plant for nuclear purposes as defined by section 5d para.1 AWV and if the purchasing country or country of destination is Algeria, India, Iran, Iraq, Israel, Jordan, Libya, North Korea, Pakistan or Syria. If a transferor is aware that the items, as defined by sentence 1 above, which he proposes to transfer and the final destination of which is outside the European Union, are intended for a purpose mentioned in paragraph 1 above and the purchasing country or country of destination is Algeria, India, Iran, Iraq, Israel, Jordan, Libya, North Korea, Pakistan or Syria, he must notify the Federal Office of Economics and Export Control (BAFA); it will decide whether or not the transfer is subject to licensing. The goods may only be transferred after the Federal Office of Economics and Export Control (BAFA) approved the transfer or decided that an authorisation is not required.
- (5) The restrictions under paragraphs 2 to 4 do not apply if
1. the export of goods from the economic territory requires an authorisation under Article 3 or Article 4 of Regulation (EC) 1334/200, sections 5, 5 c or 5 d and if a general licence or global licence may be used, or
 2. the goods are to undergo working or processing within the meaning of Article 24 of the Council Regulation (EEC) No. 2931/92 of 12 October 1992 establishing the Community Customs Code (OJ EC L 302, p. 1) in a Member State to which they are to be transferred.
- (6) The restrictions under paragraphs 2 to 4 do not apply if, according to the contract on which the transfer is based, the value of the goods to be supplied of items 2B350, 2B351 and 2B352 does not exceed € 5,000 and the value of other goods does not exceed € 2,500. Sentence 1 does not apply to goods of Part I Section C, items of category 0, items 1C350, 1C450 and 5A901 as well as data processing programmes and technology.

**Rules of Procedure and Reporting Regulations
under Sections 26 and 46 para. 3 AWG**

Section 8
(lapsed)

1st Subtitle

Export and Re-Export from the Community Territory not Subject to Authorisation

Section 9
Presentation and Declaration

- (1) Each export consignment shall be presented by the exporter to the customs office of exports by submitting an export declaration. The export declaration can be presented electronically or in paper form (with sheets no. 1, 2 and 3 of the Standardised Document) and is to be completed according to the instructions (Annex A1). Where the export declaration is presented in paper form, it is to be provided with a number assigned by the Federal Office of Economics and Export Control (BAFA).
- (2) The customs office can permit, upon application, the presentation to a customs office of export in another place of the district if the goods are packed or loaded there and the export declaration is submitted in good time to enable the customs treatment of the consignment. Where the export consignment is not declared electronically, the application shall be presented on a printed form prescribed by the Federal Ministry of Finance through announcement in the Federal Gazette.
- (3) The intangible transfer shall not require customs treatment.
- (4) Export consignments of Community items, excluding those subject to presentation of a control document T5, dispatched from the Community by post or railway in the framework of a transport contract shall be considered as presented to the customs office of export with their delivery. Sentence 1 does not apply to items which can be declared at the customs office of exit pursuant to Article 794 para. 1 sentence 1 of Commission Regulation (EEC) No. 2454/93 of 2 July 1993 with the provisions implementing Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code (OJ EC No. L 253).
- (5) (lapsed)
- (6) For each ship departing from a sea port, the ship owner or carrier shall submit a freight list to the competent main customs office; if it is not a freight business it must be submitted by the freight owner. The freight list must contain the name of the carrier, of the ship, of the port of loading, of the discharge port, the number, type and characteristics of the containers, as well as the specification and quantity of the loaded goods in accordance with the bill of lading or other shipping documents. The freight list must also include a statement that it contains all the goods loaded on the ship. In case of empty ships, the ship master shall declare in writing that the ship was empty before its departure. The freight list must be presented to the main customs office immediately after the loading has been completed. The main customs office can request that freight lists produced by means of data processing are submitted on electronically usable data carriers or by electronic data transmission. The main customs office may refrain from the submission of a freight list in general or in individual cases, provided that the export surveillance is not impaired.

- (7) In case of goods transported in pipelines, the competent customs office of exit is any customs office in the district where there is an access to the pipeline transporting the goods.
- (8) Where the export declaration may be presented in accordance with Articles 226, 231 or 237 of Regulation (EEC) No. 2454/93, the declarant shall give the reasons in writing to the post office in case of postal dispatch or to the station of dispatch in case of goods transportation by rail, unless the reasons can be derived from the type of export consignment or other circumstances. The declaration shall be enclosed with the export consignment, it may also be written on the accompanying document or package.

Section 10

Customs Clearance Procedure

- (1) The customs office shall examine whether the export is permissible. For this purpose, it may demand further information and evidence to be furnished by the exporter or declarant, especially the presentation of the shipping notes.
- (2) The customs office of exit shall refuse customs treatment if the office of export has not certified the required customs treatment, if the advance clearance required under Article 286 para. 2 of the Regulation (EEC) 2454/93 is missing or if the insurance necessary according to section 13 para. 3 is missing. In case of postal or railway consignment, the post-office or railway company shall refuse acceptance in such cases.
- (3) The declarant may only remove an export consignment, the presentation of which was applied for under section 9 para. 2, from the place indicated in the application form after the fixed time period elapsed, after customs inspection or with the approval of the customs office of exit.
- (4) Goods shall not be removed from the place of presentation or permitted place, or loaded prior to the examination by the customs office of exit.

Section 11

Incomplete Declaration and Simplified Declaration Procedure

- (1) (lapsed)
- (2) In the incomplete declaration under Article 253 para. 1 and Articles 280 and 281 of Regulation (EEC) No. 2454/93 the declarant can summarise the data of several incomplete declarations in one additional or supplementary declaration if the entire export transaction takes place within the economic territory and the goods have been exported in one export consignment.
- (3) The main customs office is in charge of granting a simplified declaration procedure under Article 253 para. 2 and Article 282 of Regulation (EEC) No. 2454/93.

Section 12

Local Clearance Procedure

- (1) It is necessary to specify the goods to be exported in the written request for authorisation to use the local clearance procedure under Article 253 para. 3 and Articles 283 to 287 of Regulation (EEC) No. 2454/93; the reference item in the Commodity Classification for Foreign Trade Statistics shall be indicated. If a high number of different goods is to be

regularly exported, they may be given in commodity groups with a general name and with the reference item or chapter number of the Commodity Classification.

- (2) The main customs office shall be responsible for the admission to the local clearance procedure.
- (3) (lapsed)

Section 13 **Advance Notice of Exportation**

- (1) The main customs office may permit reliable exporters, who regularly export a high number of goods, to declare the goods in advance to the customs office of export, if the entire export transaction takes place within the economic territory, the exporter can guarantee the continuous, complete and correct registration of export consignments in a way typical of a company' s internal accounting, especially by the help of electronic data processing equipment, and the export surveillance is not impaired. Instead of an export declaration, an export control declaration, if necessary with supplementary sheets, shall be presented on a printed form prescribed by the Federal Ministry of Finance through announcement in the Federal Gazette. The presentation of the export control declaration and a presentation of the goods to the customs office of export shall not be required. The main customs office may permit the exporters referred to in sentence 1 above to use a printed form different from the one mentioned in the announcement in the Federal Gazette. Section 12 para. 1 shall apply mutatis mutandis to the application for admission to the advance notice of exportation procedure.
- (2) The exporter shall inform the customs office of export, not later than on the last working day prior to the beginning of a calendar year, if he wants to ship goods under the admission to the advance notice of exportation procedure. If his intention only arises in the course of that period he shall give notice of this fact not later than on the last working day before the first packing or loading of the goods. Place and time of the packing or loading shall be communicated to the customs office of export in advance; they may only be changed after the information of the customs office of export in due time.
- (3) The exporter shall assure in the export control declaration that he is authorised to use the advance notice of exportation.
- (4) Where in case of exports in the common or Community transit procedure, the customs office of export is identical with the customs office of exit, an export control declaration is not required; in case of exports in the simplified Community or common transit procedure for carriage of goods by rail, however, this only applies if the transport document is to be presented to the customs office of exit.
- (5) The main customs office may, provided that the export surveillance is not impaired, exempt individual exporters from the duty to present an export control declaration.
- (6) In the case of exports of goods contained in chapters 28 to 30, 36 to 39, 72 to 76, 81, 84 to 90, 93 and 98 as well as the export of goods of items 2612, 2617, 2710, 3206, 3403, 3404, 4002, 4011, 4015, 4016, 4906, 4911, 6813, 6815, 6903, 6909, 6914, 7903, 8203, 8207 and 8307 of the Harmonised Commodity Description and Coding System (HS), the exporter who uses the advance notice of exportation shall notify all the exports made in one month by the tenth day of the following month. The reports must contain all the data required in accordance with the boxes 2, 8, 17a, 18, 21, 24, 29, 31, 33, 34a, 38, 41 and 46 of the Standardised Document. The form of notification and the customs office of their presentation are determined by the main customs office. The main customs office may also decide that reports produced by the help of a data processing system have to be

submitted on machine-readable data carriers, or where applied for, by data transmission. The main customs office may revocably exempt individual exporters upon application from the reporting requirement under sentence 1 for goods neither subject to export restrictions nor requiring special surveillance for other reasons.

Section 14
(lapsed)

Section 15
Notification of Mineral Oil Export

- (1) In the case of the export of goods specified in items 2707 1010 to 2707 50 90, 2709 00 10 to 2711 12 19, 2711 12 94, 2711 1297, 2711 1391, 2711 13 97, 2711 21 00, 2711 29 00, 2713 11 00 to 2713 20 00 and 2713 9090 of the Commodity Classification of Foreign Trade Statistics, the declarant shall hand over a mineral oil export notification, where necessary with supplementary sheets, when submitting the export declaration to the customs office of export. The printed forms Mineral Oil Export Notification and supplementary sheet are prescribed by the Federal Ministry of Finance through announcement in the Federal Gazette. The customs office of export shall send the declaration to the Federal Office of Economics and Export Control (BAFA) which will transmit it to the Federal Ministry of Economics and Technology upon request.
- (2) Notwithstanding paragraph 1 above, exporters exporting the goods referred to above under the procedure as per section 13, shall notify to the Federal Office of Economics and Export Control (BAFA) the exports made in one calendar month by the seventh working day of the following month. The notifications may be submitted without using the printed form for mineral oil export notification; they have to be broken down as to commodity items, procedure, country of origin, country of destination and net weight. Sentences 1 and 2 shall apply mutatis mutandis, if the goods are exported by pipeline or in the local clearance procedure under Article 253 para. 3 and Articles 283 to 287 of the Regulation (EEC) No. 2454/93 and the supplementary declaration in the local clearance procedure is submitted on a data carrier or by electronic data transmission.
- (3) A notification under paragraph 1 or 2, sentence 1 above shall not be required
 1. in the cases where no written export declaration is necessary, or
 2. for exports up to a quantity of 200 l per container.

Section 16
(rescinded)

Section 16 a
Export of Fruits and Vegetables

- (1) In case of the export, not subject to licensing, of fruits and vegetables marked with "G" in Part II Chapters 7 and 8 of the Export Control List (Annex AL), it is necessary to present to the customs office of export an export declaration as well as a certificate of conformity under Annex 1 of Commission Regulation (EC) No. 1148/2001 of 12 June 2001 on checks of conformity to the marketing standards applicable to fresh fruit and vegetables (OJ EC No. L 156 p. 9), as amended. If the entire export transaction takes place in the economic territory, the control certificate required under sentence 1 above may be presented to the customs office of exit.

- (2) In the case of exports, not subject to licensing, of the goods referred to in paragraph 1 sentence 1 above under the common transit procedure for carriage of goods by rail or using the simplified formalities at the customs office of departure in accordance with Annex II title X Chapters I and II of the Convention, adopted by Council Decision 87/451/EEC of 15 June 1987 (OJ EC No. L 226 p. 1), on a common transit procedure, as amended, a copy of this certificate together with sheet no. 3 of the export declaration or the Export Accompanying Document in accordance with Annexes 45c and 45d of Regulation (EEC) No. 2454/93 may be presented to the customs office of export instead of the certificate of conformity.
- (3) In case of the exports, not subject to licensing, of goods specified in paragraph 1 sentence 1 above under the local clearance procedure in accordance with Article 253 para. 3 and Articles 283 to 287 of Regulation (EEC) No. 2454/93 it is possible to present a copy of the conformity certificate together with the additional declaration to the office of export.
- (4) In case of the export of fruit and vegetables, not subject to licensing, marked with "G" in Part II Chapters 7 and 8 of the Export Control List (Annex AL) and intended for industrial processing, the export declaration together with a Certificate of Industrial Use under Annex II of Commission Regulation (EC) No. 1148/2001 of 12 June 2001 on checks on conformity to the marketing standards applicable to fresh fruit and vegetables (OJ EC No. L 156, p. 9), as amended, shall be presented to the customs office of export
- (5) A certificate of conformity or a certificate of industrial use shall not be required in the cases referred to in section 19 para. 1 and 2.
- (6) In case of exports, not subject to licensing, of processed fruits and vegetables subject to marketing standards or minimum requirements based on Regulation (EC) No. 2201/96 of 28 October 1996 on the Common Market Organisation for Processed Products from Fruits and Vegetables (OJ EC No. L 297, p. 29) as amended, a conformity certificate together with the export declaration or a waiver of the Federal Agency for Agriculture and Food shall be lodged at the customs office of export.

Section 16 b **Re-exports**

Where re-exportation under Article 182 para. 3 sentence 3 of Council Regulation (EEC) No. 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ EC L 302 p. 1) shall be subject to prior notification, the provisions of this subtitle shall apply mutatis mutandis with the exception of section 9 para. 4. In case of re-exportation of non-Community goods from free zones, Article 182 para. 3 sentence 3 and Article 161 of Regulation (EEC) No. 2013/92, Article 278 para. 1 and para. 3 and Article 841 of Regulation (EEC) no. 2454/93 as well as the provisions of this subtitle shall apply mutatis mutandis with the exception of section 9 para. 4, provided that the non-Community goods are transited through the economic territory.

2nd Subtitle **Exports Subject to Licensing from Community Territory**

Section 17 **Export Licence**

- (1) The export licence shall be applied for and granted on a printed form under Annex A 5. The only person entitled to apply shall be the exporter. Notwithstanding sentence 1, the Federal Office of Economics and Export Control (BAFA) may, within the scope of its

competence, also prescribe that an export authorisation or licence for other acts or legal transactions in external trade may be applied for on another form and issue the licence on another form.

- (2) The following documents shall be enclosed with the application for an export licence for goods specified in Part I of the Export Control List (Annex AL): documents giving evidence of the final consignee, the final destination and the purpose of use. The Federal Office of Economics and Export Control (BAFA) may also request other documents in addition to those mentioned in sentence 1 above to prove the whereabouts of the goods. In case of certain countries the Federal Office of Economics and Export Control (BAFA) may accept an International Import Certificate issued by the country of destination. Details are laid down by the Federal Office of Economics and Export Control (BAFA) through announcement in the Federal Gazette.
- (3) Section 3a of the Administrative Procedures Act shall not apply to paragraphs 1 and 2. The Federal Office of Economics and Export Control (BAFA) may, however, stipulate through announcement in the Federal Gazette the date and the conditions under which applications under paragraph 1 may be filed electronically.
- (4) The authority responsible for the granting of an export licence may exempt from the requirement to enclose the documents specified under paragraph 2 above, provided that the interests defined in section 7 para. 1 of the Foreign Trade and Payments Act shall not be impaired, especially the international cooperation in the field of a common export control.

Section 18 **Special Rules of Procedure**

- (1) Article 161 para. 5 of the Regulation (EEC) No. 2913/92, Articles 788 to 793c, 795 to 798 and Article 253 para. 1 and the Articles 280 and 281 as well as Article 253 para. 2 and Article 282 of the Regulation (EEC) No. 2454/93 and section 9, para. 1, 2, 4, 6 and 7, sections 10, 11 and 16 b shall apply to the export of goods subject to authorisation and to the export of items subject to export licences as provided by the Common Market Organisation of the European Economic Communities, unless otherwise provided below or by legal provisions adopted by the Council or the Commission of the European Community. If the export bases on a licence in the form of a general order or a global licence and a customs attribution of the licence is not required, Articles 253 par. 3 and Article 283 to 287 of the Regulation (EEC) No. 2454/93 and sections 12 and 13 shall apply additionally.
- (2) The export licence and the export declaration shall be presented by the exporter to the customs office of export. A copy of the export licence shall be handed over. In the case of exports under simplified procedure as per section 13 or Articles 253 para. 3 and 283 to 287 of the Regulation (EEC) No. 2454/93, the declarant shall submit the global licence to the customs office of export prior to its first use.
- (3) (lapsed)
- (4) Exporters who were granted simplified procedures under section 13 para. 1 to 5 may submit an export control declaration instead of an export declaration for export clearance at the customs office of export and exit for exports under paragraph 1 sentence 1 which are made without simplified procedures, if the entire export transactions takes place in the economic territory. Section 13 para. 6 shall apply.

Section 19 **Exemptions from Licensing Requirement**

- (1) Sections 5, 5c, 5d, 6a, 17 and 18 do not apply to the export of goods in the following cases:
1. goods for use or consumption on pilot vessels or lightships of the Member States of the European Communities outside their territorial waters as well as on installations or units established on the Member States' continental shelf to prospect for and extract natural resources;
 2. means of transport, including accessories and means of loading, unless they are merchandise;
 3. non-military means of transport and parts thereof, which are exported for the purpose of servicing or repair from Community territory or are exported after their servicing and repair in the Community territory; except helicopters, helicopter power transfer systems, gas turbine-engines and auxiliary power units (APU) for use in helicopters as well as spare parts and technology therefor, if the country of destination is a country on Country List K or a country under embargo as defined by Article 4 paragraph 2 of Regulation (EC) No. 1334/2000;
 4. goods carried on means of transport and intended for their equipment, operation, maintenance or repair, for treatment of the load, for use or consumption during the journey or for sale to travellers; this does not apply to goods of a common market organisation of the European Communities, for which an export authorisation is required if they are delivered as ship and aircraft supplies;
 5. objects exported from a Member State of the European Union for an airline company established in a country listed in Annex II Part 3 of Regulation (EC) No. 1334/2000 or in an European Union Member State to serve the repair of their aircraft or the air traffic in general;
 6. building supplies, means of operation and other objects for official use for connection lines and advance railroad agencies, customs authorities and post offices in third countries;
 7. objects for official relations and mutual judicial assistance between the European Communities or its Member States with third countries;
 8. objects exported by authorities and agencies of the European Communities or of one of its Member States or offices of the NATO for accomplishing official tasks or for their own official use, storage or repair;
 9. objects delivered to the Federal Army on the basis of orders, as well as objects to accomplish official tasks within the framework of security measures of the Commission of the European Communities and the International Atomic Energy Agency under the Euratom Treaty and the Convention of 5 April 1973 (Federal Law Gazette 1974 II p. 794) implementing Article III para. 1 and 4 of the Treaty of 1 July 1968 on the Non-Proliferation of Nuclear Weapons;
 10. presents given by official authorities to heads of state, members of government and parliament in the framework of international relations with third states;

11. goods in possession of foreign armed forces stationed in the Community territory, of organisations with equal status, of civilian components as well as their members and relatives;
12. goods which were imported into Community territory for the purpose of maintenance or repair, and are exported to the country of consignment without any changes of their original characteristics, or goods which are exported to the country of consignment in exchange for goods of the same quality and number which were re-imported into Community territory after approved export, provided that the goods are not mentioned on the War Weapons List (Annex to the War Weapons Control Act) and the country of consignment and the country of destination are mentioned in Annex II Part 3 of Regulation (EC) No. 1334/2000;
13. goods which were not accepted by consignees established in the Community or which are undeliverable, if they remained in custody of the customs authorities; goods which were erroneously brought into Community territory and remained in custody of the transport company;
14. containers and other bulk storage tanks, used in the same way, where these are not subject to a trade transaction;
15. goods exported for first aid in case of disaster or as donations in an emergency;
16. firearms, as defined by the Law on Arms and the necessary munitions which
 - a) are taken along by Community residents for their own use (hunting, sport, personal or others' protection) if the exporter carries along a valid warrant of possession under the Law on Arms and confirms that the weapons are to be re-imported into Community territory within a period of three months, or
 - b) were brought into Community territory by non-resident travellers when entering the country for their own use, and are re-exported by them;
17. animals, seeds, fertilizers, motor vehicles, machines or other goods the export of which is conditioned by the local and economic relations in frontier zones or areas close to the border with third countries, and which are exempt from export restrictions in accordance with intergovernmental agreements;
18. products of agriculture, stockbreeding, horticulture and forestry, situated in frontier zones, which are managed from third countries;
19. feeding stuffs and scattering stuffs serving the feeding and maintenance of animals carried along, if their type and quantity corresponds to the usual and expected need for the period of transportation;
20. goods carried for official activities and which are exempt from export restrictions
 - a) under the law of Accession of the Federal Republic of Germany to intergovernmental agreements with third countries, or
 - b) under statutory order of the federal government based on Article 3 of the law of 22 June 1954 on the accession of the Federal Republic of Germany to the agreement on the privileges and immunities of special agencies of the United Nations of 21 November 1947 and on the granting of privileges and immunities to other international organisations (Federal Law Gazette 1954 II p. 639), as

amended by Article 4 para. 1 of the law of 16 August 1980 (Federal Law Gazette, II p. 941);

21. a) goods which were imported into Community territory and are re-exported unchanged to the country of consignment, if they have not been cleared by the customs or remained in the Community territory no longer than three months;
 - b) documents for the production of goods referred to in sections 5, 5c and 5d, where the documents were imported into Community territory and were exported unchanged by the importer to the country of consignment; the same applies if entries have been made in the documents, which, alone or in connection with the document to be exported, do not permit a production going beyond the production possibilities existing before the addition,
 - c) tangible technology related to the goods specified in section 5, if
 - their export is only temporary, they are not left to third persons or made available in any other way, or
 - their export is required because of an offering procedure, or
 - the export is intended for the purpose of maintenance and repair of goods the export of which was authorised,and both, the country to which they are exported for this purpose and the country of final destination are listed in Annex II Part 3 of Regulation (EC) No. 1334/2000;
22. Objects exported by the Technical Secretariat of the Organisation for the Prohibition of Chemical Weapons for the implementation of verification measures permitted under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction of 13 January 1993 (Federal Law Gazette 1994 II, p. 806).

(1a) (lapsed)

(2) section 6 a shall not apply to the export of goods in the following cases:

1. goods of nutrition and agriculture up to a value of € 125 per export consignment;
2. goods carried by travellers for their own use or consumption or usually for professional purposes or which are sent in advance or forwarded for this purpose; goods not intended for trade, which were acquired by non-Community travellers in the Community territory and are carried with them when leaving the country;
3. in the traffic between persons domiciled in neighbouring customs frontier zones fixed on the basis of international agreements or in neighbouring areas close to the border of third countries (cross border shopping)
 - a) goods, carried by these persons, which are not intended for trade and the value of which does not exceed € 500 per day,
 - b) goods granted to these persons as part of their wage for work done in the Community, or on the basis of legal maintenance or annuity payments,
4. goods to be exported for temporary storage or only transportation out of Community territory and are to be re-imported unchanged into Community territory,

5. goods re-exported to a country other than the country of consignment under the conditions referred to in paragraph 1 no. 21 letter a).

(3) (lapsed)

- (4) Paragraphs 1 and 2 shall also apply to re-exports of goods subject to export declaration under Article 182 para. 3 sentence 3 of Regulation (EEC) No. 2913/92 or section 16b.

Sections 20, 20 a-e
(lapsed)

3rd Sub-title
Transfers to Member States of the European Union
Subject to Authorisation

Section 21
Applicable Provisions

Sections 17 and 19 shall apply mutatis mutandis to the transfer of goods subject to authorisation.

Section 21 a
(rescinded)

Chapter III
Import of Goods

1st Title
Import into the Economic Territory

1st Sub-title
Definitions

Section 21 b
Definitions

- (1) Importer is anyone who transfers goods to the economic territory or has them transferred. If the import is based on a contract concluded with a non-resident on the acquisition of goods for the purpose of importation (import contract), the resident party alone shall be importer. Anyone who only acts as a forwarding agent or carrier or in a similar position in the transfer of goods shall not be importer.
- (2) The country of purchase is the country in which the non-resident is established, who sells the goods to the resident. This country shall also be considered to be the country of purchase if the goods are sold to another resident. If there is no legal transaction related to the acquisition of goods between a resident and a non-resident, the country of purchase shall be the country in which the person who is entitled to dispose of the goods and transfers them or has them transferred is a resident; if the person who is entitled to dispose of the goods and transfers them or has them transferred is established in the economic territory, the country of purchase shall be the country of consignment.

2nd Sub-title
Restrictions

Section 22
Restriction under Section 11 AWG

(1) In the case of imports not subject to licensing, the agreement on or use of a delivery period shall require a licence if

1. the customary delivery period for the supply of the commodity from the respective country of purchase,
2. a delivery period of twenty-four months after conclusion of the contract,
3. a delivery period laid down in the Import List for the supply of individual goods,
4. in case of Community surveillance (sect. 28, para. 1), the period fixed by the Council or the Commission for the use of the supervision document for import clearance, or
5. in case of the purchase of goods marked with the letters "ÜD" in column 5 of the Import List (Section III of the Annex to the Foreign Trade and Payments Act), the period entered in the supervision document for import clearance (section 28a, para. 7)

is exceeded.

(2) Paragraph 1 above shall not apply to the import of

1. goods from free circulation of a Member State of the European Union or another State Party of the Convention on the European Economic Area,
2. goods subject to a common market organisation or trade arrangement,
3. iron pyrites (item 2502 00 00), sulphur (items 2503 00 10 and 2503 00 90), rock phosphate (items 2510 10 00 and 2510 20 00), natural sodium borate (item 2528 10 00), metallic ores and concentrates as well as roasted iron pyrites (items 2601 11 00 to 2601 20 00), non-ferrous metallic ores (items 2602 00 00 to 2617 90 00), titanium slag (item 2620 99 60) , selenium (item 2804 90 00), ethylene (item 2901 21 00), propylene (item 2901 22 00), butadiene (from item 2901 24 10 and 2901 29 00), cyclohexane (item 2902 11 00), benzole (item 2902 20 00), toluol (item 2902 30 00), styrol (item 2902 50 00), unwrought silver (items 7106 91 10 and 7106 91 90), unwrought gold (item 7108 12 00), platinum, palladium, rhodium, iridium, osmium and ruthenium, unworked or powder (items 7110 11 00, 7110 21 00, 7110 31 00 and 7110 41 00), residues and scrap from precious metals (from items 7112 30 00 to 7112 99 00) and primary material of non-ferrous metals of items 7401 10 00 to 7402 00 00, 7501 10 00, 7501 20 00 and 7801 99 10 of the Commodity Classification of Foreign Trade Statistics.
4. electric power.

3rd Subtitle
Rules of Procedure and Reporting Regulations under Section 26 AWG

Section 22a
Rules of procedure under sections 7 and 26 AWG

- (1) Within the framework of international cooperation in export control, the Federal Office of Economics and Export Control (BAFA) issues upon application certificates confirming end-user statements, i. e. International Import Certificates (IIC) and Delivery Verification Certificates (DVC).
- (2) The importer, being entitled to file an application according to this provision, shall apply for the International Import Certificate IIC on a printed form under Annex E6, the Delivery Verification Certificate on a printed form under Annex E7 and provide the necessary information. Section 17 para. 1 sentence 3 shall apply mutatis mutandis.
- (3) The import of the commodity specified on the application for an International Import Certificate is to be proved immediately to the Federal Office of Economics and Export Control (BAFA). If the applicant refrains from the import intention, he has to immediately inform the Federal Office of Economics and Export Control (BAFA) and to return the certificate or inform about its whereabouts. If he wants to transfer the commodity to another country he shall obtain a new certificate, indicating the name of the other country, from the Federal Office of Economics and Export Control (BAFA) before the commodity leaves the country of consignment.
- (4) Section 3 para. 1 and 2 sentence 1 of the Foreign Trade and Payments Act shall apply mutatis mutandis.

Section 22 b
(rescinded)

2nd Title

Procedural and Reporting Requirements under Section 26 AWG for Imports into the Economic Territory from Third Countries

1st Subtitle Definitions

Section 23 Definitions

- (1) The term "importer" as defined by section 21b para. 1 shall apply to this title subject to the proviso that only imports from third countries are covered and Community residents shall be equal to residents.
- (2) In accordance with this title, the country of purchase shall be the country in which the non-Community resident is established who sells the goods to the Community resident. This country shall also be considered to be the country of purchase if the goods are resold to another Community resident. If there is no legal transaction on the acquisition of goods between a Community resident and a non-Community resident, the country of purchase shall be the country in which the person is established who is entitled to dispose of the goods and transfers them or has them transferred to Community territory; if the person who is entitled to dispose of the goods and transfers them or has them transferred is established in the Community, the country of purchase shall be the country of consignment.
- (3) Import consignment is the quantity of goods dispatched by the same supplier to the same importer on the same day and that is cleared by the same customs office.

2nd Subtitle

Import not Subject to Licensing

Sections 24 to 26
(lapsed)

Section 27 Application for Import Clearance

- (1) The importer shall apply for import clearance at a customs office. He shall indicate the trade description or common name of the commodity and the item number of the Commodity Classification for Foreign Trade Statistics. In lieu of the importer, a Community resident may apply on his own behalf for the import clearance of goods which are delivered on the basis of an import contract, if he
 1. participated as a commercial agent of the non-Community contracting party in the conclusion of the import contract, or
 2. in pursuing his business based on a contract with the non-Community resident party,
 - a) takes part in the transportation of the goods, or
 - b) lodges the customs declaration for release of the goods for free circulation.
- (2) The following documents shall be presented for import clearance:
 1. the invoice or other documents clearly indicating the country of purchase or consignment and the country of the goods' origin,
 2. a certificate of origin, if the goods are marked with "U" in the 5th column of the Import List, or
a declaration of origin, if the goods are marked with "UE" in the 5th column of the Import List,
 3. an import control declaration in accordance with section 27a and
 4. in the cases of paragraph 5 an import licence.
- (3) The application for import clearance shall be lodged
 1. together with the customs declaration for the release of the goods for free circulation; in case of import within the framework of a simplified procedure under Article 76 para. 1 of Council Regulation (EEC) No. 2913/92 of 12 October 1992 (OJ EC No. L 302 p. 1), the required document only needs to be submitted together with the supplementary customs declaration, where available and valid at the time of the declaration or registration of the goods;
 2. prior to the use, consumption, working or processing of the goods in a free zone or on the island of Helgoland.

Notwithstanding sentence 1 no. 1, the customs office may request the presentation of the relevant document together with the incomplete or simplified customs declaration, or immediately after registration, in case of the goods' release for free circulation in the local clearance procedure under the exemption from presentation prior to clearance, if this is necessary for safeguarding the interests in accordance with the import regulations.
- (4) (lapsed)
- (5) Where the import of a commodity requires an import licence in accordance with a common market organisation or a trade arrangement, paragraph 3 shall apply *mutatis mutandis*.
- (6) No import clearance shall be required for the import of water, electric power as well as town gas, long-distance gas or similar gases in pipelines.

- (7) Paragraphs 3 and 5 shall not apply, where the Community regulations directly in force have laid down contrary legal regulations with regard to the application of commercial measures.

Section 27 a **Import Control Declaration**

- (1) An Import Control Declaration shall be lodged if the commodity is marked with the letters "EKM" in the 5th column of the Import List.
- (2) The presentation of an Import Control Declaration is not required if the value of the import consignment does not exceed € 1,000. This shall not apply to the import of seeds, plants and fishery products under Chapters 3 and 16 of the Import List.
- (3) For release of the goods into free circulation a printed form designated as Import Control Declaration shall be presented; it corresponds with the declaration form for the import of goods under sections 4 and 6 of the law on foreign trade statistics and section 15 of the regulation implementing the foreign trade statistics law; in all the other cases it shall be a printed form, if necessary with supplementary sheets, which is announced in the Federal Gazette by the Federal Agency for Agriculture and Food, if indicated in the 3rd column of the Import List, and by the Federal Office of Economics and Export Control (BAFA) for all the other goods. Data not envisaged in the printed form in accordance with the announcement shall also be considered not necessary in the other printed forms of the Import Control Declaration as well.
- (4) For the import of goods within a simplified declaration procedure or local clearance procedure the importer shall send the exhausted sheets of the Import Control Declaration immediately after the import of goods, for which the Federal Agency for Agriculture and Food is indicated in the third column of the Import List, to this agency, and after the import of all the other goods to the Federal Office of Economics and Export Control (BAFA). The Import Control Declaration with the last entry of the settlement period shall, however, be lodged with the import clearance.
- (5) The authorities responsible for the granting of import licences may exempt reliable importers who repeatedly import numerous consignments from presentation of an Import Control Declaration and permit declarations in another way, if it is guaranteed that the importer keeps continuous, complete and correct records of the import consignments of the kind of the company's internal accounting, particularly by the help of an electronic data processing system.
- (6) (lapsed)

Section 28 **Import Clearance Procedure**

- (1) The customs office shall check the permissibility of the import. It shall refuse import clearance when an import licence or import certificate required for the import is not submitted, or when the goods do not correspond to the data in the documents to be presented under section 27 para. 2. If there are serious doubts about a certificate of origin, the customs offices may request further evidence to prove the origin of the goods and, thus, enable the import clearance.
- (2) The import clearance is only permissible up to the end of the second month following the expiry of the approved or authorised delivery period under section 22 .

(3) (lapsed)

(4) (lapsed)

Section 28 a Prior Import Surveillance

- (1) If a Council or Commission regulation subjected the import of a commodity to Community surveillance, a surveillance document on a Community import document, in accordance with the regulations of the European Community and the acts of law of the European Community for Coal and Steel, as amended, shall be issued upon application for the import not subject to licensing. According to their responsibility, the licensing authorities shall lay down through announcement in the Federal Gazette the printed form of the surveillance document to be used for the application, or the conditions for filing applications in another way, particularly by data transmission. The importer is the only person entitled to apply. The surveillance document is issued by a competent authority in the Community and is valid throughout the Community.
- (2) The Federal Office of Economics and Export Control (BAFA) is responsible for issuing the surveillance document in the economic territory; the Federal Agency for Agriculture and Food where this is indicated in the third column of the Import List. Where the use of national documents is admissible in the economic territory in application of the Community law in force, or where the Council or Commission prescribe the use of other documents, the Federal Office of Economics and Export Control (BAFA) or the Federal Agency publish these documents in the Federal Gazette in accordance with their responsibilities.
- (3) The importer shall apply for the issuing of a surveillance document in the cases of paragraph 1 prior to the import of goods, as indicated in the third column of the Import List, to the Federal Agency of Agriculture and Food, in case of all the other goods to the Federal Office of Economics and Export Control (BAFA). It is not permitted to summarize different goods, different countries of purchase or different countries of origin in one surveillance document.
- (4) The importer shall provide the data, fixed through Council or Commission regulation, in the application for the issuing of a surveillance document. The Federal Office of Economics and Export Control (BAFA) or the Federal Agency for Agriculture and Food publish the conditions for issuing a surveillance document in the Federal Gazette. The surveillance document contains the final date of its validity for import clearance as well as the permissible percentage of variation of the unit price at which the transaction is effected from that indicated in the surveillance document, or of the total quantity and value given in the surveillance document.
- (5) The importer shall present the surveillance document issued by the competent authority for import clearance. The customs authority shall indicate the value and quantity of the goods cleared on the surveillance document.
- (6) The customs office shall refuse the import clearance
 - a) if the application for import clearance is filed later than on the last day of validity of the surveillance document;
 - b) if the unit price at which the transaction is effected varies from that indicated in the surveillance document by a percentage higher than the one indicated in the document, or

- c) where the total value or total quantity of the goods declared for import exceeds the percentage indicated in the surveillance document.
- (7) Paragraphs 1 to 6 shall apply mutatis mutandis to the import of goods subject to the national import surveillance under the effective Community legislation.
- (8) When presenting the surveillance document the importer shall submit additional documents, or provide additional information in box 17 of the surveillance document or in a separate statement, where required in column 5 of the Import List.
- (9) In the case of paragraph 1, the surveillance document shall be replaced by an import licence (sections 30 and 31), where this is required in column 4 of the Import List.

Section 29
Certificate of Origin and Declaration of Origin

- (1) For the import clearance of goods marked with "U" or "UE" in the 5th column of the Import List, neither a certificate of origin nor a declaration of origin shall be required if
1. the goods are no agricultural and food products, or are not mentioned in section XI of the Import List, and the value of the goods contained in the import consignment for which a certificate of origin or declaration of origin is required, does not exceed € 1,000, or
 2. the country of origin of the commodity is a Member State of the European Community.
- (2) The certificate of origin must be issued by an authorised agency of the country of origin. The Federal Ministry of Economics shall announce the authorised agencies in the Federal Gazette. If the country of consignment is not identical with the country of origin, the presentation of a certificate of origin issued by an authorised agency of the country of consignment will be accepted.
- (3) The declaration of origin must be registered by the exporter or supplier on the invoice, or if an invoice cannot be presented, on another business document related to the export and must confirm that the goods have their origin in the third country, in accordance with Articles 22 to 26 of Regulation (EEC) No. 2913/92 in conjunction with Articles 36 to 38 of Regulation (EEC) No. 2454/93, as amended.

Section 29 a
(lapsed)

Section 29 b
(lapsed)

3rd Subtitle
Import Subject to Licensing

Section 30
Import Licence

- (1) Through announcement in the Federal Gazette, the licensing authorities lay down, within their spheres of responsibility, the import licence form to be used, or the conditions for filing applications in another way, particularly by data transmission. The importer only shall be entitled to apply. The import licence is granted on a Community import document

in accordance with the regulations of the European Communities, as amended, and shall be valid throughout the Community. Where the use of national printed forms is permissible for the import licence, the licensing authorities may, within their spheres of responsibility, prescribe the use of these printed forms in the economic territory, notwithstanding sentence 3 above, through announcement in the Federal Gazette.

- (2) (rescinded)
- (3) The Federal Office of Economics and Export Control (BAFA), in accordance with its competence and in application of the Community legislation in force, prescribes, through announcement in the Federal Gazette, the printed form on which the import licence (prior authorisation) shall be applied for or granted for goods covered by Council Regulation (EC) No. 3036/94 of 8 December 1994 establishing economic outward processing arrangements applicable to certain textile and clothing products re-imported into the Community after working or processing in certain third countries (OJ EC No. L 322, p. 1), as amended.
- (4) The licensing authorities may demand that separate applications be submitted for certain goods or groups of goods, where this is necessary in order to supervise import, accelerate the licensing procedure or safeguard other interests protected by the Foreign Trade and Payments Act or the Community law. If separate application forms are requested, it shall be indicated in the notice of the invitation to tender.
- (5) The licensing authorities should treat incoming applications within a reasonable period of time after the publication of the invitation to tender as if they were filed at the same time. The duration of that period shall be published in the invitation to tender. The licensing authorities shall publish any deviation which may result from the Community regulation in the Federal Gazette.

Section 31 **Import Clearance**

- (1) In case of import subject to licensing, sections 27, 27a, 28 para. 1 and 29 para. 2 and 3 shall apply subject to the proviso that the import clearance requires an import licence, and where laid down in the Import List or import licence, a certificate of origin or a declaration of origin must be presented in addition.
- (2) The customs authority notes the value or the quantity of the cleared goods on the import licence.

4th Subtitle **Special Provisions under Section 10 para. 4 and Section 26 AWG**

Section 31a (lapsed)

Section 32 **Simplified Procedure**

- (1) Community residents and non-Community residents may import without an import licence
 1. (lapsed)
 2. exposed and developed cinematic films and the associated sound-carriers;

- 3.a) goods of trade and industry (commodities where reference is made to the Federal Office of Economics and Export Control [BAFA] in the 3rd column on the Import List) up to a value of € 1,000 per import consignment;
- b) food and agricultural products (commodities where reference is made to the Federal Agency for Food and Agriculture in the 3rd column of the Import List), except seeds, up to a value of € 125 per import consignment;
the simplified procedure is not applicable to imports from a free zone or suspensive procedure as well as to the import of goods intended for trade or for other commercial use;
4. samples and specimen for commercial enterprises or processing companies
 - a) of goods of trade and industry up to a value of € 250 per import consignment;
 - b) of food and agricultural products up to a value of € 50 per import consignment, except seeds;
no account shall be taken of distribution cost when assessing the value of the samples and specimen supplied free of charge;
5. gifts up to a value of € 1,000 per import consignment;
6. stamps and revenue as well as the required albums;
7. (lapsed)
8. art works created by Community residents during their temporary stay in third countries;
- 8a. objects of art, collector's items and antiques not intended for trade;
9. files, business papers, documents, certificates, proof sheets, other documents and manuscripts which were not imported as a merchandise;
10. TV tape recordings;
11. (lapsed)
- 11a. components for repair of motor vehicles, licensed in third countries, which are in need of repair during the temporary use in the economic territory;
- 11b. aircraft and aircraft parts which are imported for their servicing or repair in the Community territory, or after their servicing or repair in third countries in accordance with servicing contracts;
- 11c. aircraft which were exported temporarily for demonstration purposes;
12. bunker coal and other fuels for ships and aircraft for release into free circulation for special use; fuels carried by motor vehicles in the built-in containers for their own consumption;
- 12a. goods which are made available by a non-Community resident for his own account to a Community resident for the repair of ships, if the ship is repaired in a free zone or under customs supervision for the account of non-Community residents;
- 12b. used clothing not intended for trade;
13. goods which are imported by exhibitors as samples for consumption on trade fairs or exhibitions, if the value of the goods summarized in one chapter of the Import List does not exceed € 3,000 per trade fair or exhibition; in this case, the value of the goods of several exhibitors being represented by the one and same person must be summed up;
14. fish, seaweed, sea grass and other goods obtained by Community residents on high sea as well as in the Swiss part of the Untersee and the Rhine from aboard a ship flying the flag of a Member State of the European Communities, and brought directly into the Community; game shot in these Swiss territories;
15. goods up to a value of € 5,000 which are saved by ships flying the flag of a Member State of the European Communities from a shipwreck at the coast of the Community territory or from a ship damage on high sea and transferred directly to the Community territory; goods drifting on high sea which are found and put ashore by ships flying the flag of a Member State of the European Communities;
16. goods which are imported by the foreign armed forces stationed in the Community, by organisations with the same status, the civil components as well as their members and relatives for their own consumption;

17. goods for supply to the foreign armed forces stationed in the Community, to organisations with equal status, the civil components as well as to their members and their relatives, provided that exemption from customs duties is granted in accordance with intergovernmental agreements or the regulations of the armed forces' customs law;
18. goods from the possession of the foreign armed forces stationed in the Community, of the organisations with equal status, the civil components as well as their members and relatives;
19. waste resulting from working, processing or repair in the Community of goods imported and intended for re-export, if no payment is granted for the disposal of the waste;
20. waste, sweepings and goods which cannot be used anymore for their original purpose, accrued from ports, warehouses or other customs procedures in the Community;
21. goods which have been brought for temporary use to a free zone or into the Community and which cannot be used anymore for their original purpose, or parts thereof, accruing from repair in the Community;
22. supply of spare parts for imported goods which have been or will be send back to third countries, or have been destroyed under customs surveillance, and customary additional deliveries for goods already imported;
- 22a. goods having their origin in the European Communities or in another Member State of the Treaty on the European Economic Territory, which are imported in the form of compensating products after outward processing under the customs law; other compensating products after outward processing under the customs law, which are imported after repair, under standard exchange procedure or after carrying out additional outward processing under Article 22 of Council Regulation (EC) No. 2913/92, as amended;
23. ballast which is not imported as a commodity;
- 23a. (lapsed)
24. carrier pigeons not imported as a merchandise;
25. goods for first aid in case of emergency;
26. ice to keep goods fresh during importation;
27. travel requisites and souvenirs, if the goods are free from import charges in accordance with Article 4 no. 10 of Regulation (EEC) No. 2913/92; goods not intended for trade up to a value of € 1,500, carried by travellers;
28. in the traffic between persons residing in neighbouring border zones fixed by intergovernmental agreements or in areas close to the borders with third countries (local border traffic)
 - a) goods carried by these persons, not intended for trade, the daily value of which does not exceed € 500;
 - b) goods granted to these persons as part of their wage or on the basis of obligations to pay maintenance or annuity;
29. animals, seeds, fertilizers, vehicles, machines and other goods the import of which is conditioned by the local and economic conditions in the border areas with third countries, and which are exempt from import restrictions under intergovernmental agreements;
- 29a. sewage mud and rakings resulting from the operation of cross-border community installations for water purification in border areas with third countries;
30. products of agriculture, stock-breeding, horticulture and forestry of such cross-border enterprises managed from the Community, if exemption from customs duties outside the agreed tariff-rate is granted;
31. coal in kind;
32. goods required for construction, means of repair and operation for water dams, power stations, bridges, roads and other buildings which are established, run or used on both sides of the border;
33. goods which may be imported duty-free under

- a) sections 12 to 19 of the Customs Regulation of 23 December 1993 (FG I, p. 2449)
 - b) Chapter I of the Council Regulation (EEC) No. 918/83 of 28 March 1983 setting up a Community System of Relief from Customs Duty (OJ EC No. L 105, p. 1), as amended, within the meaning of Article 4 no. 10 of Regulation (EEC) No. 2913/92; the regulation shall apply mutatis mutandis, if such goods may be imported duty-free for another reason.
- 33a. packages and means of packing, containers and other big vats used for the same purpose like containers, pallets, pressure containers for densified or liquid gases, cable drums, where these are not subject to trade transaction, as well as ice used for refrigeration;
34. goods to free zones, provided that they may be imported under the terms and conditions of the simplified procedure under items 27 and 33;
35. goods which are imported by the Federal Minister of Defence, his subordinate authorities and agencies in accordance with the Mutual Defense Assistance Agreement concluded between the Federal Republic of Germany and the United States of America of 30 June 1955 (FLG II, p. 1094), or after storage, repair or official use in third countries;
36. goods for which non-tariff customs relief is granted within the meaning of Article 4 no. 10 of Regulation (EEC) No. 2913/92
- a) under the laws of accession of the Federal Republic of Germany to international agreements with third countries,
 - b) under statutory orders decreed by the Federal Government on the basis of Article 3 of the Law of 22 June 1954 on the accession of the Federal Republic of Germany to the Agreement on the Privileges and Immunities of the Special Agencies of the United Nations of 21 November 1947 and on the Granting of Privileges and Immunities to other Intergovernmental Organisations (FLG 1954 II, p. 639), as amended by Article 4 para. 1 of the Law of 16 August 1980 (FLG II p. 941),
 - c) (lapsed)
 - d) under Articles 137 to 144 of Regulation (EEC) No. 2913/92 for goods which were temporarily used in the Community and for which a complete or partial exemption from import duties was granted in accordance with Article 4 no. 10 of Regulation (EEC) No. 2913/92,
 - e) under Articles 185 and 186 of Regulation (EEC) No. 2913/92 concerning goods re-imported into the Community.
- (2) Sections 22, 27 to 29, 30, 31 shall not apply to imports specified in paragraph 1 above. A Certificate of origin or a declaration of origin pursuant to column 5 of the Import List is not required. Section 27 para. 2 no. 3 in conjunction with section 27a, however, shall be applied mutatis mutandis to the import of fuel for ships and aircraft, except bunker coal, where the fuels are not carried in built-in containers for their own use.
- (3) Non-Community residents may import goods of trade and industry without a licence, if these goods
1. are subject to a suspensive procedure and will be sold at trade fairs and exhibitions, or
 2. are provably intended for sale at trade fairs and exhibitions,
- where the import of the goods by Community residents does not require a licence.

Section 33 to 34
(lapsed)

Section 35
(cancelled)

Section 35 a
Import of Horticultural Products

- (1) In the case of the import of horticultural products for which marketing standards were laid down in the Council Regulation (EC) No. 2200/96 of 28 October 1996 (OJ EC No. L 297 p. 1) as well as quality standards in the Council Regulation No. 316/68 of 12 March 1968 (OJ EC No. L 71 p. 8) establishing quality standards for cut flowers and ornamental foliage, the Federal Agency for Agriculture and Food shall check whether the goods correspond to the required marketing and quality standards prior to the release for free circulation.
- (2) In the case of the import of vegetables and fruits for which marketing standards were laid down by the Commission in Council Regulation (EC) No. 2200/96 on the common organization of the market in fruit and vegetables of 28 October 1998 (OJ EC No. L 297 p. 1), as amended, the customs office shall authorise release for free circulation, in accordance with Article 6 para. 3 of Commission Regulation (EC) No. 1148/2001 of 12 June 2001 on checks on conformity to the marketing standards applicable to fresh fruit and vegetables (OJ EC No. L 156 p. 9), as amended, only if
 1. the goods are accompanied by a valid certificate of conformity under Article 6 para. 2 of Regulation (EC) No. 1148/2001, as amended, or
 2. the goods are accompanied by a valid certificate of conformity under Article 7 para. 3 of Regulation (EC) No. 1148/2001, as amended, or
 3. a certificate of industrial use under Article 8 para. 2 of Regulation (EC) No. 1148/2001, as amended.If none of the certificates referred to in sentence 2 are submitted, the release for free circulation under Article 6 para. 4 of Regulation (EC) No. 1148/2001, as amended, shall require the approval of the Federal Agency of Agriculture and Food.
- (3) In case of the import of fruit and vegetable products intended for processing and not subject to licensing, for which minimum standards were fixed by the bodies of the European Community in Council Regulation (EC) No. 2201/96 of 28 October 1996 on a common market organisation for fruit and vegetable products intended for processing (OJ EC No. L 297/96 p. 29), as amended, the Federal Agency for Agriculture and Food shall carry out spot checks whether the goods correspond to these minimum standards.
- (4) Paragraph 2 shall not apply, where the import of the commodity is subject to the simplified procedure in accordance with section 32.

Section 35 b
(lapsed)

Section 36
Execution

Where execution shall be required with respect to goods which are located in a free zone or customs warehouse, the creditor may lodge an import declaration or an import licence and apply for import clearance. "Execution" shall be noted in the import declaration or in the application for import licence.

Section 37
(lapsed)

**Chapter IV
Other Goods Transactions**

**1st Title
Transit of Goods**

Section 38
(lapsed)

Section 39
Transit Procedure

- (1) The permissibility of transit is checked by the customs office of exit when the goods leave the economic territory, by any customs office involved when the goods cross the internal frontier to another Member State of the European Communities. For this purpose, the customs office may request further data and evidence, particularly the submission of bills of lading, from the carrier of goods or the person entitled to dispose of the goods.
- (2) (lapsed)
- (3) (lapsed)
- (4) (lapsed)

**2nd Title
Trafficking and Brokering Transactions**

Section 40
Restriction under section 5 AWG

- (1) Anyone who intends to undertake a trafficking and brokering transaction related to goods that are referred to in Part I Section A of the Export Control List (Annex AL) and are located in a third country or in the economic territory, and have not been subjected to import clearance yet, and that are to be exported to another third country, shall require a licence.
- (2) A licence under paragraph 1 above shall not be required if the trafficking and brokering transaction is subject to licensing in accordance with section 4a of the War Weapons Control Act.

Section 41
Restriction under section 7 para. 1 AWG

- (1) Anyone who intends to undertake a trafficking and brokering transaction related to items that are listed in Annex IV of the Council Regulation (EC) No. 1334/2000 of 22 June 2000 setting up a Community regime for the control of exports of dual-use items and technology (OJ EC No. L 159 p. 1) as amended, and that are located in a third country or in the economic territory and have not been subjected to import clearance yet, and that are to be exported to another third country shall require a licence.
- (2) A licence under paragraph 1 above shall not be required if the purchasing country and country of destination is listed in Annex II Part 3 of Regulation (EC) 1334/2000.

Section 42

Restrictions under section 7 para. 1 and 3 AWG

Sections 40 and 41 shall also apply to trafficking and brokering transactions undertaken by resident German nationals in a third country if

1. the purchasing country or country of destination is
 - a) a country subject to embargo in accordance with Article 4 para. 2 of Regulation (EC) No. 1334/2000 and the trafficking and brokering transaction is not prohibited under sections 69 f ff., or
 - b) a country of Country List K (Annex L), or
2. the trafficking and brokering transaction is related to the following war weapons:
 - a) war weapons under Part B I. no. 7 to 11, V. no. 29, 30 or 32, VI. no. 37, 38, VIII, no. 50, 51 of the Annex to sect. 1 para. 1 of the War Weapons Control Act (War Weapons List),
 - b) barrels or breech blocks for war weapons under Part B V no. 29, 32 of the War Weapons List,
 - c) ammunition or projectiles or charges for ammunition for war weapons under Part B V. no. 32 or VI no. 27 of the War Weapons List
 - d) mortars having a calibre of less than 100 mm or
 - e) barrels, breech blocks, ammunition or projectiles or charges for ammunition for mortars having a calibre of less than 100 mm.

Section 43
(rescinded)

Section 43 a

Rule of Procedure under sections 7 and 26 AWG

Anyone who needs an International Import Certificate or a Delivery Verification Certificate shall apply for it at the Federal Office of Economics and Export Control (BAFA). Section 22a shall apply mutatis mutandis with the proviso that the import into the purchasing country or country of destination specified in the licence application must be proved.

3rd Title
(lapsed)

Section 43 b
(lapsed)

Chapter V
Service Transactions

1st Title
Restrictions on Services Provided to Other Countries

Section 44
Restriction under section 6 AWG

- (1) (lapsed)
- (2) (lapsed)
- (3)

Section 44 a and 44 b
(lapsed)

Section 45
Restriction under Section 5 AWG

- (1) Technical assistance provided by residents outside the Community territory shall require a licence if the resident has been informed by the Federal Office of Economics and Export Control (BAFA) that the technical assistance is intended 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 in connection with the development, production, maintenance or storage of missiles capable of delivering such weapons.
- (2) If a resident is aware that the technical assistance he proposes to provide is intended for any of the uses referred to in paragraph 1 above, he must inform the Federal Office of Economics and Export Control (BAFA), which will decide whether or not the technical assistance is subject to licensing. The technical assistance may only be provided after the Federal Office of Economics and Export Control (BAFA) approved the technical assistance or decided that such a licence is not required.
- (3) Paragraphs 1 and 2 shall not apply if the technical assistance
 1. is provided in a country listed in Annex II Part 3 of Regulation (EC) No. 1334/2000,
 2. is passed on in the form of information that is in the public domain as defined by Part I of the Export Control List (Annex AL) or is part of basic research, or
 3. is provided orally and does not concern technology specified in Part I Section A item 0022 or Section C items of category E of the Export Control List (Annex AL).

Section 45 a
Restriction under Section 7 para. 1 AWG

- (1) Technical assistance, not covered by section 45 para. 1, provided by residents outside the Community territory shall require a licence if the resident has been informed by the Federal Office of Economics and Export Control (BAFA) that the technical assistance is in connection with a military end-use and is to be provided in a country under embargo as defined by Article 4 para. 2 of Regulation (EC) No. 1334/2000 or in a country on Country List K.
- (2) If a resident is aware that the technical assistance he proposes to provide is intended for any of the uses referred to in paragraph 1 above, he must inform the Federal Office of Economics and Export Control (BAFA) which will decide whether or not the technical assistance is subject to licensing. The technical assistance may only be provided after the Federal Office of Economics and Export Control (BAFA) approved the technical assistance or decided that a licence is not required.
- (3) Paragraphs 1 and 2 shall not apply if the technical assistance
 1. is passed on in the form of information that is in the public domain as defined by Part I of the Export Control List (Annex AL) or is part of basic research, or
 2. is provided orally and does not concern technology specified in Part I Section A item 0022 or Section C items of category E of the Export Control List (Annex AL).

Section 45 b

Restriction under Section 7 para. 1 AWG

- (1) Technical assistance provided by residents in oral or written form, by fax, telephone or electronic media inside the economic territory shall require a licence if the resident has been informed by the Federal Office of Economics and Export Control (BAFA) that the technical assistance is intended for use in connection with the development, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or in connection with the development, production, maintenance or storage of missiles capable of delivering such weapons and is provided to non-residents not established in a country listed in Annex II Part 3 of Regulation (EC) No. 1334/2000 or in a Member State of the European Union.
- (2) Technical assistance provided by residents in oral or written form, by fax, telephone or electronic media inside the economic territory shall require a licence if the resident has been informed by the Federal Office of Economics and Export Control (BAFA) that the technical assistance is in connection with a military end-use not covered by paragraph 1 above and is to be provided to non-residents established in a country under embargo as defined by Article 4 para. 2 of Regulation (EC) No. 1334/2000 or in a country on Country List K.
- (3) If a resident is aware that the technical assistance he proposes to provide in oral or written form, by fax, telephone or electronic media, for any of the uses referred to in paragraphs 1 or 2 above, he must inform the Federal Office of Economics and Export Control (BAFA) which will decide whether or not the technical assistance is subject to licensing. The technical assistance may only be provided after the Federal Office of Economics and Export Control (BAFA) approved the technical assistance or decided that a licence is not required.
- (4) Paragraphs 1, 2 and 3 shall not apply if the technical assistance
 1. is passed on in the form of information that is in the public domain as defined by Part I of the Export List (Annex AL) or is part of basic research, or
 2. does not concern technology specified in Part I Section A item 0022 or Section C items of category E of the Export Control List (Annex AL).
- (5) Non-residents within the meaning of paragraphs 1 and 2 are such natural persons whose residence or habitual abode in the economic territory is limited to a maximum of five years.

Section 45 c

Restriction under Section 7 para. 1 AWG

- (1) Technical assistance provided by residents shall require a licence if the resident has been informed by the Federal Office of Economics and Export Control (BAFA) that the technical assistance is in connection with the establishment or operation of nuclear plants within the meaning of section 5d para. 1 in Algeria, India, Iran, Iraq, Israel, Jordan, Libya, North Korea, Pakistan or Syria.
- (2) If a resident is aware that the technical assistance he proposes to provide is intended for any of the uses referred to in paragraph 1 above, he must inform the Federal Office of Economics and Export Control (BAFA) which will decide whether or not the technical assistance is subject to licensing. The technical assistance may only be provided after the Federal Office of Economics and Export Control (BAFA) approved the technical assistance or decided that a licence is not required.

(3) Paragraphs 1 and 2 shall not apply if the technical assistance

1. is passed on in the form of information that is in the public domain as defined by Part I of the Export Control List (Annex AL) or is part of basic research, or
2. does not concern technology specified in Part I Section C items of category 0 of the Export Control List (Annex AL).

Section 45 d
Restriction under Section 7 para. 3 AWG

Sections 45, 45a, 45b and 45 c shall also apply to technical assistance provided by non-resident Germans.

Section 45 e
Exemption from Licensing Requirement

Sections 45, 45a, 45b and 45 c shall not apply to the provision of technical assistance in the following cases

1. technical assistance provided by authorities and offices of the Federal Republic of Germany within the framework of its official tasks;
2. technical assistance provided by residents for the Federal Army on the basis of its orders;
3. technical assistance provided for a purpose mentioned under exemptions for items of MTCR technology in Annex IV of Regulation (EC) No. 1334/2000;
4. for the first putting into operation of items the export or transfer of which was authorised.

2nd Title
(lapsed)

Section 46 to Section 48
(lapsed)

Section 49
(rescinded)

3rd Title
(lapsed)

Section 50 to Section 50 b
(lapsed)

Chapter VI Capital Transactions

1st Title Restrictions

Section 51 Restriction under Section 5 AWG to Implement the Agreement on German External Debts

- (1) A debtor is prohibited from effecting payments and other performances if
1. their object is the fulfilment of a debt within the meaning of the Agreement on German External Debts of 27 February 1953 (Federal Law Gazette II, p. 331), but the debt is not settled;
 2. their object is the fulfilment of a debt settled within the meaning of the Agreement, but they are not within the limits of the conditions of payment and other terms fixed;
 3. their object is the fulfilment of obligations which are or were payable in non-German currency which correspond to the conditions laid down in Article 4 para. 1 and 2 of the Agreement but do not fulfil the conditions laid down in Article 4 para. 3 letter a or b of the Agreement relating to the person of the creditor, unless these obligations arise out of marketable securities payable in a creditor country.
- (2) The definitions contained in Article 3 of the Agreement shall also apply to paragraph 1 above.

Section 52 Restriction under Section 7 para. 1 and para. 2 No. 5 AWG

- (1) The acquisition of a resident company, or the direct or indirect participation in such a company that
- produces or develops goods specified in Part B of the Annex to section 1 para. 1 of the War Weapons Control Act (War Weapons List),
 - produces or develops specially designed motors or gears for combat tanks or other armoured military tracked vehicles, or
 - produces cryptographic systems admitted for the transmission of governmental classified information by the Federal Office for Information Security Technology with the company's approval,
- by a non-resident or a resident company in which a non-resident has at least 25 percent voting rights, shall be reported by the purchaser to the Federal Ministry of Economics and Technology. This does not apply if the direct or indirect share in voting rights of the non-resident purchaser in the company concerned does not reach 25 per cent after the acquisition of the participation. When calculating the share in voting rights of the non-resident purchaser, the shares of other companies in the company to be acquired shall be added, if the purchaser holds not less than 25 per cent or more voting rights in the other company.
- (2) The Federal Ministry of Economics and Technology may prohibit the acquisition within a period of one month after the reception of the completed documents related to the purchase, where necessary in order to safeguard the vital security interests of the Federal Republic of Germany.

(lapsed)

2nd Title

Reporting Regulations under Section 26 AWG

Section 55
(rescinded)

Section 56 Area of Application

For the purpose of reports under this title the Austrian territories Jungholz and Mittelberg shall not be considered part of the economic territory.

Section 56 a

Property of Residents in Foreign Economic Territories

- (1) The level and selected items of the composition of the following property in foreign economic territories shall be notified without delay under section 56b:
 1. of the property of a non-resident company if more than 10 percent of the shares or voting rights in that company are to be attributed the resident;
 2. of the property of a non-resident company if more than 10 percent of the shares or voting rights in that company are to be attributed to a non-resident company depending on a resident;
 3. of the property of residents in their non-resident branches and permanent establishments.
- (2) A non-resident company is considered to be dependent on a resident as defined by paragraph 1 no. 2 above if more than 50 percent of the shares or voting rights in the non-resident company are to be attributed to the resident. If all shares or voting rights in another non-resident company are to be attributed to a non-resident company depending on a resident, then the other non-resident company and, under the same conditions, any other enterprise shall be considered to be dependent on a resident within the meaning of paragraph 1 no. 2 above.
- (3) Paragraph 1 shall not apply if the total balance sheet of the non-resident company in which the resident or another non-resident company dependent on him participates, or if the assets of the non-resident branch or permanent establishment of the resident do not exceed € 3 million. This limit shall be increased to € 5 million if the participation amounts to less than 50 percent of the assets and voting rights in that company. In addition, paragraph 1 above shall not apply if documents required by the resident for the fulfilment of his reporting obligation are, de jure or de facto, not accessible to him.

Section 56 b

Reporting under Section 56 a

- (1) Reports shall be made once a year as per the balance sheet date of the person required to report, or if the person required to report does not draw up a balance sheet, as per 31 December to the German Federal Bank on the printed form "Property of Residents in Foreign Economic Territories" (Annex K 3) in 2 copies. The German Federal Bank shall communicate the data of the persons required to report to the Federal Ministry of Economics and Labour in a proper form; it may send one copy of the report to the Federal Ministry of Economics and Labour on request.

- (2) If the balance sheet date of a non-resident company, in which the person required to report participates or another non-resident company dependent on him, is not identical with the balance sheet date of the person required to report, or if the person required to report does not draw up a balance sheet, is not December, 31st then the calculation of the property shall base on the period immediately preceding the balance sheet date of the non-resident company.
- (3) The reports shall be submitted not later than on the last working day of the sixth calendar month following the balance sheet date of the person required to report, if the person required to report does not draw up a balance sheet, of the sixth calendar month following December, 31st to the Land central bank in whose area the person required to report resides.
- (4) The person required to report shall be the resident to whom the property is attributed directly or via a dependent non-resident company on the balance sheet date of the resident, or if he does not draw up a balance sheet, on December, 31st.

Section 57 and Section 58
(rescinded)

Section 58 a
Property of Non-residents in the Economic Territory

- (1) The level and selected items of the composition of the following property in foreign economic territories shall be notified without delay under section 58b:
 1. of the property of a resident company if more than 10 percent of the shares or voting rights in that resident company are to be attributed to the non-resident or several non-residents who are economically associated;
 2. of the property of a resident company if more than 10 percent of the shares or voting rights in that company are to be attributed to a resident company depending on a non-resident or several non-residents who are economically associated;
 3. of the property of non-residents in their resident branches and permanent establishments.
- (2) Non-residents shall be deemed to be economically associated within the meaning of paragraph 1 no. 1 and 2 above if they have common economic interests; this shall also apply if they share common economic interests with residents. Especially the following non-residents are considered to be economically associated:
 1. non-resident natural and legal persons who have joined together with the aim of founding or acquiring a resident company, of acquiring shares in such a company or jointly exercising their equity rights in such a company; in addition, non-resident natural and legal persons having common economic interests by holding shares in one or several companies;
 2. non-resident natural persons who are married to one another or related by blood, by marriage or by adoption in direct line, or related by blood in collateral line up to the third degree or related by marriage up to the second degree, or
 3. non-resident legal persons who are associated with one another within the meaning of section 15 of the Companies Act.
- (3) A resident company shall be deemed to be dependent on a non-resident or several non-residents economically associated, as defined by paragraph 1 no. 2 above, if more than 50 percent of the shares or voting rights in the resident company are to be attributed to the non-resident or the non-residents economically associated. If all assets or voting

rights in another resident company are to be attributed to a resident company depending on a non-resident or several non-residents economically associated, then the other resident company and, under the same conditions, any other enterprise shall be considered to be dependent on a resident within the meaning of paragraph 1 no. 2 above.

- (4) Paragraph 1 above shall not apply if the total balance sheet of the resident company in which the non-resident, the economically associated non-residents or other resident company which is dependent on the resident or the economically associated non-residents participate, or if the assets of the resident branch or permanent establishment of the non-resident do not exceed € three million. This limit increases to € five million if the participation amounts to less than 50 percent of the assets and voting rights in that company. In addition, paragraph 1 above shall not apply if documents required for the fulfilment of the reporting obligation are, de jure or de facto, not accessible to the resident. Paragraph 1 no. 1 and 2 shall not apply if the resident or dependent resident company, in which economically associated non-residents participate, is not able to recognise that the non-residents are economically associated residents, as defined by paragraph 2 above.

Section 58 b **Reporting under Section 58 a**

- (1) The report shall be made once a year as per the balance sheet date of the person required to report or, if the person required to report is a resident branch or permanent establishment of a non-resident company not drawing up a balance sheet, as per the balance sheet date of the non-resident company to the German Federal Bank on the printed form "Property and assets of non-residents in the economic territory" (Annex K 4) in two copies. The German Federal Bank shall communicate the data of the persons required to report to the Federal Ministry of Economics and Labour in a proper form; it may send one copy of the report to the Federal Ministry of Economics and Labour on request.
- (2) Reports shall be submitted not later than on the last working day of the sixth month following the balance sheet date of the person required to report, or if the person required to report is a resident branch or permanent establishment of a non-resident company not drawing up a balance sheet, of the sixth month following the balance sheet date of the non-resident company to the Land central bank in whose area the person required to report is established.
- (3) Required to report shall be
1. in the cases of section 58 a para. 1 no. 1 the resident company,
 2. in the cases of section 58 a para. 1 no. 2 the dependent resident company,
 3. in the cases of section 58 a para. 1 no. 3 the resident branch or permanent establishment.

Section 58 c **Exceptions**

- (1) The German Federal Bank may permit individual reportable persons to make simplified reports or deviate from the reporting periods or from printed forms to be used, or may exempt individual reportable persons or groups from the reporting requirement for a limited period of time or until recalled, if special reasons exist or the objective of the reporting regulation is not impaired.

- (2) Apart from official printed forms, reports may also be submitted in another way provided that it is applied for at the reporting agency and the formal provisions issued by it are observed.

Chapter VII Payment Transactions

1st Title Restrictions (lapsed)

2nd Title Reporting Regulations under Section 26 AWG

1st Subtitle General Provisions

Section 59 Reporting of Payments

- (1) Residents shall report payments
1. received from non-residents or from residents for their account (incoming payments)
or
 2. made to non-residents or to residents for their account (outgoing payments).
- (2) Paragraph 1 above shall not apply to
1. payments not exceeding the amount of € 12,500 or the equivalent in foreign currency,
 2. payments for the import of goods and the export of goods,
 3. payments the object of which is the granting, raising or repayment of credits (including the creation and repayment of credit balances with financial institutions) with an originally agreed maturity or term of notice of twelve months or less,
 4. (rescinded)
- (3) Payments within the meaning of this Chapter also include off-sets and clearing. In addition, the contribution of movables and rights to companies and permanent establishments shall also be considered to be payments.

Section 59 a Area of Application

For the purpose of reports under this title the Austrian territories Jungholz and Mittelberg shall not be considered part of the economic territory.

Section 60 Form of Reporting

- (1) Outgoing payments made via a resident financial institution and not covered by Article 3 of the Regulation (EC) No. 2560/2001 of the European Parliament and of the Council of 19 December 2001 on cross-border payments in Euro (OJ EC No. L 344, p. 13) shall be notified on the printed form "Payment order in foreign trade" (Annex Z 1); payments in

transit trade shall be notified under paragraph 3, payments in connection with securities and financial derivatives transactions in accordance with paragraph 4.

(2) Outgoing payments

1. for the benefit of non-residents to their accounts at resident financial institutions
 2. for the benefit of residents for the account of non-residents
- may be notified in deviation of paragraph 1 on the printed form "Payments in foreign trade" (Annex Z 4).

(3) Incoming and outgoing payments not subject to reporting under paragraph 1 above shall be notified on the printed form "Payments in foreign trade" (Annex Z 4).

(4) Incoming and outgoing payments in connection with securities and financial derivatives transactions shall be reported on the printed form "Securities and Financial Derivatives Transactions in Foreign Trade and Payments" (Annex Z10).

(5) The reports have to contain detailed data on the payments or underlying transaction and the relevant code numbers of the schedule of prices (Annex LV). In the case of transactions with securities and financial derivatives the data on the basic transaction shall be replaced by the designation of the securities, the internal securities identification number (ISIN) as well as the nominal value or quantity.

(6) In case of tax-exempt supplies and services to foreign armed forces stationed in the economic territory as well as to the civil employees, the report may also be made, notwithstanding paragraph 3 above, by submitting a copy of the receipt acknowledged by the forces or civilian employees in accordance with the prescribed specimen basing on the tax regulations.

Section 61
Term for Reporting

Reports shall be submitted

1. for payments under section 60 para. 1 first half sentence
by placing an order to the financial institution; when placing the order, the ordering party may also send the copy of the payment order intended for the German Federal Bank in a closed envelope indicating name and address as the consignor, for transmission to the German Federal Bank; in that case, it is not necessary to enter the statistical data in the copy intended for the financial institution, and the related technical money transfer data in the copy intended for the German Federal Bank.
2. (cancelled)
3. in case of payments under section 60 para. 2 and para. 3
up to the seventh day of the month following the service or receipt of payment; collective reports are permissible.
4. in case of payments under sect. 60 para. 4 up to the fifth day of each month for the previous month; collective reports are permissible.

Section 62
Reports on Claims and Liabilities

- (1) Residents, except resident monetary financial institutions (MFIs) and investment joint-stock companies as well as capital investment companies concerning receivables and payables, shall notify their accounts receivable from and payable to non-residents if they amount altogether more than € five million at the end of a month.
- (2) The accounts receivable from and payable to non-resident financial institutions shall be notified monthly by the tenth day of the following month as per the last working day of the previous month on the printed form "Claims and liabilities from financial relations to non-resident financial institutions" (Annex Z 5) in two copies.
- (3) The accounts receivable from and payable to other non-residents shall be notified monthly by the twentieth day of the following month as per the last working day of the previous month on the printed form "Claims and liabilities from financial relations to non-resident non-banks" (Annex Z 5a sheet 1) and "Claims and liabilities towards non-residents from goods and service transactions" (Annex Z 5a sheet 2) in two copies.
- (4) (rescinded)
- (5) If a resident, who was required to report on a fixed date of the previous month, is no longer subject to reporting because he remained below the amount specified under paragraph 1 above, he shall inform the respective authority in writing by the twentieth day of the following month.

Section 63 **Report Office**

- (1) The reports shall be made to the German Federal Bank.
- (2) The report on printed form Annex Z 1 shall be presented to the authorized financial institution for transmission to the German Federal Bank.

Section 64 **Exceptions**

Section 58 e of this Regulation shall apply mutatis mutandis.

2nd Subtitle Supplementary Reporting Regulations

Section 65 (lapsed)

Section 66 **Payments in Transit Trade**

- (1) If the commodity has already been sold to a non-resident when submitting the report in accordance with section 60 para. 1 2nd half sentence, then the payments received shall be notified together with the outgoing payment. If the payment of the non-resident purchaser has not been received at the time of the outgoing payment, then the agreed amount of payment shall be notified.
- (2) Anyone who notified an outgoing payment in transit trade and transfers the transit goods into the economic territory, shall notify this on the printed form Annex Z 4 by indicating

the amount notified and the date of payment with the supplement "Cancellation in transit trade".

- (3) In the cases of paragraphs 1 and 2 above, the specification of the commodity, the two-digit chapter number of the Commodity Classification for Foreign Trade Statistics and the country of purchase as defined by section 21 b para. 2 shall be indicated.

Section 67 **Payments of Maritime Shipping Companies**

Residents who manage a maritime shipping company shall notify monthly by the seventh day of the month following the payment, notwithstanding sections 59 to 61 of this Regulation, payments received or made in connection with the maritime shipping business on the printed form "Receipts and expenses of maritime shipping" (Annex Z 8) to the German Federal Bank.

Section 68 (lapsed)

3rd Subtitle **Reporting Regulations for Financial Institutions**

Section 69 **Reports of Financial Institutions**

- (1) Where payments shall be notified under paragraph 2, sections 59 to 63 do not apply.
- (2) Resident financial institutions shall notify
1. payments for the sale or purchase of securities and financial derivatives sold or bought by the financial institution to or from non-residents for its own account or for a third party's account, as well as payments made by the financial institution in connection with the redemption of domestic securities to non-residents or received from them, on the printed form "Securities transactions and financial derivatives in foreign trade and payments" (Annex Z 10);
 2. due interest and dividend payments made to non-residents on domestic securities or received from them, on the printed form "Payments for income from securities in foreign trade and payments" (Annex Z 11);
 3. incoming and outgoing payments for interests and similar income and expenses (except interests from securities) received from or made to non-residents for their own account on the printed form "Interest income and similar proceeds in foreign trade and payments (except interests from securities)" (Annex Z 14) and "Interest and similar expenses in foreign trade and payments (except interests from securities)" (Annex Z 15);
 4. in connection with tourist traffic and passenger transport
 - a) incoming and outgoing payments from card sales on the printed form "Incoming payments/outgoing payments in tourist traffic: card sales" (Annex Z 12),
 - b) incoming and outgoing payments from the purchase and sale of foreign currency as well as proceeds from the sale or posting of traveller's cheques in foreign currency on the printed form "Incoming payments/outgoing payments in tourist traffic: coins and notes and foreign currency traveller's cheques" (Annex Z 13).
- (3) Paragraph 2 nos. 1 and 3 shall not apply to payments not exceeding the amount of € 12,500 or the equivalent in foreign currency.

- (4) In case of reports under paragraph 2 no. 1, the code numbers of the Schedule of Prices (Annex LV) and the specifications of the securities, the international securities identification number as well as the nominal value or quantity shall be indicated.
- (5) The following reports shall be made
1. reports under paragraph 2 nos. 1, 2 and 4 monthly by the fifth day of the month following the reportable transaction,
 2. reports under paragraph 2 no. 3 monthly by the seventh day of the month following the reportable transaction. Interest and similar income and expenses in current account and savings account transactions, including interest on savings certificates and registered debentures, only have to be reported every six months by the thirtieth day following the end of the calendar half year.
- (6) The reports shall be made to the German Federal Bank.

Chapter VII a Special Restrictions against Somalia

Section 69 a

Restrictions based on Resolutions 733 (1992) of 23 January 1992, 1356 (2001) of 19 June 2001 and 1725 (2006) of 6 December 2006 of the United Nations Security Council (Chapter VII of the Charter)

- (1) The sale and the export of goods referred to in Part I Section A of the Export Control List (Annex AL) from the economic territory to Somalia shall be prohibited.
- (2) Paragraph 1 above does not apply to the sale and export
1. of non-lethal military equipment intended solely for humanitarian or protective use, or for material intended for institution building programmes of the European Union, the European Communities or its Member States within the framework of the peace and reconciliation process. or
 2. of armaments or any other military equipment in connection with military activities intended solely for the support of or use by the protection and training mission in Somalia under figure 3 of Resolution 1725 (2006).
In these cases, the sale and export requires a licence to be granted by the Federal Office of Economics and Export Control (BAFA).
- (3) Paragraph 1 above shall not apply to protective clothing temporarily exported by United Nations personnel, representatives of the media, humanitarian and development workers and associated personnel for their personal use only.
- (4) Paragraphs 1 to 3 shall also apply to German nationals in foreign economic territories who sell or export goods referred to in Part I Section A of the Export Control List (Annex AL) to Somalia, or have them exported.

Chapter VII b Special Restrictions against Ruanda

Section 69 b

Restrictions based on Resolutions 918 (1994) of 17 May 1994 and 1011 (1995) of 19 August 1995 of the United Nations Security Council (Chapter VII of the Charter)

- (1) The sale and the export of goods referred to in Part I Section A of the Export Control List (Annex AL) from the economic territory to Ruanda or by using a ship or aircraft entitled to fly the federal flag or bear the nationality mark of the Federal Republic of Germany is prohibited.
- (2) Paragraph 1 above shall not apply to goods for the government of Ruanda. In this case, the sale and export shall require a licence to be granted by the Federal Office of Economics and Export Control (BAFA).
- (3) Paragraphs 1 and 2 shall also apply to German nationals in foreign economic territories who sell and export the aforementioned goods to Ruanda or have them exported.

Chapter VII c Special Restrictions against Sierra Leone

Section 69 c

Restrictions based on Resolutions 1132 (1997) of 8 October 1997 and 1171 (1998) of 4 June 1998 of the United Nations Security Council (Chapter VII of the Charter)

- (1) The sale and export of goods referred to in Part I Section A of the Export Control List (Annex AL) from the economic territory to Sierra Leone, or by using a ship or aircraft entitled to fly the federal flag or bear the nationality mark of the Federal Republic of Germany shall be prohibited:
- (2) Paragraph 1 above shall not apply to the sale and the export of goods to the government of Sierra Leone and to exports exclusively intended for the use of the military observer group of the Economic Community of West African States or of the United Nations in Sierra Leone. In these cases, the sale and the export shall require a licence to be granted by the Federal Office of Economics and Export Control (BAFA).
- (3) Paragraphs 1 and 2 shall also apply to German nationals in foreign economic territories who sell and export the aforementioned goods to Sierra Leone or have them exported.

Chapter VII d Special Restrictions against Osama bin Laden, Members of the Al-Qaida Network and the Taliban as well as against Certain Associated Persons, Groups and Entities with a View to Combating Terrorism

Section 69 d

Restrictions based on Resolutions 1390 (2002) of 16 January 2002 and 1373 (2001) of 16 January 2002 of the United Nations Security Council (Chapter VII of the Charter)

- (1) The sale and export of goods referred to in Part I Section A of the Export Control List (Annex AL) to natural and legal persons, groups or entities mentioned in Annex I of Council Regulation (EC) No. 881/2002 of 27 May 2002 (OJ EC No. L 139 p. 9), as last amended by Commission Regulation (EC) No. 14/2007 of 10 January 2007 (OJ EU No. L 6 p. 6) or listed under Article 2 para. 3 of Regulation (EC) No. 2580/2001 as amended by the Council Decision 2006/379/EC of 29 May 2006 to implement Article 2 para. 3 of Regulation (EC) No. 2580/2001 imposing certain specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2005/930/EC (OJ EU No. L 144 p. 24), as amended by the Council Decision

2006/1008/EC of 21 December 2006 (OJ EU No. L 379, p. 123) from the economic territory or by using a ship or aircraft entitled to fly the federal flag or bear the nationality mark of the Federal Republic of Germany shall be prohibited.

- (2) This prohibition shall also apply to German nationals in foreign economic territories who sell or export the aforementioned goods to the natural or legal persons, groups or entities referred to in paragraph 1, or have them exported.

Chapter VII e Special Restrictions against Iraq

Section 69 e

Restrictions based on Resolutions 1483 (2003) of 7 July 2003 and 1546 (2004) of 8 June 2004 of the United Nations Security Council of the (Chapter VII of the Charter)

- (1) The sale and the export of goods referred to in Part I Section A of the Export Control List (Annex AL) from the economic territory to Iraq or by using a ship or aircraft entitled to fly the federal flag or bear the nationality mark of the Federal Republic of Germany shall be prohibited.
- (2) Paragraph 1 above shall not apply to goods needed by the government of Iraq or by the multinational forces deployed due to Resolution 1511 (2003) of the Security Council for the purposes of Security Council Resolution 1546 (2004). In this case, the sale and export shall require a licence to be granted by the Federal Office of Economics and Export Control (BAFA).
- (3) Paragraphs 1 and 2 above shall also apply to German nationals in foreign economic territories who sell or export the aforementioned goods to Iraq, or have them exported.
- (4) The import of Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific and religious importance shall be prohibited. In particular, it shall be forbidden to import items listed in Annex II of Council Regulation (EC) No. 1210/2003 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No. 2465/96 (OJ EU No. L 169 p. 6).
- (5) Paragraph 4 shall not apply to
1. cultural items exported from Iraq prior to 6 August 1990; or
 2. the cultural items returned to Iraqi institutions in accordance with the objective of safe return, as set out in paragraph 7 of UNSC Resolution 1483 (2003).

Chapter VII f Special Restrictions against the Democratic Republic of Congo

Section 69 f

Restrictions based on Resolution 1493 (2003) of the United Nations Security Council of 28 July 2003 (Chapter VII of the Charter)

- (1) The sale and the export of goods referred to in Part I Section A of the Export Control List (Annex AL) from the economic territory to the Democratic Republic of Congo or by using a ship or aircraft entitled to fly the federal flag or bear the nationality mark of the Federal Republic of Germany shall be prohibited.

- (2) Trafficking and brokering transactions related to goods of Part I Section A of the Export Control List (Annex AL) and intended directly or indirectly for persons, groups and entities in the Democratic Republic of Congo or for use in the Democratic Republic of Congo shall be forbidden.
- (3) Paragraphs 1 and 2 above shall not apply to
1. goods exclusively intended to support the army and police units of the People's Republic of Congo, or to be used by them, provided that these units:
 - a) have completed their integration into the army and police units of the Democratic Republic of Congo, or
 - b) are under the command of the integrated staff of the armed forces ("état-major intégré) or the national police of the Democratic Republic of Congo, or
 - c) are integrated into the army and police units of the Democratic Republic of Congo within its sovereign territory outside the provinces of North and South Kivu and of the district Ituri,
 2. goods for the sole purpose of assistance or use by the United Nations Organization Mission in the Democratic Republic of Congo (MONUC), or
 3. non-lethal military equipment intended solely for humanitarian or protective use.

In these cases, the sale, the export, trafficking and brokering shall require a licence to be granted by the Federal Office of Economics and Export Control (BAFA).

- (4) Paragraphs 1 to 3 above shall also apply to German nationals in foreign economic territories who sell or export the aforementioned goods to the Democratic Republic of Congo, or have them exported or undertake trafficking and brokering related to the above items.

Chapter VII g Special Restrictions against Liberia

Section 69 g

Restriction based on Resolutions 1521 (2003) of 22 December 2003, 1683 (2006) or 13 June 2006 and 1731 (2006) of 20 December 2006 of the United Nations Security Council (Chapter VII of the Charter)

- (1) The sale and the export of goods referred to in Part I Section A of the Export Control List (Annex AL) from the economic territory to Liberia or by using a ship or aircraft entitled to fly the federal flag or bear the nationality mark of the Federal Republic of Germany shall be prohibited.
- (2) Trafficking and brokering transactions related to goods specified in Part I Section A of the Export Control List (Annex AL) and intended directly or indirectly for persons, groups and entities in Liberia or for use in Liberia shall be forbidden.
- (3) Paragraphs 1 and 2 shall not apply to
 1. goods exclusively intended to support the United Nations mission in Liberia or for its use,
 2. goods exclusively intended to support an international training and reform programme for the Liberian armed forces and police, or for use within the framework of such a programme,
 3. non-lethal military equipment solely intended for humanitarian or protective use,

4. non-lethal military equipment, weapons and ammunition intended for use by the police and security forces of the Liberian government, forces that have been checked and trained since the establishment of the United Nations Mission in Liberia.
In these cases, the sale, export, the trafficking and brokering shall require a licence to be granted by the Federal Office of Economics and Export Control (BAFA).
- (4) Paragraphs 1 and 2 above shall not apply to protective clothing temporarily exported to Liberia by United Nations personnel, representatives of the media, humanitarian and development workers and associated personnel for their personal use only.
- (5) Paragraphs 1 to 4 above shall also apply to German nationals in foreign economic territories who sell or export the aforementioned goods to Liberia or have them exported or undertake trafficking and brokering related to the above items.
- (6) The import of all rough diamonds from Liberia, originating there or not, as defined in Annex II of Council Regulation (EC) No. 234/2004 of 10 February 2004 concerning certain restrictive measures in respect of Liberia and repealing Regulation (EC) No. 1030/2003 (OJ EU No. L 40 p. 1) shall be prohibited.
- (7) The participation in activities the object or effect of which is, directly or indirectly, to promote the import of rough diamonds contrary to paragraph 6 shall be prohibited.

Chapter VII h Special restrictions against Zimbabwe

Section 69 h

Restrictions based on the Common Position 2004/161/CFSP of 9 February 2004 imposing restrictive measures on Zimbabwe

- (1) The sale and the export of goods referred to in Part I Section A of the Export Control List (Annex AL) from the economic territory to Zimbabwe or by using a ship or aircraft entitled to fly the federal flag or bear the nationality mark of the Federal Republic of Germany shall be prohibited.
- (2) Trafficking and brokering transactions related to goods of Part I Section A of the Export Control List (Annex AL) and intended directly or indirectly for persons, groups and entities in Zimbabwe or for use in Zimbabwe shall be forbidden.
- (3) Paragraphs 1 and 2 shall not apply to non-lethal military equipment solely intended for humanitarian or protective use intended for institution building programmes of the United Nations, the European Union and the European Communities, or for material intended for crisis management operations of the United Nations and the European Union. In these cases, the sale, export, trafficking and brokering shall require a licence to be granted by the Federal Office of Economics and export Control (BAFA).
- (4) Paragraphs 1 and 2 above shall not apply to protective clothing temporarily exported to Zimbabwe by personnel of the United Nations, the European Union, the European Communities or its Member States, of representatives of the media, humanitarian and development workers and associated personnel for their personal use only.
- (5) Paragraphs 1 to 4 above shall also apply to German nationals in foreign economic territories who sell or export the aforementioned goods to Zimbabwe or have them exported or undertake trafficking and brokering transactions related to above items.

Chapter VII i
Special Restrictions against Burma/Myanmar

Section 69i

**Restrictions based on the Common Position 2006/318/CFSP of 27 April 2006
renewing restrictive measures against Burma/Myanmar**

- (1) The sale and the export of goods referred to in Part I Section A of the Export Control List (Annex AL) from the economic territory to Burma/Myanmar or by using a ship or aircraft entitled to fly the federal flag or bear the nationality mark of the Federal Republic of Germany shall be prohibited.
- (2) Trafficking and brokering transactions related to goods specified in Part I Section A of the Export Control List (Annex AL) and intended directly or indirectly for persons, groups and entities in Burma/Myanmar shall be forbidden.
- (3) Paragraphs 1 and 2 shall not apply to non-lethal military equipment solely intended for humanitarian or protective use intended for institution building programmes of the United Nations, the European Union and the European Communities, or for material intended for crisis-management operations of the United Nations and the European Union. In these cases, the sale, export, trafficking and brokering shall require a licence to be granted by the Federal Office of Economics and export Control (BAFA).
- (4) Paragraphs 1 and 2 above shall not apply to protective clothing temporarily exported to Burma/Myanmar by personnel of the United Nations, the European Union, the European Communities or its Member States, of representatives of the media, humanitarian and development workers and associated personnel for their personal use only.
- (5) Paragraphs 1 to 4 above shall also apply to German nationals in foreign economic territories who sell or export the aforementioned goods to Burma/Myanmar or have them exported or undertake trafficking and brokering transactions related to the above items.

Chapter VII j
Special Restrictions against Côte d'Ivoire

Section 69 j

**Restrictions based on Resolution 1572 (2004) of 15 November 2004 of the United
Nations Security Council (Chapter VII of the Charter)**

- (1) The sale and the export of goods referred to in Part I Section A of the Export Control List (Annex AL) from the economic territory to Côte d'Ivoire or by using a ship or aircraft entitled to fly the federal flag or bear the nationality mark of the Federal Republic of Germany shall be prohibited.
- (2) Trafficking and brokering transactions related to goods of Part I Section A of the Export Control List (Annex AL) and intended directly or indirectly for persons, groups and entities in Côte d'Ivoire shall be forbidden.
- (3) Paragraphs 1 and 2 shall not apply to
 1. exports intended exclusively for the support of or use by the United Nations operation in Côte d'Ivoire (UNOCI) and the French forces who support them,

2. non-lethal military equipment intended solely for humanitarian and protective use, including the required equipment intended for crisis-management operations of the European Union, the United Nations, the African Union and Ecowas, or
3. goods intended solely for support of or use in the process of restructuring security and defence forces.

In these cases, the sale, export, trafficking and brokering shall require a licence to be granted by the Federal Office of Economics and Export Control (BAFA).

- (4) Paragraphs 1 and 2 above shall not apply to protective clothing temporarily exported to Côte d'Ivoire by personnel of the United Nations, the European Union, the European Communities or its Member States, by representatives of the media, humanitarian and development workers and associated personnel for their personal use only.
- (5) Paragraphs 1 and 2 above shall not apply to goods temporarily exported to Côte d'Ivoire to the forces of a State which is taking action, in accordance with international law, solely and directly to facilitate the evacuation of its nationals and those for whom it has consular responsibility in Côte d'Ivoire. In this case, the sale, export, trafficking and brokering shall be notified in written form to the Federal Office of Economics and Export Control (BAFA) in advance.
- (6) Paragraphs 1 to 5 above shall also apply to German nationals in foreign economic territories who sell and export the aforementioned goods to Côte d'Ivoire, have them exported, or undertake trafficking and brokering transactions related to the above items.

Chapter VII k Special Restrictions against Sudan

Section 69 k

Restrictions based on Resolution 1591 (2005) of the United Nations Security Council of 29 March 2005 (Chapter VII of the Charter) and on the Council Common Position 2005/411/CFSP of 30 May 2005 concerning restrictive measures against Sudan and repealing Common Position 2004/31/CFSP

- (1) The sale and the export of goods referred to in Part I Section A of the Export Control List (Annex AL) from the economic territory to Sudan or by using a ship or aircraft entitled to fly the federal flag or bear the nationality mark of the Federal Republic of Germany shall be prohibited.
- (2) Trafficking and brokering transactions related to goods of Part I Section A of the Export Control List (Annex AL) and intended directly or indirectly for persons, groups and entities in Sudan or for use in Sudan shall be forbidden.
- (3) Paragraphs 1 and 2 shall not apply to non-lethal military equipment solely intended for humanitarian, human rights monitoring or protective use, or for institution building programmes of the UN, the African Union, the European Union and the European Community, or of material intended for United Nations, African Union or European Union crisis management operations, or for de-mining equipment and material for use in de-mining operations. In these cases, the sale, export, trafficking and brokering shall require a licence to be granted by the Federal Office of Economics and export Control (BAFA).
- (4) Paragraphs 1 and 2 above shall not apply to protective clothing temporarily exported to Sudan by United Nations, European Union, European Community or its Member States personnel, representatives of the media, humanitarian and development workers and associated personnel for their personal use only.

- (5) Paragraphs 1 to 4 above shall also apply to German nationals in foreign economic territories who sell or export the aforementioned goods to Sudan or have them exported or undertake trafficking and brokering transactions in relation to the above items.

Chapter VII l **Special Restrictions against Uzbekistan**

Section 69 l

Restrictions based on the Common Position 2005/792/CFSP of 14 November 2005 concerning restrictive measures against Uzbekistan

- (1) The sale and the export of goods specified in Part I Section A of the Export Control List (Annex AL) from the economic territory to Uzbekistan or by using a ship or aircraft entitled to fly the federal flag or bear the nationality mark of the Federal Republic of Germany shall be prohibited.
- (2) Trafficking and brokering transactions related to goods of Part I Section A of the Export Control List (Annex AL) and intended directly or indirectly for persons, groups and entities in Uzbekistan or for use in Uzbekistan shall be forbidden.
- (3) Paragraphs 1 and 2 shall not apply to
1. non-lethal military equipment solely intended for humanitarian or protective use, or for institution-building programmes of the United Nations, the European Union and the European Community, or for EU and UN crisis-management operations,
 2. goods for the security forces in Uzbekistan of contributors to the International Security Assistance Force (ISAF) and "Operation Enduring Freedom" (OEF).

In these cases, the sale, export, trafficking and brokering shall require a licence to be granted by the Federal Office of Economics and Export Control (BAFA).

- (4) Paragraphs 1 and 2 above shall not apply to protective clothing temporarily exported to Uzbekistan by United Nations, European Union, European Community or its Member States personnel, representatives of the media, humanitarian and development workers and associated personnel for their personal use only.
- (5) Paragraphs 1 to 4 above shall also apply to German nationals in foreign economic territories who sell or export the aforementioned goods to Uzbekistan or have them exported, or undertake trafficking and brokering transactions related to the above items.

Chapter VII m **Special restrictions against Lebanon**

Section 69 m

Restrictions based on the Council Common Position 2006/625/CFSP of 15 September 2006 concerning a prohibition on the sale or supply of arms and related material and on the provision of related services to entities or individuals in Lebanon in accordance with UNSC Resolution 1701 (2006)

- (1) The sale and the export of goods referred to in Part I Section A of the Export Control List (Annex AL) from the economic territory to Lebanon or by using a ship or aircraft entitled

to fly the federal flag or bear the nationality mark of the Federal Republic of Germany shall be prohibited.

- (2) Trafficking and brokering transactions related to goods of Part I Section A of the Export Control List (Annex AL) and intended directly or indirectly for persons, groups and entities in Lebanon or for use in Lebanon shall be forbidden.
- (3) Paragraphs 1 and 2 above do not apply to
 1. goods not supplied directly or indirectly to any militia for whose disarmament the UN Security Council has called in its Resolutions 1559 (2004) and 1680 (2006), and the supply of which has been authorised by the government of Lebanon or UNIFIL, or
 2. goods for the use by UNIFIL in the performance of its mission or by the Lebanese armed forces.

In these cases, the export, trafficking and brokering transaction shall require a licence to be issued by the Federal Office of Economics and Export Control (BAFA).

- (4) Paragraphs 1 and 2 shall not apply to protective clothing exported temporarily to Lebanon by the personnel of the United Nations, the European Union, the European Community or its Member States.
- (5) Paragraphs 1 to 4 shall also apply to German nationals in foreign economic territories who sell or export the aforementioned goods to Lebanon, or have them exported and undertake trafficking and brokering transactions related to the above items.

Chapter VII n Special restrictions against North Korea

Section 69 n

Restrictions based on Resolution 1718 (2006) of the United Nations Security Council of 14 October 2006 (Chapter VII of the Charter)

- (1) The sale, the export and transit of goods controlled by Part I Section A of the Export Control List (Annex AL) from or through the economic territory to North Korea or by using a vessel or aircraft entitled to fly the federal flag or bear the nationality mark of the Federal Republic of Germany shall be prohibited.
- (2) Trafficking and brokering transactions related to goods of Part I Section A of the Export Control List (Annex AL) and intended directly or indirectly for persons, groups and entities in North Korea or for use in North Korea shall be forbidden.
- (3) Paragraphs 1 and 2 above shall not apply to non-combat vehicles which have been manufactured or fitted with materials to provide ballistic protection and are intended solely for protective use of personnel of the EU and its Member States in DPRK. In these cases, sale, export, transit, trafficking and brokering transactions require a licence to be issued by the Federal Office of Economics and Export Control (BAFA).
- (4) The import of goods specified in Part I Section A of the Export Control List (Annex AL) from North Korea into the economic territory or by using a vessel or aircraft entitled to fly the federal flag or bear the nationality mark of the Federal Republic of Germany shall be prohibited, independently of whether the goods have their origin in North Korea or not.

- (5) Paragraphs 1 to 4 above shall also apply to German nationals in foreign economic territories who sell, export or transit the aforementioned goods, have them exported or transited to North Korea, or who import them or have them imported, or undertake trafficking and brokering transactions related to the above items .

Chapter VII o Special regulations on costs

Section 69 o Regulation of Fees for the Issue and Verification of Diamonds Certification

The issuing and verification of certificates under Council Regulation (EC) No. 2368/2002 of 20 December 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds (OJ EC No. L 358 p. 28, 2004 No. L 27 p. 57), as last amended by Commission Regulation (EC) No. 2026/2006 of 22 December 2006 (OJ EU No. L 384 p. 85) are subject to fees. The charges are as follows:

1. the issuing of Community certificates is € 30.44,
2. the verification of certificates is € 10.53.

Chapter VIII Regulatory and Criminal Offences

Section 70 Regulatory Offences

- (1) A regulatory offence as defined by section 33 para. 1 and 7 of the Foreign Trade and Payments Act is deemed to be committed by anyone who intentionally or negligently
1. contrary to sect. 4a, declares a boycott,
 2. exports goods without a licence under sect. 5 para. 2, sect. 5c para. 1 sentence 1 or sect. 5d para. 1 sentence 1,
 3. exports goods contrary to sect. 5c para. 2 sentence 2 or sect. 5d para. 2 sentence 2,
 - 3a. exports the mentioned goods without a licence under sect. 6a para. 1 sentence 1 or para. 2 sentence 2,
 4. transfers goods without a licence under sect. 7 para. 1 sentence 1, para. 2 sentence 1, para. 3 sentence 1 or para. 4 sentence 1,
 5. transfers goods contrary to sect. 7 para. 3 sentence 3 or para. 4 sentence 3,
 6. undertakes a trafficking or brokering transaction without a licence under sect. 40 para. 1, or sect. 41 para. 1 also in connection with sect. 42,
 - 6a. provides technical assistance without a licence under sect. 45 para. 1,
 - 6b. provides technical assistance contrary to sect. 45 para. 2 sentence 2,
 7. provides technical assistance without a licence under sect. 45a para. 1, sect. 45 b para. 1 or para. 2, or section 45c para. 1,
 8. provides technical assistance contrary to sect. 45a para. 2 sentence 2, sect. 45b para. 3 sentence 2 or sect. 45c para. 2 sentence 2,
 9. contrary to sect. 51 para. 1, effects payments or other services,
 10. contrary to sect. 52 para. 1 sentence 1, fails to make a report, or fails to make it correctly, completely or in due time, or
 11. acts contrary to an enforceable order under sect. 52 para. 2,
 12. contrary to sect. 69 j para. 5 sentence 2, also in conjunction with para. 6 fails to provide an information, or fails to provide it correctly, completely or in due time.

(2) (rescinded)

(3) (rescinded)

(4) A regulatory offence as defined by sect. 33 para. 4 sentence 1 of the Foreign Trade and Payments Act is deemed to be committed by anyone who acts as an exporter or declarant, contrary to Council Regulation (EEC) No. 2913/92 of 12 October 1992 Establishing the Community Customs Code (OJ EC No. L 302, p. 1), by intentionally or negligently

1. failing to or failing to correctly submit an export declaration contrary to Article 161 para. 5 sentence 1,
2. failing to or failing to correctly submit a customs declaration contrary to Article 182 para. 3 sentence 3, also in connection with sect. 16 b sentence 2.

(5) A regulatory offence as defined by sect. 33 para. 4 sentence 1 no. 2 of the Foreign Trade and Payments Act is deemed to be committed by anyone who acts contrary to Commission Regulation (EEC) No. 2454/93 of 2 July 1993 with provisions implementing Council Regulation (EEC) No. 2913/92 Establishing the Community Customs Code (OJ EC No. L 253, p. 1) as last amended by Commission Regulation (EC) No. 214/2007 of 28 February 2007 (OJ EU No. L 62 p. 6) also in conjunction with section 16b sentence 2 by intentionally or negligently

1. submitting an incomplete export declaration under Article 280 para. 1 also in conjunction with Article 278 para. 1 or 3, submitting it incorrectly, or contrary to Article 280 para. 4 in conjunction with Article 259 sentence 1, also in conjunction with Article 278 para. 1 or 3, failing to complete an incomplete declaration or to substitute it by a properly completed declaration,
2. acting contrary to an enforceable directive under Article 282 para. 1 in conjunction with Article 262 para. 1 sentence 1 second subparagraph on form and content of the simplified declaration, under Article 282 para. 1 in connection with Article 262 para. 1 sentence 2 on form, content or deadline of the supplementary declaration, under Article 283 in connection with Article 287 para. 1 letter d on the content of Sheet no. 3, or of the Export Accompanying Document or under Article 283 in conjunction with Article 287 para. 1 letter e on modalities or deadlines of the supplementary declaration, also in connection with Article 278 para. 1 or 3, respectively,
3. being declarant and, contrary to Article 285 para. 1 letter a, failing to inform the competent customs offices about the departure of the goods by presenting a simplified export declaration under Article 282 prior to the departure of the goods from the places mentioned in Article 253 para. 3 or Article 283,
4. being declarant and, contrary to Article 285 para. 1 sentence 2 letter a, failing to inform the competent customs offices about the departure of the goods prior to the departure of the goods from the places mentioned in Article 253 para. 3 or Article 283, or acting contrary to an enforceable directive under Article 285 para. 1 letter a of the local clearance procedure on form and modalities of the information, also in connection with Article 278 para. 1 or 3, respectively,
5. being declarant and, contrary to Article 285a para. 1 sentence 2 letter c, failing to record or to correctly record the goods in their accounting prior to the departure from the places mentioned in Article 253 para. 3 or Article 283, also in conjunction with Article 278 para. 1 or 3,
6. being declarant and, contrary to Article 793 para. 1 also in connection with Article 841, excluding the cases of Article 792 para. 3 or of Article 796 c subparagraph 1 sentence 2, failing to present Sheet no. 3 of the Standardised Document or the Export Accompanying Document to the customs office of exit or failing to present the goods intended for export to this customs office,

7. contrary to Article 843 para. 3, failing to present a control copy T5 to the customs office of exit,
 8. being exporter or declarant and, contrary to Article 792 a para. 1 sentence 1, failing to inform the customs office of export without delay,
 9. being forwarder and, contrary to Article 792 a para. 2 sentence 1, performing the altered forwarding contract without the approval of the customs office referred to in Article 793 para. 2 subparagraph 2 letter b, or of the customs office of exit in the case of the transit procedure,
 10. being exporter or declarant and, contrary to Article 792 b para. 1, failing to present the evidence required by the customs office of export that the goods have left the Community customs territory, or failing to present it in due time.
- (5a) A regulatory offence as defined by sect. 33 para. 4 sentence 1 or para. 5 no. 2 of the Foreign Trade and Payments Act is deemed to be committed by anyone who acts contrary to Council Regulation (EEC) No. 1334/2000 of 22 June 2000 setting up a Community regime for the control of dual-use goods and technologies (OJ EC No. L 159, p. 1) by intentionally or negligently
1. exporting dual-use items without an authorisation under Article 3 para. 1,
 2. exporting dual-use items without an authorisation under Article 4 para. 1 or para. 2 sentence 1 or para. 3, although having been informed about such a use by the responsible authority,
 3. contrary to Article 4 para. 4 second half-sentence, exporting dual-use items without a decision by the responsible authority on the required authorisation or without obtaining an authorisation from the responsible authority,
 4. acting contrary to an enforceable condition under Article 6 para. 2 sub-para. 3 or
 5. transfers dual-use items without an authorisation under Article 21, para. 1 sentence 1.

Where the provisions mentioned in sentence 1 no. 1 and 5 refer to Annexes I and IV of Regulation (EC) No. 1334/2000, these Annexes as amended shall apply.

- (5b) A regulatory offence as defined by sect. 33 para. 4 sentence 1 of the Foreign Trade and Payments Act is deemed to be committed by anyone who intentionally or negligently satisfies a claim referred to below or takes a measure with regard to its satisfaction contrary to Article 2 para. 1 of Council Regulation (EEC) No. 3541/92 of 7 December 1992 prohibiting the satisfying of Iraqi claims with regard to contracts and transactions the performance of which was affected by United Nations Security Council Resolution 661 (1990) and related resolutions (OJ EC No. L 361 p. 1),
- (5c) A regulatory offence as defined by sect. 33 para. 4 sentence 1 of the Foreign Trade and Payments Act is deemed to be committed by anyone who intentionally or negligently satisfies a claim referred to below or takes a measure with regard to its satisfaction. contrary to Article 2 para. 1 of Council Resolution (EC) No. 3275/93 of 29 November 1993 prohibiting the satisfying of claims with regard to contracts and transactions the performance of which was affected by United Nations Security Council Resolution 883 (1993) and related resolutions (OJ EC No. L 295 p. 4).
- (5d) A regulatory offence as defined by sect. 33 para. 4 sentence 1 of the Foreign Trade and Payments Act is deemed to be committed by anyone who intentionally or negligently satisfies a claim referred to below or takes a measure with regard to its satisfaction contrary to Article 2 para. 1 of Council Regulation (EC) No 1264/94 of 30 May 1994 prohibiting the satisfying of claims by the Haitian authorities with regard to contracts and transactions the performance of which was affected by the measures imposed by or pursuant to United Nations Security Council resolutions 917 (1994), 841 (1993), 873 (1993) and 875 (1993) (OJ L 139, 2.6.1994, p. 4).

- (5e) A regulatory offence as defined by sect. 33 para. 4 sentence 1 of the Foreign Trade and Payments Act is deemed to be committed by anyone who intentionally or negligently satisfies a claim referred to below or takes a measure with regard to its satisfaction, contrary to Article 2 para. 1 of Council Resolution (EC) No. 1733/94 of 11 July 1994 prohibiting the satisfying of claims with regard to contracts and transactions the performance of which was affected by United Nations Security Council Resolution 757 (1992) and related resolutions (OJ EC No. L 182 p. 1).
- (5f) A regulatory offence as defined by sect. 33 para. 4 sentence 1 of the Foreign Trade and Payments Act is deemed to be committed by anyone who intentionally or negligently meets one of the demands or prohibitions referred to below contrary to Article 5 para. 1 of Council Regulation (EC) No. 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country and actions based thereon or resulting therefrom (OJ EC No. L 309, p. 1, 1997 No. L 179 p. 10), amended by Council Regulation (EC) no, 807/2003 of 14 April 2003 (OJ EU No. L 122 p. 36).
- (5g) A regulatory offence as defined by sect. 33 para. 4 sentence 1 of the Foreign Trade and Payments Act is deemed to be committed by anyone who intentionally or negligently fails to pass on information, fails to pass it on correctly, completely or in due time contrary to Article 3 para. 1 letter a of Council Regulation (EC) No. 2488/2000 of 10 November 2000 maintaining a freezing of funds in relation to Mr. Milosevic and persons associated with him and repealing Regulations (EC) No. 1294/1999 and (EC) No. 607/2000 as well as Article 2 of Regulation (EC) No. 926/1998 (OJ EC No. L 287, p. 19), last amended by Commission Regulation (EC) No. 68/2006 of 16 January 2006 (OJ EU No. L 11, p. 11).
- (5h) A regulatory offence as defined by sect. 33 para. 4 sentence 1 of the Foreign Trade and Payments Act is deemed to be committed by anyone who intentionally or negligently fails to pass on information, fails to pass it on correctly, completely or in due time contrary to Article 4 para. 1 bullet-point 1 of Council Regulation (EC) No. 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism (OJ EC L 344 p. 70), last amended by Council decision 2006/1008/EC of 21 December 2006 (OJ EU L 379, p. 123).
- (5i) A regulatory offence as defined by sect. 33 para. 4 sentence 1 of the Foreign Trade and Payments Act is deemed to be committed by anyone who intentionally or negligently fails to pass on information, fails to pass it on correctly, completely or in due time, contrary to Article 5 para. 1 letter a of Council Regulation (EC) No. 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Osama bin Laden, the Al-Qaida network and the Taliban and repealing Council Regulation (EC) No. 467/2001 Prohibiting the Export of Certain Goods and Services to Afghanistan and Strengthening of the Flight Ban and the Freezing of Funds and other Financial Assets of the Taliban of Afghanistan (OJ EC L 139, p. 9), last amended by Commission Regulation (EC) No. 14/2007 of 10 January 2007 (OJ EU L 6, p. 6).
- (5j) A regulatory offence as defined by sect. 33 para. 4 sentence 1 of the Foreign Trade and Payments Act shall be deemed to be committed by anyone who violates the Council Regulation (EC) No. 2368/2002 of 20 December 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds (OJ EC L 358, p. 28, OJ EU 2004 L 27 p. 57), last amended by Commission Regulation (EC) No. 127/2007 of 9 February 2007 (OJ EU No. L 41, p. 3) by intentionally or negligently
1. importing rough diamonds from a third country contrary to Article 3,
 2. exporting rough diamonds to a third country contrary to Article 11, or

3. contrary to Article 24 para. 2, participating in activities the object or effect of which is, directly or indirectly, to circumvent the provision of Regulation (EC) No. 2368/2002.
- (5k) A regulatory offence as defined by sect. 33 para. 4 sentence 1 of the Foreign Trade and Payments Act is deemed to be committed by anyone who intentionally or negligently fails to pass on information, fails to pass it on correctly, completely or in due time, contrary to Article 8 para. 1 letter a of Council Regulation (EC) No. 1210/2003 of 7 July 2003 imposing certain specific restrictions on the economic and financial relations to Iraq and repealing Regulation (EC) No. 2465/1996 (OJ EU L 169 p. 6, L 173 p. 44), last amended by Commission Regulation (EC) No. 1450/2005 of 5 September 2005 (OJ EU L 230 p. 7).
- (5l) A regulatory offence as defined by sect. 33 para. 4 sentence 1 of the Foreign Trade and Payments Act is deemed to be committed by anyone who intentionally or negligently fails to pass on information, fails to pass it on correctly, completely or in due time contrary to Article 8 para. 1 letter a Council Regulation (EC) No. 314/2004 of 19 February 2004 concerning restrictive measures against Zimbabwe (OJ EU L 55, p. 1), last amended by Commission Regulation (EC) No. 236/2007 of 2 March 2007 (OJ EU No. L 66, p. 14).
- (5m) A regulatory offence as defined by sect. 33 para. 4 sentence 1 of the Foreign Trade and Payments Act is deemed to be committed by anyone who intentionally or negligently fails to supply or to pass on information, fails to supply or pass it on correctly, completely or in due time, contrary to Article 9 para. 1 letter a of Council Regulation (EC) No. 798/2004 of 26 April 2004 renewing the restrictive measures in respect of Burma/Myanmar and repealing Regulation (EC) No. 1081/2000 (OJ EU L 125 p. 4, 2005 L 168 p. 50), last amended by the Commission Regulation of 28 July 2005 (OJ EU L 201, p. 25).
- (5n) A regulatory offence as defined by sect. 33 para. 4 sentence 1 of the Foreign Trade and Payments Act is deemed to be committed by anyone who intentionally or negligently fails to pass on information, fails to pass it on correctly, completely or in due time contrary to Article 8 para. 1 letter a of Council Regulation (EC) No. 872/2004 of 29 April 2004 concerning additional restrictive measures against Liberia (OJ EU L 162 p. 32), last amended by Commission Regulation (EC) No. 2024/2005 of 12 December 2005 (OJ EU L 326 p. 10, 2006 L 7 p. 32).
- (5o) A regulatory offence as defined by sect. 33 para. 4 sentence 1 of the Foreign Trade and Payments Act is deemed to be committed by anyone who intentionally or negligently fails to pass on information, fails to pass it on correctly, completely or in due time contrary Article 7 para. 1 letter a of Council Regulation (EC) No. 1763/2004 of 11 October 2004 imposing certain restrictive measures in support of effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia (ICTY) (OJ EU L 315 p. 14), last amended by Commission Regulation (EC) No. 23/2006 of 9 January 2006 (OJ EU L 5 p. 8).
- (5p) A regulatory offence as defined by sect. 33 para. 4 sentence 1 of the Foreign Trade and Payments Act is deemed to be committed by anyone who intentionally or negligently fails to pass on information, fails to pass it on correctly, completely or in due time contrary to Article 6 para. 1 letter a of Council Regulation (EC) No. 1185/2005 of 18 July 2005 imposing certain specific restrictive measures directed against certain persons acting in violation of the arms embargo with regard to the Democratic Republic of Congo (OJ EU L 193 p. 1), last amended by Commission Regulation (EC) No. 201/2007 of 23 February 2007 (OJ EU L 59, p. 73).

(5q) A regulatory offence as defined by sect. 33 para. 4 sentence 1 of the Foreign Trade and Payments Act is deemed to be committed by anyone who violates Council Regulation (EC) No. 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (OJ EU L 200 p. 1, 2006 L 79 p. 32) by intentionally or negligently

1. exporting the goods referred to in this paragraph contrary to Article 3 para. 1 sentence 1,
2. supplying technical assistance related to goods listed there contrary to Article 3 para. 1 sentence 2,
3. importing the goods listed there contrary to Article 4 para. 1 sentence 1,
4. accepting technical assistance related to goods listed there contrary to Article 4 para. 1 sentence 2, or
5. exporting the goods referred to under Article 5 para. 1 sentence 1.

Section 70a **Criminal Offences**

In accordance with sect. 34 para. 4 no. 1, para. 5 to 7 of the Foreign Trade and Payments Act, a punishment shall be imposed on anyone who intentionally or negligently

1. sells, exports the mentioned goods or has them exported, contrary to sect. 69a para. 1 in conjunction with para. 3, contrary to sect. 69c para. 1, also in conjunction with para. 3, contrary to sect. 69d para. 1, also in conjunction with para. 2, contrary to sect. 69e para. 1, also in conjunction with para. 3, contrary to sect. 69 f para. 1, also in conjunction with para. 4, contrary to sect. 69g para. 1 also in conjunction with para. 5, contrary to sect. 69 h para. 1, also in conjunction with para. 5, contrary to sect. 69i para. 1 also in conjunction with para. 5, contrary to sect. 69j para. 1, also in conjunction with para. 6, contrary to sect. 69k para. 1, also in conjunction with para. 5, or contrary to sect. 69l para. 1, also in conjunction with para. 5, or contrary to sect. 69m para. 1 also in conjunction with para. 5, or contrary to sect. 69n para. 1 also in conjunction with para. 5,
2. sells, exports the mentioned goods or has them exported without a licence under sect. 69a para. 2 sentence 2, also in conjunction with para. 4, under sect. 69b para. 2 sentence 2, also in conjunction with para. 3, under sect. 69c para. 2 sentence 2, also in conjunction with para. 3, under sect. 69e para. 2 sentence 2, also in conjunction with para. 3, under sect. 69f para. 3 sentence 2, also in conjunction with para. 4, under sect. 69g para. 3 sentence 2, also in conjunction with para. 5, under sect. 69h para. 3 sentence 2, also in conjunction with para. 5, under sect. 69 i para. 3 sentence 2, also in conjunction with para. 5, under sect. 69j para. 3 sentence 2, also in conjunction with para. 6, under sect. 69k para. 3 sentence 2, also in conjunction with para. 5, under sect. 69m para. 3 sentence 2 also in conjunction with para. 5, or under sect. 69n para. 3 sentence 2, also in conjunction with para. 5,
3. undertakes a trafficking or brokering transaction contrary to sect. 69f para. 2, also in conjunction with para. 4, contrary to sect. 69g para. 2, also in conjunction with para. 5, contrary to sect. 69h para. 2, also in conjunction with para. 5, contrary to sect. 69i para. 2, also in conjunction with para. 5, contrary to sect. 69j para. 2 also in conjunction with para. 6, contrary to sect. 69k para. 2 also in conjunction with para. 5, or contrary to sect. 69j para. 2 also in conjunction with para. 5, contrary to sect. 69m para. 2, also in conjunction with para. 5 or contrary to sect. 69n para. 2, also in conjunction with para. 5,
4. undertakes a trafficking or brokering transaction without a licence under sect. 69f para. 3 sentence 2, also in conjunction with para. 4, under sect. 69g para. 3 sentence 2, also in conjunction with para. 5, under sect. 69h para. 3 sentence 2 also in conjunction with

para. 5, under sect. 69j para. 3 sentence 2, also in conjunction with para. 5, or under sect. 69l para. 3 sentence 2, also in conjunction with para. 5, under sect. 69m para. 3 sentence 2, also in conjunction with para. 5, or under sect. 69n para. 3 sentence 2, also in conjunction with para. 5,

5. imports the aforementioned goods or has them imported contrary to sect. 69e para. 4 sentence 2 or contrary to sect. 60g para. 6 or sect. 69n para. 4 also in conjunction with para. 5,
6. participates in one of the mentioned activities contrary to sect. 60g para. 7, or
7. transits the aforementioned goods or has them transited contrary to sect. 69n para. 1 also in conjunction with para. 5.

Chapter IX Transitional and Final Provision

Section 71
(rescinded)

Section 72 **Entry into Force, Repeal**

This Regulation enters into force on January 1, 1987.

At the same time, the Foreign Trade and Payments Regulation, as amended by the Announcement of 3 August 1981 (Federal Law Gazette I, p. 853), last amended by the Regulation of 10 September 1986 (Federal Law Gazette I, p. 1494) shall be rescinded.