



Federal Office
for Economic Affairs
and Export Control

PSC – Workshop on the occasion of PrepMeet 2

The Implementation of Post-Shipment Controls in Export Control Regimes – Best Practice

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<http://www.bafa.de/>



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Expression „Post-Shipment-Controls“

- Physical checks
- On the territory of the importing State
- Conducted by the exporting State
- After the transfer to an authorized end user



Implementation Process – German Experience – Step by Step

Political
Commit-
ment

What?
(items)

Where?
(countries
and
regions)

Resources

Legal
and/or
practical
aspects

Staff

Dialogue
and
Outreach

- Starting with a pilot phase
- Small legal amendments
- Effects to the licensing process
- Dialogue with industry and importing states
- Outreach via embassies
- Personnel policy and recruitment

 Federal Ministry
for Economic Affairs
and Energy

Key points for the introduction of post-shipment controls for German arms exports

As from 8 July 2015, the Federal Government is introducing an instrument for performing selective post-shipment controls for future deliveries to third countries of war weapons and specific types of firearms to supplement the strict application, stipulated in the coalition agreement, of the Political Principles Adopted by the Government of the Federal Republic of Germany for the Export of War Weapons and Other Military Equipment in 2000. The Federal Government shall, before the end of this year, supplement the Foreign Trade and Payments Ordinance accordingly on the basis of the key points below. The objective is to improve the guarantees governing end use for military goods exported from Germany. The new system of post-shipment controls centres around the following key points:

- Post-shipment controls shall initially be carried out within the framework of pilot checks. A standardised procedure shall then be developed in an interministerial process for the checks to be performed in any given year.
- The controls shall be introduced on the basis of end-use certificates in which the foreign state recipients grant Germany the right to perform on-the-spot checks. Third countries as defined by the Political Principles Adopted by the Government of the Federal Republic of Germany for the Export of War Weapons and Other Military Equipment shall be required to submit such end-use certificates.
- The goods to be inspected shall comprise all war weapons and specific types of firearms (pistols, revolvers and sniper rifles) that are destined for state recipients. Of the listed war weapons, the only exceptions are components or assemblies that are to be incorporated into weapons systems abroad.
- The purpose of the controls is to inspect whether the weapons supplied are still present in the recipient country and in the possession of the end-user specified by the end-use certificate. A visual inspection is usually sufficient for this purpose. Random checks shall be made for inspections of large quantities of arms.
- If non-compliance with the end-user certificate is ascertained or on-the-spot checks are refused despite consent given in the end-use certificate, the end-user shall face the consequences set out in Section IV (4) of the Political Principles Adopted by the Government of the Federal Republic of Germany for the Export of War Weapons and Other Military Equipment in 2000.
- In accordance with the Federal Government's organisation of responsibilities, the Federal Office for Economic Affairs and Export Control and the respective mission abroad shall be tasked with the preparation and performance of post-shipment controls.
- The funds required for preparing and performing the post-shipment controls (expenditure and personnel requirements) shall be provided from the budgets available to the relevant ministries.
- The Federal Foreign Office shall inform the affected third countries as to the introduction of post-shipment controls.
- The competitiveness of German industry and armaments cooperation with third countries must not be compromised by the post-shipment controls system.

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Adaption of Art. 21 para. 5 German Trade and Payment Ordinance

“In the case of certain countries, the Federal Office for Economic Affairs and Export Control (BAFA) can require that the application for licensing of the export of goods cited in Part I of the Export List must be accompanied by documentation **stating the agreement of the country of destination to accept on-the-spot controls by German agencies of the end-use (...)** as well as **documentation of the marking placed on the good.**”



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Post Shipment Controls in Practice – the EUC

Additionally in a case of a final public sector end-user we (I) certify that the German authorities have the right to verify the end-use of the abovementioned SALW **on-site** upon their request at **any time**.

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

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

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

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

Parties

Consignee (name, address and contact details)

Buyer (name, address and contact details) if different from consignee



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Thank you very much for your attention !



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