



Export Control in Automation

In 2018, the average export share of the German industry was 50.3% (source: Federal Statistical Office). Medium-sized companies, especially those from machine building and electrical industries, often have significantly higher export shares.

Smooth and correct handling of export transactions is therefore a building block of the company's success. And yet, the importance of export control is often underestimated, of all things, by the body of a company that is largely responsible for it. This means the Management and in particular the Managing Director responsible for export.

Of course, nobody would come up with the idea of requiring the Managing Director to actively carry out export control activities in day-to-day business. This is clearly the task of the company's **Export Control Officer**.

But what are the formal requirements for correct export control?

Export control, as understood by the **Federal Office for Economic Affairs and Export Control (BAFA)**, essentially consists of four areas:

- I. Control of **Goods**
- II. Control of **Sanction Lists**
- III. Control of **Embargo Countries**
- IV. Control of **End-use**

The general principle of free foreign trade is restricted by authorization requirements and prohibitions.

Each exporting company must ensure that the relevant export control regulations are complied with.

To perform these duties, Management has to appoint an **Export Control Officer**, who has to ensure the export control in cooperation with the project planning department within the company, both professionally and organizationally, taking into account national and European legislation.

The Export Control Officer must monitor both the **export to non-EU countries, intra-community shipments** and the **transit** of "critical" goods and other relevant transactions, in particular *technical support*. The Export Control Officer is also responsible for ensuring that the sanction lists are being observed.



The special role of Management:

Management is responsible for the legally flawless execution of all exports with regard to the requirements of the **Foreign Trade Law** and **Foreign Trade Regulations**, the **Dual Use EU Regulation No. 428/2009**, as well as the respective **Embargo Regulations** of the European Union in the current version. According to the above, Management has four basic duties:

1. Organizational duty
2. Monitoring duty
3. Personnel selection duty
4. Education and training duty

The Export Control Officer, equipped with a comprehensive **stop and authority function**, has to ensure the professional and organizational export control within the company and to evaluate and monitor the course of business transactions with regard to their relevance to export control law.

The Export Control Officer is responsible for regularly reporting to Top Management about the status of the export control process.

Monitoring export control:

Compliance with the **Export Control Process Instructions** and Management's duty to monitor is checked by regular controls in the form of **internal AEO audits**. The audits must be documented as intended and the results communicated to Top Management.

The export control function must be set up as a **staff position** (reporting directly to Top Management) and must be **explicitly shown in the company's organizational chart**.

Other tasks of the Export Control Officer include the regular review of possible changes in dual-use regulations and the regular review of tariff numbers.

Requirements for an efficient export control check:

Complete, correct and customs-compliant data according to the guidelines of the German customs administration, the information sheet on customs declarations, summary declarations and re-export notifications / edition 2019 and the ATLAS process instructions for the ATLAS IT procedure / as of September 2019.

So far, so good.



And what does this have to do with the automation technology mentioned in the heading of this article? The answer is as simple as it is obvious:

Many components and systems in drive and automation technology are, due to their technical nature, **dual-use products** or products that **could be dual-use**. This affects almost all known automation products, such as controls, drives, robotics systems, sensors, communication modules and many more.

In the age of Industry 4.0 and IoT Internet of Things, significantly more products are potentially affected by export control than was the case in the past. And the transitions between civil and military use are becoming increasingly fluent.

This requires a high level of **sensitivity** and a correspondingly pronounced **sense of responsibility** on the part of everyone involved, from Development and Product Management to Top Management.

Some practical examples from the current list of items:

- Control systems with more than four interpolating axes [2D002]
- High frequency drives > 600 Hz output frequency [3A225b]
- Absolute encoders with a resolution of more than 18 bits or an accuracy of better than ± 2.5 arcseconds [3A001f]
- Power semiconductors: diodes, transistors, thyristors [3A001h]
- Communication units with a data rate higher than 2 Gbit / sec [4A003g]

These few examples already show that export control is not trivial.

Not every medium-sized company, be it a manufacturer or a trading company, has the right specialists to carry out the export control function. In such cases, working with an external Compliance Service Provider can make sense to support and unburden Top Management professionally, organizationally and, above all, actively in day-to-day business.

An experienced compliance team, who also has the technical expertise from drive and automation technology, is then first choice.