

FEDERAL REPUBLIC OF GERMANY

INITIAL REPORT ON MEASURES UNDERTAKEN TO IMPLEMENT THE ARMS TRADE TREATY, IN ACCORDANCE WITH ITS ARTICLE 13(1)

This Initial Report may be made publicly available	Yes X	No <input type="checkbox"/>
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SECTION A. INFORMATION RELATED TO BINDING OBLIGATIONS IN THE TREATY

1. NATIONAL CONTROL SYSTEM AND LIST

A. Overview of legislation and ordinances governing the national control system [Article 5(2)] (please list below. If the national control system is governed in whole or part by other means than legislation or ordinances, please indicate these also)			
EU Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment (http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32008E0944&from=EN)			
EU 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 (http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32009R0428&rid=4)			
Foreign Trade and Payments Act of 6 June 2013 (http://www.bafa.de/bafa/en/export_control/legislation/export_control_awg_en.pdf)			
Foreign Trade and Payments Ordinance of 2 August 2013 (http://www.bafa.de/bafa/en/export_control/legislation/export_control_awv_en.pdf)			
Act Implementing Article 26 (2) of the Basic Law (War Weapons Control Act) (http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_control_act.pdf)			
War Weapons List (relevant for ATT purposes: Part B) (http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_list.pdf)			
Note: the English versions of the German legislation referred to in the information provided are unofficial courtesy translations.			
Moreover, the “Political Principles Adopted by the Government of the Federal Republic of Germany for the Export of War Weapons and Other Military Equipment” of 19 January 2001 (“Political Principles”) contain politically binding guidance for the German national control system.			
B. The national control system includes the following:		Yes	No
i)	competent national authorities (further specified below) [Article 5(5)]	X	<input type="checkbox"/>
ii)	a control list [Article 5(2)]	X	<input type="checkbox"/>
iii)	one or more national points of contact to exchange information on ATT implementation [Article 5(6)]	X	<input type="checkbox"/>
If ‘No’ to any of the items above, please provide background below.			
C. The national point(s) of contact has (have) been notified to the Secretariat of the Treaty [Article 5(6)] (if ‘No’, please clarify below)		Yes X	No <input type="checkbox"/>

D. The national control list covers the following:		Yes	No
i)	Battle tanks [Article 2(1a)]	X	<input type="checkbox"/>
ii)	Armored combat vehicles [Article 2(1b)]	X	<input type="checkbox"/>
iii)	Large-caliber artillery systems [Article 2(1c)]	X	<input type="checkbox"/>
iv)	Combat aircraft [Article 2(1d)]	X	<input type="checkbox"/>
v)	Attack helicopters [Article 2(1e)]	X	<input type="checkbox"/>
vi)	Warships [Article 2(1f)]	X	<input type="checkbox"/>
vii)	Missiles and missile launchers [Article 2(1g)]	X	<input type="checkbox"/>
viii)	Small arms and light weapons [Article 2(1h)]	X	<input type="checkbox"/>
The national control list also includes the following, in order to enable the application of Articles 3 and 4:		Yes	No
ix)	Ammunition/Munitions for the conventional arms covered in Article 2(1) [for the application of Article 3]	X	<input type="checkbox"/>
x)	Parts and components in a form that provides the capability to assemble the conventional arms covered in Article 2(1) [for the application of Article 4]	X	<input type="checkbox"/>
If 'No' to any of the items above, please provide background below			
E. The national control list has been provided to the Secretariat of the Treaty [Article 5.4] (if 'No', please elaborate further below)		Yes X	No <input type="checkbox"/>
<p>The Control List is also publicly available in German: http://www.ausfuhrkontrolle.info/ausfuhrkontrolle/de/gueterlisten/ausfuhrliste/al_abschnitt_a.pdf, and is largely identical to the EU Common Military List: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52014XG0409(01) which is based on the Wassenaar Arrangement Munitions List. The items covered by Art. 2 (1) ATT are also covered by Part B of the War Weapons List: http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_list.pdf</p>			

2. PROHIBITIONS

A. The national control system prohibits authorization of transfers as defined by Article 2(2), of conventional arms covered under Article 2(1) and items covered under Articles 3 and 4, in the circumstances specified in Articles 6(1) to 6(3) (if 'No' in any respect, please elaborate below)	Yes X	No <input type="checkbox"/>
B. International agreements to which the country is a Party, and which are considered relevant for the application of Article 6(2) (please list below)		
<p>Relevant international obligations under international agreements of a legal or political character, to which Germany either is a State Party or a participating State or which are considered legally or politically binding, emanate, inter alia, from</p> <ul style="list-style-type: none"> - the UN Charter and measures adopted by the Security Council acting under Chapter VII, in particular arms embargoes; - Article 1, second clause, of the 1995 Protocol on Blinding Laser Weapons to the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons; - Article 8 of the 1996 Amended Protocol II to the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons; - the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction; - the 2008 Convention on Cluster Munitions; - Regulation (EU) No 258/2012 implementing Article 10 of the U.N. Firearms Protocol, and establishing export authorisation, and import and transit measures for firearms, their parts and components and 		

ammunition; - Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community; - Council common position 2008/944/CFSP of 8 December 2008 defining common rules governing the control of exports of military technology and equipment; - OSCE arms control instruments; - the Missile Technology Control Regime; - the Wassenaar Arrangement; - the Hague Code of Conduct.
C. International agreements to which the country is a Party, and which are considered relevant for the application of Article 6(3) (please list below)
- 1899 Hague Declaration (IV:2) concerning Asphyxiating Gases; - 1899 Hague Declaration (IV:3) concerning Expanding Bullets (Dum-Dum Bullets); - 1925 Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare; - 1948 Convention on the Prevention and Punishment of the Crime of Genocide; - 1949 Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; - 1949 Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; - 1949 Convention (III) relative to the Treatment of Prisoners of War; - 1949 Convention (IV) relative to the Protection of Civilian Persons in Time of War; - 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict including the 1954 Protocol and the 1999 Second Protocol additional to the 1954 Convention; - 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction; - 1977 Protocol (I) Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts; - 1977 Protocol (II) Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts; - 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects inclusive Amendment and Protocols including the 1980 Protocol I, the 1980 Protocol II, the 1996 Amended Protocol II, the 1980 Protocol III, and the 1995 Protocol IV to the 1980 Convention; - 1993 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction; - 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction; - 1998 Rome Statute of the International Criminal Court; - 2008 Convention on Cluster Munitions

3. EXPORTS

A. The national control system includes the following:		Yes	No
i)	an authorization or licensing system for arms exports [Article 5(2)]	X	<input type="checkbox"/>
ii)	prohibition assessment guidelines [Article 6]	X	<input type="checkbox"/>
iii)	export assessment criteria [Article 7]	X	<input type="checkbox"/>
iv)	a risk assessment procedure [Article 7]	X	<input type="checkbox"/>
If 'No' to any of the items above, please provide background below			
B. National export controls apply to the conventional arms covered under Article 2(1), and the items covered under Articles 3 and 4 (if 'No', please provide further information below)		Yes X	No <input type="checkbox"/>
C. The national control system includes measures to ensure that all export authorizations are detailed and issued prior to export [Article 7(5)]		Yes X	No <input type="checkbox"/>

(if 'No', please provide further information below)		
D. The national risk assessment procedure includes all the criteria described in Article 7(1)(a) and (b), and Article 7(4) (if 'No' in any respect, please elaborate below)	Yes X	No <input type="checkbox"/>
E. The competent national authority(-ies) for the control of exports [Article 5(5)] (please specify below)		
Federal Ministry for Economic Affairs and Energy Federal Office for Economic Affairs and Export Control		
F. The national control system allows appropriate information about an export authorization to be made available, upon request, to the importing State Party and/or to the transit or trans-shipment States Parties [Article 7(6)] (if 'No' please elaborate below)	Yes X	No <input type="checkbox"/>

4. IMPORTS

A. The national control system includes measures that allow the regulation, where necessary, of imports of conventional arms covered under Article 2(1). [Articles 6(1) to 6(3) and Article 8(2)] (if 'Yes', please provide further information below on the nature of control measures and confirm whether they apply to all items in the national control list. If 'No', please elaborate below)	Yes X	No <input type="checkbox"/>
According to the Act Implementing Article 26 (2) of the Basic Law (War Weapons Control Act) an import licence is required for all war weapons contained in Part B of the War Weapons List: Act Implementing Article 26 (2) of the Basic Law (War Weapons Control Act): http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_control_act.pdf War Weapons List: http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_list.pdf		
If 'Yes', please also answer the following question		
B. The competent national authority(-ies) for the regulation of imports [Article 5(5)] (please specify below)		
Federal Ministry for Economic Affairs and Energy and Federal Ministry of Defence Federal Ministry of the Interior Federal Ministry of Finance (Customs / Border Goods Controls)		
C. The national control system allows for the provision, pursuant to national law and upon request, of appropriate and relevant information to assist an export assessment by a potential exporting State Party [Article 8(1)] (if 'No', please elaborate below)	Yes X	No <input type="checkbox"/>

5. TRANSIT & TRANS-SHIPMENT

A. The national control system includes measures that allow the regulation, where necessary and feasible, of transit of conventional arms covered under Article 2(1) [Articles 6(1) to 6(3) and Article 9] (if 'Yes', please provide further information below on the nature of control measures and confirm whether they apply to all items in the national control list. If 'No', please elaborate below)	Yes X	No <input type="checkbox"/>
According to the Act Implementing Article 26 (2) of the Basic Law (War Weapons Control Act) a transit licence is required for all war weapons contained in Part B of the War Weapons List: Act Implementing Article 26 (2) of the Basic Law (War Weapons Control Act): http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_control_act.pdf		

War Weapons List: http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_list.pdf			
B. The national control system includes measures that allow the regulation, where necessary and feasible, of trans-shipment of conventional arms covered under Article 2(1) [Articles 6(1) to 6(3) and Article 9] (if 'Yes', please provide further information below on the nature of control measures and confirm whether they apply to all items in the national control list. If 'No', please elaborate below)		Yes X	No <input type="checkbox"/>
Trans-shipment is treated as transit. According to the Act Implementing Article 26 (2) of the Basic Law (War Weapons Control Act) a transit licence is required for all war weapons contained in Part B of the War Weapons List: Act Implementing Article 26 (2) of the Basic Law (War Weapons Control Act): http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_control_act.pdf War Weapons List: http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_list.pdf			
C. Control measures for the regulation of transit and/or trans-shipment cover : (If 'Yes' to (ii) or (iii), please indicate in the free text field how enforcement is conceived - systematic control or only when information is available?)		Yes	No
i)	Transit / trans-shipment through land territory (including internal waters)	X	<input type="checkbox"/>
ii)	Transit / trans-shipment through territorial waters	X	<input type="checkbox"/>
iii)	Transit / trans-shipment through national air space	X	<input type="checkbox"/>
According to the Act Implementing Article 26 (2) of the Basic Law (War Weapons Control Act) a transit licence is generally required for all war weapons contained in Part B of the War Weapons List http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_list.pdf Control measures are undertaken on land, i.e. in random road checks or during a stopover of a plane or ship.			
D. The competent national authority(-ies) for the regulation of transit and trans-shipment [Article 5(5)] (please specify below)			
Federal Ministry for Economic Affairs and Energy Federal Ministry of Finance (Customs / Border Goods Control)			

6. BROKERING

A. The national control system includes measures that allow the regulation, pursuant to national laws, of brokering of conventional arms covered under Article 2(1) [Articles 6(1) to 6(3) and Article 10] (if 'Yes', please provide further information below on the nature of control measures and confirm that they apply to all items in the national control list. If 'No', please elaborate below)		Yes X	No <input type="checkbox"/>
A brokering licence is required for all war weapons contained in Part B of the War Weapons List http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_list.pdf as well as for defence goods brokered from/to non EU/EEA-States.			
B. The definition of brokering used in national legislation [Articles 6(1) to 6(3) and Article 10] (please specify in particular if there are extraterritorial elements in the definition, for instance the activities of nationals resident abroad, or transfers that take place between two third countries)			
Brokering is defined as: 1. the brokering of a contract on the acquisition or release of goods, 2. the documentation of an opportunity to conclude such a contract or 3. the conclusion of a contract on the release of goods.			
C. The competent national authority(-ies) for the regulation of brokering [Article 5(5)] (please specify below)			
Federal Ministry for Economic Affairs and Energy, Federal Office for Economic Affairs and Export Control			

7. DIVERSION

A. Measures foreseen in the national control system to prevent the diversion of conventional arms covered by Article 2(1) [Article 11(1)]		Yes	No
i)	assessing the risk of diversion of an export [Article 11(2)] (if 'No', please provide background below)	X	<input type="checkbox"/>
ii)	cooperation and information exchange, where appropriate and feasible and pursuant to national law, with other States Parties [Article 11(3)] (if 'No', please provide background below)	X	<input type="checkbox"/>
B. The national control system includes appropriate measures to be taken, pursuant to national law and in accordance with international law, when a diversion of transferred conventional arms under Article 2(1) has been detected [Article 11(4)] (if 'No', please elaborate below)		X	<input type="checkbox"/>

8. RECORD KEEPING

A. The national control system includes provisions for maintaining records regarding: [Article 12(1)] (mandatory to retain records for one of the two options below)		Yes	No
i)	issued authorizations for the export of conventional arms covered under Article 2(1) of the Treaty [Article 12(1)]	X	<input type="checkbox"/>
ii)	actual exports of conventional arms covered under Article 2(1) of the Treaty [Article 12(1)] (if 'No' to both (i) and (ii), please elaborate below)	X	<input type="checkbox"/>
National records of issued authorizations are kept for all conventional arms. National records of actual exports are only kept for war weapons contained in the War Weapons List (http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_list.pdf).			
B. Records are kept for a minimum of 10 years [Article 12(4)] (if 'No', please elaborate below)		Yes X	No <input type="checkbox"/>

9. REPORTING

A. The national control system allows for the provision of information as required by Article 13(3) (if 'No', please elaborate below)	Yes X	No <input type="checkbox"/>

10. ENFORCEMENT

A. Measures are in place that provide the ability to enforce the national laws and regulations that implement the provisions of the Arms Trade Treaty [Article 14] (if 'No', please elaborate below)	Yes X	No <input type="checkbox"/>
B. National legislation allows the provision to another State Party of jointly agreed assistance in investigations, prosecutions and judicial proceedings in relation to violations of national measures established pursuant to this Treaty [Article 15(5)]	Yes X	No <input type="checkbox"/>

(if 'No', please elaborate below)		

11. INTERNATIONAL COOPERATION

A. Cooperation is possible with other States Parties of the Treaty with a view to its effective implementation, where such cooperation is consistent with national law and security interests [Article 15(1)] (if 'No', please elaborate below)	Yes X	No <input type="checkbox"/>

12. INTERNATIONAL ASSISTANCE

A. National regulations and policy allow for the provision - upon request and if in a position to do so - of implementation assistance as set out in Article 16(1) (if 'No', please elaborate below)	Yes X	No <input type="checkbox"/>

13. DISPUTE SETTLEMENT

A. National regulations and policy allow for consultations and, by mutual consent, cooperation in the settlement of disputes regarding the interpretation or application of the Treaty by at least one of the means outlined in Article 19(1) (if 'No', please elaborate below)	Yes X	No <input type="checkbox"/>

SECTION B.

INFORMATION RELATED TO NON-BINDING PROVISIONS IN THE TREATY

States Parties are obliged according to Article 13(1) to provide information on the measures listed below, to the extent that such measures have been undertaken to implement the Treaty. On a voluntary basis, more information may also be provided

1. NATIONAL CONTROL SYSTEM AND LIST

F. Arms for recreational, cultural, historical and sporting purposes are included in the national control list [Article 2(1)(h) & Preamble, 13th para]	Yes X	No <input type="checkbox"/>
If 'No', please provide further information below, for instance whether a separate set of controls are applied to these types of arms		
G. Additional categories not listed under Section A1.D are included in the national control list [Article 5(3)] (If 'Yes', please specify below)	Yes X	No <input type="checkbox"/>
The German national Control List, as well as the EU Common Military List, comprise a much vaster set of items than Art. 2 (1) ATT in fulfilment of Art 5 (3) ATT ("Each State Party is encouraged to apply the provisions of this Treaty to the broadest range of conventional arms.")		
H. Control list definitions are supplemented by more detailed definitions not in the control list itself [Article 5(3)] (If 'Yes', please provide further information below)	Yes X	No <input type="checkbox"/>
The German national Control List, as well as the EU Common Military List and the Wassenaar Arrangement Munitions List, contain detailed explanatory and technical notes defining the listed items and categories.		
I. The national control list is publicly available [Article 5(4)] (if 'Yes', please provide information below as to how your control list is made publicly available - if available on the open internet please provide the hyperlink)	Yes X	No <input type="checkbox"/>
<p>The Control List is publicly available in German: http://www.ausfuhrkontrolle.info/ausfuhrkontrolle/de/gueterlisten/ausfuhrliste/al_abschnitt_a.pdf, and is largely identical to the EU Common Military List: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52014XG0409(01) which is based on the Wassenaar Arrangement Munitions List. The items covered by Art. 2 and 3 ATT are mainly also covered by the War Weapons List: http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_list.pdf</p>		
J. Additional voluntary information about non-obligatory aspects of a national control system (please elaborate below - for instance regarding inter-agency coordination structures, training systems for relevant officials, transparency and accountability mechanisms, outreach to private actors such as industry, or any ongoing / planned review or change of the national control system or parts thereof)		
<p>The German government pursues a restrictive, responsible policy on the export of military equipment. Arms exports are not a tool of economic policy. Decisions on licences for exports of military equipment are primarily based on foreign and security policy considerations.</p> <p>In 2015, the German government published so-called "Small Arms Principles" governing the export of small arms and light weapons, corresponding ammunition and production equipment to non-EU/NATO or equivalent third countries (http://bmwi.de/EN/Press/press-releases.did=708884.html), and containing, i.a., the principle "New for old", whereby recipient countries must commit to destroying the small arms and light weapons to be replaced by the new consignment.</p> <p>Military Equipment Export Reports covering export authorizations of all items contained in the national Control List are published twice a year. The 2014 Military Equipment Export Report can be accessed here: http://www.bmwi.de/EN/Service/publications.did=730170.html</p> <p>German exports of military equipment are also contained in the EU Annual Report of Military technology and Equipment.</p> <p>Additionally, Germany reports to the UN Register of Conventional Arms (http://www.un.org/disarmament/convarms/Register/), the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, the Reporting Template for the Implementation of the OSCE Document on Small Arms and Light Weapons and Supplementary Decisions and the Questionnaire on OSCE Participating States' Policy and/or National Practices and Procedures for the Export of Conventional Arms and Related Technology, as well as in the context of other multilateral</p>		

Treaties and Regimes, such as the Wassenaar Arrangement.

2. PROHIBITIONS

D. Additional voluntary information relevant to prohibitions under Article 6 (please elaborate below)

3. EXPORTS

G. The national risk assessment procedure includes the consideration of risk mitigation measures that could be undertaken to mitigate identified risks [Article 7(2)]

(if 'Yes' please elaborate below, including an indication of types of risk mitigation measures that are most often used)

Yes ☒

No ☐

The risk assessment procedure is guided by the "Political Principles Adopted by the Government of the Federal Republic of Germany for the Export of War Weapons and Other Military Equipment" of 19 January 2001 ("Political Principles") and the EU Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32008E0944>) ensuring an ex-ante assessment of licence applications.

In case of export applications for small arms and light weapons, the non-EU/NATO or equivalent recipient third state's government must commit to destroying the small arms and light weapons to be replaced by the new consignment ("New for Old" principle). In the principle's variant "New, destruction after decommissioning", recipient third countries may alternatively commit to destroying the newly procured weapons as soon as they are discarded, if there are no used weapons to be destroyed at the time of a new consignment designed to cover reasonable additional needs. The commitment to this principle is now a requirement prior to granting an export licence and forms part of relevant end-use certificates. In individual cases, the "New for Old" principle is also applied to conventional weapons other than SALW on a case-by-case basis. The fulfilment of this commitment will also be monitored.

In this context, the German Federal government has also decided on key points on the introduction of post-shipment controls (<http://www.bmwi.de/EN/Press/press-releases.did=746666.html>).

H. The national control system allows exports of controlled equipment without a licence or under simplified procedure under certain circumstances [for instance temporary exports or exports to trusted partners]

(if 'Yes' please provide further information below)

Yes ☒

No ☐

A risk assessment is always required, but German legislation and guidelines ("Political Principles") contain a positive presumption for exports to NATO or EU Member States or countries considered equivalent (Australia, New Zealand, Japan, Switzerland), and intra-EU trade.

However, these positive presumptions do not obviate the requirement for an assessment and they are void if a situation covered by Art. 6 of the Treaty (or the equivalent in the EU Council Common Position or the German Political Principles) is encountered.

I. The national risk assessment procedure includes other criteria not mentioned in the articles cited in 3.D above

(if 'Yes' please specify below)

Yes ☒

No ☐

In addition to the criteria under 3.D, the following elements are considered in the German Political Principles:

- The export of war weapons is approved only in exceptional cases where, as justified by the individual situation, special foreign policy or security policy interests of the Federal Republic of Germany would support the granting of a licence. For other military equipment, licences are granted only insofar as such action does not endanger the interests protected under foreign trade and payments statutes.
- As a rule, military equipment exports are not approved where there is "sufficient suspicion" of misuse for internal repression or other ongoing and systematic violations of human rights. This is more restrictive than the EU Council Common Position, which rules out export licences only where a "clear risk" exists, or the ATT, which rules out export licences only where an "overriding risk" exists.
- Other questions taken into consideration are whether the end-user is a government, a government authority or a government authorized recipient; whether a plausible end-use certificate is presented; and whether previous end-use assurances have been respected.
- Licences for the export of war weapons contained in Part B of the War Weapons List (http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_list.pdf),

and in particular for small arms and light weapons as defined in the “Small Arms Principles”, are only issued for government end-users, not for private entities. For further details see 7. F below.

In addition to the criteria under 3.D, the following elements are considered in EU Common Position 2008/944/CFSP of 8 December 2008 equipment (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32008E0944>):

- The national security of EU Member States as well as that of friendly and allied countries.
- The behaviour of the buyer country as regards in particular its attitude to terrorism, the nature of its alliances and respect for international law.
- The risk of diversion.
- Compatibility of the export with the technical and economic capacity of the recipient country, taking into account the desirability that states should meet their legitimate security and defence needs with the least diversion of human and economic resources for armaments.

J. Measures to exercise control over exports are applicable also to other categories of conventional arms than those covered in Articles 2(1), 3 and 4 [Article 5(3)]
(if ‘Yes’, please elaborate below)

Yes X

No ☐

The risk assessment and other export control measures apply to all goods contained in the national Control List.

K. An export authorization can be reassessed if new relevant information becomes available [Art 7(7)]
(if ‘Yes’, please provide further information below. Are there also legal provisions for suspension or withdrawal of a license?)

Yes X

No ☐

There is a two-step-licensing procedure for war weapons: First, a production and export licence needs to be obtained, and second an actual export licence. If new information becomes available between the two stages, the second licence can be denied. Under certain circumstances specified by statute/ordinance, licences may be revoked. However, an authorized exporter can claim compensation in case of revocation.

L. Information / documentation included in an application for an export authorization
(please specify below)

Every application for export licences must be accompanied by an end-user certificate and other relevant documents specifying the expected end-use of the goods, and containing other declarations and assurances on a case-by-case basis. Sufficient documentation must be provided to allow thorough assessment of the case.

M. Apart from the competent national authority, the following ministries or government authorities may be involved in the decision-making process for an export authorization [Article 5(5)]
(please specify below)

Federal Office for Economic Affairs and Export Control / Federal Ministry of Economic Affairs and Energy
Federal Foreign Office
Federal Ministry of Defence
Federal Ministry for Economic Cooperation and Development
Federal Ministry of the Interior
Federal Ministry of Finance (Customs/Border Goods Controls)
Federal Ministry of Justice and Consumer Protection
Federal Chancellery

N. The national control system allows a State of final destination to request information concerning pending or actual export authorizations pertaining to it [Article 8(3)]
(if ‘No’, please elaborate below)

Yes X

No ☐

O. Additional voluntary information relevant to national export controls
(please specify below - for instance on the control of re-exports.)

End-user certificates must contain a re-export clause.

4. IMPORTS

D. Imports of conventional arms subject to control are under specific circumstances permitted without regulation or under simplified procedure (if 'Yes' please provide further information below)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
An import licence is required for war weapons contained in Part B of the War Weapons List (http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_list.pdf). In addition to the conventional arms listed in Art. 2 (1) ATT, this list also contains certain kinds of ammunitions, submunitions, projectiles, target heads and explosives.		
E. Measures to regulate imports are applicable also to other categories of conventional arms than those covered in Article 2(1) [Article 5(3)] (if 'Yes', please elaborate below)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
An import licence is only required for war weapons contained in Part B of the War Weapons List (http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_list.pdf).		
F. Apart from the competent national authority, the following ministries or government authorities may be involved in the decision-making process for an import authorization (when such an authorization is required) [Article 5(5)] (please specify below)		
Federal Ministry of Economic Affairs and Energy Federal Ministry of Defence Federal Ministry of the Interior Federal Ministry of Finance		
G. Information / documentation required for an import authorization (please specify below)		
Applications must contain information on types of goods, quantities, exporting state and exporting company/manufacturer.		
H. Additional voluntary information relevant to national import controls (please specify below)		

5. TRANSIT & TRANS-SHIPMENT

E. Transit / trans-shipment of controlled equipment is permitted without regulation or under simplified procedure under certain circumstances (for instance in a free trade area) (if 'Yes' please provide further information below)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
A transit licence is only required for war weapons contained in Part B of the War Weapons List (http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_list.pdf).		
F. National control of transit and/or trans-shipment goes beyond the fulfillment of obligations under Article 6 of the Treaty (if 'Yes', please specify the additional scope of control and indicate whether the additional control applies to all items in the national control list)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
G. Measures to regulate transit and/or trans-shipment are applicable also to other categories of conventional arms than those covered in Article 2(1) [Article 5(3)] (if 'Yes', please elaborate below)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
A transit licence is only required for war weapons contained in Part B of the War Weapons List (http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_list.pdf).		
H. Apart from the competent national authority, the following ministries or government authorities may be involved in the decision-making process for a transit or trans-shipment authorization (when such an authorization is required) [Article 5(5)] (please specify below)		
Federal Office for Economic Affairs and Export Control / Federal Ministry of Economic Affairs and Energy Federal Foreign Office Federal Ministry of Defence Federal Ministry of the Interior		

I. Information / documentation required in an application for a transit / trans-shipment authorization (please specify below)
Applications must contain information on types of goods, quantities, value, exporting state and exporting company/manufacturer, importing state and end-user including an end-use certificate. The assessment is based on the same criteria as the assessment of an export licence to the importing state.
J. Additional voluntary information relevant to national transit / trans-shipment controls (please specify below)

6. BROKERING

D. National brokering controls contain exemptions (for instance for national armed forces or defence industry) [Articles 6 & 10] (if 'Yes', please provide further information below)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
There is a licence requirement for all war weapons contained in Part B of the War Weapons List (http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_list.pdf). The Federal Armed Forces, the Federal Police and the federal customs administration are generally exempt from the licence requirements of the War Weapons Control Act. The requirement of a brokering licence does additionally not apply to authorities or agencies in the exercise of their official functions.		
E. National brokering controls go beyond the fulfillment of obligations under Article 6 of the Treaty (for instance regulating brokering in other situations) (if 'Yes', please specify the additional scope of control)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
F. Measures to regulate brokering are applicable also to other categories of conventional arms than those covered in Article 2(1) [Article 5(3)] (if 'Yes', please elaborate below)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
A brokering licence is required for all war weapons contained in Part B of the War Weapons List (http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_list.pdf) as well as for defence goods brokered from/to non EU/EEA-States.		
G. Apart from the competent national authority, the following ministries or government authorities may be involved in the decision-making process for a control measure related to brokering [Article 5(5)] (please specify below)		
Federal Office for Economic Affairs and Export Control / Federal Ministry of Economic Affairs and Energy Federal Foreign Office Federal Ministry of Defence Federal Ministry for Economic Cooperation and Development Federal Ministry of the Interior Federal Ministry of Finance (Customs / Border Goods Controls) Federal Ministry of Justice and Consumer Protection Federal Chancellery		
H. Information / documentation required in an application related to brokering (please elaborate below)		
Every application for brokering licences must be accompanied by an end-user certificate and other relevant documents specifying the expected end-use of the goods, and containing other declarations and assurances on a case-by-case basis. Sufficient documentation must be provided to allow thorough assessment of the case.		
I. Additional voluntary information relevant to national brokering controls (please specify below)		
End-user certificates must contain a re-export clause.		

7. DIVERSION

C. Measures included in the national control system to prevent the diversion of conventional arms covered by Article 2(1) [Article 11(1)] :		Yes	No
iii)	establishment of mitigation measures [Article 11(2)]	X	<input type="checkbox"/>
iv)	provision, upon request, of end use / end user documentation to the exporting State [Article 8(1)]	X	<input type="checkbox"/>
v)	requirement for end use / end user assurances from an importing State (or industry) [Article 8(1)]	X	<input type="checkbox"/>
vi)	examination, where appropriate, of parties involved in a transfer [Article 11(2)]	X	<input type="checkbox"/>
viii)	requirement, where appropriate, for additional documentation, certificates, assurances for a transfer [Article 11(2)]	X	<input type="checkbox"/>
ix)	exchange of relevant information with other States Parties on effective measures to address diversion, as well as on illicit activities and actors [Articles 11(5) & 15(4)]	X	<input type="checkbox"/>
x)	reporting through the Secretariat to other States Parties on measures taken to address diversion of transferred conventional arms covered under Article 2(1) [Articles 11(6) & 13(2)]	<input type="checkbox"/>	Not yet
xi)	other measures [Article 11(1)] (if 'Yes', please specify below)	X	<input type="checkbox"/>
<p>The risk of diversion is one of the criteria assessed in the risk assessment of a licence application, in accordance with EU Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment (http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32008E0944). Moreover, the "Political Principles Adopted by the Government of the Federal Republic of Germany for the Export of War Weapons and Other Military Equipment" of 19 January 2001 ("Political Principles") contain politically binding guidance for the German national control system.</p> <p>In case of export applications for small arms and light weapons to third countries, the "Small Arms Principles" apply (http://bmwi.de/EN/Press/press-releases.did=708884.html).</p> <p>The German Federal government has also decided on key points on the introduction of post-shipment controls (http://www.bmwi.de/EN/Press/press-releases.did=746666.html).</p>			
D. Measures included in the national control system, to be taken when a diversion of transferred conventional arms has been detected [Article 11(4)]		Yes	No
i)	alerting potentially affected States Parties	X	<input type="checkbox"/>
ii)	investigative and law enforcement measures at the national level	X	<input type="checkbox"/>
iii)	using international tracing mechanisms to identify points of diversion	X	<input type="checkbox"/>
iv)	other measures (if 'Yes', please specify below)	X	<input type="checkbox"/>
Other measures may be applied on a case-by-case basis.			
E. Measures taken to prevent or address diversion are applicable also to other categories of conventional arms than those covered in Article 2(1) [Article 5(3)] (if 'Yes', please elaborate below)		Yes X	No <input type="checkbox"/>
Measures apply to all items covered in the national Control List. In some cases, e.g. small arms and light weapons, more or stricter measures are in place (cf. "Small Arms Principles", referred to above).			
F. Additional voluntary information relevant to the prevention of diversion of conventional arms (please specify below - for instance regarding measures in place to avoid diversion in the context of the international movement of conventional arms referred to in Article 2(3) of the Treaty)			
Licences for the export of war weapons contained in Part B of the War Weapons List (http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_list.pdf), and in particular for small arms and light weapons as defined in the "Small Arms Principles", are only issued for			

government end-users, not for private entities.

Export licences for war weapons or other military equipment of a quantity and type relevant to war weapons are principally only granted on presentation of governmental end-use certificates that preclude re-exports without prior authorization.

For the export of manufacturing equipment used for war weapons, stringent standards are to be applied when assessing whether the recipient country is capable of carrying out effective export controls in order to comply with end-use assurances.

Germany pursues a particularly restrictive policy on the export of small arms. Regarding the export of technology and production equipment for small arms and light weapons and ammunition, no licences are issued for the opening of new production lines for small arms and light weapons or their ammunition in non-EU/NATO or equivalent third countries.

Additionally, the “New for Old” principle, or its variant “New, destruction after decommissioning” is applied to exports of small arms and light weapons in these cases.

Germany has also decided on key points on the introduction of post-shipment controls

(<http://www.bmwi.de/EN/Press/press-releases.did=746666.html>).

8. RECORD KEEPING

C. The national control system includes provisions for maintaining records regarding :		Yes	No
i)	imports of conventional arms covered under Article 2(1) of the Treaty into national territory as final destination [Article 12(2)]	X	<input type="checkbox"/>
ii)	authorizations for the transit and/or trans-shipment through national territory of conventional arms covered under Article 2(1) of the Treaty [Article 12(2)]	X	<input type="checkbox"/>
iii)	authorizations related to the conduct of brokering activities included in the scope of the national control system (for instance relating to a register of brokers) [Article 10]	X	<input type="checkbox"/>
D. Records cover other categories of conventional arms than those specified in Article 2(1) (if ‘Yes’, please elaborate below)		Yes <input type="checkbox"/>	No X
Records of issued authorizations are kept for all conventional arms. Records of actual exports are only kept for war weapons contained in Part B of the War Weapons List (http://www.bafa.de/bafa/en/export_control/legislation/export_control_cwc_p_war_weapons_list.pdf).			
E. Additional voluntary information relevant to national record keeping (please specify below - for instance types of information preserved in national records for exports and imports respectively)			

9. REPORTING

B. Additional voluntary information relevant to national reporting (please specify below, for instance if national reports are publicly available - if available on the open internet please provide the relevant hyperlink)
Military Equipment Export Reports covering export authorizations of all items contained in the national Control List are published twice a year. The 2014 Military Equipment Export Report can be accessed here: http://www.bmwi.de/EN/Service/publications.did=730170.html . An Interim Report for the first half of 2015 can be found here: http://www.bmwi.de/EN/Service/publications.did=746704.html . German exports of military equipment are also contained in the EU Annual Report of Military Technology and Equipment. Additionally, Germany reports to the UN Register of Conventional Arms (http://www.un.org/disarmament/convarms/Register/), the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, the Reporting Template for the Implementation of the OSCE Document on Small Arms and Light Weapons and Supplementary Decisions and the Questionnaire on OSCE Participating States’ Policy and/or National Practices and Procedures for the Export of Conventional Arms and Related Technology, as well as in the context of other multilateral Treaties and Regimes, such as the Wassenaar Arrangement.

10. ENFORCEMENT

C. National measures have been taken to prevent, in cooperation with other States Parties, the transfer of conventional arms covered under Article 2(1) of the Treaty becoming subject to corrupt practices [Article 15(6)] (please elaborate below)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Germany has specific anti-corruption legislation. In steering documents related to the EU Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment transparency issues are addressed. These issues are related to transparency regarding expenses and acquisition of military equipment.		
D. Additional voluntary information relevant to national enforcement (please elaborate below - for instance measures taken to criminalize offences against national laws and regulations that implement the provisions of the Arms Trade Treaty and to prescribe legal penalties in these cases.)		
Violations of foreign trade and payments provisions are punishable by criminal courts by long terms of imprisonment (up to 5 years), e.g. if they (1) concern illegal exports or brokering activities of war weapons (section 22a (1) of the War Weapons Control Act) or (2) refer to equipment listed in Part I of the Export List, e.g. weapons, ammunition, defence materials, chemicals, (parts of) equipment, etc., or even war weapons (according to section 18 (2) of the Foreign Trade and Payments Act Apart from this, other violations can be punished with fines of up to Euro 500,000.		

11. INTERNATIONAL COOPERATION

B. Additional voluntary information relevant to participation in international cooperation (please elaborate below - for instance in terms of the measures suggested in Article 15, or in terms of participation in international or regional cooperation in the transfer control area)
Germany actively participates in UN, OSCE, EU, Wassenaar Arrangement and bilateral exchanges on transfer control issues.

12. INTERNATIONAL ASSISTANCE

B. National regulations and policy allow the provision of financial resources to the voluntary trust fund established under Article 16(3) of the Treaty (if 'No', please elaborate below)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
C. Additional voluntary information relevant to the provision- or receipt of implementation assistance (please specify below - for instance regarding assistance provision capacities or assistance needs,)		
<p>Germany considers implementation assistance to be vital for the effective implementation of the Treaty and is offering support to States Parties, Signatories and non-Signatories on a bilateral basis and together with EU partners.</p> <p>Together with Australia, Germany launched the „UN Trust Facility Supporting Cooperation on Arms Regulation (UNSCAR)“ in 2013, aiming at facilitating the implementation of the ATT and the United Nation's Programme of Action on Small Arms and Light Weapons. So far, Germany has contributed 2.4 Mio. € to the Fund.</p> <p>The Federal Office of Economics and Export Control (BAFA) has considerable expertise in this area and is the implementing agency for a dedicated EU outreach and assistance programme for the Arms Trade Treaty. This “EU ATT Outreach Programme” is funded with 6.4 Mio. € for the years 2014-2016. Germany is co-financing 20% of those measures.</p> <p>In its national capacity, Germany is also funding additional “ATT Implementation Support Measures” including seminars and workshops on relevant issues for and in a number of countries, equally implemented by BAFA.</p> <p>Germany has also funded the participation of delegates from developing countries and NGOs at preparatory meetings and at the CSP1, contributing over 300,000 USD to the UNDP sponsorship programme, as well as several other measures in support of the ATT preparatory process.</p>		

13. DISPUTE SETTLEMENT

B. National regulations and policy allow for the settlement of disputes concerning the interpretation or application of the Treaty through recourse by mutual consent to arbitration as outlined in Article 19(2) (if 'No', please elaborate below)	Yes X	No <input type="checkbox"/>
C. Additional voluntary information relevant to dispute settlement under the terms of the Treaty (please specify below)		