



The essence of Swiss neutrality

1. Definition and characteristics

Neutrality within the meaning of international law means **military non-participation** in an armed conflict between other states. The self-imposed obligation not to participate militarily in an international conflict can be declared either on an ad hoc basis (temporary neutrality) or generally, with regard to all future international conflicts (permanent neutrality). Belligerent states are obliged in return to respect the territorial integrity of the neutral state.

Switzerland is a permanently neutral state. But permanent does not mean eternal: having freely chosen to be neutral, Switzerland is equally free to choose not to be. As long as it does remain neutral, however, it must respect certain rules. One of these is the requirement to defend its neutral status militarily should it come under threat. Swiss neutrality therefore has three qualities: it is **self-determined, permanent and armed**.

Neutrality is mentioned in the **Federal Constitution**, under Title 5 (Federal Authorities). Articles 173 and 185 provide that the Federal Assembly and the Federal Council shall take measures to safeguard Switzerland's external security, independence and neutrality. The authors of the Constitutions of 1848, 1874 and 1999 deliberately refrained from designating neutrality as a purpose of the Federation or as a principle of its foreign policy. It was made clear as long ago as 1848, during hearings on the drafting of the first Federal Constitution, that "neutrality is a means to an end; it is a reasonable political means of safeguarding Switzerland's independence".

If we speak of neutrality in general, we must distinguish between the *law* of neutrality and a *policy* of neutrality:

The **law of neutrality** contains those provisions of international law that apply between the neutral state and the belligerents in the event of an international armed conflict. The international law of neutrality stems from international customary law, and also from the various Hague Conventions and Declarations of 1907. The law of neutrality applies to armed conflicts between states, not to purely internal conflicts such as civil wars. Nor does it apply when the United Nations takes enforcement measures against a wrongdoer in accordance with Chapter VII of the UN Charter to preserve international peace and security.

A **policy of neutrality** embodies all the measures that a neutral state takes at its own discretion – above and beyond its legal obligations – in order to safeguard the credibility and effectiveness of its neutrality. The specific form taken by Switzerland's policy of neutrality is thus open. It must take account of Switzerland's interests in terms of its foreign and security policies.

2. Handling neutrality and the outlook for the future



Both the content and the impact of Switzerland's practice of neutrality have undergone **historical changes**. On many occasions Switzerland has flexibly adapted its policy of neutrality in line with foreign-policy imperatives and its own interests.

One example is Switzerland's policy on sanctions in the 20. century:

- Between the two world wars, as a member of the League of Nations, Switzerland participated in economic sanctions against nations contravening international law.
- After 1945, under the impact of the Cold War, Switzerland distanced itself from sanctions and pursued an integrated – comprehensive, in other words – policy of neutrality.
- The collapse of the bipolar world order at the beginning of the 1990s created a new situation for Switzerland. Like the other neutral states, it fundamentally declared its readiness to support non-military enforcement measures taken against a wrongdoer by the international community in order to maintain or restore peace. Since 1990 Switzerland has regularly taken part in international sanctions.

The framework for neutrality has changed radically since the end of the Cold War. Conventional military conflicts between states have become far less frequent, particularly in Europe. Most of the **violent disputes** directly or indirectly affecting Switzerland's security now take place **within states**. The law of neutrality was never intended to apply to this form of conflict, and it is therefore of little help in the formulation of Swiss security policy.

The simultaneous **increase in new threats** – like illegal arms trafficking, organized crime and terrorism – has closely focused the spotlight on the importance of international cooperation. In the 1990s Switzerland became increasingly involved in international cooperation in the fields of foreign and security policy. This involvement is entirely compatible with Swiss neutrality: no doubts have been cast on it in the international arena. Swiss participation in the Partnership for Peace since 1996, and the despatch of Swiss military units to take part in international peace missions under the mandate of the UN (Bosnia and Herzegovina since 1996, Kosovo since 1999, Afghanistan since 2003), are particularly worthy of note.

When the UN orders a military operation, this is not an international armed conflict within the meaning of the law of neutrality: it is a measure to **enforce resolutions of the Security Council**, acting on behalf of the international community – on the basis of the UN Charter – to restore world peace and international security. The law of neutrality does not prevent neutral states from supporting military operations of this nature. Conversely they are under no obligation to despatch their own troops to take part in them.

In the **absence of a resolution** by the Security Council of the UN authorizing military intervention, however, there is indeed an international armed conflict within the meaning of the law of neutrality. In this event, as in the 2003 Iraq conflict, the rights and obligations arising from Switzerland's neutral status apply.

The degree of latitude conferred on Swiss foreign policy by the law of neutrality will remain considerable in future, and this must be exploited to the full in the interests of our security – especially where international cooperation to counter new threats is concerned. Neither Switzerland's accession to the UN in 2002, nor its institutionalized cooperation with regional organizations and security structures like the EU, the OSCE and Partnership for Peace, is incompatible with its permanent neutrality.



3. Swiss neutrality in action

An analysis of the Federal Council's practice of neutrality shows that its decisions take account of both the law of neutrality and considerations of neutrality policy – as the following examples make clear.

The 1991 Gulf War: The UN calls on Switzerland to take part in economic sanctions against Iraq. The US-led coalition also requests overfly rights. Switzerland does indeed take part in economic sanctions against Iraq. No overfly rights for combat formations are granted, but the coalition is permitted to overfly Switzerland for humanitarian purposes.

At the same time the Federal Council announces that it will be necessary to amend the policy of neutrality in the medium term, particularly with regard to military operations based on a resolution of the UN Security Council. The Council issues a neutrality report in 1993.

The 1999 war in Kosovo: The conflict between Serbs and Albanians in Kosovo escalates. Hundreds of thousands of people – primarily Kosovo Albanians – are driven from their homes. NATO intervenes militarily in the conflict without a mandate from the UN Security Council. Switzerland provides humanitarian aid for the refugees. The Federal Council refuses NATO transit rights for combat operations, but enforces non-military sanctions against Yugoslavia. As soon as the UN Security Council issues its mandate, Switzerland despatches SWISSCOY to Kosovo as part of the KFOR peace-keeping force, and grants transit rights.

Iraq 2003: A US-led coalition attacks Iraq in March 2003 without a UN mandate. The Federal Council passes a resolution prohibiting the aircraft of the belligerents from overflying Swiss sovereign territory. Exports of arms and services to states involved in the conflict are prohibited. But the law of neutrality does not prohibit private companies based in the sovereign territory of the neutral state from trading with belligerent states. In order to prevent military equipment manufactured in Switzerland from being used in the Iraq conflict, however, the Federal Council introduces an approval procedure for exports of military equipment and services by private companies based in Switzerland.

Switzerland offers humanitarian aid as a gesture of solidarity. It calls on all the belligerent states to comply with humanitarian international law. Switzerland also organizes two international conferences on humanitarian aid, with the objective of exchanging information, identifying problems on the ground and facilitating the coordination of humanitarian aid in Iraq. The Federal Council approves overflights for humanitarian and medical purposes.