

Audit of compliance for transactions with the Leopard 1 tank

RUAG MRO Holding AG

Key facts

In 2016, RUAG acquired 100 used Leopard 1 tanks from the Italian army for EUR 4.5 million, including a large number of spare parts. This was despite the original plan to only make the purchase once a buyer had made a commitment. With the exception of four tanks, all attempts to sell them on initially failed.

After the outbreak of the war in Ukraine, Rheinmetall began to take an interest in the tanks and spare parts. In February 2023, RUAG signed a contract worth [REDACTED]. Rheinmetall wanted to repair the Leopard 1s and deliver them to Ukraine via a third country. The Federal Council rejected the deal at the end of June 2023, citing the Ukraine Ordinance.

The aim of the audit was to assess whether the existing compliance requirements had been met. The Swiss Federal Audit Office (SFAO) found formal deficiencies in the purchase, and weaknesses in the compliance system.

Formal deficiencies in the purchase

Agenzia Industrie Difesa (AID), a subordinate organisation of the Italian Ministry of Defence, offered RUAG a total package of 100 tanks and associated spare parts. In both the preliminary purchase contract and the purchase contract, RUAG did not comply with the rules on authorisation and signatures by the group's Executive Board and Board of Directors. As such, there was no formal approval from these two bodies.

Unfavourable storage conditions from a business perspective – information provided late to owners

Since 2017, RUAG has stored the Leopard 1s purchased from AID at Goriziane's premises in Italy. From 2018 to 2020, RUAG generated sales of around CHF 4 million with the spare parts through its company in Germany. Despite interest from several foreign armies, no deal for the tanks has been concluded over the years. Only the logistics provider Goriziane purchased four tanks from RUAG.

Although the warehouse in Italy belongs to RUAG Switzerland, RUAG Germany signed a contract addendum with Goriziane at the beginning of 2021 in which it more than tripled the monthly warehouse rent for eight years without the possibility of cancellation. From a business perspective, it is incomprehensible why the German RUAG company, which is not responsible, made this unfavourable amendment to the contract. Given its term of more than five years, the contract should presumably have been authorised by the Executive Board of RUAG Switzerland, which was not the case.

The valuation and value-added tax (VAT) liability of the warehouse had been an issue for RUAG's Executive Board since 2016. In addition, the Executive Board and Board of Directors of RUAG repeatedly questioned whether the stock of tanks in Italy met the owner's

requirements. Although already planned in June 2020, RUAG did not inform the owner about the purchase of the tanks and the resulting challenges until the second quarterly report of 2021. The Italian warehouse is first mentioned in the owner's minutes in December 2022 in connection with the back payment of CHF 3.4 million in VAT. The DDPS General Secretariat indicated that it has only been actively aware of the existence of the tanks in Italy since 19 January 2023.

Ownership of 25 tanks in dispute

RUAG has a varied relationship with the company Global Logistics Support GmbH (GLS). RUAG signed a distribution contract with GLS back in 2014. In September 2019, RUAG entered the same market segment with its own, rebranded German company. It is unclear why RUAG signed a cancellation agreement with GLS at the end of November 2019, although the distribution contract provided for a simple notice period of six months. The cancellation agreement guaranteed GLS 2% of certain sales in Germany, but at least EUR 500,000 for sales until the end of 2023 and thus has significant, adverse financial consequences for RUAG. In addition, the agreement stipulated that RUAG and GLS would negotiate and conclude a separate contract regarding GLS's intended acquisition of vehicles from RUAG's inventory.

On the day after the cancellation agreement was signed, GLS ordered 25 tanks from RUAG for EUR 500 and paid the purchase amount of EUR 12,500 on 16 March 2020. In the two years that followed, GLS did not collect the tanks from Italy. At the end of 2021, RUAG refunded the purchase amount for the 25 tanks to GLS. Then on 13 February 2023 – the same day RUAG signed the contract with Rheinmetall – GLS paid the amount for the 25 tanks back to RUAG again. Subsequently, GLS asserted its ownership claim with a letter from a lawyer.

No formal approval by the Executive Board and the Board of Directors

At the beginning of March 2022, Rheinmetall contacted RUAG regarding the purchase of the Leopard 1s in Italy. On 13 January 2023, RUAG made an informal enquiry to the State Secretariat for Economic Affairs (SECO) as to whether the export of the 96 tanks to Ukraine via a European third country could be authorised. The initial, non-binding assessment was positive. However, SECO requested a formal preliminary request, which RUAG submitted on 6 February 2023.

On 13 February 2023, RUAG signed the sales contract worth [REDACTED] for the 96 tanks, including all spare parts. The contract provided for Rheinmetall's unilateral right of cancellation in the event that the Swiss authorities did not authorise the export. Together with the sales contract, there was also a supplementary agreement that regulated the handling of GLS's ownership claim to 25 of the 96 tanks. The formal approval of the deal by the Executive Board and the Board of Directors had not been granted.

On 24 February 2023, SECO rejected the formal preliminary request, citing the Ukraine Ordinance. RUAG then submitted a formal application to SECO, which the entire Federal Council rejected.

RUAG followed the SECO authorisation process correctly. The owner was aware of RUAG's intention to sell to Rheinmetall from 19 January 2023.

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