

## FACTS ABOUT COMPLIANCE SCREENING

### What does Compliance mean?

Synonyms of the word "compliance" are: conformity, conformation, accordance. AEB's Compliance Solutions enable you to act in accordance with the regulations and limitations of foreign trade law, e.g. in the area of export control.

### Why is Compliance nowadays so important?

After the terrorist attacks of 11th September 2001, the EC issued numerous regulations (e.g. EC Reg. No. 881/2002) for fighting international terrorism. These regulations require from all European companies – no matter what kind of products or services they sell – to ensure that all business partners are checked against these regulations and the names of organisations and persons listed in them. Business partners are customers, suppliers, service providers, staff, ... The companies themselves are responsible that these checks are performed correctly.

**Quotation taken from the bulletin of the BAFA (German Federal Office of Economics and Export Control):** "All legal rules (EC regulations, decisions adopted by the Security Council and the United Nations) have in common that capital, other financial assets and economic resources belonging to terrorist groups, terrorists, companies and organisations are frozen. Neither must such persons, companies and organisations be provided directly or indirectly with any capital, financial assets or economic resources. Economic resources are assets of any kind. This means that both direct and indirect deliveries of any kind of goods to terrorist persons, groups and organisations are forbidden."

As a consequence, all European companies are obliged to comply with these legal rules and to set up appropriate control mechanisms. It is also to be considered that these rules do not only apply to export or import transactions.

**This is proved by another quotation of the BAFA bulletin:** "These restrictions are valid worldwide independent of the destination of the shipment and may also apply to domestic transactions."

This makes clear that also domestic and EU transactions are subject to these checks. The respective lists (more information will follow later) also include numerous organisations and persons located in the EU.

### The challenge

Without any doubt, the thorough check of these lists represents a serious problem. This is also because these lists and legal rules are often provided in a format which can hardly be evaluated. Moreover, these lists are subject to constant changes and amendments. However, a proper check can only be made if the latest versions of the lists are available. Besides that, it is extremely important that harmless business processes are not impeded or even stopped, whereas suspicious transactions must be interrupted and checked immediately. Therefore, it is required that compliance checks are automated.

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### The legal basis

By the **EC Regulation No. 881/2002** of 27/05/2002 (and its many modifications and amendments), the European Union has established embargo measures against persons and organisations suspected of having relations with Osama bin Laden, the AL-Quaida network and the Taliban.

By the **EC Regulation No. 2580/2001** dated 27/12/2001 (and its many modifications and amendments), the European Union complied with the resolution adopted by the United Nations according to which all countries are to freeze capital and other financial assets or economic resources (e.g. also direct or indirect deliveries) of persons who are suspected to commit or try to commit terrorist attacks or who are involved in their planning or support them. This regulations also forbids that capital and other financial assets or economic resources are provided to the benefit of these person.

The **German Foreign Trade Law** deals with the national incorporation of the above-mentioned EC regulations. For example, § 34 stipulates that anyone who breaches this law, ignores the regulations issued by the European Communities or violates sanctions adopted by the Security Council of the United Nations may be punished by a fine or even imprisonment from 6 months up to five years.

The **German Law on Offences (§ 130 OWiG)** and the German Penal Code (StGB) are other national legal sources. It is stipulated that General Managers and their legal proxies must establish sufficient organisational measures which are to ensure that negligent or deliberate violations of Foreign Trade Law are made impossible. In case of violations against this law, the responsible persons of a company are personally liable and will be prosecuted. Only if the responsible persons can prove that they have set up a proper organisation and taken sufficient and appropriate monitoring measures, they will not be held responsible.

**ALL EUROPEAN COMPANIES ARE WELL ADVISED TO DEAL WITH THIS TOPIC IN A RESPONSIBLE AND CAREFUL WAY.**

### The Lists

**Example:** The lists and their complexity

L 139/20	EN	Official Journal of the European Communities	29.5.2002
Tufail, Mohammed (aka Tufail, SM.; aka Tufail, Sheik Mohammed; nationality: Pakistan)			
Turab, Hidayatullah Abu (Deputy Minister of Civil Aviation)			
Turabi, Nooruddin, Mullah (Minister of Justice)			
Ummah Tameer E-Nas (Um), Street 13, Wazir Akbar Khan, Kabul, Afghanistan; Pakistan			
Usama Bin Laden (aka Usama Bin Muhammad Bin Awad, a.k.a. Osama Bin Laden; aka Abu Abdullah Abd Al-Hakim); born 10.7.1957, Jeddah, Saudi Arabia; Saudi citizenship withdrawn, now officially an Afghan national			
Ushman, Omar Mahmood (aka Al-Filistini, Abu Qasab; aka Takfiri, Abu Umar; aka Abu Umar, Abu Omar; aka Ushman, Al-Samman; aka Umar, Abu Umar; aka Ushman, Umar; aka Abu Ismail); London, England; born 30.12.1960 or 13.12.1960			
Wakab, Malawi Abdul Taliban (Chargé d'Affaires in Riyadh)			
Wahidyar, Ramandiah (Deputy Minister for Martyrs and Reparation)			
Wali, Mohammad, Maulavi (Minister of Department of Preventing Vice and Propagating Virtue)			
Wali, Qari Abdul (first Secretary, Taliban Consulate General, Peshawar)			
Walijan, Maulavi (Governor of Jawzjan Province)			
Wasdaq, Abdul-Haq, Maulavi (Deputy Minister of Security (Intelligence))			
Waziri, M. Jawaz (UN Dept. Ministry of Foreign Affairs)			
Yaqoub, Mohammad, Maulavi (Head of BIA)			
Yuldashev, Tohir (aka Yuldashev, Takfir), Uzbekistan			
Zawaf, Abdul Salam, Mullah (Ambassador Extraordinary and Plenipotentiary, Taliban 'Embassy', Islamabad)			
Zawaf, Abdul Salam (Taliban Ambassador to Pakistan)			
Zahed, Abdul Rahman (Deputy Minister of Foreign Affairs)			

**EC Reg. No. 881/2002: Example of a restricted organisation**

Barakat Telecommunications Company Limited (also known as BTELCO), Bakara Market, Dar Salaam Buildings, Mogadishu, Somalia, Klevitiaan 16, 't Veld, Noord-Holland, Netherlands.

**Example of a restricted person**

Giampiero Armani, Viale Abbruzzi 94, IT-MILANO

It has been with intention that we have chosen persons/organisations/companies located in Europe. This makes clear that checks are indispensable even if you do not ship to areas of crisis or war.

**CAN YOU BE SURE THAT A QUOTATION OR SHIPMENT TO A SUSPICIOUS ORGANISATION WOULD BE STOPPED IN YOUR COMPANY?**

**Bundesanzeiger Verlag (Official German Publishing House for Legal Publications)**

■ The Bundesanzeiger Verlag publishes lists which can be used for the screenings. They are based on EC regulations.

**Bank of England**

■ The Bank of England provides a list which includes all relevant addresses and address segments from EC regulations.

**US Lists (e.g. SDN, DPL)**

■ The United States publish comprehensive lists which include organisations and persons. Checks against these lists are also relevant for European companies in order to avoid difficulties with business transactions in the US market.

**Risks**

**Responsibility**

The German Foreign Trade Law defines who will be liable in case of violations. The General Managers are mentioned in particular. Normally, they are also legally responsible for export transactions requiring export authorisations. Thus, the General Managers of a company will personally be liable in case of violation.

**Punishment**

According to the German Foreign Trade Law (AWG), there will be severe punishments if rules are breached (see AWG § 34).

**Gross profit levy**

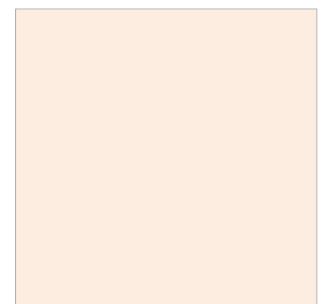
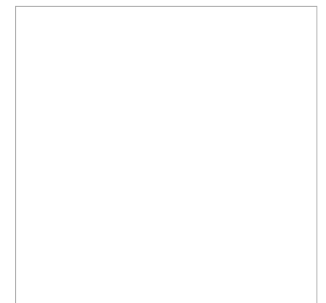
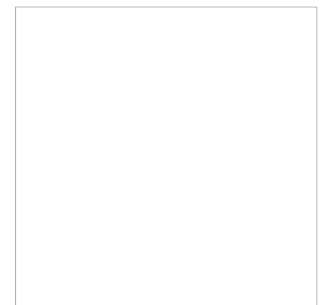
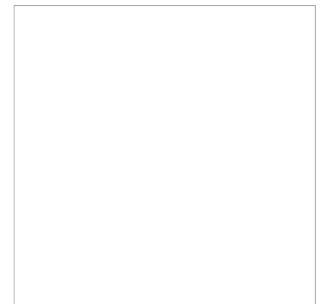
Turnover levy. In case of a violation, the total economic value of a transaction can be levied. If a business transaction of EUR 200,000 achieves a profit of EUR 10,000, not only the profit of EUR 10,000 would be claimed, but also the amount of EUR 200,000.

**Authorisations and simplifications**

Nowadays, almost all companies make use of simplified procedures which have been granted by the Customs authorities. These procedures are extremely important in order to be able to meet worldwide delivery deadlines. Violations of compliance regulations will lead to restrictions of authorisations and simplifications.

**Public and press**

Violations of the EU Regulations and the Foreign Trade Law will surely become public considering the current situation. This is a risk which could harm the image of a company considerably.



## US market and US export control law

A company violating US law intentionally or unintentionally will hardly face difficulties in Europe. However, this will lead to enormous problems in the US market. With their export control law, the United States go a big step further than the European Union. The rules of US export control law make clear that the United States want to have worldwide control of their goods, software and technology. In case of violations of US export control law, European companies run the risk to be put on a black list (DPL: Denied Persons List).

## Solutions and strategies to minimise the risks

For these complex problems, AEB offers intelligent and efficient solutions at a favourable price.

## Examples for solutions

Details can be found in our brochures or on our web site [www.aeb.de/compliance](http://www.aeb.de/compliance)  
(Click "English" to obtain the English version of the web site)

### Compliance solutions in ASSIST4

The Compliance Screening functionality is integrated into AEB's ASSIST4 despatch/export system. The ASSIST4 despatch system guarantees that no shipment will leave the shipping department without having been checked.

### Compliance screening in SAP®

The product "ATC :: Compliance Screening" is a system component which can be integrated into SAP®-System without any modifications (as from version 4.6c). This system component controls master file data, orders and delivery notes making sure that EU regulations are not violated intentionally or unintentionally.

### Compliance screening in individual systems

This version of AEB's Compliance Screening solution can be integrated into your own individual systems or other ERP systems such as BaaN, Brain, Navision, ...

### COMPLIANCE | XPRESS in AEB's computer centre

The screening of master file data (suppliers, customers, ...) is made through AEB's computer centre. You will regularly transfer your master file data, AEB will perform the screening and will return the respective logs. If an address match is found, you will be notified immediately. Moreover, you will have the possibility of making manual individual checks via <https://rz.aeb.de/compliance>, e.g. when entering a new customer address into the master file data.

### Data service

Reliable systems require reliable data. Therefore, a data service is part of our service portfolio, i.e. you will always be provided with the latest data from up-to-date lists.

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