



Federal Ministry  
of Economics  
and Technology

## External economic relations and Europe

# Intra-Community Transfer Directive - Implementation in the German Export Control System

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## Aim of the directive 2009/43/EC

### **Role of the EU becomes more and more important for the defence sector.**

- **Common Position** 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment

regulates exports outside the EU.

- **Directive** 2009/43/EC of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community

regulates transfers within the EU.

## Aim of the directive 2009/43/EC

- ▶ Creating a competitive environment, international competition is highly welcome.
- ▶ No „Buy European“ policy.
- ▶ Establishment of an internal market, including abolition of obstacles to the free movement of goods and service within the EU.

## Legislative changes in Parliament

- ▶ Certification of companies needs a legislative basis.
- ▶ The War Weapons Control Law needs be adjusted (general transfer license).
- ▶ Parliamentary discussion ongoing (BR-DrS 62/11, BT-DrS 17/5262).

## Introduction of a general licence for temporary transfers

Implementing the EU transfer directive, BAFA enacted General Licence no.24 in Febr. 2010 concerning **temporary transfers** within the EU:

- ▶ maintenance or repair,
  - ▶ including replacement of specific components
  - ▶ including tools needed for repair, or
  
- ▶ demonstration, evaluation or exhibition.

## Introduction of a general licence for temporary transfers

### Broad product coverage:

all defence items except those under specific control by the German War Weapons Control Act.

### Long validity period:

twelve months for maintenance and repair,  
six months for demonstration, evaluation and exhibition.

## Drafting of general licences for European armed forces and licensed companies

- ▶ General licence for **armed forces** needs to be defined:  
*probably*: broad product coverage,  
*difficulty*: defining individual contracting authorities.
- ▶ General licence for **certified companies** needs to be drafted:  
*probably*: more limited product coverage, basically products which are widely used for integration, i.e. components for ground vehicles, aircrafts and ships

## High standards for the licensed companies

Details of the **certification procedure** to be drafted:

- ▶ The new regulations should be transparent,
- ▶ robust and swift, but
- ▶ not create unnecessary burdens.

BAFA will use the Commission recommendation Jan. 11, 2011 (OJ L 11/62) and rely on existing administrative practices for global licences.

## Strict end use requirements

- ▶ Suppliers have to inform recipients of the terms and conditions of the transfer licences (art. 8 para. 1).
- ▶ Suppliers have to keep records (art. 8 para. 2).
- ▶ When applying for an export licence for a third country outside the EU, recipients have to declare that they have complied with eventual export limitations from another Member State (art. 10).

## Strict end use requirements

- ▶ Certified companies which may receive goods under a general license have to establish an internal compliance programme.
- ▶ They have to appoint a senior compliance officer.
- ▶ They have to keep records.
- ▶ BAFA will closely monitor their compliance.

Any questions ?

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