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Federal Act on War Materiel (War Mat Act, WMA)

of 13 December 1996 (Status as of 1 May 2022)

The Federal Assembly of the Swiss Confederation,

based on the Articles 54 paragraph 1, 107 paragraph 2 and 3 and 123 of the Federal Constitution^{1, 2} and on the powers of the Confederation in foreign affairs^{3, 4} and having considered the Federal Council Dispatch dated 15 February 1995⁵,
decrees:

Chapter 1 General Provisions

Art. 1 Purpose

This Act has as its aim the fulfilment of Switzerland's international obligations and the respect of its foreign policy principles by means of controlling the manufacture and transfer of war materiel and related technology, while at the same time maintaining an industrial capacity in Switzerland that it adapted to the requirements of its national defence.

Art. 2 Principles

The following require authorisation by the Confederation:

- a. the manufacture of war materiel;
- b. the trade in war materiel;
- c. the brokerage of war materiel;
- d. the import, export and transit of war materiel;

AS **1998** 794

¹ SR **101**

² Amended by No I of the FA of 1 Oct. 2021, in force since 1 May 2022 (AS **2022** 226; BBl **2021** 623).

³ This description of powers corresponds to Article 54 paragraph 1 of the Federal Constitution of 18 April 1999 (SR **101**).

⁴ Amended by No I 2 of the Federal Act of 22 June 2001 on the Streamlining of Federal Legislation on Arms, War Materiel, Explosives and Goods Usable for Civilian and Military Purposes, in force since 1 March 2002 (AS **2002** 248; BBl **2000** 3369).

⁵ BBl **1995** II 1027

- e. the transfer of intellectual property, including know-how, and the granting of related rights, provided this relates to war materiel and is intended for private individuals or legal entities that have their domicile or headquarters abroad.

Art. 3⁶ Relation to other legislation

This Act applies without prejudice to customs legislation, the regulations on payment transactions and other legislation on foreign trade.

Art. 4 Application to federal armaments companies

The provisions relating to the initial licence (Art. 9–11) do not apply to federal armaments companies.⁷ The provisions on brokerage (Art. 15 and 16), import and export (Art. 17–19), and the transfer of intellectual property or the granting of rights thereto (Art. 20 and 21) do not apply to armaments companies, provided that their activities relate to the procurement of war materiel for the Swiss armed forces.

Art. 5 Definition of war materiel

¹ The following are deemed to be war materiel:

- a. weapons, weapons systems, munitions and military explosives;
- b. equipment that has been specifically conceived or modified for use in combat or for the conduct of combat and which is not as a general rule used for civilian purposes.

² War materiel also includes individual components and assembly packages, which may also be partially processed, provided it is discernable that such components cannot be used in the same form for civilian purposes.

³ The Federal Council shall designate what is war materiel in an ordinance.

Art. 6 Other definitions

¹ «Manufacture» within the meaning of this Act is any professional activity involving the production of war materiel or the modification of parts essential to its function.

² «Trade» within the meaning of this Act is any professional activity involving the offer, acquisition or passing on of war materiel.

⁶ Amended by No I 4 of the Federal Act of 22 June 2001 on the Streamlining of Federal Legislation on Arms, War Materiel, Explosives and Goods Usable for Civilian and Military Purposes, in force since 1 March 2002 (AS **2002** 248; BBl **2000** 3369).

⁷ Amended by No I 4 of the Federal Act of 22 June 2001 on the Streamlining of Federal Legislation on Arms, War Materiel, Explosives and Goods Usable for Civilian and Military Purposes, in force since 1 March 2002 (AS **2002** 248; BBl **2000** 3369).

³ «Brokerage» is:

- a. the creation of the essential requirements for the conclusion of contracts relating to the manufacture, offer, acquisition or passing on of war materiel, the transfer of intellectual property, including know-how, or the granting of rights thereto, insofar as they relate to war materiel;
- b. the conclusion of such contracts if this service is provided by third parties.

Chapter 2 Prohibited War Materiel⁸

Art. 7 Nuclear, biological and chemical weapons

¹ It is prohibited:

- a. to develop, produce, broker, acquire, transfer to anyone, import, export, carry in transit, or store nuclear, biological or chemical weapons (NBC weapons) or to possess them in any other way;
- b. to incite anyone to carry out an act mentioned in letter a above;
- c. to assist anyone to carry out an act mentioned in letter a above.

² The foregoing prohibition does not apply to acts that are intended:

- a. to enable the destruction of NBC weapons by the agencies responsible therefor; or
- b. to provide protection against the effects of NBC weapons or to combat such effects.

³ The prohibition also applies to acts carried out abroad, irrespective of the law at the place of commission, if:

- a. the acts violate international law agreements to which Switzerland is a party; and
- b. the perpetrator is Swiss or is domiciled in Switzerland.

Art. 8 Anti-personnel mines⁹

¹ It is prohibited:

- a. to develop, produce, broker, acquire, transfer to anyone, import, export, carry in transit, or store anti-personnel mines or to possess them in any other way;

⁸ Amended by No I of the FA of 16 March 2012, in force since 1 Feb. 2013 (AS 2013 295; BBl 2011 5905).

⁹ Term according to No I of the FA of 19 Dec. 2003, in force since 1 June 2004 (AS 2004 2451; BBl 2003 2196 2210). This amendment is taken into account throughout this Act.

- b. to incite any person to carry out an act mentioned in letter a;
- c. to assist in committing an act mentioned in letter a.¹⁰

² For the development of procedures in mine detection, mine clearance, or mine destruction techniques and for training in such procedures, the retention or transfer of a number of anti-personnel mines is permitted. The number of such mines shall not exceed the minimum number absolutely necessary for the above-mentioned purposes.¹¹

³ Anti-personnel mines are explosive devices that are placed under, on, or near the ground or any other surface and which are conceived or modified so as to explode as a result of the presence, approach, or contact of a person, and which are intended to incapacitate, injure or kill one or more persons. Mines designed to be detonated by the presence, proximity or contact of a vehicle as opposed to a person that are equipped with anti-handling devices¹² are not considered anti-personnel mines as a result of being so equipped.¹³

⁴ «Anti-handling device» means a device intended to protect a mine and which is part of, linked to, attached to or placed under the mine and which activates when an attempt is made to tamper with or otherwise intentionally disturb the mine.¹⁴

Art. 8a¹⁵ Cluster munition

¹ It is prohibited:

- a. to develop, produce, broker, acquire, transfer to anyone, import, export, carry in transit, or store cluster munition or to possess the same in any other way;
- b. to incite anyone to carry out an act mentioned in letter a above;
- c. to assist anyone to carry out an act mentioned in letter a above.

² Paragraph 1 also applies to explosive bomblets that are specifically intended to be dispersed or released by dispensers affixed to an aircraft.

³ For the development of procedures for detecting, clearing, or destroying cluster munition and for training in such procedures, the retention or transfer of a quantity of cluster munition is permitted. The quantity of cluster munition retained shall not

¹⁰ Amended by No I of the FA of 16 March 2012, in force since 1 Feb. 2013 (AS 2013 295; BBl 2011 5905).

¹¹ Amended by No I of the FA of 16 March 2012, in force since 1 Feb. 2013 (AS 2013 295; BBl 2011 5905).

¹² Term in accordance with No I of the Federal Act of 19 Dec. 2003, in force since 1 June 2004 (AS 2004 2451; BBl 2003 2196 2210). This amendment is taken into account throughout this Act.

¹³ Amended by No I of the FA of 20 March 1998, in force since 1 March 1999 (AS 1999 1155; BBl 1998 679).

¹⁴ Inserted by No I of the FA of 19 Dec. 2003, in force since 1 June 2004 (AS 2004 2451; BBl 2003 2196 2210).

¹⁵ Inserted by No I of the FA of 16 March 2012, in force since 1 Feb. 2013 (AS 2013 295; BBl 2011 5905).

exceed the minimum quantity absolutely necessary for the above-mentioned purposes.

Art. 8b¹⁶ Prohibition of direct financing

¹ The direct financing of the development, manufacture or acquisition of prohibited war materiel is itself prohibited.

² Direct financing within the meaning of this Act is the direct granting of credits, loans or gifts or comparable financial advantages in order to pay or advance costs and expenditures that are associated with the development, manufacture or acquisition of prohibited war materiel.

Art. 8c¹⁷ Prohibition of indirect financing

¹ The indirect financing of the development, manufacture or acquisition of prohibited war materiel is itself prohibited where the prohibition of direct financing is circumvented thereby.

² Indirect financing within the meaning of this Act is:

- a. participation in companies that develop, manufacture or acquire prohibited war materiel;
- b. the acquisition of debt securities or other investment products issued by such companies.

Chapter 3 Initial Licence

Art. 9 Subject matter

¹ Anyone who on Swiss territory:

- a. wishes to manufacture war materiel;
- b. wishes to trade in war materiel for his own account or for the account of another, or to broker war materiel on a professional basis for recipients abroad, irrespective of the location of the war materiel

requires an initial licence.

² No initial licence is required by those who:

- a. supply as sub-contractors companies in Switzerland that hold an initial licence;
- b. execute orders from the Swiss government in respect of war materiel for the Swiss armed forces;

¹⁶ Inserted by No I of the FA of 16 March 2012, in force since 1 Feb. 2013 (AS **2013** 295; BBl **2011** 5905).

¹⁷ Inserted by No I of the FA of 16 March 2012, in force since 1 Feb. 2013 (AS **2013** 295; BBl **2011** 5905).