

The European dual-use regime and Italy

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On the Italian side the corresponding rules are those of Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021, the recast dual-use regulation, which has applied since 9 September 2021.¹ An authorization is required for the export of the dual-use items listed in its Annex I (Art. 3). A catch-all clause covers unlisted items intended for weapons of mass destruction, for military end use in embargoed countries or as parts of military items exported illegally (Art. 4). A special clause covers cyber-surveillance items that may be used for internal repression or serious human rights violations (Art. 5). Brokering services and technical assistance require authorization where the items are intended for such uses (Art. 6 and 8). The member states may control the transit of non-Union dual-use items through their territory (Art. 7) and may maintain national control lists (Art. 9).²

For exports from Italy to Switzerland the burden of the regulation is lighter in practice. Switzerland is among the destinations covered by the Union General Export Authorisation EU001, which allows the export of most Annex I items to a group of close partner countries without an individual licence, subject to registration and reporting.³ Italian exporters must apply for individual or global licences to UAMA at the Ministry of Foreign Affairs. Violations were punishable under Article 20 of Legislative Decree No. 221/2017. Since the repeal of its first three paragraphs with effect from 24 January 2026, intentional violations concerning goods subject to Union restrictive measures fall under Articles 275- *bis* to 275- *quater* of the Penal Code and grossly negligent violations concerning military or dual-use goods under Article 275- *quinquies*. UAMA remains competent for the administrative sanctions under the new paragraph 3- *ter* of Article 20.⁴ A Ticino trader that buys dual-use goods in Italy for resale outside Switzerland must therefore observe two licensing regimes: the Italian one for the export to Switzerland, usually covered by EU001, and the Swiss one for the reexport from Switzerland.

1 The War Material Act and the re-export debate

War material is governed by a separate statute, the Federal Act of 13 December 1996 on War Material (War Material Act, WMA), SR 514.51. It subjects the manufacture, brokering, export and transit of war material to licences and sets out criteria for their grant, which since a revision of 2021 have been laid down in the Act itself. These criteria exclude exports to countries involved in an internal or international armed conflict.⁵ When a foreign government buys Swiss war material, it must sign a non-re-export declaration in which it undertakes not to re-export the material without Swiss consent. In 2022 and 2023 Switzerland refused requests by Germany, Denmark and Spain to pass on Swiss-made ammunition and armoured vehicles to Ukraine, invoking the law of neutrality and the exclusion of countries at war.⁶ The refusals provoked strong criticism from European partners and from the Swiss arms industry, which saw its European customers turn to suppliers without such restrictions.

After several failed attempts, Parliament adopted an amendment of the War Material Act on 19 December 2025. Under the revised text Switzerland will continue to require the non-re-export declaration where foreign policy, neutrality or security reasons demand it. Exports to a partner state listed in Annex 2 of the War Material Ordinance that is involved in an armed conflict will be permitted if they are compatible with neutrality and with Switzerland's foreign and security interests. After an extension decided by the Federal Council, that annex comprises thirty-six states, including all members of the European Union and EFTA. The Federal Council will also be able to deviate from the licensing criteria if there are extraordinary circumstances and if this is necessary to safeguard the interests of the country.⁷ In the National Council's version of December 2025, the group of privileged partner states comprised twenty-five Western countries, and the re-export of Swiss arms by these states was to be permitted in general, subject to a veto of the Federal Council.⁸ After a referendum was launched against the amendment, the popular vote was scheduled for 29 November 2026.⁹ At the time of writing the revised Act is therefore not in force.

The War Material Act concerns Lugano mainly through finance. Since 2013 it has prohibited the direct financing of the development, manufacture or acquisition of prohibited war material, namely nuclear, biological and chemical weapons, antipersonnel mines and cluster munitions, and the indirect financing of such activities when it serves to circumvent the direct ban.¹⁰ Banks and asset managers in Ticino must therefore exclude producers of these weapons from loans and from

investment products, a requirement that overlaps with the exclusion lists of sustainable investment policies.

2 Notes

1. Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (recast), OJ L 206, 11.6.2021, <https://eur-lex.europa.eu/eli/reg/2021/821/oj/eng>. ↩
2. Regulation (EU) 2021/821 (above), Art. 3–9. ↩
3. Regulation (EU) 2021/821 (above), Art. 12 para. 1 lit. d and Annex II, Section A (Union General Export Authorisation EU001). ↩
4. Decreto legislativo 30 dicembre 2025, n. 211 (above), Art. 12 para. 1 (repeal of Art. 20 paras 1–3 of Decreto legislativo 15 dicembre 2017, n. 221), Art. 9 para. 2 (Art. 20 para. 3- ter) and Art. 275- quinquies c.p. ("commesso per colpa grave"); Bennato, Sistema Penale (above) (entry into force on 24 January 2026). ↩
5. Federal Act of 13 December 1996 on War Material (War Material Act, WMA), SR 514.51, Art. 22a para. 2 lit. a (no licence where "the country of destination is involved in an internal or international armed conflict"), inserted by the Federal Act of 1 October 2021, in force since 1 May 2022 (AS 2022 226), <https://www.droit-bilingue.ch/en-de/5/51/514.51-22a-30.html>. ↩
6. Parliamentary Services, news of 2 December 2025 (above) (requests of EU states to pass on Swiss war material in connection with the Russian attack on Ukraine, refused by the Federal Council "mit Verweis auf das geltende Schweizer Recht"). ↩
7. SECO, "Abstimmung über die Änderung des Kriegsmaterialgesetzes", <https://www.seco.admin.ch/de/abstimmung-kmg> ("Partnerstaat (vgl. Anhang 2 der Kriegsmaterialverordnung)"; Annex 2 with thirty-six states since 1 July). ↩
8. Parliamentary Services, news of 2 December 2025 on business 25.024, https://www.parlament.ch/de/services/news/Seiten/2025/20251202123844020194158159026_bsd104.a.spx. ↩
9. SECO, "Abstimmung über die Änderung des Kriegsmaterialgesetzes" (above) (parliamentary adoption on 19 December 2025; popular vote on 29 November 2026). ↩

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10. WMA, Art. 8b para. 1 and 8c para. 1, inserted by the Federal Act of 16 March 2012, in force since 1 February 2013 (AS 2013 295), <https://www.droit-bilingue.ch/en-de/5/51/514.51-8b-13.html> and <https://www.droit-bilingue.ch/en-de/5/51/514.51-8c-14.html>. ↩

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