



Fact Sheet: Machine Tools and Sanctions

Introduction

Machine tools are a particular focus of procurement efforts with Swiss manufacturers and distributors being a target of these efforts. There have been cases in which machine tools of Swiss origin have been shipped via third countries to prohibited end users. Countries sanctioned by Switzerland and the EU often try to obtain machine tools and other goods through legitimate companies in third countries that have not adopted the sanction measures.

This fact sheet aims to make Swiss manufacturers and distributors of machine tools aware of the potential risks associated with the exports of such goods and to provide them with recommendations on how best to proceed. Swiss companies must do everything in their power to reduce the risk of machine tools being illegally transferred to sanctioned countries.

Recommended actions

Until recently due diligence approaches that concentrated on the “know your customer” principle were largely sufficient to meet these demands. However, as the risk of diversion has increased and illegitimate actors are employing increasingly sophisticated procurement tactics, the State Secretariat for Economic Affairs SECO recommends that export-oriented companies invest in strengthening their compliance systems and processes.

1. Ongoing due diligence regarding end users

(1) Review and, if necessary, improve your procedures for ongoing due diligence with regard to end users. (2) Obtain information and recommendations for action on specific individual transactions from SECO and industry associations in a timely manner. (3) Ensure that employees have the necessary knowledge and training on risks and the effective implementation of appropriate compliance systems and processes, as well as conduct a regular review of customers and the general compliance framework.

2. Due Diligence before the export

(1) Check the basic plausibility of an order or business enquiry. Is it plausible that the customer wants to use this type of machine? (2) Check your customer's background and business activities for possible sanctions risks (e.g. ownership structure, trade data, other business connections). (3) If applicable, ensure that you visit the customer's premises in advance and can verify the technical requirements for the installation, operation and maintenance of the machine. (4) Request all necessary information and documents from the customer in order to carry out a comprehensive due diligence review. (5) Request in advance that the customer allows you to take certain technical security measures (regular access, location verification, etc.) and/or legal safeguards.

3. Due Diligence after the export

(1) If applicable, put in place long-term security measures that will enable you to verify the location of the machine or even restrict its operation (e.g. maintenance measures, activation codes, etc.). (2) If there are indications that goods have been diverted to an undeclared end user, contact SECO immediately and secure all relevant evidence (including emails and documents).

Potential characteristics of illegal procurement (*non-exhaustive list*)

- Concealment of the actual end user or falsification of end-user certificates;
- Establishment of front companies (often in circumvention/transit countries) or use of neutral trading companies as proxies;
- Taking advantage of suppliers with little export experience;
- The intended use of the machine is concealed or differs significantly from that intended by the seller;
- The customer does not have the usual technical standards or the usual business background to operate the requested machines;
- The buyer demands unusual and excessive confidentiality regarding the destination;
- Intermediaries are used for no apparent reason;
- The planned transport routes are illogical from a geographical or economic point of view;
- The buyer waives any training, service or warranty. If there is training, the buyer insists that it take place in Switzerland;
- A new customer who is based in a non-GECC country¹ or whose company was established after 24 February 2022;
- An existing customer, who never ordered machine tools prior to 24 February 2022 but is now requesting such goods or the number of orders since 24 February 2022 has increased significantly;
- A customer does not provide banks, exporters or other third parties with any information or refuses to provide this information, including information about the end user, the intended end use or the ownership structure of the company;
- Business parties that do not normally engage in transactions involving the consumption or other use of goods (e.g. financial institutions or logistics companies);
- The customer is willing to pay much more than the market price.

Legal Basis and Measures

- Ensure that employees have the necessary knowledge of the current export control legislation (including the Goods Control Act (GCA; SR 946.202) and Goods Control Ordinance (GCO; SR 946.202.1), the War Material Act (WMA; SR.514.51) and applicable sanctions and embargoes (EmbA; SR 946.231).
- Please note the relevant articles in the Ordinance on Measures in Connection with the Situation in Ukraine (SR 946.231.176.72) concerning the prohibition of all services related to the sale, supply, export, transit, transport, provision, manufacture, maintenance or use of goods listed in Annex 1 and Annex 2 GKV, which are destined for or intended for use in the Russian Federation.
- It should also be noted that there is a contractual obligation to prohibit the re-export of goods listed in Annexes 3, 19 and 31 of the Ordinance on Measures in Connection with the Situation in Ukraine (SR 946.231.176.72) pursuant to Art. 14f: When selling, delivering, exporting, transporting or transiting goods listed in Annexes 3 and 19, as well as high-priority goods listed in Annex 31, to a third country outside the EEA or to a partner, exporters must contractually prohibit the re-export of these goods to or for use in the Russian Federation.

¹Members of the Global Export Control Coalition (GECC) include Iceland, Liechtenstein, Norway, Switzerland, Australia, Canada, the 27 Members of the European Union (EU), Japan, New Zealand, South Korea, Taiwan, the United States and the United Kingdom.

Further Links

- Information on export controls, applicable sanctions and reporting of export transactions:
https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen.html
- Red flags associated with sanctions:
<https://www.seco.admin.ch/dam/seco/de/dokumente/Aussenwirtschaft/Wirtschaftsbeziehungen/Exportkontrollen/Industrieprodukte/Formulare%20und%20Merkbl%C3%A4tter/redflagsrussland.pdf.download.pdf/Red%20Flags%20zu%20den%20Sanktionen%20im%20Zusammenhang%20mit%20der%20Situation%20in%20der%20Ukraine.pdf>
- Export Controls in a Nutshell:
<https://www.seco.admin.ch/dam/seco/en/dokumente/Aussenwirtschaft/Wirtschaftsbeziehungen/Exportkontrollen/Industrieprodukte/Formulare%20und%20Merkbl%C3%A4tter/umsetzungderexportkontrolleauseichtderindustrie.pdf.download.pdf/Export%20Control%20in%20a%20 nutshell.pdf>
- Information on industrial espionage:
<https://www.vbs.admin.ch/de/wirtschaftsspionage>
 - Prophylax brochure: FIS prevention and awareness programme on threats posed by proliferation and espionage ([Link](#))
 - In the case of questions or for further information on the Prophylax Programme, please contact prophylax@ndb.admin.ch

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