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Foreign Trade and Payments Ordinance (Außenwirtschaftsverordnung - AWV)

Foreign Trade and Payments Ordinance of 2 August 2013 (Federal Law Gazette [BGBl.]
Part I p. 2865)

The following Ordinance is enacted on the basis

- of Section 12 subsection 1 sentence 1 in conjunction with Section 3 subsection 3, Section 4 subsection 1 and 3, Section 5, Section 9 sentence 1, Section 11, Section 19 subsection 4 sentence 2 and Section 27 subsection 4 sentence 2 and 3 of the Foreign Trade and Payments Act of 6 June 2013 (Federal Law Gazette I p. 1482), by the Federal Government and

- of Section 12 subsection 1 sentence 2 in conjunction with Section 4 subsection 2 and 3 of the Foreign Trade and Payments Act of 6 June 2013 (Federal Law Gazette I p. 1482) by the Federal Ministry of Economics and Technology in agreement with the Federal Foreign Office and the Federal Ministry of Finance:

Chapter 1 General provisions

Section 1 Applications for licences

(1) Applications for the issuing of a licence can, unless stipulated otherwise below, be made by anyone undertaking the legal transaction requiring a licence or the action requiring a licence. Anyone who derives a claim from the legal transaction or a claim to the performance of the action shall also be entitled to make an application.

(2) Licences in the form of a general instruction (Section 35 sentence 2 of the Administrative Procedures Act) shall be issued ex officio.

Section 2 Certificates pursuant to Article 9 of Directive 2009/43/EC

(1) The Federal Office of Economics and Export Control (BAFA) shall upon application issue a certificate to a participant in foreign trade and payments which certifies his reliability, particularly with regard to his capacity to comply with the export provisions for goods cited in Part I Section A of the Export List (Annex AL) which he obtains in the context of a licence from another Member State of the European Union.

(2) In general, the following are necessary for certification of the applicant's reliability:

1. proven experience in defence activities, taking into account in particular the applicant's compliance with export restrictions, any relevant court decisions and the employment of experienced management staff;
2. relevant industrial activity with reference to goods cited in Part I Section A of the Export List in Germany, and especially capacity for systems/subsystems integration;
3. the appointment of a senior executive as the dedicated officer personally responsible for transfers and exports, who is personally responsible for the internal programme of compliance with export control procedures or the applicant's transfer and export management system and for the export and transfer audit staff and is a member of the managing body of the applicant;

4. a written commitment by the applicant signed by the senior executive cited in no. 3 that the applicant will take all the necessary steps to observe and enforce all the conditions for the end-use and export of a good cited in Part I Section A of the Export List which he receives;
 5. a written commitment by the applicant signed by the senior executive cited in no. 3 that the applicant in the case of inquiries or investigations will provide the competent authorities with the necessary data on the end-users or the end-use of all goods which he exports, transfers or receives under a licence of another Member State of the European Union;
 6. a description of the internal compliance programme with the applicant's export control procedure or its transfer and export management system countersigned by the senior executive cited in no. 3 which shows clearly that the senior executive cited in no. 3 is in charge of supervising the staff of the departments responsible for the applicant's export and transfer controls; this description shall contain information on
 - a) the organisational, human and technical resources allocated to the management of transfers and exports,
 - b) the allocation of responsibility at the applicant,
 - c) the internal audit procedures,
 - d) the measures to raise awareness and train the staff,
 - e) the arrangements to ensure physical and technical security,
 - f) the keeping of records,
 - g) the traceability of transfers and exports,
 - h) the address at which the competent authorities pursuant to Section 23 of the Foreign Trade and Payments Act can examine the records of the goods cited in Part I Section A of the Export List;
 7. a declaration by the applicant that he
 - a) will use for his own manufacturing the goods cited in Part I Section A of the Export List which he receives on the basis of a general instruction which makes reference to the issuing of the certificate and
 - b) will not finally release the goods in question or transfer them or export them to a third party except for the purpose of maintenance or repair.
- (3) The certificate's period of validity may not last longer than five years.

Section 3 Requirements as regards form

- (1) Unless stipulated otherwise, administrative acts in foreign trade and payments transactions must be undertaken in writing. The Federal Office of Economics and Export Control (BAFA) can stipulate by general instruction to be published in the Federal Gazette that the undertaking of an administrative act must be applied for on a special form. Section 3a of the Administrative Procedures Act shall not be applied.
- (2) The Federal Office of Economics and Export Control (BAFA) can stipulate by general instruction to be published in the Federal Gazette from what point in time and under what preconditions applications for the undertaking of an administrative act in foreign trade and payments transactions can be submitted electronically and administrative acts can be undertaken electronically.

Section 4 Collective licences

The applicant can be issued with a licence for an indefinite number of similar legal transactions or actions with one or several precisely defined end-users or third countries (collective licence) if this appears appropriate in view of the intended repetition of the legal transactions or actions.

Section 5 Return of administrative acts

(1) The party to whom an administrative act is issued on paper must return the document embodying this administrative act without delay to the competent authority if

1. the administrative act issued becomes ineffective before it has been fully utilised,
2. the party to whom the administrative act is addressed abandons the intention to fully utilise the administrative act, or
3. the administrative act or the document embodying this act has been substituted by a further decision, in particular a duplicate, and the original administrative act no longer contains any regulatory substance due to the substitution.

In all other respects this shall be without prejudice to Section 52 of the Administrative Procedures Act.

(2) Via a general instruction to be published in the Federal Gazette, the competent authority can stipulate from what point in time and under what preconditions the obligation to return the document pursuant to subsection 1 can be dispensed with.

(3) This shall be without prejudice to the obligation to return the document on the basis of legal acts of the European Union.

Section 6 Retention of administrative acts

(1) The party to whom an administrative act is addressed must retain the document embodying this administrative act following the expiry of the validity of the administrative act for a period of five years, unless the document has to be returned before this.

(2) Via a general instruction to be published in the Federal Gazette, the competent authority can

1. stipulate from what point in time and under what preconditions the obligation to return the document pursuant to subsection 1 can be dispensed with, or
2. regulate the other preconditions for the retention.

Section 7 Boycott declaration

The issuing of a declaration in foreign trade and payments transactions whereby a resident participates in a boycott against another country (boycott declaration) shall be prohibited.

Chapter 2 Export and transfer from Germany

Division 1 Restrictions

Subdivision 1 Exports requiring a licence

Section 8 Licensing requirements for the export of goods cited in Part I of the Export List

(1) A licence shall be required for the export of the following goods:

1. the goods cited in Part I Section A of the Export List and
2. the goods cited in Part I Section B of the Export List.

(2) A licence pursuant to subsection 1 no. 1 shall not be required for the export of the following goods to Switzerland, Norway and Iceland:

1. firearms within the meaning of Section 1 subsection 4 of the Weapons Act in conjunction with Division 1 subdivision 1 no. 2 and Division 3 of Annex 1 to the Weapons Act, to the extent that the Weapons Act and the ordinances on weapons law enacted on the basis of the Weapons Act apply to these, including minor parts and accessories,
2. ammunition within the meaning of Section 1 subsection 4 of the Weapons Act in conjunction with Division 1 subdivision 3 no. 1 and 2 of Annex 1 to the Weapons Act, to the extent that they are destined for firearms within the meaning of no. 1, including ammunition parts, and
3. reloading equipment to the extent that it is destined for the ammunition within the meaning of no. 2.

(3) A licence pursuant to subsection 1 no. 2 shall not be required if according to the contract on which the export is based such goods to the value of not more than 5000 euro are to be delivered. In derogation from sentence 1, the export of software and technology shall always require a licence.

Section 9

Licensing requirements for the export of non-dual-use goods

(1) The export of goods which are not cited in the Export List or in Annex I of Council Regulation (EC) No. 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134 of 29 May 2009, p. 1), most recently amended by Regulation (EU) No. 388/2012 (OJ L 129 of 16 May 2012, p. 12), shall be subject to a licence if the exporter has been informed by the Federal Office of Economics and Export Control (BAFA) that

1. these goods are or can be wholly or partly destined for the construction or the operation of a facility for nuclear purposes within the meaning of Category 0 of Annex I of Regulation (EC) No. 428/2009 or for installation in such a facility and
2. the country of destination is Algeria, Iran, Iraq, Israel, Jordan, Libya, the Democratic People's Republic of Korea, Pakistan or Syria.

To the extent that reference is made in sentence 1 and below to an Annex of Regulation (EC) No. 428/2009, the Annex shall apply in the version applicable at the time.

(2) If the exporter is aware that goods which he would like to export and which are not cited in the Export List or in Annex I of Regulation (EC) No. 428/2009 are destined for a purpose cited in subsection 1 and the country of destination is one of those cited in subsection 1, he must inform the Federal Office of Economics and Export Control (BAFA) of this. The latter shall decide whether the export is subject to a licence. The goods may not be exported until the Federal Office of Economics and Export Control (BAFA) has licensed the export or has decided that no licence is required.

(3) Subsections 1 and 2 shall not apply

1. in the field regulated by Article 4 of Regulation (EC) No. 428/2009,
2. in cases in which according to the contract on which the export is based such goods are to be exported to the value of not more than 5000 euro; the export of software and technology shall always be subject to a licence irrespective of its value.

Section 10

Licensing requirements for the export of goods cited in Part II of the Export List

- (1) The export of the goods marked by “G” in Part II column 3 of the Export List shall be subject to a licence. This shall not apply if the goods correspond to the marketing standards or the minimum requirements published in the Official Journal of the European Union which have been stipulated in Council Regulation (EC) No. 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation; OJ L 299 of 16 November 2007, p. 1), most recently amended by Regulation (EU) No. 52/2013 (OJ L 20 of 23 January 2013, p. 44), in the version applicable at the time. Sentence 2 shall not be applied to the extent that exceptions are provided in Regulation (EC) No. 1234/2007 regarding compliance with the marketing standards or minimum requirements.
- (2) The export of the goods marked by “G 1” in Part II column 3 of the Export List shall be subject to a licence. This shall not apply if the prices of the goods do not fall below the minimum prices stipulated by Commission regulations on the basis of Regulation (EC) No. 1234/2007 or if no minimum prices are stipulated.

Subdivision 2

Transfer from Germany subject to licence

Section 11

Licensing requirements for the transfer of goods

- (1) The transfer of goods cited in Part I Section A of the Export List shall be subject to a licence. This shall not apply to
1. firearms within the meaning of Section 1 subsection 4 of the Weapons Act in conjunction with Division 1 subdivision 1 no. 2 and Division 3 of Annex 1 to the Weapons Act, to the extent that the Weapons Act and the ordinances on weapons law enacted on the basis of the Weapons Act apply to these, including minor parts and accessories,
 2. ammunition within the meaning of Section 1 subsection 4 of the Weapons Act in conjunction with Division 1 subdivision 3 no. 1 and 2 of Annex 1 to the Weapons Act, to the extent that they are destined for firearms within the meaning of no. 1, including ammunition parts, and
 3. reloading equipment to the extent that it is destined for ammunition within the meaning of no. 2.
- (2) The transfer of the goods cited in Part I Section B of the Export List shall be subject to a licence if the operator is aware that the final destination of the goods is outside the European Union.
- (3) The transfer of goods which are not cited in the Export List or in Annex I of Regulation (EC) No. 428/2009 shall be subject to a licence if the final destination of the goods lies outside the European Union and the operator has been informed by the Federal Office of Economics and Export Control (BAFA) that these goods are or can be wholly or partly destined for the construction or operation of a facility for nuclear purposes within the meaning of Category 0 of Annex I of Regulation (EC) No. 428/2009 or for installation in such a facility and the country of destination is one cited in Section 9 subsection 1 sentence 1 no. 2.
- (4) If the operator is aware that goods within the meaning of subsection 3 which he would like to transfer and the final destination of which lies outside the European Union are destined for a purpose cited in subsection 3 and the country of destination is one cited in Section 9 subsection 1 sentence 1 no. 2, he must inform the Federal Office of Economics and Export Control (BAFA) of this. The latter shall decide whether the transfer is subject to a licence. The goods may not be transferred until the Federal Office of Economics and Export Control (BAFA) has licensed the transfer or has decided that no licence is required.
- (5) Subsections 2 to 4 shall not apply if

1. the export of the goods pursuant to Section 8 or Section 9 is subject to a licence and a general licence exists for such an export,
2. the goods are to be subjected to treatment or processing within the meaning of Article 24 of Council Regulation (EEC) No. 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302 of 19 October 1992, p. 1, L 79 of 1 April 1993, p. 84, L 97 of 18 April 1996, p. 38), most recently amended by Regulation (EC) No. 1186/2009 (OJ L 324 of 10 December 2009, p. 23) in the Member State to which they are to be transferred or
3. goods are to be exported to the value of not more than 5000 euro; the export of software and technology shall always be subject to a licence irrespective of its value.

Division 2
Procedural and reporting provisions

Subdivision 1
Export and re-export

Section 12
Presentation and declaration

- (1) Every export consignment must be presented to the customs office of export by the declarant prior to the export along with an export declaration or a customs declaration in the form of an export declaration.
- (2) Anyone who as exporter pursuant to Article 788 of Commission Regulation (EEC) No. 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253 of 11 October 1992, p. 1, L 268 of 19 October 1994, p. 32, L 180 of 19 July 1996, p. 34, L 156 of 13 June 1997, p. 59, L 111 of 29 April 1999, p. 88), most recently amended by Regulation (EU) No. 58/2013 (OJ L 21 of 24 January 2013, p. 19), in the version applicable at the time, or as a declarant pursuant to Article 64 of Regulation (EEC) No. 2913/92 wishes to ship goods out of the customs territory of the European Union, must submit the following customs declaration:
 1. an export declaration within the meaning of Article 161(5) sentence 1 of Regulation (EEC) No. 2913/92 in line with the requirements of Article 787(1) and Article 792(2) in conjunction with Articles 279 to 289 and annexes 37 and 30A of Regulation (EEC) No. 2454/93,
 2. the export declaration within the meaning of Article 161(5) sentence 1 of Regulation (EEC) No. 2913/92 in line with the deadlines of Articles 592b and 592c of Regulation (EEC) No. 2454/93 or
 3. a customs declaration in the form of an export declaration pursuant to Article 182(3) sentence 3 and 4 of Regulation (EEC) No. 2913/92 in line with the requirements of Article 841(1), Article 787(1) and (2) and Article 792(2) in conjunction with Articles 279 to 289 and annexes 37 and 30A of Regulation (EEC) No. 2454/93.
- (3) The customs declaration pursuant to subsection 2 must, except in the cases of Articles 226, 231 or 237 of Regulation (EEC) No. 2454/93, be submitted electronically and must contain the data pursuant to Annex A 1 of this Ordinance. The customs declaration must be submitted using the ATLAS electronic export procedure or the internet export declaration Plus in line with the relevant procedural instruction for the ATLAS electronic export procedure, published by the Federal Ministry of Finance in its official journal. In the case of a fault in the data processing system of the customs office or of the declarant, the declarant must transmit the customs declaration to the customs office in line with the requirements of Article 787(2) of Regulation (EEC) No. 2454/93.
- (4) The customs office can upon request permit the presentation at a different place in the district of the customs office of export if the goods are being packed or loaded there and the

export declaration or a customs declaration in the form of an export declaration is submitted in time for the export consignment to be processed by the customs office. If the export consignment is not declared electronically, the application pursuant to sentence 1 shall be submitted on a form which is stipulated by the Federal Ministry of Finance by a general instruction published in the Federal Gazette. The non-physical transmission of goods does not need to be processed by the customs office.

(5) For goods transported in pipelines, the competent customs office at the point of exit shall be every customs office in whose district access to the pipeline in which the good is transported exists.

Section 13

Supplementary provisions for the presentation and declaration in connection with maritime vessels

(1) The carrier, the transporter or, if there is no freight transaction, the owner of the load must submit for each vessel departing seawards from a maritime port a cargo manifest pursuant to subsection 2 and 3 sentence 1 to the competent main customs office.

(2) The cargo manifest must contain the following data:

1. the name of the carrier, the vessel, the port of loading and the port of unloading,
2. the number, type and identifiers of the containers,
3. the designation and the quantity of the laden goods in line with the bill of lading or other cargo documents and
4. the declaration that the cargo manifest includes all the goods laden on the vessel.

(3) The cargo manifest must be submitted to the main customs office immediately following the completion of loading. The main customs office can demand that cargo manifests which are produced by means of a data-processing facility are submitted on data media which can be processed by machine or via long-distance data transmission.

(4) The main customs office can, to the extent that the supervision of the export is not impaired, dispense in general or in an individual case with the submission of a cargo manifest.

(5) In the case of unladen vessels the master of the vessel must declare in writing before the departure of the vessel that the vessel is unladen.

Section 14

Procedure for the processing by the customs office

(1) In order to examine the admissibility of the export, the customs office of export and the customs office at the point of exit can demand further data and evidence from the exporter or the declarant, in particular also the presentation of the documents of lading.

(2) The customs office at the point of exit shall reject the customs processing if the customs office of export has not certified the necessary customs processing or if in the case of a failure of the data processing systems the prior authentication pursuant to Article 286(2) of Regulation (EEC) No. 2454/93 is lacking. In these cases, in the case of shipment by a postal company, the post office, or in the case of shipment by a rail company, the dispatching office shall refuse to accept the goods.

(3) The declarant may not remove goods or have them removed or load goods or have them loaded prior to the conclusion of the examination by the customs office of export from the place of presentation or from the permitted place pursuant to Section 12 subsection 4 prior to the expiry of the time cited in the application pursuant to Section 12 subsection 4.

(4) The declarant may not remove goods or have them removed or load goods or have them loaded prior to the conclusion of the examination by the customs office at the point of exit from the place of presentation.

Section 15

Incomplete customs declaration and simplified declaration procedure

(1) If a declarant wishes to make use of the incomplete declaration pursuant to Article 280(1) subparagraph 1 of Regulation (EEC) No. 2454/93, he must at least provide the data required pursuant to Annex 30A of Regulation (EEC) No. 2454/93 for this procedure in the export declaration or in a customs declaration in the form of an export declaration. Where the goods are liable for export duties or subject to any other measures provided for under the common agricultural policy, the declarant pursuant to Article 280(1) subparagraph 3 of Regulation (EEC) No. 2454/93 must also provide all the information required for the proper application of such duties or measures.

(2) If the preconditions for an incomplete customs declaration pursuant to Article 253(1) and Articles 280 and 281 of Regulation (EEC) No. 2454/93 are met, the declarant can summarise the data of several incomplete customs declarations in a supplementary or replacement declaration if the entire export procedure takes place in Germany and the goods are exported in a single export consignment.

(3) The main customs office shall be competent for approving the simplified declaration procedure pursuant to Article 253(2) and Article 282 of Regulation (EEC) No. 2454/93.

Section 16

Local clearance procedure

(1) In the application for approval of a local clearance procedure pursuant to Article 253(3) and Articles 283 to 287 of Regulation (EEC) No. 2454/93, the goods to be exported must be identified and the number of the commodity classification for foreign trade statistics must be cited; the latter is issued by the Federal Statistical Office in 65189 Wiesbaden, Gustav-Stresemann-Ring 11, and can also be obtained via www.destatis.de.

(2) If a large number of diverse goods are to be exported constantly, these can be cited in the application pursuant to subsection 1 in groups of goods with a collective indication and with the relevant item or chapter number of the commodity classification.

(3) The main customs office shall be competent for approving the local clearance procedure.

Section 17

Single-stage export procedure

(1) By approving a “trusted exporter”, the main customs office can issue an approval to exporters which constantly export numerous consignments to declare and present the goods directly to the customs office at the point of exit by lodging a simplified electronic export declaration, if

1. the entire export procedure takes place in Germany,
2. the ongoing, complete and correct recording of the export consignments in line with the nature of the corporate accounts, particularly with the help of an electronic data processing facility, is ensured at the exporter and
3. the supervision of the export is not impaired.

(2) The main customs office pursuant to Section 24 subsection 1 of the Customs Ordinance shall be responsible for the approval of the single-stage export procedure pursuant to subsection 1. The Federal Ministry of Finance shall publish the preconditions governing participation in electronic data transmission in the procedural instruction for the ATLAS electronic export procedure in its official journal.

(3) In the approval, the following shall be stipulated:

1. the goods and countries of destination it applies to,
2. which of the data pursuant to Annex 30A Table 1 Column 2 of Regulation (EEC) 2454/93 are required in addition to the approval number for the simplified electronic export declaration,

3. the nature of and the preconditions for the release of the goods for export,
 4. the necessary accompanying documentation for the examination of admissibility by the customs office at the point of exit or the data storage media replacing it and the way in which they are declared valid,
 5. the procedure for the transmission of data for the supplementary electronic export declaration which are required pursuant to Annex A1 of this Ordinance in conjunction with Annex 37 of Regulation (EEC) No. 2454/93.
- (4) The exporter must in the case of an export in a procedure pursuant to subsection 1 provide the data pursuant to subsection 3 no. 2 to the customs office at the point of exit. If the export of goods requires a licence, he must also state whether a licence exists in the form of a general instruction or a collective licence.
- (5) The exporter must lodge a supplementary electronic export declaration within 30 days after the acceptance of the simplified electronic export declaration by the customs office at the point of exit. Therein he must provide the data which are required pursuant to Annex A1 of this Ordinance in conjunction with Annex 37 of Regulation (EEC) No. 2454/93. There is no need for a simplified electronic export declaration and a presentation of the goods to the customs office of export.
- (6) The customs authority can permit the declarant to present to the customs office at the point of exit a written export declaration with the data cited in subsection 3 no. 2 in the case of a failure of the data processing system of the customs office or of the declarant. The provisions of the procedural instruction pursuant to subsection 2 sentence 2 shall apply *mutatis mutandis*.

Section 18

Collection of export data on the export of oil and gas

(1) When goods with commodity codes 2707 10 10 to 2707 50 90, 2709 00 10 to 2711 14 00, 2711 21 00, 2711 29 00, 2712 10 10 to 2712 90 11, 2712 90 31 to 2713 20 00, 2713 90 90, 3403 19 91 and 3403 19 99 of the commodity classification for foreign trade statistics are exported, the exporter must provide the following data to the Federal Office of Economics and Export Control (BAFA) for the purpose of market observation:

1. the name and address of the exporter,
2. the description of the goods and the commodity code,
3. the number assigned to the exporter for the registration and identification of the economic operators within the meaning of Article 1 no. 16 of Regulation (EEC) No. 2454/93 (EORI number),
4. the procedure code,
5. the country of destination,
6. the net weight of the goods,
7. the supplementary unit,
8. the customs office of export,
9. the date of exit.

The exporter shall transmit these data to the competent customs office by electronic means together with the export declaration.

(2) The Centre for Data Processing and Information Technology (ZIVIT) shall forward the data on behalf of the competent customs office for the purpose of market observation to the Federal Office of Economics and Export Control (BAFA).

(3) The Federal Office of Economics and Export Control (BAFA) shall delete the data after a period of two years at the latest. The period shall begin at the end of the year in which the data were transferred from the competent customs office.

Section 19 **Export of fruit and vegetables**

(1) In the case of an export which is not subject to an export licence of fruit and vegetables which are marked with "G" in Part II Chapters 7 and 8 of the Export List, one of the following documents must be presented to the customs office of export together with the export declaration:

1. a valid certificate pursuant to the version in force at the time of Annex III of Commission Implementing Regulation (EU) No. 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No. 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors (OJ L 157 of 15 June 2011, p. 1), most recently amended by Regulation (EU) No. 988/2012 (OJ L 297 of 26 October 2012, p. 9) (conformity certificate),
2. a communication from the competent inspection body that a conformity certificate has been issued for the relevant parties, or
3. a communication from the competent inspection body that a conformity certificate has been dispensed with for the relevant parties on the basis of a risk analysis (waiver).

If the entire export procedure takes place in Germany, the document required pursuant to nos. 1 to 3 can be presented to the customs office at the point of exit.

(2) If the export clearance takes place electronically pursuant to Section 12 subsection 3 sentence 1, the exporter must ensure that the documents cited in subsection 1 are available to himself or to his representative at the time when the export clearance is applied for. The presentation of the documents in paper form shall only be necessary for export clearance if the customs office so requires. The documents shall be presented to the competent customs office on a monthly basis or in line with a specific agreement. The documents must include the registration number of the export declaration.

(3) In the case of the export which is not subject to a licence of the goods cited in subsection 1 sentence 1 in the common transit procedure for the carriage of goods by rail pursuant to Annex I Title III Chapter VII or with simplifications in the common transit procedure "status of an authorised consignor" pursuant to Annex I Title III Chapter V of the Convention of 20 May 1987 between the European Economic Community, the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation on a common transit procedure (OJ L 226 of 13 August 1987, p. 2), most recently amended by Decision No. 4/2012 (OJ L 297 of 26 October 2012, p. 34), in the version applicable at the time, instead of the document required pursuant to subsection 1, a copy of this document can be presented to the customs office of export together with the export accompanying document in accordance with Annexes 45g and 45h of Regulation (EEC) No. 2454/93 or in the fall-back procedure with Copy No. 3 of the Single Administrative Document Export/Security pursuant to Annexes 45k and 45l of Regulation (EEC) No. 2454/93. Subsection 2 shall apply mutatis mutandis.

(4) In the case of export which is not subject to a licence of the goods cited in subsection 1 sentence 1 in the local clearance procedure pursuant to Article 283 and Article 285a(1)a of Regulation (EEC) No. 2454/93, instead of the document required pursuant to subsection 1, a copy of this document can be presented to the customs office of export within 30 days of the release of the export consignment in the export procedure. The copy must bear the registration number of the original export declaration.

(5) In the case of export which is not subject to an export licence of processed fruit and vegetables for which marketing standards or minimum requirements have been enacted on

the basis of Regulation (EC) No. 1234/2007, either a conformity certificate or a waiver of the Federal Agency of Agriculture and Food must be presented to the customs office of export together with the export declaration. Subsection 2 shall apply mutatis mutandis.

Section 20

Re-exports

To the extent that re-exports pursuant to Article 182(3) sentence 3 of Regulation (EEC) No. 2913/92 require a customs declaration, the provisions of this subdivision shall apply mutatis mutandis.

Subdivision 2

Exports requiring a licence

Section 21

Export licence

- (1) Only the exporter can apply for an export licence.
- (2) The application for licensing of the export of goods cited in Part I of the Export List must be accompanied by documents providing evidence of the end-user, the final destination and the intended purpose. The Federal Office of Economics and Export Control (BAFA) can dispense with the presentation of these documents or require documents other than those cited in sentence 1 as evidence of the destination of the goods.
- (3) In the case of certain countries, the Federal Office of Economics and Export Control (BAFA) can recognise an International Import Certificate of the country of destination.
- (4) Further details shall be determined by the Federal Office of Economics and Export Control by way of a general instruction to be published in the Federal Gazette.

Section 22

Information and accounting obligations

- (1) Exporters of the goods cited in Part I Section A of the Export List shall be required to inform the recipient at the latest when the export takes place of the restrictions stipulated in the issued export licence regarding an export from the country of destination.
- (2) Without prejudice to other legal provisions, the exporter shall be required to keep detailed registers or records of his exports of the goods cited in Part I Section A of the Export List. These must contain commercial documents with the following data:
 1. the description of the good and its item number in the Export List,
 2. the quantity and value of the good,
 3. the date of the export or of individual partial exports,
 4. the name and the address of the exporter and the recipient,
 5. where known, the end-use and the end-user of the good and
 6. the statement that the recipient has been informed in accordance with subsection 1.
- (3) The registers or records pursuant to subsection 2 sentence 1 shall be retained for a period of five years following the end of the calendar year in which the export took place.

Section 23

Export clearance

- (1) If the export clearance is undertaken on the basis of an electronic export declaration pursuant to Section 12 subsection 3 sentence 1, it shall generally not be necessary to present the export licence in paper form at the export clearance. The exporter must however ensure that the export licence is available to himself or to his representative at the time when the export clearance is applied for. In the case of Section 12 subsection 3 sentence 3, the

declarant must transmit the export licence with the written export declaration to the competent customs office.

(2) For the export clearance, the declarant must provide the following data in the electronic export declaration with regard to the export licence:

1. the coding of the licence,
2. the item number on the Export List or in Annex I of Regulation (EC) No. 428/2009,
3. the reference number,
4. the date of issue and
5. the cessation of validity.

(3) In the case of exports based on licences in the form of general instructions, the data pursuant to subsection 2 no. 3 to 5 are not required.

(4) If the declarant has received a certificate from the Federal Office of Economics and Export Control (BAFA) confirming that the export does not require a licence, he must state the following regarding the certificate in the electronic export declaration for the export clearance:

1. the coding of the certificate,
2. the reference number,
3. the date of issue and
4. the cessation of validity.

(5) The export licences issued by the Federal Office of Economics and Export Control (BAFA) shall be transcribed electronically by the customs offices. Export licences for the repeated temporary export or export licences issued in other Member States of the European Union must be presented by the declarant in paper at the electronic export clearance and shall be transcribed manually by the customs office.

(6) If a transcription is necessary, the declarant must also provide the following data in addition to the data pursuant to subsection 2:

1. the value and, to the extent that the export licence contains data on this, the quantity of the goods to be exported and
2. the serial number of the goods item in the licence.

Section 24 Data exchange

(1) For the purpose of export clearance of goods requiring an export licence, the competent customs office shall access the data from the export licences issued by the Federal Office of Economics and Export Control (BAFA) via the Centre for Data Processing and Information Technology (ZIVIT) from the Federal Office of Economics and Export Control (BAFA). If the Federal Office of Economics and Export Control (BAFA) has issued a certificate confirming that the export does not require a licence, this certificate shall replace the export licence pursuant to sentence 1.

(2) The Centre for Data Processing and Information Technology (ZIVIT) shall forward the following data to the Federal Office of Economics and Export Control (BAFA) on behalf of the competent customs office for the purpose of tracing the utilisation of issued export licences:

1. the value of the exported goods,
2. the time of exit,

3. the number of the export licence,
4. the item number on the Export List or in Annex I of Regulation (EC No. 428/2009) and
5. where cited, the quantity of the goods exported and the serial number of the goods item in the licence.

(3) The competent customs office and the Federal Office of Economics and Export Control (BAFA) shall delete the data transmitted pursuant to subsections 1 and 2 after a period of five years at the latest, to the extent that they do not have to be retained pursuant to other provisions. The period shall begin at the end of the year in which the data were transmitted to the competent customs office or the Federal Office of Economics and Export Control (BAFA).

Section 25

Export clearance in another Member State

(1) If the exporter wishes to use an export licence issued by the Federal Office of Economics and Export Control (BAFA) for export clearance in another Member State of the European Union, he must present the export licence together with the export accompanying document or a comparable export document under customs law to the customs office competent for him or for his company headquarters within a month after the exit of the goods from the customs territory of the European Union.

(2) Following the retrospective electronic recording of the export licence by the competent customs office, the Centre for Data Processing and Information Technology (ZIVIT) shall forward the following data to the Federal Office of Economics and Export Control (BAFA) on behalf of the competent customs office for the purpose of tracing the utilisation of issued export licences:

1. the data cited in Section 24 subsection 2 no. 1 and 3 to 5 and
2. the time of the retrospective recording.

(3) Section 24 subsection 3 shall apply mutatis mutandis.

Section 26

Recording requirements

(1) The exporter shall be required to keep detailed registers or records for each transcription undertaken by a customs office pursuant to Section 23 or Section 25 with reference to the export declaration. These must contain the following data:

1. the registration number of the export declaration,
2. the date of acceptance of the export declaration,
3. the designation of the customs office at which the transcription took place,
4. the application number for the licence,
5. the quantity or the value of the transcribed goods and
6. the residual quantity or the residual value of the goods.

(2) The registers or records must be kept for a period of five years.

Subdivision 3

Transfer subject to licence and certification procedure

Section 27

Applicable provisions

Section 21 shall apply mutatis mutandis to the transfer of goods requiring a licence.
Furthermore, Section 22 shall apply mutatis mutandis to the transfer of goods cited in Part I
Section A of the Export List.

Section 28 **Certification procedure**

- (1) The Federal Office of Economics and Export Control (BAFA) shall stipulate by way of a general instruction to be published in the Federal Gazette the documents to be attached to the application for the issue of a certificate pursuant to Section 2.
- (2) Section 6 subsection 1 shall apply mutatis mutandis to certificates.
- (3) The Federal Office of Economics and Export Control (BAFA) shall publish and regularly update a list of the certified recipients and shall inform the European Parliament, the other Member States of the European Union and the European Commission of its content so that these bodies can publish a central register of the recipients certified by the Member States on their website.

Chapter 3 **Import**

Division 1 **Restrictions and general procedural provisions**

Section 29 **Restrictions on use**

If the import of a good is permitted under the precondition or licensed under the condition that the good may only be used in a certain way, the seller must inform in a verifiable way every purchaser of the good of this restriction on use when it is sold. The importer and the purchaser may only use the good in the prescribed manner.

Section 30 **Confirmations of International Import Certificates and Delivery Verification Certificates**

- (1) Anyone who imports or transfers goods into Germany can apply for an International Import Certificate (IIC) or a Delivery Verification Certificate (DVC) from the Federal Office of Economics and Export Control (BAFA). Section 21 subsection 2 shall apply mutatis mutandis. The application should be approved if the certificate is required for presentation to a foreign export control authority.
- (2) The importer or operator must apply for the International Import Certificate on a form in line with Annex E6 and for the Delivery Verification Certificate on a form in line with Annex E7 and provide the data required by these forms. Section 21 subsection 2 sentence 2 shall apply mutatis mutandis.
- (3) Documentation of the import or transfer of the good described in the application for the International Import Certificate must be provided to the Federal Office of Economics and Export Control (BAFA) without delay. If the applicant abandons his intention to import the good or to transfer it into Germany, he must report this without delay to the Federal Office of Economics and Export Control (BAFA) and return the certificate without delay or inform it of its whereabouts. If the applicant wishes to deliver the good to another country of destination, he must, before the good leaves the country of dispatch, obtain from the Federal Office of Economics and Export Control (BAFA) a new certificate which cites this country of destination.
- (4) Section 8 subsection 1 and subsection 2 sentence 1 of the Foreign Trade and Payments Act shall apply mutatis mutandis.

Division 2 **Import clearance**

Section 31 **Application for import clearance**

(1) The importer must apply for the import clearance at a customs office. Instead of the importer, a Union resident can apply for the import clearance on his own behalf for goods which are being delivered on the basis of an import contract if he

1. has been involved in the conclusion of the import contract as a trade representative of the non-Union contracting party or,
2. exercising his occupation on the basis of a contract with the non-Union contracting party,
 - a) is involved in the shipment of the goods or
 - b) lodges the customs declaration to transfer the goods to free circulation.

(2) The application for import clearance must be made

1. when the customs declaration to transfer the goods to free circulation is lodged or
2. prior to the use, consumption, treatment or processing of the goods in a free zone or on the island of Heligoland.

Upon application of the importer, the import clearance can be brought forward in time. This shall be without prejudice to Section 42 subsection 1 and 3.

(3) If the importer is allowed to undertake the customs declaration in the simplified procedure pursuant to Article 76(1) of Regulation (EEC) No. 2913/92, in derogation of subsection 2 no. 1 the necessary documents do not need to be presented until the supplementary customs declaration is presented if they are available at the time of the lodging of the customs declaration of the goods. In order to safeguard the interests of import regulations, however, the customs office can require that the relevant documents are presented to it

1. with the incomplete or simplified customs declaration,
2. immediately following local clearance or
3. when the goods are transferred to free circulation in the local clearance procedure with exemption from presentation prior to the local clearance procedure.

(4) The application can be lodged electronically or on paper.

(5) The importer must cite in the application the description of the goods in language according to commercial practice or common usage and the number of the commodity classification for the foreign trade statistics.

Section 32 **Import documents**

(1) If the import declaration is applied for electronically, the importer must ensure that the following documents are available to him or to his representative at the time of the application for the import clearance:

1. the invoice or other documents disclosing the country of purchase or dispatch and the country of origin of the goods, and,
2. if so envisaged in an act of the European Union,
 - a) a Certificate of Origin or a Declaration of Origin in accordance with Section 38,
 - b) a monitoring document in accordance with Section 36,

- c) an import licence in accordance with Section 39 or an import licence in the context of a common market organisation or a trade regime,
- d) a certificate of conformity or waiver in accordance with Section 42 subsection 2.

The documents cited in sentence 1 no. 1 and 2 letter a and d must be presented to the customs office on demand at the import clearance in an individual case.

(2) If the importer uses the electronic import clearance pursuant to subsection 1, he must present the documents cited in subsection 1 no. 2 letter a to d to the competent customs authority on a monthly basis or in line with a specific agreement with the competent customs authority.

(3) If the import clearance is applied for on paper, the documents cited in subsection 1 and an import control report in accordance with Section 35 subsection 1 must be presented.

Section 33

Procedure for import clearance

(1) The customs office shall examine the admissibility of the import. It shall refuse to clear the import if

- 1. the documents required for the import clearance pursuant to Section 32 subsection 1 sentence 1 no. 2 letter a to d are not available to the importer or to his representative,
- 2. the documents cited in Section 32 subsection 1 sentence 1 no. 2 letter a to d are not available at the import clearance pursuant to Section 32 subsection 3 or
- 3. the goods do not correspond to the data of the documents within the meaning of Section 32 subsection 1 sentence 1 or subsection 3.

If there are serious doubts about the correctness of a Certificate of Origin, the customs offices can demand further evidence to prove the origin and thereby render the import clearance possible.

(2) In the case of import of water, electrical current, town gas, long-distance gas or similar gases in pipelines, there shall be no import clearance.

Section 34

Collecting of import data

(1) In the case of the import of goods with commodity codes 0105 11 11 to 0105 99 50, 0207 11 10 to 0207 13 70, 0207 13 99 to 0207 14 70, 0207 14 99 to 0207 26 20, 0207 26 50 to 0207 26 80, 0207 26 99 to 0207 27 20, 0207 27 40 to 0207 27 80, 0207 27 99 to 0207 33 90, 0207 35 11, 0207 35 15, 0207 35 23, 0207 35 31 to 0207 35 63, 0207 36 11 to 0207 36 23, 0207 36 31 to 0207 36 79, 0207 36 90, 0209 00 90, 0302 40 00, 0302 50 10, 0302 69 31, 0302 69 33, 0303 52 10 to 0303 52 90, 0303 79 35 to 0303 79 41, 0304 19 97, 0304 29 29 to 0304 29 39, 0304 29 85, 0304 99 23, 0304 99 33, 0304 99 41, 0306 23 10, 0401 10 10 to 0403 10 39, 0403 90 11 to 0403 90 69, 0404 10 02 to 0407 00 30, 0408 11 80, 0408 19 81, 0408 19 89, 0408 91 80, 0408 99 80, 0701 10 00, 0701 90 50, 0701 90 90, 1105 10 00, 1105 20 00, 1602 32 11, 1602 39 21, 1702 11 00, 1702 19 00, 2106 90 51, 2309 90 20, 3502 11 90 and 3502 19 90 to 3502 90 70 of the commodity classification for foreign trade statistics, the importer must provide the following data to the Federal Agency of Agriculture and Food for the purpose of market observation:

- 1. the type of declaration,
- 2. the document number,
- 3. the time of the acceptance of the declaration,
- 4. the recipient's name and address,

5. the recipient's EORI number,
6. the country of dispatch,
7. the exchange rate,
8. the nature of the transaction,
9. the description of the good,
10. the commodity code,
11. the country of origin,
12. the gross mass,
13. the procedure code,
14. the net mass,
15. the statistical quantity in a supplementary unit,
16. the paper under import law (number and date) and
17. the statistical value.

(2) In the case of the import of goods with commodity codes 2705 00 00, 2707 10 10, 2707 20 10, 2707 30 10, 2707 50 10, 2707 50 90, 2709 00 10, 2709 00 90, 2710 11 11 to 2710 19 99, 2710 99 00, 2711 11 00 to 2711 29 00, 2712 10 10 to 2713 20 00, 2713 90 90, 2715 00 00, 3403 19 91 and 3403 19 99 of the commodity classification for foreign trade statistics, the importer must provide the following data to the Federal Office of Economics and Export Control (BAFA) for the purpose of market observation:

1. the type of declaration,
2. the document number,
3. the time of the acceptance of the declaration,
4. the recipient's name and address,
5. the recipient's EORI number,
6. the declarant's name and address,
7. the declarant's EORI number,
8. the country of dispatch,
9. the description of the good,
10. the commodity code,
11. the country of origin,
12. the gross mass,
13. the procedure code,
14. the net mass,
15. the statistical quantity in a supplementary unit and
16. the statistical value.

(3) The importer shall transmit the data pursuant to subsections 1 and 2 to the competent customs office electronically with the import declaration. The Centre for Data Processing and Information Technology (ZIVIT) shall forward the data on behalf of the competent customs office for the purpose of market observation in the case of subsection 1 to the Federal Agency of Agriculture and Food and in the case of subsection 2 to the Federal Office of Economics and Export Control (BAFA).

(4) The Federal Agency of Agriculture and Food and the Federal Office of Economics and Export Control (BAFA) shall delete the data after a period of two years at the latest. The period shall begin at the end of the year in which the data were transmitted from the competent customs office.

Section 35

Import control report

(1) In the case of the import of goods with commodity codes 2709 00 10, 2709 00 90, 2711 11 00 and 2711 21 00 of the commodity classification for foreign trade statistics, an import control report must be presented for the purpose of market observation if the import clearance is applied for in paper form and the value of the import consignment exceeds 1000 euro. The competent customs office shall forward the data for the purpose of market observation to the Federal Office of Economics and Export Control (BAFA).

(2) When goods are transferred into free circulation, a form designated as the import control report shall be used which corresponds to the form for the reporting document for the import of goods to be presented in each case pursuant to Sections 4 and 6 of the cleaned version of the Foreign Trade Statistics Act published in Federal Law Gazette Part II, division number 7402-1, most recently amended by Article 10 of the Act of 25 April 2007 (Federal Law Gazette I p. 594), and Section 15 of the Ordinance Implementing the Foreign Trade Statistics Act in the version published on 29 July 1994 (Federal Law Gazette I p. 1993), most recently amended by Article 1 of the Ordinance of 8 November 2011 (Federal Law Gazette I p. 2230), in the version applicable at the time. The Federal Office of Economics and Export Control (BAFA) can stipulate different requirements by way of a general instruction to be published in the Federal Gazette. It can also permit reports in a different form.

(3) In the case of the import of goods in the simplified declaration or local clearance procedure pursuant to Section 16, the importer must transmit the used sheets of the import control report directly following the import to the Federal Office of Economics and Export Control (BAFA). The import control report with the last entry for the settlement period must however be presented at the import clearance.

Section 36

Prior import monitoring

(1) If the import of a good is subject to monitoring on the basis of an act of the European Union, in the case of an import which is not subject to a licence a monitoring document on an import document in line with the acts of the European Union shall be issued in response to an application. The import document shall be valid throughout the Union.

(2) Only the importer shall be entitled to apply for the document. In his application for the issuing of a monitoring document, he shall provide the data stipulated in the act of the European Union. Different types of goods, different countries of purchase or different countries of origin may not be included together in one application.

(3) The Federal Office of Economics and Export Control (BAFA) shall be responsible for the issuing of the monitoring document. It shall stipulate by a general instruction the preconditions for the issuing and use of the monitoring document in another Member State of the European Union and shall publish these in the Federal Gazette.

(4) For the purpose of the import monitoring pursuant to subsection 1, the announcement pursuant to Section 39 subsection 1 sentence 1 can stipulate that instead of the monitoring document the import licence must be presented. Subsections 1 to 3 shall apply mutatis mutandis.

(5) The Federal Office of Economics and Export Control (BAFA) shall enter the following data into the monitoring document:

1. the date until which the monitoring document may be used for import clearance, and
2. the percentage up to which
 - a) an exceeding of the price per unit for which the transaction was carried out is admissible or
 - b) an exceeding of the cited total value or the cited quantity in normal commercial units is permissible in the import clearance.

Section 37

Import clearance in the case of prior import monitoring

(1) If the import clearance takes place on the basis of an electronic import declaration, the customs offices shall obtain the data of the monitoring document in the automated procedure. Section 32 subsection 1 sentence 1 no. 2 letter b shall apply mutatis mutandis. In the case of electronic import clearance pursuant to sentence 1, monitoring documents shall normally be transcribed electronically by the customs offices if they are destined for use in Germany. Monitoring documents issued in other Member States of the European Union must be presented and transcribed in paper form.

(2) If the import clearance takes place on the basis of an import declaration in paper form, the importer must present the monitoring document to the competent customs office. The customs office shall note on the monitoring document the quantity or the value of the cleared goods.

(3) The customs office shall reject the import clearance

1. if the application for import clearance is made later than on the last day of validity of the monitoring document,
2. if the price per unit at which the transaction is carried out exceeds the price cited in the monitoring document by more than the percentage noted in the monitoring document or
3. to the extent that the total value or the total quantity of the goods declared for import is higher than the percentage noted in the monitoring document.

Section 38

Certificate of Origin and Declaration of Origin

(1) If on the basis of an act of the European Union a Certificate of Origin or a Declaration of Origin is required for goods, these must be presented at the import clearance. Section 32 subsection 1 sentence 1 no. 2 letter a and sentence 2 and Section 32 subsection 3 shall apply mutatis mutandis. Sentences 1 and 2 shall not apply if the value of the goods contained in the import consignment for which a Certificate of Origin or a Declaration of Origin is prescribed does not exceed 1000 euro. Sentence 3 shall not apply regarding goods of food and agriculture.

(2) The Certificate of Origin must be issued by an entitled body of the country of origin. The Federal Ministry of Economics and Technology shall publish a list of the entitled bodies in the Federal Gazette. If the country of dispatch is not the country of origin, the presentation of a Certificate of Origin of an entitled body of the country of dispatch shall suffice.

(3) The Declaration of Origin must be entered by the exporter or supplier on the invoice or, if an invoice cannot be presented, on another business document relating to the export. It must confirm that the goods originate within the meaning of Articles 22 to 26 of Regulation (EEC) No. 2913/92 in conjunction with Articles 36 to 38 of Regulation (EEC) No. 2454/93 in the cited third country.

Section 39 **Import licence**

- (1) In a general instruction, to be published in the Federal Gazette, the bodies responsible for issuing import licences within the meaning of Section 13 of the Foreign Trade and Payments Act (licensing bodies) can provide information about the details to be observed in applications for the issuing of the licence (announcement). The announcement will particularly stipulate the requirements as regards form and the deadlines for applications. Only the importer shall be eligible to apply. If the licensing requirement is based on a directly applicable act of the European Union, the import licence shall be issued on the import document prescribed in this act and shall be valid throughout the European Union.
- (2) To the extent that it is permissible to use national forms for the import licence, the licensing bodies can stipulate these forms for use in Germany by means of general instruction to be published in the Federal Gazette in derogation of subsection 1 sentence 4.
- (3) The licensing bodies can require that separate applications are made for certain goods or categories of goods to the extent that this is necessary for the monitoring of imports, the acceleration of the licensing procedure or the upholding of other interests protected by the Foreign Trade and Payments Act or by Union law. If separate applications are required, notice should be given in the announcement.
- (4) The licensing bodies should treat applications which they receive within an appropriate deadline following the announcement as having been submitted at the same time.
- (5) In the case of electronic import clearance pursuant to Section 37 subsection 1 sentence 1, the customs offices shall access the data of the import licence in the automated procedure. Section 32 subsection 1 sentence 1 no. 2 letter c shall apply mutatis mutandis. If the import clearance takes place on the basis of an electronic import declaration, import licences will normally be transcribed electronically by the customs offices if they are destined for use in Germany. Import licences issued in other Member States of the European Union must be presented in paper form and transcribed manually. Further details about the use of an import licence in other Member States of the European Union shall be determined in a general instruction of the Federal Office of Economics and Export Control (BAFA), which shall be published in the Federal Gazette.
- (6) In the case of import clearance in paper form pursuant to Section 37 subsection 2 sentence 1, the importer must present the import licence. The customs office shall note on the import licence the quantity or the value of the cleared goods.

Section 40 **Facilitated procedure for agricultural goods**

- (1) The following agricultural goods may be imported without an import licence:
1. goods of Chapters 1 to 25 of the commodity classification for foreign trade statistics up to a value of 125 euro per import consignment, excluding seeds, whereby the facilitated procedure shall not apply to the import from a free zone or a suspensive procedure or to the import of goods which are destined for trade or for another commercial use;
 2. Specimens and samples for relevant trading companies or processing companies of products of food and agriculture up to a value of 50 euro per import consignment, excluding seeds, whereby the distribution costs shall not be included in the assessment of the value of specimens and samples delivered free of charge; this shall also apply to specimens and samples supplied against payment to the extent that the distribution costs are itemised separately in the invoice;
 3. goods which exhibitors import for immediate consumption as tasters at trade fairs or exhibitions if the value of the goods listed together in one chapter of the commodity classification for foreign trade statistics does not exceed 3000 euro per trade

fair or exhibition, whereby the value of the goods of several exhibitors which are represented by the same person must be aggregated;

4. fish and other goods which Union residents extract on the high seas and in the Swiss part of Lake Untersee and the Rhine by vessels bearing the flag of a Member State of the European Union and transfer directly into the customs territory of the European Union;

5. carrier pigeons which are not imported as merchandise;

6. animals, seeds, fertiliser, vehicles, machinery and other goods the import of which is due to the local and commercial situation in border zones or areas near the border with third countries and which are exempted from import restrictions by international treaties;

7. products of crop cultivation, animal husbandry, horticulture and forestry of such operations divided by national borders which are cultivated from the Community territory if exemption from import duties outside the tariff within the meaning of Article 4 no. 10 of Regulation (EC) No. 2913/92 has been granted for these goods.

(2) Sections 31 to 39 shall not apply to the imports cited in subsection 1.

Section 41

Facilitated procedure for other goods

(1) The following goods may also be imported without an import licence:

1. goods

a) for delivery to the foreign troops stationed in the customs territory of the European Union, to the organisations equivalent to them, to the civilian component and to the members of the aforementioned and their dependants, if freedom from duty has been granted by international treaties of the Federal Republic of Germany or the provisions of the Foreign Forces Customs Act,

b) from the possessions or for the personal use of the category of people cited in letter a;

2. goods of Chapters 26 to 99 of the commodity classification for foreign trade statistics up to a value of 1000 euro per import consignment, whereby the facilitated procedure shall not apply to the import from a free zone or a suspensive procedure or to the import of goods which are destined for trade or for another commercial use;

3. specimens and samples for relevant trading companies or processing companies of products of trade and industry up to a value of 250 euro per import consignment, whereby the distribution costs shall not be included in the assessment of the value of specimens and samples delivered free of charge; this shall also apply to specimens and samples supplied against payment to the extent that the distribution costs are itemised separately in the invoice;

4. gifts up to a value of 1000 euro per import consignment;

5. goods which are made available by a non-Union resident on his own account to a Union resident to mend ships if the work done on the ship is carried out in a free zone or under customs supervision on the account of the non-Union resident;

6. used items of clothing which are not destined for trade;

7. goods which have been transferred for temporary use into a free zone or for temporary admission into the customs territory of the European Union and which can no

longer be used for the original purpose, or parts thereof which accrue during the mending work in the customs territory of the European Union;

8. spare parts for imported goods which have been or are to be sent back to third countries or have been destroyed under customs supervision, and follow-up deliveries in normal commercial quantities for goods which have already been imported;

9. goods originating in the European Union or in another contracting party to the Agreement on the European Economic Area which are to be imported as compensating products following outward processing under customs law, and other compensating products following outward processing under customs law which are imported following mending, in the standard exchange procedure or following the carrying out of supplementary processing operations pursuant to Article 123 of Regulation (EEC) No. 2913/92;

10. goods for use in the provision of first aid in the event of disasters;

11. travel requisites and travel souvenirs if these goods are free of import duties within the meaning of Article 4 no. 10 of Regulation (EEC) No. 2913/92, and goods not intended for trade up to a value of 1500 euro carried by travellers;

12. building material, repair and operating equipment for dams, power plants, bridges, roads and other structures which are built, operated or used on both sides of the border with third countries;

13. goods which are exempt from import duties within the meaning of Article 4 no. 10 of Regulation (EEC) No. 2913/92, pursuant to

a) Sections 14 to 19 of the Customs Ordinance or

b) Title II of Council Regulation (EC) No. 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty (OJ L 324 of 10 December 2009, p. 23);

14. goods in free zones under the preconditions and conditions under which these goods can be imported free of import duties within the meaning of Article 4 no. 10 of Regulation (EEC) No. 2913/92 in the facilitated procedure;

15. goods for which exemption from import duties outside the tariff within the meaning of Article 4 no. 10 of Regulation (EC) No. 2913/92 is granted

a) pursuant to the accession laws of the Federal Republic of Germany to international treaties with third countries,

b) pursuant to ordinances of the Federal Government on the basis of Article 3 of the Act of 22 June 1954 on the accession of the Federal Republic of Germany to the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations of 21 November 1947 and on the granting of privileges and immunities to other international organisations of 22 June 1954 (Federal Law Gazette 1954 II p. 639), most recently amended by Article 4 of the Act of 16 August 1980 (Federal Law Gazette 1980 II p. 941),

c) pursuant to Articles 137 to 144 of Regulation (EEC) No. 2913/92 for goods which are used temporarily in the customs territory of the European Union under full or partial exemption from import duties within the meaning of Article 4 no. 10 of Regulation (EEC) No. 2913/92,

d) pursuant to Articles 185 and 186 of Regulation (EEC) No. 2913/92 for goods which are imported back into the customs territory of the European Union.

(2) Sections 31 to 39 shall not apply to the imports cited in subsection 1. Subsection 1 no. 13 shall apply mutatis mutandis if the goods cited there can be imported free of duty for a different reason.

Section 42 **Import of horticultural products**

(1) In the case of the import of fresh fruit and vegetables for which marketing standards have been stipulated on the basis of Regulation (EC) No. 1234/2007, the Federal Agency of Agriculture and Food shall examine whether the goods correspond to these marketing standards prior to clearance into free circulation.

(2) In the case of the import which is not subject to a licence of fruit and vegetables for which marketing standards have been stipulated, one of the following documents shall be required for the import clearance pursuant to Article 13(1) of Regulation (EU) No. 543/2011:

1. a valid certificate of conformity pursuant to Article 14(1) of Regulation (EU) No. 543/2011,
2. a valid certificate of conformity of a recognised third-country inspection service pursuant to Article 14(1) of Regulation (EU) No. 543/2011,
3. a communication from the competent inspection body that a conformity certificate has been issued for the relevant parties, or
4. a waiver pursuant to Section 19 subsection 1 sentence 1 no. 3.

Section 32 subsection 1 sentence 1 no. 2 letter d shall apply mutatis mutandis.

(3) In the case of the import which is not subject to a licence of processed fruit and vegetable products for which minimum standards have been set by the bodies of the European Union on the basis of Regulation (EC) No. 1234/2007, the Federal Agency of Agriculture and Food shall examine samples prior to import clearance to establish whether these goods meet these minimum requirements.

(4) Subsection 2 shall not be applicable to the extent that the facilitated procedure pursuant to Section 40 applies to the import of the goods.

Section 43 **Enforcement measures**

If an enforcement measure is to be undertaken on goods which are located in a free zone or a customs warehouse, the creditor can apply for a monitoring document or an import licence and the import clearance. The application for the monitoring document or the import licence must bear the mark: "Zwangsvollstreckung".

Chapter 4 **Other movements of goods**

Division 1 **Transit**

Section 44 **Restrictions on the transit of goods**

(1) The competent customs offices can in the case of a transit of goods pursuant to Article 2 no. 7 of Regulation (EC) No. 428/2009 suspend the release of goods until the communication of a decision by the Federal Office of Economics and Export Control (BAFA) pursuant to subsection 4 in order to prevent the goods from leaving Germany if they have grounds to suspect that the goods

1. are listed in Annex I of Regulation (EC) No. 428/2009 and
2. are or can be wholly or partly destined for one of the uses cited in Article 4(1) of Regulation (EC) No. 428/2009.

This shall be without prejudice to the powers of the competent customs offices in accordance with Regulation (EEC) No. 2913/92.

(2) The competent customs office shall inform the Federal Office of Economics and Export Control (BAFA) without delay of the measures taken pursuant to subsection 1.

(3) Before the Federal Office of Economics and Export Control (BAFA) decides pursuant to Article 6(1) of Regulation (EC) No. 428/2009 on a ban on transit of goods listed in Annex I of this Ordinance, it can in individual cases impose a licensing requirement if the goods are or can be wholly or partly destined for one of the uses cited in Article 4(1) of Regulation (EC) No. 428/2009.

(4) The Federal Office of Economics and Export Control (BAFA) shall take the decision pursuant to subsection 3 without delay. The Federal Office of Economics and Export Control (BAFA) shall inform the competent customs office without delay of the decision taken.

(5) Incurred costs related to the storage of the goods for the duration of a measure pursuant to subsection 1 or subsection 3 shall be borne by the persons cited in Article 182d(3) of Regulation (EEC) No. 2913/92. Article 56 of Regulation (EEC) No. 2913/92 in conjunction with Section 13 of the Customs Administration Act shall be applied.

Section 45 **Transit procedure**

The admissibility of the transit shall be examined by the customs office at the point of exit when the goods exit Germany and by each customs office which is involved when the goods exit via an internal border to another Member State of the European Union. To this end, the customs office can demand further data and evidence, in particular the presentation of the loading papers, from the transporter of the goods or the person entitled to dispose of the goods.

Division 2 **Trafficking and brokering transactions**

Section 46

Licensing requirements for trafficking and brokering transactions involving goods of Part I Section A of the Export List

(1) Trafficking and brokering transactions involving goods of Part I Section A of the Export List shall be subject to a licence if

1. the goods are
 - a) located in a third country or
 - b) located in Germany and have not yet been cleared by customs and
2. the goods are to be delivered to another third country.

(2) A licence pursuant to subsection 1 shall not be required if the trafficking and brokering transaction is subject to a licence pursuant to Section 4a of the War Weapons Control Act.

Section 47

Licensing requirements for trafficking and brokering transactions in a third country

(1) Section 46 shall also apply to trafficking and brokering transactions carried out in a third country by Germans with a residence or habitual abode in Germany if the trafficking and brokering transaction refers to the following war weapons:

1. war weapons pursuant to Part B I. no. 7 to 11, V. no. 29, 30 or 32, VI. no. 37 or 38, VIII. no. 50 or 51 of the Annex to Section 1 subsection 1 of the War Weapons Control Act (War Weapons List),
2. barrels or breech blocks for war weapons pursuant to Part B V. no. 29 or 32 of the War Weapons List,

3. ammunition or projectiles or propelling charges for ammunition for war weapons pursuant to Part B V. no. 32 or VI. no. 37 of the War Weapons List,
 4. mortars with a calibre of less than 100 millimetres or
 5. barrels, breech blocks, ammunition or projectiles or propelling charges for ammunition for mortars with a calibre of less than 100 millimetres.
- (2) Trafficking and brokering transactions involving the goods covered by Annex I of Regulation (EC) No. 428/2009 shall be subject to a licence if
1. the goods are
 - a) located in a third country or
 - b) located in Germany and have not yet been cleared by customs,
 2. the goods are to be delivered to another third country and
 3. the German who wishes to carry out the trafficking and brokering transaction in a third country has been informed by the Federal Office of Economics and Export Control (BAFA) that these goods are or can be wholly or partly destined for one of uses of Article 4(1) of Regulation No. 428/2009.
- (3) If a German with a residence or habitual abode in Germany who wishes to carry out a trafficking and brokering transaction in a third country is aware that the goods covered by Annex I of Regulation (EC) No. 428/2009 which are located in a third country or in Germany and have not yet been cleared by customs and are to be delivered from there to a further third country are wholly or partly destined for one of the uses of Article 4(1) of Regulation (EC) No. 428/2009, he must inform the Federal Office of Economics and Export Control (BAFA) of this. The latter shall decide whether the trafficking and brokering transaction shall be subject to a licence. The trafficking and brokering transaction must not be carried out until the Federal Office of Economics and Export Control (BAFA) has licensed the trafficking and brokering transaction or has decided that no licence is required.

Section 48

Import documents for trafficking and brokering transactions

Anyone who requires an International Import Certificate or a Delivery Verification Certificate for a trafficking and brokering transaction must apply to the Federal Office of Economics and Export Control (BAFA). Section 30 shall apply mutatis mutandis with the proviso that the import into the country of destination designated in the application must be documented.

Chapter 5

Movement of services

Section 49

Licensing requirements for technical support relating to chemical or biological weapons or nuclear weapons

- (1) Technical support in third countries by a German or a resident within the meaning of Section 2 subsection 15 no. 2 to 4 of the Foreign Trade and Payments Act shall be subject to a licence if the German or the resident has been informed by the Federal Office of Economics and Export Control (BAFA) that the technical support is destined for use in relation to
1. the development, manufacture, handling, operation, maintenance, storage, detection, identification or spread of
 - a) chemical or biological weapons or
 - b) nuclear weapons or other nuclear explosive devices or

2. the development, manufacture, maintenance or storage of missiles suited to the launching of such weapons.

(2) If a German or a resident within the meaning of Section 2 subsection 15 no. 2 to 4 of the Foreign Trade and Payments Act is aware that technical support which he wishes to provide in third countries is destined for a purpose cited in subsection 1, he must inform the Federal Office of Economics and Export Control (BAFA) of this. The latter shall decide whether the technical support is subject to a licence. The technical support may not be provided until the Federal Office of Economics and Export Control (BAFA) has licensed the technical support or has decided that no licence is required.

(3) Subsections 1 and 2 shall not apply if the technical support

1. is provided in a country listed in Annex IIa Part 2 of Regulation (EC) No. 428/2009,

2. takes place via the passing on of information which is generally available or forms part of basic research within the meaning of the General Technology Note to Part I of the Export List or to Annex I of Regulation (EC) No. 428/2009, or

3. takes place orally and does not refer to a technology which is cited in Part I Section A no. 0022 or Part I Section B nos. of category E of the Export List or nos. of category E of Annex I to Regulation (EC) No. 428/2009.

Section 50

Licensing requirements for technical support relating to a military end-use

(1) Technical support in third countries by a German or a resident within the meaning of Section 2 subsection 15 no. 2 to 4 of the Foreign Trade and Payments Act which are not covered by Section 49 subsection 1 shall be subject to a licence if the German or the resident within the meaning of Section 2 subsection 15 no. 2 to 4 of the Foreign Trade and Payments Act has been informed by the Federal Office of Economics and Export Control (BAFA) that the technical support is related to a military end-use and is being provided in a country within the meaning of Article 4(2) of Regulation (EC) No. 428/2009.

(2) If a German or a resident within the meaning of Section 2 subsection 15 no. 2 to 4 of the Foreign Trade and Payments Act is aware that technical support which he wishes to provide in a third country is destined for a purpose cited in subsection 1, he must inform the Federal Office of Economics and Export Control (BAFA) of this. The latter shall decide whether the technical support is subject to a licence. The technical support may not be provided until the Federal Office of Economics and Export Control (BAFA) has licensed the technical support or has decided that no licence is required.

(3) Subsections 1 and 2 shall not apply if the technical support

1. takes place via the passing on of information which is generally available or forms part of basic research within the meaning of the General Technology Note to Part I of the Export List or to Annex I of Regulation (EC) No. 428/2009, or

2. takes place orally and does not refer to a technology which is cited in Part I Section A no. 0022 or Part I Section B nos. of category E of the Export List or nos. of category E of Annex I to Regulation (EC) No. 428/2009.

Section 51

Licensing requirements for technical support in Germany

(1) Technical support in Germany by a resident shall be subject to a licence if the resident has been informed by the Federal Office of Economics and Export Control (BAFA) that the technical support

1. is destined for use

- a) in relation to the development, manufacture, handling, operation, maintenance, storage, detection, identification or spread of
 - aa) chemical or biological weapons or
 - bb) nuclear weapons or other nuclear explosive devices or
- b) in relation to the development, manufacture, maintenance or storage of missiles suited to the launching of such weapons, and

2. is provided to foreigners not resident in a country that is cited in Annex IIa Part 2 of Regulation (EC) No. 428/2009 or that is a member of the European Union.

(2) Technical support in Germany by a resident shall be subject to a licence if the resident has been informed by the Federal Office of Economics and Export Control (BAFA) that the technical support is related to a military end-use which is not covered by subsection 1 and is being provided to foreigners resident in a country within the meaning of Article 4(2) of Regulation (EC) No. 428/2009.

(3) If a resident is aware that technical support which he would like to provide in Germany is destined for a use cited in subsection 1 or 2, he must inform the Federal Office of Economics and Export Control (BAFA). The latter shall decide whether the technical support is subject to a licence. The technical support may not be provided until the Federal Office of Economics and Export Control (BAFA) has licensed the technical support or has decided that no licence is required.

(4) Subsections 1 to 3 shall not apply if the technical support

1. takes place via the passing on of information which is generally available or forms part of basic research within the meaning of the General Technology Note to Part I of the Export List or to Annex I of Regulation (EC) No. 428/2009, or

2. does not refer to a technology which is cited in Part I Section A no. 0022 of the Export List, nos. of section E of Annex I to Regulation (EC) No. 428/2009 or Part I Section B nos. of section E of the Export List.

(5) Foreigners within the meaning of subsections 1 and 2 shall include such natural persons whose residence or habitual abode in Germany is limited to a maximum of five years.

Section 52

Licensing requirements for technical support in relation to the construction or operation of nuclear facilities

(1) Technical support by a German or a resident shall be subject to a licence if the German or the resident has been informed by the Federal Office of Economics and Export Control (BAFA) that the technical support is related to the construction or operation of facilities for nuclear purposes within the meaning of Category 0 of Annex I of Regulation (EC) No. 428/2009 in the countries cited in Section 9 subsection 1 sentence 1 no. 2.

(2) If a German or a resident is aware that the technical support which he wishes to provide in third countries is destined for a purpose cited in subsection 1, he must inform the Federal Office of Economics and Export Control (BAFA) of this. The latter shall decide whether the technical support is subject to a licence. The technical support may not be provided until the Federal Office of Economics and Export Control (BAFA) has licensed the technical support or has decided that no licence is required.

(3) Subsections 1 and 2 shall not apply if the technical support

1. takes place via the passing on of information which is generally available or forms part of basic research within the meaning of the Nuclear Technology Note to Annex I of Regulation (EC) No. 428/2009, or

2. does not refer to a technology cited in nos. of section E in Category 0 of Annex I of Regulation (EC) No. 428/2009.

(4) The procedure pursuant to this provision can be handled by a single authority pursuant to the provisions of the Administrative Procedures Act.

Section 53

Exemptions from the licensing requirement

Sections 49 to 52 shall not apply in the cases of

1. technical support by authorities and agencies of the Federal Republic of Germany in the context of their official tasks,
2. technical support provided by the Federal Armed Forces on the basis of the tasks assigned to them,
3. technical support provided for a purpose which is cited in the exceptions for goods of the Missile Technology Control Regime (MTCR technology) in Annex IV of Regulation (EC) No. 428/2009,
4. technical support which represents the absolutely necessary minimum for the construction, operation, maintenance and repair of those goods for which an export licence was issued.

Chapter 6

Restrictions on movements of capital

Division 1

Restrictions pursuant to Section 4 subsection 2 of the Foreign Trade and Payments Act to fulfil the Agreement on German External Debts

Section 54

Effecting of payments and other performances

(1) A debtor shall be prohibited from effecting payments and other performances if they

1. refer to the fulfilment of a debt within the meaning of the Agreement of 27 February 1953 on German External Debts (Federal Law Gazette II 1953 p. 331), but the debt is not settled,
2. refer to the fulfilment of a settled debt within the meaning of the Agreement but do not remain within the boundaries of the stipulated payment and other conditions, or
3. refer to the fulfilment of liabilities which
 - a) are or were payable in non-German currency and
 - b) do correspond to the preconditions of Article 4(1) and (2) of the Agreement, but do not fulfil the preconditions of Article 4(3) letter a or b of the Agreement with regard to the person of the creditor, unless these are liabilities from marketable securities which are payable in a creditor country.

(2) The definitions of terms contained in Article 3 of the Agreement shall also apply to subsection 1.

Division 2

Examination of corporate acquisitions

Subdivision 1

Cross-sectoral examination of corporate acquisitions

Section 55

Scope of application of the cross-sectoral examination

(1) The Federal Ministry of Economics and Technology can examine whether the public order or security of the Federal Republic of Germany is endangered if a non-EU resident

acquires a domestic company or a direct or indirect participation within the meaning of Section 56 in a domestic company.

(2) Acquisitions by EU residents shall also be subjected to the examination pursuant to subsection 1 if there are indications that an abusive approach or a circumvention transaction has been undertaken in order to avoid an examination pursuant to subsection 1. Branches and permanent establishments of a non-EU acquirer shall not be regarded as EU-resident. Acquirers from the member states of the European Free Trade Association shall be equivalent to EU residents.

(3) The Federal Ministry of Economics and Technology can exercise the right of examination pursuant to subsection 1 only if it informs the direct acquirer about the opening of the examination procedure within three months of the conclusion of the contract pertaining to the law of obligations on the acquisition. In the case of an offer within the meaning of the Securities Acquisition and Takeover Act, the deadline pursuant to sentence 1 shall commence on publication of the decision to submit the offer or on publication of the acquisition of control.

Section 56 **Voting rights**

(1) After the acquisition, the direct or indirect share of voting rights of the acquirer in the domestic company must reach or exceed 25 percent of the voting rights.

(2) The calculation of the voting rights must include the voting rights of third parties in the domestic company

1. in which the acquirer holds at least 25 percent of the voting rights, or
2. with which the acquirer has concluded an agreement on the joint exercise of voting rights.

(3) In the case of an indirect acquisition, the proportion of voting rights of the acquirer in the domestic company shall amount to at least 25 percent if the acquirer and the respective intermediate shareholder, the attribution principles pursuant to subsection 2 being applied mutatis mutandis, possess at least 25 percent of the voting rights in the respective subsidiary.

Section 57 **Documentation on the acquisition**

The direct acquirer shall be required to submit documentation to the Federal Ministry of Economics and Technology in the case of an examination pursuant to Section 55. The documentation to be submitted shall be determined by the Federal Ministry of Economics and Technology by way of a general instruction to be published in the Federal Gazette.

Section 58 **Certificate of non-objection**

(1) In response to a request in writing, the Federal Ministry of Economics and Technology shall issue a certificate of non-objection to an acquisition within the meaning of Section 55 if there is no objection to the acquisition in terms of public order or security of the Federal Republic of Germany (certificate of non-objection). The application shall cite the acquisition, the acquirer and the domestic company to be acquired as well as the basic features of the fields of business of the acquirer and of the domestic company to be acquired.

(2) The certificate of non-objection shall be deemed to have been issued if the Federal Ministry of Economics and Technology does not open an examination procedure pursuant to Section 55 within one month of receipt of the application.

Section 59 **Prohibition or instructions**

(1) The Federal Ministry of Economics and Technology can prohibit the direct acquirer from making an acquisition within the meaning of Section 55 until the end of two months after the

receipt of the complete documents pursuant to Section 57 or issue instructions in order to ensure the public order or security of the Federal Republic of Germany. Approval by the Federal Government is necessary for the issuing of prohibitions or orders.

(2) In order to enforce a prohibition, the Federal Ministry of Economics and Technology can in particular

1. prohibit or restrict the exercise of voting rights in the acquired company which belong to a non-EU acquirer or are attributed to him, or
2. appoint a trustee to bring about the unwinding of a completed acquisition.

Subdivision 2

Sector-specific examination of corporate acquisitions

Section 60

Scope of application of the sector-specific examination

(1) The Federal Ministry of Economics and Technology can examine whether essential security interests of the Federal Republic of Germany are endangered if a foreigner acquires a domestic company or a direct or indirect participation within the meaning of Section 56 in a domestic company if the company:

1. manufactures or develops goods within the meaning of Part B of the War Weapons List,
2. manufactures or develops specially designed engines or gears to drive battle tanks or other armoured military tracked vehicles, or
3. manufactures products with IT security functions to process classified state information or components essential to the IT security function of such products or has manufactured such products and still disposes of the technology if the overall product was licensed with the knowledge of the company by the Federal IT Security Agency.

(2) Branches and permanent establishments of a foreign acquirer shall not be regarded as domestic.

(3) The acquisition must be reported in writing to the Federal Ministry of Economics and Technology. Section 58 subsection 1 sentence 2 shall apply mutatis mutandis. The report shall be made solely by the direct acquirer, even if this person does not fulfil the preconditions of subsection 1.

Section 61

Clearance of an acquisition pursuant to Section 60

The Federal Ministry of Economics and Technology shall issue a clearance in writing to the person required to report the acquisition pursuant to Section 60 subsection 3 sentence 3 if there are no objections to the acquisition in terms of essential security interests of the Federal Republic of Germany. The clearance shall be deemed to have been issued if the Federal Ministry of Economics and Technology does not launch an examination procedure in accordance with Section 60 subsection 1 with regard to the person required to report the acquisition within a month of receipt of the report pursuant to Section 60 subsection 3. In the case of the launch of an examination procedure, Section 57 shall apply mutatis mutandis to the person required to report the acquisition.

Section 62

Prohibition or instructions

The Federal Ministry of Economics and Technology can prohibit the person required to report the acquisition from making an acquisition within the meaning of Section 60 subsection 1 within one month after the receipt of the complete documents pursuant to Section 57 or issue instructions in order to ensure essential security interests of the Federal Republic of Germany.

Chapter 7
Reporting requirements for movements of capital and payments

Division 1
Definition of terms

Section 63
Definition of terms

For the purpose of reports pursuant to this Chapter,

1. Germany shall be the German economic territory within the meaning of Chapter 2 no. 2.05 of Annex A of Council Regulation (EC) No. 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community (OJ L 310 of 30 November 1996, p. 1), most recently amended by Regulation (EU) No. 715/2010 (OJ L 210 of 11 August 2010, p. 1),
2. residents shall be every institutional unit in Germany within the meaning of Chapter 2 no. 2.12 and 2.13 in conjunction with no. 2.07 of Annex A of Regulation (EC) No. 2223/96 and
3. foreigner shall be every institutional unit abroad within the meaning of Chapter 2 no. 2.12 and 2.13 in conjunction with no. 2.07 of Annex A of Regulation (EC) No. 2223/96.

Foreigners within the meaning of this Chapter shall include companies, branches, permanent establishments and banks headquartered abroad.

Division 2
Reporting rules for capital movements

Section 64
Reporting of assets of German residents abroad

(1) The person required to make the report pursuant to subsection 6 must report to the Deutsche Bundesbank within the deadline set by Section 71 subsection 1 of the status and selected items of the composition of the following assets abroad pursuant to subsection 4 or subsection 5:

1. the assets of a foreign company if at least 10 percent of the shares or the voting rights are to be attributed to the resident,
2. the assets of a foreign company if more than 50 percent of the shares or the voting rights in this company are to be attributed to one or several foreign companies dependent on the resident solely or jointly with the resident, and
3. assets ascribed to foreign branches and permanent establishments of a domestic company, and the assets which are ascribed to foreign branches and permanent establishments of a foreign company which fulfils the conditions pursuant to no. 2.

(2) A foreign company shall be deemed dependent on a resident within the meaning of subsection 1 no. 2 if more than 50 percent of the shares or voting rights in the foreign company are to be attributed to the resident. If more than 50 percent of the shares or voting rights in another foreign company are to be attributed to one or several foreign companies dependent on a resident or to this company together with the resident, the other foreign company and under the same preconditions each additional company within the meaning of subsection 1 no. 2 shall be regarded as being dependent on a resident.

(3) The reporting requirement pursuant to subsection 1 shall not apply

1. if the total balance sheet of the foreign company in which the resident or another foreign company dependent on the resident is participating does not exceed 3 million euro,
 2. if the business assets which are ascribed to the foreign branch or permanent establishment pursuant to subsection 1 no. 3 do not exceed 3 million euro, or
 3. to the extent that for actual or legal reasons the resident is unable to access documents which he needs to meet his reporting requirement.
- (4) The reports must be made on the basis of the status on the balance sheet date of the person required to submit the report or, if the person required to submit the report does not produce accounts, on the basis of the status on 31 December, whereby the report must contain the data in accordance with Annex K3 “Assets of German residents abroad”.
- (5) If the balance sheet date of a foreign company in which the person required to submit the report or another foreign company dependent on him participates does not coincide with the balance sheet date of the person required to submit the report, the report of the assets in accordance with Annex K3 must be made in line with the balance on the balance sheet date immediately preceding that of the person required to submit the report. If the person required to submit the report does not produce accounts and the balance sheet date of a foreign company in which the person required to submit the report or another foreign company dependent on him participates does not coincide with 31 December, the report of the assets in accordance with Annex K3 must be made in line with the balance on the balance sheet date immediately preceding 31 December.
- (6) The person required to submit the report shall be the resident to whom the assets are attributed directly or via a dependent foreign company on the balance sheet date of the resident or, if he does not produce accounts, on 31 December.

Section 65

Reporting of assets of foreigners in Germany

- (1) The person required to make the report pursuant to subsection 6 must report to the Deutsche Bundesbank within the deadline set by Section 71 subsection 2 on the status and selected items of the composition of the following assets in Germany pursuant to subsection 5:
1. the assets of a domestic company if at least 10 percent of the shares or voting rights in the domestic company are to be attributed to a foreigner or to several commercially associated foreigners together,
 2. the assets of a domestic company if more than 50 percent of the shares or voting rights in this company are to be attributed to a foreigner or to a domestic company dependent on several commercially associated foreigners, and
 3. assets ascribed to domestic branches and permanent establishments of a foreign company, and the assets which are ascribed to domestic branches and permanent establishments of a domestic company which fulfils the conditions pursuant to no. 2.
- (2) Foreigners shall be deemed to be commercially associated if they pursue common commercial interests. This shall also be the case if they pursue common commercial interests together with residents. Such commercially associated foreigners shall especially include:
1. natural and legal foreign persons who have joined in order to establish or acquire a domestic company, to acquire participations in such a company, or to jointly exercise their shareholders' rights in such a company,

2. natural and legal foreign persons who pursue common commercial interests by possessing participations in one or several companies,
3. natural foreign persons who are married to each other, live in a civil union, or are directly related or related by marriage or associated by adoption or related in the collateral line to the third degree or by marriage to the second degree, and
4. legal foreign persons who are associated within the meaning of Section 15 of the Stock Corporation Act.

(3) A domestic company shall be deemed dependent on a foreigner or on several commercially associated foreigners within the meaning of subsection 1 no. 2 if more than 50 percent of the shares or voting rights in the domestic company are to be attributed to the foreigner or commonly to several commercially associated foreigners. If more than 50 percent of the shares or voting rights in another domestic company are to be attributed to a domestic company dependent on a foreigner or on several commercially associated foreigners solely or jointly with one or several other domestic companies dependent on this domestic company, the other domestic company and under the same preconditions each additional company within the meaning of subsection 1 no. 2 shall also be regarded as being dependent on a foreigner or on several commercially associated foreigners.

(4) The reporting requirement pursuant to subsection 1 shall not apply

1. if the total balance sheet of the domestic company in which the foreigner, the commercially associated foreigners or another domestic company dependent on the foreigner or on the commercially associated foreigners participate does not exceed 3 million euro,
2. if the business assets which are ascribed to the domestic branch or permanent establishment pursuant to subsection 1 no. 3 do not exceed 3 million euro,
3. to the extent that for actual or legal reasons the resident is unable to access documents which he needs to meet his reporting requirement, or
4. if the domestic or the dependent domestic company in which commercially associated foreigners participate cannot perceive that the foreigners are commercially associated foreigners within the meaning of subsection 2.

(5) The reports must be made on the basis of the balance sheet date of the person required to submit the report or, if the person required to submit the report is a non-accounting domestic branch or permanent establishment of a foreign company, on the basis of the balance sheet date of the foreign company, whereby the report must contain the data in accordance Annex K4 "Assets of foreigners in Germany".

(6) The person required to submit the report shall be

1. in the case of subsection 1 no. 1 the domestic company,
2. in the case of subsection 1 no. 2 the dependent domestic company,
3. in the case of subsection 1 no. 3 the domestic branch or permanent establishment.

Section 66

Reporting of claims and liabilities

(1) Residents, excluding natural persons, monetary financial institutions pursuant to Article 1 first indent of Regulation (EC) No. 25/2009 of the European Central Bank of 19 December 2008 on the balance sheet of the monetary financial institutions sector (OJ L 15 of 20 January 2009, p. 14), most recently amended by Regulation (EU) No. 883/2011 (OJ L 228 of 3 September 2011, p. 13), and investment stock corporations and capital management companies regarding the claims and liabilities of their investment funds, must report their

claims and liabilities with regard to foreigners to the Deutsche Bundesbank pursuant to subsections 2 and 3 within the deadlines of Section 71 subsection 3 and 4 if the respective aggregate sums of these claims or liabilities total more than 5 million euro at the end of a month.

(2) The claims and liabilities with respect to foreign banks to be reported must contain the data pursuant to Annex Z5 "Claims and liabilities from financial relationships with foreign banks".

(3) The claims and liabilities with respect to foreign non-banks to be reported must contain the data in accordance with Annex Z5a sheet 1/1 "Claims and liabilities from financial relationships with associated foreign non-banks", Annex Z5a sheet 1/2 "Claims and liabilities from financial relationships with other foreign non-banks", Annex Z5a sheet 2/1 "Claims and liabilities with respect to associated foreign non-banks from movements of goods and services" and Annex Z5a sheet 2/2 "Claims and liabilities with respect to other foreign non-banks from movements of goods and services".

(4) Residents who are subject to reporting requirements pursuant to subsection 1 and whose claims or liabilities from financial relationships with foreigners amount to more than 500 million euro at the end of a quarter must report their claims and liabilities with respect to foreigners from derivative financial instruments on the basis of the status at the end of the quarter within the deadline of Section 71 subsection 5, whereby the report must contain the data in accordance with Annex Z5b "Claims and liabilities with respect to foreigners from derivative financial instruments". The amounts shall in principle be assessed at their fair value.

(5) If a resident who was required to submit a report for a previous reporting date is no longer subject to the reporting requirement because he falls below the thresholds cited in subsections 1 and 4, he must give written notification of this.

Division 3 Reporting of payments

Section 67 Reporting of payments

(1) Residents shall report payments pursuant to subsection 4 to the Deutsche Bundesbank within the deadlines of Section 71 subsection 7 and 8 which they

1. receive from foreigners or from residents for account of a foreigner (incoming payments) or
2. make to foreigners or to residents for account of a foreigner (outgoing payments).

(2) Reports shall not be made for

1. payments which do not exceed the amount of 12,500 euro or the equivalent value in other currency,
2. payments for the import, export or transfer of goods and
3. payments for the granting, receipt or repayment of loans, including the justification and repayment of credit balances, with an originally agreed term or termination deadline of not more than twelve months.

(3) Payments within the meaning of this subdivision shall include netting and offsetting and payments handled by direct debit. Payment shall further include the bringing in of objects and rights into companies, branches and permanent establishments.

(4) The reports of incoming and outgoing payments must include the data in accordance with Annex Z4 "Payments in foreign trade and payments transactions". In the case of payments related to securities transactions and financial derivatives, the reports must contain the data

in accordance with Annex Z10 “Securities transactions and financial derivatives in foreign trade and payments transactions”.

(5) The reports must contain meaningful data on the underlying performances or the basic transaction and the corresponding numbers of Annex LV “List of performances of the Deutsche Bundesbank for the balance of payments” and in the case of payments for direct investment securitised in shares additionally the international security code number and nominal amount or number of items. In the case of payments relating to securities and financial derivatives, instead of the data on the underlying transaction the names of the securities, the international security code number and the nominal amount or number of items shall be cited.

Section 68 **Reporting of payments in transit trade**

(1) If reports must be made pursuant to Section 67 subsection 1 for transit trade transactions, the following data must be also supplied in addition to Section 67 subsection 4:

1. the designation of the good,
2. the two-digit chapter number of the list of goods for the foreign trade statistics and
3. the country in which the foreign contracting party is headquartered.

(2) The person required to submit the report pursuant to Section 67 subsection 1 who has reported an outgoing payment in transit trade and thereafter imports or transfers the transit trade good into Germany must report the originally reported amount as “Cancellation in transit trade” to the Deutsche Bundesbank within the deadline of Section 71 subsection 7.

Section 69 **Reporting of payments of maritime shipping companies**

Residents who operate a maritime shipping company must in derogation from Section 67 report payments which they make or receive in connection with the operation of maritime shipping to the Deutsche Bundesbank within the deadline of Section 71 subsection 7. The report must contain the data in accordance with Annex Z8 “Revenues and outgoings of maritime shipping”.

Section 70 **Reports of the financial institutions**

(1) Domestic financial institutions must report the following to the Deutsche Bundesbank within the deadline of Section 71 subsection 8:

1. payments for the sale or the acquisition of securities and financial derivatives which the financial institution sells to foreigners or buys from foreigners on its own or third-party account, and payments which the financial institution makes to foreigners or receives from them in connection with the redemption of domestic securities; the reports must contain the data in accordance with Annex Z10 “Security transactions and financial derivatives in foreign trade and payments transactions”;
2. interest and dividend payments on domestic securities which they make to or receive from foreigners; the reports must contain the data in accordance with Annex Z11 “Payments for securities yields in foreign trade and payments transactions”;
3. incoming and outgoing payments for interest payments and similar revenues and expenses, excluding interest on securities received from or made to foreigners on their own account; the reports must contain the data in accordance with Annex Z14 “Interest income and similar revenues in foreign trade and payments transactions (excluding securities)” and Annex Z15 “Interest payments and similar expenses in foreign trade and payments transactions (excluding interest on securities)”;

4. in relation to the movement of travellers
 - a) incoming and outgoing payments from card transactions; the reports must contain the data in accordance with Annex Z12 “Incoming/outgoing payments related to the movement of travellers: card transactions”,
 - b) incoming and outgoing payments from the purchase and selling of foreign notes and coins and turnover from the sale or the dispatch of travellers cheques denominated in foreign currency; the reports must contain the data in accordance with Annex Z13 “Incoming/outgoing payments related to the movement of travellers: foreign notes and coins and travellers cheques denominated in foreign currency”.
- (2) Financial institutions within the meaning of subsection 1 shall be
 1. monetary financial institutions pursuant to Article 1 first indent of Regulation (EC) No. 25/2009 with the exception of money market funds,
 2. other credit institutions pursuant to Section 1 subsection 1 of the Banking Act and
 3. financial services institutions pursuant to Section 1 subsection 1a of the Banking Act.
- (3) Subsection 1 no. 1 and 3 shall not be applied to payments which do not exceed the amount of 12,500 euro or the equivalent value in other currency.
- (4) In the case of reports pursuant to subsection 1 no. 1, the corresponding numbers of Annex LV “List of performances of the Deutsche Bundesbank for the balance of payments” and the names of the securities, the international security code number and the nominal amount or number of items shall be cited.
- (5) To the extent that payments pursuant to subsection 1 must be reported, Section 67 shall not apply.

Division 4

Reporting deadlines, reporting offices and exceptions from the reporting requirement

Section 71

Reporting deadlines

- (1) Reports pursuant to Section 64 in accordance with Annex K3 shall be submitted once a year at the latest by the last working day of the sixth calendar month following the balance sheet date of the person required to submit the report or, where the person required to submit the report does not keep accounts, of the sixth calendar month following 31 December.
- (2) Reports pursuant to Section 65 in accordance with Annex K4 shall be submitted once a year at the latest by the last working day of the sixth calendar month following the balance sheet date of the person required to submit the report or, where the person required to submit the report is a domestic branch or permanent establishment of a foreign company which does not keep accounts, of the sixth calendar month following the balance sheet date of the foreign company.
- (3) Reports pursuant to Section 66 subsection 1 in conjunction with Section 66 subsection 2 pursuant to Annex Z5 shall be submitted monthly by the tenth calendar day of the following month on the basis of the status on the last working day of the preceding month.
- (4) Reports pursuant to Section 66 subsection 1 in conjunction with Section 66 subsection 3 pursuant to Annex Z5a sheet 1 and sheet 2 shall be submitted monthly by the twentieth calendar day of the following month on the basis of the status on the last working day of the preceding month.

(5) Reports pursuant to Section 66 subsection 1 in conjunction with Section 66 subsection 4 in accordance with Annex Z5b must be submitted by the 50th calendar day following the end of each quarter.

(6) The notification pursuant to Section 66 subsection 5 shall be submitted by the 20th calendar day of the following month for the threshold cited in Section 66 subsection 1, by the 50th calendar day following the end of each quarter for the threshold cited in Section 66 subsection 4.

(7) Reports pursuant to Section 67 subsection 1 in conjunction with Section 67 subsection 4 sentence 1 in accordance with Annex Z4, reports pursuant to Section 69 in accordance with Annex Z8 and reports of cancellations pursuant to Section 68 subsection 2 shall be submitted by the seventh calendar day of the month following the making or receipt of the payments or the import or transfer of the transit trade good.

(8) Reports pursuant to Section 67 subsection 1 in conjunction with Section 67 subsection 4 sentence 2 in accordance with Annex Z10 and reports pursuant to Section 70 subsection 1 in accordance with Annexes Z10, Z11, Z12, Z13, Z14 and Z15 must be submitted by the fifth calendar day of the following month.

Section 72

Reporting office and means of submission

(1) The reports pursuant to Sections 64 to 70 shall be submitted to the Deutsche Bundesbank by electronic means. To the extent that this Ordinance does not contain any requirements as regards form, the requirements as regards form issued by the Deutsche Bundesbank shall be observed.

(2) The Deutsche Bundesbank shall on request transmit to the Federal Ministry of Economics and Technology the data of the persons required to submit reports pursuant to Sections 64 and 65 in an appropriate form.

(3) Reports can be submitted in a form other than by electronic means where the Deutsche Bundesbank has approved this and the formal requirements enacted are respected.

Section 73

Exceptions

The Deutsche Bundesbank can

1. permit simplified reports or derogations from reporting deadlines or procedures for individual persons or groups of persons required to submit reports or
2. exempt on a temporary or revocable basis individual persons or groups of persons required to submit reports from a reporting requirement,

to the extent that special reasons exist for this or this does not affect the purpose of the reporting requirements.

Chapter 8

Restrictions against certain countries and persons

Division 1

Prohibitions of exports, trafficking and brokering

Section 74

Prohibitions of exports of goods cited in Part I Section A of the Export List

(1) The sale, export and transit of goods cited in Part I Section A of the Export List from Germany or via Germany or their shipment using a ship bearing the Federal flag, or an aircraft bearing the national insignia of the Federal Republic of Germany to the following countries shall be prohibited:

1. Belarus,
2. Burma/Myanmar,

3. Côte d'Ivoire,
4. Democratic Republic of the Congo,
5. Democratic People's Republic of Korea,
6. Eritrea,
7. Iraq,
8. Iran,
9. Lebanon,
10. Liberia,
11. Libya,
12. Republic of Guinea,
13. Zimbabwe,
14. Somalia,
15. Sudan and South Sudan,
16. Syria.

(2) The sale, export and transit of goods covered by Part I Section A of the Export List from Germany or via Germany or their shipment using a ship or an aircraft entitled to bear the Federal flag or the national insignia of the Federal Republic of Germany shall be prohibited to natural or legal persons, groups, organisations or establishments which are cited

1. in the list in the Annex to Council Regulation (EU) No. 1169/2012 of 10 December 2012 implementing Article 2(3) of Regulation (EC) No. 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Implementing Regulation (EU) No. 542/2012 (OJ L 337 of 11 December 2012, p. 2) in the version applicable at the time,
2. in Annex to Council Decision 2011/486/CFSP of 1 August 2011 concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan (OJ L 199 of 2 August 2011, p. 57) in the version applicable at the time,
3. in Annex I to Council Regulation (EC) No. 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al-Qaida network (OJ L 139 of 29 May 2002, p. 9) in the version applicable at the time,
4. in Annex I to Council Regulation (EU) No. 356/2010 of 26 April 2010 imposing certain specific restrictive measures directed against certain natural or legal persons, entities or bodies, in view of the situation in Somalia (OJ L 105 of 27 April 2010, p. 1) in the version applicable at the time.

Section 75

Prohibition of trafficking and brokering transactions relating to goods cited in Part I Section A of the Export List

(1) Trafficking and brokering transactions relating to goods cited in Part I Section A of the Export List which are directly or indirectly destined for persons, organisations or institutions in the following countries shall be prohibited:

1. Belarus,

2. Burma/Myanmar,
3. Côte d'Ivoire,
4. Democratic Republic of the Congo,
5. Democratic People's Republic of Korea,
6. Iran,
7. Lebanon,
8. Libya,
9. Zimbabwe,
10. Sudan and South Sudan,
11. Syria.

(2) The prohibition pursuant to subsection 1 shall also apply if the goods are destined for use in the following countries:

1. Belarus,
2. Democratic Republic of the Congo,
3. Democratic People's Republic of Korea,
4. Iran,
5. Lebanon,
6. Libya,
7. Zimbabwe,
8. Sudan and South Sudan,
9. Syria.

Section 76

Exceptions from Section 74 subsection 1 and Section 75

(1) In derogation from Section 74 subsection 1 and Section 75 the sale, export, transit or trafficking and brokering transactions can be authorised under the preconditions of subsections 2 to 17.

(2) Subsection 1 shall apply with reference to Belarus for

1. non-lethal military goods which are destined exclusively for humanitarian or protective purposes or for capacity-building programmes of the United Nations and the European Union or for crisis-management operations of the European Union and the United Nations,
2. vehicles which are not destined for battle deployment which have been manufactured or fitted subsequently with materials to provide ballistic protection and are exclusively destined for the protection of the staff of the European Union and its Member States in Belarus, and
3. protective clothing which is temporarily exported to Belarus by the staff of the United Nations, the European Union or its Member States, by media representatives, humanitarian helpers, development workers or staff attached to these persons for their personal use only.

(3) Subsection 1 shall apply with reference to Burma/Myanmar for

1. non-lethal military goods which are destined exclusively for humanitarian or protective purposes or for capacity-building programmes of the United Nations and the European Union,
2. goods which are destined for crisis-management operations of the European Union and the United Nations,
3. mine-clearing equipment and material for use in mine-clearing operations and
4. protective clothing which is temporarily exported to Burma/Myanmar by the staff of the United Nations, the European Union or its Member States, by media representatives, humanitarian helpers, development workers or staff attached to these persons for their personal use only.

(4) Subsection 1 shall apply with reference to Côte d'Ivoire for

1. goods which are destined exclusively to support the United Nations Operation in Côte d'Ivoire (UNOCI) and the French troops supporting the mission or for their use,
2. non-lethal military equipment which is destined exclusively for humanitarian or protective purposes, including the corresponding equipment which is destined for crisis-management operations of the European Union, the United Nations, the African Union and the Economic Community of West African States (ECOWAS),
3. goods which are temporarily exported to Côte d'Ivoire and are destined for the troops of a state which is acting in compliance with international law solely and directly for the purpose of facilitating the evacuation of its nationals and persons for whom it bears consular responsibility in Côte d'Ivoire,
4. non-lethal military equipment related to the enforcement of legal provisions which is destined exclusively to enable the security forces of Côte d'Ivoire to exercise force solely in an appropriate and proportionate manner in maintaining public order,
5. protective clothing, including body armour vests and military helmets, which is exported to Côte d'Ivoire temporarily by the staff of the United Nations, the European Union or its Member States, by media representatives, humanitarian helpers, development workers and staff attached to these persons for their personal use only, and
6. goods which are destined exclusively to support the reform of the security sector in Côte d'Ivoire.

(5) Subsection 1 shall apply with reference to the Democratic Republic of the Congo for

1. goods which are destined exclusively to support or to be used by army and police units of the Democratic Republic of the Congo if these units
 - a) have completed their integration into the army and police units of the Democratic Republic of the Congo,
 - 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 the Congo, or
 - c) are integrated into army and police units of the Democratic Republic of the Congo in the sovereign territory of the Democratic Republic of the Congo outside the provinces of North and South Kivu and the Ituri district,
2. goods for the exclusive purpose of the support of or use by the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and
3. non-lethal military equipment which is destined exclusively for humanitarian or protective purposes.

(6) With reference to the Democratic People's Republic of Korea, subsection 1 shall apply to vehicles which are not destined for battle deployment which have been manufactured or fitted subsequently with materials to provide ballistic protection and are exclusively destined for the protection of the staff of the European Union and its Member States in the Democratic People's Republic of Korea.

(7) Subsection 1 shall apply with reference to Eritrea for

1. protective clothing, including body armour vests and military helmets, which is exported to Eritrea temporarily by the staff of the United Nations, by media representatives, humanitarian helpers, development workers and staff attached to these persons for their personal use only, and
2. non-lethal military goods which are destined exclusively for humanitarian or protective purposes.

(8) Subsection 1 shall apply with reference to Iraq for goods which are needed by the Government of Iraq or the multinational force deployed by United Nations Security Council Resolution 1511 (2003) for the purpose of United Nations Security Council Resolution 1546 (2004).

(9) Subsection 1 shall apply with reference to Iran to vehicles which are not destined for battle deployment which have been manufactured or fitted subsequently with materials to provide ballistic protection and are exclusively destined for the protection of the staff of the European Union and its Member States in Iran.

(10) Subsection 1 shall apply with reference to Lebanon for

1. goods which are not supplied directly or indirectly to combat groups whose disarmament has been demanded by the United Nations Security Council in its Resolutions 1559 (2004) and 1680 (2006) and the supply of which has been authorised by the Government of Lebanon or the United Nations Interim Force in Lebanon (UNIFIL),
2. goods which are destined for use by UNIFIL in the context of its mission or by the Lebanese armed forces, and
3. protective clothing which is temporarily exported to Lebanon by staff of the United Nations, the European Union or its Member States.

(11) Subsection 1 shall apply with reference to Liberia for

1. goods which are destined exclusively to support the United Nations mission in Liberia (UNOCI) or to be used by it,
2. non-lethal military goods which are destined exclusively for humanitarian or protective purposes, and
3. protective clothing which is temporarily exported to Liberia by the staff of the United Nations, by media representatives, humanitarian helpers, development workers or staff attached to these persons for their personal use only.

(12) Subsection 1 shall apply with reference to Libya for

1. non-lethal military goods which are destined exclusively for humanitarian or protective purposes,
2. other supply, sale or passing on of military equipment,
3. protective clothing, including body armour vests and military helmets, which is temporarily exported to Libya by the staff of the United Nations, the European Union or its Member States, by media representatives, humanitarian helpers, development workers or staff attached to these persons for their personal use only,

4. military equipment and related goods of all types which are destined exclusively for support of the Libyan Government in the fields of security and disarmament, and

5. small arms and light weapons and related goods which are temporarily exported to Libya solely for use by the staff of the United Nations, media representatives, humanitarian helpers, development workers or staff attached to these persons.

(13) Subsection 1 shall apply with reference to the Republic of Guinea for

1. non-lethal military equipment which is destined exclusively for

a) humanitarian or protective purposes,

b) capacity-building programmes of the United Nations and the European Union,

c) crisis-management operations of the European Union and the United Nations, or

d) enabling the police forces of the Republic of Guinea to preserve public order,

2. vehicles which are not destined for battle deployment which have been manufactured or fitted subsequently with materials to provide ballistic protection and are exclusively destined for the protection of the staff of the European Union and its Member States in the Republic of Guinea,

3. the return of helicopters not destined for battle deployment whose military equipment has been removed and which are used exclusively by the authorities of the Republic of Guinea to the extent that the Government of the Republic of Guinea has first given written assurance that the use of the helicopters will remain under civilian control and that the helicopters will not be furnished with military equipment,

4. protective clothing, including body armour vests and military helmets, which is temporarily exported to the Republic of Guinea by the staff of the United Nations, the European Union or its Member States, by media representatives, humanitarian helpers, development workers or staff attached to these persons for their personal use only, and

5. explosive substances and related equipment exclusively for civilian use in mining and in the context of infrastructure investment to the extent that the storage and use is monitored and audited by an independent body and the providers of the related services are identified.

(14) Subsection 1 shall apply with reference to Zimbabwe for

1. non-lethal military goods which are destined exclusively for humanitarian or protective purposes or for capacity-building programmes of the United Nations and the European Union,

2. goods which are destined for crisis-management operations of the European Union and the United Nations, and

3. protective clothing which is temporarily exported to Zimbabwe by the staff of the United Nations, the European Union or its Member States, by media representatives, humanitarian helpers, development workers or staff attached to these persons for their personal use only.

(15) Subsection 1 shall apply with reference to Somalia for

1. goods which are destined exclusively for the support of or use by the mission of the African Union in Somalia pursuant to paragraph 4 of United Nations Security Council Resolution 1744 (2007),

2. goods which are destined exclusively for the support of or use by the strategic partners of the mission of the African Union in Somalia which are acting exclusively in the context of the strategic concept of the African Union of 5 January 2012 and in co-operation and co-ordination with the mission of the African Union in Somalia,
 3. goods which are destined exclusively for use by states and regional organisations combating piracy pursuant to paragraph 10 of United Nations Security Council Resolution 1846 (2008) and paragraph 6 of United Nations Security Council Resolution 1851 (2008),
 4. goods which are destined exclusively to build up the institutions of the security sector in harmony with paragraphs 1, 2 and 3 of United Nations Security Council Resolution 1744 (2007),
 5. non-lethal military goods which are destined exclusively for humanitarian or protective purposes,
 6. equipment for the capacity-building programmes of the European Union or its Member States carried out in the context of the peace and reconciliation process,
 7. protective clothing which is temporarily exported to Somalia by the staff of the United Nations, by media representatives and humanitarian helpers and development workers and staff attached to these persons for their personal use only,
 8. goods which are destined exclusively to support or to be used by the staff of the United Nations, including the United Nations Political Office for Somalia or its successor missions, and
 9. goods which are destined exclusively to build up the security forces of the Federal Government of Somalia and to ensure the security of the Somali population.
- (16) Subsection 1 shall apply with reference to South Sudan for
1. non-lethal military equipment which is destined exclusively for
 - a) humanitarian or protective purposes,
 - b) monitoring the human rights situation,
 - c) capacity-building programmes of the United Nations, the African Union, the European Union and the European Community, or
 - d) support for the reform of the security sector in South Sudan,
 2. material which is destined exclusively for crisis-management operations of the United Nations, the African Union or the European Union, and
 3. mine-clearing equipment and material for use in mine-clearing operations.
- (17) Subsection 1 shall apply with reference to Syria for
1. goods which are destined exclusively the support of or use by the United Nations Disengagement Observer Force (UNDOF),
 2. non-lethal military goods which are destined exclusively for
 - a) humanitarian or protective purposes,
 - b) the protection of the civilian population,
 - c) capacity-building programmes of the United Nations and the European Union,

- d) crisis-management operations of the European Union and the United Nations, or
 - e) the national coalition of the forces of the Syrian revolution and opposition for the purpose of the protection of the civilian population,
3. vehicles which are not destined for battle deployment which have been manufactured or fitted subsequently with materials to provide ballistic protection and are exclusively destined for the protection of the staff of the European Union and its Member States in Syria, and
4. protective clothing which is temporarily exported to Syria by the staff of the United Nations, the European Union or its Member States, by media representatives, humanitarian helpers, development workers or staff attached to these persons solely for their own use.

Division 2
Import and transfer prohibitions

Section 77
Prohibitions of the import of goods covered by Part I Section A of the Export List from certain countries

(1) The import and acquisition of goods covered by Part I Section A of the Export List from the following countries shall be prohibited, irrespective of whether the goods originated from these countries:

- 1. Democratic People's Republic of Korea,
- 2. Eritrea,
- 3. Iran,
- 4. Libya,
- 5. Syria.

(2) This prohibition shall also apply to the transport, including the use of a ship or an aircraft which is entitled to bear the Federal flag or the national insignia of the Federal Republic of Germany.

Division 3
Special licensing requirements

Section 78
Licensing requirements for the export of certain equipment

The export of equipment for the manufacture of bank notes, stamps, special bank note or stamp paper shall be subject to a licence if the purchasing country or country of destination is the Democratic People's Republic of Korea.

Division 4
Offences committed by Germans abroad

Section 79
Restrictions pursuant to Section 5 subsection 5 of the Foreign Trade and Payments Act

Sections 74 to 77 shall also apply to Germans abroad.

Chapter 9
Criminal and administrative offences

**Division 1
Criminal offences**

**Section 80
Criminal offences**

Pursuant to Section 17 subsection 1, subsection 2 to 5 of the Foreign Trade and Payments Act, punishment shall be imposed on anyone who intentionally or recklessly

1. in violation of Section 74, also in conjunction with Section 79, sells, exports, transits or transports goods cited there,
2. in violation of Section 75 subsection 1, also in conjunction with Section 75 subsection 2, in both cases also in conjunction with Section 79, undertakes a trafficking and brokering transaction or
3. in violation of Section 77 subsection 1, also in conjunction with Section 77 subsection 2, in both cases also in conjunction with Section 79, imports, acquires or transports goods cited there.

**Division 2
Administrative offences**

**Section 81
Administrative offences - violations of provisions of the Foreign Trade and Payments Ordinance**

(1) An administrative offence as defined by Section 19 subsection 3 no. 1 letter a of the Foreign Trade and Payments Act is committed by anyone who intentionally or negligently

1. in violation of Section 7 issues a boycott declaration,
2. without a licence pursuant to Section 10 subsection 1 sentence 1 or subsection 2 sentence 1 exports a good cited there,
3. without a licence pursuant to Section 11 subsection 2 transfers goods cited there,
4. in violation of Section 11 subsection 4 sentence 3 transfers goods cited there,
5. uses a good in violation of Section 29 sentence 2,
6. violates an enforceable order pursuant to Section 44 subsection 3, Section 59 subsection 1 sentence 1 or subsection 2 no. 1 or Section 62 or
7. effects a payment or another performance in violation of Section 54 subsection 1.

(2) An administrative offence within the meaning of Section 19 subsection 3 no. 1 letter b of the Foreign Trade and Payments Act is committed by anyone who intentionally or negligently

1. in violation of Section 5 subsection 1 sentence 1 does not return a certified document or does not do so in time,
2. in violation of Section 6 subsection 1 does not retain a document or does not do so for at least five years,
3. in violation of Section 12 subsection 1, also in conjunction with Section 20, does not present an export consignment or does not do so correctly or in time,
4. in violation of Section 13 subsection 1 does not submit a cargo manifest or does not do so correctly or in time,

5. in violation of Section 13 subsection 5 does not present a declaration or does not do so correctly, in the prescribed manner or in time,
6. in violation of Section 14 subsection 3 or subsection 4, in each case also in conjunction with Section 20, removes a good, causes it to be removed, loads a good or causes it to be loaded,
7. in violation of Section 15 subsection 1 or Section 17 subsection 4, also in conjunction with Section 20, does not provide the data cited there or does not do so correctly, fully or in time,
8. in violation of Section 17 subsection 5 sentence 1, also in conjunction with Section 20, does not submit an export registration cited there or does not do so correctly, fully or in time,
9. in violation of Section 22 subsection 1 does not inform the recipient or does not do so correctly, fully or in time,
10. in violation of Section 22 subsection 2 sentence 1 or Section 26 subsection 1 sentence 1 does not keep a register or a record or does not do so correctly, fully or in time,
11. in violation of Section 23 subsection 1 sentence 2 does not ensure that the export licence is available,
12. in violation of Section 23 subsection 1 sentence 3 does not transmit the export licence or does not do so in time,
13. in violation of Section 23 subsection 5 sentence 2 or Section 25 subsection 1 does not present the export licence or a document cited in it or does not do so in time,
14. in violation of Section 29 sentence 1 does not make a communication or does not do so correctly, fully or in time,
15. in violation of Section 30 subsection 3 sentence 1, also in conjunction with Section 48 sentence 2, does not provide documentation or does not do so correctly, fully or in time,
16. in violation of Section 30 subsection 3 sentence 2, also in conjunction with Section 48 sentence 2,
 - a) does not make a notification or does not do so correctly, fully or in time or
 - b) does not return a certificate or does not do so in time and does not make a communication or does not do so correctly, fully or in time,
17. in violation of Section 32 subsection 1 sentence 1 does not ensure that a document mentioned there is available,
18. in violation of Section 32 subsection 3 does not submit a document cited there or does not do so correctly or in time,
19. in violation of Section 64 subsection 1, Section 65 subsection 1, Section 66 subsection 1 or subsection 4 sentence 1, Section 67 subsection 1, also in conjunction with Section 68 subsection 1, in violation of Section 69 or Section 70 subsection 1, does not make a report, or does not do so correctly, fully or in time or
20. in violation of Section 68 subsection 2 does not make a notification or does not do so correctly, fully or in time.

Section 82

Administrative offences – violations of acts of the European Union

(1) An administrative offence within the meaning of Section 19 subsection 4 sentence 1 no. 1 of the Foreign Trade and Payments Act is committed by anyone who intentionally or negligently in violation of

1. Article 2(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 L 361 of 10 December 1992, p. 1),
2. Article 2(1) of Council Regulation (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 the United Nations Security Council Resolution 883 (1993) and related resolutions (OJ L 295 of 30 November 1993, p. 4),
3. Article 2(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 of 2 June 1994, p. 4),
4. Article 2(1) of Council Regulation (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 the United Nations Security Council Resolution 757 (1992) and related resolutions (OJ L 182 of 16 July 1994, p. 1), or
5. Article 38(1) of Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ L 88 of 24 March 2012, p. 1, L 332 of 4 December 2012, p. 31), most recently amended by Regulation (EU) No 1264/2012 (OJ L 356 of 22 December 2012, p. 55),

fulfils a claim cited there.

(2) An administrative offence within the meaning of Section 19 subsection 4 sentence 1 no. 2 of the Foreign Trade and Payments Act is committed by anyone who violates Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ No. L 253 of 11 October 1993, p. 1) most recently amended by Regulation (EU) No. 1063/2010 (OJ L 307 of 23 November 2010, p. 1), by intentionally or negligently

1. violating an enforceable condition regarding the content or the deadline for the supplementary customs declaration related to an approval pursuant to Article 282(1) in conjunction with Article 262(1) sentence 2,
2. violating an enforceable condition regarding the content of an accompanying document related to an approval pursuant to Article 283 sentence 1 in conjunction with Article 287(1) sentence 1 letter d,
3. violating an enforceable condition regarding the presentation of the supplementary customs declaration or the deadline for its presentation related to an approval pursuant to Article 283 sentence 1 in conjunction with Article 287(1) sentence 1 letter e,
4. violating Article 285(1) letter a by not informing the customs office of export or not informing it correctly, fully or in time,
5. violating Article 792a(1) sentence 1 by not informing the customs office of export or not informing it correctly, fully or in time,

6. performing the altered contract of carriage without approval pursuant to Article 792a(2) sentence 1,
7. violating an enforceable condition on the notification of a goods shipment related to an exemption pursuant to Article 285a(1) sentence 2 letter a,
8. violating an enforceable condition on the addressing of goods in its accounts prior to shipment from the places cited in Article 253(3) or Article 283 sentence 1 related to an exemption pursuant to Article 285a(1) sentence 2 letter c or
9. in violation of Article 793(1), also in conjunction with Article 841(1), not presenting copy no. 3 of the single administrative document or the export accompanying document of the customs office of export or not presenting the goods released for exports to this customs office or doing so incorrectly as the declarant prior to the exit of the goods from the customs territory of the European Union.

(3) An administrative offence within the meaning of Section 19 subsection 4 sentence 1 no. 2 of the Foreign Trade and Payments Act is committed by anyone who, without authorisation pursuant to Article 3(2) sentence 1 of Council Regulation (EC) No. 517/94 of 7 March 1994 on common rules for imports of textile products from certain third countries not covered by bilateral agreements, protocols or other arrangements, or by other specific Community import rules (OJ L 67 of 10 March 1994, p. 1), most recently amended by Regulation (EU) No. 1165/2012 (OJ L 336 of 8 December 2012, p. 55), intentionally or negligently transfers to free circulation in the Community an import cited there.

(4) An administrative offence within the meaning of Section 19 subsection 4 sentence 1 no. 1 of the Foreign Trade and Payments Act is committed by anyone who, in violation of Article 5(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 L 309 of 29 November 1996, p. 1, L 179 of 8 July 1997, p. 10), amended by Regulation (EC) No. 807/2003 (OJ L 122 of 16 May 2003, p. 36), intentionally or negligently fulfils a demand or a prohibition cited there. To the extent that the provisions cited in sentence 1 refer to the Annex of Regulation (EC) No. 2271/96, this Annex shall apply in the version applicable at the time.

(5) An administrative offence within the meaning of Section 19 subsection 4 sentence 1 no. 2 of the Foreign Trade and Payments Act is committed by anyone who intentionally or negligently does not present a container or a related certificate to a Community authority for examination or does not do so in time in violation of Article 4(1) of Council Regulation (EC) No. 2368/2002 of 20 December 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds (OJ L 358 of 31 December 2002, p. 28), most recently amended by Regulation (EC) No. 1268/2008 (OJ L 338 of 17 December 2008, p. 39).

(6) An administrative offence within the meaning of Section 19 subsection 4 sentence 1 no. 1 of the Foreign Trade and Payments Act is committed by anyone who intentionally or negligently acquires, conveys or participates in the issue of a debt security or a security in violation of Article 9a letter a sentence 1 of Council Regulation (EC) No. 560/2005 of 12 April 2005 imposing certain restrictive measures directed against certain persons and entities in view of the situation in Côte d'Ivoire (OJ L 95 of 14 April 2005, p. 1), most recently amended by Regulation (EU) No. 193/2012 (OJ L 71 of 9 March 2012, p. 5).

(7) An administrative offence within the meaning of Section 19 subsection 4 sentence 1 no. 1 of the Foreign Trade and Payments Act shall be committed by anyone who violates Council Regulation (EC) No. 329/2007 of 27 March 2007 concerning restrictive measures against the Democratic People's Republic of Korea (OJ L 88 of 29 March 2007, p. 1) most recently amended by Regulation (EU) No. 370/2013 (OJ L 111 of 23 April 2013, p. 43), by intentionally or negligently

1. opening a new representation or founding a new branch, a new joint venture or a subsidiary in violation of Article 5a(1),
2. concluding an agreement referring to the opening of a new representation or the founding of a new branch or subsidiary in violation of Article 5a(2) letter b,
3. purchasing a state or state-guaranteed bond or providing brokering services relating to the purchase of a state or state-guaranteed bond in violation of Article 9a letter a or letter b or
4. not refusing the execution of a transaction in violation of Article 11a(1) letter b.

(8) An administrative offence within the meaning of Section 19 subsection 4 sentence 1 no. 2 of the Foreign Trade and Payments Act is committed by anyone who intentionally or negligently does not present an import licence or does not do so in time in violation of Article 2(1) sentence 2 of Council Regulation (EC) No. 1340/2008 of 8 December 2008 on trade in certain steel products between the European Community and the Republic of Kazakhstan (OJ L 348 of 24 December 2008, p. 1).

(9) An administrative offence within the meaning of Section 19 subsection 4 sentence 1 no. 1 of the Foreign Trade and Payments Act is committed by anyone who violates Council Regulation (EC) No. 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134 of 29 May 2009, p. 1, L 224 of 27 August 2009, p. 21) most recently amended by Regulation (EU) No. 388/2012 (OJ L 129 of 16 May 2012, p. 12), by intentionally or negligently

1. violating an enforceable order pursuant to Article 6(1) sentence 1 or
2. transferring dual-use items within the Community without an authorisation pursuant to Article 22(1) sentence 1.

To the extent that the provisions cited in sentence 1 refer to Annex I or Annex IV of Regulation (EC) No. 428/2009, these Annexes shall apply in the version applicable at the time.

(10) An administrative offence within the meaning of Section 19 subsection 4 sentence 1 no. 1 of the Foreign Trade and Payments Act is committed by anyone who violates Council Regulation (EU) No. 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No. 442/2011 (OJ L 16 of 19 January 2012, p. 1, L 259 of 27 September 2012, p. 7), most recently amended by Regulation (EU) No. 363/2013 (OJ L 111 of 23 April 2013, p. 1, L 123 of 4 May 2013, p. 28, L 127 of 9 May 2013, p. 27), by intentionally or negligently

1. purchasing a state or state-guaranteed bond or providing brokering services relating to the purchase of a state or state-guaranteed bond in violation of Article 24 letter a or letter b,
2. opening a new account, entering into a correspondent bank relationship, opening a new representation or founding a branch, subsidiary or a new joint venture in violation of Article 25(1) or
3. concluding an agreement referring to the opening of a representation or the founding of a branch or subsidiary in violation of Article 25(2) letter b.

(11) An administrative offence within the meaning of Section 19 subsection 4 sentence 1 no. 1 of the Foreign Trade and Payments Act is committed by anyone who violates Council Regulation (EU) No. 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No. 961/2010 (OJ L 88 of 24 March 2012, p. 1, L 332 of 4 December 2012, p. 31), most recently amended by Regulation (EU) No. 1264/2012 (OJ L 356 of 22 December 2012, p. 55), by intentionally or negligently

1. accepting or authorising the granting of a loan or a credit, a participation or a joint venture in violation of Article 22,
2. not notifying or not doing so correctly, fully, in the prescribed manner or in time in violation of Article 30(3) letter a sentence 2 or (6) letter d sentence 1, Article 30a(1) letter a sentence 2 or letter b sentence 2 or Article 31(1),
3. conducting a money transfer without authorisation pursuant to Article 30(3) letter b sentence 1 or letter c sentence 1 or Article 30a(1) letter c,
4. not refusing the execution of a transaction in violation of Article 30(6) letter b,
5. opening a new bank account in violation of Article 33(1) letter a,
6. entering into a correspondent bank relationship in violation of Article 33(1) letter b,
7. opening a new representation or establishing a branch or a subsidiary in violation of Article 33(1) letter c,
8. concluding an agreement referring to the opening of a representation or the founding of a branch or subsidiary in violation of Article 33(2) letter b, or
9. purchasing a state or state-guaranteed bond or providing brokering services relating to the purchase of a state or state-guaranteed bond in violation of Article 34 letter a or letter b.

To the extent that the provisions cited in sentence 1 refer to Annex I to VIIb of Regulation (EU) No. 267/2012, these Annexes shall apply in the version applicable at the time.

Chapter 10
Entry into force

Section 83
Entry into force, expiry

This Ordinance shall enter into force on the day of the entry into force of the Act Modernising Foreign Trade and Payments Law pursuant to Article 4 subsection 1 sentence 1. At the same time, the Foreign Trade and Payments Ordinance in the version of 22 November 1993 (Federal Law Gazette I p. 1934, 2493), most recently amended by Article 27(12) of the Act of 4 July 2013 (Federal Law Gazette I p. 1981), shall expire.