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Federal Act
on the Implementation of International Sanctions
(Embargo Act, EmbA)

of 22 March 2002 (Status as of 1 January 2022)

The Federal Assembly of the Swiss Confederation,

on the basis of Articles 54 paragraph 1, 122 paragraph 1 and 123 paragraph 1 of the Federal Constitution[1],
and having considered a report of the Federal Council dated 20 December 2000[2],

decrees:

Section 1   General Provisions

Art. 1   Subject matter

[1] The Confederation may enact compulsory measures in order to implement sanctions that have been ordered by the United Nations Organisation, by the Organisation for Security and Cooperation in Europe or by Switzerland's most significant trading partners and which serve to secure compliance with international law, and in particular the respect of human rights.

[2] The right is reserved for the Federal Council to take measures to safeguard the interests of the country in accordance with Article 184 paragraph 3 of the Federal Constitution.

[3] Compulsory measures may in particular:

a.   directly or indirectly restrict transactions involving goods and services, payment and capital transfers, and the movement of persons, as well as scientific, technological and cultural exchange;

b.   include prohibitions, licensing and reporting obligations as well as other restrictions of rights.

Art. 2   Scope of authority

[1] The Federal Council has the authority to enact compulsory measures. It may stipulate exceptions in order to support humanitarian activities or to safeguard Swiss interests.

[2] The Federal Council may stipulate exceptions in accordance with paragraph 1 above, in particular for the provision of food supplies, medicines and therapeutic products for humanitarian purposes.

[3] The compulsory measures are enacted in the form of ordinances.

Section 2   Supervision of Compliance

Art. 3   Duty of disclosure

Anyone who is directly or indirectly affected by measures in accordance with this Act must provide the supervisory authorities appointed by the Federal Council with the information and documentation that is required for comprehensive assessment or supervision to be carried out.

Art. 4   Powers of the supervisory authorities

[1] The supervisory authorities have the right to enter and to inspect the business premises of persons who are subject to a duty of disclosure without prior notice during normal working hours, as well as to examine relevant documentation. They shall seize any incriminating material.

[2] They may call upon the assistance of the cantonal or communal police as well as investigating officers from the Federal Office for Customs and Border Security.[3]

[3] The supervisory authorities and any other authorities called upon for assistance are obliged to preserve official secrecy and take such precautionary measures within the scope of their activities as may be required to prevent industrial espionage.

Section 3   Data Protection and Cooperation between Authorities

Art. 5   Data processing

[1] The responsible authorities of the Federal Administration may process personal data provided this is necessary for the enforcement of this Act and of ordinances in terms of Article 2 paragraph 3.

[2] They may only process particularly sensitive personal data in the event that such data is relevant to proceedings or sanctions under the administrative or criminal law.

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[3]   Amended by No I 39 of the O of 12 June 2020 on the Amendment of Legislation as a consequence of the Change to the Name of the Federal Customs Administration as part of its further Development, in force since 1 Jan. 2022 (AS **2020** 2743).

No other particularly sensitive personal data may be processed unless such processing is essential for the handling of the case in question.

Art. 6   Administrative assistance in Switzerland

The responsible authorities of the Confederation together with the cantonal and communal police authorities may disclose data, including particularly sensitive personal data, to each other and to the relevant supervisory authorities provided that this is necessary for the implementation of this Act and of the ordinances in terms of Article 2 paragraph 3.

Art. 7   Administrative and mutual assistance between Swiss and foreign authorities

[1] The authorities of the Confederation that are responsible for enforcement, supervision, crime prevention and prosecution may cooperate with the responsible foreign authorities as well as with international organisations or bodies and coordinate investigations, provided:

  a. this is necessary for the implementation of this Act and of the ordinances in terms of Article 2 paragraph 3, corresponding foreign provisions, or corresponding provisions of international organisations; and

  b. the foreign authorities, and international organisations or bodies are bound by official secrecy or a corresponding duty of secrecy, and guarantee the prevention of industrial espionage within the scope of their activities.

[2] They may in particular request foreign authorities and international organisations or bodies to handover any data that is required. In order to obtain such data, they may disclose data, including particularly sensitive personal data, to other authorities, and in particular data relating to:

  a. the nature, quantity, place of destination and place of use, purpose, and recipients of goods;

  b. persons who are involved in the manufacture, supply or procurement of goods;

  c. the financial terms and conditions of the transaction;

  d. frozen accounts and assets.

[3] The federal authorities may disclose data in terms of paragraph 2 above on their own initiative or in response to a request from a foreign state, provided the relevant state:

  a. accords reciprocal legal rights and is also enforcing the international sanctions;

  b. provides the assurance that the data will be processed only for purposes that are in accordance with this Act; and

c.   provides the assurance that the data will be used in criminal proceedings only where mutual assistance in criminal matters would not be excluded due to the nature of the offence.

[4] The relevant administrative unit of the Confederation shall decide in consultation with the federal department responsible for mutual assistance matters[4] whether the requirements for the use of data in criminal proceedings in terms of paragraph 3 letter c above have been fulfilled.

[5] The federal authorities may, subject to the requirements of paragraph 3 above, also disclose data to international organisations or bodies; in doing so, they may dispense with the requirement that reciprocal legal rights be accorded.

[6] In cases of violations of this Act, mutual assistance may be given to foreign authorities and international organisations or bodies in accordance with paragraph 1 above. Such violations do not constitute currency, commercial, or economic offences in terms of Article 3 paragraph 3 of the Mutual Assistance Act of 20 March 1981[5], the procedural provisions of which remain applicable.

Section 4   Rights of Appeal

Art. 8

The appeal procedure in respect of rulings made under this Act is governed by the general provisions on the administration of justice at federal level.

Section 5   Criminal Provisions and Measures[6]

Art. 9   Misdemeanours

[1] Anyone who wilfully violates any provision of an ordinance in terms of Article 2 paragraph 3, provided such violation is declared to be subject to prosecution, is liable to a term of imprisonment of up to one year or a fine of a maximum of 500,000 Swiss francs.

[2] In serious cases, the penalty is a term of imprisonment of up to five years. A custodial sentence may be combined with a fine of a maximum of 1 million Swiss francs.

[3] If the offence is committed through negligence, the penalty is imprisonment of up to three months or a fine of a maximum of 100,000 Swiss francs.

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[4]   Currently the Federal Office of Justice.
[5]   SR **351.1**
[6]   From 1 Jan. 2007, the penalties and time limits must be interpreted or recalculated in application of Art. 333 para. 2–6 of the Swiss Criminal Code (SR **311.0**) in its version contained in the FA of 13 Dec. 2002 (AS **2006** 3459).

Art. 10   Contraventions

[1] The penalty is detention or a fine of a maximum of 100,000 Swiss francs for any-one who wilfully:

a.   refuses to provide information, to hand over documents, or to permit access to business premises in terms of Article 3 and Article 4 paragraph 1, or who provides false or misleading information in this connection;

b.   in the absence of culpable conduct that would constitute any other criminal offence, violates in any other manner the terms of this Act or any provision of an ordinance in terms of Article 2 paragraph 3, provided such violation is declared to be subject to prosecution, or any order issued and that carries a reference to the liability to penalties under this Article.

[2] Attempts and aiding and abetting are also be liable to prosecution.

[3] In the event that the offence is committed through negligence, the penalty is a fine of a maximum of 40,000 Swiss francs.

[4] The right to prosecute prescribes after five years. The prescriptive period may not be extended by more than one half as a result of interruption.

Art. 11   Concurrence of more than one criminal provision

[1] If an offence under this Act at the same time constitutes an offence under the War Materials Act of 13 December 1996[7], the Control of Goods Act of 13 December 1996[8] or the Nuclear Energy Act of 23 December 1959[9], then the criminal provisions of the Act that provides for the most severe penalty apply exclusively.

[2] If an offence under this Act at the same time constitutes a customs offence under Article 76 of the Customs Act of 1 October 1925[10], then the criminal provisions of the Customs Act apply exclusively, subject to the provisions of paragraph 1 above.

Art. 12   Offences committed by businesses

Article 6 of the Federal Act of 22 March 1974[11] on Administrative Criminal Law applies to offences committed by businesses.

Art. 13   Forfeiture of property and assets

[1] Property and assets that are subject to compulsory measures shall be forfeited irrespective of the criminal liability of any particular person in the event that their continued lawful use is not guaranteed.

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[7]   SR **514.51**
[8]   SR **946.202**
[9]   SR **732.0**
[10]   SR **631.0**
[11]   SR **313.0**

[2] Forfeited property and assets, together with any revenues from their sale shall become the property of the Confederation subject to the provisions of the Federal Act of 19 March 2004[12] on the Division of Forfeited Assets.[13]

Art. 14   Jurisdiction

[1] The Federal Act of 22 March 1974[14] on Administrative Criminal Lawapplies.

[2] In the event that the criminal provisions of this Act apply, the Office of the Attorney General of Switzerland may at the request of the relevant administrative unit initiate an investigation provided that this is justified by the seriousness of the offence. The initiation of an investigation by the Office of the Attorney General of Switzerland establishes federal jurisdiction.

Section 6   Final Provisions

Art. 15   Reporting

The Federal Council shall inform the Federal Assembly of matters relating to the application of this Act in its reports on foreign economic policy.

Art. 16   Addition of annexes to ordinances

The relevant department[15] may add annexes to ordinances issued in terms of Article 2 paragraph 3.

Art. 17   Amendment of current law

The federal acts below are amended as follows:

…[16]

Art. 18   Referendum and commencement

[1] This Act is subject to an optional referendum.

[2] The Federal Council shall specify the commencement date.

Commencement date: 1 January 2003[17]

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12   SR **312.4**
13   Amended by No 7 of the Annex to the Federal Act of 19 March 2004 on the Division of
      Forfeited Assets, in force since 1 Aug. 2004 (AS **2004** 3503).
14   SR **313.0**
15   Currently the Federal Department of Economic Affairs, Education and Research.
16   The amendments may be consulted under AS **2002** 3673.
17   FCD 30 Oct. 2002.