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Ordinance on the Export, Import and Transit of Dual Use Goods, Specific Military Goods and Strategic Goods (Goods Control Ordinance, GCO)

of 3 June 2016 (Status as of 1 May 2017)

The Swiss Federal Council,

based on the Goods Control Act of 13 December 1996¹ (GCA),
Article 22a paragraph 1 letter b of the Weapons Act of 20 June 1997² (WA) and
Article 150a paragraph 2 letter c of the Armed Forces Act of 3 February 1995³,
ordains:

Chapter 1 General Provisions

Art. 1 Subject matter and scope of application

¹ This Ordinance regulates the control of the export, import, transit and brokerage of:

- a. nuclear goods, goods usable for civilian and military purposes (dual-use goods) and specific military goods that are the subject of non-binding international control measures;
- b. strategic goods that are the subject of international agreements;
- c. goods subject to national export controls.

² This Ordinance applies to Swiss customs territory, Swiss public customs warehouses, warehouses for bulk goods, bonded warehouses and Swiss customs-free zones.

Art. 2 Definitions

¹ Further to the definitions in Article 3 GCA, in this Ordinance:

- a. *NBC weapons*: nuclear explosive devices, biological and chemical weapons, and their delivery systems;

AS 2016 2195

¹ SR 946.202

² SR 514.54

³ SR 510.10

- b. *partner state*: state that participates in international control measures that Switzerland supports that are non-binding under international law.

² Further definitions are given in Annex 1.

Chapter 2 Exports

Section 1 Licences

Art. 3 Licence requirements

¹ Any person who wishes to export nuclear goods in accordance with Annex 2 Part 1, dual-use goods in accordance with Annex 2 Part 2, special military goods in accordance with Annex 3, strategic goods in accordance with Annex 4 or goods subject to national export controls in accordance with Annex 5 requires an export licence from the State Secretariat for Economic Affairs (SECO).

² Any person who wishes to export nuclear goods in accordance with Annex 2 Part 1 with the export control numbers (ECN) 0C001 or 0C002 requires a licence from the Swiss Federal Office of Energy (SFOE). The foregoing also applies to goods with ECN 0D001 or 0E001 where they are software or technology for goods with ECN 0C001 or 0C002. In these cases, the SFOE takes the place of SECO in relation to the application of the other provisions of this Ordinance.

³ Any person who wishes to export goods that comprise parts and components of a good in accordance with Annex 2 or 3 requires a licence from SECO if the parts and components are among the main elements of this good or make up more than 25 per cent of its value in accordance with Article 9 the Ordinance of 12 October 2011⁴ on International Trade Statistics.

⁴ Any person who wishes to export goods that they know or have reason to believe are intended for the development, manufacture, use, passing on or the deployment of NBC weapons must request SECO for a licence if:

- a. the goods are not listed in Annexes 2–5;
- b. exceptions from the licence requirement are made.

Art. 4 Exceptions

No export licence is required for:

- a. goods in accordance with Annexes 2–5 that are being returned to the original supplier, provided they have not achieved a technical increase in value;
- b. chemicals in accordance with Annex 2 Part 2 with ECN 1C111 or ECN 1C350, provided they are used as samples and the total quantity per supply amounts to less than 1 kg; Article 14 paragraph 1 letter a of the Chemicals Control Ordinance of 21 August 2013⁵ remains reserved;

⁴ SR 632.14

⁵ SR 946.202.21

- c. firearms with their parts and components and accessories as well as the ammunition and ammunition parts and components pertaining thereto which are covered by Annex 3 or 5 and exported to a country in accordance with Annex 6;
- d. firearms with the ammunition pertaining thereto that security agents employed by foreign states re-export following pre-arranged official visits;
- e. firearms with the ammunition pertaining thereto that security agents employed by Switzerland export for pre-arranged official visits abroad, provided they re-import these weapons into Switzerland thereafter;
- f. goods that are exported by Swiss troop units and their members for international operations or for training purposes;
- g. goods that are re-exported by foreign troop units and their members following training in Switzerland;
- h. hunting and sports weapons with the ammunition pertaining thereto that are credibly shown to be needed by persons for hunting, sports shooting or martial arts abroad, provided these weapons are re-imported into Switzerland thereafter;
- i. hunting and sports weapons with the ammunition pertaining thereto that are credibly shown to be needed by persons for hunting, sports shooting or martial arts in Switzerland, provided these weapons are re-exported thereafter.

Art. 5 Requirements

¹ Licences are issued only to natural persons or legal entities that are domiciled or have their registered office or permanent establishment on the Swiss customs territory or in a Swiss customs-free zone. SECO may provide for exceptions in justified cases.

² Where the licence is for a legal entity, the applicant must provide SECO with proof of reliable internal controls on compliance with the export control regulations.

³ For the export of firearms, their parts and components and accessories as well as ammunition and ammunition parts and components an import certificate from the destination state must also be submitted unless the recipient is a foreign government or a company acting for a foreign government. Instead of the import certificate, proof may be provided that such a certificate is not required.

Art. 6 Refusal

¹ There are grounds for refusal in accordance with Article 6 paragraph 1 letters a and b GCA in particular if there is reason to believe that the goods that are to be exported:

- a. are intended for the development, manufacture, use, passing on or deployment of NBC weapons;
- b. contribute to the conventional armament in a State to an extent that leads to increased regional tension or instability or an escalation in an armed conflict;

- c. will not remain in the possession of the declared end recipient.

² There may also be grounds for refusal in terms of Article 6 paragraph 1 letter b GCA where:

- a. a partner state has refused the export of a similar good to the same end recipient;
- b. the country of origin notifies Switzerland that it must consent to the re-export and such consent is not forthcoming;
- c. the destination state prohibits the import.

Art. 7 Transfer

Licences are non-transferable.

Section 2 Individual Licence

Art. 8 Documents

SECO may request the following documents in particular from applicants for individual licences:

- a. company profiles;
- b. order confirmations, contracts of sale or invoices;
- c. an import certificate from the recipient state;
- d. end use certificates from the end recipient.

Art. 9 Term of validity

Individual licences are valid for two years. Their term of validity may be extended by two years on one occasion.

Section 3 General Export Licences

Art. 10 Additional requirements for granting a general export licence

¹ General export licences are granted only to legal entities that are entered in the Swiss or Liechtenstein commercial register. Universities and public institutions are exempt from this requirement.

² The natural person or the officers of the legal entity making the application must not have received a legally binding conviction in the two years prior to filing of the application for offences against:

- a. the GCA;

- b. the War Material Act of 13 December 1996⁶;
- c. the WA;
- d. the Nuclear Energy Act of 21 March 2003⁷; or
- e. the Federal Act of 25 June 1982⁸ on International Trade Measures.

Art. 11 Documents

SECO may request the following documents in particular from applicants for general export licences:

- a. company profiles;
- b. internal control programmes;
- c. reports on the goods exported in terms of the general export licence.

Art. 12 Ordinary general export licence

¹ For the export of goods listed in Annex 2 Part 2, Annex 3 or 5 to states that participate in all the international control measures that are non-binding under international law and are supported by Switzerland, SECO may grant an ordinary general export licence (OGL). Annex 7 contains a list of these states.

² Likewise, SECO may grant an OGL for the export of goods listed in Annex 4 to member states of the European Union or to states with which the European Union has concluded a cooperation agreement on the European Satellite Navigation Programmes.

Art. 13 Exceptional general export licence

For the export of goods listed in Annex 2 Part 2, Annex 3 or 5 to states other than those in accordance with Annex 7, SECO may grant an exceptional general export licence (EGL).

Art. 14 Term of validity

General export licences are valid for two years.

6 SR 514.51
7 SR 732.1
8 SR 946.201

Section 4 Special Provisions

Art. 15 Diplomatic or consular representations and international organisations

Supplies from and to foreign diplomatic or consular missions and international organisations in Switzerland and Liechtenstein are deemed equivalent to imports and exports under this Ordinance.

Art. 16 Public warehouses or bonded warehouses

Supplies of goods listed in Annexes 2–5 to public warehouses or bonded warehouses require an individual licence.

Section 5 Exporter's Obligations

Art. 17 Details require for the export

¹ Any person who exports goods under a licence must indicate the licence number on the customs declaration.

² In the case of a general export licence, the commercial documents that relate to the export must be marked: «These goods are subject to international export controls».

³ Any person who exports goods covered by Customs Tariff chapters⁹ 28–29, 30 (only tariff numbers 3002.1000/9000), 34, 36–40, 54–56, 59, 62, 65 (only tariff numbers 6506.1000), 68–76, 79, 81–90 and 93 but which are not subject to a licence requirement under Article 3 or which are exempted from an export licence in terms of Article 4 must mark the customs declaration: «Licence not required».

Art. 18 Proof and retention of documents

¹ If requested by SECO, the exporter must be able to prove at any time by means of the relevant documents that no export licence is required

² In the case of exports under a general export licence, SECO may request information about the end use of the goods at any time.

³ In the case of the export of firearms, their parts and components and accessories, the import certificate from the destination state or proof that no import certificate was required must be submitted to SECO on request.

⁴ All essential documents relating to the export must be retained for ten years after customs clearance and must be submitted to the responsible authorities on request

⁹ Customs Tariff Act of 9 Oct. 1986 (SR **632.10**), Annex 1 and 2 of the Customs Tariff Act can be viewed free of charges at www.ezv.admin.ch > Zolltarif - Tares.

Chapter 3 Import, Transit and Brokerage

Section 1 Import

Art. 19 Requirements and documents for import licences and import certificates

¹ Import licences and import certificates are only issued to natural persons or legal entities that are domiciled or have their registered office or permanent establishment on Swiss customs territory or in a Swiss customs-free zone.

² SECO may request the following documents in particular:

- a. company profiles;
- b. order confirmations, contracts of sale or invoices;
- c. end use certificates from the end recipient.

Art. 20 Term of validity

Import licences and import certificates are valid for two years.

Art. 21 Import licences

¹ Any person who wishes to import goods listed in Annex 2 Part 2 category 9 and are intended for systems with a load capacity of at least 500 kg and range of at least 300 km requires a licence from SECO.

² Import licences may be made dependent on end use certificates.

³ The importer must on request be able to provide proof of import in due form or of end use.

Art. 22 Import certificate

¹ Any person who wishes to import goods for which the supplying country expressly requires an import certificate may request SECO to issue an import certificate.

² SECO may make the issue of import certificates conditional on the submission of proof of the intended import and the end use of the goods.

Art. 23 Special import conditions

¹ Any person who wishes to import goods in accordance with Annex 2 Part 1 must provide the SFOE with written confirmation that they are aware that the goods are subject to international obligations.¹⁰

² The SFOE may request proof of import in due form or of end use from the importer and end recipient.

³ It may verify the end use of the goods in on-site inspections.

¹⁰ The correction of 23 Aug. 2016 relates to the Italian text only (AS 2016 2969).

Section 2 Transit

Art. 24

¹ SECO shall refuse to allow transit where there are grounds for refusal in accordance with Article 6 GCA.

² It shall also refuse to allow the transit of goods in accordance with Annexes 2–5 if no licence for export from the country of origin or the supplying state to the final destination state is produced.

³ Proof that the goods have been supplied legally must be provided on the entry of the goods into Swiss customs territory.

⁴ Paragraphs 2 and 3 do not apply to:

- a. goods intended for a state that is listed in Annex 7;
- b. state-employed security agents on pre-arranged official transit journeys, provided their firearms with the ammunition pertaining thereto are carried though in transit;
- c. air passengers who stopover in Switzerland and who carry with them in their baggage weapons for personal use in accordance with Article 4 WA, their parts and components and accessories, or ammunition and munitions parts and components, provided these goods do not leave the transit area of the airport; the foregoing also applies to baggage that is sent in advance or subsequently forwarded.

⁵ Release from a public warehouse, a warehouse for bulk goods or a bonded warehouse is deemed equivalent to transit.

Section 3 Brokerage

Art. 25

¹ Any person who wishes to broker goods that they know or have reason to believe are intended for the development, manufacture, use, passing on or deployment of NBC weapons must request SECO for a licence.

² SECO shall refuse to allow the brokerage if there is reason to believe that the goods to be brokered are intended for the development, manufacture, use, passing on or deployment of NBC weapons.

Chapter 4 Procedure

Art. 26 Controls

¹ SECO examines the applications for licences and carries out the controls in accordance with Articles 9 and 10 GCA.

² Border controls are the responsibility of the customs authorities.

³ The Federal Intelligence Service (FIS) is responsible for the information service in accordance with Article 21 GCA.

Art. 27 Responsibilities in the licensing procedure

¹ SECO shall approve applications for individual licences provided there is no evidence of any grounds for refusal in terms of Article 6 GCA.

² It shall refuse applications for licences if there are grounds for refusal in terms of Article 6 GCA.

³ In the remaining cases, it decides in agreement with the responsible offices of the Federal Department of Foreign Affairs, the Federal Department of Defence, Civil Protection and Sport and the Federal Department of the Environment, Transport, Energy and Communications, and in consultation with the FIS. If no agreement can be reached, the Federal Council shall decide based on the proposal made by the Federal Department of Economic Affairs, Education and Research.

Art. 28 Technical advice

¹ SECO may consult other federal authorities, trade associations, specialist organisations and specialist individuals to obtain technical advice.

² Employees of the associations and specialist organisations and the specialist individuals are obliged to maintain official secrecy as defined in Article 320 of the Criminal Code¹¹.

Chapter 5 Final Provisions

Art. 29 Publication

The content of Annexes 1–3 is not published in the Official Compilation of Federal Legislation or the Systematic Compilation of Federal Legislation.

Art. 30 Repeal of legislation

The Goods Control Ordinance of 25 June 1997¹² is repealed.

Art. 31 Amendment of legislation

The amendment of legislation is regulated in Annex 8.

¹¹ SR 311.0

¹² [AS 1997 1704, 1999 2471, 2000 187 Art. 21 No 11, 2002 349 No II, 2005 601 Annex 7 No 4 3537, 2007 1469 Annex 4 No 63, 2008 5525 Annex 4 No II 3, 2009 6937 Annex 4 No II 22, 2011 3981, 2012 1703 Annex 6 No II 1 1773 6781 Attachment 2 No 4, 2014 2507 4553, 2016 493]

Art. 32 Commencement

This Ordinance comes into force on 1 July 2016.

*Annexes 1–3*¹³
(Art. 2 para. 2 and 3 para. 1 and 2)

¹³ Annexes 1–3 are not published in the AS (AS 2017 2629). They may be consulted under www.seco.admin.ch > Aussenwirtschaft & Wirtschaftliche Zusammenarbeit > Exportkontrollen und Sanktionen > Industrieprodukte und besondere militärische Güter > Rechtliche Grundlagen und Güterlisten.

Annex 4
(Art. 3 para. 1)

Strategic Goods

This Annex does not contain any entries yet.

Annex 5
(Art. 3 para. 1)

Goods subject to national export controls

1. Weapons, essential weapons parts and components, weapons accessories, ammunition or ammunition parts and components in terms of the WA that are not subject to the legislation on war material and are not included in Annex 3. Exempted from the foregoing are knives and daggers in terms of Article 7 of the Weapons Ordinance of 2 July 2008¹⁴ that are in non-commercial circulation
2. Explosives and propellant powder under the Explosives Act of 25 March 1977¹⁵ that are not subject to the legislation on war material and are not included in Annexes 2 and 3.

¹⁴ SR 514.541
¹⁵ SR 941.41

Annex 6
(Art. 4 let. c)**List of States in accordance with Article 4 letter c**

Andorra
Austria
Belgium
Bulgaria
Croatia
Czech Republic
Cyprus
Denmark
Estonia
Finland
France
Germany
Greece
Hungary
Ireland
Island
Italy
Latvia
Liechtenstein
Lithuania
Luxembourg
Malta
Monaco
Netherlands
Norway
Poland
Portugal
Romania
San Marino
Sweden
Slovakia
Slovenia
Spain
Vatican City
United Kingdom

Annex 7
(Art. 12 para. 1)

List of States in accordance with Article 12 paragraph 1

Argentina
Australia
Austria
Belgium
Bulgaria
Canada
Czech Republic
Denmark
Finland
France
Germany
Greece
Hungary
Ireland
Italy
Japan
Luxembourg
New Zealand
Netherlands
Norway
Poland
Portugal
Sweden
Spain
South Korea
Turkey
Ukraine
United Kingdom
United States of America

Annex 8
(Art. 30)

Amendment of other legislation

The legislation below is amended as follows:

...¹⁶

¹⁶ The amendments may be consulted under AS **2016** 2195.