

CHAPTER III EXPORT AUTHORISATION AND AUTHORISATION FOR BROKERING SERVICES

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1. Union General Export Authorisations for certain exports as set out in Annexes IIa to IIc are established by this Regulation.

The competent authorities of the Member State where the exporter is established can prohibit the exporter from using these authorisations if there is reasonable suspicion about his ability to comply with such authorisation or with a provision of the export control legislation.

The competent authorities of the Member States shall exchange information on exporters deprived of the right to use a Union General Export Authorisation, unless they determine that the exporter will not attempt to export dual-use items through another Member State. The system referred to in Article 19(4) shall be used for this purpose.

In order to ensure that only low-risk transactions are covered by the Union General Export Authorisations included in Annexes IIa to IIc, the Commission shall be empowered to adopt delegated acts in accordance with Article 23a to remove destinations from the scope of those Union General Export Authorisations, if such destinations become subject to an arms embargo as referred to in Article 4(2). ^[11]Where, in cases of such arms embargoes, imperative grounds of urgency require a removal of particular destinations from the scope of a Union General Export Authorisation, the procedure provided for in Article 23b shall apply to delegated acts adopted pursuant to this paragraph.

Comment:

The European Union General Export Authorisation (EU GEA) is one of the essential elements of this Regulation. It constitutes a unique authorisation granted directly at the EU level. **It is important to note that, normally, no complementary national authorisation** will be necessary.

The new Regulation 1232/2011 has added **five new EU GEA** to the existing EU001 on export to certain countries (see Annex IIa). These new EU GEA concern:

- Exports of certain dual-use items to certain destinations (essentially Wassenaar Arrangement items and Participating Member States): Annex IIb;
- Export of dual-use item after repair or for maintenance and replacement: Annex IIc;
- Temporary transfer for trade fair or exhibition: Annex IId;
- Transfer of dual-use items dedicated to telecommunications and information security: Annex IIe;
- Transfer of chemical substances: Annex IIc.

It is worth to notice that the Council has made available, on 20 December 2018, the text of the *Commission's proposal for a Regulation of the European Parliament and the Council amending Council Regulation (EC) No 428/2009 by granting a Union General Export*

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Authorisation for the export of certain dual-use items from the Union to the United Kingdom of Great Britain and Northern Ireland by granting a Union General Export Authorisation for the export of certain dual-use items from the European Union to the United Kingdom of Great Britain and Northern Ireland⁸³. The proposal consists in adding the United Kingdom of Great Britain and Northern Ireland in the list of beneficiaries of the EU General Export Authorisation 001. The Regulation was adopted by Council and Parliament in co-decision on 27 March 2019⁸⁴ and will enter into force from the day following that on which the Treaties cease to apply to the United Kingdom, pursuant to Article 50(3) of the Treaty on European Union. However, this Regulation will not apply if a withdrawal agreement, concluded with the United Kingdom in accordance with Article 50(2) of the Treaty on European Union, has entered into force by that date.

It should be noted that a EU GEA on “low-value shipments” was initially proposed by the European Commission, but it was rejected by the Council. Nevertheless, two statements have been published jointly with the Regulation. One by the European Commission stating that “*the Commission intends to review this Regulation no later than 31 December 2013, in particular as regards assessing the possibility of introducing a General Export Authorisation on low-value shipments.*” Another one by the European Parliament, the Council and the European Commission stating that “*this Regulation does not affect the National General Export Authorisations on low value shipments issued by Member States in accordance with Article 9 (4) of Regulation 428/2009*”.

As latest developments on the review process of the EU dual-use Regulation (RECAST), on 17 January 2018, the European Parliament Plenary adopted the INTA report with an overwhelming majority in favour of the position set out in the report. 571 MEPs voted in favour, 29 against, and 29 abstained. Plenary also voted to open inter-institutional negotiations with the Council. The Council Working Party on Dual-Use Goods has adopted its views on the legislative proposal in December 2018. A consensus between the two co-legislators should be found before Spring to allow the text to be adopted under the present Commission. If not, it might be postponed for an indefinite period.

To use the EU GEA, the exporter has to respect a number of **specific conditions**, listed for each EU GEA in its dedicated Annex.

General conditions applicable to all EU GEA can be summed up as follows:

1. An exporter cannot use an EU GEA if he or she has been informed by the national authorities that the items in question are or may be intended, in their entirety or in part, for a use in connection with weapons of mass destruction or for a military end-use as defined in Article 4(2) or if he or she is aware that the items are intended for such use.
2. An exporter cannot use an EU GEA when the relevant items are exported to a customs-free zone or free warehouse that is located in a destination covered by this authorisation.

⁸³ Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 428/2009 by granting a Union General Export Authorisation for the export of certain dual-use items from the Union to the United Kingdom of Great Britain and Northern Ireland, Brussels, 19.12.2018 COM(2018) 891 final 2018/0435 (COD). Available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM%3A2018%3A0891%3AFIN>.

⁸⁴ The full text of the Regulation is available at https://trade.ec.europa.eu/doclib/docs/2019/march/tradoc_157815.pdf.

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3. Exporters shall mention the EU reference number of the EU GEA and specify the items being exported under the EU GEA in the box 44 of the Single Administrative Document (SAD).

4. Exporters that make use of an EU GEA shall notify to their national authorities the first use of the authorisation in a short delay after the first export took place or alternatively prior to the first use. Reporting requirements applied by the Member States are listed in the table 8 below.

5. The use of an EU GEA can be submitted to exporter's registration prior to the first use. Such registration shall be automatic and made known by the competent authorities to the exporter without delay and in any case within ten working days of the receipt. National registrations applied by Member States are listed in the table 9 below.

6. Notification or registration requirements have to be based on those defined for the use of national general export authorisation.

The use of an EU GEA can be constrained by other additional information, imposed by the national authorities.

Specific understandings and conditions requested for the use of certain EU GEA:

1. EU003 (Export after repair, replacement or for maintenance)

- Repair, maintenance or replacement operations concern:

Items re-imported into the customs territory of the European Union for the purpose of maintenance, repair or replacement, and exported or re-exported to the country of consignment without any changes to their original characteristics within a period of five years after the date when the original export authorisation has been granted;

Items exported to the country of consignment in exchange for items of the same quality and number which were re-imported into the customs territory of the European Union for maintenance, repair or replacement within a period of five years after the date when the original export authorisation has been granted.

- Repair, maintenance or replacement operations may involve coincidental improvement on the original items, e.g. resulting from the use of modern spare parts or from use of a later built standard for reliability or safety reasons, provided that this does not result in any enhancement to the functional capability of the items or provide the items with new or additional functions;

- The exporter cannot use this authorisation if the initial authorisation has been annulled, suspended, modified or revoked;

- The exporter cannot use this authorisation if he is aware that the end use of the items is different from that specified in the original authorisation.

2. EU004 (temporary export for exhibition or fair)

- Exhibition or fair operations concern commercial events of a specific duration at which several exhibitors make demonstrations of their products to trade visitors or to the general public;

- The items have to be re-imported within a period of 120 days after the initial export, complete and without modification, into the customs territory of the EU;

- The competent authority of the Member State where the exporter is established may on

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request of the exporter waive the requirement that the items are to be re-imported;

- The exporter could not use the authorisation:

If he has been informed by a competent authority, or is otherwise aware (e.g. from information received from the manufacturer), that the items in question have been classified by the competent authority as having a protective national security classification marking, equivalent to or above CONFIDENTIAL UE;

Where their return, in their original state, without the removal, copying or dissemination of any component or software, cannot be guaranteed by the exporter, or where a transfer of technology is connected with a presentation;

Where the relevant items are to be exported for a private presentation or demonstration (e.g. in in-house showrooms);

Where the relevant items are to be merged into any production process;

Where the relevant items are to be used for their intended purpose, except to the minimum extent required for effective demonstration, but without making specific test outputs available to third parties;

Where the export is to take place as a result of a commercial transaction, in particular as regards the sale, rental or lease of the relevant items;

Where the relevant items are to be stored at an exhibition or fair only for the purpose of sale, rent or lease, without being presented or demonstrated;

Where the exporter makes any arrangement, which would prevent him from keeping the relevant items under his control during the whole period of the temporary export.

3. EU005 (telecommunications)

- The exporter cannot use the authorisation for use in connection with a violation of human rights, democratic principles or freedom of speech as defined by the Charter of Fundamental Rights of the European Union, by using interception technologies and digital data transfer devices for monitoring mobile phones and text messages and targeted surveillance of internet use (e.g. via monitoring centres and lawful interception gateways);

- The exporter cannot use the authorisation if he or she is aware that the items will be re-exported to any destination other than the EU Member States, Australia, Argentina, Canada, China (including Hong Kong and Macao), India, Japan, New Zealand, Norway, South Africa, South Korea, Switzerland (including Liechtenstein), Turkey, Ukraine, and United States of America.

4. EU006 (chemicals)

- The exporter cannot use the authorisation if he or she is aware that the items will be re-exported to any destination other than the EU Member States, Argentina, Australia, Canada, Iceland, Japan, New Zealand, Norway, South Korea, Switzerland (including Liechtenstein), Turkey, Ukraine, and the United States of America.

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Table 9: Conditions of use of EU GEA imposed by Member States

Member State	Conditions and requirements for use of this Authorisation	If registration is required, validity of the registration	Reporting requirements of the use of the EU GEA
Austria	Exporters have to register before the first use (Art. 59 Foreign Trade Act 2011).	Indefinite. However, an exporter can lose the right to use the EU GEA by being sentenced for a criminal offense.	Yearly reporting.
Belgium (Brussels)	Prior registration required.	Undetermined.	Yearly reporting.
Belgium (Flemish Region)	Prior registration required.	Until revocation.	Yearly reporting.
Belgium (Walloon Region)	Compulsory registration 10 working days prior to the first export.	Indefinite.	Yearly reporting obligation.
Bulgaria	Prior registration requirement for all exporters of dual-use items. Exporters that use the EU GEA No. EU001 shall notify the competent authorities of their first use of the EU GEA No. EU001 no later than 30 days after the date when the first export took place. Exporters that use EU GEA No. EU002 – EU006 shall notify the competent authority 10 days before the date when the first export took place and shall provide information on request.	The prior registration of exporters shall be done for a term of five years and every subsequent registration shall be done for the same term.	Report on use of the EU GEA has to be provided once per year (January).
Croatia	Exporters shall register at the Ministry of Foreign and European Affairs 20 days prior to the use of EU General Export Authorisation. The Ministry delivers, within 10 days to the exporter a confirmation of registration.	Prior registration required. Notification of the use of the EU GEA shall be made 20 days prior to the first export. The Ministry can prohibit the use of EU GEA and if the conditions for prohibition have been met, Ministry can decide	The Exporter and user of the EU General Export Authorisation is constraint to notify exports to the Ministry of Foreign and European Affairs twice a year.

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		on reuse of the EU GEA.	
Czech Republic	Prior registration required (confirmed by the Ministry within ten days of the application). Notification of the first use of the EU GEA no later than 30 days after the date when the first export took place.	Without time limit. If the exporter has not made any exports one year after the export has taken place, then the registration should be repealed.	On request of the Ministry.
Cyprus	Prior registration required. Requirement to notify the authorities of the first use of the EU GEA within 30 days after the first export take place.	Indefinite.	Requirement to notify the authorities of the first use of the EU GEA within 30 days after the first export take place.
Denmark	Requirement to notify the authorities of the first use of the EU GEA within 30 days after the first export. Re-export clause imposes to ensure that the items would not leave the country of destination of Annex IIa Part 2 without authorisation.	Requirement to notify the authorities of the first use of the EU GEA within 30 days after the first export.	Documents have to be presented to authorities on request of the Ministry.
Estonia	In order to use (the national or Community) General Export Authorisation prior registration is required.	Up to the validity of the General Export Authorisation (indefinite).	Twice in a year, in July and January on the previous six months transactions, even if no export took place.
Finland	Exporters shall notify the Ministry for Foreign Affairs of the use of an EU General Export Authorisation no later than 30 working days after the date when the first export took place.		On request only.
France	Prior registration required. A document travels with the goods and is required for the custom declaration. Information available on the following website: http://www.dgcis.redressement-productif.gouv.fr/biens-	Until the “raison sociale” of the exporter is not modified.	Report on use of the EU GEA every 6 months for some types of items (cryptology).

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	double-usage/telechargements.		
Germany	<p>Exporters have to notify the first use of the respective EU GEA to the Federal Office of Economics and Export Control no later than 30 days after the date when the first export took place.</p> <p>In order to submit the notification, exporters need to register electronically. Further information on the following website: http://www.ausfuhrkontrolle.info/ausfuhrkontrolle/de/antragstellung/agg_antragstellung/index.html The exporter should enter "EU00X" in Box 44 of the custom declaration.</p>	<p>No time limit. The registration is only used for internal purposes of German Authorities (e.g. statistical reasons).</p>	<p>Report on use of the EU GEA every 6 months (July and January).</p>
Greece	<p>On all related commercial documents should be mentioned that the exported goods are subject to the export control legislation of the EU (Reg. 428/2009) and are exported with simplified procedures.</p>	N/A.	No.
Hungary	<p>A prior registration is required, which incorporates the notification requirement.</p>	<p>Indefinite, but should be always up-to-date. If the exporter shows no activity for 5 years the registration will be automatically cancelled.</p>	<p>Reporting on the use of EU GEA on a six months basis.</p>
Ireland	<p>The conditions of use are as set out in EU GEA. There are no additional national conditions.</p>		
Italy	<p>A registration is made when an exporter informs the national Dual-Use Items Export Control Authority of his/her intention to use an EU GEA.</p>	<p>The registration is unlimited.</p>	<p>Within 30 days from the end of each calendar semester, the exporter shall send to the competent authority, by post, e-mail, or fax, a list of the</p>

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			export transactions made under the regime of the EU GEA. Such a notice shall contain the following information: entries of invoice and contract, quantity and value of the items; categories and sub-categories of reference, corresponding customs tariff section country of destination, particulars of the consignee and of the end-user, dispatch date, type of export (final, temporary, transit).
Latvia	No special form.		
Lithuania	Exporters shall notify the Ministry of Economy about the intention to use the EU GEA at least 10 working days prior to the first use of the authorisation.		After first use of the EU GEA no later than 30 days (EU GEA conditions Par.1)
Luxembourg	<p>The exporters who intend to use one or more general export authorizations in the Union, under Article 9 (1) of Regulation (EC) No 428/2009, shall register for these purposes with the Office not later than 10 business days before the first export covered by the Union's general export authorization is made (Law, art. 39 (1)).</p> <p>Registration shall be effected by sending to the Export Control Office a standard</p>	Unlimited.	<p>The exporter shall provide the Export Control Office by 31 January of each year with information on exports made on the basis of the Union's general export authorization during the preceding year.</p> <p>This information, summarized by country, specifies for each recipient the following information:</p>

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	<p>form drawn up by the modified Grand Duke Regulation of the 14 December 2018 under Annex 17 Grand-Duke Regulation (Law, art. 39 (2). This regulation is still in the legislative process.</p> <p>In any case, the exporter undertakes to comply with the conditions of use laid down by the general export authorization of the Union as set out in Annexes IIa to IIc to Regulation (EC) No 428/2009 (Law, art. 39 (2)).</p>		<p>1. the description of the dual-use items and their references in the list in Annex I to Regulation (EC) No 428/2009;</p> <p>2. the quantity and value of the items exported;</p> <p>3. the dates of exports; and</p> <p>4. the end-use and the end-user of the items.</p> <p>When checking the information provided, the Export Control Office may request any other relevant document or any additional data relating to such exports (Law, art. 39 (3)).</p>
Malta	<p>30 days after the first use of the EU GEA. Same conditions and requirements as those set out in Annex II of this Regulation.</p>	<p>Not defined. Registration must be renewed if there is a change in address where records of the exports are kept.</p>	<p>No.</p>
Netherlands	<p>Prior registration required at least two weeks in advance of the first use. Reference EU00X to be made on documents. Input of the unique registration number and of code "EU00X" in the customs export control computer system "Sagitta" for any export.</p>	<p>No limit, no expiration dates. Unique registration number for each exporter assigned by government.</p>	
Poland	<p>Exporters are required to notify the first use of the respective EU GEA to the Economic Security Department no later than 30 days after the date when the first export took place. Prior notification of the intention to use. Mandatory certification (ISO-9001+internal compliance program).</p>	<p>Not defined.</p>	<p>Report on use of the EU GEA on a yearly basis.</p>

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Portugal	Prior registration required within 30 days after the date when the first export took place.		Yes, quarterly.
Romania	The National Authority sends to the exporter a registration number. The exporter shall: - Notify the National Authority the first use of EU GEA not later than 30 days from the date when the export takes place. - Send a report containing the export documents 10 days after the export took place. - Enter "X00X" and the registration number in Box 44 of the custom declaration. Other conditions for the use of the UGEA are laid down in the respective Annex IIa to g.	Without time limit.	The exporter shall send a monthly report containing the export data and documents upon request.
Slovakia	Registration of exporter before the first export.	If not used for two years, the exporter is removed from the register.	Exporter shall report on demand, in practice each export reports.
Slovenia	No registration requirement. Notification to the authorities of the first use of the EU GEA within 30 days after the first export.	There is not prior registration requirement.	Twice a year: until January for the second half of the previous year and until 15 July for the first half of the current year.

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Spain	Prior registration required.	No time limit.	Every six months.
Sweden	No prior registration required. No paper travels with the goods but reference to EU00X on customs declaration.	The notification has no time limit	Ex-post notification within 30 days after the first export.

Table 10: EU GEA registration form, content and update imposed by Member States

Member State	Registration form to be filled by exporter	Content of registration form	Update of registration form
Austria	No special form.	Registration form contains: Name, address of exporter who wants to make use of EU GEA, name and address of responsible person (not obligatory), identification of EU GEA, goods which are foreseen to be delivered, countries of consignees and end-users foreseen, declaration that conditions to use the EU GEA is known, signing.	A registration is required before additional EU GEAs are used. Additional items and destinations can be notified ex post in the yearly report.
Belgium (Flemish Region)	Online application via Digital Portal	Registration form allows exporter to indicate which EUGEA he wishes to register for.	
Belgium (Walloon Region)	Yes. Official document granted to an exporter.	See website : http://du-arms.brussels	A prior notification is required in case a new item is to be exported under EU GEA.

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Bulgaria	Yes. Official document granted to an exporter.	<p>A certificate is given to the exporter certifying that he is registered.</p> <p>Registration certificate includes the name of the registered person (legal or natural), number of trade registration, date of issuing and certain text information regarding the usage the certificate.</p>	Registered exporter shall notify the Interministerial Commission (Licencing Authority) of any changes in the information in the register within 14 days.
Croatia	No special form.		
Czech Republic	Registered letter of the company.	<p>Reference to this Regulation and to Act No 594/2004; Exporter's name; Exporter's registered office; Exporter's registration number; Name/position of statutory representative; Signature and stamp.</p> <p>The trade register certificate must be enclosed.</p>	<p>- The exporter shall notify the Ministry of any changes in the information in the register within fifteen days;</p> <p>- The exporter shall specify the number of the authorisation in the customs declaration;</p> <p>- The exporter shall apply to cancel the registration if, for a period of one year, he makes no use of the authorisation.</p>
Cyprus	<p>No special form provided.</p> <p>A register is kept at the Import and Export Licencing Unit of the Ministry of Commerce, Industry and Tourism.</p>	A letter is given to the exporter certifying that he is registered and entitled to use the EU GEA.	No.
Denmark	The usual form (Annex IIIa) must be used but only specific fields are to be filled out.	A letter is given to an exporter certifying that he is entitled to use the EU GEA.	The exporter does not have to report changes in use as long as they comply with the conditions of the EU GEA.

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Estonia	Yes.	<p>The registration application includes information on the company, their products range and countries involved.</p> <p>If registered, a written confirmation letter will be sent to the exporter. The letter contains information about the EU GEA, which they are registered to, information about the company and the conditions.</p>	An exporter shall notify the Strategic Goods Commission of any changes in the information contained in the register within five days, otherwise there will be a penalty.
Finland	Special form provided.	Company name and address and name of contact person in the company.	Every time when the data given to the licencing authorities was modified.
France	Special form provided (CERFA 14458-03).	<p>A letter must be attached, presenting the number of licences to be delivered and custom offices they are required for, as well as an excerpt of the national trade register.</p> <p>For category 5 items (National General Licence), one letter describing the customer and the quantities to be exported and a letter declaring the export of cryptology items are additionally required.</p>	
Germany	There is no form. The publication of EU00X is considered to be a licence; there are no licences granted.	There is no form.	Referring to Article 20 of this Regulation the exporter has to keep detailed record of their export transactions.
Greece	No special form except that all exporters must	N/A	N/A

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	be registered to the Special Registry of Exporters, prior to any export activity.		
Hungary	No special form provided: the license form is used as an application form.	Same as in the licenses, no other content required. Of course, other documents such as End-use certificate should be attached, and any other relevant document that supports the application (like orders, contracts, technical information, product description, etc.).	No such cases.
Ireland	There are no national requirements to register prior to the first use of an EU GEA.		
Italy	No special form.	No special registration form to be filled for applying. Exporter shall apply by a standard letter to National Authority to obtain the right to use the EU GEA. Exporter's application shall contain a signature of a legal representative of the firm and a copy of the trade register certificate. In the application a reference shall be made to Article 9 of Council Regulation (EC) 428/2009.	Exporters shall notify the Ministry of Foreign Affairs immediately of any change in information submitted. (The Dual use Items Export Control Unit and the national Authority for dual use items export control were shifted by law from Ministry of Economic Development to Ministry of Foreign Affairs (Law No. 132 of 18 November, 2019).
Latvia	No special form.		
Lithuania	No special form.		
Luxembourg	Annex 17 of the modified Grand Duke Regulation of 14 December	Applicant, list of covered goods, destination countries, address of holding of registers,	At any change in the EU legislation.

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	2018 determines the registration form.	commitments.	
Malta	No special form.	Name of a person and the address at which the records are kept. Any changes of these elements should be notified within 30 days after such changes.	The Licencing Authority might impose additional conditions and requirements such as for example an end-use statement.
Netherlands	Special form provided.	Exporter declares intention to use EU001.	None.
Poland	No special form except the ISO certification mechanism.		
Portugal	No special form.		
Romania	There is no form. The exporter should send a notification and, according to Annex II of the Council Regulation no. 428/2009, the Licencing Authority registers him in 10 working days.	The notification should contain: - Reference to Council Regulation; - Exporter's name; Exporter's registered office; - Exporter's registration number; - Name/position of statutory representative; - Signature and stamp; - Items (pieces, value, position in control list); -End-user (identification data). The trade register certificate must be enclosed.	The exporter shall notify the competent authority of any changes in the information included in the register within fifteen days.
Slovakia	No special form.		
Slovenia	No form. Exporters	The application for registration shall be specified: - Number EUGA (EU001...);	Exporters have to report any changes.

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	don't apply for this authorization.	- Company name, registered office and number register; - Extract from the commercial register.	
Spain	No application form to use EU GEA.		
Sweden	N.A.	N.A.	N.A.

2. For all other exports for which an authorisation is required under this Regulation, such authorisation shall be granted by the competent authorities of the Member State where the **exporter is established**. Subject to the restrictions specified in paragraph 4, this authorisation may be an individual, global or general authorisation.

Comment:

Considering that an **agency or a branch** of an **exporter** may be established in a Member State where the exporter's headquarters office is not located, the competent authority of a Member State where an agency or a branch of an exporter is established may grant an export authorisation to that agency, only if it is effectively involved in the proposed export. An agency or branch is effectively involved in a proposed export, *inter alia*, when it has **autonomous** decision-making powers on the contract underlying the export and has independent accounting system, when it has negotiated the contract and when it is able to discharge the exporter's obligations concerning export control regulations.

Comment:

The common understanding of different licences is the following:

An **individual licence** is granted to one specific exporter for one end-user, covering a number of items (one or several).

A **global licence/open individual licence** is granted to one specific exporter regarding a type or a category of dual-use items that may be valid for exports to one or more specified end-users, in one or more specified third countries (as defined by Article 2(10)).

A **national general authorisation** is valid for all national exporters to one or more specified countries, covering a number of determined items (as defined by Article 2(10) a model is proposed in Annex IIIc).

Comment:

Some Member States (**Austria, Bulgaria, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Luxembourg, Slovenia, Slovakia, Spain** and **Sweden**) have established e-licencing systems. Not all of them issue electronic licences (**Denmark, Flemish Region, Latvia, the Netherlands**). **Italy** is currently developing its e-licencing system. In **Latvia**, application for the licence can be submitted remotely using e-mail and e-signature. In **Poland** the applications are introduced into the system in a traditional way, and since then the whole consultation's procedure (with 8 authorities) is done electronically.

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Transit operations are/will (be) cover(ed) by e-systems in: **Austria, Germany, Greece, Finland, Hungary, the Netherlands, Sweden and Slovakia.**

Brokering operations are/will (be) cover(ed) by e-systems in: **Germany, Finland, the Netherlands, Spain, Sweden and Slovakia.**

Germany provides for the possibility to apply for export and transfer licences electronically via BAFA (Federal Office of Economics and Export Control) online service ELANK-2 available at following website: http://www.ausfuhrkontrolle.info/bafa/en/export_control/index.html. However, prior registration at BAFA website is required in order to use ELANK-2 licence application.

All the authorisations shall be valid throughout the Community.

Comment:

This provision establishes one of the essential principles of this Regulation consisting in the recognition of the validity of a licence granted by another Member State. Normally, once the authorisation has been granted, the items can leave the EU, through any customs office (unless Member States have limited the procedure to dedicated customs offices (see Article 17)). If this principle is always applied for EU GEA, global and general national licences, for certain individual licences, a consultation might be required between the licencing authorities of Member States concerned (see Article 11).

It should be noted that the EU territorial validity concerns only export and brokering authorisations and not transit ones. Therefore, if a dual-use item has to pass through more than one Member State, it might be submitted to several transit authorisations.

Exporters shall supply the competent authorities with all relevant information required for their applications for individual and global export authorisation so as to provide complete information to the national competent authorities in particular on the end user, the country of destination and the end use of the item exported. The authorisation may be subject, if appropriate, to an end-use statement.

Comment:

The content of the “**relevant information**” is requested and defined by the Member States’ authorities and may be listed and published.

End-use statement usually takes the form of an end-user certificate, which is a document issued by the recipient Government or by the recipient company. It contains information on the items transferred, on the exporter, on the consignee if involved, on the end-user, on the application authorised and finally a commitment of the recipient to not export or re-export the items without a prior consent of the initial exporting country. It should be noted that there is no official legally binding model for an end-user certificate. However, some international agreements, notably the Wassenaar Arrangement, gives a common understanding of the information to be included in this document.⁸⁵

⁸⁵ The Wassenaar Guidelines concerning End-User certificate as updated in 2007 can be found at the following link: <https://www.wassenaar.org/app/uploads/2019/consolidated/10Statement-of-Understanding-on-Implementation-of-End-Use-Controls-for-Dual-Use-Items.pdf>.

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On 31 October 2008, the Council Working Party on Dual-Use Goods has adopted the best practice recommendations for elements of a Community end-use certificate. These non-legally binding recommendations were published in the C series of the *Official Journal of the European Union*; they contain information on the parties, the items and the commitments to be certified by the foreign consignee who might act as an end-user or as a trader, whole or reseller⁸⁶. This document is published as an end-user certificate “model” which can be used directly by Member States’ authorities.

Another document, which might be required by Member States’ licencing authorities, is an international import certificate (IIC). It confirms not only the importer’s credentials, but also the fact that the import transaction involving strategic goods has been subject to control exercised by the competent authorities of a recipient State. It was initially established within the bounds of Co-Ordinating Committee (COCOM), an informal non-treaty organisation, established in 1949 to assist in efforts to control strategic exports to the Warsaw Pact Member States and China.

More precisely, under this procedure, importers are compelled to provide their foreign suppliers with an IIC that was validated by the importing government. This certificate asserts to the government of the exporter’s country that the items covered by it would be imported and would not be re-exported, except if authorised by export control regulations of importing country.

The requirement for an IIC is sometimes supplemented by the need for a delivery verification certificate.

A delivery verification certificate (DVC) implies that the customs services of importing country validate a certificate confirming that the items have entered the territory. This certificate is afterwards submitted by an exporter to the competent authorities of the exporting country.

Such IIC/DVC procedure is or can be required by several Member States, *i.e.* **Austria, Belgium, Bulgaria, Croatia, Czech Republic, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Poland, Portugal, Romania, Slovakia and Spain.**

If all Member States require an end-user certificate and quite often an IIC/DVC, a request for additional documents varies very much. Some Member States require an excerpt from a commercial register, or an undertaking of reliability checks in certain cases.

Common understanding regarding the additional documents to be provided by an applicant has not yet been adopted, but a majority of Member States requires the submission of an export contract, together with technical specifications of the goods to be exported.

Comment: Eligibility to apply for an export authorisation

Using the term “**exporter**”, as defined by Article 2(3) of this Regulation, seems to limit the right of an exporter to apply for an export authorisation (global or individual). Whether Member States’ authorities can open such right to carriers and other intermediaries who might

⁸⁶ OJ C 11, 16/1/2009, p. 1. This document can be found at the following link:
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:011:0001:0003:EN:PDF>.

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act on behalf of the exporter is not clear and the Member States seem not to allow such possibility.

3. Member States shall process requests for individual or global authorisations within a period of time to be determined by national law or practice.

Comment:

The initial regulation’s proposal of the Commission suggested that Member States should determine “*targets for the treatment of the requests of export authorisation within certain deadlines and communicate them to the Commission and national exporters*”. The objective was to increase a transparency of Member States’ decision-making process, by publishing different deadlines and therefore allowing exporters to refer such deadlines to their potential customers. It could have also contributed to counter the risk of unfair competition between EU exporters by inducing Member States to gradually harmonise their deadlines.

Table 11: List of Member States which have adopted National General Authorisation

Member State	Content of National General Licences	Publication reference
Austria	<p>There are four National General Export Authorisations in force for Austria:</p> <ul style="list-style-type: none"> – AT001 for certain dual use items where they are re-exported to the originating country without modification, or where items of the same quantity and quality are exported to the originating country, or where technology is re-exported with minor additions, all within three months after their import into the European Union ; – AT002 for the export of certain dual-use goods below a certain value threshold; 	<p>The details of these authorisations are set out in Articles 3 through 3c of the First Foreign Trade Ordinance, BGBl. II No 343/2011 of 28 October 2011 as amended by Ordinance BGBl. II No 430/2015 of 17 December 2015. The conditions for their use (registration and notification requirements) can be found in Article 16 of the same Ordinance.</p>

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	<ul style="list-style-type: none"> - AT003 for valves and pumps specified in entries 2B350g and 2B350i to certain destinations; - AT004 for frequency changers specified in entry 3A225 and related software and technology. 	
Belgium (Flemish Region)	Possibility of National General Licences existing but not used in practice.	Art. 4, 1 st indent of the Decision of the Flemish Government of 14 March 2014.
Belgium (Brussels)	No.	
Bulgaria	<p>The Export Control Act provides possibilities to use a national general authorisation for export of dual-use items, according to Article 45 of the Export Control Act. The national general authorisation is published on the web page of the Ministry of Economy.</p> <p>When publishing a national general export authorization, the Interministerial Commission informs exporters that the authorisation may not be used when the items are or may be intended in whole or in part for use in the cases under article 4, paragraphs 1-5 of Regulation (EC) No. 428/2009.</p>	Article 45, paragraph 6 and 7 of Defence-Related Products and Dual-Use Items and Technologies Export Control Act.
Croatia	A National General Export Authorisation for the export of dual-use items in accordance with Article 9(4) of the Regulation may be issued by the Ministry of	Act on Control of Dual-Use Items (OG 80/11 i 68/2013).

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Czech Republic	Legislation offers necessary framework for National General Licence but none have yet been issued.	Article 6 of Act No 594/2004 of 4 November 2004.
Estonia	Legislation offers necessary framework for National General Licence but none have yet been issued.	Estonian Act on Strategic Goods, December 22.2011. English version of Estonian national export control legislation is available on the following website: https://www.riigiteataja.ee/en/eli/515112013010/consolide
Finland	Legislation offers necessary framework for National General Licence but none have yet been issued.	Section 3, Paragraph 1 of Dual Use Act No. 562/1996 (as amended).
France	Six National General Licences: 1. Chemicals (1C350.2, 1C.350.7, 1C.350.9, 1C350.38, 1C350.46); 2. Biological items; 3. Graphite (0C004); 4. Industrial items. 5. Certain dual-use items for French armed forces in third countries 6. Export or transfer within the EU of certain dual-use items for exhibition or fair.	1. Official Journal of the French Republic No 176 of 30 July 2002 (text 12) and Official Journal of the French Republic of 31 July 2004 (text 6). 2. Official Journal of the French Republic of 20 March 2010. 3. Official Journal of the French Republic No 176 of 30 July 2002 (text 13) and Official Journal of the French Republic of 31 July 2004 (text 7). 4. Official Journal of the French Republic No 176 of 30 July 2002 (text 11) and Official Journal of the French Republic of 31 July 2004 (text 5). 5. Ministerial Order of 31 July 2014, published in the Official Journal of the French Republic of 8 August 2014). 6. Ministerial Order of 31 July 2014 published in the Official Journal of the French Republic of 8 August 2014.
Germany	5 Dual-use National General Licences (AGG): - AGG No 9 Graphite	Federal Gazette No 72 of 16.04.2005, p 6289f. As German National General Licences are subject to yearly modifications, current version is available on the

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	<p>and certain finished products from graphite;</p> <ul style="list-style-type: none"> - AGG No 12 Items of Annex I of EC REG 1334/2000 having a value of less than €2,500, except all positions of the categories d and e and items of the “Very Sensitive List” of WA; - AGG No 13 Items of Annex I of EC REG 1334/2000 except in certain (non-sensitive) cases⁸⁷; - AGG No 16 Goods and Technology in the area of telecommunications; <p>All National General Licences do not cover items specified in Annex IIg or countries subject to an arms embargo⁸⁸.</p>	<p>website http://www.bafa.de.</p>
<p>Greece</p>	<p>A National General Export Authorisation applies for export of certain dual-use items to the following destinations: Argentina, Croatia, Republic of Korea, Russian Federation, Ukraine, Turkey and South Africa.</p>	<p>Ministerial Decision No 125263/e3/25263/6-2-2007</p>
<p>Hungary</p>	<p>The legislation offers necessary legal framework for issuing National General Licences but none have been issued so far.</p>	<p>No NGA in force, but the possibility of issuing is substantiated with (Para. 11 of Government Decree No 13/2011 (II.22) on foreign trade licensing of dual-use items).</p>

⁸⁷ NGEA’s No. 12 and 13 do not cover exports of specific items concerning (cyber) surveillance technology.

⁸⁸ Since Russia is subject to arms embargo the NGEA’s No. 9, 12, 13 and 16 must not be used for Russia.

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Italy	A National General Export Authorisation applies for export of certain dual-use items to the following destinations: Antarctica (Italian bases), Argentina, Republic of Korea, Turkey.	Decree of 4 August 2003 published in the Official Journal No 202 of 1 September 2003.
Ireland	Not provided for in national legislation.	
Latvia	Yes.	
Luxembourg	<p>The Grand-Duchy of Luxembourg has not yet established national general authorisations.</p> <p>Luxembourg law provides that a general national export authorization of indefinite duration may be issued and used in accordance with the provisions of Article 9 (4) of Regulation (EC) No 428/2009. The general national export authorization shall indicate, without prejudice to the indications referred to in the fourth subparagraph of Article 16 (1), the goods and destinations to which it applies, and the elements listed in Annex IIIc of the Regulation (EC) No 428/2009. General export authorizations will be published by the Ministers on the websites of their ministries and in the Official Journal of the Grand Duchy of Luxembourg (Law, art. 41 (1)).</p>	
Netherlands	A National General Export Authorisation applies for export of certain dual-use	(National General Authorisation NL002 — Nationale Algemene Uitvoervergunning NL002)

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	<p>items to all destinations, with the exception of:</p> <ul style="list-style-type: none"> – Australia, Canada, Japan, New Zealand, Norway, USA, Switzerland (which are covered already by Annex II Part 3 to Regulation (EC) No 428/2009); – Afghanistan, Burma/Myanmar, Iraq, Iran, Libya, Lebanon, North Korea, Pakistan, Sudan, Somalia and Syria. 	
Poland	Legislation offers necessary framework for National General Licence but none have been issued.	Law of 29 November 2000.
Romania	Legislation offers necessary framework for National General Licence.	Government Ordinance no.119/2010 on the control of the operations with dual use goods.
Slovakia	Yes, but none have been issued.	National general licence is defined by Act no. 39/2011.
Slovenia	N/A	N/A
Spain	No.	
Sweden	SE has not established any national general authorizations yet. However; the government or an authority appointed by the government can establish such authorizations.	Article 6 Swedish Act (2000:1064) on the Control of Dual-use Items and Technical Assistance.

4. National general export authorisations shall:
- (a) exclude from their scope items listed in [Annex IIg](#);

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Comment:

Items concerned by this provision are items which cannot be covered by an EU GEA. Hence, it was considered that national general licences could not be granted for such items either.

(b) be defined by national law or practice. They may be used by all exporters, established or resident in the Member State issuing these authorisations, if they meet the requirements set in this Regulation and in the complementary national legislation. They shall be issued in accordance with the indications set out in Annex IIIc. They shall be issued according to national laws and practice;

Member States shall notify the Commission immediately of any national general export authorisations issued or modified. The Commission shall publish these notifications in the C series of the *Official Journal of the European Union*;

(c) not be used if the exporter has been informed by his authorities that the items in question are or may be intended, in their entirety or in part, for any of the uses referred to in paragraphs 1 and 3 of Article 4 or in paragraph 2 of Article 4 in a country subject to an arms embargo imposed by a decision or a common position adopted by the Council or a decision of the OSCE or to an arms embargo imposed by a binding resolution of the Security Council of the United Nations, or if the exporter is aware that the items are intended for the abovementioned uses.

Comment:

Uses referred to in paragraphs 1, 2 and 3 of Article 4 are:

- Contribution to development, production, handling, operation, maintenance, storage, detection, identification or dissemination of **chemical, biological or nuclear** weapons or other nuclear explosive devices or development, production, maintenance or storage of **missiles** capable of delivering such weapons;
- Final destination is subject to an **arms embargo** decided by the EU Council of Ministers or by the OSCE or by a binding resolution of the UN Security Council and if exported items have to be used for military purposes;
- Use as parts or components of military items listed in a national military list that have been exported from the territory of that Member State **without authorisation or in violation of an authorisation** imposed by national legislation of that Member State.

5. Member States shall maintain or introduce in their respective national legislation the possibility of granting a **global export authorisation**.

Comment:

The global authorisation is defined in Article 2(10).

Table 12: List of Member States which have established a possibility to issue Global Export Authorisation

Member State	Global Licence
Austria	X
Belgium (Flemish Region and Brussels)	X
Bulgaria	X
Croatia	X
Cyprus	X
Czech Republic	X
Denmark	X
Estonia	X
France	X
Finland	X
Germany	X
Greece	X
Hungary	X
Ireland	X
Italy	X
Latvia	X
Lithuania	X (not granted yet)
Luxemburg	X
Malta	X (not granted yet)
Netherlands	X
Poland	X
Portugal	X (not granted yet)
Romania	X
Slovakia	X (not granted yet)
Slovenia	X (not granted yet)
Spain	X
Sweden	X

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Table 13: Restriction on use of National General or Global Export Authorisations

Member State	Restriction on use of National General or Global Export Authorisations
Austria	None. Restrictions are possible. Global licences are handled on a case-by-case basis (Art. 60 Foreign Trade Act 2011 ee n 11).
Belgium (Flemish Region)	Global export authorisations are always restricted to civil end use and civil end-users. Additional limitations can be included depending on the items, exporter and destination countries. These limitations can be with regards to the allowed end use, and/or the (nature of) allowed consignees or end users.
Belgium (Brussels)	Limitation for nuclear goods: only individual licences.
Bulgaria	National general licence can be used by registered exporters without any restrictions. According to art. 35(4) of Regulation on implementation of Defence-Related Products and Dual-Use Items and Technologies Export Control Act to apply for global export licence the applicant shall submit a document certifying that for the previous year and for the next year not less than 10 exports of dual-use items to those consignees will be organized.
Croatia	None.
Cyprus	There are no specific provisions in the legislation, however the Licensing Office may set any terms or restraints on the licenses.
Czech Republic	Access to global export authorisation is not restricted. There is only one specific condition: the applicant must prove that he or she is capable to respect the requirements under national trade control regime (e.g. checking the end use of individual supplies). If this condition is not met, the exporter is entitled to submit an application for an individual export authorisation.
Denmark	Yes.
Estonia	Authorisations cannot be used in connection with WMD-related end-use and goods destined for embargoed countries.
France	None.
Finland	Usually a “certain flow” of exports has to be produced as an indication of the usefulness of such facilitation, or forthcoming exports.
Germany	Export licences could be denied in case of unreliability (sect. 8.2 AWG). Possibility to revoke a National General Licence for individual exporters.

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Hungary	<p>The exporter should be registered by the authority for all licenses.</p> <p>Global Export Authorisation cannot be issued for the WMD-related end-use, or for embargoed destinations. Besides, the applicant should be considered as a reliable exporter (at least 1 year of experience) and there should be a certain reason for applying (e.g. multiple individual licences) and a well-functioning ICP should underpin the reliability.</p>
Ireland	<p>A Global Licence cannot be used for exports to military or police end-users or any State (including but not limited to Interior Ministry activities), national or sub national security forces, or end-users whose subsidiaries, affiliates or associated companies are involved in military, police or State (including but not limited to Interior Ministry activities), national or sub national security related activities.</p> <p>The licence is subject to quarterly reporting requirements.</p>
Italy	<p>In principle, the penalty for infringement of the dual-use law (both community and national) may reflect on the assessment and release of all kinds of licences existing in the Italian system: individual, global, national general, community general (see Legislative Decree no. 221/2019, art. 18).</p>
Latvia	<p>It cannot be used for military end-users, and if military conflicts are taking place in the end-user's country. If the exporter is aware that the goods might be used for production, development, use and delivery of WMD's.</p>
Lithuania	<p>There are specific licencing rules that set up grounds for suspension or even revocation of export licences.</p>
Luxembourg	<p>Restrictions on the use of general authorizations shall be determined by the authorizations.</p> <p>Global authorization may set value and quantity limits to which the authorization applies (Law, art. 40 (1)). The global authorization may be used by the operator who fulfils the conditions indicated in such authorization, to carry out operations on goods covered by this law. It shall cover, for its period of validity, the export, transfer, import or transit of the goods identified, without quantity or amount (Law, art. 16 (1)).</p> <p>The period of validity of the authorizations granted shall be three years for global and general authorizations (Law, art. 13 (1)). The global and general authorizations are renewable, under the same conditions, for a new period of eighteen months (Law, art. 13 (1)).</p>
Poland	<p>General Licences and the Community General Export Licences may be used by any natural or legal person being able to provide relevant documentation to confirm the maintain of the internal compliance system during the past three years. In addition, an exporter should submit a statement to the licencing authority defining an intention and a starting date of intended trade.</p>

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Romania	<p>There are no restrictions.</p> <p>General Licences and the Community General Export Licences may be used by any natural or legal person that is able to provide relevant documentation to confirm the implementation of the internal compliance programme and the management of export controls for the past three years, and that submits a statement to the licencing authority defining the intention and starting date of intended trade.</p>
Slovakia	National global authorisations – Expiry date, max. 3 years.
Slovenia	<p>Global export authorisation is available to all exporters under certain conditions. Proportionate and adequate means and procedures to ensure compliance: type of dual use goods, frequency of export on annual basis, individual export authorisations to this exporter in previous years, long term of export business, destination country/ countries and compliance by the exporter.</p>
Spain	<p>Global licences are limited to:</p> <p>a) parent company and one of its subsidiaries or between subsidiaries;</p> <p>b) between the manufacturer and exclusive distributor and</p> <p>c) a regular commercial flow between the exporter and the end user.</p>
Sweden	<p>None, but the ISP takes into consideration the application by the exporter of proportionate and adequate means and procedures to ensure compliance with the provisions and objectives of the dual-use regulation and with the terms and conditions of the authorization, therefore; a global export license is normally preceded by a compliance visit by the ISP to the applying exporter.</p>

6. Member States shall supply the Commission with a list of the authorities empowered to:
- (a) grant export authorisations for dual-use items;
 - (b) decide to prohibit the transit of non-Community dual-use items under this Regulation.

The Commission shall publish the list of these authorities in the C series of the *Official Journal of the European Union*.

Comment:

The list of Member States' licencing authorities is regularly published in the *Official Journal of the European Union* as an Information note on Council Regulation (EC) No. 428/2009. The list is also available on the website of the DG Trade at the following address:
https://trade.ec.europa.eu/doclib/docs/2016/august/tradoc_154880.pdf