



Federal Office
for Economic Affairs
and Export Control

Manual – Completion of German end-use certificates

EUCs for dual-use items, items controlled under Council Regulation (EC) 1236/2005 or sanctions

I. General Information

In accordance with German and EU legislation and in line with international practices, the presentation of End-Use Certificates (EUC) is required before certain items (goods, software and technology) can be exported or transferred from Germany. The items in question are subject to export controls. These controls apply to items that can be used for both civil and military end-uses (often referred to as “dual-use items”) or for torture. Apart from that, certain items may be controlled due to international or European sanctions. Before exports or transfers of such items can be authorized, the German export licensing authorities need to be in a position to assess the intended end-use of the items abroad and to exclude undesired end-uses. EUCs are essential tools in this regard: they are meant to inform the authorities about the intended end-use.

All controlled items are defined in specific control lists, most notably:

- Annexes I and IV of Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (EC-Dual-use-regulation),
- Annexes of EU-sanctions regulations, often implementing sanctions imposed by the United Nations Security Council (for an updated version of all current EU measures in force please visit http://eeas.europa.eu/cfsp/sanctions/consol-list/index_en.htm),
- Annexes II, III and IIIa of Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhumane or degrading treatment or punishment (EU-Anti-Torture-regulation) and the
- German Export list (“Ausfuhrliste”), an annex to the German Trade and Payment Ordinance.¹

The EUCs are part of the required supporting documentation which needs to be provided when the German exporter is applying for an export license at the German export control authority, the Federal Office for Economic Affairs and Export Control (BAFA) of the Federal Republic of Germany. The German exporter is obliged to submit the EUC **in original** to BAFA. **You can support the**

¹ Regarding the export of military equipment listed in the “Ausfuhrliste” please see the “Manual – Completion of German end-use certificates: EUCs for war weapons, arms and military equipment”.

German exporter and BAFA by providing accurate and detailed information as requested and explained below. This will help to avoid unnecessary delays in processing the export license.

Depending on the export and/or item in question, different requirements regarding the contents of the EUC apply. Therefore the German export control authorities have published a number of different templates. Your business partner - the German exporter – should be able to provide you with the correct EUC template. In general, the EUC has to be provided by the end- user of the item in question. However, under certain circumstances, an EUC may also be required by other consignees or traders. Please consider that there is a particular Trader EUC template in connection with global licenses for dual-use as well as for exports to Iran.

Completing the right EUC is fairly easy: simply choose the template appropriate for the item in question, copy the template's text on your official letter format and complete the text. With this manual, BAFA aims to provide you with some advice and information that should help you filling out the form. The information provided has to be correct, complete and must not be misleading. Please be aware that changes to the template are not permitted and will generally lead to the rejection of the EUC by German export control authorities. This will cause delays in the processing of the necessary export license.

II. Definitions

The EUC template may contain the following terms:

Consignee The consignee is the contracting partner of the German exporter and/or the first recipient of the items who can wield direct or indirect influence over the items or their use. In certain cases, there may also be several consignees. In this case all consignees must be named in the EUC. The consignee and the final end-user may be the same person/company/entity. In certain cases, the consignee may also be a trader who delivers the items to several end-users, if applicable with prior storage. Please note that a broker is not a consignee according to German law.

- Embargos/** Please be mindful that existing UN, EU and OSCE embargos can stipulate
- Sanctions** additional controls (including licensing requirements or prohibitions). These may have consequences for the export or transaction in question. Additional regulations might encompass prohibitions to directly or indirectly providing economic resources or financial assets to certain persons/companies/entities. A detailed list of all sanctions imposed by the European Union can be found on the EU website: http://eeas.europa.eu/cfsp/sanctions/index_en.htm
- End-use** The term end-use encompasses the determined context of utilization of the items. Please provide detailed information on what you intend to do with the items in question.
- End-user** The final end-user is the person/company/entity consuming, using, incorporating etc. the item. The consignee and the end-user can be identical. There may also be several end-users if the items shall be delivered to a trader.
- Item** The term item includes goods, software and technology.
- Replica** An exact copy, model or reproduction of the item. i. e. a copy closely resembling the original concerning its shape, appearance, coding etc.
- Technology** Technology encompasses documents, data, records etc. which can be used for the production of goods or production of parts of these goods or any developments or use of the aforementioned. Goods which will be produced with the assistance of the technology are referred to as **derived goods** (physicalized objects of the technology but not measurement results of the technologies use).
- Trader** A trader markets export-controlled items of the exporter to end-users or other traders. Traders are obliged to complete EUC's under the same conditions as end-users providing additional information of the intended end-use.

III. The EUC as a necessary requirement for the licensing procedure

Please note that the presentation of a valid EUC is a mandatory requirement for the German exporter. Export license applications can and will not be processed without a completed EUC. To allow a swift procedure, please ensure the following:

- An inaccurately completed EUC will not be accepted by BAFA and will therefore be rejected on formal grounds, which is likely to result in the license application being delayed or rejected.
- All sections of the EUC need to be completed legibly and in English or German (or accompanied by an authorized or verified translation, including header details, if written in a foreign language) by the end-user/trader on original, officially headed paper (where the end-user/trader is a company or a legal entity).
- The EUC needs to be signed and dated by a person properly authorized to sign on behalf of and to commit your company. Please be aware that several signatures at different sections of the EUC might be required (depending on the template). 'Digital' signatures will not be accepted.
- If BAFA requests a revised EUC during processing of your application, it must include all of the EUC pages and be newly dated.
- Be mindful of references to any unfamiliar abbreviations or acronyms particularly those referring to consignees or end-users. To avoid delays caused by clarification requests by BAFA, you should refrain from using acronyms.

Please be advised that – in addition to the EUC – German export control authorities may request further information. In particular, the German exporter may be asked to provide information on the end-user and other parties involved in the transaction. Thus, your German business partner may ask you to provide more detailed information on your company such as brochures etc. You can support the licensing process by providing further information on the intend end-use as well as relevant authorizations by other licensing authorities. Again: your assistance in this matter can help to avoid delays and misunderstandings.

IV. EUC-sections

All EUC templates consist of a number of sections tailored to the respective information requirements for the items and their destination. Changes (except for the changes elaborated under 8.b), deletions or amendments to the content of the EUC template will generally be rejected by BAFA and may result in delays or the rejection of the application.

1. Header

Headers of each EUC-template inform about the type of template and the export scenario in question. You may use the information in the header to identify and discuss possible misinterpretations of the overall application with your German exporter before completing the form.



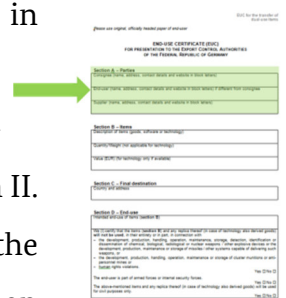
2. Placeholder for official letterhead

The EUC template is provided in an open format enabling you to insert your own official letterhead. Providing the EUC under your official letterhead is an important requirement! Herewith the signer endorses the EUC's content as its own. Please note that the endorsement can only be made in total.



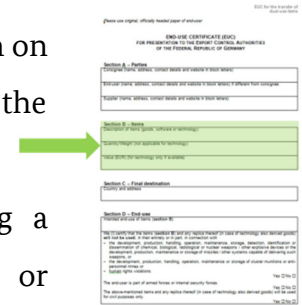
3. Parties

Section A requests information about the parties to the export or transfer in question. Each subsection requires the correct and complete spelling of the person's/company's/entity's name, address and contact details (phone, web-address etc.) typewritten or in block letters. The definitions provided in section II. of this manual (see above) may provide further guidance in identifying the entities/persons which have to be named. The "supplier" is normally the German exporter, your business partner. In any case, the supplier needs to be identical with the person or company applying for an export license in Germany. This information is needed to allow definite assignment of the EUC to the respective export license application.



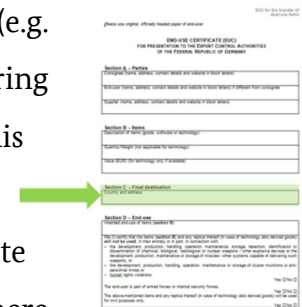
4. Items

Section B requires a detailed description of the goods, software and/or technology that you intend to import to your country. Differing data between the application and the EUC will cause delays in the application procedure. Differing data between the license application and the EUC will cause delays in the application procedure. Ideally, the description of items makes references to the classifications according to the control lists mentioned above. In general, details with regard to quantity and value have to be provided, including information on an overall transaction if necessary. The value of items may refer to the underlying contract or current exchange rates. If the EUC represents an inseparable part of a transaction (e.g. a technology transfer following a preceding delivery of commodities) the value may be marked as “0” or “processed under different payment scheme”.



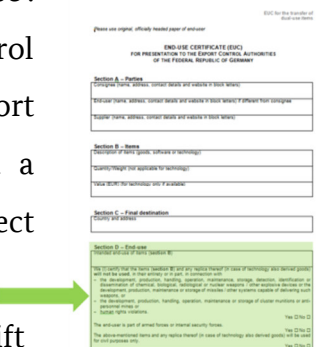
5. Final destination

The final destination of the items may differ from the end-user’s address (e.g. when the production site is different from headquarters, in cases of differing operating sites or in case of multiple shipments). The address provided in this section must allow at least tracking of the item upon request and should be a physical address (no P.O. Box!). Traders who fill out the Trader EUC template in connection with global licences shall insert the country/the countries where its customers are located.



6. End-use

Please consult section II. of this manual for a definition of the term ‘end-use’. The entry provided here will be assessed by the German export control authorities. Omitted information or false declarations will affect future export license applications and shipments: you may no longer be considered a trustworthy consignee by German authorities. Future shipments will be subject to stricter controls or are likely to be denied. A thorough and comprehensive description avoids additional inquiries and allows a swift procedure for all stakeholders.



Typical entries for this subsection are declarations on the specific end-use, including its description, a planned integration of items or the production of replica as well as planned or foreseeable re-exports.

The additional questionnaire must be duly completed. The questions demand the end-user/trader to thoroughly assess the named applications. Please note that ticking box 1 with “yes” declares a **non**-sensitive use. If you state that the end-user is part of the armed or internal security forces or if the items in questions will be used for non-civilian purposes, please provide further details in the field “intended end-use of items”.

7. Declaration of commitment

a. Relevance for the licensing procedure

The mandatory declaration of commitment will vary according to the respective EUC template, the item to be exported and the end-use.. By the references provided in this section the person signing the EUC and the entity for which this person operates must be reliable. The commitment has to be signed in the original document. Digital or otherwise automated signatures will not be accepted. Companies or public entities are required to use their official stamp or seal to verify the signatory powers of the signer. It is self-evident that the signer needs to be duly authorized to sign and undertake these commitments on behalf of the end-user. Traders have to sign the commitment in the same way as the end-user/trader and will clarify their status as traders either in the additional trader statement within some EUC templates or in the particular Trader EUC template for global licenses. Deliberate or negligent malpractice regarding the powers of representation will affect future export license applications and shipments to the trader issuing the EUC. Stated re-exports have to match with the application data provided by the German supplier to BAFA (see below for more information on re-exports).

b. Content of the declaration

The content of the different commitments the German authorities ask for depends on the type of EUC, the items to be shipped, the country of destination and the type of end-user/trader. The declaration obliges the end-user/trader to fully comply with the stipulations of the respective EUC. Declarations of commitment with regard to technology consist of additional confidentiality rules in order to prevent unauthorized disclosure outside the parties mentioned in section A.

Re-exports of items are either forbidden or conditional to a re-export license by BAFA or the export control authorities of the country of final destination. Concerning exports of dual-use items re-

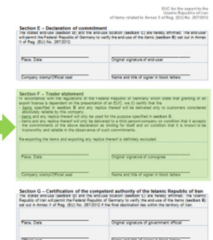
exports of items and exports of any replica thereof to and from the following countries do not require any prior consent of BAFA: Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, Liechtenstein, Luxemburg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, United Kingdom, United States of America and Cyprus in areas where the Government of the Republic Cyprus exercises effective control.

Please note that all re-exports planned before the export from German territory have to be mentioned in the EUC. Please be aware that acceptance of the EUC as a supporting document for the licensing application should not be construed as an authorization to re-export the items to which the EUC refers unless specific approval has been obtained from BAFA. Non-compliance with this obligation will have consequences for future licensing decisions / transactions. The signer further commits to compliance with UN-, OSCE- and EU-embargo provisions regarding any further processing of the items.

The stated commitments cannot be waived. Non-compliance with these declarations will affect future export license applications and shipments of controlled items to the same end-user/trader.

8. Trader statement

Some EUC templates provide an additional statement that has to be signed by persons or companies operating as traders (i.e. the items or software are meant for further distribution), the “trader statement”. Traders using this section are still requested to endorse all other sections. All declarations made with regard to the end-use and end-users will be attributed to the trader. Additionally, the trader will be held responsible for the further delivery chain: the trader needs to advise distributors, retail sellers and retailers about the origin of items and the associated obligations of the EUC. For that reason, the trader may forward copies of the EUC to his business partners. Please note that non-compliance with these obligations will affect future export license applications and shipments related to the same trader. Please consider that there is a particular Trader EUC template in connection with global licenses for listed dual-use items.



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