

**Circular Directive No. 10/2003 referring to the Granting of
Global Export Licences for Dual-Use Items and Armaments
of 2 June 2003
(Federal Gazette No. 107 of 12.06.2003)**

I. Principle

Pursuant to Art. 6 EC Dual-Use REG (EC REG No. 1334/2000) and section 2 of the Foreign Trade and Payments Regulation (AWV) the Federal Office of Economics and Export Control (BAFA) may grant Global Export Licences (SAG). SAG authorise a number of exports or transfers to various consignees in one or several countries. They are granted in accordance with the export control legislation and export control policies, in particular with Art. 8 EC Dual-Use REG, the EU Code of Conduct, section 7 AWG as well as the Political Principles of the Federal Government concerning the export of war weapons and other military equipment of 19 January 2000.

SAG may be granted for both, dual-use items (Annex I of EC Dual-Use REG and Part I Section C of Export List, Annex AL to AWV), and armaments (Part I Section A of AL).

In the case of SAG for dual-use items, it should be taken into consideration that no licences are granted for the export of certain goods or for the export of certain goods to certain countries. Detailed information may be collected from BAFA.

SAG for armaments (Part I Section A of AL) are only granted under governmental co-operation programmes or other co-operations with state participation. The granting of licences is basically restricted to NATO and NATO-equivalent countries.

II. Entitlement to file an application and pre-requisites for the granting of a licence

1. Entitlement and volume of application

The applicant shall prove that he/she is entitled to apply for an SAG if he/she filed fifty individual applications within a period of twelve months prior to the application. BAFA may deviate from this condition if a considerable increase in the application volume is to be expected and is substantiated. Besides this, the applicant has to substantiate prima facie the

value of the goods on the basis of actual business requirements when applying for and extending a SAG.

2. Person responsible for exports and export control within the company

In accordance with the principles of the federal government in connection with the reliability of exporters of war weapons and related goods of 25. July 2001 (Federal Gazette, p. 17 177) and of 1 August 2001 (Federal Gazette p. 17281) as amended, SAG are only granted to reliable exporters.

Irrespective of the groups of cases mentioned, the procedure for granting a SAG always presupposes the nomination of a person responsible for exports. One of his/her responsibilities is to establish an internal export control programme in the company in order to comply with the export control provisions. In addition, the applicant must submit a list of persons responsible for the observance of these provisions. It must be guaranteed that these persons are well-informed about the relevant export control legislation, and that necessary awareness and further training measures in the field of foreign trade law have been taken.

It shall be ensured that the SAG is used in accordance with the provisions of the War Weapons Control Act (KWKG).

3. Consignees

SAG are basically granted to certain consignees only who are explicitly named in the SAG. In exceptional cases, they can also authorise direct deliveries to contracting parties of that consignee if they are undertaken by order of the consignee. However, this only applies to supplies within the consignee's country of spare parts for such goods which are legitimately delivered by the consignee to his contracting party (end-user) after the receipt of the goods.

4. Reliability of consignees and end-users

SAG are only granted to reliable consignees. The applicant has to check the consignee's reliability, particularly with regard to the observance of the use and end-use of the goods, and inform BAFA upon request about the results of the review. The same applies to the reliability of the end-user for direct supplies that are foreseeable at the time when the application is made.

5. End-use documents

Pursuant to Art. 6 para. 2 EC Dual-Use REG and section 17 para. 2 AWV, the applicant has to prove the end-use of the goods indicated in the licensing procedure by providing an end-use statement.

a) Dual-use items

The end-use documents must basically correspond with the model forms of the BAFA announcement on end-use documents under section 17, para. 2 AWV (Federal Gazette No. 60b of 27 March 2002) as amended, and must contain statements on the country of destination and re-export reservations as set out there.

b) Armaments

The principal manager (main contractor) has to submit parts of the governmental cooperation contracts or the governmental order, respectively. They serve to guarantee the end-use of the armaments. An additional submission of other end-use documents is not required. The applicant has to file his applications to BAFA via the principal manager.

III. Collateral clauses and validity

The SAG can be provided with collateral clauses (section 36 para. 2 Administrative Procedures Act), which may be adopted, amended or supplemented any time. (Section 36 para. 2 no. 5 of Administrative Procedures Act). SAG are subject to revocation.

The applicant may be subjected to the following conditions

- to inform BAFA about violations, particularly of the content of end-use related statements by consignee and end-user,
- to explain to BAFA upon request that he/she made sure that consignee and end-user are reliable according to section II no. 4 of the Circular Directive,
- submits all commercial documents being relevant for export control ,
- informs BAFA in regular periods about the exports and transfers made under the SAG,
- proves to BAFA the efficiency of the in-company export control. Normally a presentation in the company seems suitable and necessary.

The Global Export Licence has usually a validity of two years. It may be extended once for two years.

IV. Entry into force

The Circular Directive enters into force immediately.

The Circular Directive No. 7/97 of 25 April 1997 (Federal Gazette p. 6225) is repealed.

The Global Export Licences granted in accordance with the Circular Directive No. 7/97 of 25 April 1997 remain unaffected.

Berlin, 2 June 2003

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Federal Ministry
of Economics and Labour

By order

Dr. von Portatius