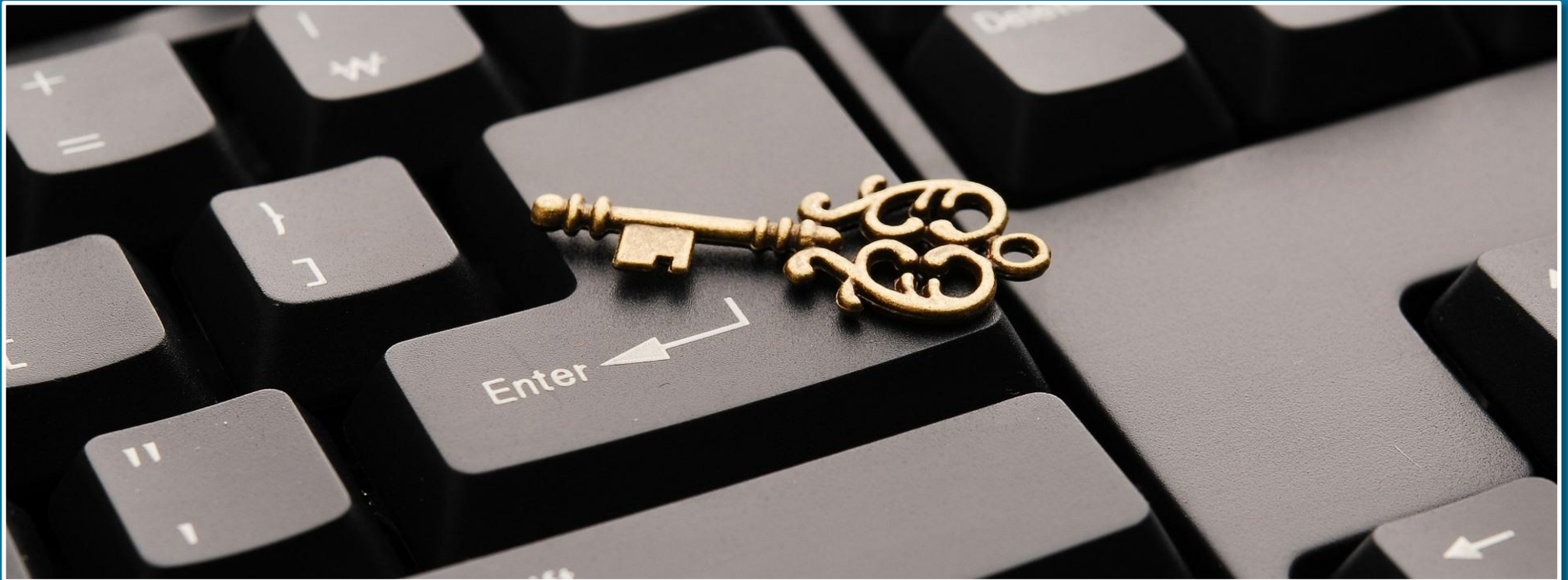




Federal Office
for Economic Affairs
and Export Control

Balancing Security and Competitiveness

Changes in rating of goods with upgrade-potential via license keys





Recent practice for rating of goods with upgrade-potential

- ▶ In general, the technical characteristics of the goods at the moment of export is decisive for the question of a license requirement.
- ▶ The quality of goods is determined by the full technical potential of the goods.
- ▶ For the rating of goods, locked performance potentials are basically classified as fully usable potentials.



- ▶ Question: Does this approach correspond to the economic reality?



Upgrades of products becomes more and more standard

Example of upgrade



Tesla limits the battery capacity on some models and offers unlocking as an option for upgrade.



During the evacuation from Hurricane Irma, Tesla temporarily removed this restriction in Florida by software upgrade from a distance.

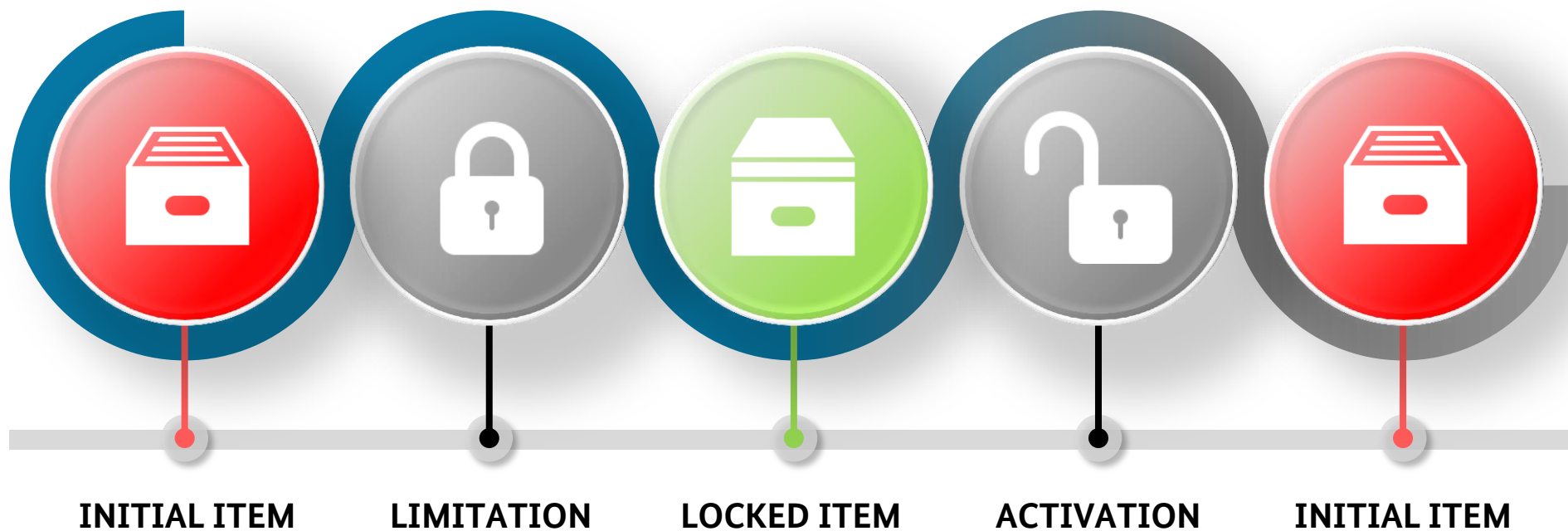


Source: benzinga.com



Upgrade – General procedure

Typical process of item activation





Upgrades in the Control List

Examples of specific List entries

- ▶ 3D225 "Software" specially designed to enhance or release the performance of frequency changers or generators to meet the characteristics of 3A225.
- ▶ 3E225 "Technologie"Technology", in the form of codes or keys, to enhance or release the performance of frequency changers or generators to meet the characteristics of 3A225
- ▶ 7D003a "Software", pecially designed or modified to improve the operational performance or reduce the navigational error of systems to the levels specified in 7A003, 7A004 or 7A008.
- ▶ 0021c "Software"not specified in ML21.a. or ML21.b., specially designed or modified to enable equipment not specified in this Schedule to perform the military functions of equipment specified in this Schedule.



Rating of Upgrades

Possible approaches for rating



Specific List entries

- e. g. 3D225, 3E225, 7D003a oder 0021c



Software or Technology for the „use“ of items

- If list entries are provided



Other

- e. g. Equipment, Component oder Modules



- The evaluation of the unlocking element is essentially determined by its technical realization.



Technical Considerations in licensing process

Requirements

- ▶ Contact BAFA with a strong lock & release concept of goods
- ▶ If necessary, allow for a physical inspection of goods
- ▶ Lock according to the prior art
- ▶ Separate locked & released goods by meaningful and distinguishable type designations



- ▶ The process must be transparent and manageable for all involved parties



Case study

- ▶ Inductively coupled plasma mass spectrometer
- ▶ Due to the measurement principle and the resolution, controlled under 3A233a
- ▶ Predominant use in the food and medical sector



Downgrading of resolution



- ▶ In the basic version, the performance parameters according to 3A233 are not fulfilled and the mass spectrometer is therefore not controlled.
- ▶ The activation is offered as an option and realized via a device-specific license key, which is controlled as a “use” technology according to 3E201.





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