

Federal Act enacting the Foreign Commerce Act of 2011 (*Außenwirtschaftsgesetz 2011 – AußWG 2011*); Version of 8 March 2013

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Chapter 1

General provisions

Definitions

Section 1. (1) The following terms have the following definitions in the sense of this Federal Act:

1. 'Goods': wares, software or technology;
2. 'Wares': tangible items which may be the object of trade, as well as electricity; securities and currencies are not included;
3. 'Technology': technical knowledge, in particular technical knowledge which is not accessible to the public concerning development, production, and application, technical knowledge for operation, commissioning, installation or repair of equipment or materials;
4. 'Defence goods': goods which have been incorporated into the European Union's military goods list and have been defined in a regulation in accordance with Para 2;
5. 'Dual-use goods': goods which can be used for civil as well as military purposes, including all goods which can be used for non-explosive purposes as well as for any form of support in the production of nuclear weapons or other nuclear warheads.
6. 'Customs territory of the European Union': the territory defined in Article 3 of the Community Customs Code, Regulation (EEC) No 2913/92, OJ L 302 of 19 October 1992 p. 1;
7. 'Other EU Member State': A territory which is part of the customs territory of the European Union, but is not part of the federal territory of Austria;
8. 'Non-member state': a territory which is not part of the customs territory of the European Union;
9. 'Person or undertaking': a natural person or legal entity or registered acquiring undertaking;
10. 'Process':
 - a) Any business deal and any transaction which is deemed to be an act of importation, exportation in the sense of Item 11, as transit in the sense of Item 13, as intermediation in the sense of Items 15 or 16, as transport within the European Union in the sense of Item 18, as technical support in the sense of Item 22 or as another transaction in the sense of Item 23, and
 - b) any business deal and any transaction which leads to an acquisition in the sense of Para 1 of Section 25a;"
11. 'Exportation':
 - a) the transportation of wares from the federal territory of Austria to a non-member state, in particular by means of an export procedure in the sense of Article 161 of the Community Customs Code, re-exportation in the sense of Article 182 of the Community Customs Code or temporary exportation in the scope of a passive inward processing arrangement in the sense of Article 145 of the Community Customs Code,
 - b) the transfer of software or technology via electronic media, fax, telephone, electronic mail or other electronic carriers from the federal territory of Austria to a destination outside of the European Union;
 - c) the provision of software or technology in electronic form from the federal territory of Austria or by persons or undertakings with place of residence, permanent residence or headquarters in the federal territory of Austria for persons or undertakings in non-member states;

- d) the verbal transfer of technology from the federal territory of Austria, if the technology is described on the telephone;
12. 'Exporter':
- a) the person or undertaking for which an export declaration is issued, i.e. the person or undertaking which is a contractual partner of the recipient in the non-member state at the time of the acceptance of the application and who/which controls the shipment or temporary shipment of the goods from the customs territory of the European Union, or
 - b) the person or undertaking who/which actually controls the shipment or temporary shipment of the goods from the customs territory of the European Union, if an export contract has not been concluded or if the contractual partner is not acting on their own behalf, or
 - c) the contracting party based in the federal territory of Austria, if a person or organisation based outside of the customs territory of the European Union is entitled to the rights of disposal to the goods according to the export contract, or
 - d) if neither of the contracting parties is based in the federal territory of Austria, the person or organisation from the federal territory of Austria who/which is responsible for the transport, or
 - e) in the case of an export pursuant to Item 11(b), the person or organisation who/which decides to transfer software or technology via electronic media such as fax, telephone, electronic mail or other electronic carriers to a destination outside of the European Union, or
 - f) in the case of an export pursuant to Item 11(c), the person or organisation who/which decides to provide software or technology in electronic form to persons and organisations in non-member states, or
 - g) in the case of an export pursuant to Item 11(d), the person or organisation who/which decides on the verbal transfer of technology;
13. 'Transfer': the transport of goods to and through the customs territory of the European Union to a destination in a non-member state, if the goods do not enter into free circulation under customs law and are transported through the federal territory of Austria, even if they are reloaded there in the process; the transport of goods from the export customs office to the customs office of exit is exempt; the provisions of aviation law apply to flights in state aircraft over the federal border;
14. 'Person responsible for transit':
- a) the person or organisation who/which actually decides on the transit, or
 - b) if this person or organisation cannot be determined, the person or organisation responsible for the transport,
15. 'Intermediation between non-member states':
- a) the mediation or effectuation of transactions for the purchase, sale or delivery of goods from a non-member state to another non-member state, or
 - b) the sale or purchase of goods which are located in a non-member state for the purpose of transport to another non-member state, or
 - c) the initiation of a transfer of goods which are located in a non-member state to another non-member state by the owner;
- the exclusive provision of assistance services such as transportation, financial services, insurance or reinsurance, general advertising or sales promotion shall be exempt;
16. 'Intermediation from the Union': a process specified under Item 15 which is conducted from another EU Member State to a non-member state;
17. 'Intermediator': a person or organisation who/which conducts one or more of the processes in the sense of Item 15 or 16 and
- a) conducts said activity or activities from the federal territory of Austria, or
 - b) possesses Austrian citizenship or resides or has permanent residence in the federal territory of Austria, or
 - c) is headquartered in the federal territory of Austria;
18. 'Transport within the Union': the shipment or transport of goods from the federal territory of Austria to a recipient in another EU Member State;
19. 'Supplier': the person or undertaking with place of residence, permanent residence, headquarters or subsidiary in the European Union which is responsible for transport within the Union from a legal point of view;

20. 'Recipient': the person or undertaking with place of residence, permanent residence, headquarters or subsidiary in the European Union who/which is responsible for receiving goods upon transportation within the Union from a legal point of view;
21. 'Certified undertaking': a person or undertaking certified in Austria in accordance with Section 37 or a person or undertaking who/which has been certified in another EU Member State in accordance with the applicable legislation of European Union law as a recipient permitted to receive defence goods from other EU Member States in the scope of a general authorisation in commerce within the EU;
22. 'Technical support': any technical support, also in verbal form, associated with the repair, development, manufacturing, assembly, testing, maintenance or any other technical service, such as service in the form of instruction, consultation, training, transfer of practical knowledge or skills, if said support or service:
 - a) is rendered outside of the European Union by Austrian citizens or persons or undertakings who/which have a place of residence, permanent residence or headquarters in the federal territory of Austria, or
 - b) is provided to persons or undertakings outside of the European Union from the federal territory of Austria or by persons or undertakings with place of residence, permanent residence or headquarters in the federal territory of Austria;
23. 'Other transaction': a transaction which is subject to a restrictive measure due to the directly applicable law of the European Union in the sense of Item 24(b) or due to one of the provisions of international law specified in Section 25, as long as it does not involve import, export in the sense of Item 11, transit in the sense of Item 13, intermediation in the sense of Items 15 or 16 or technical support in the sense of Item 22;
24. 'Directly applicable law of the European Union': a directly applicable legal act enacted on the basis of the EC Treaty or the TFEU
 - a) on controlling trade in civil weapons, goods, and certain services which, in addition to potential civil applications, may be used or rendered for military purposes, for purposes of executing the death penalty, for torture or other inhumane or degrading treatment or punishment or trade in other goods, if the revenue from said trade is to be used for militant purposes;
 - b) which establishes restrictive measures, if said measures relate to goods in the sense of Item 1, and
 - c) which establishes limitations other than those specified in Subitem a) in the importation and exportation of goods in the scope of the Common Trade Policy;
25. 'Legal act of the CFSP': a legal act of the Common Foreign and Security Policy which was enacted in accordance with Title V of the EU Treaty;
26. 'General authorisations': authorisations initially issued with a generally applicable regulation for an indefinite number of processes which meet particular conditions regarding the countries of destination, the goods recorded or other features of the processes recorded, where said authorisations specifically include the following:
 - a) 'EU general authorisations': general authorisations issued with the provisions of directly applicable European Union law in the sense of Item 24(a);
 - b) 'National general authorisations': general authorisations issued via regulation based on this federal law for the exportation, transit or intermediation of dual-use goods in the sense of Item 5 between non-member states, and
 - c) 'General authorisations in transport within the Union': general authorisations issued via regulation based on this federal law for the transport of defence goods within the Union;
27. 'Chemical Weapons Convention (CWC)': the convention of 13 January 1993 on the prohibition of the development, production, storage, and use of chemical weapons and on the destruction of said weapons, Federal Law Gazette III No 38/1997;
28. 'Organisation for the Prohibition of Chemical Weapons': the organisation established by the states parties to the Chemical Weapons Convention for the prohibition of chemical weapons to realise the objective and purpose of the Chemical Weapons Convention to guarantee the implementation of its provisions, including provisions on the international verification of compliance with the Convention and as a framework for the consultations and the coordination between the states parties to the Convention;

29. 'States parties to the CWC': States which have ratified the CWC and for which said convention has already entered into legal effect;
30. 'Chemicals': the toxic chemicals and source materials specified in the annexes to the CWC on chemicals as well as substances used for riot control and substances designed to disable combatants, specifically:
31. 'Category 1 chemicals': toxic chemicals and source materials which are included in List 1 of the Annex to the CWC on chemicals;
32. 'Category 2 chemicals': toxic chemicals and source materials which are included in List 2 of the Annex to the CWC on chemicals;
33. 'Category 3 chemicals': toxic chemicals and source materials which are included in List 3 of the Annex to the CWC on chemicals;
34. 'Category 4 chemicals': organic chemicals in the sense of IX(1)(b) of the Verification Annex to the CWC which contain the elements phosphorus, sulphur or fluorine and are not covered in Items 31 through 33;
35. 'Category 5 chemicals': organic chemicals produced through synthesis in the sense of IX(1)(a) of the Verification Annex to the CWC which are not covered in Items 31 through 34, with the exception of hydrocarbons, explosives, and plastics;
36. 'Category 6 chemicals':
 - a) 'Riot control substances': substances other than those covered in Items 31 through 33 which can cause spontaneous sensory irritation in humans or which can cause incapacitating effects which disappear within a short period of time after exposure is ended;
 - b) 'Disabling substances': substances other than those covered in Items 31 through 33 as well as in Subitem a) which cause psychological or physiological impairments in humans which make the persons affected unable to meaningfully conduct actions or tasks assigned to them, and
37. 'the Biotoxin Convention': the convention on the prohibition of the development, production as well as storage of bacteriological (biological) weapons and toxin weapons as well as the destruction of said weapons, Federal Law Gazette No 432/1975, and
38. 'ABC weapons': chemical, biological or nuclear weapons or other nuclear warheads defined or suitable for mass destruction and carrier systems for such weapons and nuclear warheads.

(2) The Federal Minister of Economy, Family and Youth shall determine which goods are to be deemed defence goods in the sense of Para 1(4) by way of regulation in conformity with the current European Union military goods list published in Part C of the European Union Official Journal.

(3) The Federal Minister of Economy, Family and Youth shall determine which chemicals or classes of chemicals are subject to this Federal Act in accordance with Para 1(31) through (36) and which definitions in said Items they are to be allocated to by way of regulation in conformity with the obligations based on the CWC. If national-law-related obligations from the CWC require or permit, quantity thresholds are to be established for individual chemicals, classes or categories of chemicals which are decisive for the application of restrictions pursuant to this Federal Act.

Maximum values

Section 2. (1) If the application of provisions of this Federal Law or of a regulation issued on its basis depends on maximum values or if a value specification is used in authorisations and other documents, the statistical value in accordance with the directly applicable European Union law on the statistics of foreign trade with non-member states shall be of decisive importance.

(2) If a shipment of goods transferred to a customs warehouse or open-air storage facility is divided up in said warehouse or facility, the decisive value for transfer into free circulation under customs law shall be the value of the entire originally undivided shipment pursuant to Para 1.

Chapter II

Authorisation criteria

General principles

Section 3. (1) When issuing authorisations based on this Federal Act or based on the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or (b) for processes in the sense of Section 1(1)(10)(a), the effects of the specific process shall be thoroughly examined with respect to the criteria specified in Sections 4 through 12 and it shall be determined whether reasons for rejection are present. The following in particular shall be observed in this inspection:

1. the type and quantity of the affected goods or the type and extent of the affected technical knowledge,
2. the intended country of destination,
3. the intended final recipient and
4. the intended final purpose.

(2) An authorisation shall be issued if compliance with the criteria specified in Sections 4 through 12, or, as the case may be, by suitable special requirements in accordance with Section 54, is ensured.

(3) Furthermore, an authorisation in accordance with Para 1 shall only be issued if the applicant holds an authorisation to conduct the occupation in which the process applied for is to be conducted, if such an authorisation to conduct said occupation is required.

(4) The extent to which measures pursuant to Section 49 are necessary and have already been taken shall be taken into consideration in the decision on an application and the stipulation of special requirements.

Compliance with international obligations

Section 4. An authorisation shall be rejected if the process contradicts Austria's obligations based on the European Union legislation or provisions of international law, in particular obligations on the performance of restrictive measures or on the implementation of the Convention in the field of armament control and the control of technology.

Compliance with the international measures for controlling weapon exports

Section 5. (1) An authorisation shall be issued if there is no substantiated suspicion that the goods would be used in their entirety or partially for the purpose of developing, producing, handling, operating, maintaining or otherwise repairing, storing, locating, identifying, testing or distributing chemical or biological weapons, nuclear weapons or other nuclear warheads or for the purpose of developing, producing, maintaining or otherwise repairing, testing, storing, or distributing missiles and other delivery systems for said weapons.

(2) The following in particular shall be taken into account when assessing the prerequisite specified in Para 1:

1. the country of destination's commitment to non-proliferation and other areas of arms control and disarmament,
2. said country's signing, ratification, and implementation of the relevant conventions on arms control and disarmament,
3. said country's participation in international measures for controlling weapons exports.

Observation of human rights and international humanitarian law

Section 6. (1) An authorisation shall be issued if there is no clear risk that the goods could be used for internal repression, severe human rights violations or severe violations of international humanitarian law.

(2) The following in particular shall be taken into account when assessing the prerequisite specified in Para 1:

1. the position of the country of destination and the specific final user on the applicable principles of international human rights instruments,
2. compliance with the provisions of international humanitarian law by the country of destination and the specific final user,
3. the particular danger of violations in the sense of Para 1, in the event that severe human rights violations have been detected in the country of destination,
4. the type of goods for which the authorisation is being applied for,
5. whether or not the goods are intended for internal security purposes,
6. the particular risk of violations in the sense of Para 1, if the goods have already been used for internal repression by the specified final user in this form or a similar form.

(3) The term 'internal repression' encompasses the following, among other things:

1. torture and other cruel, inhumane, and degrading treatment or punishment,
2. arbitrary or expeditious executions,
3. the disappearance of persons,
4. arbitrary arrests,

5. other violations of human rights and basic rights, as established in the applicable human rights instruments, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Effects on the internal situation in the country of destination

Section 7. (1) An authorisation shall be issued if there is no justified suspicion that the goods would trigger or prolong armed conflicts or escalate existing tensions or conflicts in the country of destination.

(2) In assessing the prerequisites pursuant to Para 1, the internal situation in the country of destination shall be thoroughly examined with regard to existing or impending tensions or conflicts.

Maintaining peace, security, and regional stability

Section 8. (1) An authorisation shall be issued if no clear risk is present that the specified recipient could use the goods for the purpose of aggression against another country or for the violent enforcement of a territorial claim or otherwise threaten the security interests of another country or the stability in the region.

(2) The following in particular shall be taken into account when assessing the prerequisites specified in Para 1:

1. the presence or probability of an armed conflict between the country of destination and another country,
2. claims to the sovereign territory of a neighbouring country, which the country of destination had attempted to or threatened to violently enforce in the past,
3. the probability that the goods will be used for purposes other than legitimate national security and the defence of the country of destination,
4. compliance with the international obligations regarding the non-use of violence by the country of destination,
5. the risk that regional stability could be significantly impaired.

Effects on the security interests and foreign relations of Austria and on the security interests of other EU Member States

Section 9. (1) An authorisation shall be issued if there is no justified suspicion that the process would significantly conflict with the security interests of Austria or other EU Member States or disrupt Austria's foreign relations.

(2) The following in particular shall be taken into account when assessing the prerequisites specified in Para 1:

1. the process's potential effects on the defence and security interests of Austria and the other Member States,
2. the risk that the goods will be used against the military forces of Austria or other EU Member States,
3. the process's effects on Austria's foreign relations including its participation in international mechanisms to control weapon exports.

Effects concerning terrorist activities and international crime

Section 10. (1) An authorisation shall be issued if there is no justified suspicion that the goods would be used to promote terrorism or international crime.

(2) The following in particular shall be taken into account when assessing the prerequisites specified in Para 1:

1. the previous conduct of the country of destination towards the international community, the type of the alliances it has entered into as well as compliance with international law,
2. its position on terrorism and whether it supports or promotes terrorism,
3. whether it supports or promotes international organised crime,
4. the previous conduct of the specific final user including their position on terrorism and on international crime and whether they support or promote criminal activities.

Risk of diversion for undesired purposes

Section 11. (1) An authorisation shall be issued if there is no justified suspicion that the goods could be diverted for a final use which would contradict the criteria specified in Sections 4 through 10.

(2) The following in particular shall be taken into account when assessing a possible diversion specified in Para 1:

1. the legitimate interests of the defence and internal security of the country of destination, including participation in peacekeeping measures of the United Nations,
2. the technical capacity of the country of destination to use the goods,
3. the ability of the country of destination to effectively conduct exportation inspections,
4. the risk that the goods will be used in a manner specified in Para 1 in the country of destination or will be re-exported from the country of destination for such a use,
5. the risk that the goods will be diverted for purposes of terrorism or international crime,
6. the risk of replication or an unintentional technology transfer.

(3) When assessing the risk of undesired re-exportation in the sense of Para 2(4), the previous compliance of the country of destination and the specific final user with re-exportation provisions or authorisation requirements established by Austria and other EU Member States shall particularly be taken into consideration.

Long-term development

Section 12. (1) An authorisation shall be issued if there is no justified suspicion that the process will result in a severe impairment of the long-term development of the country of destination.

(2) The following in particular shall be taken into account when assessing the prerequisite specified in Para 1:

1. the fact that a state should employ as few members of the workforce and as few economic resources as possible for the armament in meeting its legitimate security and defence requirements,
2. the technical and economic capability of the country of destination,
3. the respective proportion of armament and social expenditures of the country of destination with due regard to any aid from the European Union or bilateral aid.

Final use

Section 13. (1) The final use in the country of destination shall be thoroughly examined for the comprehensive assessment of the criteria specified in Section 3(1) in combination with Sections 4 through 12. This shall be demonstrated by means of suitable documents, in particular by means of a declaration of the final whereabouts or by means of an authorisation officially issued by the country of destination.

(2) If technology or components are intended as precursors for a final product manufactured in a non-member state, the potential final use in the applicable non-member state and the risk that the final product could be diverted or exported for a final use which would contradict Sections 4 through 10 or 12 shall be examined in particular.

(3) Documents in the sense of Para 1 shall contain any information necessary to reliably assess the final user and the final use. The Federal Minister of Economy, Family and Youth shall establish more detailed provisions on the contents of said documents for this purpose by way of regulation.

Chapter III

Restrictions on trade with non-member states

Segment 1

Restrictions on the movement of goods

Authorisation requirements

Section 14. (1) If an authorisation is not already required due to the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or (b), an authorisation from the Federal Minister of Economy, Family, and Youth pursuant to this Federal Act shall be required:

1. the exportation and transit as well as the intermediation of defence goods in the sense of Section 1(1)(4) in combination with Section 1(2) between non-member states,
2. the importation, exportation, and transit as well as the intermediation of category 1 chemicals,
3. the exportation, transit, and intermediation of category 2 chemicals and
4. processes for which such an authorisation requirement is prescribed based on a legal act of the CFSP, based on a resolution within the scope of the OSCE or based on a binding resolution of

the United Nations Security Council, where the scope and content of such authorisation requirements shall be stipulated in a regulation pursuant to Section 25..

(2) The Federal Minister of Economy, Family and Youth shall provide exemptions from the authorisation requirement pursuant to Para 1(1) by way of regulation if:

1. the goods are being exported or are in transit exclusively for personal use and are not intended to be transferred or modified, and
2. it is ensured that no processes will take place which contradict the authorisation criteria pursuant to Chapter II.

(3) As long as directly applicable European Union law does not oppose doing so, the Federal Minister of Economy, Family and Youth shall establish an authorisation requirement for the importation, exportation, transit or intermediation of goods other than those specified in Para 1 in the goods traffic with individual non-member states or all non-member states by way of regulation, if doing so is necessary:

1. for fulfilling obligations under international law in the sense of Section 4, or
2. in the interest of Austria's internal or external security, or
3. for controlling traffic in goods which are or may be entirely or partially intended for a purpose specified in Section 5(1), or
4. for controlling traffic in weapons, ammunition or explosives not covered in Item 3 as well as trade in goods not covered in Item 3 which were designed or modified specifically for military purposes, or
5. for controlling traffic in goods which are or could be intended for internal repression, human rights violations or terrorist purposes.

(4) A regulation based on Para 3 shall be rescinded without delay if the reasons for enacting it are no longer present.

Special authorisation requirements for dual-use goods

Section 15. (1) If the Federal Minister of Economy, Family and Youth is aware that dual-use goods are intended to be exported, transferred or intermediated between non-member states:

1. entirely or partially for use in connection with the development, production, handling, operation, maintenance, storage, location, identification or distribution of chemical, biological or nuclear weapons or other nuclear warheads or are or could be intended for the development, production, maintenance or storage of missiles for such weapons, or
2. are intended to arrive in a country of destination against which a weapons embargo due to a legal act of the CFSP or a resolution within the scope of the OSCE or based on a binding resolution of the United Nations Security Council has been imposed and said goods are intended or could be intended for a military final use, either entirely or partially, or
3. are entirely or partially intended or could be intended for use as components of defence goods of which the exportation, transit and intermediation between non-member states is subject to an authorisation requirement in accordance with Section 14(1)(1) or a prohibition in accordance with Section 18 or an authorisation requirement or prohibition based on directly applicable EU law in the sense of Section 1(1)(24)(a) or has been established for an authorisation requirement pursuant to Section 20, and which have been exported, transferred or intermediated between non-member states without such an authorisation contrary to or in violation of special requirements in the authorisation notice,

then he shall notify the exporter within three business days by way of notification that there is an authorisation requirement for said process based on the directly applicable law of the European Union in the sense of Section 1(1)(24)(a).

(2) In the event of determinations of circumstances pursuant to Para 1, all Federal Ministers shall be entitled to pass on to the Federal Minister of Economy, Family and Youth data on the type, quality, quantity, value, source, origin, intended purpose, and transport routes as well as data on persons directly or indirectly involved in the process which the Federal Ministers or the authorities reporting directly to them have become aware of. The data passed on in this manner may only be used for purposes of enforcing this Federal Act and the directly applicable law of the European Union in accordance with Section 1(1)(24)(a).

(3) The Federal Minister of Finance shall immediately be informed if an authorisation requirement pursuant to Para 1 exists. Said information shall contain all data on the exporter, the goods involved, the

country of destination and the intended recipient which are necessary to monitor compliance with the authorisation requirement by the customs authorities.

(4) The following are deemed to be a military final use in the sense of Para 1(2):

1. installation in defence goods, or
2. the use of manufacturing, testing or analysis equipment as well as components for said purposes for the development, production or maintenance of defence goods, or
3. the use of unfinished products in a plant for the production of defence goods.

National general authorisations

Section 16. (1) The Federal Minister of Economy, Family and Youth shall issue national general authorisations for the exportation, transit or intermediation of dual-use goods between non-member states by way of regulation. Said national general authorisations relate to particular countries of destination and particular categories of goods if the directly applicable law of the European Union explicitly permits or does not oppose such a course of action and there is no reason to fear that courses of action which contradict the authorisation criteria in accordance with Chapter II will result. If necessary, said regulation shall establish suitable special requirements for the use of the national general authorisation to ensure compliance with the authorisation criteria.

(2) If the Federal Minister of Economy, Family and Youth gains knowledge that goods which are the subject of a national general authorisation pursuant to Para 1 for their exportation, transit or intermediation between non-member states are or could be intended for a purpose specified in Sections 5 through 8 and 10, he shall notify, by means of a notification, the exporter, person responsible for transit or intermediary that the general authorisation may not be used for the process in question.

(3) If an exporter, person responsible for transit or intermediary is aware that goods to which a national general authorisation applies are or could be intended for a purpose specified in Sections 5 through 8 and 10, they shall inform the Federal Minister of Economy, Family and Youth of this and file an application for an individual permit for the procedure in question.

Global authorisations

Section 17. The Federal Minister of Economy, Family and Youth shall issue authorisations on the basis of this Federal Act or on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) and (b) in the form of temporary global authorisations for one or more types or categories of goods which are valid for trafficking goods with one or more precisely defined recipients, categories of recipients or non-member states, if:

1. doing so is in the interest of simplifying administrative work and reducing costs, and
2. there are no concerns that processes will contradict the authorisation criteria pursuant to Chapter II, in which case it shall be taken into consideration to what extent the applicant takes appropriate and proportional measures in the sense of Section 49.

(2) Holders of global authorisations shall submit annual reports on deliveries made. The Federal Minister of Economy, Family and Youth shall, by way of a regulation, determine more detailed provisions on the content of such reports.

Prohibitions

Section 18. (1) The following are prohibited:

1. the importation, exportation, transit, and the intermediation of category 1 and category 2 chemicals from or in a state which is not party to the CWC, and
2. the importation, exportation, transit, and intermediation of agents, toxins, weapons, equipment, and resources in the sense of Article I of the Biotoxin Convention, and
3. processes which contradict restrictive measures based on a legal act of the CFSP, based on a resolution within the scope of the OSCE or based on a binding resolution of the United Nations Security Council, where the scope and content of such prohibitions shall be determined by regulation pursuant to Section 25.

(2) The Federal Minister of Economy, Family and Youth shall prohibit via regulation the importation, exportation, transit or intermediation of particular goods other than those specified in Para 1 in individual or all non-member states, if doing so is:

1. necessary due to obligations under international law in the sense of Section 4, or
2. is required to ensure compliance with authorisation criteria other than those specified in Sections 5 through 12 and the establishment of an authorisation requirement is not sufficient for this purpose.

Notification requirements

Section 19. (1) If a commensurate notification requirement is not already required on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or (b), the Federal Minister of Economy, Family and Youth shall be notified of processes prior to their implementation, if doing so is required within the scope of restrictive measures based on a legal act of the CFSP, a resolution within the scope of the OSCE or based on a binding resolution of the United Nations Security Council, where the scope and content of such notification requirements shall be defined by regulation pursuant to Section 25..

(2) The Federal Minister of Economy, Family and Youth shall establish via regulation a notification requirement for the importation, exportation, transit or intermediation of goods between non-member states in commerce with individual non-member states or all non-member states in cases other than those specified in Para 1, even if the underlying processes do not require authorisation, if doing so is:

1. necessary due to obligations under international law in the sense of Section 4, or
2. necessary to prevent bypassing an authorisation requirement established in Section 14(1) or in a regulation based on Section 14(3).

(3) If directly applicable law of the European Union in the sense of Section 1(1)(24)(a) provides for a commensurate empowerment, the Federal Minister of Economy, Family and Youth shall establish a notification requirement in the exportation, transit or intermediation of dual-use goods between non-member states which are not already subject to an authorisation obligation based on the specified legislation of the European Union in commerce with individual non-member states or all non-member states, if doing so is required for the detailed inspection of said goods' final use.

(4) In a regulation pursuant to Para 2 or Para 3 it shall be precisely established what the notification requirement relates to, including without limitation:

1. the goods,
2. the types of trade in the goods,
3. the country of destination or countries of destination,
4. the final user, and
5. the final purpose of use.

(5) The regulation may furthermore establish that documents in the sense of Section 13(1) shall be submitted together with the notification in order to provide documentary evidence on the final use in the country of destination, if doing so is necessary to examine compliance with the authorisation criteria pursuant to Chapter II.

(6) The Federal Minister of Economy, Family and Youth shall confirm in writing the receipt of the notification within three business days. The process notified may not be carried out until said confirmation has been received. If the Federal Minister of Economy, Family and Youth arrives at a reasonable assumption that a course of action pursuant to Para 7 may be necessary, he shall inform of this via notification at the same time that confirmation is given. In such case, the process may only be conducted if no authorisation requirement pursuant to Para 7 is required within two weeks as of the notification or the Federal Minister of Economy, Family and Youth has already given notice by way of notification that an authorisation is not necessary.

(7) If directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or (b) explicitly allows or does not oppose doing so, the Federal Minister of Economy, Family and Youth shall mandate by way of notification an authorisation requirement for the process if he believes based on a notification pursuant to Para 1 through 3 that the process could conflict with at least one of the authorisation criteria specified in Chapter II.

(8) The Federal Minister of Finance shall immediately be informed if an authorisation requirement pursuant to Para 7 is mandated. Said information shall contain all data on the exporter, the goods involved, the country of destination, and the intended final recipient which are necessary to monitor compliance with the authorisation requirement by the customs authorities.

Security measures

Section 20. (1) If the Federal Minister of Economy, Family and Youth arrives at a reasonable assumption that the exportation or transit of a good could conflict with the authorisation criteria pursuant to Chapter II, he shall initiate an official authorisation procedure and immediately inform the exporter or person responsible for transit via notification, if the process is not already subject to an authorisation requirement or a prohibition on the basis of this Federal Act or on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or (b).

(2) In the event of determinations on circumstances pursuant to Section 1, all Federal Ministers shall be entitled to inform the Federal Minister of Economy, Family and Youth data on the type, quality, quantity, value, source, origin, intended purpose, and transport routes as well as data on the persons directly or indirectly involved in the process which the Federal Ministers or the authorities reporting directly to them have become aware of. The data disclosed in this manner may only be used for purposes of enforcing this Federal Act and the directly applicable law of the European Union in accordance with Section 1(1)(24)(a) and (b).

(3) The Federal Minister of Economy, Family and Youth shall

1. either authorise the process via notification, if imposing special requirements pursuant to Section 54 at least ensures that the process does not conflict with the authorisation criteria pursuant to Chapter II, or
2. prohibit the process via notification, if even imposing special requirements does not suffice to ensure compliance with said authorisation criteria.

(4) The Federal Minister of Finance shall immediately be informed if an authorisation requirement pursuant to Para 1 and a notification pursuant to Para 3 exist. Said information shall contain all data on the exporter, the goods involved, the country of destination, and the intended final recipient which are necessary for the customs authorities to monitor the process.

(5) If in the event of stopovers during transit flights it is necessary to prevent transit of goods which would conflict with the authorisation criteria of Chapter II, measures may be taken regardless of the provisions under customs law to suspend the process until the issue regarding compliance with said criteria has been clarified. The commensurate measures shall be mandated by way of notification. The Federal Minister of Economy, Family and Youth shall, within two weeks and via notification, either authorise the process and lift the measures to suspend it or prohibit the process.

Import certificates

Section 21. (1) The Federal Minister of Economy, Family and Youth shall issue import certificates upon request if doing so is necessary to receive the authorisation of an export from a non-member state or transportation from another EU Member State to the federal territory of Austria and does not conflict with the authorisation criteria pursuant to Chapter II.

(2) If compliance with the prerequisites specified in Para 1 can only be ensured by mandating suitable special requirements pursuant to Section 54, then the import certificate may only be issued with said special requirements. If special requirements are not sufficient to ensure compliance with the prerequisites, the issuance of the import certificate shall be refused by way of notification.

(3) An import certificate shall contain at least the following information:

1. the designation, quantity, and value of the goods,
2. the specification of the foreign supplier and shipper,
3. the name and address of the user in Austria, and
4. the goods' intended purpose.

Segment 2

Technical support

Prohibitions

Section 22. Technical support shall be prohibited if it:

1. a) is intended for use in connection with the development, production, handling, operation, maintenance, storage, location, identification or distribution of chemical, biological or nuclear weapons or other nuclear warheads or in connection with the development, production, maintenance or the storage of missiles suitable for the deployment of such weapons, or the supplier is aware that it is intended for said purposes, and
- b) said use is in conflict with obligations under international law in the sense of Section 4, or
2. a) is intended for use in connection with the development, production, handling, operation, maintenance or other repair, storage, testing or distribution of weapons and weaponisable systems other than those specified in Item 1 or the supplier is aware that it is intended for said purposes, and
- b) is in conflict with a weapons embargo based on a legal act of the CFSP, a resolution within the scope of the OSCE or a binding resolution of the United Nations Security Council.

Authorisation requirements

Section 23. (1) Technical support requires an authorisation from the Federal Minister of Economy, Family and Youth if it is connected to a final use specified in Section 22(1)(a) or 2(a).

(2) The authorisation shall be issued if at least the imposition of special requirements pursuant to Section 54 ensures that:

1. the technical support does not conflict with restrictive measures in the sense of Section 22(2)(b) or other obligations under international law in the sense of Section 4, and
2. there is no reason to assume that the technical support will otherwise lead to a final use which conflicts the authorisation criteria pursuant to Chapter II.

Exemptions

Section 24. If obligations under international law in the sense of Section 4 do not oppose, technical support shall be exempt from the prohibition pursuant to Section 22 and the authorisation requirement pursuant to Section 23 if it:

1. is performed in a non-member state in which goods may be exported within the scope of a country-related general authorisation in the sense of Section 1(1)(26)(a), or
2. is performed by passing on information which is obvious or part of the basic research in the sense of the applicable international conventions on arms control, or
3. is carried out verbally and is not connected with issues which are subject to the international control of defence goods and other goods which are suitable for a use pursuant to Section 5(1).

Segment 3

Implementation of restrictive measures on the bases of obligations under international law

Power to enact regulations

Section 25. If the European Union has no jurisdiction to enact directly applicable legal acts, the Federal Minister of Economy, Family and Youth shall provide the intrastate implementation of restrictive measures necessary under international law based on a legal act of the CFSP, a resolution within the scope of the OSCE, or a binding resolution of the United Nations Security Council which shall establish the following by way of regulation:

1. any non-member states which are subject to a weapons embargo, and
2. processes which are subject to an authorisation requirement pursuant to Section 14(1)(4), prohibition pursuant to Section 18(1)(3) or a notification requirement pursuant to Section 19(1).

Segment 4

Restriction of investments in undertakings in the interest of public policy and public security

Authorisation obligations

§ 25a. (1) Except as otherwise provided in Paras (2) through (11), the following processes concerning undertakings which are domiciled in Austria shall not be subject to any restrictions:

1. acquisition of the undertaking,
2. acquisition of a stake in such undertaking, or
3. acquisition of a controlling interest in such undertaking.

Undertakings shall be deemed to mean legal entities and registered partnerships.

(2) Provided that European Union or international law does not conflict with the authorisation obligation, a process in the sense of Para (1) shall require the authorisation by the Federal Minister of Economy, Family and Youth if:–

1. the enterprise concerned is domiciled in Austria and is subject to the accounting standards of the Third Book of the Austrian Commercial Code UGB, German Imperial Law Gazette p. 219/1897, and
2. is active in a sector that affects public policy and public security in the sense of Articles 52 and 65 (1) of the TFEU, and
3. the acquisition is made by a natural person who is not a citizen of the European Union or a citizen of the European Economic Area or of Switzerland, or a legal entity or undertaking which is domiciled in a third country with the exception of the European Economic Area and Switzerland.

The process shall not be carried out prior to the issuance of the authorisation.

(3) Sectors in the sense of Para (2) 2 shall be:–

1. sectors of internal and external security, including, without limitations,
 - a) defence goods industry, and
 - b) security services,
2. sectors of public policy and public security, including services of public interest and crisis prevention, including, without limitations,
 - a) energy supply,
 - b) water supply,
 - c) telecommunications,
 - d) transport, and
 - e) infrastructure facilities in the field of education and training and in the health services.

(4) No authorisation requirement under Para (2) shall apply to investments in undertakings where the voting right share of the buyer in the sense of Para (2)(3) is less than 25% after the acquisition of the stake. In computing such voting right share, the shares held in the undertaking to be acquired by other persons or undertakings in the sense of Para (2)(3) shall be added when they meet at least one of the following prerequisites:

1. the buyer holds 25% or more of the voting rights in such other person or undertaking,
2. such other person or undertaking holds 25% or more of the voting rights in the buyer,
3. another person or undertaking in the sense of Para (2)(3) holds 25% or more of the voting rights in such other person or undertaking as well as in the buyer, or
4. the buyer has entered an agreement with such other person or undertaking on the joint exercise of voting rights.

(5) The acquisition of a controlling interest shall be subject to the authorisation requirement pursuant to Para 2 if such controlling interest is exercised by the person or undertaking in the sense of Para (2)(3) on their own or jointly by several persons or undertakings of whom or which at least one person or undertaking is a person or undertaking in the sense of Para (2)(3). An acquisition in this sense shall be, without limitations:

1. two persons or undertakings in the sense of Para (2)(3) entering an agreement on the joint exercise of voting rights by which they are together entitled to at least 25% of the voting rights; or
2. the termination of an agreement on the joint exercise of voting rights entered with another person or undertaking upon which one person or undertaking in the sense of Para (2)(3) is entitled to at least 25% of the voting rights.

In computing the voting right shares pursuant to Items 1 and 2, Para (4) shall be applied *mutatis mutandis*.

(6) If an authorisation pursuant to Para (2) is required, the buyer(s) shall submit an application for authorisation–

1. prior to entering the contract on the acquisition of the undertaking or stake or prior to entering the legal transaction(s) required for acquiring the controlling interest, or
2. in the event of a public bid prior to the publication of the decision on submitting the bid.

(7) The application for authorisation shall include, without limitations:

1. name, address and, if available, telephone number, fax number and e-mail address of the buyer in the sense of Para (2)(3);
2. name, address and, if available, telephone number, fax number and e-mail address of the undertaking which is to be acquired or invested in;
3. description of the business activities of the undertaking in terms of Para (3)(1) or (2);
4. description of the planned acquisition; and
5. naming of a person authorised to accept service in Austria.

(8) The Federal Minister of Economy, Family and Youth shall issue a notification in writing within one month of receiving the application that either:–

1. no authorisation process is commenced because of conflicting obligations under European Union or international law, or

2. there are no objections to the acquisition because there is no threat to the interests of public policy and public security in the sense of Articles 52 and 65 (1) of the TFEU including services of public interest and crisis prevention, or
2. an in-depth investigation procedure is initiated because a more exhaustive examination of the effects on such interests is required.

If no written notification is issued within this period the process shall be deemed to have been authorised.

(9) Within two months of service of the written notification to initiate an investigation procedure in the sense of Para (8)(3), a written notification shall be issued by which:–

1. the process shall be authorised if there is no threat to the interests specified in Para (8)(2), or
2. when the process is expected to constitute an actual and sufficiently serious threat to public policy and public security in the sense of Articles 52 and 65 (1) of the TFEU, including services of public interest and crisis prevention, which affects a basic interest of society:–
 - a) authorisation shall be granted subject to stipulations necessary to eliminate such threat, or
 - b) authorisation shall be refused when stipulations to eliminate such threat do not suffice.

If no written notification is issued within this period, the process shall be deemed to have been authorised.

(10) Upon application, a confirmation shall be issued concerning the fact that a process is deemed to be authorised by way of the expiry of the period defined in Para (8) or (9).

(11) The Federal Minister of Economy, Family and Youth shall be authorised to mandate *ex officio*, by way of a written notification, an authorisation requirement for the acquisition of, investment in or acquisition of a controlling interest in an undertaking domiciled in Austria if–

1. the process does not meet the requirements pursuant to Para (2)(3) and Para (4), and
2. there are reasonable grounds for the suspicion that the process is intended to circumvent an authorisation requirement, and
3. there are reasonable grounds for the suspicion that the process may endanger the interests referred to in Para (8)(2), and
4. the requirements pursuant to Para (2)(1) and (2) are met, and
5. no obligations under European Union or international law conflict with an authorisation process.

The process shall not be carried out prior to the issuance of the authorisation. In evaluating any suspicion of circumvention in the sense of Item 2 above, the true economic content and actually achieved influence on the undertaking to be acquired shall be relevant in terms of an economic consideration.

(12) The procedure pursuant to Para (11) shall be governed by Paras (9) and (10) subject to the condition that the two-month decision period commences as of the date of service of the instruction to obtain authorisation.

(13) The Federal Minister of Economy, Family and Youth shall be authorised to provide, by way of a regulation, for exemptions from the authorisation requirements for certain types of processes in the sense of Para (1) if it is clear from the start that such processes will not constitute any threat to the interests referred to in Para (8)(2).

(14) The Federal Minister of Economy, Family and Youth shall provide for the suitable publication of decisions pursuant to Para (8)(1) or (2), Para (9) or Para (12) or final decisions based on procedural grounds. Such publication shall state:

1. the buying persons or undertakings,
2. the undertaking to be bought, and
3. whether:–
 - a) the process was deemed to be unobjectionable,
 - c) conditions were stipulated,
 - d) the process was not authorised, or
 - e) the application was rejected on procedural grounds.

Chapter IV

Transport of defence goods within the European Union

Segment 1

Restrictions

Authorisation requirements

Section 26. Unless established otherwise in the following, the transport of defence goods within the European Union is subject to an authorisation requirement. Authorisations shall be issued either as general authorisations in the sense of Section 1(1)(26)(c), as global authorisations or as individual authorisations in accordance with the provisions of this Segment.

Exemptions to authorisation requirements

Section 27. (1) An authorisation pursuant to Section 26 is not required for transports within the European Union:

1. which are conducted within the scope of humanitarian aid after disasters or as a donation in cases of emergency, or
2. where goods are returned to the country of origin after repair or maintenance, or
3. where goods are returned to the country of origin after an exhibition or use for demonstration purposes.

(2) The Federal Minister of Economy, Family and Youth shall establish via regulation further exemptions from the authorisation requirement if an empowerment from the European Union to do so is present and there are no concerns that the transport processes covered by the exemption could result in a subsequent exportation from the European Union in conflict with the authorisation criteria pursuant to Chapter II.

General authorisations of trade within the European Union

Section 28. (1) In any case, the Federal Minister of Economy, Family and Youth shall issue general authorisations in the sense of Section 1(1)(26)(c) for transports within the European Union where:

1. the supplier or the recipient is a government office,
2. the supplier is the Austrian Federal Army,
3. the recipient is part of the armed forces of another EU Member State, or
4. the recipient is a certified undertaking in another EU Member State in the sense of Section 1(1)(21), or
5. exclusively goods are being transported which can only be used as components of other goods.

(2) If necessary to prevent exports from the European Union which would be in conflict with the authorisation criteria of Chapter II, suitable special requirements for the use of the general authorisation, including but not limited to compliance with the requisite export restrictions, shall be established in regulations pursuant to Para 1.

(3) In any case, the following shall be established as a special requirement for the use of this general authorisation in a regulation pursuant to Para 1(5), either:

1. the submission of a declaration on the use from the recipient which certifies that the components transported within the scope of said authorisation are or will be integrated into the recipient's goods, and thus cannot be transported or exported again independently at a later point in time, except for the purposes of maintenance or repair, or
2. a restriction on exportation from the European Union to all non-member states or certain non-member states if there would be concerns that such an exportation would be in conflict with the authorisation criteria in accordance with Chapter II.

(4) The Federal Minister of Economy, Family and Youth shall issue general authorisations in the sense of Section 1(1)(26)(c) in cases other than those specified in Para 1 via regulation for particular types of intra-community transport to particular types of recipients, if:

1. doing so is necessary due to the provisions of European Union legislation, or
2. doing so is permissible based on the provisions of European Union legislation and results in no concerns that exports would be in conflict with the authorisation criteria pursuant to Chapter II.

(5) The special requirements for the use of these general authorisations shall be established in a regulation pursuant to Para 4, including but not limited to:

1. the suppliers' personal and organisational prerequisites;

2. the recipients' personal and organisational prerequisites;
 3. measures to ensure that the goods in question are not exported from the European Union in conflict with the authorisation criteria pursuant to Chapter II.
- (6) Regulations pursuant to Para 4(2) shall be repealed if they:
1. are no longer compatible with the provisions of European Union legislation, or
 2. no longer provide sufficient controls to prevent exportations from the European Union which would be in conflict with the criteria of Chapter II.
- (7) Additional or other special requirements for the use of general authorisations shall be provided for in regulations based on Para 1 and Para 4 if doing so is necessary to prevent exportations specified in Para 6(2). Special requirements which are no longer necessary in this respect shall be repealed in these regulations.

Repeal and suspension of general authorisations

Section 29. (1) If certification is withdrawn from a certified undertaking in another EU Member State, then all general authorisations for said undertaking in the sense of Section 1(1)(26)(c) shall be deemed to have been revoked by act of law once the withdrawal enters into legal effect. The Federal Minister of Economy, Family and Youth shall immediately announce the revocation in a suitable manner upon gaining knowledge of the withdrawal.

(2) The Federal Minister of Economy, Family and Youth shall suspend by way of regulation a general authorisation in the sense of Section 1(1)(26)(c) for the delivery to a particular certified undertaking in another EU Member State if after having consulted the other EU Member States concerned based on a message pursuant to Section 69(2) he still has doubts whether said undertaking continues to guarantee that the goods will not be exported from the European Union in conflict with the authorisation criteria pursuant to Chapter II.

(3) If the Federal Minister of Economy, Family and Youth, after suspending the general authorisation pursuant to Para 2, becomes convinced that the doubts as to the concerned undertaking's fulfilment of all certification requirements are no longer present, he shall repeal the regulation pursuant to Para 2 without delay.

Global authorisations

Section 30. (1) Persons and organisations which regularly transport defence goods to recipients within the European Union shall be issued global authorisations for one or more types or categories of goods upon application, provided there are no concerns that said goods could be exported from the European Union in conflict with the authorisation criteria pursuant to Chapter II.

(2) The duration of the validity of global authorisations shall be limited to three years, and it may be extended by an additional three years. To accomplish this, the authorisation holder shall file the application for extension not later than three months prior to the expiration of the duration of validity. If no notification is issued within one month after this information that the application will not be granted, then the duration of validity shall be deemed to have been extended. A confirmation to this end shall be issued upon application.

(3) A global authorisation may not be used during the validity of a regulation pursuant to Section 31(2) for the deliveries affected by it.

(4) Holders of global authorisation shall provide annual reports on deliveries which have been carried out. The Federal Minister of Economy, Family and Youth shall establish more detailed provisions on the contents of said reports by way of regulation.

Individual authorisations

Section 31. (1) The Federal Minister of Economy, Family and Youth shall issue individual authorisations for intra-community transports if:

1. the authorisation is only applied for a single transport process, or
2. a global authorisation was applied for, but the prerequisites to do so pursuant to Section 30 are not present, or
3. only an individual authorisation may be issued for a process on the basis of a regulation pursuant to Para 2.

(2) If doing so is necessary to prevent exportations from the European Union in conflict with the authorisation criteria pursuant to Chapter II, the Federal Minister of Economy, Family and Youth shall establish via regulation that the intra-community transport of particular goods to individual recipients,

individual groups of recipients or to particular other EU Member States will require an individual authorisation in any case. A regulation of this kind shall be rescinded without delay if the reasons for enacting it are no longer present.

(3) The holder of the individual authorisations shall promptly notify the Federal Minister of Economy, Family and Youth of the performance of the authorised process.

General provisions for authorisation notifications

Section 32. (1) An individual or global authorisation shall be issued if there is no reason to fear that exportation out of the European Union will subsequently take place which would conflict with the authorisation criteria pursuant to Chapter II. If suitable documents demonstrate that the good is being used for a final use in another EU Member State by its recipient, the authorisation shall be issued if there are no reasonable doubts as to the authenticity or correctness of said documents.

(2) It shall be stipulated in notifications in accordance with Sections 30 and 31 as a special requirement in the sense of Section 54 that the goods in question may not be exported at all, may not be exported to particular non-member states or may not be exported from the European Union to particular categories of recipients in non-member states if such exportation would be in conflict with the authorisation criteria pursuant to Chapter II.

(3) Notifications by which global authorisations pursuant to Section 30 or individual authorisations pursuant to Section 31 are granted shall be issued within three weeks as of receipt of the application. If another Federal Minister is to be involved in accordance with Section 78(1), this deadline shall be extended to five weeks. If a notification is not issued within these deadlines, the authorisation shall be deemed to be issued in the sense of the application. A confirmation shall be issued at the request of the applicant.

Recognition of the authorisations of other EU Member States

Section 33. (1) An authorisation pursuant to Section 26 is not required for transport from another EU Member State through the federal territory of Austria to another EU Member State if an authorisation of another Member State is present for said process and there is no risk that an exportation from the European Union could take place in conflict with the authorisation criteria pursuant to Chapter II.

(2) If the Federal Minister of Economy, Family and Youth gains knowledge that an exportation from the European Union in conflict with the authorisation criteria pursuant to Chapter II could take place after a transport process in the sense of Para 1, he shall ex officio establish an authorisation requirement via notification for the process(es) in question. Section 32 shall be applied to these authorisations. The process(es) may not be conducted prior to the issuance of an authorisation notification.

(3) If a supplier who is responsible for performing a transport authorised by another EU Member State in accordance with Para 1 has reason to believe that an exportation from the European Union in conflict with the authorisation criteria pursuant to Chapter II could take place, the supplier shall notify the Federal Minister of Economy, Family and Youth of this. This notification shall be made before the transport is commenced if this reason is already present at this time, or immediately after it becomes apparent.

(4) The Federal Minister of Economy, Family and Youth shall confirm the receipt of the notification in written form within three business days. The process notified may not be conducted or continued until said confirmation has been received. If the Federal Minister of Economy, Family and Youth arrives at the reasonable assumption that a course of action pursuant to Para 2 may be necessary, he shall indicate this situation in the confirmation. In such case, the process may only be conducted if no authorisation requirement pursuant to Para 2 is stipulated within two weeks as of the notification or the Federal Minister of Economy, Family and Youth has already given notice that an authorisation is not necessary.

(5) If doing so is necessary to prevent exportations in conflict with the authorisation criteria pursuant to Chapter II, the Federal Minister of Economy, Family and Youth shall establish via regulation that an additional authorisation pursuant to this Federal Act is in any case required for transport processes in the sense of Para 1 regarding particular goods, particular recipients or particular groups of recipients or particular other EU Member States. A regulation of this kind shall be rescinded without delay if the reasons for enacting it are no longer present.

Duties to provide information

Section 34. (1) Anyone transporting goods on the basis of a general, global or individual authorisation shall demonstrably inform the recipients of said goods of the special prerequisites or special requirements associated with the authorisation if any were established in a regulation pursuant to Section 28 or in an authorisation notification pursuant to Section 30 or Section 31.

(2) Anyone who has received goods under one or more export restrictions within the scope of a transport within the European Union shall in the event of a further transport of said goods in the federal territory of Austria or a further transport within the European Union demonstrably inform the recipient of all of said restrictions.

Approval procedure

Section 35. (1) A person or organisation which intends to export goods from the European Union which would conflict with an export restriction established in an authorisation of a transport within the European Union in accordance with this Federal Act shall file an application for approval to the Federal Minister of Economy, Family and Youth.

(2) The Federal Minister of Economy, Family and Youth shall grant approval via notification if the reason for the restriction is no longer present and the exportation does not conflict with the criteria of Chapter II. Otherwise, the approval shall be refused via notification.

Segment 2:

Certification of undertakings

Prerequisites for certification

Section 36. (1) The Federal Minister of Economy, Family and Youth shall, upon application, certify persons or organisations which come into consideration as recipients of defence goods so that they may procure such goods within the scope of a general authorisation of another Member State. Detailed documentary evidence on the fulfilment of the prerequisites specified in Paras 2 through 4 shall be enclosed with the application.

(2) Certification may only be issued if the person or organisation in question can be expected not to conduct exportation, transit or intermediation of goods between non-member states which conflict with the authorisation criteria pursuant to Chapter II and can be expected to comply with the export restrictions in authorisations for transport by other Member States for goods which are received within the scope of such authorisations. The following prerequisites shall be met as a minimum in order to accomplish this:

1. experience in the responsible handling of defence goods by means of
 - a) dependable compliance with export restrictions and other significant legislation in the sense of Section 51(1)(a),
 - b) a valid authorisation for the production of or trade in such goods, and
 - c) management which has professional experience and is dependable in the sense of Sections 50 and 51,
 - d) the absence of specific indications which could create doubts regarding dependability, including but not limited to previous convictions in the legal fields specified in Section 51(1)(1), including previous convictions under the Legal Persons' Liability Act, Federal Law Gazette I No 151/2005, other court or administrative decisions which concern said person or organisation, and
2. the performance of a relevant commercial activity with defence goods within the European Union, including the possibility of integrating systems and subsystems, and
3. the nomination of a manager as the personally responsible person for intra-community transports and exports, and
4. the submission of a written declaration of obligation signed by the manager specified in Item 3 stating that all required measures have been taken to diligently pursue and implement all of the special conditions and special requirements in connection with the final use and exportation of the goods obtained, and
5. the submission of a written declaration of obligation signed by the manager specified in Item 3 stating that the competent authorities will upon request and within the scope of inspections be dependably provided with precise information concerning the final use and final user of all goods which were procured from another Member State within the scope of an authorisation for transport, and
6. the submission, by a manager specified in Item 3, of a precise description of the valid and implemented internal code of conduct and inspection system in connection with intra-community transports and exports.

(3) The description specified in Para 2(6) shall, i.a., contain the following:

1. all organisational, personnel-related and technical measures for the proper handling of transport and export processes, and
2. the hierarchy of the responsible persons and the precise distribution of responsibilities within the undertaking, and
3. the internal testing and inspection structures and procedures, and
4. all measures to raise awareness of the personnel and provide training and advanced training for the personnel, and
5. physical and technical protection and security measures, and
6. recording requirements and other measures for the precise tracking of transport and export processes.

(4) The Federal Minister of Economy, Family and Youth shall establish via regulation more precise requirements on the implementation of programmes and measures specified in Paras 2 and 3. In doing so, he shall take the relevant provisions of European Union law as well as options and capacities of undertakings of different sizes and the types of goods concerned into particular consideration.

Certificates

Section 37. (1) Notifications which are used to issue certificates in the sense of Section 36 shall, i.a., contain the following information:

1. the authority which issued the notification,
2. the name and address of the recipient,
3. the certification stating that the notification recipient meets the criteria pursuant to Section 36(2) through (4), and
4. the date of issue and duration of validity pursuant to Para 3.

(2) Certifications shall be issued with special requirements if doing so is necessary to ensure compliance with all prerequisites pursuant to Section 36(2) through (4). The following special requirements of this kind may, i.a., be imposed:

1. a restriction to the receipt of particular categories of goods,
2. the obligation to notify certain changes in the undertaking's structure, if said changes could have effects on the continued fulfilment of the prerequisites pursuant to Section 36, and
3. precise prerequisites under which the validity of the certificate can be temporarily suspended or under which the certificate can be revoked.

(3) The duration of validity of the certificate shall be limited to not more than three years. The duration shall be determined in consideration of security policy interests. The following shall, i.a., be taken into consideration in the process:

1. the security-policy-related significance and the potential final uses of the goods which constitute the subject of the undertaking's activity,
2. the circle of recipients and recipient countries,
3. the anticipated progress in security technology in the applicable field of work, and
4. intended restructurings in the undertaking.

Extension of certificates' period of validity

Section 38. (1) A certified undertaking may file an application for the extension of the certification not later than two months prior to the expiration of the period of validity; the documentary evidence in the sense of Section 36(1) through (3) shall be enclosed with said application.

(2) The Federal Minister of Economy, Family and Youth shall approve the application via notification within one month as of the filing of the application as long as there are no doubts that the prerequisites pursuant to Section 36(2) through (4) continue to be met. Other or additional special requirements shall be imposed if doing so is necessary to ensure compliance with said prerequisites.

(3) If some of the prerequisites pursuant to Section 36(2) through (4) have not been met, but compliance with them can still be ensured by several particular measures or if particular documents required for the sufficient assessment of said prerequisites have not been submitted, the Minister shall promptly request that such measures be carried out or documents be submitted within a reasonable period of time not exceeding one month. In such case, the period of time for the decision pursuant to Para 2 shall begin on the day upon which said request is complied with. If the request was not complied with within the deadline, the extension shall be rejected by way of notification.

(4) In cases other than those specified in Para 3, the application shall be rejected within the decision periods specified in Paras 2 and 3 by way of notification if it has been established that the prerequisites for the certification have not been met,

(5) If neither an authorisation notification pursuant to Para 2 nor a rejection notification pursuant to Para 4 is issued within the decision periods specified in Paras 2 and 3, the certificate shall be deemed to have been extended by operation of law for an additional period of time which corresponds to the directly preceding duration of validity. A confirmation on said extension of the duration of validity shall be issued upon application.

Monitoring of certified undertakings

Section 39. (1) Regardless of any notification requirements pursuant to Section 37(2)(2), certified undertakings shall immediately notify the Federal Minister of Economy, Family and Youth of all changes in the fields of activities, persons and systems specified in Section 36(2) through (4) which may affect the validity and content of the certificate.

(2) The Federal Minister of Economy, Family and Youth shall ex officio initiate a procedure to monitor the certificate regardless of the expiration of its period of validity:

1. if he has doubts that the undertaking continues to meet the essential prerequisites based on a notification pursuant to Para 1 or pursuant to Section 37(2)(2) or due to other circumstances, or
2. if another Member State informs of reasonable doubts as to the fulfilment of the prerequisites by the undertaking in question.

(3) The Federal Minister of Economy, Family and Youth shall confirm the certification via notification if all prerequisites for it continue to be met. In doing so, he shall in any case re-establish the period of validity in accordance with the stipulation of Section 37(3). He shall impose other or additional special requirements if doing so is necessary to ensure compliance with said prerequisites.

Suspension of validity and revocation of certificates

Section 40. (1) If not all of the prerequisites pursuant to Section 36(2) through (4) have been met, but compliance with them can again be ensured by means of several particular measures, an appropriate period of time for their implementation shall be granted via notification, during which the validity of the certificate is temporarily suspended. The undertaking shall report the implementation within the specified period of time. In such case, the certificate shall regain validity if the Federal Minister of Economy, Family and Youth does not issue a notification of revocation pursuant to Para 2 not later than one week as of the expiration of the period of time.

(2) Certificates shall be revoked via notification if:

1. special requirements have not been met,
2. a monitoring procedure pursuant to Section 39(2) or pursuant to Para 1 reveals that the prerequisites are no longer met, or
3. a report pursuant to Para 1 is not made in time.

(3) If the validity of a certificate is suspended pursuant to Para 1 or the certificate is revoked pursuant to Para 2, the person or organisation affected by the suspension or revocation shall immediately inform all of the suppliers of goods known to it within the scope of a general authorisation. Information shall also be provided if the temporarily suspended validity of the certificate is reinstated.

Chapter V

Supplementary provisions for the implementation of the CWC and the Biotoxin Convention

Prohibitions

Section 41. The following shall be prohibited:

1. development, production, acquisition, stockpiling, retention, direct or indirect transfer and use of chemical weapons in the sense of the CWC;
2. military preparations for the use of chemical weapons;
3. the support, encouragement or instigation of activities which are subject to a prohibition pursuant to the CWC;
4. development, production, acquisition, possession, stockpiling, retention, direct or indirect transfer as well as the use of category 1 and 2 chemicals in countries which are not party to the

CWC by Austrian citizens or persons or organisations which have their place of residence or headquarters in the federal territory of Austria;

5. development, production, stockpiling, acquisition or retention of
 - a) agents and toxins in the sense of Article I(1) of the Biotoxin Convention, except for types and quantities which are justifiable due to preventative, protective and other peaceful purposes,
 - b) weapons, equipment or resources which are intended for the use of the agents or toxins specified in Item 1 for hostile purposes or in an armed conflict, and
6. use as a means of waging war of
 - a) means of controlling riots as well as
 - b) substances which put parties involved out of action.

Authorisation requirements

Section 42. (1) The following shall be subject to an authorisation requirement:

1. development, production, acquisition, possession, stockpiling and retention of category 1 chemicals,
2. direct or indirect transfer of the chemicals specified in Item 1, and
3. development, production, possession, stockpiling and retention of the agents, toxins, weapons, equipment or resources specified in Article I of the Biotoxin Convention.

(2) The processes specified in Para 1 shall also be subject to an authorisation requirement if they are conducted outside of the federal territory of Austria by an Austrian citizen or by persons or organisations with headquarters or place of residence in the federal territory of Austria.

(3) Processes which are subject to an authorisation requirement pursuant to Section 14(1) or Section 26 shall require no separate authorisation pursuant to Para 1.

(4) The authorisation pursuant to Paras 1 or 2 shall be issued if Austria's obligations under international law, in particular the prohibitions pursuant to the CWC or the Biotoxin Convention, do not oppose doing so and there are no concerns that exportation in conflict with the authorisation criteria pursuant to Chapter II could take place.

Global authorisations

Section 43. Authorisations pursuant to Section 42 shall be issued in the form of temporary global authorisations for one or more types or categories of goods and processes if:

1. doing so is in the interest of simplifying administrative work and reducing costs, and
2. the applicant uses suitable means and procedures which serve to ensure compliance with the relevant obligations under international law and to prevent exports in conflict with the authorisation criteria pursuant to Chapter II.

Notification requirements

Section 44. (1) Persons or organisations conducting the following activities shall be subject to a notification requirement:

1. development, production, acquisition, possession, stockpiling, retention or transfer of category 1 chemicals within the scope of an authorisation pursuant to Section 42; said chemicals shall be established in an authorisation notification in compliance with the requirements in Part VI of the Verification Annex to the CWC;
2. development, production, acquisition, possession, stockpiling, retention or transfer of category 2 and 3 chemicals, or
3. production of category 4 or 5 chemicals, where production in plants which exclusively produce hydrocarbon compounds and explosives is exempt from the notification requirement, or
4. development, production, acquisition, possession, stockpiling, retention or transfer of category 6 chemicals.

(2) Parties obliged to give notification pursuant to Para 1(2) through (4) shall submit an initial notification, periodic notifications and a notification on the discontinuation of an activity.

(3) The initial notification shall be furnished at least 20 days prior to the intended commencement of activity for chemicals in categories 2 through 6 or at least 20 days before the quantity threshold established pursuant to Section 1(3) is expected to be reached.

(4) The initial notification shall in all cases contain the following:

1. the chemical concerned,

2. the type of activity or activities,
3. the date of the anticipated commencement of the activity or anticipated achievement of the quantity threshold.

(5) Periodic notifications shall be made in accordance with the obligations under international law based on the CWC in the form of preliminary notifications on anticipated notification and notifications of conclusion on processes conducted. The duty to submit said notifications concerning one or more activities involving a particular chemical shall commence upon the initial notification pursuant to Para 3 and shall end only upon submission of a notification pursuant to Para 6 concerning said activity or activities, regardless of the quantities of said chemicals involved each year.

(6) A notification of the discontinuation of an activity shall be carried out immediately upon the discontinuation of a given activity or all activities involving a particular chemical. The date of the discontinuation of the activity or activities and the changes since the last periodic notification pursuant to Para 5 shall be specified in said notification in any case.

(7) The data notified are to be treated with confidentiality and may only be used for purposes of enforcing this Federal Act as well as enforcing provisions of penal and financial criminal law.

(8) The Federal Minister of Economy, Family and Youth shall establish the following by way of regulation in conformity with the obligations under international law based on the CWC and to ensure compliance with other authorisation criteria of Chapter II for notifications pursuant to Paras 3, 5, and 6:

1. the data to be specified in each of said notifications, and
2. the deadlines for the submission of periodical preliminary notifications and notifications of conclusion.

Mixtures and finished products of chemicals

Section 45. (1) In addition to the cases provided for in Para 2, the prohibitions pursuant to Section 18(1)(1) and Section 41, the authorisation requirements pursuant to Section 14(1), Section 26 and Section 42(1)(1) and (2) and Para 2 as well as the notification requirements pursuant to Section 44 shall also apply to mixtures and finished products which contain one or more of the chemicals subject to the respective restrictions.

(2) However, the Federal Minister of Economy, Family and Youth shall establish via regulation that all or individual prohibitions, authorisations or notification requirements specified in Para 1 for all or individual processes or activities for mixtures and finished products do not apply if the proportion of the chemical or chemicals does not exceed a particular weight percentage rate, if doing so is compatible with Austria's obligations under international law based on the CWC, because:

1. the mixture only contains a small percentage rate of the chemical, and
2. the chemical cannot be easily reclaimed from the mixture, and
3. the total quantity of the chemical contained in the mixture does not pose a risk for the goal and purpose of the CWC.

Exemptions pursuant to the Biotxin Convention

Section 46. The prohibitions pursuant to Section 18(1)(2) and Section 41 and the authorisation requirements pursuant to Section 14(1), Section 26 and Section 42(1)(3) and Para 2 shall not apply to the development, production, possession, stockpiling and retention of agents, toxins and equipment in the sense of Article I of the Biotxin Convention for exclusively medical/diagnostic purposes and for humanitarian or veterinary research at universities, universities of applied sciences or other authorised institutions in the quantities required for these purposes.

National authority

Section 47. (1) The national authority in the sense of Article VII(4) of the CWC is the Federal Minister of Economy, Family and Youth, who is charged, i.a., with the following tasks:

1. recording of the data to be notified pursuant to Articles III and VI as well as Parts VI, VII, VIII and IX of the Verification Annex to the CWC,
2. performance of the initial declaration and all other required notifications for the OPCW pursuant to Articles III and VI as well as Parts VI, VII, VIII and IX of the Verification Annex to the CWC,
3. cooperation in the inspections ordered and conducted by the OPCW pursuant to Article VI(9) and (10) and Parts VI, VII, VIII and IX of the Verification Annex to the CWC as well as Article IX and Parts II and X of the Verification Annex to the CWC,

4. immediate transfer of inspection requests from the OPCW pursuant to Article VI(9) and (10) and Parts VI, VII, VIII and IX of the Verification Annex to the CWC as well as Article IX(15) of the CWC to the institution to be inspected,
5. performance of inspections regarding compliance with the authorisation and notification requirements pursuant to this Federal Act pursuant to Parts VI, VII, VIII and IX of the Verification Annex to the CWC,
6. safeguarding of confidentiality of all data and information received, accessible and available in accordance with the Confidentiality Annex to the CWC,
7. cooperation with Member States and non-member states of the CWC pursuant to Articles IX, X, XI and the Verification Annex to the CWC,
8. support of the OPCW in its activity pursuant to Articles IX and X as well as Parts II, VI, VII and VIII of the Verification Annex to the CWC,
9. exchange of information and cooperation in the field of science and technology for purposes not prohibited by the CWC pursuant to Article XI and Parts VI, VII and VIII of the Verification Annex to the CWC, and
10. support and advising of persons and organisations in issues concerning implementation of the CWC while maintaining the confidentiality requirement established in it.

(2) In addition to the cases specified in Section 48, the Federal Minister of Economy, Family and Youth shall represent Austria as a national authority pursuant to Article VII(4) of the CWC in the fulfilment of all obligations from the CWC.

(3) The Federal Minister of Economy, Family and Youth shall inform the Federal Minister for European and International Affairs that a notification pursuant to Para 1(2) has been carried out.

(4) The Federal Minister for European and International Affairs shall be given an opportunity to comment in the affairs specified in Para 1(7) and it will be necessary to proceed in agreement with said Federal Minister if obligations under international law or foreign policy interests of the Republic of Austria are affected.

(5) Regardless of Paras 3 and 4, the Federal Minister of Economy, Family and Youth shall inform other Federal Ministers if a Federal Minister's sphere of action is affected by the fulfilment of the tasks specified in Paras 1 and 2.

Representation in the conference of the states parties to the CWC

Section 48. Austria's representation in the conference of the states parties to the CWC pursuant to Article VIII(B) of the CWC and in the Executive Council pursuant to Article VIII(C) of the CWC shall be performed by the Federal Minister for European and International Affairs in agreement with the Federal Minister of Economy, Family and Youth.

Chapter VI

General provisions on restrictions

Segment 1

Organisational safeguarding measures

Internal safeguarding measures

Section 49. (1) Persons or organisations involved in the production of or trade in goods or in the design or transfer of software or technology or in the technical support or other processes in the sense of Section 1(23) shall take suitable organisational measures to ensure that no processes take place which could be in conflict with the authorisation criteria of Chapter II. The size and subject of the undertaking as well as the categories of goods concerned shall be taken into consideration in selecting the measures.

(2) In any case, suitable measures in the sense of Para 1 could include:

1. appointing one or more responsible authorised persons in the sense of Sections 50 and 51,
2. the existence of an internal code of conduct for the performance of the processes specified in Para 1,
3. internal monitoring systems to ensure the diligent compliance with and implementation of all legislation relevant to the processes specified in Para 1 and of the code of conduct specified in Item 2, and

4. regular training of and provision of information to persons involved in processes in the sense of Para 1 regarding the legal prerequisites for their permissible performance, the code of conduct specified in Item 2 and the handling of the monitoring systems specified in Item 3.

(3) In any case, measures which resulted in a certification pursuant to Section 37 shall be deemed to be sufficient during the certificate's unsuspended period of validity.

Responsible authorised persons

Section 50. (1) The Federal Minister of Economy, Family and Youth shall instruct persons or organisations in the sense of Section 49(1) to appoint one or more responsible authorised persons via notification who shall be responsible for compliance with this Federal Act including the regulations and notifications issued upon its basis as well as on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) and (b) by the entire undertaking or by certain offices or specified divisions of the undertaking, if doing so is necessary to ensure compliance with the authorisation criteria pursuant to Chapter II.

(2) Only natural persons meeting the following requirements may be appointed as responsible authorised persons:

1. they must meet all prerequisites pursuant to Section 9(4) of the Administrative Penal Act of 1991 (VStG), Federal Law Gazette No 52/1991, and
2. they must be deemed to be reliable in the sense of Section 51, and
3. they must be members of the board of directors, a managing director or a partner with the power of representation or hold another executive position in the undertaking, and
4. they must be responsible for the organisation, selection and advanced training of personnel as well as monitoring of compliance with the provisions of this Federal Act and the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) and (b).

(3) The Federal Minister of Economy, Family and Youth shall be notified of the appointment of a responsible authorised person pursuant to Para 1 immediately upon delivery of the notification pursuant to Para 1.

(4) A person or organisation may also appoint one or more responsible authorised person in the sense of Paras 1 and 2 on its own. In such case, the Federal Minister of Economy, Family and Youth shall be notified of the appointment without delay.

(5) The Federal Minister of Economy, Family and Youth shall give instructions via notification to recall an appointed person if said person no longer meets all of the prerequisites pursuant to Paras 1 and 2 or circumstances subsequently arise in which at least one of said prerequisites is no longer met.

(6) If one or more responsible authorised persons pursuant to Paras 1 or 4 have been appointed, they shall assume responsibility for compliance with the provisions specified in Para 1 for the entire performance of processes in the sense of Section 49(1) including customs clearance.

(7) If necessary to ensure compliance with the authorisation criteria pursuant to Chapter II, the processing of an application or notification of the appointment shall be made dependent on the appointment of a responsible authorised person in the sense of Para 1 unless such person has already been appointed in accordance with Paras 1 or 4.

Reliability assessment

Section 51. (1) A person shall be deemed to be unreliable if:

1. said person has been convicted by a court
 - a) for violation of provisions relating to foreign trade law, weapons law, the law on revenue offences or provisions of the War Materials Act (KMG), Federal Law Gazette No 540/1977, or the Ammunition and Explosives Act of 2010 (SprG), Federal Law Gazette No. 121/2009, or
 - b) for a criminal act other than those specified in Item a) to a sentence exceeding three months of imprisonment or a fine of more than 180 daily rates, or
2. said person has been punished for an administrative offence or revenue offence in the fields specified in Item 1(a) if sentenced to a fine of more than €726 or imprisonment in addition to a fine, or
3. said person has been sentenced to a less severe penalty than that specified in Item 2 more than once for an administrative offence or revenue offence in the fields specified in Item 1(a), or
4. there is a reasonable assumption based on other circumstances that said person is not prepared to or not capable of continuing to be responsible for further compliance with the provisions specified in Section 50(2)(4).

(2) In assessing reliability pursuant to Para 1(1), only convictions may be taken into account which have neither been erased from the criminal record nor are subject to the restriction of disclosure from the penal register pursuant to Section 6 of the Act on the Erasure of Convictions of 1972, Federal Law Gazette No 68. The penalties specified in Para 1(2) and (3) may only be taken into consideration if fewer than five years have passed since the punishment.

(3) Paragraphs 1 and 2 shall also apply if offences comparable to the specified reasons for disqualification were committed abroad.

Segment 2

Applications and notifications

Form and content of applications and notifications

Section 52. (1) Applications or notifications on the basis of this Federal Act or on the basis of directly applicable law of the European Union shall be provided in written form, and the officially published forms shall be used.

(2) The application or notification shall contain all of the information required to assess the process or activity for which said application or notification is being made. Suitable documentary evidence shall be enclosed.

(3) If an application for the authorisation of a process has been filed by means of which a notification has been issued on the basis of a preliminary enquiry pursuant to Section 62, reference shall be made to such notification and it shall be specified whether and which data on the process have changed vis-à-vis the application upon which the preliminary enquiry was based.

Electronic application submission

Section 53. (1) Applications and notifications pursuant to Section 52 shall be filed via electronic media, as long as doing so is reasonable and the technical conditions for doing so are present and functional with the applicant as well as with the authority.

(2) Persons filing applications and notifications which refer to processes in the sense of Section 1 (1)(10)(a) in a form specified in Para 1 shall appoint one or more authorised persons in the sense of Section 50 and it shall be demonstrably ensured that one of said persons is responsible for the application or notification in the sense of Section 50(6).

(3) In the case of applications and notifications which are submitted electronically, all of the required documents shall be enclosed as a copy. The originals shall be stored in accordance with Section 65 and kept ready for submission or inspection at any time. Said originals shall be furnished or submitted without delay at the request of the Federal Minister of Economy, Family and Youth.

Segment 3

Residual provisions and other provisions

Special requirements

Section 54. (1) The issuance of an authorisation based on this Federal Act or based on the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or (b) shall be provided with special requirements if doing so is necessary for compliance with the authorisation criteria pursuant to Chapter II.

(2) The following may i.a. be imposed in special requirements pursuant to Para 1:

1. that goods may be supplied only to persons who hold a valid authorisation to trade in said goods, or
2. that goods must bear a marking established by national or international legislation, or
3. that documentary evidence be provided which indicates that the goods have in fact been received by the specified recipient in the country of destination, or
4. that the Federal Minister of Economy, Family and Youth be informed prior to an intended transfer of the goods to another recipient.

Export restrictions of other EU Member States

Section 55. (1) Persons or organisations who/which are applying for exportation of goods which they have received in an authorisation for transport from another EU Member State in which export

restrictions have been established of which they were informed shall inform the Federal Minister of Economy, Family and Youth of such and demonstrate in their application that all of said restrictions have been complied with. If the consent of the other EU Member State has been requested for the exportation, it shall be presented.

(2) If the exportation of a good which is being applied for conflicts with one or more export restrictions in one or more authorisations for transport from other EU Member States, the application may only be granted upon consultations pursuant to Section 68 with the other EU Member State(s) if:

1. the reasons which were decisive for the export restrictions in question no longer exist, and
2. all criteria pursuant to Chapter II have been met.

Other provisions for authorisations and import certificates

Section 56. (1) Time limitations shall be imposed on authorisations and import certificates.

(2) Authorisations and import certificates shall be non-transferrable.

Revocation and retroactive special requirements

Section 57. (1) Authorisation notifications relating to processes in the sense of Section 1(1)(10)(a) for which a prohibition enters into legal effect after such notification has been issued, which prohibition is based on this Federal Act, a regulation enacted on its basis or on the basis of any directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or (b), shall be deemed to have been revoked by operation of law upon the day the prohibition enters into legal effect to the extent they are affected by such prohibition.

(2) If, in cases other than those specified in Para 1, at least one of the prerequisites for the issuance of an authorisation based on this Federal Act or on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or (b) or at least one of the prerequisites for the issuance of an import certificate is no longer met at a later point in time and the imposition of particular special requirements pursuant to Section 54 suffices in order to ensure renewed compliance with all of the prerequisites, the Federal Minister of Economy, Family and Youth shall subsequently impose said special requirements by way of notification. Otherwise, he shall revoke the authorisation or the import certificate by way of notification.

(3) Notifications or import certificates affected by a revocation pursuant to Paras 1 or 2 shall be returned to the Federal Minister of Economy, Family and Youth without delay.

(4) The Federal Minister of Economy, Family and Youth shall immediately inform the Federal Minister of Finance of any notification pursuant to Para 2 if said notification relates to importation, exportation, transit or an import certificate. Said information shall contain all of the data on the exporter, goods in question, country of destination, intended recipient and intended transportation routes which are necessary for the customs authorities to monitor the process affected by the revocation.

(5) In the event of imminent danger because goods within the scope of a process for which authorisation was revoked pursuant to Para 2:

1. are intended to or could arrive in a non-member state in which an armed conflict is taking place or which is involved in an armed conflict with another country or in which severe and repeated human rights violations are committed or which supports terrorist activities, and
 2. are intended or suitable for an intended purpose specified in Sections 5 through 8 and Section 10,
- then the Federal Minister of Economy, Family and Youth shall immediately inform the Federal Minister of Finance of said circumstances, including the data on the exporter, goods in question, country of destination, intended recipient and intended transportation routes, which are necessary for the customs authorities. The customs authorities shall confiscate said goods.

Delivery in special cases

Section 58. If an exporter pursuant to Section 1(1)(12) or a person responsible for transit pursuant to Section 1(1)(14) in urgent cases cannot be reached in time, notifications and messages on the basis of this Federal Act including regulations enacted on its basis as well as on the basis of the directly applicable law of the European Union may also be effectively delivered to the persons who are actually carrying out the transport.

Registration and notification requirements for general authorisations

Section 59. (1) General authorisations in the sense of Section 1(1)(26) may only be claimed by persons or organisations who/which are registered in accordance with the following Paras.

(2) The Federal Minister of Economy, Family and Youth shall keep a register of all persons and organisations which claim general authorisations in the sense of Section 1(1)(26). The Federal Minister shall keep a register of general authorisations in accordance with Section 1(1)(26)(a) and (b) and a register for general authorisations in the sense of Section 1(1)(26)(c).

(3) The registers specified in Para 2 shall contain the following data on each registered person or organisation:

1. name of person or undertaking as well as place of residence or headquarters,
2. name and address of the responsible authorised person(s), and
3. the data of the periodical notifications pursuant to Para 9.

(4) The registers are not public. Information from said registers may only be furnished for purposes of monitoring compliance with this Federal Act and the directly applicable law of the European Union in accordance with Section 1(1)(24)(a) and (b) to the authorities responsible for this task.

(5) For the purpose of registration, the Federal Minister of Economy, Family and Youth shall be informed of the intent to use general authorisation in the sense of Section 1(1)(26) before the process is carried out. In the process, it is necessary to specify which of the types of general authorisations specified in Section 1(1)(26) are intended to be used. Said notification shall furthermore demonstrate that a responsible authorised person has been appointed who meets all prerequisites pursuant to Sections 50 and 51.

(6) The applicant shall be entered into the register and informed of the registration within ten business days, except in the cases specified in Paras 7 and 8.

(7) If the applicant has lost the right to use general authorisations pursuant to Section 61(1) and the relevant conviction has not yet been erased from the criminal record, registration shall be rejected via notification within ten business days.

(8) If the applicant has not appointed a responsible authorised person, registration pursuant to Para 6 may only be carried out within ten business days after notification of the appointment of such a responsible authorised person. No responsible authorised person shall be deemed to have been appointed in the sense of this provision when such person's recall has been ordered by notification pursuant to Section 50(5).

(9) If expressly permitted by the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or said law does not oppose doing so, the Federal Minister of Economy, Family and Youth shall establish via regulation periodic notification requirements on the processes which were conducted within the scope of general authorisations of the EU or a national general authorisation, if doing so is required to ensure compliance with the authorisation criteria of Chapter II and the relevant legislation of the European Union. The following may i.a. be established in such a regulation:

1. aggregated data on the processes conducted within a particular period of time, in which a categorisation by the type of general authorisation used and the categories of goods and recipients involved may be mandated,
2. the period of time to which the notifications relate, as well as
3. the data on which the notifications must be presented.

Loss and temporary suspension of the right to use general authorisations

Section 60. (1) A person or organisation shall lose the right to use general authorisations if said person or organisation is convicted with a court penalty with legal effect due to violation of Section 177a of the Penal Code (StGB) Federal Law Gazette No 60/1974, the provisions of this Federal Act as well as the preceding Federal Acts which this Federal Act is replacing, or due to violation of provisions of the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or (b). For organisations this shall apply to a conviction in accordance with the Legal Persons' Liability Act, Federal Law Gazette No 151/2005. General authorisations may only be reused after the conviction has been erased from the criminal record.

(2) Persons or organisations who/which have lost the right to use general authorisation shall be deleted from the registers pursuant to Section 59 in which they were entered.

(3) The right to use general authorisations shall be temporarily suspended for as long as a responsible authorised person who meets all of the prerequisites in Sections 50 and 51 has not been appointed.

(4) A right suspended in accordance with Para 3 shall be reinstated as soon as a suitable responsible authorised person has been appointed. This shall be confirmed upon request via notification.

(5) Suspension pursuant to Para 3 shall be noted in the registers pursuant to Section 59. Said note shall immediately be deleted once the suspension pursuant to Para 4 ends.

Register on intermediation activities

Section 61. (1) The Federal Minister of Economy, Family and Youth shall keep a register which is not open to the public of all persons and organisations who/which have received an authorisation for intermediation between non-member states pursuant to this Federal Act or the directly applicable law of the European Union in the sense of Section 1(1)(24)(a).

(2) The register shall contain the information on the intermediation process specified in Section 65(2)(1) through (7) and 65(3) as well as the date of the authorisation notification and the special requirements contained therein (if any had been imposed).

(3) The Federal Minister of Economy, Family and Youth shall keep the data specified in Para 2 for at least ten calendar years as of the date of the authorisation notification.

(4) The data pursuant to Para 2 may exclusively be furnished for the purposes of enforcing this Federal Act and the Industrial Code as well as for purposes of federal taxation, customs, criminal or financial penalty proceedings to the authorities responsible for said proceedings.

Segment 4

Preliminary enquiries

Preliminary enquiry

Section 62. (1) Upon application, the Federal Minister of Economy, Family and Youth shall establish via notification what decision will be reached on a process in which a legal transaction relevant to foreign trade is to be concluded in accordance with this Federal Act, regulations enacted on its basis or on the basis of directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or (b).

(2) An application pursuant to Para 1 shall contain all information and documentary evidence in the sense of Section 52(2) which can be expected to be submitted prior to the planned conclusion of the contract and which enable sufficient assessment of the process with respect to the relevant legal provisions in the sense of Para 1, including the authorisation criteria of Chapter II. The Federal Minister of Economy, Family and Youth shall establish more precise provisions for said information and documentary evidence by way of regulation.

(3) A notification shall be used to establish that either:

1. the process is not subject to a prohibition and is not subject to an authorisation requirement on the basis of the provisions specified in Para 1, or
2. the process is subject to a prohibition on the basis of the provisions specified in Para 1, or
3. the process is subject to an authorisation requirement on the basis of the provisions specified in Para 1, and
 - a) the authorisation may be issued,
 - b) the authorisation may only be issued subject to particular special requirements which must be specified in the notice of assessment, or
 - c) the issuance of the authorisation will be denied.

Chapter VII

Monitoring

Segment 1

General provisions for monitoring

General monitoring measures

Section 63. (1) In order to monitor compliance with the provisions of this Federal Act, the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) and (b) and the obligations under international law specified in Section 4, the Federal Minister of Economy, Family and Youth may request reports and documentary evidence at any time and establish a reasonable deadline for the submission thereof, and, if effective monitoring cannot be ensured by other means, have suitable official experts inspect the participants' books and warehouses. If it is detected that the participants have committed a violation of prohibitions, authorisation or notification requirement on the basis of this Federal Act or on the basis of the directly applicable law of the European Union in the sense of Section

1(1)(24)(a) and (b), the participants must cover the expenses for the proceedings including the expenses for the monitoring.

(2) The Federal Minister of Economy, Family and Youth may take the following particular actions within the scope of the monitoring activity pursuant to Para 1:

1. enter the facilities and means of transport to be inspected,
2. request the required data and information,
3. question the personnel of the facility to be inspected and the personnel involved in the transportation of goods,
4. have documents and records submitted to him, inspect them, and create copies of them,
5. create photographs of the facilities, means of transport, and objects to be inspected,
6. take samples and have them analysed, and
7. demand particular work processes to be conducted, if the required time and effort and the expenses incurred by the undertaking which arise from them are in a reasonable proportion to the objective of the monitoring.

(3) If monitoring actions are conducted at the location of an establishment or other facility, the owner of the facility or the proprietor shall be informed at least one week prior to the performance of said actions, noting that they involve monitoring of compliance with foreign-trade-related provisions.

(4) A notification pursuant to Para 3 may only be omitted if there is reason to assume that a violation of the provisions specified in Para 1 may have taken place. In such case, the owner of the facility, the proprietor or a representative of said persons shall be notified immediately upon entering the facility or establishment. If there is imminent danger and neither the owner or proprietor nor a representative of said persons can be reached, a subsequent notification will suffice. The reasons which led to the assumption that a law has been violated shall be specified in the notification.

(5) To the extent possible, any disruption of business operation and any commotion are to be avoided during the monitoring activities in the above sense.

(6) The persons specified in Paras 3 and 4 shall enable the bodies specified in Para 1 to enter, open and inspect the properties, buildings, containers and means of transport, if doing so is necessary to enforce the provisions specified in Para 1. Furthermore, the specified persons shall provide the necessary information, submit the necessary documents and, if required, grant access to the records on the inventory as well as other records and comply with other requests of the Federal Minister of Economy, Family and Youth within the scope of his capacities pursuant to Paras 1 and 2.

(7) A protocol in the sense of Sections 14 and 15 of the General Administrative Procedures Act of 1991 (AVG), Federal Law Gazette No 51/1991, shall be drawn up on every monitoring action pursuant to Paras 1 through 6.

Cooperation with the Federal Minister of Finance

Section 64. (1) Upon request by the Federal Minister of Economy, Family and Youth the Federal Minister of Finance shall be authorised to furnish the Federal Minister of Economy, Family and Youth with data gained by the customs authorities within the scope of their activity on the type, quality, quantity, value, origin, provenance and intended purpose of goods and data on the persons and organisations directly or indirectly involved in the trade in goods, if doing so is necessary for the monitoring of the processes which are subject to this Federal Act or directly applicable law of the European Union in the sense of Section 1(1)(24)(a) and (b). The data provided shall be used exclusively for purposes of monitoring the specified processes.

(2) The Federal Minister of Economy, Family and Youth may request the Federal Minister of Finance to conduct investigations in his sphere of action on all circumstances which are or were relevant for compliance with the provisions of the Federal Act, of the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) and (b) and the obligations under international law specified in Section 4. Sections 24 and 25 of the Customs Procedures Act (ZollR-DG), Federal Law Gazette No 659/1994 shall apply to these investigations with the stipulation that the inspections are not limited to the persons specified in Section 23(1) of the Customs Procedures Act.

(3) Other than for the purposes of enforcing the legal provisions in the sphere of action of the Federal Minister of Finance the findings obtained in the inspections pursuant to Para 2 may only be used for purposes of enforcing this Federal Act.

(4) If doubts arise during customs processing as to whether a process is subject to a notification requirement, an authorisation requirement or a prohibition on the basis of this Federal Act or on the basis

of the directly applicable law of the European Union pursuant to Section 1(1)(24)(a) or (b), the Federal Minister of Finance shall be empowered to inform the Federal Minister of Economy, Family and Youth and request him to furnish additional data on the process in question. The Federal Minister of Economy, Family and Youth shall be empowered to provide all required data to the Federal Minister of Finance.

Recording and record storage requirements

Section 65. (1) Anyone initiating a process in the sense of Section 1(1)(1)(a) which is subject to an authorisation requirement or a notification requirement on the basis of this Federal Act or on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or (b) or for which an import certificate was issued shall keep records on said activity.

(2) Records pursuant to Para 1 shall, i.a., include business papers such as invoices, loading lists, transport or other shipping papers, which can be used to determine the following:

1. the designation of the goods including the required technical specifications or the precise designation and form of technical support,
2. the quantity and value of said goods,
3. in the case of processes subject to authorisation requirements, the precise data on which the process(es) has/have been conducted,
4. name and address of all responsible persons or organisations,
5. the contracting party or parties,
6. the recipient of the goods,
7. the final use and final user, to the extent that these were known or had to be known, and
8. documentary evidence indicating that the information pursuant to Section 34 as well as information which is compulsory on the basis of the directly applicable law of the European Union has been supplied to the recipient.

(3) Records concerning intermediation between non-member states shall additionally contain the following:

1. specifications of the place at which the goods are located in the non-member state,
2. all of the persons or organisations participating in the intermediation, and
3. precise specifications on the final user of the goods including such user's precise location.

(4) The participants shall keep the documents specified in Para 1 for at least five years for the purpose of inspection pursuant to Section 63. The term of storing said documents shall commence at the end of the calendar year in which the process pursuant to Para 1 ended.

Segment 2

Special provisions pursuant to the CWC

Special provisions for inspections pursuant to the CWC

Section 66. (1) In the event of inspections which are conducted by order of the OPCW in accordance with the provisions of the CWC, the inspectors of the OPCW shall be entitled to the empowerments specified in Section 63 within the scope of their inspection task and the obligations specified in Section 63(6) shall be due to them.

(2) The Federal Minister of Economy, Family and Youth shall immediately inform the Federal Minister for European and International Affairs and all other members of the federal government in their sphere of action of the initiation of inspections conducted by the OPCW in accordance with Article IX and Annex II of the CWC.

(3) If military interests are affected, the Federal Minister of Defence and Sports may send one or more representatives to participate in the inspection; if security police interests are affected, the Federal Minister of the Interior may send one or more representatives to participate in the inspection.

(4) During inspections pursuant to Para 1, the Federal Minister of Economy, Family and Youth shall be responsible for compliance with the provisions of the CWC, in particular Parts II, III, VI(E), VII(B), VIII(B), and IX(B) and (C) of the Verification Annex and the provisions of the Confidentiality Annex as well as the provisions of this Federal Act. At least one representative of the Federal Minister of Economy, Family and Youth shall be present for the entire duration of the inspection.

Segment 3

International monitoring and consultation provisions

Consultation procedures between EU Member States

Section 67. (1) If the Federal Minister of Economy, Family and Youth rejects an application for the exportation, transit or intermediation of goods between non-member states, he shall inform all other EU Member States in detail and inform them of the reasons for his refusal to grant authorisation.

(2) An authorisation shall be deemed to have been refused if a process which has been applied for and which would otherwise have been conducted was rejected.

(3) Before an authorisation for exportation, transit or intermediation between non-member states on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or on the basis of Section 14(1) or Section 15, or a regulation on the basis of Section 14(2) is to be issued in a case where an authorisation for an equivalent process has been rejected by one or more other EU Member States within the past three years, the Federal Minister of Economy, Family and Youth shall consult the other EU Member State(s) involved if he is aware of said rejection.

(4) If the Federal Minister of Economy, Family and Youth decides to issue the authorisation after the consultations pursuant to Para 3, he shall notify the other EU Member States involved and thoroughly explain his reasons for doing so.

Consultation procedures in the event of export restrictions in authorisations for transport

Section 68. (1) The Federal Minister of Economy, Family, and Youth shall inform all other EU Member States of export restrictions in general authorisations pursuant to Section 28 as well as in notifications pursuant to Sections 30 and 31. In doing so, he shall furnish the following data to the other EU Member States:

1. the goods or categories of goods involved,
2. any non-member states which are affected by the restriction,
3. the recipients or categories of recipients which are affected by the restriction, and
4. in the case of regulations pursuant to Section 28, the publicly accessible source, and in the case of notifications pursuant to Sections 30 and 31, the notification recipients as well as EU Member States and the recipients or groups of recipients for whom the authorisation for transport was issued.

(2) If the Federal Minister of Economy, Family and Youth is informed of the following in conjunction with an application for an exportation or transit authorisation pursuant to Section 55(1):

1. that another EU Member State has established an export restriction on the process which is being applied for, and
2. that a demonstrable attempt has been made to obtain the consent of the EU Member State in question to the process being applied for, but it could not be obtained,

then the Federal Minister of Economy, Family and Youth shall immediately consult the other EU Member State involved if he arrives at the conclusion that the process could be authorised in accordance with the authorisation criteria of Chapter II, at least if special requirements are imposed.

(3) In consultations pursuant to Para 2, the Federal Minister of Economy, Family and Youth shall be empowered to furnish the following data to the other EU Member State:

1. the applicant's name and address, place of residence, headquarters or place of business,
2. the goods or categories of goods involved,
3. the non-member state to which the goods are to be exported, and
4. the recipient and the final user (if known) in the non-member state.

Exchange of information regarding certified undertakings

Section 69. (1) The Federal Minister of Economy, Family and Youth shall furnish a list of all undertakings certified in accordance with Segment 2 of Chapter III to the European Commission and all Member States and notify them of all changes to said list at regular intervals.

(2) If the Federal Minister of Economy, Family and Youth has reason to assume that a certified undertaking in another EU Member State no longer meets the essential prerequisites for certification and there is thus a risk that it could conduct exportations in conflict with the authorisation criteria pursuant to Chapter II, he shall inform the Member State in question without delay.

International data traffic

Section 70. (1) The Federal Minister of Economy, Family and Youth may, in connection with processes in the sense of Section 1(1)(10)(a) pass on:

1. data from procedures and on notifications on the basis of this Federal Act or on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) and (b) by which an authorisation is issued, an application for an authorisation is rejected or a prohibition is imposed, and
2. data in connection with the suspicion of such a process which could result in a good suitable for one of the uses listed in Sections 5 through 8 and Section 10 being transferred to a recipient who/which might use said good in conflict with the authorisation criteria pursuant to Chapter II, to the bodies and Member States of the European Union as well as to other countries, international organisations and other international institutions, if doing so is necessary on the basis of the international law obligations in the sense of Section 4 or is necessary to ensure international disarmament, arms control, and monitoring of trade in defence goods and other goods which are suitable for a use pursuant to Section 5. If this does not just involve overviews, there must be no doubt as to the recipient's confidential treatment of personal data.

(2) The Federal Minister of Economy, Family and Youth shall annually furnish to the Federal Minister for European and International Affairs data on exports, transits and intermediations of goods between non-member states which are subject to an authorisation requirement on the basis of Sections 14 and 15, as well as on the implementation of the relevant provisions of European Union law within the scope of this Federal Act, so that the Federal Minister for European and International Affairs can fulfil the reporting duties based on provisions of European Union law.

General provisions for international data traffic

Section 71. (1) The data traffic regulated in Sections 67 through 70 shall be conducted by way of the Federal Minister for European and International Affairs if it affects international law or foreign policy issues.

(2) The data traffic in accordance with Sections 67 through 70 may be conducted entirely in electronic form.

(3) All information on refused authorisations of other EU Member States and on consultations pursuant to Sections 67 through 69 shall be treated as confidential.

Chapter VIII

Supplementary provisions on the economic restrictions of the European Union

Provisions for exemptions

Section 72. The Federal Minister of Economy, Family and Youth shall, by way of regulation, establish for particular processes for which restrictions on the importation and exportation of goods have been established by the directly applicable law of the European Union in the sense of Section 1(1)(24)(c) value or quantity limits under which importation or exportation is not subject to restriction if the directly applicable law of the European Union does not oppose doing so and doing so does not jeopardise the interests which the restriction serves.

Global authorisations

Section 73. The Federal Minister of Economy, Family and Youth shall issue authorisations on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24)(c) in the form of temporary global authorisations, if doing so is:

1. in the interest of simplifying administrative work and reducing costs, and
2. there is no reason to fear that the goals of the European Union's relevant legislation will be hindered.

Special restrictions

Section 74. Special requirements shall be imposed in connection with the issuance of authorisations on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24)(c) if doing so is explicitly provided for in the relevant legislation of the directly applicable law of the European Union or is permissible in accordance with said legislation and is necessary to achieve the purpose of the authorisation requirement.

Applications

Section 75. Sections 52 and 53(1) and (3) shall apply to applications for the issuance of authorisations on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24)(c).

Provisions for monitoring

Section 76. (1) The provisions for monitoring of Section 63(1) and (7) and Section 64(1) through (4) shall be applied for monitoring processes which are subject to an authorisation or notification requirement on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24)(c). Section 65(4) shall be applied with the stipulation that the retention period shall amount to three years.

(2) If a commensurate obligation exists based on the law of the European Union, the Federal Minister of Economy, Family and Youth shall be authorised to furnish in electronic form to bodies of the European Union and to other EU Member States and to the non-member states affected by the restrictions, in order to monitor processes in the sense of Para 1:

1. data on quantities and prices of the goods being imported or exported, and
2. data on the extent of the use of quotas.

Chapter IX

Cooperation with the Main Committee of the National Council and with other Federal Ministers

Special provisions for enacting regulations

Section 77. (1) The enactment and repeal of regulations pursuant to Section 14(2) and (3) and Section 18(2), Section 31(2) and Section 33(5) require the consent of the Main Committee of the National Council. Said consent shall be deemed to have been granted if the Main Committee of the National Council does not notify within a month as of receiving the application that the consent has been refused. If the National Council is not convened when the application is received, this term shall be extended to two months.

(2) Regulations pursuant to Section 14(2) and (3), Section 18(2), Section 25, and Section 72 shall be enacted in agreement with the Federal Minister of Finance if provisions of customs law are affected.

(3) Regulations pursuant to Section 14(2) and (3), Section 18(2) and Section 25 shall be enacted in agreement with the Federal Minister for European and International Affairs if international-law-related obligations or foreign policy interests of the Republic of Austria are affected.

Involvement of other Federal Ministers and establishment of an advisory board

Section 78. (1) If issues which affect the sphere of action of another Federal Minister must be assessed in the inspection of the prerequisites for the enactment of a regulation or its notification or the prerequisites for the issuance of an import certificate on the basis of this Federal Act or on the basis of the directly applicable law of the European Union, the Federal Minister affected shall be given the opportunity to comment on said issues within a suitable period of time.

(2) Paragraph 1 notwithstanding, an advisory board shall be established at the Federal Minister of Economy, Family and Youth to advise the Federal Minister of Economy, Family and Youth. It may be presented with all of the fundamental issues of enforcing this Federal Act and the directly applicable law of the European Union if doing so appears expedient in light of the special importance of the subject.

(3) The members of the advisory board shall be:

1. two representatives of the Federal Ministry of Economy, Family and Youth, one representative each of the Federal Ministries for European and International Affairs, Finance, the Interior, National Defence and Sport, Agriculture and Forestry, the Environment and Water Management as well as for Transport, Innovation and Technology, and
2. one representative each of the Austrian Economic Chamber, the Federal Chamber of Labour, the Presidential Conference of Austrian Chambers of Agriculture as well as the Austrian Trade Union Federation and the Federation of Austrian Industries, and
3. a representative of the Federal States.

(4) Substitute members shall be appointed for each member of the advisory board.

(5) The members (substitute members) specified in Para 3(2) shall be appointed as nominated by the delegating special interest group; the member (substitute member) specified in Para 3(3) shall be

appointed by the Federal Minister of Economy, Family and Youth as nominated by the governors of the Federal States.

(6) The members (substitute members) of the advisory board pursuant to Para 3(2) and (3) shall serve on an honorary basis.

(7) The members (substitute members) of the advisory board as well as any experts who may be consulted shall not disclose or use official, industrial or business secrets confided in them or made accessible to them in their capacity during the duration of their appointment as well as after leaving their function. To the extent that they are not civil servants, they shall be bound to fulfil their obligations diligently by the Federal Minister of Economy, Family and Youth.

(8) The advisory board shall be chaired by the Federal Minister of Economy, Family and Youth, who may be represented by an employee of his Ministry. The business of the advisory board shall be managed by the Federal Ministry of Economy, Family and Youth.

(9) At least half of the members shall be present for the advisory board to have a quorum for its consultant activity. However, if the required number of members is not present at the beginning of a session, the advisory board shall reassemble an hour after the time specified in the invitations and handle the agenda without regard to the number of representatives present.

Chapter X

Provisions under criminal law and accompanying provisions under civil law

Segment 1

Criminal acts

Criminal acts in trade with non-member states

Section 79. (1) Anyone who:

1. imports or exports goods, transits them or intermediates them through non-member states, provides technical support or conducts another process contrary to a prohibition pursuant to this Federal Act, pursuant to a regulation enacted on its basis or on the basis of directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or (b),
2. imports or exports goods, transits them or intermediates them through non-member states, provides technical support or conducts another process without an authorisation pursuant to this Federal Act, pursuant to a regulation enacted or notification issued on its basis or on the basis of directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or (b),
3. fraudulently obtains an authorisation in the sense of Item 2 by means of incorrect or incomplete information,
4. provides or accepts an authorisation notification in the sense of Item 2 for use by an unauthorised person in exchange for money or free of charge,
5. transports or has goods for the exportation, transit or intermediation between non-member states for which an authorisation in the sense of Item 2 has been issued transported after being processed by customs into a country of destination other than that specified in the authorisation, if the exportation into said country is prohibited or requires authorisation based on this Federal Act, a regulation enacted on its basis or a notification issued on its basis or on the basis of directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or (b),
6. initially transports goods to another EU Member State or exports them into a non-member state in order to subsequently transfer them or have them transferred to another non-member state for which an authorisation requirement or prohibition applies based on this Federal Act or on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or (b) in order to circumvent an authorisation requirement in the sense of Item 2 or a prohibition in the sense of Item 1,
7. fraudulently obtains the issuance of a global authorisation pursuant to Section 17 for the processes specified in Item 2 by means of incorrect or incomplete information,
8. uses a general authorisation in the sense of Section 1(1)(26)(a) or (b) for the exportation, transit or intermediation between non-member states of dual-use goods in a manner contrary to the provisions of this Federal Act, a regulation enacted on its basis or on the basis of a directly applicable law of the European Union in the sense of Section 1(1)(24)(a),
9. uses a general authorisation in the sense of Item 8, even though he has lost the right to do so pursuant to Section 60(1) or his right to do so has been suspended pursuant to Section 60(3),

10. violates a special requirement in an authorisation notification in the sense of Item 2,
 11. avoids the imposition of a special requirement in an authorisation notification in the sense of Item 2 by means of incorrect or incomplete information,
 12. exports goods contrary to an export restriction imposed pursuant to Section 32(2) from the Union without having received Austria's consent pursuant to Section 35,
 13. fraudulently obtains the issuance of an export authorisation pursuant to Section 55(1) by omitting information pursuant to Section 55(1) or avoids the imposition of a special requirement in the export authorisation notification,
 14. avoids revocation pursuant to Section 57 of an authorisation in the sense of Item 2 or the imposition of a subsequent special requirement pursuant to Section 57 in such an authorisation by means of incorrect or incomplete information,
 15. continues to use an authorisation in the sense of Item 2 contrary to a revocation pursuant to Section 57,
 16. conducts a process pursuant to Section 15(1) without an authorisation after being informed of the existence of the authorisation requirement,
 17. conducts a process notified pursuant to Section 19 prior to the expiration of one of the deadlines specified in Section 19(6),
 18. impedes the imposition of an authorisation requirement pursuant to Section 19(7) or a notification on the presence of an authorisation requirement pursuant to Section 15(1) by violating a notification requirement established in a regulation on the basis of Section 19(1) in combination with Section 25, in a regulation on the basis of Section 19(2) or (3) or on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or (b) or by violating a regulation on the basis of Section 19(5),
 19. exports or transits goods in conflict with a prohibition notification pursuant to Section 20(3)(2),
 20. impedes the issuance of a prohibition notification pursuant to Section 20(3)(2) by means of incorrect or incomplete information,
 21. fraudulently obtains a notification based on a preliminary enquiry pursuant to Section 62 on the absence of a prohibition or authorisation requirement on the importation, exportation, transit or intermediation between non-member states, for technical support or other processes or on the fact that such a process can be authorised or that a special requirement need not be imposed by means of incorrect or incomplete information,
 22. intermediates goods from the European Union without the export authorisation required for the process in accordance with the law of the EU Member State from which the exportation is being conducted,
 23. circumvents an authorisation requirement for or a prohibition of technical support by having said technical support within the federal territory of Austria provided for persons who intend to subsequently use or pass on the technical knowledge outside of the European Union,
 24. circumvents a prohibition in the sense of Item 1 or an authorisation requirement in the sense of Item 2 by transferring rights to produce goods in a non-member state or intangible property rights for use in a non-member state,
 25. carries out a process in the sense of Section 1(1)(10)(b) without authorisation pursuant to Section 25a(2) or (11) or violates a stipulation in the authorisation notification pursuant to Section 25a(9)(2)(a) or Section 25a(12) in combination with Para (9)(2)(a), or
 26. through incorrect or incomplete information fraudulently obtains an authorisation pursuant to Section 25a(8), (9) or (12) or impedes the prescription of stipulations in an authorisation notification pursuant to Section 25a(9) or (12),
- shall be punished by the court with a sentence of up to three years of imprisonment.
- (2) Anyone who commits any of the criminal acts in Para 1: .
1. for profit,
- 2by means of falsifying facts through the use of a false or falsified certificate, false or falsified data, another such piece of evidence or an incorrect measurement device,
- shall be punished by the court with a sentence of six months to five years of imprisonment.
- (3) Anyone who negligently commits any one of the acts designated in Para (1)(1), (2), (4), (8), (9), (10), (12), (15), (16), (17) or (19) shall be punished with imprisonment of up to one year or a fine of up to 360 daily rates.

Criminal acts in trade within the European Union

Section 80. (1) Anyone who

1. transports goods within the European Union without an authorisation required in accordance with this Federal Act, in accordance with a regulation enacted on its basis or a notification issued on its basis, or on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or without the authorisation of another EU Member State in accordance with Section 33,
2. fraudulently obtains an authorisation for the transport of goods within the European Union in the sense of Item 1 by means of incorrect or incomplete information,
3. transfers or accepts an authorisation notification in the sense of Item 1 for use by an unauthorised person in exchange for money or free of charge,
4. initially transports goods in order to subsequently transfer them or have them transferred to another EU Member State in which an authorisation requirement applies on the basis of this Federal Act or the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) in order to circumvent an authorisation requirement in the sense of Item 1,
5. fraudulently obtains the issuance of a global authorisation pursuant to Section 30 for the processes specified in Item 1 by means of incorrect or incomplete information,
6. uses a global authorisation in conflict with Section 30(3),
7. uses a general authorisation in the sense of Section 1(1)(24)(c) for the processes specified in Item 1 in conflict with the provisions of this Federal Act or a regulation enacted upon its basis,
8. uses a general authorisation in the sense of Item 7, even though he has lost the right to do so pursuant to Section 60(1) or his right to do so has been suspended pursuant to Section 60(3),
9. uses a general authorisation in the sense of Item 7 for an undertaking for which the validity of said general authorisation has been suspended in accordance with Section 29(2),
10. violates a special requirement in an authorisation notification in the sense of Item 1,
11. avoids the imposition of a special requirement in an authorisation notification in the sense of Item 1 by means of incorrect or incomplete specifications,
12. avoids revocation pursuant to Section 57 of an authorisation in the sense of Item 1 or the imposition of a subsequent special requirement pursuant to Section 57 in such an authorisation by means of incorrect or incomplete information,
13. continues to use an authorisation in the sense of Item 1 contrary to a revocation pursuant to Section 57,
14. violates a special requirement in an authorisation notification of another EU Member State pursuant to Section 33,
15. avoids the imposition of an authorisation requirement pursuant to Section 33(2) by failing to file a notification pursuant to Section 33(3),
16. conducts a transport within the European Union prior to the expiration of the periods specified in Section 33(2) and (4), or
17. fraudulently obtains a declaration of consent pursuant to Section 35 by means of incorrect or incomplete information,
18. fraudulently obtains a notification based on a preliminary enquiry pursuant to Section 62 on the absence of a prohibition or authorisation requirement for the transport within the European Union or on the fact that such a process can be authorised or that a special requirement need not be imposed by means of incorrect or incomplete information,

shall be punished by the court with a sentence of up to two years of imprisonment.

(2) A similar punishment shall be imposed on anyone who:

1. by means of incorrect or incomplete information:
 - a) fraudulently obtains the issuance of a certification notification pursuant to Section 37,
 - b) fraudulently obtains the extension of the duration of validity of such a notification pursuant to Section 38(2) or (3), or
 - c) avoids the imposition of a special requirement in such notification, or
2. avoids an inspection pursuant to Section 39 by means of incorrect or incomplete information or by failing to provide a notification pursuant to Section 37(2)(2) or Section 39(1),

3. by means of incorrect or incomplete information fraudulently obtains a notification of confirmation pursuant to Section 39(3) or avoids the imposition of a special requirement in such a notification, or
4. avoids a notification of the revocation or suspension of a certificate pursuant to Section 40 by means of incorrect or incomplete information or by failing to provide a notification pursuant to Section 37(2)(2) or Section 39(1).

(3) Anyone who commits the criminal acts in Paras 1 and 2:

1. for profit,
2. by means of falsifying facts through the use of a false or falsified certificate, false or falsified data, another such piece of evidence or an incorrect measurement device,

shall be punished by the court with a sentence up to three years of imprisonment

(4) Anyone who negligently commits one of the acts designated in Para 1(1), (3), (6), (7), (8), (9), (10), (13), (14) or (16) shall be punished with imprisonment of up to one year or a fine of up to 180 daily rates.

Criminal acts in connection with chemicals and goods which are subject to the Biotxin Convention

Section 81. (1) Anyone who

1. acts in a manner contrary to a prohibition pursuant to Section 41,
2. conducts an activity or a process specified in Section 42(1) or (2) without an authorisation,
3. fraudulently obtains an authorisation in the sense of Item 2 by means of incorrect or incomplete information,
4. transfers or accepts an authorisation notification in the sense of Item 2 for use by an unauthorised person in exchange for money or free of charge,
5. fraudulently obtains the issuance of a global authorisation pursuant to Section 43 for the activities and processes specified in Item 2 by means of incorrect or incomplete information,
6. violates a special requirement in an authorisation notification in the sense of Item 2,
7. avoids the imposition of a special requirement pursuant to Section 54 in an authorisation notification in the sense of Item 2 by means of incorrect or incomplete specifications,
8. avoids the imposition of a special requirement pursuant to Section 57(2) in an authorisation notification in the sense of Item 2 by means of incorrect or incomplete specifications,
9. fraudulently obtains a notification based on a preliminary enquiry pursuant to Section 62 on the absence of a prohibition in the sense of Item 1 or an authorisation requirement in the sense of Item 2 or on the fact that such a process can be authorised or that a special requirement need not be imposed by means of incorrect or incomplete information,

shall be punished by the court with a sentence of up to three years of imprisonment.

(2) Anyone who commits any of the criminal acts in Para 1:

1. for profit, or
2. by means of falsifying facts through the use of a false or falsified certificate, false or falsified data, another such piece of evidence or an incorrect measurement device,

shall be punished by the court with a sentence of six months to five years of imprisonment.

(3) Anyone who negligently commits any one of the acts designated in Para 1(1), (2), (4) or (6) shall be punished with imprisonment of up to two years or a fine of up to 360 daily rates.

Contribution to ABC weapons

Section 82. (1) Anyone who contributes to the production, distribution, testing or maintenance of ABC weapons as well as ABC weaponisable carrier systems by means of criminal acts pursuant to Sections 79 to 81 shall be punished by the court with a sentence of six months to five years of imprisonment.

(2) Anyone who commits the criminal acts in Para 1:

1. for profit, or
2. by means of falsifying facts through the use of a false or falsified certificate, false or falsified data, another such piece of evidence or an incorrect measurement device,

shall be punished by the court with a sentence of one to ten years of imprisonment.

(3) Anyone who negligently contributes to the production, distribution, testing or maintenance of ABC weapons as well as ABC weaponisable carrier systems by means of criminal acts pursuant to Sections 79 to 81 shall be punished by the court with a sentence up to two years of imprisonment or a fine of up to 360 daily rates.

Collective provisions

Section 83. (1) The perpetrator shall not be punished in accordance with Sections 79 through 82 if the activity can be punished more severely in accordance with a different provision.

(2) The court of first instance shall be competent for the criminal proceedings of the criminal acts punishable in accordance with Sections 79 through 82.

(3) Austrian criminal laws shall also apply to crimes committed abroad in the cases of Section 79(1)(2), (2), (5) and (6), Section 81(1) and (2) and Section 82(1) and (2) regardless of the criminal laws of the scene of the crime if the perpetrator was an Austrian national at the time of the crime or had his/her place of residence in Austria or if the crime was committed for the benefit of a legal entity or group of persons without a legal personality headquartered in Austria.

(4) In prosecuting crimes pursuant to Sections 79 through 82, the courts and public prosecutor's offices may call upon the help of the authorities prosecuting fiscal offences, customs authorities and their bodies if such crimes were committed in dealings with non-member states. If the commitment of crimes was notified to the public prosecution authority by authorities prosecuting fiscal offences, customs authorities and their bodies, courts and public prosecution authorities may make use of the help of law enforcement authorities and their bodies only when the authorities prosecuting fiscal offences, customs authorities or their bodies cannot be contacted in time.

(5) The authorities prosecuting fiscal offences, customs authorities and their bodies shall become active in the service of law enforcement to the above extent only and they shall discharge the responsibilities and empowerments due to the criminal investigation department by analogously applying Section 196(4) of the Fiscal Offences Act (FinStrG), Federal Law Gazette No 129/1958. In investigating such crimes, the authorities prosecuting fiscal offences, customs authorities and their bodies shall become active only to the extent specified by a pertinent order of the public prosecution authority or to the extent that, within the frame of a measure pursuant to Section 64 or a customs clearance activity, it can be assumed due to certain measures that the accused person has committed such a crime.

Seizure

Section 84. (1) If certain facts point to the assumption that goods or chemicals which relate to a criminal act pursuant to Sections 79 through 82 are transported to or from Austria the customs authorities shall be empowered to seize them. Prior to such seizure they shall promptly report to the competent public prosecution authority.

(2) If the public prosecution authority declares that the prerequisites for seizure pursuant to Section 110 of the Criminal Procedure Code of 1975, Federal Law Gazette No 631, are not met and if goods cannot be relinquished to the applicant pursuant to Article 75(a)(4) of the Communities Customs Code because they are subject to prohibitions or restrictions, they shall be confiscated by the customs authorities. The Federal Minister of Economy, Family and Youth shall be immediately informed of the confiscation. The Federal Minister of Economy, Family and Youth shall decide, with due regard to the authorisation criteria of Chapter II, whether the confiscation is to be lifted and whether the goods should be re-exported, returned to the exporter or exploited or destroyed by analogous application of Sections 37 through 52 of the Abgabenexekutionsordnung (Code Governing Attachment), Federal Law Gazette No 104/1949.

(3) In connection with checking goods or chemicals which are transported to or from Austria under circumstances as set down in Para (1), the customs authorities shall be permitted to obtain and process personal data (Section 4(9) of the Data Protection Act of 2000, Federal Law Gazette I No 165/1999) and pass them on to the competent public prosecution authority to the extent this is necessary for such authority to observe its statutory responsibilities.

Segment 2

Criminal acts punishable by administrative authorities

Financial offences to be punished by administrative authorities

Section 85. (1) Anyone who deliberately:

1. imports, exports or transits goods without the authorisation required on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24)(c),
 2. in the case of processes subject to authorisation requirements pursuant to Item 1:
 - a) transfers or accepts an authorisation notification for use by an unauthorised person in exchange for money or free of charge, or
 - b) fraudulently obtains an authorisation or notification required pursuant to the directly applicable law of the European Union or avoids the imposition of a special requirement by means of incorrect or incomplete information, or
 - c) acts in a manner contrary to a special requirement in an authorisation notification,
 3. violates a requirement to notify the customs authorities on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24)(c), or
 4. acts contrary to a requirement to submit non-preferential proof of origin established on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24)(c),
- shall be deemed to have committed a fiscal offence and shall be penalised by the financial offence authority with a fine of up to €20,000.

(2) Anyone who negligently commits any one of the criminal acts specified in Paragraph 1(1), 2(a) or (c), (3) or (4) shall be deemed to have committed a fiscal offence and shall be penalised by the authority prosecuting fiscal offences with a fine of up to €10,000.

(3) The perpetrator shall be not penalised in accordance with Paras 1 and 2 if the act constitutes the elements of a criminal act falling within the courts' jurisdiction or is penalised more severely in accordance with a different provision.

(2) In addition to the penalty specified in Para 1, such act shall be penalised by forfeiture pursuant to Section 17 of the Financial Offences Act , with only the goods specified in Para 1 and their packaging subject to forfeiture.

Simplified penal order

Section 86. If someone has committed a fiscal offence pursuant to Section 85 and a minor fiscal offence in the sense of Section 146 of the Fiscal Offences Act for the same act, all fiscal offences may, with the consent of the accused, be covered by a simplified penal order pursuant to Section 146 of the Fiscal Offences Act. In such case, the maximum fine provided for in Section 146(1) of the Fiscal Offences Act may be exceeded by fifty percent.

Provisions for administrative penalties

Section 87. (1) Anyone who deliberately:

1. acts in conflict with a notification requirement pursuant to Section 19(1) in combination with a regulation pursuant to Section 25, pursuant to a regulation on the basis of Section 19(2) or (3) or the directly applicable law of the European Union in the sense of Section 1(1)(24)(a) or (b),
2. fails to comply with an obligation to provide documentary evidence established in a regulation on the basis of Section 19(5),
3. regarding an import certificate pursuant to Section 21:
 - a) fraudulently obtains issuance by means of incorrect or incomplete information ,or
 - b) by means of incorrect or incomplete information avoids the imposition of a special requirement pursuant to Section 21(2) or pursuant to Section 57(2) or a revocation pursuant to Section 57(2), or
 - c) continues to use the import certificate contrary to a revocation pursuant to Section 57(2), or
 - d) transfers or accepts an import certificate for use by an unauthorised person in exchange for money or free of charge,
4. acts in a manner contrary to a notification requirement pursuant to Section 17(2) or Section 30(4),
5. acts in a manner contrary to a notification requirement pursuant to Section 31(3),
6. acts in a manner contrary to a notification requirement pursuant to Section 33(3),
7. acts in a manner contrary to a duty to provide information pursuant to Section 34(1) or (2),
8. acts in a manner contrary to a notification requirement pursuant to Section 37(2)(2) or Section 39(1),
9. acts in a manner contrary to a notification requirement pursuant to Section 44 or in accordance with a regulation established on its basis,

10. acts in a manner contrary to the duty to provide information concerning export restrictions of other EU Member States pursuant to Section 55(1),
11. uses a general authorisation in the sense of Section 1(1)(26) without registration pursuant to Section 59,
12. acts in a manner contrary to a notification requirement established in a regulation on the basis of Section 59(9),

shall be deemed to have committed an administrative offence and shall be penalised with imprisonment of up to six weeks or a fine of up to €40,000.

(2) Anyone who:

1. negligently commits one of the punishable acts specified in Para 1(1), (2), (3)(c) or (d) or Para 1(4) through (12),
2. deliberately acts in a manner contrary to one of the requirements specified in Section 63(6), or
3. deliberately violates the recording requirement pursuant to Section 65 or the record storage requirement pursuant to Section 65(4),

shall be deemed to have committed an administrative offence and shall be penalised with a fine of up to €25,000.

(3) Anyone who deliberately:

1. acts in a manner contrary to the record storage requirement established in Section 76(1),

shall be deemed to have committed an administrative offence and shall be penalised with a fine of up to €10,000.

(4) In the cases of Para 1 as well as Para 2(2) and (3) even an attempt shall be punishable.

(5) In the cases of Paras 1 through 4, the district administrative authority shall be competent for conducting the administrative penalty proceedings at the first-instance level, while a state police authority has competence in the sphere of action of a local government for which such state police authority doubles as the first-instance law enforcement authority.

(6) An administrative offence pursuant to Paras 1 through 4 shall not be deemed to have been committed if the act constitutes the elements of a crime which falls within the jurisdiction of the courts.

Forfeiture, disposal

Section 88. (1) If chemicals in the sense of Section 1(1)(30) constitute the object of an administrative offence in accordance with Section 87, said chemicals shall be declared to be forfeited under the prerequisites of Section 17 of the Administrative Penalties Act (VStG).

(2) The costs of any potentially necessary disposals of the chemicals declared to be forfeited pursuant to Para 1 shall be deemed to be included in the costs of the criminal proceedings.

Segment 3

Accompanying provisions under civil law

Invalidity of legal transactions

Section 89. (1) Legal transactions involving processes which are subject to a prohibition on the basis of this Federal Act or on the basis of the directly applicable law of the European Union shall be deemed to be null and void.

(2) Legal transactions involving processes which, upon completion of the legal transactions, become subject to a prohibition on the basis of this Federal Act or on the basis of the directly applicable law of the European Union due to an amendment of statutory provisions shall be deemed to have been dissolved by operation of law with regard to the still unimplemented portion upon the entry into legal effect of the amended statutory provisions.

(3) Legal transactions involving processes for which an authorisation is required on the basis of this Federal Act or on the basis of the directly applicable law of the European Union shall, by operation of law, be deemed to be concluded subject to the condition precedent that the authorisation is issued.

(4) Legal transactions involving processes for which no authorisation was required upon their conclusion on the basis of this Federal Act or on the basis of the directly applicable law of the European Union but for which an authorisation will be required prior to their implementation due to an amendment of statutory provisions shall require the filing of an application for authorisation. Said application shall be filed within four weeks as of the entry into legal effect of the provisions on the authorisation requirement

for authorisations on the basis of this Federal Act; applications on the basis of the directly applicable law of the European Union shall be filed within the periods of time provided therein.

(5) If no application is filed within the periods of time specified in Para 4 or if the application is refused or rejected, the legal transaction with regard to the still unimplemented portion shall be deemed to have been dissolved by operation of law upon the entry into legal effect of the amended statutory provisions.

Chapter XI

Final provisions

Documentary evidence in the event of customs clearance

Section 90. (1) If there is an authorisation requirement for the importation, exportation or transit pursuant to this Federal Act or on the basis of the directly applicable law of the European Union in the sense of Section 1(1)(24), the recipient of the goods, exporter or person responsible for the transit shall provide documentary evidence that the respective process has been properly authorised.

(2) The documentary evidence pursuant to Para 1 shall be provided by

1. submission, to the customs office in charge, of the authorisations or monitoring documents valid at the time of customs clearance,
2. citing the document number in the electronic authorisation procedure, or
3. reference to a general authorisation in the sense of Section 1(1)(26)(a) or (b) which applies to the process in question.

(3) The goods may be relinquished for identification under customs law only after the authorisations or monitoring documents have been completely processed by the customs office.

Relationship with other Federal Acts

Section 91. (1) The provisions of the Radiation Protection Act, Federal Law Gazette No 227/1969, shall remain unaffected by this Federal Act.

(2) This Federal Act shall not be applied to processes which:

1. are subject to the War Material Act, Federal Law Gazette No 540/1977,
2. are conducted within the scope of deployments on the basis of the Federal Constitutional Act on cooperation and solidarity in the deployment of units and individuals abroad (KSE-BVG), Federal Law Gazette I No 38/1997,
4. are required to complete military national defence tasks on the basis of Article 79 of the Federal Constitutional Law,
5. are subject to the Monitoring Act of 1991, Federal Law Gazette No 415/1992, or
6. are subject to the Federal Act on the Prohibition of Cluster Munitions, Federal Law Gazette I No 12/2008.

(3) The Federal Minister of the Interior shall furnish duplicates of all notifications pursuant to the War Material Act to the Federal Minister of Economy, Family and Youth immediately upon issuing them.

(4) Where reference in this Federal Act is made to provisions of other Federal Acts or directly applicable law of the European Union, said provisions shall be applied as amended.

(5) Wherever reference is made in provisions of federal laws to stipulations which are substituted by this Federal Act, they shall be replaced by the provisions of this Federal Act.

Language-related non-discrimination

Section 92. Where only the masculine form is used for person-related designations in this Federal Act, it shall apply to women and men equally. The respective gender-specific form shall be used in relation to particular individuals.

Entry into legal effect and transitional provisions

Section 93. (1) Chapter Four and Sections 55 and 80 of this Federal Act shall enter into legal effect on 30 June 2012; the remaining provisions shall enter into legal effect on 1 October 2011.

(2) The Foreign Trade Act of 2005 (AußHG), Federal Law Gazette I No 50, shall expire on 30 September 2011, except as otherwise provided below.

(3) Segment 3 of the Foreign Trade Act of 2005 as well as Sections 21, 23, 31, Segment 9 and Sections 37, 38 and 41 of the Foreign Trade Act of 2005 shall expire on 29 June 2012 insofar as they relate to Segment 3 thereof.

(4) The monitoring provisions pursuant to Sections 63 and 64 as well as 66 through 71 shall also be applicable to processes which were subject to a prohibition, authorisation requirement or notification requirement based on the Foreign Trade Act of 2005.

(5) Section 37 of the Foreign Trade Act of 2005 shall continue to apply to criminal acts committed prior to 1 October 2001 as well as criminal acts pursuant to Section 37(1)(2), (12) and (13) as well as pursuant to Paras 2, 3 or 4 in combination with Paragraph 1(2), (12), and (13) of the Foreign Trade Act of 2005 committed prior to 30 June 2012.

(6) Sections 39 through 42 of the Foreign Trade Act of 2005 shall continue to apply to administrative offences committed prior to 1 October 2011 and to administrative offences pursuant to Section 41(1)(1) in combination with Section 9(1) and pursuant to Section 41(2) in combination with Para 1(1) and Section 9(1) committed prior to 30 June 2012.

(7) The provisions of the regulation of the Federal Minister of Economic Affairs on the implementation of the Foreign Trade Act of 2005 (Foreign Trade Regulation of 2005 [*Außenhandelsverordnung* 2005 – *AußHV* 2005]), Federal Law Gazette II No 121/2006, shall remain in legal effect as a Federal Act until the entry into legal effect of regulation provisions in the same field based on this Federal Act.

(8) Regulations based on this Federal Act may already be enacted starting on the day following its promulgation. However, they may gain legal effect no earlier than 2 October 2011, while regulations based on Chapter IV gain legal effect no earlier than 1 July 2012.

(9) Segment 4 of Chapter III and Section 79(1) and (3) as amended in the Federal Act of Federal Law Gazette I No 112/2011 shall enter into legal effect on the day after its promulgation.

(10) Section 87(5) as amended in the Federal Act of Federal Law Gazette I No 50/2012 shall enter into legal effect on 1 September 2012.

(11) Section 1(1)(9) and (10), Section 3(1), Section 25a, Section 53(2), Section 57(1), Section 65(1), Section 70(1), Section 79(1)(25) and (26), Section 84 and Section 91(2) as amended in the Federal Act of Federal Law Gazette I No 37/2013 shall enter into effect upon expiry of the day of its release for retrieval in the Federal Law Gazette.

References to notification and implementation

Section 94. (1) This Federal Act was notified to the European Commission in compliance with the provisions of Directive 98/34/EC, Official Journal L 204, p. 37, of 21 July 1998, as amended by Directive 2006/96/EC, Official Journal L 363, p. 81, of 20 December 2006 (notification number 2010/762/A).

(2) This Federal Act implements Directive 2009/43/EC on the simplifications of the provisions for the intra-community transport of defence goods, Official Journal L 146, p. 1, of 10 June 2009.

Enforcement clause

Section 95. (1) Unless otherwise provided below, the Federal Minister of Economy, Family and Youth shall be charged with the enforcement of this Federal Act as well as the enforcement of the directly applicable law of the European Union.

(2) The following bodies shall be charged with enforcing the following provisions:

1. with respect to Sections 14(2) and (3), Section 18(2) and Section 25, the Federal Minister of Economy, Family and Youth in agreement with the Federal Minister of Finance in accordance with the stipulation of Section 77(2) and in agreement with the Federal Minister for European and International Affairs in accordance with the stipulation of Section 77(3);
2. with respect to Section 72, the Federal Minister of Economy, Family and Youth in agreement with the Federal Minister of Finance in accordance with the stipulation of Section 77(2);
3. with respect to Sections 64, 85 and 86, the Federal Minister of Finance;
4. with respect to Section 47(1)(7) the Federal Minister of Economy, Family and Youth in agreement with the Federal Minister for European and International Affairs in accordance with the stipulation of Section 47(4);
5. with respect to Section 48, the Federal Minister for European and International Affairs in agreement with the Federal Minister of Economy, Family and Youth;

6. with respect to Sections 67 through 70, the Federal Minister of Economy, Family and Youth in agreement with the Federal Minister for European and International Affairs in accordance with the stipulation of Section 71(1);
7. with respect to Sections 79 through 84 and Section 89, the Federal Minister of Justice,
8. with respect to Section 66(3), the Federal Minister of the Interior and the Federal Minister of Defence and Sports within the scope of their respective spheres of action;
9. with respect to Section 91(3), the Federal Minister of the Interior, and
9. with respect to Sections 15(2), 20(2) and 78, the competent federal minister within the scope of his sphere of action.

(3) The Federal Minister for Agriculture, Forestry, Environment and Water Management shall be charged with the enforcement of the directly applicable law of the European Union in the sense of Section 1(1)(24)(c) insofar as measures are involved which concern goods subject to market regulations in the sense of Section 4(1) of the Market Organisation Act of 2007 (MOG), Federal Law Gazette I No 55/2007.