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**Trade Policy Review Body**

**TRADE POLICY REVIEW**

REPORT BY THE SECRETARIAT

SWITZERLAND AND LIECHTENSTEIN

This report, prepared for the fifth joint Trade Policy Review of Switzerland and Liechtenstein, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Switzerland and Liechtenstein on its trade policies and practices.

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**SUMMARY**

1. The trade regimes of Switzerland and Liechtenstein remain generally open, except in agriculture, which continues to be protected with high import tariffs levied on sensitive products. Switzerland and Liechtenstein continue to be strong supporters of a rules-based multilateral trading system and, during difficult times for the global economy, they advocate further trade liberalization. The last joint TPR of Switzerland and Liechtenstein took place in 2013.

2. The Swiss economy, a well-diversified and advanced economy, has shown resilience against the headwinds from the economic problems in the euro zone and a strong Swiss franc. Despite a difficult environment, the economy continued to grow by 1.5% on average in 2013-15, accompanied by relatively low unemployment (4.5%). The country enjoys good governance with a system of direct democracy that is deeply rooted in Swiss tradition, while the economy is managed with fiscal prudence. The Confederation aims at a balanced budget over the business cycle, which is underpinned by a constitutional fiscal rule ("debt brake"). The public debt, including that from cantons and municipalities, equals roughly 34% of GDP. The main challenges for the Swiss economy revolve around the issues of competitiveness in the face of a strong Swiss franc, high prices prevailing in Switzerland, weak productivity growth, and open issues in Switzerland's relations with the EU.

3. Liechtenstein has a diversified economy, which is based on a comparatively large industrial sector (about 41% of GDP) and the financial services industry (about 25% of GDP). As a consequence of the very small domestic market, Liechtenstein's economy is highly export-oriented. Although affected by a strong Swiss franc, it has retained its competitiveness owing to niche products, and regulatory reforms in the financial services sector.

4. The 1923 Swiss-Liechtenstein Customs Union Treaty created a common regime for goods. Switzerland acts on Liechtenstein's behalf in customs union matters, notably concerning trade policy measures affecting imports and exports of goods, and agriculture. The EFTA Convention regulates the bilateral relationship in services, government procurement, consumer protection, investment, and certain intellectual property rights. As a member of the European Economic Area, Liechtenstein participates in the single market between the EU and EEA/EFTA countries (Iceland, Liechtenstein and Norway), which is designed to provide for the free movement of goods, services, persons, and capital. The trade relations between Switzerland and the European Union are governed by a number of bilateral agreements. Liechtenstein maintains a Market Control and Surveillance Mechanism for the limited instances where Swiss and Liechtenstein/EEA import requirements differ. Switzerland and Liechtenstein share the Swiss franc as a common currency.

5. The period under review was marked by monetary policy developments. In 2011, the debt crisis in the euro zone and uncertainty in world financial markets triggered a flight to safe havens by investors, leading to a strong appreciation of the Swiss franc. On 6 September 2011, the Swiss National Bank (SNB) set a minimum exchange rate of SwF 1.20 per euro. The exchange rate floor was enforced by the SNB through foreign exchange interventions. On 15 January 2015, the SNB abandoned its exchange rate floor policy, while continuing to intervene in the foreign exchange market, as deemed necessary. Since the lifting of the exchange rate floor, the real exchange rate of the Swiss franc, which gives an indication of the price competitiveness of Swiss exporters, has appreciated.

6. After a contraction in the first quarter of 2015 (down 0.4%) due to the impact of currency appreciation, GDP growth resumed and the Swiss economy has posted modest quarterly growth rates since then. The economic expansion in 2014-15 was carried mainly by domestic demand, as very low interest rates have encouraged private consumption and construction. Switzerland has a large services sector (about 74% of GDP), but also possesses a strong, high-tech and export-oriented manufacturing sector (18-19% of GDP). In general, the traditional export industries, such as the machinery industry, have suffered from the strong franc and weak external demand, while more domestically oriented sectors have fared better and benefited from the demand created by population growth (immigration).

7. Switzerland's current account is traditionally in surplus. European countries, and especially euro zone countries, remain Switzerland's most important export and import markets. Some of the main shifts in the direction of trade include a significant increase in exports to the United States and China. The chemical and pharmaceutical industry is Switzerland's largest export industry and



accounted for approximately SwF 85 billion or over 40% of total goods exports in 2015. The industry has been the main driver of Swiss merchandise exports, while exports from the rest of the economy have been declining since 2011 (in volume terms). Liechtenstein normally runs a surplus in direct merchandise trade, which excludes trade with Switzerland.

8. Switzerland remains among the top destinations for foreign direct investment. Most economic sectors are open to investment, including by foreigners. However, investment restrictions continue to apply to activities under state monopoly, including certain rail transport services, some postal services, and certain insurance services. Restrictions (domicile requirements) are also applied to air and maritime transport, hydro- and nuclear power, oil and gas pipelines, and transport of explosive materials.

9. In December 2016, the Swiss Parliament adopted implementing legislation regarding a constitutional amendment triggered by a popular vote on immigration on 9 February 2014. The chosen solution, which aims to be compatible with the agreement with the EU on the free movement of persons, is based on an obligation for employers to notify vacancies to the public employment services (for certain groups of professions and in certain regions where unemployment is above average) and to organize interviews and testing of persons registered with the public employment services in order to give an employment opportunity to locals, but without an obligation to hire them.

10. In Liechtenstein, most sectors are open to national and foreign investment (subject to residency requirements), except for restrictions on: the purchase of real estate; production, trade, and transport of electricity, gas, and water; and on a number of financial services (asset management, investment consulting, and assuming trusteeships).

11. As regards the WTO, Switzerland and Liechtenstein both formally accepted the Trade Facilitation Agreement in September 2015. The tariff reductions resulting from the expansion of the Information Technology Agreement (ITA II) are being implemented on a provisional basis with effect from 1 January 2017. Liechtenstein became the first WTO Member to ratify the revised plurilateral Agreement on Government Procurement in 2013, while Switzerland intends to ratify the revised GPA in parallel with ongoing reforms aimed at harmonizing its procurement regime at the federal and cantonal levels.

12. Since the last review in 2013, Switzerland has submitted well over 100 notifications on a broad range of subjects, notably on TBT and TRIPS matters. Switzerland's notifications frequently include Liechtenstein, although Liechtenstein also provides separate notifications for certain measures. Neither Switzerland nor Liechtenstein was involved in any dispute settlement cases as a complainant or respondent during the period under review.

13. Switzerland's multilateral approach is complemented by an extensive preferential network, led by its bilateral agreements with the EU, and RTAs concluded within the framework of EFTA. As a consequence, the share of Switzerland's imports and exports subject to most favoured nation treatment is low (less than 20%). Since the last review, three new EFTA RTAs have entered into force (Central American States – Panama and Costa Rica; Bosnia and Herzegovina; and the Gulf Cooperation Council). Several EFTA agreements have been signed but are not yet in force (Philippines; Georgia; and the accession of Guatemala to the RTA with the Central American States). Switzerland's RTAs are supplemented by important bilateral FTAs with Japan (2009) and China (in force since 1 July 2014). In addition to the EEA, Liechtenstein participates in RTAs through EFTA. Switzerland's bilateral FTAs with the Faeroe Islands, Japan, and China also apply to Liechtenstein for trade in goods, while other elements (such as trade in services) are not extended to Liechtenstein.

14. Swiss (and Liechtenstein) customs procedures remain substantially unchanged. As a trade facilitation measure in line with the WTO Ministerial Decision of 19 December 2015 on preferential rules of origin for LDCs, Switzerland introduced the "registered exporter system" (REX system) on 1 January 2017. The new self-certification system requires exporters to register with the competent authorities in the exporting country for this purpose. It is expected to reduce the administrative burden related to documentary and procedural requirements for LDC and GSP beneficiaries.

15. All of Switzerland-Liechtenstein's applied tariffs continue to be expressed as specific rates. The average applied MFN tariff was 9.0% in 2016 (based on ad valorem equivalent estimates using 2015 import data), compared with a simple average of 9.2% in 2012. MFN tariffs on agricultural products (WTO definition) averaged 30.8% in 2016, while the average for non-agricultural products was 2.3%. Rates above 100% apply only in agriculture, mainly to vegetables, meat, and dairy products. All tariff lines are bound with the exception of 84 lines covering gas, petroleum, and related products. Switzerland administers a complex tariff quota system with overlapping WTO and preferential tariff quotas, and numerous sub-quotas. Most WTO tariff quotas have been over-filled in recent years.

16. Switzerland maintains compulsory reserve stock requirements on certain products. To finance these stocks, "guarantee fund contributions" are levied on imports of certain foodstuffs and fuels covered by the scheme, as well as on imports and domestic production of fertilizers, natural gas and therapeutic products subject to compulsory reserve stock requirements. Since ODCs are bound at zero and applied tariffs often equal the bound rates, it would appear that the sum of tariff and guarantee fund contributions may exceed Switzerland's bound commitments on several tariff lines at present.

17. Switzerland stands out as a "high-price island" in Europe. Reasons include remaining trade barriers (for instance, tariffs on agricultural products but also some technical barriers to trade), and the higher purchasing power and lower price sensitivity of Swiss consumers. One of the key elements of the Swiss Government's current growth policy is to further open up the economy to imports, with the aim of stimulating price competition and spurring productivity. MFN tariffs on textiles (60 tariff lines) were suspended from 1 January 2016 for a period of four years. Further autonomous trade-liberalizing measures are under consideration.

18. With regard to non-tariff measures, Switzerland has continued to harmonize its technical requirements with those of the EU. In addition, Switzerland applies the "Cassis de Dijon principle" as a trade policy instrument to dismantle technical barriers to imports from the EU and EFTA markets and thereby enhance import competition. However, a number of exceptions diminish its effectiveness. A reform of the Swiss food safety regime is underway that will further align the food safety requirements with the EU *acquis communautaire*. The new food safety regime entering into force on 1 May 2017 will also bring about a paradigm shift in the Swiss approach to food safety. The positive principle (requiring that all food items for sale must be defined in regulations or approved by the authorities) has been abolished as an unnecessary barrier to trade and, in future, all safe food items will be allowed unless explicitly prohibited. The "precautionary principle" has also been introduced into Swiss food safety legislation. Since the last review, no specific trade concerns have been raised in the TBT or SPS Committees regarding measures maintained by Switzerland or Liechtenstein.

19. Switzerland and Liechtenstein apply a number of prohibitions and restrictions on imports and exports, mainly for reasons of security, health, protection of intellectual property, and protection of the environment, or to ensure compliance with international obligations. Switzerland and Liechtenstein do not have any specific anti-dumping, countervailing or safeguard legislation, and have never applied such measures.

20. There have been no new developments regarding taxes affecting imports. Switzerland and Liechtenstein apply certain indirect taxes that are also levied on imports, notably value added tax (VAT), but also a motor vehicle tax, a consumption tax on mineral oils and fuels, a CO<sub>2</sub> tax on fossil fuels, an incentive fee on volatile organic compounds, and taxes on tobacco and alcoholic beverages (beer and spirits). Switzerland administers about 300 federal support programmes (amounting to more than SwF 37 billion in 2015), principally for social security purposes, education, research, transportation, and agriculture. Schemes notified to the WTO's Committee on Subsidies and Countervailing Measures cover support for regional development, SMEs operating in arts and crafts, CO<sub>2</sub> refunds, and forestry. Liechtenstein does not provide internal assistance to its industries, except agriculture. Through the EEA Agreement, uniform and common rules govern competition, including the provision of (non-agriculture) state aid.

21. The Swiss competition regime has not changed substantially since 2004. To counter the high prices prevailing in Switzerland, the Competition Commission routinely intervenes to expose and prevent market foreclosures, which have the effect of reducing import competition, and by taking pivotal decisions regarding enforcement actions. Switzerland has regularly notified the activities of

the Swiss Alcohol Board to the Working Party on State Trading Enterprises. According to an amendment of the Alcohol Law, Switzerland is to abolish its statutory import monopoly for (high-grade) ethanol by the end of 2018. A monopoly on salt is held by the cantons.

22. Regarding intellectual property, Switzerland has launched legislative initiatives on copyright, which aim to balance protection and enforcement in the context of new technologies with the privacy and freedom of the internet user. In the area of trademarks and geographical indications, the so-called "Swissness legislation" entered into force on 1 January 2017, which introduces significant changes to improve the protection of the Swiss brand at home and abroad. Two international IP treaties have been submitted to the Swiss Parliament for approval (Marrakesh VIP Treaty, and Beijing Treaty on Audiovisual Performances). As a consequence of the customs union, Liechtenstein's intellectual property system is strongly integrated with the IP system of Switzerland.

23. Regarding developments in the energy sector, the Swiss Parliament adopted new legislation in 2016 (albeit subject to a referendum) that is based on the "Energy 2050 Strategy" and entails, amongst other things, a shift towards increased support for renewable energy (including hydropower) along with the progressive closure of nuclear power plants. Production and distribution of electricity and gas is largely ensured by Swiss public utilities at the cantonal and municipal levels but the sector is open to foreign investment. The full liberalization of the electricity market has been suspended, pending negotiations with the EU on an electricity agreement. Liechtenstein has transposed the first two EU energy packages and is in the process of transposing the third. The electricity and gas markets have been liberalized (except ownership unbundling for electricity).

24. With regard to banking services, a key regulatory development was the adoption of the automatic exchange of information (AEOI) regarding tax matters, in order to combat cross-border tax evasion. Liechtenstein was among the early adopters of the OECD standard, and it put in place the necessary legislation for the AEOI as of 1 January 2016, including an AEOI agreement with the EU effective from that date. Switzerland has adopted the principle of the AEOI through various legal instruments and is to exchange information with the EU and other countries from 2018.

25. Switzerland has strengthened its "too big to fail" regime for banks, which includes higher capital adequacy standards for systemically important banks. Anti-money-laundering legislation has also been reinforced. Consumer protection and supervision has been strengthened for insurance companies. Legislation for the securities and capital markets has been reformed and new rules have been introduced regarding central counterparties, trade repositories, and cross-border participation in Swiss trading venues. A reform of the Swiss pension fund regime is underway. Liechtenstein has continued to transpose financial and anti-money-laundering EU legislation via EEA mechanisms, and unilaterally in the case of the first legislative package on the financial supervisory bodies. The regime of collective investment schemes/investment undertakings has been extensively revised with the creation of new categories.

26. In the area of air transport services, Switzerland has pursued its liberal air policy with the signature or modification of a series of "more than open skies" agreements with numerous countries. The Swiss postal services reform, launched in 2010, has been fully implemented and the state-owned Swiss Post has been corporatized. There is competition outside the reserved areas. There have been no major changes in the telecoms regimes of Switzerland and Liechtenstein.

27. With respect to professional services, market access to architectural and construction services is lightly regulated in Switzerland. Only six cantons regulate architectural services and only one canton regulates construction services. Foreign qualifications may be recognized, including through an accelerated procedure for EU/EFTA citizens. Medical and hospital services are subject to a non-discriminatory economic needs test to ensure universal services at the lowest cost for the Swiss social security system. Some cantons have waived these limitations for medical services. Social services, such as retirement homes, are open to foreign investment.

28. Since the last review, Switzerland has implemented the Agricultural Policy 2014-17. The new agricultural policy framework involves mainly a rearrangement and fine-tuning of the Swiss direct payments system to improve its efficiency and effectiveness, to reallocate some subsidies from livestock and milk production to the arable sector and marginal areas, and to address conflicts with WTO Green Box criteria. Switzerland provided around SwF 95 million in 2016 for export subsidies

on processed agricultural products in order to compensate the domestic food industry for the price handicap of using tariff protected locally produced agricultural raw materials. Meanwhile, the Swiss Government has initiated domestic procedures to eliminate such export subsidies by January 2019, in line with commitments made at the WTO Ministerial Conference in Nairobi. Despite these steps, agriculture (together with some domestic services) remains vulnerable to a more competitive environment – highlighting the need for more market-oriented reforms.

## 1 ECONOMIC ENVIRONMENT

### 1.1 Main Features of the Economy

1.1. Switzerland is a high-income country whose wealth is highly dependent on international trade. The country enjoys good governance, based on a system of direct democracy with the right to a popular vote on legislative reforms. The economy is managed with fiscal prudence. Switzerland has a large services sector (close to 74% of GDP), but also possesses a strong, high-tech and export-oriented manufacturing base. Agriculture and some domestic services remain the economy's greatest weaknesses in terms of international competitiveness. The main economic challenges revolve around the issue of competitiveness in the face of a strong Swiss franc, the high prices prevailing in Switzerland, weak productivity growth, and uncertain future relations with the European Union.

1.2. Liechtenstein is a very small but wealthy country with a diversified economy. The main pillars of the economy are a comparatively large industrial sector (about 41% of GDP) and the financial services industry (about 25% of GDP). Liechtenstein faces similar economic challenges to Switzerland. Its economic performance is tied, amongst others, to the exchange rate movements of the Swiss franc, as it shares a common currency with Switzerland. As a member of the European Economic Area (EEA), Liechtenstein participates in the single market among the EU and EEA/EFTA countries, which is designed to provide for the free movement of goods, services, persons, and capital.

### 1.2 Recent Economic Developments

1.3. The Swiss economy has shown resilience in a difficult environment, faced with headwinds from the economic problems in the euro zone and a strong Swiss franc. Since the last trade policy review in 2013, the economy has continued to grow (1.5% on average during the period 2013-15), accompanied by low unemployment (in the range of 4-4.5%, based on ILO methodology) (Table 1.1).

**Table 1.1 Switzerland – Selected macroeconomic indicators, 2012-15**

	2012	2013	2014	2015
GDP at market prices (SwF billion) <sup>a</sup>	623.5	635.0	643.8	645.4
GDP at market prices (US\$ billion) <sup>a</sup>	664.9	685.1	703.6	670.6
Real GDP (%age change, reference year = 2010)	1.1	1.8	2.0	0.8
Per capita GDP at current prices (US\$)	82,709	84,169	85,407	80,538
Per capita GDP at current prices (SwF) <sup>b</sup>	77,573 (77,559)	77,986 (78,023)	78,151 (78,159)	77,524 (77,508)
Population ('000) <sup>c</sup>	8,039	8,140	8,238	8,327
Unemployment rate, annual average, %	4.2	4.4	4.5	4.5
<b>GDP by economic activity (% of GDP at basic prices)</b>				
Agriculture, forestry and fishing	0.7	0.7	0.8	0.7
Mining and quarrying	0.1	0.1	0.1	0.1
Manufacturing	18.0	18.9	18.6	18.0
Energy and water supply, waste management	1.8	1.8	1.6	1.9
Construction	5.2	5.3	5.4	5.5
Services	73.1	73.2	73.6	73.8
Trade, repair of motor vehicles and motorcycles	14.9	14.6	14.9	14.5
Transportation and storage; information and communication	8.3	8.1	8.1	8.4
Accommodation and food service activities	1.8	1.8	1.8	1.7
Financial service activities	5.7	5.9	5.6	5.1
Insurance service activities	4.7	4.6	4.3	4.5
Real estate, professional and support service activities <sup>d</sup>	10.4	10.7	10.9	11.1
Public administration	10.8	10.8	10.8	10.8
Human health and social work activities	7.3	7.5	7.6	7.8
Other	9.3	9.3	9.6	9.8
<b>General government finances (% of GDP)<sup>e</sup></b>				
Revenue	32.6	32.7	32.7	33.7
Expenditure	32.6	32.9	32.9	33.6
Overall fiscal balance	0.0	-0.2	-0.2	0.1

	2012	2013	2014	2015
Confederation	0.1	0.0	0.0	0.3
Cantons	-0.4	-0.2	-0.4	-0.4
Municipalities	-0.1	-0.2	-0.1	-0.1
Social security funds	0.5	0.3	0.3	0.3
<b>Tax-to-GDP ratio</b>				
General government	26.9	27.0	27.0	27.7
Confederation	9.5	9.6	9.5	9.9
Cantons	6.6	6.6	6.7	6.8
<b>Debt ratio<sup>f</sup></b>				
General government	34.2	34.2	34.7	34.0
Confederation	17.8	17.4	16.7	15.9
Cantons	8.8	9.3	10.3	10.4
<b>Prices and exchange rates</b>				
CPI (%age change)	-0.69	-0.22	-0.01	-1.14
SwF/US\$ (period average)	0.94	0.93	0.92	0.96
SwF/€ (period average)	1.21	1.23	1.21	1.07
Nominal exchange rate index <sup>g</sup>	138.05	138.07	140.92	153.07
Real exchange rate index <sup>g</sup>	113.17	110.75	111.38	119.01
Swiss Confederation bond issues – 10 years (%) <sup>h</sup>	0.65	0.95	0.69	-0.07
<b>External sector (in SwF billion, unless otherwise indicated)</b>				
Current account	64.3	73.2	58.5	71.9
% of GDP	10.3	11.5	9.1	11.1
<b>Goods (net)</b>	37.7	49.8	50.8	51.6
Receipts, of which	312.0	346.4	301.5	291.7
Foreign trade total <sup>i</sup>	200.6	201.2	208.4	202.8
Non-monetary gold	79.4	117.7	65.0	65.8
Supplements to foreign trade	-7.9	-9.0	-10.2	-12.2
Merchanting	26.9	23.3	26.5	24.8
Expenses, of which	274.3	296.6	250.8	240.2
Foreign trade total <sup>i</sup>	176.8	177.6	178.6	166.3
Non-monetary gold	88.8	109.8	65.2	68.2
Supplements to foreign trade	-3.3	-1.8	-1.7	-3.5
<b>Services (net)</b>	21.5	20.3	19.4	18.0
Receipts	102.3	105.9	110.9	108.8
Expenses	80.8	85.6	91.5	90.8
Primary income (net)	13.4	15.1	6.0	15.2
Secondary income (net)	-8.2	-12.0	-17.7	-12.8
Capital account	-2.2	0.7	-10.6	-13.7
Financial account (excluding derivatives, net)	82.1	107.0	43.1	59.6
Reserve assets (net)	174.6	12.9	34.0	94.5
Derivatives (net)	-1.5	-0.8	-0.1	1.4
Statistical difference	18.5	32.3	-4.9	2.7
Total reserves (includes gold, current SwF billion)	485.0	477.4	541.2	601.4

a Calendar and seasonally adjusted data.

b Figures in parentheses indicate seasonally and calendar adjusted GDP per permanent resident.

c Permanent resident population at the end of the period.

d Including real estate, legal, accounting, management, architecture, and engineering activities, scientific research and development, scientific and technical activities, and administrative and support service activities.

e Forecasts for 2015-2016, except 2015 Confederation and social security funds.

f With reference to the Maastricht definition.

g Export-weighted against 40 trading partners, January 1999 = 100. An increase means appreciation of the Swiss franc.

h Annual average calculated on the basis of monthly data.

i Foreign trade according to the Federal Customs Administration (FCA).

Source: State Secretariat for Economic Affairs (SECO) online information. Viewed at: <https://www.seco.admin.ch/seco/fr/home.html>; Federal Finance Administration online information. Viewed at: <https://www.efv.admin.ch/efv/fr/home.html>; Swiss National Bank (SNB) data portal. Viewed at: <https://data.snb.ch/en>; Federal Statistical Office (FSO). Viewed at: <http://www.bfs.admin.ch/bfs/portal/fr/index.html>; and World Bank, World Development Indicators. Viewed at: <http://databank.worldbank.org/data/home.aspx> [October 2016].

### Monetary policy

1.4. In the course of 2011, the debt crisis in the euro zone and a high degree of uncertainty in the financial markets triggered a flight to safe havens by investors, which prompted a strong appreciation of the Swiss franc (*vis-à-vis* the euro, the dollar and other currencies), culminating in near parity between the SwF and the euro in August 2011 (Chart 1.1).<sup>1</sup> On 6 September 2011, the Swiss National Bank (SNB) set a minimum exchange rate of SwF 1.20 per euro, citing a serious threat to the Swiss economy and a risk of deflation. The IMF endorsed the SNB's temporary emergency measure, calling it an "appropriate policy response to the risk of a sharp economic contraction and deflation caused by a rapid exchange rate appreciation".<sup>2</sup> Monetary policy was geared towards enforcing the exchange rate floor through foreign exchange interventions. The SNB declared that it would defend the exchange floor by buying foreign currencies in unlimited quantities, if needed.<sup>3</sup>

1.5. Towards the end of 2014, financial markets were expecting a tightening of monetary policy in the United States and a further easing in the euro zone. As a result, the euro – and the Swiss franc with it – depreciated against the U.S. dollar. At the same time, the Swiss franc appreciated against the euro and the exchange rate floor came under pressure.

1.6. In early January 2015, the SNB had to intervene to an increasing extent to defend the exchange rate floor. On 15 January 2015, the SNB abandoned its exchange rate floor policy. The minimum exchange rate was no longer sustainable, according to the SNB, since the risks associated with maintaining it would have compromised the SNB's ability to conduct monetary policy in the long term. Further, the SNB noted that postponing the inevitable exit would not have lessened the turbulence on the financial market, nor would it have alleviated the impact on the economy.<sup>4</sup> The SNB announced that it would nonetheless continue to intervene in the foreign exchange market, if necessary.<sup>5</sup> By end-2015, its currency reserves, including gold, had increased to SwF 601 billion (roughly equivalent to the size of the Swiss GDP), up from around SwF 79 billion in 2008. In the course of 2016, the SNB continued to intervene in the foreign exchange market, notably following the Brexit vote.

1.7. The surprise decision by the SNB to discontinue the exchange rate floor against the euro triggered a sharp appreciation of about 20% against the euro (towards a SwF/euro exchange rate slightly below parity). By August 2015, the Swiss franc had weakened towards a level of SwF 1.10 per euro and has since been relatively stable *vis-à-vis* the euro, trading within a range of SwF 1.08 to 1.12 per euro. As of end-October 2016, there had been no appreciation of the Swiss franc against the U.S. dollar compared to the situation before the SNB's decision of 15 January 2015. The Swiss franc traded slightly under parity against the U.S. dollar albeit with some volatility. The trade-weighted real exchange rate of the Swiss franc, which gives an indication of the price competitiveness of Swiss exporters, has moved into a higher range (meaning appreciation) since the lifting of the exchange rate floor (Table 1.1). As of September 2016, the SNB was of the view that the Swiss franc remained "significantly overvalued".<sup>6</sup>

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<sup>1</sup> The exchange rate stood at around at 1.25 SwF/€ on 3 January 2011, at 1.03 SwF/€ on 10 August 2011, and at 1.11 SwF/€ on 5 September 2011.

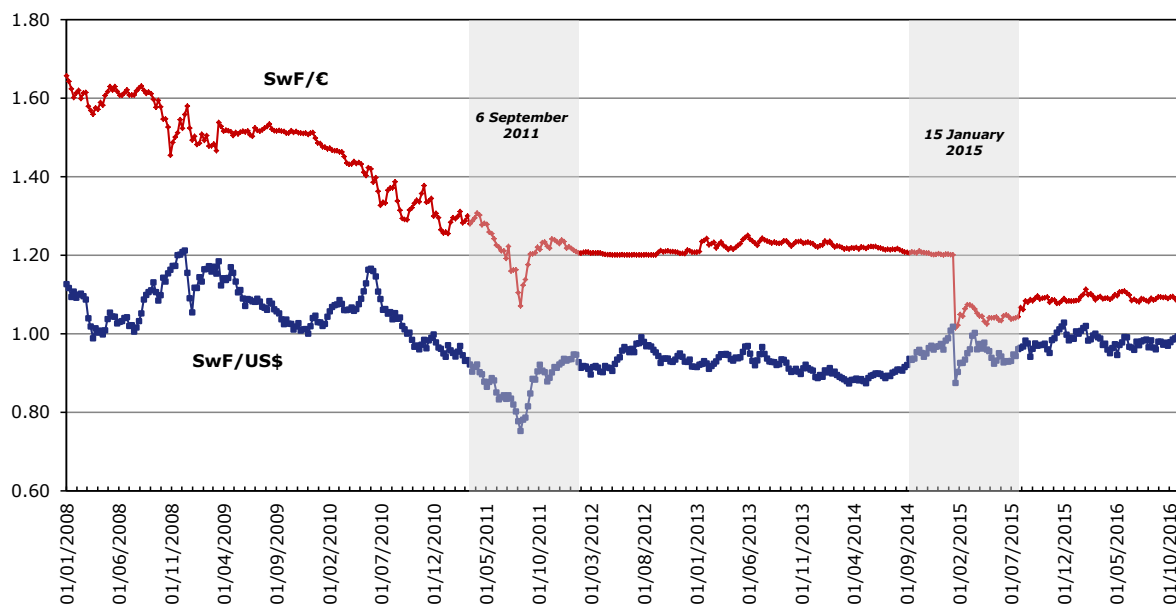
<sup>2</sup> IMF (2012).

<sup>3</sup> SNB online information. Viewed at: [http://www.snb.ch/en/mmr/reference/pre\\_20110906/source/pre\\_20110906.en.pdf](http://www.snb.ch/en/mmr/reference/pre_20110906/source/pre_20110906.en.pdf).

<sup>4</sup> SNB (2016).

<sup>5</sup> SNB online information. Viewed at: [http://www.snb.ch/en/mmr/reference/pre\\_20150115/source/pre\\_20150115.en.pdf](http://www.snb.ch/en/mmr/reference/pre_20150115/source/pre_20150115.en.pdf).

<sup>6</sup> Viewed at: [http://www.snb.ch/en/mmr/reference/pre\\_20160915/source/pre\\_20160915.en.pdf](http://www.snb.ch/en/mmr/reference/pre_20160915/source/pre_20160915.en.pdf).

**Chart 1.1 Foreign exchange rates, 2008-16**

Source: Information provided by the Swiss authorities.

1.8. Current monetary policy remains expansionary with interest rates in negative territory. The SNB first announced negative interest rates on sight deposit account balances on 18 December 2014, with the objective of taking the three-month LIBOR to a target range of -0.75% to +0.25%. This unconventional measure of imposing negative interest rates was taken to weaken appreciating pressures on the Swiss franc, by reducing the attractiveness of holding investments in Swiss francs. On 15 January 2015, the SNB further lowered the interest rate on SNB sight deposits to -0.75%, with a target range for the three-month LIBOR at -1.25% to -0.25%. The policy rates remained unchanged in 2016.

1.9. Negative interest rates are charged on SNB balances of almost all account holders that exceed certain exemption thresholds (excess reserves).<sup>7</sup> Account holders affected are banks, securities dealers, cash processing facilities, clearing settlement organizations, mortgage bond institutions, insurance companies, international organizations, and central banks. The exemption threshold is specific to each account holder, but is at least SwF 10 million. For account holders subject to minimum reserve requirements (domestic banks) and bank-like domestic institutions, it is calculated as 20 times the minimum reserve requirement in a specified reporting period, 20 October-19 November 2014 (static component), minus any increase/plus any decrease in the amount of cash held (dynamic component) between the current reporting period and a reference period. The other types of account holders are subject to fixed exemption thresholds set by the SNB. Banks have so far generally spared small depositors (i.e. private clients and SMEs) from negative interest rates, while passing them on to large depositors (i.e. institutions and large enterprises).<sup>8</sup>

### *Economic performance*

1.10. Economic growth in Switzerland accelerated during 2013-14 (real GDP up 2.0% in 2014) along with the modest recovery of the world economy. After a GDP contraction in the first quarter of 2015 (down 0.4%) due to the impact of currency appreciation, growth resumed and the economy has since posted modest quarterly growth rates. The economic expansion in 2014-15

<sup>7</sup> The only account holders that are exempt from negative interest rates are those of the central Federal Administration and the compensation funds for old age and survivors' insurance, disability insurance and the fund for loss of earned income (AHV/AVS; IV/AI; EO/APG).

<sup>8</sup> The SNB profits on Swiss franc positions coming from negative interest charged on sight deposit account balances since January 2015 amounted to SwF 1,163.9 million in 2015 and SwF 1.1 billion (first three quarters of 2016). SNB online information. Viewed at: [http://www.snb.ch/en/mmr/reference/pre\\_20161031/source/pre\\_20161031.en.pdf](http://www.snb.ch/en/mmr/reference/pre_20161031/source/pre_20161031.en.pdf); and [http://www.snb.ch/en/mmr/reference/pre\\_20160304/source/pre\\_20160304.en.pdf](http://www.snb.ch/en/mmr/reference/pre_20160304/source/pre_20160304.en.pdf).



was carried mainly by domestic demand, as very low interest rates have encouraged private consumption, and construction. In general, the traditional export industries, such as the machinery industry, have suffered from the strong franc and weak external demand, while more domestically oriented sectors have fared better and benefited from the demand created by population growth (immigration).

1.11. In the period under review, inflation (measured by the Swiss consumer price index) was negative, i.e. below the SNB's definition of price stability. The negative rate of inflation was mainly attributable to declining oil prices and lower import prices due to the appreciation of the Swiss franc. In response to rapidly rising mortgage lending in recent years and the risk of a bubble in the real estate market, the SNB has adjusted, *inter alia*, the minimum capital buffers of banks, in order to safeguard the stability of the financial system. Since 2015, the construction sector has shown signs of cooling after a long period of strong growth; quarterly building activity has remained more or less stable.

1.12. The industrial sector has maintained its share of about 18-19% of GDP (Table 1.1). Key sectors in terms of output, employment and exports are the chemical and pharmaceutical industries; the machine, electronics and metal industries; and the watch-making industry. Switzerland does not have an industrial policy. There are no specific incentive schemes for the manufacturing sector, with the exception of the export subsidy scheme for processed agricultural goods, such as chocolate (see Section 4.[ag]). Switzerland has a policy to support research and innovation and improve framework conditions for all economic sectors but does not adhere to a policy of national champions.

1.13. Agriculture's contribution to GDP is marginal (less than 1%) and declining. The number of farms, most of them small family farms, decreased to 54,000 in 2014 (4,000 less than in 2011). The performance of the agriculture sector has important fiscal consequences (in terms of transfers) and repercussions for the competitiveness of the food industry and tourism sector through its impact on restaurant prices and contribution to preserving a scenic countryside. The agriculture sector is sheltered from import competition through relatively high tariffs on sensitive agricultural products and direct payments. Domestic prices of agricultural and food products remain high by international comparison (see Section 4.[ag]).<sup>9</sup>

1.14. Services contribute over 70% to GDP. Amongst the major service industries, the trade and tourism sectors were most affected by the economic slowdown following the discontinuation of the minimum exchange rate policy. After a number of negative quarters, the tourism industry recovered in the second quarter of 2016. Financial services (including insurance services) represent a large sector of the economy (about 10% of GDP), but the growth performance of banks has been below that of the rest of the economy since the global financial crisis. Banks and insurers have faced a difficult environment due to low interest rates, high costs, declining commission and export revenues (when converted into Swiss francs), and regulatory developments.

#### *Balance-of-payments*

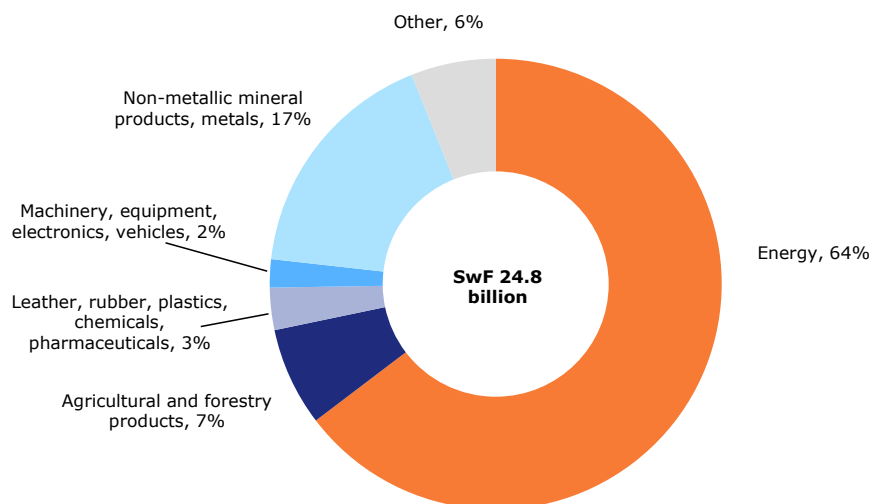
1.15. Notable features and developments in Switzerland's balance of payments include the following (Table 1.1):

- i. The current account is traditionally in surplus (SwF 71.9 billion in 2015, equivalent to about 11% of GDP), but varies substantially from year to year (note the sharp drop in 2014). According to the IMF, the high and volatile surplus is partly due to special factors and activities, such as commodity trading, financial and insurance activities and net FDI earnings "that are highly affected by the operations of large multinationals, financial firms, and wealthy foreigners for whom Switzerland is a desirable destination to centralize income and assets – reflecting Switzerland's economic stability and tax competitiveness, *among other factors* – but whose savings may not be fundamentally Swiss."<sup>10</sup>

<sup>9</sup> On aggregate, Swiss prices of basic agricultural products were about 90% higher than world market prices in 2015, according to OECD estimates.

<sup>10</sup> IMF (2015).

- ii. Switzerland is an important commodity trading (merchanting) centre. Merchanting is an offshore business, whereby commodity traders based in Switzerland, particularly in the Geneva area, buy and sell commodities on the world markets (Chart 1.2). Merchanting trade has been a major driver of the current account surplus – reaching around SwF 25 billion of net revenues in recent years (up from SwF 2 billion in 2000).
- iii. Capital income is normally in surplus, given Switzerland's international investment position with an outward capital stock (FDI and portfolio investment) that is substantially larger than the inward capital stock (Section 1.3). However, income derived from direct investments is highly volatile, in part for reasons explained above.
- iv. The currency reserves have increased sharply since the global financial crisis. The accumulation of reserves was particularly large in 2010, 2012 and 2015 (up SwF 95 billion in 2015), reflecting the foreign currency purchases by the SNB to contain the SwF appreciation and defend the minimum exchange rate against the euro. The SNB's foreign currency reserves are invested mainly (over 70%) in foreign government bonds. No investments are made in mid-cap and large-cap international banks and bank-like institutions to avoid conflicts of interest; the equity portfolio is diversified but no investments are made in Swiss equities.<sup>11</sup>

**Chart 1.2 Merchanting trade, 2015**

Source: Swiss Balance of Payments and International Investment Position, 2015.

### *Fiscal performance*

1.16. The Confederation aims at a balanced budget over the business cycle, which is underpinned by a constitutional fiscal rule ("debt brake"), applied at the federal level since 2003.<sup>12</sup> In the past years, the Confederation has run balanced budgets or posted small surpluses. The overall public finances (including the cantons and municipalities) have also remained in a healthy position. Almost all cantons have their own fiscal rules. As a result of the fiscal rules and budget surpluses, the total public debt (including cantons, municipalities and social insurances) was reduced to SwF 220 billion at the end of 2015 (down from SwF 221 billion in 2008), equivalent to a comparatively moderate level of roughly 34% of GDP (Table 1.1). The Cantons have been confronted with slightly increasing debt ratios in recent years. The Confederation is currently able to finance itself at zero or negative interest rates on short-term and long-term loans.<sup>13</sup> The IMF noted in 2016 that "Switzerland has ample fiscal space to respond to a prolonged recession with discretionary fiscal

<sup>11</sup> The large increase in SNB's foreign currency investments has led to a debate about establishing a sovereign wealth fund to manage the investments. SNB (2016), *Annual Report 2015*.

<sup>12</sup> The debt brake rule requires a balanced budget over the period of a business cycle.

<sup>13</sup> The yields of Swiss sovereign bonds in 2015 were the lowest in the world. IMF (2015).

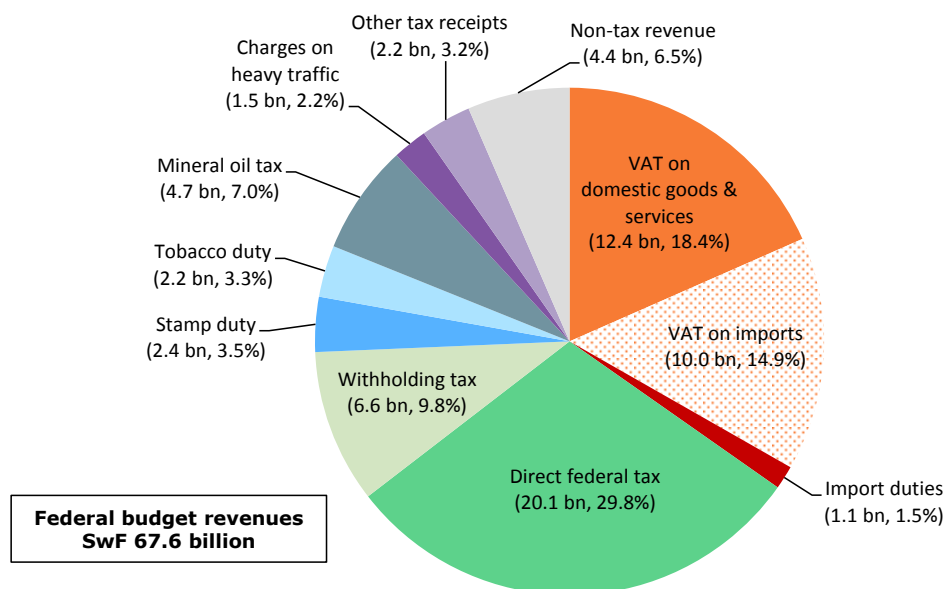
stimulus in order to support growth and inflation. This could also avoid overburdening of monetary policy".<sup>14</sup>

1.17. The tax-to-GDP ratio at the general government level has been relatively stable at around 27-28%, with the cantons' shares higher than the Confederation's share (Table 1.1). The Swiss tax system is federally organized, with the Confederation, the cantons, the municipalities and the social security funds levying their own taxes (Section 2.3.2). The Confederation's main sources of revenue are consumption taxes (VAT on goods and services, mineral oil tax, and tobacco tax), followed by federal taxes on income and profits (Chart 1.3). The revenues of import duties are on a declining trend because of Switzerland's expanding network of FTAs. Import duty collections amounted to SwF 1,056 million in 2015, of which SwF 730 million came from trade with the EU (77% of these SwF 730 million were import duties on agricultural products).<sup>15</sup>

1.18. The appreciation of the Swiss franc following the discontinuation of the minimum exchange rate has left traces in the government finances. The projected tax revenues beyond 2015 had to be corrected downwards as a consequence of the economic slow-down and lower inflation, affecting notably the (price-related) VAT, the direct federal tax, and mineral oil tax collections. Due to the currency appreciation, the projected income tax revenues from repatriated profits by Switzerland-based companies also had to be adjusted downwards. In these circumstances, the Government presented a "stabilization programme 2017-19" to the Swiss parliament in May 2016, which includes a package of fiscal consolidation measures in the federal budget, amounting to savings of approximately SwF 800 million to SwF 1 billion annually over the three-year period. A decision on the stabilization programme is pending.

### Chart 1.3 Federal budget revenues, 2015

(SwF billion and % of total revenues)



Source: Federal Customs Administration (FCA).

### Structural measures

1.19. Switzerland is facing a number of competitiveness issues, notably low productivity growth and high prices.

1.20. As noted above, economic growth in Switzerland has been largely driven by domestic demand, as low interest rates and positive population growth<sup>16</sup> have stimulated consumption. On

<sup>14</sup> IMF (2016).

<sup>15</sup> Federal Customs Administration online information. Viewed at: [www.swiss-impex.admin.ch](http://www.swiss-impex.admin.ch).

<sup>16</sup> Swiss population growth has exceeded 1% per annum since 2007, mainly due to positive net immigration (71,500 in 2015, down 9.4% on 2014). State Secretariat for Migration online information. Viewed at: <https://www.sem.admin.ch/sem/fr/home/aktuell/news/2016/2016-01-280.html> [29 September 2016].

the other hand, the Swiss real per capita income has increased only modestly in recent years (up 0.2% on average during 2008-13), mainly owing to an increase in labour participation rates rather than productivity. Productivity growth has been virtually stagnant since 2007.<sup>17</sup> Some of the factors underlying the weak productivity performance include a growing share of domestically-oriented and state-related activities (e.g. health and government services), a decline in the capital intensity of the economy, and the poor performance of the banking industry.

1.21. Swiss economic policy is underpinned by growth plans with the aim to enhance productivity and improve competitiveness. The third growth plan (Growth Policy 2012-2015) comprised a package of 13 measures or (reform) objectives, including the adoption of a new Agricultural Policy 2014-17 to facilitate structural adjustment within the agricultural sector (Section 4.1); corporate tax reform (Section 3.3.1.1); and the promotion of e-government and a reduction in regulation. Some objectives, such as the conclusion of a trade agreement on electricity with the EU, could not be realized. Some uncertainty currently surrounds the future economic relations with the EU, as Switzerland has been reviewing its policies on the free movement of labour (immigration).

1.22. In June 2016, the Government presented its "New Growth Policy 2016-2019" which consists of a package of 14 new productivity-enhancing measures.<sup>18</sup> While the focus of the reform package lies in enhancing productivity, some of the reforms aim to strengthen the resilience of the economy (e.g. enhanced "too-big-to-fail" regulation) and reduce negative externalities of economic growth (e.g. climate and energy policy). The Government considers that without further reforms Switzerland risks moving further towards a dual economy – with a competitive export sector, on the one hand, and an expensive domestic sector with low competition intensity, on the other hand.<sup>19</sup>

1.23. One of the central elements of the New Growth Policy is the further opening of the economy to imports. Switzerland is a "high-price island" within Europe. The Swiss price level is estimated to be about 45% higher than in the EU (EU-15) – about 25% higher for goods and 60% higher for services, which tend to be less tradeable.<sup>20</sup> Reasons include remaining trade barriers (for instance, tariffs on agriculture products but also several technical trade barriers), the higher purchasing power and lower price sensitivity of Swiss consumers. The Government has submitted a report on barriers to parallel imports, which addresses the persistently high input costs and output prices in Switzerland and relates these high prices with trade barriers and room for price discrimination. It will consider the costs and benefits of an autonomous elimination of MFN tariffs on industrial products (averaging 2.3% in 2016, see Table 3.3), following the example of other countries, such as Canada, Iceland or Norway.<sup>21</sup> At the request of the Swiss textile industry, MFN tariffs on textiles (60 tariff lines) were suspended from 1 January 2016 for a period of four years (Section 3.1.4.1).

1.24. Furthermore, a number of options were identified to facilitate imports, including a reduction of nuisance duties; autonomous (selective) reduction of the high border protection and tariff escalation for agricultural products (averaging 30.8%); and a review of the exceptions to the "Cassis de Dijon" principle, as well as the special treatment of food products, which reduce the effectiveness of the instrument (Section 3.3.3). Trade facilitation measures already decided by the Government include the establishment of a new web portal for customs formalities (to replace e-dec); opening of the "trusted partner" status to SMEs; and making the choice of customs entry points more flexible (Section 3.3.1). Private-sector restraints on parallel imports are covered in the section on competition policy (Section 3.3.6).

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<sup>17</sup> SECO online information. Viewed at:

[https://www.seco.admin.ch/seco/fr/home/Publikationen\\_Dienstleistungen/Publikationen\\_und\\_Formulare/Strukturwandel\\_Wachstum/Wachstum/Grundlagen\\_Neue\\_Wachstumspolitik.html](https://www.seco.admin.ch/seco/fr/home/Publikationen_Dienstleistungen/Publikationen_und_Formulare/Strukturwandel_Wachstum/Wachstum/Grundlagen_Neue_Wachstumspolitik.html).

<sup>18</sup> The measures are: i) preservation and development of bilateral agreements with the EU; ii) improved market access for Swiss enterprises; iii) digital economy; iv) liberalization of the electricity market and regulation of the gas market; v) reduction of administrative impediments and better regulation of enterprises; vi) enhancing domestic competition through facilitation of imports; vii) development of the agricultural policy (2022-25); viii) regulation in the area of "too-big-to-fail"; ix) fiscal stabilization programme 2017-19; x) review of fiscal incentives raising private indebtedness; xi) energy strategy 2050; xii) climate change regulation after 2020; xiii) better regulation of the housing market; xiv) more efficient use of the transport infrastructure.

<sup>19</sup> Federal Council (2016).

<sup>20</sup> Based on the comparative price indices by Eurostat for consumer spending of private households in 2014. SECO (2016a).

<sup>21</sup> WTO (2011).

### Liechtenstein

1.25. The economy of Liechtenstein is small with a GDP of just over SwF 5 billion, a population of 37,622, a workforce of 38,755 in 2017, and about 4,300 enterprises. A distinctive feature of the economy is the large number of inward cross-border commuters (54% of Liechtenstein's workforce in 2015), mainly living in Switzerland and Austria.<sup>22</sup> GDP grew by 2.1% in 2013 and about 3% in 2014 (Table 1.2).<sup>23</sup>

1.26. The manufacturing sector is the largest sector of the economy, contributing about 40% to GDP in 2015. There are about 600 enterprises that operate mainly in market niches such as professional entertainment connector products (Neutrik AG). The main industries are automotive components (ThyssenKrupp Presta AG – the largest employer of Liechtenstein), mechanical engineering and electrical machinery (Hilti AG), dental technology (Ivoclar Vivadent AG), and food products (Hilcona AG).

1.27. Services contribute about 52% of GDP and there are about 3,800 services enterprises. Liechtenstein's financial services industry – the third-largest sector of the economy after general services with about 24% of GDP – is specialized in private banking, wealth management, and funds, trustee and insurance services. Total (global) assets under management by Liechtenstein banks have continued to increase to SwF 210 billion in 2015 (up from SwF 172 billion in 2009), including an increase of assets under management in the domestic banking system from SwF 118.3 billion in 2009 to 130.5 billion in 2015 (Box 4.6).

1.28. The period since the last TPR in 2013 has been marked by a consolidation of the state budget, as Liechtenstein continues its policy of zero external debt.<sup>24</sup> Following several years of rising deficits (2010-13), three fiscal stabilization packages were implemented, involving savings of about SwF 162 million in the areas of personnel, material costs, and financial contributions, and increased revenues of SwF 59 million. Income taxes are the main source of government revenues (totalling SwF 228 million from companies and SwF 227 million from natural persons in 2015). Liechtenstein applies a corporate income tax of 12.5%. The State budget posted a surplus in 2014 and 2015. The proposed budget for 2016-19 aims at a balanced budget without further savings measures. The sustainability of the social security balances has been strengthened by the recent reform of the retirement scheme (AHV). In October 2015, Liechtenstein Post AG, which is majority state-owned by Liechtenstein, was recapitalized due to financial difficulties.

**Table 1.2 Liechtenstein – Selected macroeconomic indicators, 2012-15**

	2012	2013	2014	2015
GDP at market prices (SwF million) <sup>a</sup>	5,116	5,925	6,105	..
GDP at market prices (US\$ million) <sup>a, b</sup>	5,456	6,392	6,672	..
Real GDP (%age change)	-0.1	2.1	3.0	..
GNI per inhabitant at current prices (SwF)	97,410	108,830	..	..
Population ('000)	36.8	37.1	37.4	37.6
GDP by industry (% of GDP at basic prices)				
Industry and manufacturing	38.6	40.7	41.0	..
General services	28.9	27.3	26.8	..
Financial services	24.0	25.1	25.2	..
Agriculture and households	8.6	7.0	7.0	..

.. Not available.

a Provisional data for 2014.

b Swiss/US\$ exchange rate was applied.

Source: Statistical information provided by the authorities of Liechtenstein; *Volkswirtschaftliche Gesamtrechnung 2014* (National Accounts 2014). Viewed at: <http://www.llv.li/files/as/volkswirtschaftliche-gesamtrechnung-2014.pdf> [January 2017]; and *Liechtenstein in Figures 2017*. Viewed at: <http://www.llv.li/files/as/fliz-englisch-2017.pdf> [January 2017].

<sup>22</sup> Liechtenstein has one of the highest per capita incomes in the world (averaging over US\$150,000) (Table 1.2). Since the GDP is generated by the entire workforce, country comparisons of GDP per capita may in the case of Liechtenstein lead to misleading conclusions.

<sup>23</sup> As Liechtenstein estimates its GDP based on tax declarations, results for a given year are only available two years thereafter.

<sup>24</sup> The accumulated fiscal reserves amounted to about SwF 1.4 billion in 2015, equivalent to approximately two years of spending.

### 1.3 Developments in Trade and Investment

#### 1.3.1 Trends and patterns in merchandise and services trade

1.29. Switzerland's merchandise trade recovered quickly following the global financial crisis in 2008-09. Exports increased by 7.2% in 2010; in 2009 they fell by 12.5%. From 2011 until 2013, however, with the sluggish growth of world trade, the growth in Swiss exports began to slow. This was followed in 2014 by a 3.6% increase in exports to SwF 208 billion (exceeding the record of 2008), but in 2015 exports declined again (down 2.6%), reflecting the appreciation of the Swiss franc against the euro (Table A1.1). As an indication of the exchange rate sensitivity of Swiss exports, the Swiss franc appreciated by 8.7% against the currencies of Switzerland's main trading partners in 2015, and exports declined by 2.6%; the depreciation of the Swiss franc against the U.S. dollar went along with an increase in exports to North America (Table 1.3). Since mid-2015, Swiss merchandise exports have appeared to show signs of a recovery, signalling that the Swiss economy may have started to adjust to the exchange rate shock against the euro, but the trend differs from industry to industry (for trade in agricultural products, see Section 4.1).

**Table 1.3 Swiss exports and the external value of the Swiss franc**

Continents	Annual change from 2014 to 2015, in %	
	SwF value <sup>a</sup>	Exports
Europe	+13.0	-5.0
Asia	+0.9	-0.1
North America	-3.7	+5.4
Total	+8.7	-2.6

a Based on the exchange rate index of the Swiss franc weighted by export. This index measures the external value of the Swiss franc against the currencies of the major trading partners of Switzerland. A rise in the index indicates an appreciation of the Swiss franc.

Source: Federal Customs Administration, "*Rapport annuel: Commerce extérieur suisse 2015*". Viewed at: <http://www.ezv.admin.ch/themen/04096/04101/04125/index.html?lang=fr>.

1.30. The chemical and pharmaceutical industry is the largest export industry and accounted for approximately SwF 85 billion, or over 40% of total goods exports, in 2015 (Table A1.1). The industry has been the main driver of Swiss merchandise exports, while the exports from the rest of the economy have been declining since 2011 (in volume terms). Exports of chemical and pharmaceutical products continued to surge in 2016. One of the main factors contributing to the industry's export performance is its strong integration into global value chains to maximize economies of scale and improve competitiveness. Industry sources estimate that over three-quarters of Swiss chemical and pharmaceutical products are deliveries to foreign subsidiaries.<sup>25</sup>

1.31. The machine and electronics industry and the metal industry have been particularly affected by the strong Swiss franc in recent years, with export revenues still significantly below the levels observed prior to the global financial crisis. Machine-electronics exports fell to SwF 31.1 billion in 2015 (down 6.9% on 2014), with a decline in exports to the main markets (EU and China), while exports to the U.S. increased by 6%.

1.32. The watch industry generated impressive export growth in recent years (up 22% in 2010, up 19% in 2011, and up 11% in 2012), but since mid-2014 exports have been declining, for reasons including the strong Swiss franc; and cooling demand in key Asian markets (Hong Kong, China; China; and Japan). Watch exports declined to SwF 21.5 billion in 2015 (down 3.2% on 2014).

1.33. Switzerland's total merchandise imports increased marginally in 2013 and 2014, but dropped by 6.8% to SwF 166.4 billion in 2015, reflecting a decline in import prices (Chart 1.4 and Table A1.3). In real terms, imports were virtually unchanged in 2015. About half of Swiss imports are consumer goods (48.1% in 2015); the remainder are capital goods (24.3%), raw materials and semi-manufactures (22.5%), and energy (5.1%). The energy import bill declined by 30% to SwF 8.4 billion in 2015.

<sup>25</sup> SECO (2016b).



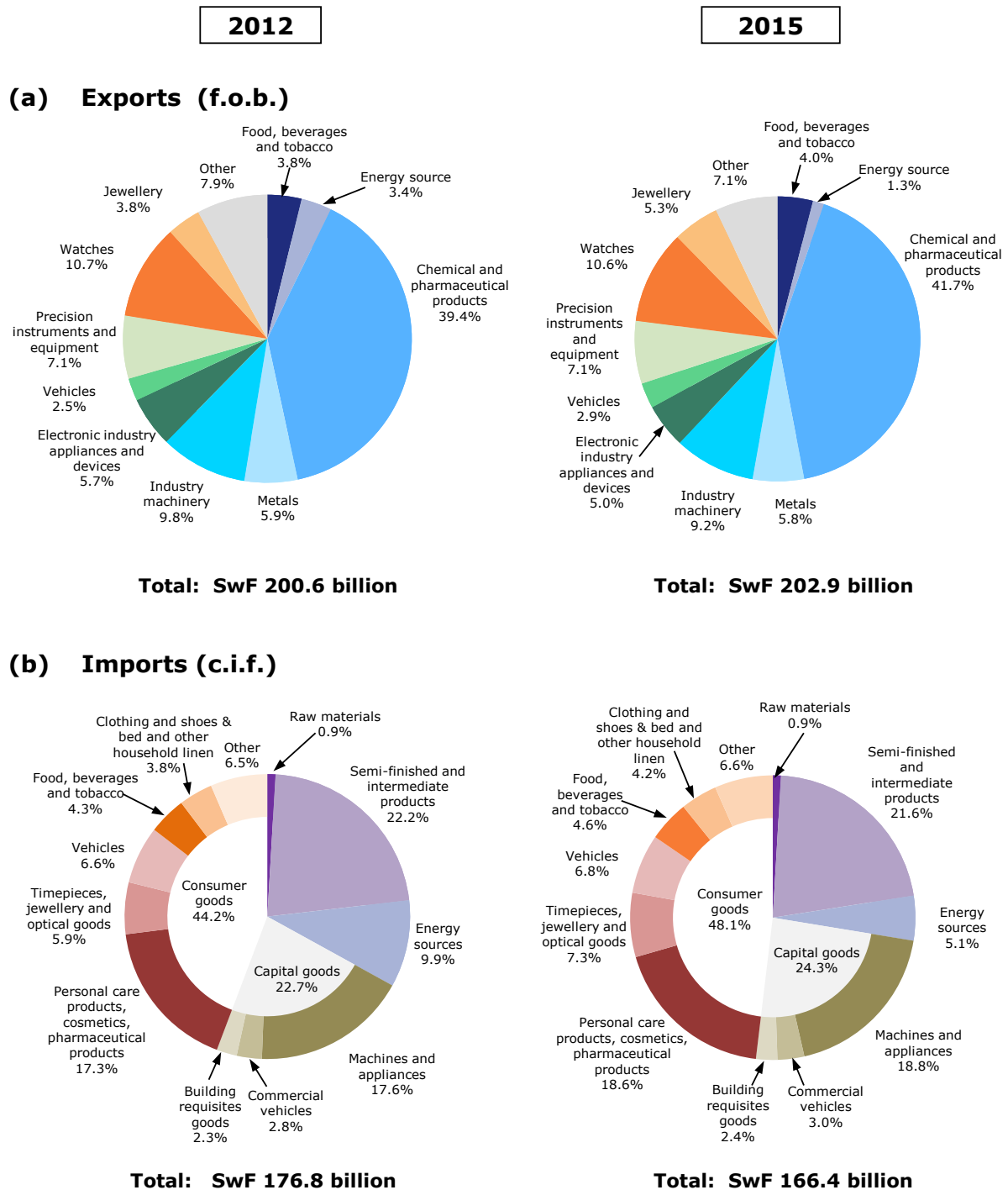
1.34. European countries, and especially euro zone countries, remain Switzerland's most important export and import markets. The United Kingdom was Switzerland's fifth-largest trading partners for exports in 2015 (5.8% of total exports) and eighth-largest for imports (3.9% of total imports). Some of the main shifts in the direction of trade include a significant increase of exports to the United States and China. Switzerland's export surplus to the United States has increased markedly in recent years, owing mainly to the rise in exports of pharmaceutical-chemical products, which account for about half of Swiss exports to the United States. On the import side, imports from China reached SwF 12.3 billion in 2015 (up 50% since 2010), increasing its share in total merchandise imports to 7.4% (up from 5.8% in 2012).

1.35. Liechtenstein traditionally runs a surplus in direct merchandise trade, which excludes trade with Switzerland. It does not reflect Liechtenstein imports, such as automobiles, that are imported indirectly from third countries via Switzerland. Liechtenstein's direct exports and direct imports in 2014 reached SwF 3.45 billion and SwF 2.04 billion, respectively (Table A1.5). Liechtenstein's main sources and destinations of trade are Switzerland, Germany, and the United States.

1.36. Switzerland is traditionally a net exporter of services, but its services surplus continued to decline during the review period (Table A1.6). Since the global financial crisis, exports of services have fluctuated around a level of just over SwF 100 billion annually, while services imports show a long-term rising trend. Financial services remain the leading export sector, although exports have declined steadily since 2007, reflecting the above-mentioned factors. The share of financial services in total services exports decreased from about 34% in 2007 to 18.3% in 2015.

1.37. Business services account for the largest share of Switzerland's services imports. The main reason for increasing services imports have been an increase in business services and imports of patents and licences. Services imports have also been underpinned by rising tourism imports, i.e. increased foreign travel by Swiss residents benefiting from a strong Swiss franc.

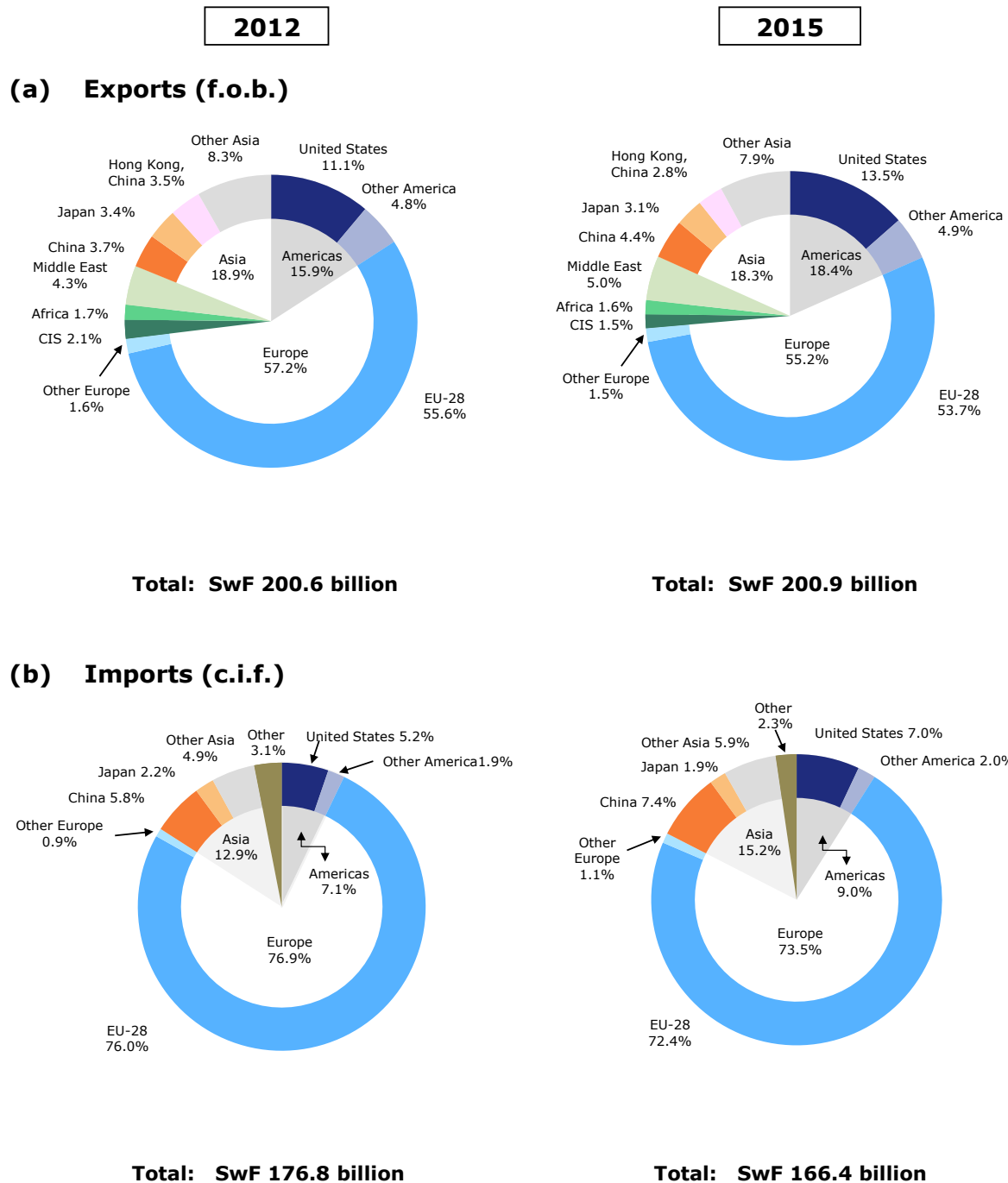
**Chart 1.4 Composition of merchandise trade, 2012 and 2015**



Source: WTO Secretariat calculations, based on the Swiss-Impex database of the Swiss Federal Customs Administration.



**Chart 1.5 Direction of merchandise trade, 2012 and 2015**



Source: WTO Secretariat calculations, based on the Swiss-Impex database of the Swiss Federal Customs Administration.

### 1.3.2 Trends and Patterns in FDI

1.38. According to UNCTAD, Switzerland ranks among the top destinations for foreign direct investment (inward FDI) and as a source of outward FDI (measured in terms of capital stock).<sup>26</sup> Numerous large multi-nationals have their headquarters in Switzerland and it is also an attractive location for foreign-controlled holding companies.<sup>27</sup> Finance and holding companies account for well over half of the inward FDI stock (SwF 409 billion in 2014). The year-to-year volatility of

<sup>26</sup> UNCTAD (2016).

<sup>27</sup> SNB (2015).

Switzerland's FDI flows is in part due to financial restructuring of finance and holding companies and their foreign subsidiaries, for reasons explained by the IMF above (Section 1.2).<sup>28</sup> Swiss data on FDI collected by the SNB also include Liechtenstein; separate data are not available.

1.39. Switzerland's flows of direct investment abroad declined from 2011-14, before a major rebound followed in 2015 in line with a global recovery in FDI, according to UNCTAD. In 2013, outward FDI flows declined to 35.7 billion (Table A1.7). Equity investment (including re-invested earnings) by Switzerland-based banks and insurers in their foreign subsidiaries accounted for the largest share of the FDI flows in 2013 (SwF 18 billion). The main destinations were the EU (SwF 11.7 billion) and Asia (SwF 11 billion). In 2014, Swiss FDI flows turned negative, driven by disinvestment abroad notably by the trade and banking sectors. The industrial sector, on the other hand, increased its outward FDI to SwF 26 billion. Asia was the main FDI destination with SwF 10 billion in 2014. The capital stock abroad declined in 2013, mainly due to financial operations by foreign-controlled finance and holding companies that are unrelated to actual operations. In 2015, Switzerland's FDI surged to SwF 70.3 billion (according to UNCTAD data), which was one of the largest increases worldwide.

1.40. Inward FDI decreased from SwF 15 billion in 2012 to SwF 0.6 billion in 2013, mainly due to capital withdrawals from finance and holding companies, and banks. In 2014, inward investment flows increased to SwF 6.1 billion, largely due to investments in finance and holding companies, and in banks.

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<sup>28</sup> Swiss data on FDI collected by the SNB also include Liechtenstein; separate data are not available.

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## 2 TRADE AND INVESTMENT REGIME

### 2.1 General Framework

2.1. The Swiss Confederation is a federal State comprising 26 cantons, according to the Federal Constitution of 18 April 1999. About 2,300 local authorities (communes) form the third political administrative level. The principle of subsidiarity applies (Article 5), thus matters are dealt with at the lowest political level possible. The Federal Constitution assigns exclusive responsibility for certain tasks to the Confederation, including foreign and security policy, customs and monetary matters, legislation applicable nationally, and defence. Subjects not expressly designated as federal matters are the responsibility of the cantons. The cantons thus exercise considerable autonomy in several areas, including taxation, health, education and cultural policies.

2.2. At the federal level, legislative power is vested in the bicameral Federal Assembly, comprising a National Council and a Council of States. The 200 members of the National Council are elected for four-year terms by proportional representation (according to the number of inhabitants in each canton) in a nationwide popular vote. The 46 councillors of the Council of States are elected at the cantonal level and represent their respective cantons.<sup>1</sup> Decisions of the Federal Assembly must be accepted by both chambers to be adopted. The Federal Assembly appoints the judges of the Federal Court (Supreme Court). At the cantonal level, most legislatures are unicameral parliaments of varying sizes. Two cantons have retained the practice of general popular assemblies (*Landsgemeinde*).

2.3. The system of direct democracy is deeply rooted in Swiss political culture. The first Federal Constitution of the Swiss Confederation was approved by referendum in 1848. The Federal Constitution requires amendments thereto, accession to organizations for collective security or to supranational communities, and certain emergency acts to be approved by referendum (mandatory referendum). Several other matters, including federal laws, federal decrees and international treaties, are subject to optional referendum. A trade agreement may be subject to optional referendum depending on its content.<sup>2</sup> Popular initiatives for a full or partial revision of the Federal Constitution may be called by the collection of a minimum of 100,000 signatures of eligible voters within an 18-month period. Items subject to optional referendum may be challenged within 100 days of their publication by a minimum of 50,000 eligible voters, or a referendum may be requested by at least eight cantons. A double majority is required for matters subject to mandatory referendum; for all other items, the majority of the votes cast is sufficient.<sup>3</sup> Nationwide referendums are organized regularly, typically two to four times per year, and normally with more than one item up for vote each time.<sup>4</sup> A popular initiative may, in principle, be organized by any Swiss citizen eligible to vote. In practice, initiatives are tabled by ad hoc committees supported by social groups with (or against) recommendations of the political parties.

2.4. Federal executive power is vested in the seven-member Federal Council, assisted by the Federal Chancellery. The members of the Federal Council and the Federal Chancellor are appointed by the Federal Assembly after each general election. The Federal Council reaches its decisions as a collegial body<sup>5</sup>, based on a tradition of consensus. The Federal Assembly elects the President and Vice-President of the Confederation annually from among the seven federal councillors.<sup>6</sup>

2.5. Within the Federal Department for Economic Affairs (FDEA), the State Secretariat for Economic Affairs (SECO) is the main agency dealing with economic policy issues. SECO's responsibilities include the formulation and implementation of trade policy, and representation in multilateral institutions such as the WTO. Its responsibilities are derived from various laws and regulations (Table 2.1). Domestically, SECO acts as an interface between business, trade unions,

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<sup>1</sup> Each canton elects two councillors, except the six half-cantons (Appenzell Inner Rhodes, Appenzell Outer Rhodes, Basel-City, Basel-County, Nidwalden, and Obwalden), which elect one councillor each.

<sup>2</sup> Article 141.1(d) of the Federal Constitution stipulates, *inter alia*, that international agreements containing important legal norms or requiring federal implementing legislation are subject to optional referendum.

<sup>3</sup> The double majority requirement stipulates approval by the majority of voters nationwide as well as voter majorities in at least 12 cantons. The results in the six half-cantons each count as a 0.5-vote in the cantonal outcome.

<sup>4</sup> Voters may also be invited to decide on cantonal and communal matters in local referendums.

<sup>5</sup> Article 177 of the Federal Constitution.

<sup>6</sup> The positions rotate annually between the members of the Federal Council.

NGOs and government. SECO's portfolio includes economic development cooperation by means of its trade-related technical assistance activities. Some of SECO's activities have been delegated, for instance, import and export promotion and inward investment (to Switzerland Global Enterprise (S-GE)) and the management of SECO's investments in developing and transition economies (to the Swiss Investment Fund for Emerging Markets). Switzerland's relationship with the European Union is coordinated by the Directorate for European Affairs (DEA) within the Federal Department of Foreign Affairs (FDFA).<sup>7</sup>

**Table 2.1 Main trade-related laws and regulations, 2016**

Legislation	Entry into force/ latest amendment	Reference
<b>Switzerland</b>		
Federal laws on intellectual property and protection of data, 1931-2001 <sup>a</sup>	1932-2002/2016	Laws in the series RS 23
Ordinances on animal husbandry, 1984-2011 <sup>a</sup>	1985-2012/2015	Ordinances in the series RS 916.3
Federal Law on Government Procurement of 16 December 1994 <sup>a</sup>	1 January 1996/2015	RS 172.056.1
Federal Law against Unfair Competition of 19 December 1986	1 March 1988/2016	RS 241
Federal Law on Cartels and Other Impediments to Competition of 6 October 1995	1 February 1996/2014	RS 251
Federal Law on the Protection of Animals of 16 December 2005 <sup>a</sup>	1 September 2008/2014	RS 455
Federal Law on War Material of 13 December 1996 <sup>a</sup>	1 April 1998/2009	RS 514.51
Federal Law on National Economic Supply of 8 October 1982 <sup>a</sup>	1 September 1983/2007	RS 531
Customs Law of 18 March 2005 <sup>a</sup>	1 May 2007/2011	RS 631.0
Federal Law on Customs Tariffs of 9 October 1986 <sup>a</sup>	1 January 1988/2013	RS 632.10
Federal Law on Stamp Duty of 27 June 1973 <sup>a</sup>	1 July 1974/2015	RS 641.10
Federal Law Regulating Value-Added Tax of 12 June 2009 <sup>a</sup>	1 January 2010/2015	RS 641.20
Federal laws on taxation of tobacco, beer, alcohol, motor vehicles, and mineral oils, 1932-2006 <sup>a</sup>	1933-2007/2016	RS 641.31; 641.411; 680; 641.51; and 641.61
Federal Law on Medicinal Products and Medical Devices of 15 December 2000 <sup>a</sup>	1 January 2002/2013	RS 812.21
Federal Law on Protection against Hazardous Substances and Preparations of 15 December 2000 <sup>a</sup>	1 January 2005/2014	RS 813.1
Federal Law on Agriculture of 29 April 1998 <sup>a</sup>	1 January 1999/2013	RS 910.1
General Ordinance on Imports of Agricultural Products of 26 October 2011 <sup>a</sup>	1 January 2012/2016	RS 916.01
Law on Price Surveillance of 20 December 1985	1 July 1986/2005	RS 942.20
Federal Law on the Internal Market of 6 October 1995	1 July 1996/2005	RS 943.02
Federal Law on Consumer Information of 5 October 1990	1 May 1992/2000	RS 944.0
Federal Law on Swiss Insurance against Export Risks of 16 December 2005	1 June 2006/2014	RS 946.10
Federal Law on Export Promotion of 6 October 2000	1 March 2001/2005	RS 946.14
Federal Law on External Economic Measures of 25 June 1982 <sup>a</sup>	1 January 1983/2005	RS 946.201
Federal Law on the Application of International Sanctions of 22 March 2002 <sup>a</sup>	1 January 2003/2004	RS 946.231
Ordinance on Attestation of the Non-Preferential Origin of Goods of 9 April 2008 <sup>a</sup>	1 May 2008/2014	RS 946.31
Federal Law on Technical Barriers to Trade of 6 October 1995 <sup>a</sup>	1 July 1996/2009	RS 946.51
<b>Liechtenstein</b>		
Law on Craft, Trade and Industry	1 January 2007/2015	LR 930.1
Government Ordinance on Craft, Trade and Industry	15 June 2011/2012	LR 930.11
Law on the Provision of Services	9 December 2010/2014	LR 930.4
Law on Payment Services	1 November 2009/2016	LR 950.1
E-Money Act	1 May 2011/2016	LR 950.3
Law on undertakings for collective investment in	1 August 2011/2016	LR 951.31

<sup>7</sup> A joint (SECO-FDFA) Integration Office performed this task until the end of 2012.

Legislation	Entry into force/ latest amendment	Reference
transferable securities		
Laws on government procurement	1998-2014	Laws in the series LR 172.05
Laws on intellectual property, including authors' rights, industrial property, and data protection	1957-2002/2016	Laws in the series LR 23
Law against Unfair Competition	1 November 1994/2016	LR 240
Government Ordinance on Indication of Prices	24 September 1996/1999	LR 240.12
Law on Consumer Information	17 December 2002/2015	LR 944
Law concerning the Application of International Sanctions	1 March 2009	LR 946.21
Law on the Revision of the Persons and Companies Act	1 April 2009/2015	LR 216.0
Law on National and Municipal Taxes	1 January 2011/2016	LR 640.0
Government Ordinance on National and Municipal Taxes	1 January 2011/2016	LR 640.01
Law on the Promotion of Liechtenstein as a Business and Tourism Location	1 January 2012	LR 935.20
Law on Agriculture	1 July 2009/2016	LR 910.0

a Also applicable to Liechtenstein, due to the Customs Union Treaty.

Source: Federal Authorities of the Swiss Confederation online information, "*Recueil systématique du droit fédéral*". Viewed at: <http://www.admin.ch/ch/f/rs/rs.html>; and Liechtenstein authorities online information. Viewed at: <http://www.gesetze.li>.

2.6. The Constitution of the Principality of Liechtenstein (LR 101) of 5 October 1921 proclaims Liechtenstein a constitutional, hereditary monarchy (male line) on a democratic and parliamentary basis. The power of State is embodied in the Reigning Prince and the People and exercised by both. The Reigning Prince represents the State in all its relations with foreign countries and sanctions all laws passed by the unicameral Parliament (Landtag). The Constitution grants him jurisdictional immunity. The Reigning Prince appoints the Government, comprised of the Prime Minister and four Ministers, for four years on the proposal of the Parliament. The Reigning Prince may dismiss the Government or its members if they lose his confidence, but he must appoint an interim government immediately in such case.<sup>8</sup>

2.7. The Parliament comprises 25 representatives elected for renewable four-year terms by universal adult suffrage under a system of proportional representation.<sup>9</sup> No law may be enacted, amended, or declared to be authentic without the participation of Parliament (Article 65 of the Constitution), and no direct or indirect taxes or any other national dues or general levies may be imposed or collected without the approval of Parliament (Article 68). In order to become effective, a law must receive the assent of Parliament, be sanctioned by the Reigning Prince, countersigned by the Prime Minister or the Deputy Prime Minister, and promulgated in the Liechtenstein Law Gazette.

2.8. Amendments to the Constitution (in whole or in part) and resolutions of Parliament concerning assent to an international treaty may be subject to popular vote if the request is backed by at least 1,500 Liechtenstein citizens eligible to vote or by a minimum of four municipalities. For laws and financial resolutions involving new, non-recurrent expenditure of at least SwF 500,000 (or new annual recurrent expenditure of SwF 250,000) the threshold for a referendum is 1,000 signatures (or the support of a minimum of three municipalities).<sup>10</sup> Participation in elections and referendums is compulsory.

2.9. Liechtenstein's state administration consists of 36 bodies (including offices and units), and all but two of them are under government control.<sup>11</sup> The Office of Economic Affairs implements economic policy, and the Office for Foreign Affairs coordinates Liechtenstein's membership in

<sup>8</sup> The Constitution also grants a "reasoned motion of no-confidence against the Reigning Prince" to be put to a popular vote if the motion is supported by not less than 1,500 Liechtenstein citizens.

<sup>9</sup> The Principality of Liechtenstein is a union of two regions (Upper and Lower Country) with eleven municipalities. The Upper Country (15 representatives) and the Lower Country (10 representatives) each form a voting district. The capital Vaduz is the seat of Parliament and the Government.

<sup>10</sup> A referendum may not be called if a law or financial resolution is declared urgent.

<sup>11</sup> The Data Protection Office and the Financial Audit Office report to Parliament.

international agreements (such as the WTO Agreement and the EFTA Convention), including the administration of Liechtenstein's rights and obligations. The offices formulate policies in collaboration with other national offices or institutions, such as the Office for Agriculture, and in consultation with the private sector. An EEA Coordination Unit is responsible for Liechtenstein's participation in the European Economic Area (EEA).

2.10. The 1923 Swiss-Liechtenstein Customs Union Treaty ties the two countries together with a common regime for goods and, following Liechtenstein's unilateral introduction of the Swiss franc in 1924, also a common currency.<sup>12</sup> Switzerland acts on Liechtenstein's behalf in customs union matters, notably concerning trade policy measures affecting imports and exports of goods, and agriculture. The EFTA Convention regulates the bilateral relationship in services, government procurement, consumer protection, investment, and certain intellectual property rights.

## 2.2 Trade Policy Objectives

2.11. Key objectives for Switzerland's foreign economic policy are to strengthen Switzerland as a business location and support the positioning of Switzerland in a European and global context. A strong Swiss franc has become a regular feature making Switzerland a high cost location, and abrupt appreciation may accentuate this challenge. Consequently, achieving the best possible long-term environment for job creation and innovative activities requires an efficient infrastructure, a flexible labour market, lean administrative procedures, and the preservation of a stable political and macroeconomic climate.

2.12. Switzerland is a strong supporter of the WTO and advocates further liberalization of world trade. Switzerland has been an active participant in the Doha Development Agenda (DDA) negotiations and engages constructively in initiatives that may lead to further liberalization within the multilateral framework. However, Switzerland's multilateral approach is supplemented by an extensive preferential network to avoid discrimination against Swiss exporters in important markets. Relying on foreign trade to promote economic efficiency and job creation, Switzerland's relations with key trading partners, particularly the European Union and the United States, continue to be essential for the Swiss economy. The Swiss Government has examined the possible effects of a comprehensive free trade agreement with the EU as an alternative to the traditional bilateral approach, and dismissed the FTA as an option, since it is likely to provide less market access while offering no significant improvement in the regulatory autonomy of Switzerland.

2.13. The share of Switzerland's imports and exports subject to most favoured nation treatment is low (less than 20%) due to the dominance (albeit declining) of the EU in Swiss foreign trade, but also as a consequence of Switzerland's comprehensive network of FTAs with non-EU partners. Most of these agreements have been concluded within the framework of the European Free Trade Association (EFTA), supplemented by important bilateral FTAs with Japan and China. Switzerland views the expansion of its FTA network to additional emerging markets positively, but recognizes that diverging economic interests complicate such negotiations.<sup>13</sup>

2.14. Switzerland's Government is committed to implementing a foreign trade policy that facilitates sustainable economic growth in Switzerland as well as among its partners. Although the traditional aim is to improve market access for Swiss enterprises worldwide and to protect their investments abroad, the broader target is to create a win-win situation for all that includes the consideration of non-economic factors such as ecological and social aspects. Within the 2030 Agenda for Sustainable Development, approved at the UN Summit on 25 September 2015, Switzerland is working with its development partners, including international organizations, to support the Agenda's development goals and detailed targets.

2.15. Liechtenstein broadly shares the trade policy of Switzerland due to their close economic integration and through their membership in EFTA. Its trade policy objectives are set according to

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<sup>12</sup> The two countries formalized their common currency arrangement in a Currency Treaty of 19 June 1980.

<sup>13</sup> For example, while Switzerland would like new FTAs to facilitate exports of industrial goods and certain services (e.g. financial services and logistical services), strengthen the protection of intellectual property, liberalize government procurement, and focus on sustainable development (e.g. environmental and labour standards), some of its prospective partners would like to focus on significantly improved market access for agricultural exports or the provision of services through expanded movement of labour.

the country's trading environment, i.e. the Customs Union Treaty with Switzerland, and membership in EFTA, the EEA, and the WTO. As a country with a very small domestic market and a highly export-oriented economy, Liechtenstein seeks to ensure and extend non-discriminatory market access for its economic operators to the global markets. Liechtenstein's foreign economic policy assigns high priority to trade liberalization and the further development of a strong, rules-based international trading system.

## 2.3 Trade Agreements and Arrangements

### 2.3.1 WTO

2.16. Switzerland and Liechtenstein are original members of the World Trade Organization. They grant at least MFN treatment to all Members of the WTO, except those subject to economic sanctions.<sup>14</sup> Both countries are signatories to the plurilateral agreements on Trade in Civil Aircraft and Government Procurement and the Ministerial Declaration on Trade in Information Technology Products. Since 1 January 2017 and on a provisional basis, Switzerland and Liechtenstein have implemented the tariff reductions resulting from the expansion of the Information Technology Agreement (ITA II), agreed at the tenth Ministerial Conference in December 2015.<sup>15</sup> According to the Swiss authorities, ITA II affects an estimated annual trade volume of approximately SwF 30 billion (2012-14 average figures) for Switzerland, of which SwF 7.2 billion concern Swiss imports and exports not covered by an FTA (or where FTA tariff reductions have not been fully implemented yet). Switzerland and Liechtenstein became the 14<sup>th</sup> and 17<sup>th</sup> Members of the WTO to formally accept the WTO Agreement on Trade Facilitation in September 2015. Following the agreement to eliminate agricultural export subsidies among WTO Members reached in Nairobi, Switzerland will phase out export subsidies on processed agricultural products by the end of 2020. Liechtenstein became the first WTO Member to ratify the revised plurilateral Agreement on Government Procurement (of 30 March 2012) in 2013. Switzerland intends to accede to the revised agreement once all required harmonized legislation has been adopted at the federal and cantonal levels, i.e. by 2017 at the earliest.

2.17. In the Doha Development Agenda negotiations, Switzerland has been participating in the Friends of Ambition (NAMA), Friends of A-D Negotiations (FANs), and the "Really Good Friends" (services) groups. Switzerland is the coordinator of the G10<sup>16</sup> and the group of W52 Sponsors.<sup>17</sup> Liechtenstein is also a participant in these two groups. Switzerland, negotiating also on behalf of Liechtenstein, is participating in the negotiations to conclude an Environmental Goods Agreement and, outside of the WTO agenda; the two countries are both participating in the negotiations to achieve a plurilateral Trade in Services Agreement (TISA).

2.18. During the period under review, Switzerland submitted approximately 130 notifications to the WTO. Although the majority of these notifications concerned TBT and TRIPS matters, a broad range of subjects have been covered (Table A2.1). Switzerland's notifications frequently include Liechtenstein, although Liechtenstein also provides separate notifications for certain measures (Table A2.2).

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<sup>14</sup> Switzerland and Liechtenstein implement all UN Security Council Resolutions. As a member of the EEA, Liechtenstein generally aligns itself with the EU sanctions regimes. Switzerland implements sanctions autonomously, taking into account the consolidated list of EU financial sanctions and the consolidated list of persons, groups and entities subject to EU financial sanctions. When the EU sanctions regime is not followed, measures are taken to ensure that Switzerland is not used to circumvent the sanctions applied by others. No sanctions are applied unilaterally. For further details, see Section 3.1.5.

<sup>15</sup> The tariff reductions are subject to final approval by Parliament and a possible referendum.

<sup>16</sup> A coalition of nine WTO Members lobbying for agriculture to be treated as diverse and special because of non-trade concerns.

<sup>17</sup> WTO Members (109) supporting a proposal for "modalities" covering the TRIPS issues in negotiations in the Doha Round, i.e. the extension of the higher level of protection for geographical indications beyond wines and spirits, the establishment of a corresponding multilateral register, and the introduction of a mandatory disclosure requirement on patent applicants to disclose the origin of genetic resources and traditional knowledge used in the inventions (WTO document TN/C/W/52/Add.3, 29 July 2008).



2.19. Neither Switzerland nor Liechtenstein has been involved in any dispute settlement cases as a complainant or respondent during the period under review. Switzerland has reserved its third-party rights or joined the consultations in three recent disputes involving other WTO Members.<sup>18</sup>

### 2.3.2 Regional and preferential agreements

#### 2.3.2.1 European Free Trade Association (EFTA)

2.20. Switzerland is a founding member of the EFTA, and Liechtenstein acceded in its own right in 1991. The other current members of EFTA are Iceland and Norway. The original EFTA Convention, signed in Stockholm in 1960, provided for free trade within EFTA in industrial goods from 31 December 1966. In 2001 (in Vaduz), the four current members signed a revised EFTA Convention, in force since 1 June 2002. The revised Convention extended the scope of EFTA to new areas such as trade in services, investment, land and air transport, public procurement, protection of intellectual property rights, mutual recognition of conformity assessments, free movement of persons, social security, and mutual recognition of diplomas. The revised EFTA Convention is updated on a continuous basis to ensure, wherever possible, that contractual relations between EFTA States develop in parallel with changes in agreements between EFTA States and the EU. Amendments in force since 2013 reflect developments in the areas of agriculture, land and air transport, social security schemes, and mutual recognition of conformity assessments.

2.21. EFTA States aim at maintaining and strengthening their competitive position worldwide. They have chosen to use the EFTA framework as much as possible to conclude free trade agreements with non-EU partners since the 1990s. The first FTAs were confined to trade in goods, i.e. industrial goods, fish, and processed agricultural products, with trade in basic agricultural products being covered by bilateral agreements with individual EFTA States. Additional elements of "first generation" FTAs were the protection of intellectual property rights and competition issues. More recent ("second generation") agreements add substantive rules on trade in services, investment and public procurement. EFTA States have also included model provisions on trade and sustainable development in the negotiating processes in a systematic manner since 2010.

2.22. Since 2013, FTAs with countries in Central America (Panama and Costa Rica), Bosnia and Herzegovina, and the Gulf Cooperation Council have entered into force. At present, the EFTA FTAs in force comprise a large network of 25 agreements with 35 partners outside the EU (Table A2.3). Agreements with the Philippines and Georgia, and the accession of Guatemala (to the FTA with the Central American States), have been signed but the FTAs are not yet in force. In addition, a number of new FTAs are under negotiation (Table 2.2). The review, updating, and expansion of existing FTAs, such as those with Turkey and Mexico, have also become important activities.

2.23. EFTA States do not have a common agricultural policy, and their agriculture support regimes differ considerably. However, in recently negotiated FTAs with Central American States, the Philippines, and Georgia the EFTA States have followed an integrated approach on trade in basic agricultural commodities, processed agricultural products, and industrial goods.

**Table 2.2 EFTA agreements under negotiation – RTAs under early announcement, 2016**

RTA name	Launch/First round of negotiations	RTA status	Remarks
EFTA-Costa Rica, Guatemala, Honduras, and Panama	28 February 2012	In force for Costa Rica and Panama	Protocol of accession of Guatemala signed on 22 June 2015; negotiations with Honduras are ongoing
EFTA-India	6 October 2008	Under negotiation	
EFTA-Indonesia	31 January 2011	Under negotiation	

<sup>18</sup> The disputes concern Argentina – Measures Affecting the Importation of Goods (DS438, DS444, DS445).



RTA name	Launch/First round of negotiations	RTA status	Remarks
EFTA-Viet Nam	22 May 2012	Under negotiation	
EFTA-Malaysia	25 March 2014	Under negotiation	
EFTA-Ecuador	14 November 2016	Under negotiation	

Note: EFTA FTA negotiations with Algeria, Russian Federation/Belarus/Kazakhstan, and Thailand are currently on hold.

Source: RTA Database, WTO, and information provided by the authorities.

2.24. EFTA States have signed joint declarations on cooperation with various partners, of which five declarations (Mercosur, Pakistan, Mongolia, Myanmar, and Mauritius) remain active. The declarations address several trade-related topics, including customs and origin matters, technical barriers to trade, intellectual property rights, trade in services, public procurement, competition, and information on foreign trade. The signing of a joint declaration on cooperation may be a step towards the initiation of free trade negotiations.

### 2.3.2.2 Agreement on the European Economic Area (EEA)

2.25. All EFTA States, except Switzerland, are members of the EEA. Switzerland participated actively in the negotiations leading to the establishment of the EEA. However, Switzerland's participation in the EEA was narrowly rejected in a referendum in December 1992.

2.26. The EEA<sup>19</sup> makes Iceland, Liechtenstein, and Norway full participants in the EU's internal market based on the principle of free movement of goods, persons, services and capital in all areas covered by the Agreement.<sup>20</sup> Uniform and common rules govern competition, including the provision of state aid. The EEA Agreement provides for the continuous inclusion of additional EU legislation related to the internal market. However, the EEA EFTA States have retained their legislative competencies, and EEA-relevant acts require passage through the respective national parliaments. In its latest biannual assessment, the Council of the European Union once again commended Liechtenstein for its continued excellent rate of implementation of EEA-relevant EU acquis.<sup>21</sup> In November 2016, 8,715 EEA-relevant EU acts were applicable in Liechtenstein.

2.27. The EEA Joint Committee, where the EFTA States speak with one voice and the European External Action Service (EEAS) represents the EU, takes decisions to include a new legal text in the EEA Agreement by consensus. This step must be completed before the implementation process begins in EFTA States. The EU acquis communautaire therefore usually enters into force with a time lag in EFTA States. Simplified procedures apply to urgent measures, e.g. safeguards or protective SPS measures, where implementation is simultaneous in EFTA and EU member States. The EFTA Surveillance Authority and the EFTA Court uphold a uniform legal standard with the EU in the three EFTA EEA members. Distinct from infringement actions brought before the EFTA Court against an EEA EFTA State regarding the implementation, application or interpretation of EEA law and procedures, procedures are also available for EEA EFTA States to request advisory opinions from the EFTA Court.

2.28. The EEA Agreement does not cover the EU Common Agricultural and Fisheries Policies; Common Trade Policy; Common Foreign and Security Policy; Justice and Home Affairs (although all EFTA States have joined the Schengen area), and the Economic and Monetary Union (EMU). However, Article 118 encourages cooperation beyond the four freedoms and in new areas. EFTA States have voluntarily joined a large number of EU programmes and activities, e.g. in research

<sup>19</sup> See [www.sewr.llv.li](http://www.sewr.llv.li) or [www.efts.int/eea](http://www.efts.int/eea) for further information.

<sup>20</sup> Liechtenstein has been granted a number of exemptions from the EEA Agreement either due to its size or because of its exceptionally close relationship with Switzerland. For example, whereas any EEA national may work in Liechtenstein (since 1 January 2000), only EEA nationals with residency permits may reside in the country. Taking account of the absorption capacity of Liechtenstein, an annual net increase in the population of residing EEA nationals is to be ensured among those that are economically active (+1.75%) and not economically active (+0.5%). At present, the minimum percentage increases translate into 56 additional permits for economically active EEA nationals and 16 permits for non-economically active EEA nationals per year. Half of these new permits are allocated through a balloting procedure with equal chances for all participants.

<sup>21</sup> Council of the European Union (2016).

and technological development, health, and civil protection. Liechtenstein has observer status in several EU agencies (e.g. EMEA, EFSA, EBA, EIOPA, and ESMA) and participates in three programmes in the current EU programme cycle.<sup>22</sup> The participation (without the right to vote) of EEA EFTA States in EU agencies is always based on a Joint Committee Decision incorporating the respective EU act into the EEA Agreement.

2.29. The growth in new EU legislation has been particularly pronounced in the TBT and SPS areas. Simultaneously, bilateral agreements between the EU and Switzerland have reduced differences in technical regulations significantly between Switzerland and the EEA since 1995. Nonetheless, customs tariffs or non-tariff requirements are different in Switzerland and the EEA for certain products. Liechtenstein maintains a Market Control and Surveillance Mechanism (MCSM) to comply with Swiss import requirements in such cases (Box 2.1). Amendments to the Additional Protocol to the Customs Union Treaty are made periodically to mirror legislation applicable due to amendments of the bilateral Swiss-EU Mutual Recognition Agreements. Now only a few products (chemicals, some telecom equipment, GMOs, fish, and fish products) remain subject to the MCSM.

### Box 2.1 Liechtenstein's Market Control and Surveillance Mechanism

As a consequence of Liechtenstein's EEA membership since 1 May 1995, and in order to maintain the Customs Union with Switzerland (Switzerland is not an EEA member), Liechtenstein must ensure the parallel marketability of goods under Swiss and EEA rules within its territory. Liechtenstein maintains a Market Control and Surveillance Mechanism (MCSM), applicable to imports subject to customs tariffs or non-tariff requirements that are different in the EEA and Switzerland, for this purpose. The MCSM aims at ensuring that goods that do not satisfy Swiss import requirements do not enter the Swiss market via the open border. The MCSM has been accepted by the other EEA members (EEA Council Decision No. 1/95).

The MCSM applies to professional traders, i.e. distributors/dealers/importers, and to three categories of goods (LGBI. 2009/394, Annex 1): (i) products on which Swiss and EEA import requirements remain different (e.g. pharmaceuticals, chemicals/goods hazardous to the environment, genetically modified organisms, some telecom equipment); (ii) goods subject to different tariffs under the 1972 FTA between Switzerland and the EU on the one hand, and the EEA agreement on the other (fish and fish products); and (iii) salt, as Liechtenstein exempts salt of EEA origin from the otherwise applicable Swiss salt monopoly.

Under the MCSM, the Swiss Federal Customs Administration clears all imports to Liechtenstein, collects duties, and informs the Liechtenstein Office of Economic Affairs. Where customs tariffs differ, the Swiss Customs reimburses importers the duties paid and informs them of their obligations, including the submission of proof of sale in Liechtenstein. Where import requirements differ, goods destined for Liechtenstein, in transit through Switzerland, are registered at the Swiss Customs, which sends an electronic copy of the customs documents to the Liechtenstein Office of Economic Affairs for processing. When in doubt (e.g. whether an importer has obtained a wrongful reimbursement of customs duties, or has paid the required customs duties on goods re-exported to Switzerland), the Liechtenstein administration may launch further investigations. Businesses involved in the production and import of the relevant goods must appoint an official contact person for this purpose. Wholesalers and retailers must keep proof of sales and provide notices in their stores that product use is limited to the Liechtenstein territory. Infringements of MCSM provisions are liable to fines of up to 20 times the amount of the customs duties wrongfully reimbursed or unpaid, or imprisonment for up to 6 months. Infringements identified so far have not entailed any criminal action; only written reprimands have been issued.

Source: WTO Secretariat.

2.30. Iceland, Liechtenstein and Norway have been providing funds to reduce social disparities in the EEA since 1994. Grants are administered by the Financial Mechanism Office in Brussels. Over the period 2009-14, EEA Grants set aside nearly €1 billion channelled through 5,246 projects in 16 beneficiary countries of the EU. Liechtenstein's GDP-based share of the funding will amount to approximately €10.5 million.<sup>23</sup> The Agreement on the EEA Financial Mechanism 2014-2021 foresees the provision of a further €1.5 billion, of which Liechtenstein's share will amount to approximately €16.5 million, with a focus on combatting youth unemployment.

<sup>22</sup> These three programmes are the Rights, Equality and Citizenship Programme 2014-2020, Erasmus+, and the European Statistical Programme 2013-2017.

<sup>23</sup> EEA Grants are co-financed by Norway (95.8%), Iceland (3%) and Liechtenstein (1.2%). In addition, Norway funds Norway Grants separately. The grants are made available to NGOs, academic and research institutions, and public and private sector bodies. Projects funded through the 2009-14 grants could be implemented until 2016 or, in exceptional cases, until 2017.

### 2.3.2.3 Bilateral agreements

2.31. Switzerland lodged an application to join the European Economic Community in May 1992. However, any possible timetable for Switzerland's eventual membership disappeared overnight with the rejection of the EEA Agreement by the majority of Swiss voters in December 1992. Negotiations on Switzerland's EU membership were never launched. On 1 March 2016, the National Council passed a motion for Switzerland to withdraw its EU membership application, and the Council of States decided likewise on 15 June 2016. The application was formally withdrawn in a letter dated 27 July 2016. At the same time, the Swiss Government expressed its wish to continue pursuing the existing bilateral approach to preserve and develop Switzerland's close relationship with the EU.

2.32. As a consequence of the Swiss voters' rejection of the EEA Agreement, Switzerland's relationship with the EU is currently governed by an extensive set of bilateral agreements, including the Free Trade Agreement (1972)<sup>24</sup>, the Insurance Agreement (1989), and two packages of agreements concluded in 1999 and 2004 (Bilateral Agreements I and II).<sup>25</sup> The seven agreements included in Bilateral Agreements I came into force simultaneously and involved classic market liberalization in respect of the free movement of persons, technical barriers to trade, public procurement, agriculture, overland transport and civil aviation, as well as an agreement on research that fully integrated Switzerland into the EU's framework research programmes at that time. The agreements in Bilateral Agreements I are linked to each other in such a way that the suspension, denunciation or non-renewal of one agreement affects the validity of the entire package ("guillotine clause"). The nine agreements constituting Bilateral Agreements II cover Switzerland's participation in the EU's Schengen and Dublin regimes, the European Environment Agency, and the EU's MEDIA programme; the taxation of savings; the fight against fraud; trade in processed agricultural products; statistics; and an agreement on certain EU pensions. Although Bilateral Agreements II was negotiated as a package, the agreements have entered into force individually.<sup>26</sup> An agreement on Switzerland's participation in EU education, vocational training, and youth programmes existing at the time was signed in 2010. The bilateral agreements have been submitted to the Swiss electorate and endorsed at regular intervals. Since 2008, Switzerland has also been making financial contributions to reduce economic and social disparities in the enlarged EU.<sup>27</sup> The legal basis for Switzerland's contribution, initially valid until 31 May 2017, was renewed until the end of 2024 on 30 September 2016. Projects are financed with an overall allocation of SwF 1,302 million.<sup>28</sup>

2.33. Negotiations to link the Swiss and EU systems for trading in CO2 emission rights were launched in 2011, and the agreement was recently initialled by both sides. Ongoing negotiations relate to the legal framework for a mutual free market in electricity, Switzerland's participation in "Creative Europe" (an extension of the "MEDIA 2007" programme), agriculture and food (including food safety, product safety and public health matters), and institutional issues. At present, the bilateral agreements are managed within a complex structure that includes several joint committees. Since May 2014, Switzerland and the EU have been negotiating a new framework for current and future bilateral agreements to ensure a consistent and efficient application of the

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<sup>24</sup> Protocol 3 of the FTA was modified on 3 December 2015, replacing its rules of origin provisions with a reference to the Pan-Euro-Mediterranean Convention for the cumulation of origin. The revised Protocol 3 entered into force on 1 February 2016.

<sup>25</sup> Overall, Switzerland and the EU have concluded approximately 20 major agreements and more than 100 supplementary agreements that regulate mutual access to an integrated market, sector by sector, and detail the cooperation between Switzerland and the EU in various areas.

<sup>26</sup> The Agreement on the Fight against Fraud was approved by the Swiss Parliament in 2004, but has not yet been ratified by all 28 EU member States, and is therefore not yet in force.

<sup>27</sup> A Memorandum of Understanding on a Swiss financial contribution was signed on 27 February 2006. The initial contribution, amounting to SwF 1 billion over a five-year period, has been supplemented by fresh funds following the accessions to the EU of Bulgaria (SwF 76 million), Romania (SwF 181 million), and Croatia (SwF 45 million). Switzerland decides autonomously on the use of the enlargement contribution funds and negotiates directly with the partner States on which projects to support. Information regarding projects financed under the mechanism is available (in English) at:

<https://www.erweiterungsbeitrag.admin.ch/erweiterungsbeitrag/en/home.html>. The most recent annual report on the Swiss Enlargement Contribution may be consulted at:

[https://www.erweiterungsbeitrag.admin.ch/content/dam/erweiterungsbeitrag/en/documents/Publikationen/eb-jahresbericht-2015\\_EN.pdf](https://www.erweiterungsbeitrag.admin.ch/content/dam/erweiterungsbeitrag/en/documents/Publikationen/eb-jahresbericht-2015_EN.pdf).

<sup>28</sup> The implementation period for projects in Bulgaria and Romania runs until December 2019 and in Croatia until mid-2024.

agreements on market access. Key issues concern the adaptation of the agreements to an evolving EU *acquis communautaire*, supervision of the good functioning of the agreements, uniform interpretation, and dispute settlement mechanisms. From Switzerland's point of view, it is critical to ensure that new mechanisms do not involve automatic incorporation by Switzerland of the *acquis communautaire* into its laws or its subjection to any supranational institution.

2.34. Although Switzerland is closely linked to the EU economically and politically, the relationship suffered a setback when Swiss voters approved a constitutional initiative to better manage immigration in a referendum in February 2014. The constitutional provisions provide a three-year deadline for its implementation, i.e. until February 2017. The amendments required by the initiative in Switzerland's Constitution raise questions regarding their compatibility with the bilateral Agreement on the Free Movement of Persons with the EU.<sup>29</sup> The free movement of persons is at the core of EU-Switzerland relations. As a consequence of the vote, the EU has made it clear that the conclusion of various dossiers is contingent on a solution on the free movement of persons. The Swiss Federal Parliament adopted implementing legislation for the new constitutional provisions on 16 December 2016. The legislation provides for the improved realization of the workforce potential in Switzerland in the first phase and, in the second phase, for the obligation to notify vacant positions to the regional placement offices in sectors with a high unemployment rate.

2.35. Although most of Switzerland's free trade agreements are concluded together with Liechtenstein, Iceland and Norway within the EFTA framework, EFTA States have the possibility of entering into FTAs on an individual basis. In addition to the bilateral agreements with the EU, Switzerland has concluded bilateral free trade agreements with the Faroe Islands (1995), Japan (2009), and China. The bilateral FTA with China, in force since 1 July 2014, comprises 16 chapters covering trade in goods and services, including customs procedures and trade facilitation, trade remedies, investment promotion, transparency in government procurement, environmental issues and dispute settlement.<sup>30</sup> As a result of the FTA, imports from China are now duty free for 86.2% of Switzerland's tariff lines, while 1,148 tariff lines will remain dutiable. The two countries have granted each other tariff concessions on industrial goods as well as on a range of basic and processed agricultural goods. Regarding trade in services, the bilateral FTA includes market access commitments beyond the WTO General Agreement on Trade in Services (GATS) in many areas, including for financial services, air transport services, private sector training services, and short-term services provided by highly qualified natural persons. FTA rules, particularly related to transparency and licensing procedures, are also more specific than those set out in the GATS. Switzerland's FTA with China is accompanied by a bilateral agreement on labour and employment cooperation and five side agreements dealing with TBT and SPS matters.

2.36. Provisions related to trade in goods in Switzerland's free trade agreements with the Faroe Islands, Japan, and China also apply to Liechtenstein by virtue of the 1923 Customs Union Treaty. Other elements of the FTAs, such as trade in services, are not extended to Liechtenstein.

2.37. Switzerland and Liechtenstein were not involved in any disputes under their regional or bilateral agreements during the period under review.

### **2.3.3 Other agreements and arrangements**

#### **2.3.3.1 Non-reciprocal preferential arrangements**

2.38. Switzerland's Generalized System of Preferences (GSP) scheme has been revised several times since its introduction in 1972, but essentially remained unchanged during the period under review.<sup>31</sup> The last major modification occurred in 2011, when the revised Federal Ordinance on Rules of Origin on Tariff Preferences for Developing Countries aligned Swiss origin criteria with

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<sup>29</sup> A request from Switzerland to renegotiate the bilateral agreement was rejected by the Council of the European Union in July 2014. Since February 2015, Switzerland and the EU have been looking for a mutually amenable solution based on a common interpretation of the existing safeguard clause in the bilateral Agreement on the Free Movement of Persons.

<sup>30</sup> The notification of the bilateral FTA was circulated in WTO document WT/REG351/N/1 and S/C/N/742 of 2 July 2014. The WTO Secretariat's factual presentation of the FTA is contained in document WT/REG351/1 of 18 June 2015.

<sup>31</sup> The scheme has also been applicable to Liechtenstein since 1972 by virtue of the Customs Union Treaty.

those applied by the EU and Norway, thereby allowing producers in developing countries to take advantage of a unified European market with respect to origin rules for products within HS chapters 25 to 97.

2.39. Switzerland grants duty-free, quota-free market access for products originating in least developed countries (LDCs). Countries that have joined an international debt relief initiative supported by Switzerland and have not yet eliminated their debt may be deemed equivalent to LDCs by Switzerland.<sup>32</sup> For other developing countries, the GSP scheme provides tariff exemptions or tariff reductions on approximately 7,000 tariff lines (at the 8-digit level). Proof of origin must be submitted to claim GSP treatment: a certificate (or replacement certificate) of origin Form A, a declaration of origin on the invoice for shipments of originating products with a value of SwF 10,300 or more or, since 1 January 2017, a statement of origin.

2.40. As a trade facilitation measure in keeping with paragraph 4.2 of the WTO Ministerial Decision of 19 December 2015 on preferential rules of origin for least developed countries, Switzerland introduced the Registered Exporter system (REX system) on 1 January 2017.<sup>33</sup> The new electronic system is replacing Form A certificates with statements of origin issued by the exporters. The self-certification system requires exporters to register with the competent authorities in the exporting country for this purpose.<sup>34</sup> Switzerland expects the REX system together with a new non-alteration rule<sup>35</sup> to significantly reduce the administrative burden related to documentary and procedural requirements for LDC and GSP beneficiaries.<sup>36</sup>

2.41. Further information on the GSP scheme, including utilization rates, is provided in Section 3.1.4.6.

## 2.4 Investment Regime

### 2.4.1 Switzerland

2.42. Under the principle of freedom of trade, any person in Switzerland can run a business, setup a company, or own shares in a company. No approval by the authorities, no membership of chambers of commerce or professional associations, and no annual reporting of operating figures are required to establish a business. The only requirement is that the authorized signatory is domiciled in Switzerland. If the authorized signatory is a foreign national he must have both work and residence permits in order to conduct a business personally on a permanent basis. In 2013, around 1 in 3 founders of new companies were non-Swiss.

2.43. Table 2.3 below describes in detail the conditions regulating the granting of work and residence permits in Switzerland.

**Table 2.3 Work and residence permits: rules and procedures, 2014-16**

Rules for EU/EFTA citizens		Rules for citizens of non-EU/EFTA countries
EU-25	EU-2: Romania and Bulgaria	
<b>Short-term resident permit</b>		
(Permit L-EU/EFTA) - Entitlement as long as proof is provided of employment in Switzerland lasting between 3 months and 1 year (for employment of less than 3 months in one calendar year: registration only) - Family reunification possible	(Permit L-EU/EFTA) - Entitlement as long as proof is provided of employment lasting up to 1 year. Renewal after 1 year if secure employment is obtained, subject to quota. - Annual quota of 9,090 permits (2014-15), then 11,664 permits (2015-16) - Priority for Swiss workers, inspection of remuneration and working conditions - Family reunification possible	(Permit L) - For key positions (forming a company, training of new employees, specialists working for international companies): 12 months, can be extended to 24 months - Family reunification possible - Annual quota of 5,000 permits - Trainees/interns: valid for 12-18 months, no provision for family reunification

<sup>32</sup> This provision applies to Côte d'Ivoire.

<sup>33</sup> Switzerland applies the REX system together with the EU and Norway.

<sup>34</sup> Eligible beneficiary countries wishing to apply the REX system should inform Swiss Customs in writing as soon as practically possible. The process of adaptation to the REX system is open until June 2020.

<sup>35</sup> The non-alteration rule, allowing consignments to be split into sub-consignments without mandatory presentation of a non-manipulation certificate, replaces the direct transportation rule.

<sup>36</sup> Switzerland notified these changes to the Committee on Rules of Origin in November 2016 (WTO document G/RO/80, 18 November 2016).



Rules for EU/EFTA citizens		Rules for citizens of non-EU/EFTA countries
EU-25	EU-2: Romania and Bulgaria	
<b>Cross-border commuter</b>		
(Permit G-EU/EFTA) - Unrestricted geographical mobility - Holder must return to main residence in an EU/EFTA country every week - Self-employment possible - Period of validity depends on employment contract, but 5 years maximum, with possibility of extension	(Permit G-EU/EFTA) - Geographical mobility within all Swiss border zones - Priority for Swiss workers, inspection of remuneration and working conditions - Otherwise as EU-25	(Permit G) - Valid for 12 months for border zone of canton in which permit issued; annual renewal required. - Applicant has been resident for at least 6 months with permanent residence permit in border zone of a neighbouring country - Weekly return to his place of residence - Change of job or place of work possible with permission
<b>Residence permit</b>		
(Permit B-EU/EFTA) - Valid for 5 years, after the presentation of a certificate of employment with a duration of 1 year or more or of unlimited duration - Full-time residence for specific purpose with main residence in Switzerland - Family reunification possible - Entitlement to work in self-employed capacity	(Permit B-EU/EFTA) - Annual quota of 1,046 permits (2014-15), then 1,207 (2015-16) permits - Permission required to become an employee - Priority for Swiss workers, inspection of remuneration and working conditions - Otherwise as EU-25	(Permit B) - Full-time residence in Switzerland for work purposes with main residence in Switzerland - Priority for Swiss workers, inspection of remuneration and working conditions - Family reunification possible - Annual renewal of permit is a formality - Annual quota of 3,500 permits
<b>Permanent residence permit</b>		
(Permit C-EU/EFTA) - Normally issued on the basis of permanent residence agreements or agreements based on reciprocal rights once a person has resided in Switzerland for 5 years - Holders have the same rights as Swiss workers on the labour market	(Permit C-EU/EFTA) - As EU-25	(Permit C) - Can usually be applied for after 10 years uninterrupted residence in Switzerland (5 years for U.S. citizens) - Holders are no longer subject to employment restrictions. Entitlement to work in a self-employed capacity

Source: Federal Office for Migration (FBM), 2015.

2.44. On 9 February 2014, the Swiss electorate accepted the popular initiative "Stop Mass Immigration", opposing the freedom of movement of persons between Switzerland and the EU/EFTA and supporting a change in Swiss migration policy. The resulting constitutional amendment (Art. 121a of the Federal Constitution) new constitutional text contains two mandates. Firstly, it obliges the Federal Council and the parliament to introduce a new admission system for all foreign nationals that limits the number of migrants by means of maximum levels and quotas. In addition, the new system should allow Switzerland to manage future immigration in a way that safeguards the country's overall economic interest and gives priority to Swiss nationals as well as resident foreign nationals already on the Swiss labour market. Secondly, it mandated the Federal Council to negotiate an amendment to the Agreement on the Free Movement of Persons (AFMP) with the EU. These two mandates were required to be completed within three years.

2.45. The Federal Council immediately began working to implement the new constitutional provisions relating to migration. On 20 June 2014, it presented its plan for the implementation of the new migration policy. On 4 December 2015, it took the decision to pursue the ongoing discussions with the EU and continue to seek a mutually agreed solution, with a view also to safeguarding the bilateral approach. On 4 March 2016, it submitted several pieces of draft legislation to Parliament to implement the constitutional provisions on immigration, stating that it was endeavouring to agree on a solution with the EU so as not to endanger the bilateral agreements. Should that ultimately prove impossible, it proposed introducing a unilateral safeguard clause as a means of controlling the immigration of persons covered by the Agreement on the Free Movement of Persons (AFMP). Simultaneously, intensive consultations with EU representatives were conducted, which continued through to the summer of 2016.

2.46. However, following the UK's vote to leave the European Union, it became clear that an agreement with the EU would not be possible. During the autumn 2016 session of Parliament, the National Council was the first chamber to debate the Federal Council's draft proposal. On 21 September 2016, it adopted a "light" version of the proposal to assure preferential treatment of Swiss nationals on the labour market. The proposal was taken up by the Council of States during its winter 2016 session. On 16 December 2016, the two chambers reached agreement on a new law, la Loi fédérale sur les Étrangers (LEtr), which is compatible with the existing rules on the free movement of persons so as not to jeopardize Switzerland's bilateral agreements with the EU.

2.47. This law is aimed at drawing the maximum potential from manpower in Switzerland. It stipulates in its Article 21.a that when certain groups of professions, sectors of activity, or economic regions record an unemployment rate superior to the average, vacancies must be communicated by employers to the public employment service. Access to the information on the vacancies will be restricted, for a limited period, to persons registered with the public employment service (registration which is not limited to persons residing in Switzerland). The public employment service will then communicate the details of qualified persons registered with them to the employer within the shortest possible delay. The employer will then be required to organize an interview or an aptitude test for the candidates whose profile corresponds to the vacancy. The result of these interviews/tests must be communicated to the public employment service but the employer does not have to justify a possible refusal. Further exceptions to the obligation to communicate vacancies to the public employment service may be decided in the future by the Federal Council in order to take into account the peculiar situation of family businesses and of workers having been employed previously by the same employer. The Federal Council will establish periodical list of groups of professions and of sectors of activity recording an above average unemployment rate for which the obligation to communicate the vacancies will apply.

2.48. If the above measures do not achieve their objective, the Federal Council will submit supplementary measures to the Parliament after having consulted the cantons and the social partners. In addition, in case of serious problems, notably linked to cross-border workers, the canton concerned may propose additional measures to the Federal Council. The stated aim of this new legislation was to be fully consistent with the Agreement on the Free Movement of Persons (AFMP) with the EU. This law adopted by the Swiss Parliament concerning the implementation of Article 121a of the Federal Constitution is subject to an optional referendum. The optional referendum was launched on 28 December 2016 by an individual. A total of 50,000 signatures must be collected within 100 days by 7 April 2017 for the vote to take place.

2.49. On 28 December 2016, the Federal Council ratified the protocol extending the free movement to Croatia, which the Parliament had approved in June 2016.

2.50. Most economic sectors are open to investment by Swiss nationals and foreigners. However, investment restrictions continue to apply to areas under state monopolies, including certain rail transport services, some postal services, and certain insurance services and commercial activities (e.g. trade in salt). Restrictions (in the form of domicile requirements) are also applied in air and maritime transport<sup>37</sup>, hydroelectric and nuclear power, operation of oil and gas pipelines, and transportation of explosive materials.

2.51. Certain professions, particularly in the healthcare, education, and technical sectors and in the administration of justice, are regulated. To practice these professions it is necessary to possess a qualification, certificate, or certificate of competence. Foreign qualifications must be recognized by the responsible authorities. Various different authorities are responsible for recognition depending on the profession. Normally, the authorities that regulate training for a particular profession are also responsible for the recognition of foreign qualifications. Within the scope of the Agreement on the Free Movement of Persons, Switzerland works closely with the EU and participates in the European qualification recognition system.

2.52. Swiss law distinguishes between the following types of business entities: partnership-type unincorporated companies (sole proprietorship, limited partnership or general partnership) and capital-based incorporated companies (stock corporation (AG) or limited liability company (GmbH)). The "limited partnership for collective investment" (KkK) corresponds to the "limited partnership" form common in English-speaking countries.

2.53. The following basic options are available for establishing a business in Switzerland:

- Forming an unincorporated or incorporated company;
- Setting up a branch office;
- Acquiring an existing company in Switzerland (either unincorporated or incorporated);

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<sup>37</sup> Two thirds of the partners of a shipping company must be Swiss nationals.

- Formation of a joint venture (unincorporated or incorporated company);
- Forming a strategic alliance with or without an equity interest.

2.54. The most common choices for a foreign company located in Switzerland are subsidiaries (in the form of a stock corporation or limited liability company, i.e. an AG or GmbH) and branch offices, while limited partnerships for collective investment are designed for risk capital investment.

2.55. The general accounting regulations in Switzerland are brief. The law requires that the income statement (profit and loss account) and the balance sheet be drawn up annually according to generally accepted accounting principles and that they be complete, clear and easily understood. This means that the accounting system can be based on any internationally accepted standards (such as US-GAAP, IFRS or Swiss GAAP FER). The annual financial statements of group companies must be consolidated in a single set of group financial statements if two of the following parameters are present in two successive fiscal years:

- Total assets of SwF 10 million or above;
- Annual sales of SwF 20 million or above;
- An average headcount over the year of at least 200 employees.

2.56. Audits of annual financial statements for correctness and accuracy must be conducted by companies or persons with the required state licence. Normally they are fiduciaries, fiduciary companies or auditing companies. The auditing obligation depends on the size and economic importance of the corporation (AG) or limited liability company (GmbH). Regular audits apply to companies that are required to prepare consolidated financial statements, or if two of the three parameters below are present in two successive fiscal years:

- Total assets of SwF 20 million or above;
- Annual sales of SwF 40 million or above;
- An average headcount over the year of at least 250 employees or more.

2.57. As a rule, any trading, manufacturing or other form of commercial enterprise is required to be registered in the commercial register. Registration guarantees that the company name is protected. It is only after registration in the commercial register that legal entities receive their own legal personality and status. The commercial register charges a fee of SwF 1,000 per company registered.

2.58. No permit is required for real estate that is used for the pursuit of a business activity, i.e. a professional, commercial or industrial activity (with the exception of land for the construction, trade or letting of housing). The concept of business activity is very broad. It applies not only to the classic forms of trade, industry, and commerce but also to the financial and services sector. It therefore covers self-employed professionals such as IT specialists or hotel owners, as well as the operation of a trade or service centre and even industrial production. The acquisition of an interest in real estate companies engaged in the buying and selling of such properties is also possible. Residential property can also be acquired under the "business establishment" heading if it is necessary for business purposes (such as accommodation for caretakers or technicians whose permanent on-site presence is required) or if separation from the business property would be impractical or unreasonable.

2.59. Switzerland has an extensive network of bilateral investment protection agreements covering 117 countries.<sup>38</sup> During the period under review one agreement was signed with Georgia on 3 June 2014 and entered into force on 17 April 2015, while an agreement signed in 2008 with

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<sup>38</sup> For a complete list of these agreements, see:

[https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik\\_Wirtschaftliche\\_Zusammenarbeit/Wirtschaftsbeziehungen/Internationale\\_Investitionen/Vertragspolitik\\_der\\_Schweiz/overview-of-bits.html](https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/Internationale_Investitionen/Vertragspolitik_der_Schweiz/overview-of-bits.html).



Madagascar entered into force on 7 May 2015. Switzerland has signed a total of 106 double taxation avoidance agreements<sup>39</sup>, 57 of which are in accordance with the international OECD standards and 47 of which have already entered into force. All 31 agreements signed by Switzerland since the last review are in conformity with these international standards. In addition, Switzerland has signed ten tax information exchange agreements (TIEAs), all during the period under review, seven of which have entered into force.

2.60. Overall, the World Bank's 2016 Doing Business Report ranks Switzerland 26<sup>th</sup> worldwide, a rank unchanged as compared to 2015. Regarding the subcomponents of this index, Switzerland ranks 5<sup>th</sup> for getting electricity, 16<sup>th</sup> for registering property, 19<sup>th</sup> for paying taxes, 40<sup>th</sup> for trading across borders, 44<sup>th</sup> for resolving insolvency, 46<sup>th</sup> for enforcing contracts, 56<sup>th</sup> for dealing with construction permits, 69<sup>th</sup> for starting a business and 105<sup>th</sup> for protecting minority investors.

#### 2.4.2 Liechtenstein

2.61. Liechtenstein has a stable and predictable investment regime. Most sectors are open to national and foreign investment, with the following restrictions: residency requirements; restrictions on the purchase of real estate; restrictions in production, trade, and transport of electricity, gas, and water (subject to state monopoly); and restrictions applied to a number of financial services (asset management, investment consulting, and assuming trusteeships) when these are provided on a professional basis by trustees or trust companies.

2.62. All investors may establish a company in Liechtenstein without restriction. If the investor established in Liechtenstein wishes to become commercially active, the investor has to apply to the Office of Economic Affairs in order to obtain a commercial licence<sup>40</sup>, unless specific licensing requirements exist, e.g. for financial sector companies or certain professional services like lawyers or auditors. For "qualified" professions, sector-specific government-recognized professional qualifications are required.<sup>41</sup> A prerequisite for obtaining the commercial licence is that the investor him/herself is an EEA or Swiss citizen or meets the 12 years' prior-residence and professional-qualification requirements. If this is not the case, the investor may appoint a managing director who fulfils these requirements. All entities (of natural or legal persons) must have an office and/or business premises in Liechtenstein that is suitable to carry out the business.

2.63. Liechtenstein corporate forms are regulated under the Persons and Companies Act of 20 January 1926 (LR 216.0) known as the "PGR Code". The most common entities established under the PGR Code include joint stock companies, establishments, and foundations. All corporate bodies established under the PGR Code must be registered with the Commercial Register. Processing by the Commercial Registrar usually takes two to three days. In January 2012, the agency "Liechtenstein Marketing" was established to promote, inter alia, foreign investment and tourism (Act on Location Promotion of 20 October 2011 (LR 935.20)).

2.64. Liechtenstein has not concluded any bilateral investment protection treaties. It has not concluded any plurilateral or multilateral conventions regarding investment protection as such. However, in the EFTA context, there are two FTAs (with Korea and Singapore) that include some investment protection provisions.

2.65. As of 25 October 2016, Liechtenstein has concluded 18 double taxation agreements (DTAs).<sup>42</sup>

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<sup>39</sup> For a complete list of these agreements, see: <https://www.sif.admin.ch/sif/en/home/themen/internationale-steuerpolitik/doppelbesteuerung-und-amtshilfe.html>.

<sup>40</sup> For citizens of non-EEA member States (other than Switzerland), 12 years' prior residency is required.

<sup>41</sup> There are 64 "qualified" or regulated professions. Viewed at: <http://www.gesetze.li/Seite1.jsp?LGBI=2011226.xml&Searchstring=gewerbeverordnung&showLGBI=true>.

<sup>42</sup> See <http://www.llv.li/files/stv/int-uebersicht-dba-tiea-engl.pdf>.

### 3 TRADE POLICIES AND PRACTICES BY MEASURE

#### 3.1 Measures Directly Affecting Imports

##### 3.1.1 Customs procedures and requirements

3.1. The Federal Customs Administration (FCA) is responsible for implementing customs procedures. The principal legislation on customs procedures comprises the Customs Law of 18 March 2005 (RS 631.0), which entered into force on 1 May 2007, and related regulations (ordinances) (Table 3.1). There have been no significant amendments to the Customs Law or ordinances related to customs since the last Review but there have been several amendments to facilitate trade, such as waiving the need for proofs of origin in some cases, and simplified forms for small consignments. Customs laws and procedures in Switzerland are similar to the Customs Code of the European Union with the same procedures (except processing under customs control), and similar terminology and definitions.

**Table 3.1 Principal customs legislation in Switzerland, 2016**

Reference	Name	Date
RS 631.0	Customs Law	18 March 2005
RS 631.01	Customs Ordinance	1 November 2006
RS 631.011	Ordinance of the Federal Department of Finance (DFF) on Customs	4 April 2007
RS 631.012	Ordinance of the Federal Department of Finance (DFF) on Goods Eligible for Customs Duty Reductions Depending on Use	4 April 2007
RS 631.013	Ordinance of the Federal Customs Administration (AFD) on Customs	4 April 2007
RS 631.016	Ordinance of the Federal Department of Finance (DFF) on Processing	4 April 2007
RS 632.10	Federal Law on Customs Tariffs	9 October 2007

Source: WTO Secretariat, based on information provided by the authorities.

3.2. In practice, on arrival at a customs post, import procedures are carried out at a single desk, although the necessary permits and licences may first need to be obtained from different agencies. Since 4 April 2016, a single Customs Information Office has operated to answer general queries from the public and companies. This information service is provided in addition to the information on the FCA website which includes links to the web-based declaration systems, tariffs, rules of origin, and other rules, procedures, and charges related to trade.<sup>1</sup> Switzerland and Liechtenstein ratified the Trade Facilitation Agreement on 2 September 2015 and 18 September 2015, respectively. According to the authorities, Switzerland complies with Section 1 of the TFA and, in 2016, established a national trade facilitation committee.

3.3. Where the final destination of the goods is Switzerland, they must be delivered to a customs office and declared for customs clearance by the carrier or the person arranging for the goods to be imported (the importer, recipient, shipper, or client). Goods must be declared at specified customs offices during office hours and, since 1 January 2013, using the e-dec customs clearance system which replaced the single administrative document (Form 11.010). In addition, there are online systems for rail freight through the RailControl system, and goods in transit through the New Computerized Transit System (NCTS).

3.4. Documents required to support the customs declaration include invoices, certificate of origin, authorizations, official confirmations and analysis certificates, delivery notes, cargo manifests, and weight certificates.

3.5. In principle, customs duties and other taxes, charges, and levies applied at point of import are payable in cash or by credit card at the point of entry. However, regular importers may avail of the centralized settlement procedure (CSP) which, in addition to allowing electronic payments, allows for payment of customs duties within five days of import and VAT within 60 days of import.

3.6. For goods in transit, import duties and VAT must be secured temporarily either using the Transports Internationaux Routiers (TIR) procedure, or the NCTS (also called the Common Transit

<sup>1</sup> Federal Customs Administration online information includes links to all requirements for importing, exporting, and transit of goods in Switzerland. Viewed at: <https://www.ezv.admin.ch/ezv/fr/home/infos-pour-entreprises/declarer-des-marchandises/accroissement-de-la-securite-de-la-chaine-logistique.html> [January 2017].

Procedure (CTP)). The TIR procedure applies only to goods transported by road and under a customs seal for transporters holding a TIR carnet, which includes a financial guarantee for the suspended duties and taxes and is administered by the International Road Transport Union. The CTP is an electronic system which applies in the EU, The former Yugoslav Republic of Macedonia, Turkey, and the Republic of Serbia. The system generates electronic messages that are sent to the customs offices of transit and destination, in addition to the document which must accompany the transit. A guarantee for duties and taxes must be provided in the country where the procedure starts and is released on completion of the transit. Goods in transit under the CTP must be accompanied by a detailed description of the goods or the goods must be carried under bond.

3.7. Since 1 January 2011, with the entry into force of the Agreement between Switzerland and the EU on the Simplification of Customs Formalities and Customs Security Measures (RS 0.631.242.05), prior notification for imports and exports between them has not been required. Since that date, persons domiciled in Switzerland who meet the required conditions have been able to apply for Authorized Economic Operator (AEO) status. The general requirements include an appropriate record of compliance with customs requirements, a satisfactory system of managing records, proven financial solvency, and appropriate security and safety standards. Accreditation by the FCA is based on a risk analysis and inspection.<sup>2</sup> As at 26 September 2016, 93 enterprises had been certified. According to the authorities, Switzerland intends to broaden the scope of its AEO agreements beyond the EU, starting with Norway and continuing with Japan, the United States, and China.<sup>3</sup>

3.8. Appeals against decisions by the FCA may be made in the first instance by writing to the customs office where the customs declaration was made within 60 days of the decision. Rulings by the FCA may be appealed to the courts. In 2015, there were about 150 appeals, of which 12 resulted in a reversal or review of the original decision. In other cases, the decision was upheld or the appeal was withdrawn.

3.9. Switzerland's 2016 ease of doing business ranking by the World Bank was 40<sup>th</sup> out of 189 economies for trading across borders with imports requiring one hour and US\$201 for border compliance, and 2 hours and US\$108 for documentation.<sup>4</sup> Other indicators ranked Switzerland differently such as: the World Bank's Logistics Performance Index which, in 2016, ranked Switzerland 11<sup>th</sup> out of 160 economies for logistics generally and 10<sup>th</sup> for customs<sup>5</sup>; and the World Economic Forum's Global Competitiveness Index, which ranked Switzerland 17<sup>th</sup> out of 140 economies for the burden of customs procedures.<sup>6</sup>

### 3.1.2 Customs valuation

3.10. All tariffs in Switzerland and Liechtenstein are specific duties and do not need a customs valuation as the gross weight (weight of goods plus packaging) is used to calculate the duty. For VAT and some other taxes, such as the automobile duty, which are collected at the border and are based on value, the invoice value is used. Compared to VAT collected on imports, import duties represent a relatively small proportion of total revenues collected by the FCA (Chart 1.3).

### 3.1.3 Rules of origin

3.11. The legislation on rules of origin for Switzerland and Liechtenstein is set out in a number of regulations including the Ordinance on Attestation of Non-Preferential Origin of Goods of 9 April 2008 (RS 946.31), the Ordinance of the Federal Department of Economic Affairs, Education and Research (EAER) on the Certification of the Non-Preferential Origin of Goods of 9 April 2008 (RS 946.311), the Ordinance on the Delivery of Proofs of Origin of 23 May 2012 (RS 946.32), and the Ordinance on Rules of Origin for Preferential Tariffs for Developing Countries of 30 March 2011 (RS 946.39). In addition, the various free trade agreements in force between Switzerland and

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<sup>2</sup> WCO (2016), p. 51.

<sup>3</sup> FCA online information. Viewed at: <https://www.ezv.admin.ch/ezv/fr/home/infos-pour-entreprises/declarer-des-marchandises/accroissement-de-la-securite-de-la-chaine-logistique.html> [January 2017].

<sup>4</sup> World Bank (2016), pp 67-72.

<sup>5</sup> World Bank online information. Viewed at: <http://lpi.worldbank.org/> [January 2017].

<sup>6</sup> World Economic Forum (2015), pp. 336-337.

Liechtenstein and third countries include the rules of origin applicable to those agreements, such as the free trade agreement between Switzerland and China (Chapter 3, Articles 3.1-3.25).<sup>7</sup>

3.12. According to the authorities, the basic principles for ascribing origin are:

- Wholly obtained (which mainly affects goods under HS headings 01 to 24); or
- Sufficiently worked and processed (which applies to goods under HS headings 07 to 97, but also to many goods under HS headings 07 to 24), where the two main criteria are:
  - value addition, which means the local content of the final product must be above a threshold percentage of the value and a minimal operation must have taken place; or
  - a change in tariff heading, which means the exported product must be classified under another tariff heading compared to the imported inputs. Goods imported within a preferential regime from a partner or partners of the regime may be used in production as if they were domestically obtained (cumulation).

3.13. Under the non-preferential rules of origin, the country of origin is the country where the goods were wholly obtained or they have been sufficiently worked or processed, which is defined as having foreign content not exceeding 50% or 60% of the ex-works price, a change in the four-digit heading in the Harmonized System, or (in some cases) subject to specific origin-conferring processing or working. Operations such as packing, cleaning, applying labels or brands, simple mixing, or the slaughter of animals and cutting up of meat, are insufficient working or processing for conferring origin.

3.14. In its free trade agreements, Switzerland usually applies a general rule that sufficiently worked or transformed means non-originating material should not represent more than a percentage of the ex-works price or that a change in HS heading at the 2-, 4-, or 6-digit level, (with some additional limits to the value of non-originating material) applies. Specific rules may apply to some products and the wholly obtained criteria may be used for some agricultural products.

### 3.1.4 Tariffs

#### 3.1.4.1 Applied MFN customs duties

3.15. Switzerland and Liechtenstein form a customs union (Section 2.1). In 2015, the customs duties collected by the Swiss Federal Customs Administration constituted 1.5% of federal receipts (Chart 1.3)

3.16. As reported in Switzerland and Liechtenstein's previous review, under the Federal Law on Customs Tariffs, the Federal Council may modify tariffs through an ordinance, when deemed necessary.<sup>8</sup> The modifications are temporary until their approval by the Federal Assembly. Any tariff changes would be made after a case-by-case evaluation, which would take into account the needs of the Swiss economy. The tariff suspension system was introduced during the period under review in January 2016 (Table 3.8).<sup>9</sup>

3.17. Overall, the 2016 tariff structure has not changed since the last review; the tariff schedule is based on the 2012 Harmonized Commodity Description and Coding System (HS) and comprises 8,615 tariff lines at the 8-digit level.<sup>10</sup> The Swiss Federal Customs Administration maintains a public online database, Tares ([www.tares.ch](http://www.tares.ch)), containing information on applied MFN and preferential duties and other measures including tariff quotas, additional charges (i.e. ODCs), and

<sup>7</sup> Free trade agreements to which Switzerland and Liechtenstein are parties (including rules of origin) are available online at: <https://www.ezv.admin.ch/ezv/fr/home/documentation/directives/d-30-accords-de-libre-echange--preferences-tarifaires-et-origine.html> [January 2017].

<sup>8</sup> Federal Law on Customs Tariffs (RS 632.10), version of 1 July 2016.

<sup>9</sup> Ordinance on the Temporary Reduction of Customs Duties on Textiles (RO 2015 4935; RS 632.102.1).

<sup>10</sup> 8,299 tariff lines (excluding in-quota lines) were taken into account in all tariff calculations.

authorization requirements (i.e. import permit). Switzerland continues to submit its customs tariff and trade data regularly to the WTO Integrated Database.

3.18. The Switzerland-Liechtenstein tariff schedule consists exclusively of specific rates. Despite one of the main rationales for specific duties being their administrative simplicity, it has been noted that their shortcomings include a lack of transparency and predictability.<sup>11</sup> Unlike *ad valorem* tariffs, the level of protection by means of specific duties is not evident; estimating the *ad valorem* equivalents (AVEs) allows the actual protection of specific duties to be assessed.<sup>12</sup> AVEs used in this section were calculated by the Secretariat as the ratio of specific duties to import unit values, estimated using the ratio of import values to import quantities in 2015 (at the HS eight-digit level). If there were no imports in 2015, 2014 import data were used. The Swiss authorities expressed reservations about the methodology and noted that any estimate of AVEs has limitations as they are affected by many factors, including the base period, unit prices, exchange rates, and cases where only limited volumes were imported.

3.19. The limits of estimated AVEs should be kept in mind:

- First, if there are no imports, the estimates of AVEs are not calculated. A lack of imports does not necessarily imply that a tariff is high; it may be that there is no domestic demand for a particular product. For the purpose of the 2016 tariff analysis, it was not possible to estimate AVEs for approximately 4% of all tariff lines;
- Second, the estimates of AVEs are affected by variations in import prices through fluctuations of world market prices and/or exchange rates even though the customs duties remained the same. The appreciation of the Swiss franc has affected the AVEs for some products (Section 1.2); and
- Third, the unit values used may vary depending on the source of imports and whether they qualify for a tariff concession or exemption, resulting in a wide variation in AVEs without any change in customs duties.

3.20. One feature of a specific duty is that it provides a level of protection that is inversely related to the price of the imported good. Therefore, a specific duty places a relatively heavier burden on lower priced goods compared to higher priced goods in the same tariff line. Moreover, in some cases, a lower specific duty under a preferential tariff arrangement (e.g. GSP) may have an AVE which is higher than the AVE of the MFN specific duty because imports from the GSP recipients have lower unit prices than the MFN imports (examples in Table 3.2). In order to take this into consideration, in this section, the calculated import values were based on total Swiss imports (i.e. all trading partners) for each tariff line concerned. Nevertheless, it must be noted that about 80% of tariff lines (i.e. excluding applied MFN duty-free) are duty-free (zero) under preferential agreements (Section 3.1.4.6) and, therefore, are always lower than the MFN duty regardless of unit prices.

3.21. Overall, the simple average of the 2016 applied MFN tariff rate is estimated at 9.0%, slightly down from 9.2% in 2012 (Table 3.3). The standard deviation of 42.4 indicates high tariff dispersion, with tariff rates ranging from 0% to 1,850.6% (up from 1,676% in 2012). The high dispersion is a consequence of specific duties, leading to a wide range of AVE rates from one tariff line to another.

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<sup>11</sup> WTO (2000), Box III.1.

<sup>12</sup> AVEs can be estimated using two main methods: the duty-collection ratio (the ratio of tariff revenue to the import value) and the unit value method (the ratio of specific duties to import prices). For details on AVEs, see the TPR of Switzerland and Liechtenstein (2000), Box III.1; and WTO document TN/MA/S/10, 20 May 2003.

**Table 3.2 Examples of *ad valorem* equivalents, 2013-15**

HS	Imported items only subject to applied MFN tariffs <sup>a</sup>			Imported items subject to preferential tariffs (e.g. GSP) <sup>b</sup>		
	2013	2014	2015	2013	2014	2015
<b>HS 19059085</b> Bread, pastry, cakes, biscuits and other bakers' wares, containing added sugar or other sweetening matter, containing fat other than milkfat, n.e.s.						
2016 applied specific duties	1.003 SwF/Kg			0.403 SwF/Kg		
Import unit value	8.85	9.26	7.83	7.99	8.18	8.48
AVE	11.3%	10.8%	12.8%	5.0%	4.9%	4.8%
<b>HS 62046990</b> Women's or girls' trousers, bib and brace overalls, breeches and shorts of textile materials						
2016 applied specific duties	4.25 SwF/Kg			2.125 SwF/Kg		
Import unit value	193.40	151.95	179.95	53.70	39.40	40.52
AVE	2.2%	2.8%	2.4%	4.0%	5.4%	5.2%

- a Import unit values were calculated based import flows between Switzerland and MFN trading partners.
- b Import unit values were calculated based import from GSP countries (excluding LDCs, which benefit from duty-free-quota-free treatment). Please note that actual preferential imports were not taken into account, i.e. it was assumed that all imports from non-LDC GSP countries qualified for GSP treatment.

Source: WTO Secretariat calculations, based on data provided by the authorities; and the Swiss Federal Customs Administration's Swiss-Impex online database. Viewed at: <https://www.swiss-impex.admin.ch/pages/bereiche/waren/query.xhtml> (December 2016).

3.22. Agricultural products (WTO definition) are more highly protected than other products, with an average of 30.8%, whereas the average for non-agricultural products is 2.3%. The maximum rate on an AVE basis of 1,850.6% is applied to out-of-quota imports of frozen edible bovine livers (HS 02062290), followed by 1,582.2% applied to frozen edible bovine offal, other than tongues and livers (HS 02062990). Rates higher than 100% only apply to agriculture, mainly in vegetables (HS 07), meat (HS 02), and dairy products (HS 04). Within agriculture, animals and animal products, and dairy products are the product groups with the highest import duties. Some agricultural product groups such as animals and animal products, dairy products, and fruits, vegetables and plants display higher standard deviations, implying larger tariff ranges within these product categories (Table 3.4).

**Table 3.3 Structure of MFN tariffs, 2016**

		Applied MFN tariff		Final bound <sup>b</sup>
		2012 <sup>a</sup>	2016 <sup>b</sup>	
1.	Bound tariff lines (% of all tariff lines)	n.a.	n.a.	99.0
2.	Simple average tariff rate	9.2	9.0	13.5
	Agricultural products (WTO definition)	31.9	30.8	49.2
	Non-agricultural products (WTO definition)	2.3	2.3	2.5
	Agriculture, hunting, forestry and fishing (ISIC 1)	23.5	22.3	36.6
	Mining and quarrying (ISIC 2)	0.5	0.6	0.7
	Manufacturing (ISIC 3)	7.8	7.8	11.2
3.	Specific tariffs (% of all tariff lines)	100.0	100.0	100.0
	of which: duty-free tariff lines (% of all tariff lines)	18.7	19.7	15.4
4.	Simple average rate of dutiable lines only	11.4	11.4	16.2
5.	Tariff quotas (% of all tariff lines)	3.8	3.8	3.8
6.	Non- <i>ad valorem</i> tariffs with no AVEs (% of all tariff lines)	4.3	4.1	4.5
7.	Domestic tariff peaks (% of all tariff lines) <sup>c</sup>	5.8	6.4	7.6
8.	International tariff peaks (% of all tariff lines) <sup>d</sup>	8.9	9.0	12.4
9.	Overall standard deviation of applied rates	48.7	42.4	51.4
10.	Nuisance applied rates (% of all tariff lines) <sup>e</sup>	38.8	38.3	37.8

- n.a. Not applicable.
- a *Ad valorem* equivalents (AVEs) were estimated based on 2011 import data at the 8-digit tariff line level. If no import data were available for 2011, 2010 import data were used in calculations.
- b *Ad valorem* equivalents (AVEs) were estimated based on 2015 import data at the 8-digit tariff line level. If no import data were available for 2015, 2014 import data were used in calculations.
- c Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate.
- d International tariff peaks are defined as those exceeding 15%.
- e Nuisance rates are those greater than zero, but less than or equal to 2%.

Note: All tariff calculations exclude in-quota lines. The tariff schedules are based on HS12 nomenclature, consisting of 8,299 tariff lines (at the 8-digit tariff line level).

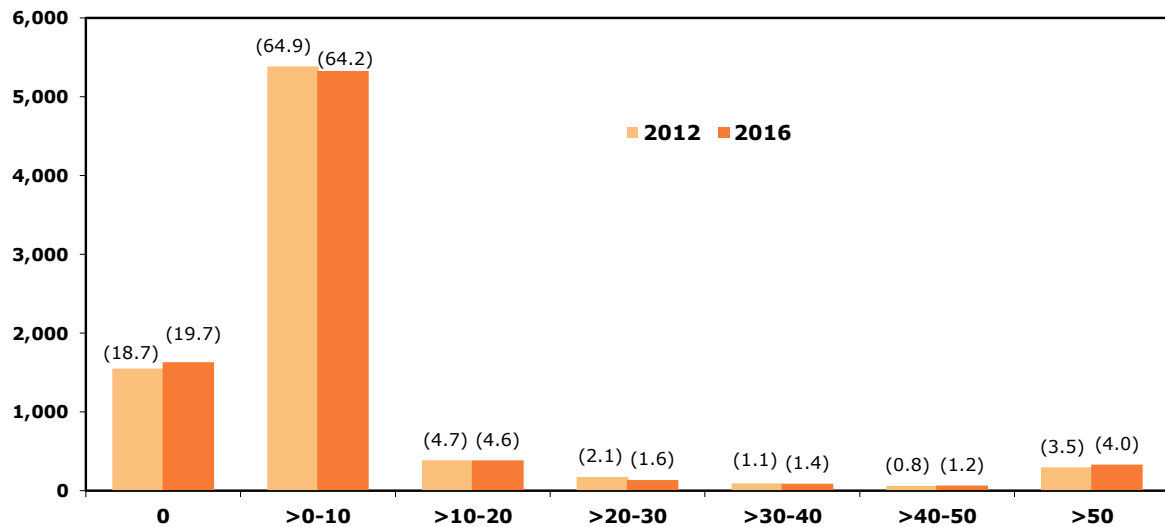
Source: WTO Secretariat calculations, based on data provided by the authorities.

3.23. Some 83.9% of all tariff lines carry rates of 10% or below (Chart 3.1). Duty-free treatment applies to 19.7% of tariff lines, covering a wide range of products such as fish and crustaceans, nuts, fruits, tea, some cereals, certain chemicals, medical equipment, agricultural equipment, furniture, and products granted duty-free treatment under the Pharmaceutical Initiatives, the Information Technology Agreement, and the Plurilateral Agreement on Trade in Civil Aircraft (implementation of the ITA expansion commenced on 1 January 2017).<sup>13</sup>

3.24. The proportion of duty-free lines in 2016 (19.7%) was slightly higher than in 2012 (18.7%), reflecting the elimination of import duties on certain agricultural products such as animal/vegetable fats and oils, as well as textiles under the tariff suspension system (Table 3.8).

**Chart 3.1 Breakdown of applied MFN tariffs, 2012 and 2016**

(Number of tariff lines)



Note: Figures in parentheses indicate the percentage share of total lines. Calculations exclude in-quota rates. They do not add to 100% since some AVEs were not available (4.3% and 4.1% of all lines in 2012 and 2016, respectively).

Source: WTO Secretariat calculations, based on data provided by the authorities.

**Table 3.4 Summary of tariff analysis, 2016**

	No. of lines	Simple average (%)	Tariff range (%)	SD <sup>a</sup>	Share of tariff quota lines (%)	Share of duty-free lines (%)
<b>Total</b>	8,299	9.0	0-1,850.6	42.4	3.8	19.7
<b>HS 01-24</b>	2,310	28.0	0-1,850.6	79.9	13.4	24.7
<b>HS 25-97</b>	5,989	2.5	0-382.5	6.4	0.1	17.7
<b>By WTO category</b>						
<b>WTO agricultural products</b>	2,134	30.8	0-1,850.6	83.5	14.7	20.0
Animals and products thereof	173	103.0	0-1,850.6 <sup>p</sup>	227.1	67.6	9.8
Dairy products	58	100.2	2-402	108.8	24.1	0
Fruit, vegetables, and plants	617	29.9	0-569.6	63.4	20.7	15.1
Coffee, tea, and cocoa and cocoa preparations	62	10.7	0-87	15.8	0	16.1
Cereals and preparations	426	22.1	0-128	26.2	5.4	10.6
Oilseeds, fats, oil and their products	394	22.2	0-196.6	37.4	0	26.6
Sugars and confectionary	58	7.2	0-47.2	8.5	0	25.9
Beverages, spirits and tobacco	124	24.2	0-264.3	39.0	21.0	8.9
Cotton	6	0	0	0	0	100.0
Other agricultural products, n.e.s.	216	5.9	0-382.5	29.4	2.8	57.4

<sup>13</sup> Tariff concessions under the ITA expansion were not taken into account in calculations in this section since the Secretariat's tariff analysis was based on the 2016 tariff schedule.



	No. of lines	Simple average (%)	Tariff range (%)	SD <sup>a</sup>	Share of tariff quota lines (%)	Share of duty-free lines (%)
<b>WTO non-agricultural products</b>	6,165	2.3	0-63.1	3.9	0	19.6
Fish and fishery products	254	0.5	0-33.7	2.5	0	75.2
Minerals and metals	1,286	1.9	0-27.9	2.7	0	12.2
Chemicals and photographic supplies	1,083	1.2	0-40.5	2.7	0	38.2
Wood, pulp, paper and furniture	344	5.0	0-35.1	6.1	0	21.2
Textiles	766	6.0	0-63.1	6.1	0	7.2
Clothing	332	5.3	0.6-31.6	4.0	0	0
Leather, rubber, footwear and travel goods	178	2.1	0-44.1	3.7	0	3.4
Non-electric machinery	855	0.8	0-15.1	1.3	0	15.9
Electric machinery	382	1.0	0-9.3	1.3	0	16.2
Transport equipment	183	1.9	0-20.9	2.8	0	9.8
Non-agricultural products, n.e.s.	481	1.4	0-20.8	2.1	0	15.2
Petroleum	21	0	0	0	0	100.0
<b>By ISIC sector<sup>c</sup></b>						
ISIC 1 – Agriculture, hunting and fishing	881	22.3	0-569.6	55.3	17.1	26.7
ISIC 2 – Mining and quarrying	105	0.6	0-14.9	2.0	0	62.9
ISIC 3 – Manufacturing	7,312	7.8	0-1850.6	40.9	2.2	18.2
<b>By stage of processing</b>						
First stage of processing	1,402	14.5	0-569.6	44.8	11.1	34.5
Semi-processed products	2,459	3.4	0-102.4	7.4	0.0	20.1
Fully processed products	4,438	10.6	0-1850.6	51.7	3.6	14.7

a Standard deviation.

b The highest tariff peak is 1,850.6% (HS 02062290), followed by 1,582.2% (HS 02062990).

c International Standard Industrial Classification (Rev.2). Electricity, gas and water are excluded (1 tariff line).

Note: Calculations for averages are based on the national tariff line level (8-digit), excluding in-quota rates. Tariff schedule is based on HS2012. *Ad valorem* equivalents (AVEs) were estimated based on 2015 import data at the 8-digit tariff line level. If no import data were available for 2015, 2014 import data were used in calculations.

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.25. The applied MFN tariff structure as a whole displays mixed escalation: the average tariff in 2016 is estimated at 14.5% on raw materials; 3.4% on semi-processed products, and 10.6% on fully processed products (Table 3.4). The negative escalation from raw materials to semi-finished products is mainly due to high tariffs on unprocessed agricultural products – which often have higher unit values than semi-processed agricultural products. For example, tariff rates for fresh fruits, semi-processed fruits, and preparations of fruits are 31.2%, 9.2%, and 25.7%, respectively, which suggests greater protection of the higher value fresh product than the lower value semi-processed and processed fruits.

3.26. At a more disaggregated level, positive escalation (indicating higher rates of effective protection for more processed products) seems to exist on some products: tariff rates for cocoa beans are duty free, for cocoa paste and cocoa powder are 3.7%, and for chocolate confectionery are 13.6%; and tariff rates for tobacco (unmanufactured) and tobacco (products) are 15.2% and 19.7%, respectively.

### 3.1.4.2 Tariff quotas

3.27. Tariff quotas (TQs) apply to a number of agricultural products (3.8% of all tariff lines), mainly covering live animals, eggs, bovine semen, cut flowers, potatoes, fresh and frozen vegetables, fresh fruits, wine, and certain cereals. Tariff quotas may be modified, mainly as a result of domestic shortages. Thus, imports above the bound quota quantity at the in-quota tariff may be allowed in some cases. The process of quota allocation varies according to product (Section 4.1.2.2). Tariff quotas are managed by an electronic application system ("e-quota").



3.28. Switzerland provides either preferential in-quota rates within its MFN TQs or specific bilateral TQs. Switzerland has a total of 316 applied MFN in-quota tariff lines. Albania, for example, benefits from tariff preferences on 96 of these 316 in-quota tariff lines (Table 3.5). Moreover, under certain bilateral trade agreements, Switzerland has opened specific bilateral TQs for certain products. In the case of Albania, Switzerland has opened two specific bilateral TQs for olive oil (HS 1509.1091 and 1509.1099) with duty-free in-quota tariff (for up to 500 tonnes per year).<sup>14</sup>

**Table 3.5 In-quota tariff lines, by tariff regime, 2016**

	Tariff preferences on products covered by WTO TQs (Number of tariff lines at the 8-digit level)	Specific bilateral tariff quotas
Number of applied MFN in-quota tariffs	316	
of which preferential tariff rates:		
Albania	96	2
Bosnia and Herzegovina	104	3
Canada	3	1
Chile	167	3
China	261	
Colombia	183	
Costa Rica	144	
EFTA	186	
Egypt	85	8
EU	40	81
Faeroe Islands	2	
GCC	40	
Hong Kong, China	29	
Israel	41	
Japan	131	4
Jordan	78	1
Korea, Republic of	182	
Lebanon	98	2
Mexico	42	
Montenegro	103	5
Morocco	93	
Panama	74	
Peru	183	
SACU excl. Lesotho	187	13
Serbia	103	
Singapore	5	
Palestine	29	
The former Yugoslav Republic of Macedonia	66	
Tunisia	18	2
Turkey	38	
Ukraine	121	1
GSP	179	3
LDCs <sup>a</sup>		

a LDCs benefit from the duty-free and quota-free treatment.

Note: The tariff schedule separates tariff lines for in-quota (316 at the 8-digit tariff line level) and out-of-quota tariffs (314 at the 8-digit tariff line level). Calculations are based on the national tariff line level (8-digit). The figures correspond to numbers of in-quota tariff lines.

Source: Compiled by the WTO Secretariat, based on data provided by the authorities; and online information from the Swiss Customs Administration. Viewed at: <http://www.ezv.admin.ch/index.html?lang=en>.

3.29. Seasonal tariffs apply to some 95 products and are levied mostly on fruits and vegetables produced domestically, most of which are also subject to tariff quotas (Section 4.1.2).

<sup>14</sup> WTO Document WT/REG292/1/Rev.1, 21 September 2012.

### 3.1.4.3 Bound duties

3.30. As a result of the Uruguay Round, 99% of Switzerland-Liechtenstein tariff lines are bound. Unbound tariff lines cover some 84 lines (at the HS 8-digit level) for gas, petroleum, and related products.

3.31. The simple average bound tariff is estimated at 13.5% (49.2% for agricultural products and 2.5% for non-agricultural products) and 15.4% of all tariff lines are duty free (WTO definitions).

### 3.1.4.4 Other duties and charges

3.32. The Switzerland-Liechtenstein Customs Union has bound "other duties and charges" (ODCs) on the tariff lines covered in their schedule of concessions at zero. However, Switzerland applies levies on imports of certain goods that are subject to compulsory reserve stock requirements to finance these reserve stocks.<sup>15</sup> Under the compulsory stock system, these are called "guarantee funds", which are managed by five private organizations/cooperatives: CARBURA (energy), Réservesuisse (foodstuffs), Agricura (fertilizer), Helvecura (therapeutic products), and Provisiogas (natural gas), on behalf of the federal government.<sup>16</sup> In the case of foodstuffs, fees are levied on basic foodstuffs, such as rice, sugar, coffee, edible oils and fats, cereals for bread making, durum wheat and feedstuffs, which are collected by Réservesuisse (Table 3.6). These fees are levied in addition to customs duties. No guarantee fund contributions are levied on domestically produced foodstuffs (Réservesuisse) or energy products (CARBURA) subject to reserve stock requirements, whereas Agricura, Helvecura and Provisiogas levy fees on both domestic and imported goods (Section 3.1.5).<sup>17</sup>

**Table 3.6 Guarantee fund contributions, 2016**

	Guarantee fund contribution (GFC)
<u>Réservesuisse (foodstuffs)</u>	
Animal feed	SwF 0-5/100 kg gross
Bread cereals/Durum wheat	SwF 0-5/100 kg gross
Coffee	SwF 0-8.85/100 kg gross
Durum wheat	SwF 1.20/100 kg gross
Edible fats and oil	SwF 0-9.8/100 kg gross
Rice	SwF 0-4.75/100 kg gross
Sugar	SwF 0-5.0/100 kg gross
<u>CARBURA (energy)</u>	
Petroleum spirit and fractions	SwF 3.30/m <sup>3</sup>
Diesel oil	SwF 3.30/m <sup>3</sup>
Biofuels	SwF 3.30/m <sup>3</sup>
Biodiesel	SwF 3.30/m <sup>3</sup>
Bioethanol and petrol mixture	SwF 3.30/m <sup>3</sup>
<u>Agricura</u>	
Fertilizers	SwF 3.00/100 kg gross
<u>Helvecura</u>	
Therapeutic products	0-2.2%/price ex-factory
<u>Provisiogas</u>	
Natural gas, liquefied/gaseous state	SwF 0.013 Ct./kWh

Source: Réservesuisse. Viewed at: <http://www.reservesuisse.ch/en/goods/> [November 2016]; CARBURA. Viewed at: [http://www.carbura.ch/fileadmin/user\\_upload/editors/web\\_dokumente/Zirkulare/MGL\\_Zirk/2016/Zirk21744\\_Info\\_B\\_C\\_Bioproducte\\_ab\\_20160801\\_f.pdf](http://www.carbura.ch/fileadmin/user_upload/editors/web_dokumente/Zirkulare/MGL_Zirk/2016/Zirk21744_Info_B_C_Bioproducte_ab_20160801_f.pdf) [November 2016]; and information provided by the Swiss authorities.

3.33. Since ODCs bound at zero and applied tariffs often equal the bound rates, it is possible that the sum of tariff and guarantee fund contributions may exceed Switzerland's bound commitments on several tariff lines at present (Table 3.7).

<sup>15</sup> Liechtenstein does not maintain any reserve stocks, according to the authorities.

<sup>16</sup> Federal Office for National Economic Supply, (2015), page 8.

<sup>17</sup> Federal Office for National Economic Supply (2015), page 52.

**Table 3.7 Guarantee fund contributions (GFC), applied tariffs, and bound tariffs**

Tariff code	Item	Guarantee fund contribution (SwF 100 kg gross)	2016 applied tariff (SwF 100 kg gross)	Bound tariff (SwF 100 kg gross)
Rice				
10061090	Rough rice (paddy rice)	2.85	0.0	0.0
10061090	Rough rice, for direct consumption	4.75	0.0	0.0
10062090	Half rough rice, for direct consumption	4.75	0.0	0.0
10062090	Half rough rice, for post-processing	3.80	0.0	0.0
10063090	Merchant rice	4.75	0.8	0.8
10064090	Broken rice	4.75	0.8	0.8
Coffee				
09012100	Coffee, roasted, not decaffeinated	4.50	63.0	63.0
09012200	Coffee, roasted, decaffeinated	4.50	63.0	63.0
21011100	Coffee extract, unmixed	8.85	182.0	182.0
21011100	Coffee extract, liquid/frozen	2.65	182.0	182.0
21011219	Coffee extract, mixed 20 %	1.75	182.0	182.0
21011219	Coffee extract, mixed 30 %	2.65	182.0	182.0
21011219	Coffee extract, mixed 60 %	5.30	182.0	182.0
Fats and oils				
15179063	Other edible fats and oils in tanks/metal drums	9.10	245.1	254.0

Source: Information compiled by the WTO Secretariat, based on information from Reservesuisse viewed at: <http://www.reservesuisse.ch/en/goods/> [November 2016]; and tariff data provided by the authorities.

### 3.1.4.5 Tariff exemptions and reductions

3.34. On 18 November 2015, the Federal Council adopted an Ordinance on the Temporary Reduction of Customs Duties on Textiles (RO 2015 4935; RS 632.102.1).<sup>18</sup> The measure came into force on 1 January 2016 and is effective until 31 December 2019. The programme covers some 60 tariff lines in chapters 52, 54, 55, 56, 58, 59 and 60, of which 21 tariff lines may not benefit from the suspension programme if these items are used for retail sale or are in ready-to-use form (Table 3.8). All importers of the goods, irrespective of their origin, may benefit from tariff suspensions.

**Table 3.8 Suspension of customs duties in the textiles sector**

Product description (HS 4-digit level)	Tariff code
Cotton yarn	52053290
Woven fabrics of cotton (85% or more by weight of cotton, weighing not more than 200 g/m <sup>2</sup> )	52081100
Woven fabrics of cotton (85% or more by weight of cotton, weighing more than 200 g/m <sup>2</sup> )	52092100; 52094100; 52094200; 52095100
Woven fabrics of cotton (less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing not more than 200 g/m <sup>2</sup> )	52101900
Synthetic filament yarn	54023300
Woven fabrics of synthetic filament yarn	54071000; ex 54072000; 54074100; 54074200; 54074400; 54075100; 54075200; 54075300; 54075400; 54076110; 54076120; 54076130; 54076140; 54076920; 54076930; 54076940; 54077100; 54077200; 54078200; 54079200
Sewing thread of man-made staple fibres	ex 55081000
Woven fabrics of synthetic staple fibres	55132300; ex 56031100; ex 56031200
Gimped yarn; chenille yarn (including flock chenille yarn); loop wale-yarn	ex 56060090

<sup>18</sup> Article 4. Para. 3 (b) of the Federal Law on Customs Tariffs, version of 1 July 2016 (RS 632.10).

Product description (HS 4-digit level)	Tariff code
Narrow woven fabrics	ex 58061000; ex 58063200; ex 58064000
Embroidery, in the piece, in strips or in motifs	58109220; 58109900
Textile fabrics impregnated, coated, covered or laminated with plastics	ex 59031000; ex 59032000; ex 59039000
Textile fabrics otherwise impregnated, coated or covered	ex 59070000
Textile products and articles, for technical uses	59111000; 59114000; ex 59119000
Pile fabrics, including "long pile" fabrics and terry fabrics, knitted or crocheted	60011000; 60019100; 60019200
Knitted or crocheted fabrics of a width exceeding 30 cm	60041000
Warp knit fabrics	60053300; 60053400; 60059090; ex 60053100
Other knitted or crocheted fabrics	60063100; 60063200; 60063300; 60063400; 60064200; 60064400; 60069000

Source: Ordinance on the Temporary Reduction of Customs Duties on Textiles (RO 2015 4935).

3.35. Besides the tariff suspension system, Switzerland and Liechtenstein maintain various tariff exemptions and reductions under different laws and ordinances.

3.36. Under the Federal Law on Customs Tariffs, the Federal Council may reduce tariffs or exempt imports from duties in exceptional circumstances such as shortages of foodstuffs or other essential goods.<sup>19</sup> During the period under review, the Federal Council did not order any measures on the grounds of national emergency.

3.37. In addition, a variety of customs duty reliefs in the form of different schemes are provided when entering the Customs Union, such as the temporary admission of goods/inward processing, customs relief by type of use and for animal feed, duty-free warehouses, and open customs warehouses (Table 3.9).

**Table 3.9 Key features of tariff exemptions and reductions**

Schemes	Summary	Relevant laws/ ordinance
Duty-free movement of goods	<ul style="list-style-type: none"> <li>o Goods eligible for exemption under international conventions (the exemption can be restricted or suspended temporarily or durably for goods from countries that do not grant reciprocity)</li> <li>o Customs privileges for diplomats: exemption from customs duties and VAT is granted on the importation of goods that are intended for the official use of embassies, consulates, international organizations and missions as well as for the personal use of members of representations who have diplomatic status.</li> <li>o Coffins, and funerary urns and ornaments</li> <li>o Prizes, commemorative badges, and gifts of honour</li> <li>o Stocks on dining cars of international trains; and stocks, spare parts, and equipment on board boats and aircrafts</li> <li>o Legal payment means, bonds, manuscripts and documents with no value for collection, stamps, as well as foreign public transport tickets</li> <li>o Items for returning residents, wedding trousseau (e.g. items for household, wedding gifts), and inheritance</li> <li>o Goods for charitable institutions and for poor persons</li> <li>o Cars for disabled people</li> <li>o Objects for teaching and research</li> <li>o Works of art and exhibition objects for museums</li> <li>o Instruments and devices for medical examination or treatment of patients in hospitals or similar facilities</li> <li>o Studies and works of Swiss artists staying temporarily abroad for study</li> <li>o Border trade, and animals from border waters</li> <li>o Commercial samples and specimens</li> <li>o Indigenous packing material</li> <li>o The Confederation's war material</li> <li>o Capital goods and capital items of foreign companies that transfer their activities to the customs territory</li> </ul>	RS 631.0 RS 631.01

<sup>19</sup> Section 3 of the Federal Law on Customs Tariffs, version of 1 July 2016 (RS 632.10).

Schemes	Summary	Relevant laws/ ordinance
Temporary imports	The Federal Council may provide partial or full exemption from import duties on foreign goods for temporary admission into the customs territory or on indigenous goods after temporary admission into the foreign customs territory. The temporary admission procedure is generally restricted to two years (but a one-year extension may be requested no more than three times) after which the goods are re-exported without being modified. Customs offices require a deposit equivalent to the import duties, which would be payable in the case of permanent importation (release into free circulation). In the case of a full and punctual re-exportation of the goods, the deposit is returned. Almost all goods can be imported under temporary admission. The main categories of goods eligible for temporary admission include professional equipment, goods for exhibitions and trade fairs, certain means of transport (e.g. racing motor vehicles) and packaging.	RS 631.0 RS 631.01
Inward processing regime	Goods under the inward- processing regime may be subject to partial or full exemption from import duties when entering Switzerland. In addition, in certain cases, imported goods can be exempted from VAT. The inward processing procedure can be applied to goods that are temporarily processed in Switzerland. Under the scheme, the imported goods must be intended for re-exportation within 12 months of the date of the temporary importation after having undergone manufacturing, processing or repair. The approval of the Swiss Federal Customs Administration is required.	RS 631.0 RS 631.01 RS 631.016
Duty relief By type of use	Goods may be imported at reduced duties depending on their final use. Importers that wish to claim for the duty relief must present an end-use commitment and obtain a permit from the General Directorate of Customs. Annex 1 of Ordinance on Customs Relief (RS 631.012) determines goods being brought into the customs territory under the customs tariff relief scheme. The scheme covers mainly agricultural products and certain manufacturing products.	RS 631.0 RS 631.01 RS 631.012
Food for zoo, laboratory, and other animals	Exemptions from customs duties may apply to forage products intended for animal food (e.g. animals in zoos, animals used for scientific purposes, wild animals, fish, dogs, cats and other animals kept in apartments, not for the purpose of food production).	RS 631.0 RS 631.01 RS 631.012
Duty-free warehouses	Goods can be temporarily stored without paying import duties. Goods are moved via the transit procedure from the border to the duty-free warehouse. After temporary storage, the goods can be either imported or exported from the customs territory as part of the transit procedure. The following goods can be temporarily stored in a duty-free warehouse without paying tax: highly-taxed goods or goods subject to a quota and; goods stored on a temporary basis whose end use is not yet certain.	RS 631.0 RS 631.01 RS 631.013
Open customs warehouses (OCW)	A warehouse operator can store their own or third-party foreign goods (within Swiss customs territory). Goods are moved in transit from the border to the warehouse (approved place) without any customs duties or taxes being paid. The main benefits of an OCW are: temporary storage without paying any import duties; import duties must be paid after the end of stockpiling for goods for sale in the customs territory; goods remain at a warehouse and do not have to be sent to a specific customs office for any clearance formalities.	RS 631.0 RS 631.01 RS 631.013

Source: Information compiled by the WTO Secretariat, based on laws and ordinance as noted in the table; and online information of the Swiss Federal Customs Administration. Viewed at: <https://www.ezv.admin.ch/ezv/en/home/information-companies/declaring-goods/importation-into-switzerland.html> [December 2016].

### 3.1.4.6 Tariff preferences

3.38. The Customs Treaty of 1923 created a customs union between Switzerland and Liechtenstein. Consequently, all goods are freely traded between the two countries, although they are subject to the Market Control and Surveillance Mechanism (Section 2.3.2.2, Box 2.1). The bilateral agreements between the EU and Switzerland and the EEA Agreement (for Liechtenstein) provide for free trade in most non-agricultural products with a valid certificate of origin. In addition to the European Union and the EFTA Convention, Switzerland and Liechtenstein have engaged in 29 FTAs, of which three (with China, Faeroe Islands, and Japan) are bilateral, while the remaining agreements are within the ambit of EFTA.<sup>20</sup>

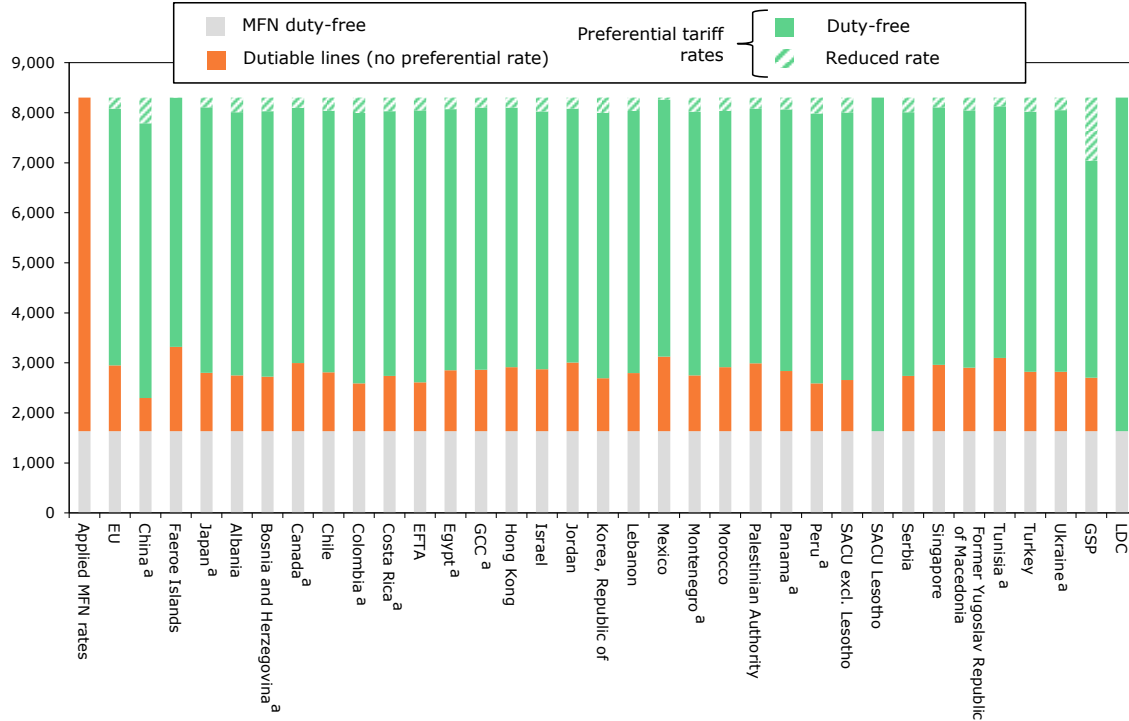
3.39. Under the free trade agreements (i.e. reciprocal basis), over 75% of all tariff lines (excluding applied MFN duty-free) are eligible for preferential tariff rates at zero or at reduced rates (i.e. lower than the applied MFN rate) with a proof of origin. The main exceptions from

<sup>20</sup> As of December 2016.

preferences are in the categories of vegetables (HS 07), oil seeds (HS 12), products of the milling industry (HS 11), meat products (HS 02), and animal and vegetable oil fats (HS 15) (Chart 3.2).

**Chart 3.2 Distribution of applied MFN and preferential tariffs, 2016**

(Number of tariff lines)



<sup>a</sup> Implementation period is not yet over.

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.40. Duty-free treatment is granted to 99.9% of non-agricultural imports, while preferences are granted on a limited range of agricultural products (WTO definition). As a result, the simple average tariff rates for agriculture under the agreements are in general slightly lower than the averaged applied MFN tariff rates, while tariffs on non-agricultural products are nearly all zero (Table 3.10).

**Table 3.10 Tariffs under preferential agreements, 2016**

	Simple average tariff (%) <sup>a</sup>			Duty-free lines in total		
	All	WTO agriculture	WTO non-agriculture	All	WTO agriculture	WTO non-agriculture
MFN applied duty rates	9.0	30.8	2.3	19.7	20.0	19.6
EFTA	6.5	27.8	0.0	85.2	42.7	99.9
EU	6.6	28.1	0.0	81.5	30.9	99.0
Bilateral agreements						
China <sup>b</sup>	6.5	26.9	0.0	85.8	45.2	99.8
Faeroe Islands	7.1	30.5	0.0	79.6	21.1	99.9
Japan <sup>b</sup>	6.8	28.9	0.0	83.6	36.5	99.9
EFTA agreements						
Albania	6.8	29.1	0.0	83.1	34.5	99.9
Bosnia and Herzegovina <sup>b</sup>	6.7	28.7	0.0	83.6	36.3	99.9
Canada <sup>b</sup>	6.9	29.5	0.0	81.1	26.8	100.0
Chile	6.8	29.2	0.0	82.7	33.0	99.9
Colombia <sup>b</sup>	6.6	28.2	0.0	84.7	40.8	99.9
Costa Rica <sup>b</sup>	6.8	29.1	0.0	83.4	35.7	99.9
Egypt <sup>b</sup>	6.8	29.2	0.0	82.5	32.3	99.9
GCC <sup>b</sup>	6.9	29.3	0.0	82.8	33.4	99.9

	Simple average tariff (%) <sup>a</sup>			Duty-free lines in total		
	All	WTO agriculture	WTO non-agriculture	All	WTO agriculture	WTO non-agriculture
Hong Kong, China	6.9	29.5	0.0	82.2	31.1	99.9
Israel	6.9	29.3	0.0	81.7	29.2	99.9
Jordan	6.9	29.6	0.0	80.8	25.6	99.9
Korea, Republic of	6.8	29.0	0.0	83.6	36.5	99.9
Lebanon	6.9	29.3	0.0	82.8	33.3	99.9
Mexico	7.1	30.3	0.0	81.6	28.6	99.9
Montenegro <sup>b</sup>	6.8	29.1	0.0	83.2	34.8	99.9
Morocco	6.9	29.3	0.0	81.4	27.9	99.9
Palestine	6.9	29.6	0.0	81.0	26.4	99.9
Panama <sup>b</sup>	6.9	29.3	0.0	82.7	32.9	99.9
Peru <sup>b</sup>	6.6	28.2	0.0	84.6	40.6	99.9
SACU excl. Lesotho	6.7	28.7	0.0	84.1	38.4	99.9
SACU Lesotho	0	0	0	100.0	100.0	100.0
Serbia	6.8	29.0	0.0	83.2	35.0	99.9
Singapore	6.9	29.5	0.0	81.7	29.1	99.9
The former Yugoslav Republic of Macedonia	6.9	29.4	0.0	81.6	28.7	99.9
Tunisia <sup>b</sup>	7.0	29.9	0.0	80.3	23.7	99.8
Turkey	6.9	29.3	0.0	82.3	31.7	99.9
Ukraine <sup>b</sup>	6.9	29.3	0.0	82.6	32.8	99.9
Non-reciprocal						
GSP	7.2	29.0	0.5	71.9	37.4	83.8
LDC	0	0	0	100.0	100.0	100.0

Note: All tariff calculations exclude in-quota lines.  
The tariff schedules are based on HS12 nomenclature, consisting of 8,299 tariff lines (at the 8-digit tariff line level). 0.0 refers to >0 and <0.05.

- a *Ad valorem* equivalents (AVEs) were estimated based on 2015 import data at the 8-digit tariff level. If no import data were available for 2015, 2014 import data were used in calculations.
- b Implementation is not completed yet.

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.41. Within the framework of the Generalized System of Preferences (GSP), Switzerland and Liechtenstein grant non-reciprocal preferential tariff treatment for goods originating in beneficiary countries while LDCs benefit from duty-free and quota-free access for all products.<sup>21</sup> Preferences given to non-LDC GSP countries are more limited, especially for agricultural products: the average tariff rate under the GSP is 29% compared to the average applied MFN rate of 30.8%. According to data provided by the Swiss authorities, in 2015, some 8.5% of total imports from GSP beneficiaries into Switzerland were under the GSP scheme, which corresponds to a utilization rate of 32.8%; the utilization rates were 51.0% for LDCs and 31.0% for non-LDC GSP beneficiaries (Table 3.11).<sup>22</sup> Imports under GSP schemes from non-LDC GSP beneficiaries fell from SwF 4.4 billion in 2012 to SwF 1.5 billion in 2015, as a result of the bilateral agreement between Switzerland and China whose status as a developing country in the framework of GSP ceased as of 1 July 2014.

<sup>21</sup> The current GSP scheme provides preferential access to 123 developing countries, of which 48 are least developed countries, based on the Ordinance Determining the Preferential Customs Tariffs for Developing Countries (RS 632.911) (version of 1 January 2016).

<sup>22</sup> The GSP utilization rate is equal to the share of imports entered into the customs union under the GSP scheme.



**Table 3.11 GSP utilization, 2012-15**

(SwF billion and %)

		2012	2013	2014	2015
<b>All GSP beneficiaries</b>	<b>Total imports</b>	<b>34.9</b>	<b>34.6</b>	<b>21.2</b>	<b>20.9</b>
	GSP eligible imports <sup>a</sup>	12.1	12.1	5.1	5.4
	Imports under GSP scheme <sup>b</sup>	4.7	4.5	2.0	1.8
	Pref. utilization (%) <sup>c</sup>	39.1%	37.4%	38.3%	32.8%
	% of total imports	13.5%	13.1%	9.2%	8.5%
<b>GSP excluding LDCs</b>	<b>Total imports</b>	<b>29.6</b>	<b>30.2</b>	<b>17.4</b>	<b>17.1</b>
	GSP eligible imports <sup>a</sup>	11.6	11.6	4.5	4.8
	Imports under GSP scheme <sup>b</sup>	4.4	4.3	1.6	1.5
	Pref. utilization (%) <sup>c</sup>	38.3%	36.7%	36.2%	31.0%
	% of total imports	15.0%	14.1%	9.4%	8.5%
<b>GSP LDCs</b>	<b>Total imports</b>	<b>5.2</b>	<b>4.4</b>	<b>3.8</b>	<b>3.8</b>
	GSP eligible imports <sup>a</sup>	0.5	0.5	0.6	0.6
	Imports under GSP scheme <sup>b</sup>	0.3	0.3	0.3	0.3
	Pref. utilization (%) <sup>c</sup>	56.9%	52.9%	54.7%	51.0%
	% of total imports	5.4%	6.4%	8.3%	8.4%

a Imports are subject to GSP tariff rates.

b Imports actually entering into Switzerland/Liechtenstein under GSP tariff regime.

c The utilization rate is equal to the share of imports made under the preferential scheme in total preferential eligible imports.

Source: WTO Secretariat estimates, based on statistics provided by the Swiss authorities.

### 3.1.5 Import prohibitions, restrictions, and licensing

3.42. Switzerland applies a number of prohibitions and restrictions on imports, mainly for reasons of security, health, protection of intellectual property, and protection of the environment. In addition, some measures are applied as a result of UN Security Council Resolutions or EU sanctions regulations. In some cases, such as trade in weapons, dual-use goods, and articles of cultural significance, the regulations on trade apply to imported, exported, and transit goods. At end-2016, the last WTO notification on quantitative restrictions for Switzerland was for 2014-16<sup>23</sup>, and covers Liechtenstein as well.<sup>24</sup> The list of goods subject to import prohibitions is relatively limited (some examples are listed in Table 3.12).

**Table 3.12 Selected products subject to import prohibitions, 2012**

Products	Regulation/agreement	Purpose
Endangered species and their products	CITES	Environment
Nuclear, chemical, and biological weapons/anti-personnel mines	Federal Law on War Materials (RS 514.51, Articles 7 and 8)	Security
Certain toxic and environmentally hazardous chemical substances	Ordinance on Risk Reduction Related to Chemical Products (RS 814.81)	Environment/public health and safety
Potatoes, potato plants, certain soil substrates, vines, fruit trees from non-European countries	Ordinance on the Protection of Plants (RS 916.2)	Plant health (prohibition concerns mainly plant species intended for planting)
Certain carbon-zinc batteries and alkali-manganese batteries/accumulators	Protocol to the Convention on Long-Range Transboundary Air Pollution (RS 0.814.326)	Environment
Rough diamonds shipped from a country that is not a participant in the Kimberley Process Certification Scheme (KPCS)	Ordinance on International Trade in Rough Diamonds (RS 946.231.11)	Combating international trade in conflict diamonds

<sup>23</sup> WTO document G/MA/QR/N/CHE/1, 2 May 2014

<sup>24</sup> WTO document G/MA/QR/N/LIE/1, 11 June 2014



Products	Regulation/agreement	Purpose
Misappropriated cultural property from Iraq and Syria	Ordinance on Measures against the Republic of Iraq (RS 946.206) and Ordinance on Measures against Syria (RS 946.231.172.7)	Protection of cultural property
Goods from the Crimea and Sebastopol if not accompanied by a certificate of origin issued by the Ukrainian authorities	Ordinance on Measures to Prevent the Circumvention of International Sanctions Related to the Situation in Ukraine (RS 946.231.176.72)	International law and security

Source: WTO document G/MA/QR/N/CHE/1, 2 May 2014. The full list of current sanctions is available online from SECO: [https://www.seco.admin.ch/seco/fr/home/Aussenwirtschaftspolitik\\_Wirtschaftliche\\_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen/sanktionen-embargos/sanktionsmassnahmen.html](https://www.seco.admin.ch/seco/fr/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen/sanktionen-embargos/sanktionsmassnahmen.html) [January 2017].

3.43. The import licensing regime of Switzerland and Liechtenstein for 2016 was notified to the WTO on 30 September 2016. The authorities stated that, apart from some minor amendments, there had been no substantial changes compared to earlier notifications.<sup>25</sup>

3.44. For agricultural products, automatic or non-automatic licences may be required depending on the product and/or whether the imports are within a tariff quota (TQ). The legal basis for licences is set out in the Federal Law on Agriculture of 29 April 1998 (RS 910.1) and the General Ordinance on Imports of Agricultural Products of 26 October 2011 (RS 916.01) plus more specific legislation for some product groups. Non-automatic licences are used for allocating some parts of tariff quotas to authorized importers who meet the legal requirements for importing within TQs. Non-automatic licences may be transferred to other authorized importers and are generally for limited periods (Section 4.1.2.[tariff quotas]). An automatic import licence (general import licence (PGI)) is required for a wide range of agricultural products. The PGI is delivered automatically, at no charge and for an unlimited duration. However, for some products, such as horses and eggs, no licence is required and imports up to the tariff quota limit are charged the in-quota tariff.

3.45. For SPS reasons, imports of animals and animal products, vegetables and vegetable products, and forestry plants normally require an authorization from the Federal Office for Food Security and Veterinary Affairs (OSAV), the Federal Office for Agriculture (OFAG), or the Federal Office for the Environment (OFEV). Imports from the EU, Norway, and Iceland do not normally require an authorization. Imports of plants and plant products for planting must be accompanied by a phytosanitary certificate. Furthermore, imports of some plant and plant products from certain countries are prohibited where the phytosanitary situation of these products presents a clear danger of introduction of pests or diseases into Switzerland. For some products, such as potatoes, the prohibition applies to all countries except those that are members of the European and Mediterranean Plant Protection Organization (EPPO).

3.46. Licences are also required for imports of species covered by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (from OSAV); reproductive forestry materials (OFEV); human tissues and transplants (Federal Office for Public Health (OFSP)); blood products and immunological products (Swissmedic); psychotropic substances (Swissmedic); and products with an ethanol content greater than 80% by volume (Swiss Alcohol Board). Imports of ethanol are to be liberalized from end-2018, when the Confederation's monopoly will be abolished and the tariff reduced to zero. The Swiss Alcohol Board will be progressively integrated into the Federal Customs Administration, effective in 2018 (Section 3.3.4).<sup>26</sup>

3.47. Switzerland continues to apply a system of compulsory stockpiles for fuel, and food and feedstuffs (Section 3.1.4.4). Automatic licences are granted on the condition that the importer has a reserve stock contract. Licences for fuels are provided by the Central Swiss Office for Imports of Fuels and Combustible Liquids (CARBURA – an association of importers) and for food and feedstuffs by Réservesuisse Genossenschaft (a cooperative of importers).<sup>27</sup> Under the Ordinance

<sup>25</sup> WTO document G/LIC/N/3/CHE/12, 30 September 2016.

<sup>26</sup> Swiss Alcohol Board online information. Viewed at: [https://www.eav.admin.ch/eav/fr/home/revision\\_alkoholgesetz/revision\\_partielle\\_de\\_la\\_loi\\_sur\\_l\\_alcool/calendrier\\_mise\\_en\\_oeuvre.html](https://www.eav.admin.ch/eav/fr/home/revision_alkoholgesetz/revision_partielle_de_la_loi_sur_l_alcool/calendrier_mise_en_oeuvre.html) [January 2017].

<sup>27</sup> WTO document G/LIC/N/3/CHE/12, 30 September 2016, Section 9.

on Obligatory Stocks of Natural Gas of 20 May 2015 (RS 531.215.42), natural gas was added to the list of fuels subject to compulsory stocks (operated by Provisiogas), although automatic licences are not required for imports of natural gas.

3.48. In addition, reserve stocks are maintained for fertilizer and some therapeutic products. The cooperative society Agricura Genossenschaft is responsible for managing the fertilizer reserve stocks held by importers and manufacturers. Agricura maintains a guarantee fund to protect its members from any losses that may be incurred from holding reserve stocks. The guarantee fund is financed by contributions from domestic sales of fertilizers.<sup>28</sup> Helvecura Genossenschaft is a cooperative society responsible for managing the stocks of therapeutic products which also operates a guarantee fund to cover losses incurred by its members from holding the reserve stocks (Section 3.1.4.4).<sup>29</sup>

3.49. Access to some tariff quotas for agricultural products requires the importer to purchase or produce similar products domestically under a "*prise en charge*" system (Section 4.1.2.2).

### 3.1.6 Anti-Dumping, countervailing, and safeguard measures

3.50. Neither Switzerland nor Liechtenstein has any specific legislation on contingency measures, although the WTO Agreement on Implementation of Article VI of GATT 1994, the Agreement on Subsidies and Countervailing Measures, the Agreement on Safeguards, as well as the other Uruguay Round agreements, are legally binding having been published in the classified compilation of acts and ordinances of Switzerland.<sup>30</sup> Neither Switzerland nor Liechtenstein has applied any contingency measures.<sup>31</sup> SECO is the competent authority for investigation and application of contingency measures.

3.51. Switzerland also reserved the right to use the special agricultural safeguard (SSG) under Article 5 of the Agreement on Agriculture for 1,176 tariff lines, but has not invoked it for any product since 1999.<sup>32</sup>

3.52. As noted in previous reports, in cases of emergency or when the national interest is at stake, the legislation does provide for changes in tariff rates or the imposition of non-tariff measures.<sup>33</sup> However, these provisions have never been used.

## 3.2 Measures Directly Affecting Exports

### 3.2.1 Export procedures and requirements

3.53. Export procedures for Switzerland and Liechtenstein are similar to those for imports. An export declaration is required (for statistical purposes) and goods must be exported within one day of submission of the customs declaration. The declaration must be made electronically by the exporter or someone acting on behalf of the exporter. Goods delivered to a duty-free or customs warehouse must be exported within six months of the submission of the customs declaration.

3.54. The legislation on non-preferential rules of origin for Switzerland and Liechtenstein applying to exports claiming Swiss or Liechtenstein origin is set out in the Ordinance on Attestation of the Non-Preferential Origin of Goods of 9 April 2008 (RS 946.31), and Ordinance of the FDEA on the Certification of the Non-Preferential Origin of Goods of 9 April 2008 (RS 946.311) (Section 3.1.3). Ordinance 946.311 includes a list of chambers of commerce in Liechtenstein and the Swiss cantons which operate as bureaux of origin (Annex 1).

<sup>28</sup> Agricura online information. Viewed at: [http://www.agricura.ch/fr/engrais\\_azotes.htm](http://www.agricura.ch/fr/engrais_azotes.htm) [January 2017].

<sup>29</sup> Helvecura online information. Viewed at: <http://www.helvecura.ch/fr/page-initiale> [January 2017].

<sup>30</sup> Tariff Regime GATT/WTO (RS 0.632.2).

<sup>31</sup> WTO documents: G/ADP/N/1/CHE/1, 4 May 1995; G/ADP/N/193/CHE, 23 December 2009; G/SCM/N/202/CHE, 23 December 2009; G/SCM/N/48/CHE, 7 July 1999.

<sup>32</sup> WTO Agriculture Information Management System. Viewed at: <http://agims.wto.org/> [January 2017].

<sup>33</sup> For example see: Federal Law on Customs Tariffs of 9 October 1986 (RS 632.10), Articles 7 (national interest) & 11 (agricultural products); and Federal Law on External Economic Measures (RS 946.201), Article 1 (emergencies).

### 3.2.2 Export taxes, charges, and levies

3.55. Neither Switzerland nor Liechtenstein applies any taxes, charges, or levies on exports. Exported goods are exempt from VAT and exported spirits may qualify for a refund of the "monopoly tax".<sup>34</sup> The Federal Law on Customs Tariffs (Article 5) provides for an export tariff as set out in the tariff book (Part 2), the rate of which may be changed by the Federal Council to ensure national supply. However, the 47 tariff lines (eight-digit level) listed in Part 2 of the tariff book are exempt from export tariffs. Most of these tariff lines refer to scrap and waste metals and rough wood. In general, there are no fees for customs services, although the FCA may charge a fee for some services, such as customs clearance outside office hours.

### 3.2.3 Export prohibitions, restrictions, and licensing

3.56. Switzerland and Liechtenstein maintain restrictions and prohibitions on exports to certain countries on the basis of foreign and security policy and on some goods on the grounds of safety, security, the environment, and compliance with international conventions and treaties. In addition, capital and payment transactions with some economic regions and trade with specific persons, organizations, or institutions may be restricted. Concerning export embargoes, Liechtenstein implements the relevant UN Security Council Resolutions and aligns itself with the EU Common Foreign and Security Policy (CFSP) in regard to export embargoes.

3.57. Under the Federal Law on the Implementation of International Sanctions of 22 March 2002 (RS 946.231), the Federal Council may, by means of ordinances, apply import and export prohibitions and restraints based on international law, particularly decisions by the UN Security Council, the Organization for Security and Cooperation in Europe (OSCE), or Switzerland's principle trading partners. Measures currently in force under the Law are listed on the SECO website.<sup>35</sup>

3.58. Switzerland and Liechtenstein are states parties to the Arms Trade Treaty which sets out legally binding criteria for the import, export, and transfer of conventional weapons as defined in the Treaty, which entered into force for both countries in 2015.

3.59. Switzerland is a participant in several non-binding arrangements, including the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies; the Missile Technology Control Regime; the Treaty on the Non-Proliferation of Nuclear Weapons and the Zangger Committee; the Nuclear Suppliers Group; and the Australia Group. Liechtenstein is not a participant in these arrangements but applies their goods control lists in its export controls.

3.60. Export controls on goods and technology are generally applied to ensure compliance with international agreements to which Switzerland is a party. In Switzerland, the legal bases for controls on exports of arms and dual-use goods are the Federal Law on the Control of Dual-Use Goods, Specific Military Goods and Strategic Goods (Goods Control Law) of 13 December 1996 (RS 946.202), the Ordinance on the Export, Import and Transit of Goods for Civilian and Military Purposes and Specific Military Goods (Goods Control Ordinance) of 3 June 2016 (RS 946.202.1), the Federal Law on War Material of 13 December 1996 (RS 514.51), and the Ordinance on War Material of 25 February 1998 (RS 514.511). The Goods Control Ordinance extended the provisions of the Goods Control Law to specifically include nuclear goods, dual-use goods and military goods that are subject to non-binding international control measures, strategic goods subject to international agreements, and goods subject to national export controls.

3.61. Under the Federal Law on War Material, the export and transit of war material for recipients abroad may only be authorized if this is not contrary to international law, international obligations, and the principles of Swiss foreign policy (Article 22).

3.62. In practice, an enterprise or person wishing to export or transit goods covered by the legislation must submit a request for authorization to the State Secretariat for Economic Affairs

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<sup>34</sup> FCA online information. Viewed at: <https://www.ezv.admin.ch/ezv/en/home/information-companies/taxes-and-duties/exportation-from-switzerland/refund-of-monopoly-tax--spirits-tax-.html> [February 2017].

<sup>35</sup> See [https://www.seco.admin.ch/seco/fr/home/Aussenwirtschaftspolitik\\_Wirtschaftliche\\_Zusammenarbeit/Wirtschaftsbeziehungen.html](https://www.seco.admin.ch/seco/fr/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen.html) [January 2017].

(SECO) for examination. SECO also retains the right to prevent exports of goods which do not require an export permit where it has reason to believe that the goods could be used for the development, manufacture, use, passing on, or the deployment of weapons of mass destruction.

3.63. Based on the Convention of 13 January 1993 on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (RS 0.515.08), the Goods Control Law, the Ordinance on the Control of Chemical Products for Civilian and Military Purposes of 21 August 2013 (RS 946.202.21) deals with the import, export, transit and production of chemicals listed in the annex of the ordinance. Authorization may be obtained from the Federal Council or SECO, depending on the type of activity requested.

3.64. According to the Federal Law on Nuclear Energy of 21 March 2003 (RS 732.1), the Ordinance on Nuclear Energy of 10 December 2004 (RS 732.11), and the Goods Control Ordinance (Article 3.2), the handling (including the import, export and brokering) of nuclear materials, as well as the export and brokering of related technology and software, requires an authorization by the Swiss Federal Office of Energy (SFOE).

3.65. An authorization by SECO is required for the export of listed nuclear-related equipment as well as related technology and software, according to the Goods Control Ordinance (Article 3).

### **3.2.4 Export support and promotion**

3.66. Switzerland eliminated export subsidies on basic agricultural goods in 2010, although exports of processed agricultural products may be granted export subsidies under the Federal Law on the Import and Export of Processed Agricultural Products of 13 December 1974 (RS 632.111.72) (Section 4.1). Although Liechtenstein does not have an export subsidy regime, its exporters may also qualify for Swiss export subsidies.

3.67. Switzerland Global Enterprise (S-GE) (formerly the Swiss Office of Commercial Expansion), a non-profit entity under SECO, is responsible for supporting export-orientated SMEs in Switzerland and Liechtenstein in exporting their products. Through its 21 representative offices, or Swiss Business Hubs, it provides information, consulting, and marketing services. S-GE also runs the "Cleantech" programme for enterprises producing goods and services seen as protecting and preserving natural resources. The total contribution from the Confederation to S-GE's export promotion was SwF 21 million in 2014 and 2015, representing about half of S-GE's total income in each year.

### **3.2.5 Export finance, insurance, guarantees**

3.68. In addition to private-sector export finance, insurance, and guarantees, Swiss Export Risk Insurance (SERV), which is owned by the Swiss Confederation, provides protection against non-payment, facilitates the financing of exports, and helps companies to maintain their liquidity. SERV operates under the Federal Law on Swiss Export Risk Insurance of 16 December 2005 (RS 946.10) and the Ordinance on Swiss Export Risk Insurance of 25 October 2006 (RS 946.101) which provide that:

- SERV should supplement and not replace insurance provided by the private sector by providing cover for risks that the private sector will not cover or for which there is inadequate supply of insurance;
- SERV should be economically viable and not incur any long term costs for the Swiss Confederation; and
- SERV should comply with foreign policy objectives concerning the environment, development, human rights, democracy, etc.

3.69. In addition, the SERV website states that SERV complies with the OECD Arrangement on Officially Supported Export Credits and the Berne Union Guiding Principles.<sup>36</sup>

3.70. To qualify for export insurance from SERV, the exporter must have a registered office in Switzerland and be listed on the Commercial Register, the buyer must be domiciled outside Switzerland, and the goods or services being exported must be of Swiss origin or, in most cases, have a total foreign content of no more than 50%.

3.71. The Law and Ordinance were amended in 2014, with effect from 1 January 2016. The principle changes confirmed temporary measures taken in 2009 and 2011 to extend the product range and insurance cover. Under the amendments, the Federal Council may allow SERV to reschedule its debts. In addition, SERV may provide counter guarantees, working capital insurance, letter of credit confirmation insurance, and refinancing guarantees (Table 3.13). On 1 September 2011, SERV introduced a new premium schedule based on the OECD Arrangement on Officially Supported Export Credits.<sup>37</sup>

**Table 3.13 Insurance products available from SERV, 2016**

	Cover ratio	Risks covered
<b>Exporters</b>		
Supplier credit insurance	95%	Political, transfer, <i>force majeure</i> , economic
Pre-shipment	95%	Political, economic
Contract bond	95%	Political, <i>force majeure</i>
Counter guarantee	100%	Non-payment of the institution granting the export credit
Confiscation risk	95%	Political, <i>force majeure</i>
Multi-buyer	..	Political, transfer, <i>force majeure</i> , economic
Service	95%	Political, transfer, <i>force majeure</i> , economic
<b>Financial institutions</b>		
Working capital	95%	Non-payment by exporter to financial institution
Buyer credit	95%	Political, transfer, <i>force majeure</i> , economic
Letter of credit confirmation	95%	Political, transfer, <i>force majeure</i> , economic
Refinancing	100%	Non-payment of the institution granting the export credit

.. Not available.

Source: SERV. Viewed at: <http://www.serv-ch.com/en/> [October 2016].

3.72. SERV's net exposure increased steadily from 2012 to 2015 (from SwF 8,195 million to SwF 10,494 million). While it has made an operating profit in all years except one, its operating loss in 2011 was SwF 55 million, compared to operating profits of SwF 111 million in 2014 and SwF 59 million in 2015.<sup>38</sup>

### 3.3 Measures Affecting Production and Trade

#### 3.3.1 Internal taxes

##### 3.3.1.1 Corporate income tax

3.73. In Switzerland, corporate income is taxed at the federal as well as at the cantonal and communal level.<sup>39</sup> The federal tax is levied at a flat rate of 8.5% on net corporate income.<sup>40</sup> Cantonal corporate income taxes are determined by the cantons themselves and range from 5.9% to 16% on net profits and from 0.05% to 0.3% on the net wealth of enterprises.

<sup>36</sup> SERV online information. Viewed at: <http://www.serv-ch.com/en/organisation/legal-framework-conditions/> [January 2017].

<sup>37</sup> SERV online information. Viewed at: <http://www.serv-ch.com/en/premiums/premium-composition/> [January 2017].

<sup>38</sup> Swiss authorities and SERV annual reports. Viewed at: <http://www.serv-ch.com/en/organisation/about-serv/> [January 2017].

<sup>39</sup> The communes levy the corporate income tax themselves in the vast majority of the cantons. In some cantons, the communes do not levy the tax but participate in the canton's earnings or the canton collects a surcharge for the communes.

<sup>40</sup> The tax is calculated on income net of tax, resulting in an effective federal tax rate of 7.83% on net profits.

3.74. The practice of privileged tax treatment of earnings abroad for holding, domiciliary and mixed companies operating internationally (so-called "ring fencing") by Swiss cantons has been criticized by the OECD and by the EU. The Swiss Federal Parliament adopted a third series of Corporate Tax Reform (CTRIII) measures on 17 June 2016, specifically addressing these "ring fencing" issues. However, CTRIII was rejected in a popular vote on 12 February 2017. The Federal Council will analyse the result of the vote and develop a new bill.

3.75. Liechtenstein imposes a 12.5% tax on the net corporate income of all economically active companies (Table 3.14). Public enterprises not engaged in economic activities, institutions for occupational retirement, and legal entities engaged exclusively in charitable activities are tax exempt. The 2010 Tax Act contains a provision on non-economically active "private asset structures".<sup>41</sup> The implementation of certain requirements under the OECD's action plan on base erosion and profit shifting (BEPS) has been the subject of a number of amendments to the Tax Act. The amendments were adopted by Parliament in November 2016 and entered into force on 1 January 2017.

**Table 3.14 Liechtenstein corporate taxes and other selected taxes, January 2016**

Tax base	Standard tax rates
Corporate income tax (annual): annual net income	12.5% (minimum SwF 1,200)
Private asset structures	SwF 1,200
Formation tax: formation of share capital (applicable only when the Swiss provisions on stamp duties do not apply)	Capital > SwF 1,000,000: 1% Capital > SwF 5,000,000: 0.5% Capital > SwF 10,000,000: 0.3%
Real-estate gains tax (per sale of real estate located in Liechtenstein)	Maximum 24%
Personal income tax (worldwide income)	Maximum 24%
Net wealth tax (worldwide net assets)	Maximum 0.96%
Intellectual property related income	80% of net income is tax-exempt

Note: The provision on intellectual property related income (IP Box) was abolished for new applicants with effect from 1 January 2017. Existing beneficiaries may continue to make use of the IP Box for another four years.

Source: Information provided by the Liechtenstein authorities.

### 3.3.1.2 Indirect taxes

3.76. Switzerland and Liechtenstein apply certain indirect taxes that are also levied on imports, notably value added tax (VAT), but also a motor vehicle tax, a consumption tax on mineral oils and fuels, a CO<sub>2</sub> tax on fossil fuels, an incentive fee on volatile organic compounds (VOCs), and taxes on tobacco and alcoholic beverages (beer and spirits). Liechtenstein applies an excise tax on salt in lieu of a monopoly fee applied in Switzerland.<sup>42</sup> VAT is a significant source of government revenue in Switzerland, accounting for roughly one third of total receipts at the federal level.<sup>43</sup> The mineral oil tax and the tobacco tax are the principal revenue generators among the other taxes (Chart 1.3).

#### 3.3.1.2.1 VAT

3.77. VAT is charged on imported as well as domestically produced goods and services.<sup>44</sup> Imported goods are subject to VAT on the tariff-inclusive value and imported services on the "cost of services provided". Switzerland and Liechtenstein constitute a common area for the application of VAT.<sup>45</sup>

<sup>41</sup> The EFTA Surveillance Authority has confirmed the compatibility of this provision with EEA law. EFTA Surveillance Authority online information. Viewed at: [www.eftasurv.int/media/decisions/44-11-COL.pdf](http://www.eftasurv.int/media/decisions/44-11-COL.pdf).

<sup>42</sup> The tax rate (per tonne) varies according to end use, i.e. SwF 175 for packaged edible salt, SwF 1 (road salt), SwF 0.94 (industrial use), and SwF 5 (other purposes).

<sup>43</sup> Revenue from VAT has been relatively stable during 2013-15, amounting to approximately SwF 22.5 billion per year.

<sup>44</sup> Nearly 367,000 enterprises were registered for payment of VAT as of May 2015.

<sup>45</sup> The valleys of Samnaun and Sempoch are not part of the customs territory of Switzerland, and the VAT law is therefore only applied to services. However, the communes of Samnaun and Valsot must compensate the federal government for the loss of revenue from VAT not being applied to goods.



3.78. Value added tax was introduced in 1995, replacing a tax on retail sales of goods. The general rate was set at 6.5% with a lower rate (2.0%) applicable principally to foodstuffs. A special rate for accommodation services (3%) came into effect on 1 October 1996. Subsequent increases in the VAT rates, most recently adopted in 2009, earmark the additional revenue for specific purposes.<sup>46</sup> Current VAT rates, applicable since 1 January 2011, are valid until 31 December 2017. The exemptions to the scope of the law are limited (Table 3.15). Exports and gold for investment purposes are zero rated.

**Table 3.15 VAT rates**

Products concerned	Rate
Most goods and services	8%
Reduced rate applicable to certain goods including tap water; foodstuffs and additives; animals, poultry, and fish; cereals; animal feed, silage acids, and scatterings for animals; fertilizers, pesticides, mulch and other vegetation used as covering material (e.g. finely chopped materials, wood chips); medications; newspapers, magazines, books and other printed matter; services of radio and television companies; cultural and sports events; and agricultural supplies for initial production and cultivation (VAT Law Article 25, para. 2a)	2.5%
Special rate for accommodation services applicable until 31 December 2017	3.8%
Goods in small quantities of insignificant value; human organs by recognized medical institutions; certain goods entered into Swiss territory exempt from customs duties; goods imported as part of supplies for airlines; goods entered into under temporary admission and inward processing procedure; electricity and natural gas in pipes or cables (VAT Law, Article 53)	Exempt

Source: Information compiled by the WTO Secretariat, based on the Federal Law Regulating Value Added Tax of 2 September 1999 (RS 641.20); Ordinance on Value Added Tax (RS 641.201); and Federal Customs Administration remarks on the value added tax. Viewed at: <http://www.ezv.admin.ch/dokumentation/04032/04924/index.html?lang=en>.

### 3.3.1.2.2 Excises

3.79. Imported and domestically produced motor vehicles are subject to a tax of 4%. The calculation base is, in principle, the same as for value added tax. Electric cars and motor vehicles for persons with disabilities are tax exempt. The 4% tax is not applied to motor vehicles weighing more than 3,500 kg as these are subject to a heavy vehicle charge.

3.80. Mineral oils and fuels are taxed in accordance with the Federal Law on the Taxation of Mineral Oils of 21 June 1996 (RS 641.61). The tax, which includes a surcharge on engine fuels, is differentiated by product and end use. For example, the tax (per litre) is set at SwF 0.7587 for diesel, SwF 0.7312 for unleaded petrol, and SwF 0.003 for extra-light heating oil. Engine fuels used in agriculture, forestry, professional fishing, natural stone mining, by licensed transport companies, or (since 1 October 2016) in snowcats are subject to reduced rates. Aircraft may be exempt from the tax. Since July 2008, tax rebates (up to SwF 0.72 per litre) have also been accorded to biofuels (e.g. biogas, bioethanol, biodiesel, vegetable and animal oils) provided the production complies with established minimum ecological and social criteria.

3.81. The CO<sub>2</sub> levy, which entered into force on 1 January 2008, is designed to reduce the use of fossil fuels and thus the associated CO<sub>2</sub> emissions. The tax rate was originally set at SwF 12 per tonne of CO<sub>2</sub>, gradually rising to SwF 60 per tonne in 2014 with further increases anticipated in 2016 and 2018, depending on the CO<sub>2</sub> emission targets triggering the tax hikes. The maximum levy established in the legislation<sup>47</sup> is SwF 120 per tonne of CO<sub>2</sub>. From 1 January 2016, the levy has been set at SwF 84 per tonne of CO<sub>2</sub> which, *inter alia*, translates into SwF 216.70 per 1,000 kg of natural gas, or SwF 222.60 per 1,000 litres of extra-light heating oil (at 15°C). Energy-intensive industries are exempted from the CO<sub>2</sub> levy provided they participate in Switzerland's Emissions Trading Scheme (ETS) or otherwise commit to emission reductions (non-ETS).

3.82. The purpose of the tax on volatile organic compounds (VOCs) is to provide an incentive to reduce the use of such substances in products such as paints, varnishes, and various cleaning

<sup>46</sup> The rate increase applied from 1 January 1999 is dedicated to the financing of the Old Age and Survivors' Insurance, and the increase from 1 January 2001 to major railway construction projects. The most recent increase is earmarked for the disability insurance scheme. VAT revenue is not earmarked in Liechtenstein.

<sup>47</sup> Federal Law on the Reduction of CO<sub>2</sub> Emissions of 23 December 2011 (RS 641.71) and Ordinance on the Reduction of CO<sub>2</sub> Emissions of 30 November 2012 (RS 641.711).

solutions.<sup>48</sup> The tax is levied on imports and on domestic production. On imports, the tax is generally collected at the time of importation, and the quantity of VOCs in the concerned goods must be stated in the import declaration. The tax rate is SwF 3 per kg. Goods may be exempted from the VOC tax if they are used in such a way that the substances are not released into the environment, or if they are exported. The tax has been designed not to distort cross-border competition. The proceeds from this tax, approximately SwF 120 million annually, are redistributed to the population in equal amounts through the health insurance companies.<sup>49</sup>

3.83. The tobacco tax is levied on imported and domestically produced cigarettes, cigars, and other tobacco products.<sup>50</sup> The tax may be a compound rate or *ad valorem*. For cigarettes, the compound rate amounts to SwF 118.32 per 1,000 cigarettes plus 25% *ad valorem* of the retail selling price.<sup>51</sup> In addition, each cigarette sold is subject to a tax of SwF 0.0013 for the domestic tobacco financing fund (SOTA) and SwF 0.0013 for the Tobacco Control Fund.<sup>52</sup> All importers of tobacco goods must be registered with the Directorate General of Customs, Section for Tobacco and Beer Taxation. A prerequisite for entry into the register is that the applicant is domiciled in Switzerland or maintains Switzerland as his/her principal place of business. The applicant must also file an end-use commitment (*revers*) confirming that he/she will comply with the trading regulations.

3.84. Regarding the taxation of alcoholic beverages, imported and domestically produced beer is taxed in accordance with the Federal Law on the Taxation of Beer of 6 October 2006 (RS 641.411) and monopoly duty is levied on alcopops and distilled spirits (Table 3.16). The beer tax is determined according to the degree of strength of the beer on the basis of the original extract (degree Plato), and the monopoly duty on other alcoholic beverages is directly related to the pure alcohol equivalent contained in the products.<sup>53</sup> Foodstuffs containing alcohol are taxed at the rate applicable to the alcoholic product included therein. Ethanol for industrial purposes (denatured) and wines, other than sweet wine and vermouth, are tax exempt in Switzerland and in Liechtenstein. The tax rate for beer has been unchanged since 2007, as has the monopoly duty on other alcoholic beverages since 1999.

3.85. As noted in Section 3.13, the 2016 amendments to the Federal Law on Alcohol entail certain gradual changes in the present regime, including the privatization of Alcosuisse, taxation reform, and liberalization of the ethanol market. The Swiss Alcohol Board is to be integrated into the Federal Customs Administration.

**Table 3.16 Taxation of alcoholic beverages**

Product	Unit	Tax rate (SwF)	Legal basis	Responsible agency
Distilled spirits	LPA	29.00	RS 680	Swiss Alcohol Board
Sweet wine and vermouth <sup>a</sup>	LPA	14.50	RS 680	Swiss Alcohol Board
Alcopops <sup>b</sup>	LPA	116.00	RS 680	Swiss Alcohol Board
Ethanol for consumption	LPA	29.00	RS 680	Swiss Alcohol Board
Ethanol for industrial purposes		0	RS 680	Swiss Alcohol Board
Light beer (up to 10.0° Plato)	hl	16.88	RS 641.411, RS 817.0	Federal Customs Administration
Normal and special beer (10.1 to 14.0° Plato)	hl	25.32	RS 641.411, RS 817.0	Federal Customs Administration

<sup>48</sup> A positive list of such VOCs subject to taxation may be consulted (in French) at: [http://www.ezv.admin.ch/pdf\\_linker.php?doc=voc\\_stoff\\_positivliste\\_f&lang=fr](http://www.ezv.admin.ch/pdf_linker.php?doc=voc_stoff_positivliste_f&lang=fr).

<sup>49</sup> The health insurance companies have been chosen for this task as all persons residing in Switzerland are required to have health insurance. A portion of the revenue from the CO<sub>2</sub> levy is also redistributed in this manner. Federal Office for the Environment online information. Viewed (in French) at: [www.bafu.admin.ch/dokumentation/medieninformation/00962/index.html?lang=fr&msg-id=39100](http://www.bafu.admin.ch/dokumentation/medieninformation/00962/index.html?lang=fr&msg-id=39100).

<sup>50</sup> Nearly 97% of the revenue derived from the tobacco tax in 2015 pertained to the taxation of cigarettes.

<sup>51</sup> The specific component has increased from SwF 114.94 per 1,000 units since the last review; the *ad valorem* rate is unchanged.

<sup>52</sup> SOTA is a purchasing society for domestically grown tobacco. Domestic tobacco accounted for 3.2% of the tobacco used by Swiss manufacturers of tobacco products in 2015.

<sup>53</sup> Monopoly duty is not applied to beverages with an alcoholic strength of 1.2% vol. or less.



Product	Unit	Tax rate (SwF)	Legal basis	Responsible agency
Strong beer (over 14° Plato)	hl	33.76	RS 641.411, RS 817.0	Federal Customs Administration
Natural wine up to 18% alcohol by volume <sup>c</sup>		0	RS 817.0	Federal Office for Agriculture

Note: LPA refers to litre of pure alcohol, and hl refers to hectolitre.

- a Including wines made from fruit, berries and other raw materials (15% to 22% alcoholic strength by volume; ex HS 2206); sweet wines, specialties and mistelles (alcoholic strength by volume not exceeding 22% vol.; ex HS 2204.2150 and 2204.2950); and vermouths and other wines of fresh grapes (alcoholic strength by volume not exceeding 22% vol.; HS 2205). Sweet wines with a minimum sugar content of 45 g/l and 15% to 18% alcoholic strength by volume are not subject to monopoly duties.
- b Sweetened alcoholic beverages consisting of a mixture of spirits and lemonades, fruit juices or other alcoholic or non-alcoholic beverages.
- c The Federal Law on Foodstuffs and Basic Commodities of 9 October 1992 (RS 817.0) provides a definition of natural wine. In case of doubt, the Swiss Alcohol Board uses laboratory analyses to determine whether an alcoholic beverage is taxed or not.

Source: Swiss Alcohol Board online information. Viewed at: <https://www.eav.admin.ch/eav/en/home/themen/steuersaetze.html>; and Federal Customs Administration online information. Viewed at: [http://www.ezv.admin.ch/pdf\\_linker.php?doc=Tares\\_Monopolgebuehren&lang=en](http://www.ezv.admin.ch/pdf_linker.php?doc=Tares_Monopolgebuehren&lang=en).

### 3.3.2 Incentives and other assistance

3.86. The Federal Law on Financial Support and Subsidies of 5 October 1990 (RS 616.1) establishes a framework for the granting of subsidies at the federal level, outlining notably the eligibility criteria and general procedures.<sup>54</sup> Assistance is mainly provided in the form of financial transfers and tax exemptions. Article 5 of the Law requires the Federal Council to review periodically, i.e. at least every six years, subsidies accorded by the Federal Government with a focus on the efficiency and effectiveness of individual programmes. The Federal Council report published in May 2008 evaluated 228 subsidy programmes (out of 361). The report recommended the termination or revision of 70 programmes, as these were found to have become redundant due to structural changes or inefficient relative to their stated goals.

3.87. The Federal Council report published in 2008 was the last of its kind. In September 2014, Parliament amended the reporting requirements under the Federal Law on Financial Support and Subsidies. The subsidy examination process has been simplified, but is not intended to be less rigorous. Each year, starting from 2014, one of the seven federal departments reviews its subsidies. The procedure leads to a six-year cycle, during which all subsidies accorded by the Federal Government are examined. The Federal Council presents the results of each year's review in the Swiss state financial statements. The new examination process did not change the purpose of the review. The focus is still on the efficiency and effectiveness of individual programmes as described above.

3.88. The Federal Administration maintains a database, by expenditures, for about 300 federal subsidies.<sup>55</sup> Payments amounted to more than SwF 37 billion in 2015, principally for social security programmes (47%), education and research (17%), and transportation (14%). Programmes administered by the State Secretariat for Economic Affairs (SECO) accounted for approximately 3% of the total outlays.

3.89. Switzerland's notifications to the WTO pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures provide information on subsidies accorded to agriculture and industry. The non-agricultural subsidy programmes (including forestry) in Switzerland's most recent notification are summarized in Table 3.17.

<sup>54</sup> Subsidies are also provided by sub-federal authorities.

<sup>55</sup> Financial outlays may be retrieved by theme, department, or budget line. The database is accessible in (German or French) at: [http://www.data.ebv.admin.ch/subventionen/f/dokumentation/finanzpolitik\\_grundlagen/subv\\_subvueberpruefung.php](http://www.data.ebv.admin.ch/subventionen/f/dokumentation/finanzpolitik_grundlagen/subv_subvueberpruefung.php).

**Table 3.17 Federal assistance, 2010-15**

(SwF million, unless otherwise indicated)

Programme/industry	Outlays					2015	Legislation
	2010	2011	2012	2013	2014		
<b>Measures in application of regional policy</b>							Article 4 of the Federal Law on Assistance for Zones under Economic Renewal of 6 October 1995 (Official Collection of Federal Law 2006 4301), Federal Ordinance (Official Collection of Federal Law 4305) and the Federal Ordinance of 12 June 2002 (Official Collection of Federal Law 2007 6907)
Guarantees for investment credits	28.8	23.3	13.1	8.5	4.2	0.5	
Losses on guarantees	0.9	0.4	4.7	0	0	0	
<b>Assistance for SMEs operating in arts and crafts</b>							Federal Law on Financial Assistance for Surety Organizations Acting on Behalf of SMEs of 6 October 2006 (RS 951.25)
Volume of granted loans	214.5	210.7	218.2	227.0	238.2	244.5	
Number of sureties	1,654	1,653	1,660	1,694	1,745	1,749	
<b>Assistance for mountain and rural areas</b>							Federal Law on the Granting of Credit Guarantees and Loan Interest Service Contributions in Mountain Regions and Rural Areas in General of 25 June 1976 (RS 901.2). These areas are defined in the Federal Ordinance on Regional Policy of 28 November 2007 (RS 901.021)
Losses on guaranteed loans	0.6	1.3	0.2	0.4	0.1	0.1	
Federal commitments as a whole (total amount)	14.6	9.7	7.4	5.3	4.1	3.3	
Contributions to interest servicing	0.3	0.2	0.2	0.1	0.1	0.1	
<b>Environmental policy</b>							Article 31 of the Federal Law on the Reduction of CO <sub>2</sub> Emissions of 23 December 2011
CO <sub>2</sub> tax refund to specific industries	n.a.	n.a.	n.a.	43	47.4	..	
<b>Forestry</b>	130	120	131	140	138	..	Federal Law on Forests of 4 October 1991 (RS 921) and Federal Ordinance on Forests (RS 921.01)

.. Not available.

n.a. Not applicable.

Source: WTO documents G/SCM/N/220/CHE, 24 June 2011; G/SCM/N/253/CHE, 21 June 2013; G/SCM/N/284/CHE, 13 July 2015; and information provided by the Swiss authorities. Data for the forestry sector may be consulted at: [www.bafu.admin.ch/wald/01254/11353/index.html?land=de](http://www.bafu.admin.ch/wald/01254/11353/index.html?land=de) (in German or French).

3.90. The Federal Law on Regional Policy of 6 October 2006 (RS 901.0) launched a New Regional Policy (NRP) with its first programming period covering 2008-15.<sup>56</sup> The policy provides tax relief for projects of private enterprises in mountainous, rural, and border regions and areas with specific structures. A project must be innovative, and maintain or create jobs locally in order to qualify for support. Full or partial tax relief is granted for up to ten years to manufacturing enterprises or services companies with activities closely linked to the manufacturing process. The tax relief is granted as an absolute amount (rather than a percentage) starting from 1 July 2016. Guarantees for investment credits granted under the previous legislation (Federal Law of 6 October 1995) had a maximum duration of eight years, and the last such guarantees thus expired in 2016.

3.91. According to Regiosuisse, the Federal Government supported more than 1,500 projects with a total of SwF 220 million in non-reimbursable transfers within the framework of the NRP over the period 2008-14.<sup>57</sup> An additional SwF 315 million was provided in the form of (repayable) credits to 320 other projects. The federal contributions were matched by equivalent funds provided by the cantons. The subsidies were supplemented by capital raised by the private sector and the communes.<sup>58</sup>

3.92. The Confederation and the cantons established a working group ("NRP 2016+") in 2012 to evaluate the effect of the first phase and to prepare a new programme for 2016-23. The second phase focuses on manufacturing, assisted by regional innovation systems, and tourism. A specific "impulse" programme has been created for the tourism sector for 2016-19. Parliament has

<sup>56</sup> Each programming period is divided into two four-year implementation cycles.

<sup>57</sup> Regiosuisse online information. Viewed at: [http://archive.regiosuisse.ch/news-agenda-en/news/die-neue-regionalpolitik-ist-gefragt?set\\_language=en](http://archive.regiosuisse.ch/news-agenda-en/news/die-neue-regionalpolitik-ist-gefragt?set_language=en) and <http://archive.regiosuisse.ch/new-regional-policy/new-regional-policy-nrp/docs/regionalpolitik/regios-nrp-bilanz.pdf>.

<sup>58</sup> The private sector share of the investment projects ranged from 44 to 66%.

approved a federal contribution of SwF 230 million to the Fund for Regional Development for the current eight-year period.

3.93. Switzerland participates in the European Territorial Cooperation (ETC) through Interreg, ESPON and URBACT, which are elements of the EU's regional policy framework for 2014-20. The participation adds a cross-border, transnational and inter-regional component to Switzerland's NRP.

3.94. In accordance with the Federal Law on the Granting of Credit Guarantees and Loan Interest Service Contributions in Mountain Regions and Rural Areas in General of 25 June 1976 (RS 901.2), the Confederation provides subsidies to the Swiss Guarantee Cooperative for the Arts and Crafts which, in turn, issues sureties to small and medium-sized enterprises. The programme also involves interest-servicing contributions on long- and medium-term capital loans of these enterprises. Payments are only made to establishments that are profitable, or with a likelihood of developing further, that are not already supported in other ways by the Confederation. The programme is of unlimited duration.

3.95. The Federal Law on the Reduction of CO<sub>2</sub> Emissions of 23 December 2011 (RS 641.71) authorizes energy-intensive industries to be exempted from the Swiss CO<sub>2</sub> levy on the condition that they participate in the Swiss Emissions Trading Scheme (ETS)<sup>59</sup> or commit to reducing emissions (non-ETS). Large, greenhouse gas-intensive enterprises are required to enrol in the ETS, while medium-sized companies participate on a voluntary basis. Companies in certain sectors particularly affected by the CO<sub>2</sub> levy may apply for exemption, provided that they commit to emission reductions. Reimbursements (non-ETS and voluntary ETS) amounted to SwF 43 million in 2013 and SwF 47.4 million in 2014 (Table 3.17).<sup>60</sup> Sanctions apply to enterprises that fail to meet their reduction targets.

3.96. The Federal Government compensates forest owners for services rendered to the public, such as the maintenance of protection forests and the conservation of biodiversity. Indemnities and financial assistance are provided in accordance with the Reorganization of Financial Equalization (NFA) programme of 2008, whereby the federal grants are made available based on cantonal proposals. The subsidies to the forest sector for defined products and services are implemented by the cantons.

3.97. The Swiss federal government does not fund companies directly, but maintains a range of instruments to assist companies in accessing needed credit. One of these instruments is designed exclusively for small and medium-sized enterprises (SMEs) operating in sectors other than agriculture. According to the Federal Law of 6 October 2006 on Financial Assistance for Surety Organizations Acting on Behalf of SMEs (RS 951.25), the federal government covers 65% of the exposure and parts of the administrative costs of guarantee cooperatives assisting promising small and medium-sized enterprises in obtaining bank loans. The cooperatives offer loan guarantees of up to SwF 500,000.<sup>61</sup>

3.98. The Confederation continues to provide financial support for the investigation, monitoring, and rehabilitation of polluted sites. A tax on the deposit of waste in landfills is applied for this purpose. The funds available from the tax amount to approximately SwF 40 million per year, whereas expenditures depend on the demands of the cantons. Outlays totalled SwF 40.8 million in 2014 and SwF 38.8 million in 2015.

3.99. According to the legislation relating to volatile organic compounds, companies may be exempted from the tax (Article 9) provided that they modify their stationary installations (i.e. install purification plants) to reduce emissions to significantly below the limit values stipulated in the Air Protection Ordinance, or reduce VOCs emissions at every step of the production process according to the best available technique.<sup>62</sup>

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<sup>59</sup> Switzerland's ETS is aligned with the ETS of the European Union for the period 2013-20.

<sup>60</sup> These figures do not include reimbursements to mandatory participants in the ETS as such payments are not considered to be subsidies.

<sup>61</sup> One cooperative for women (SAFFA) operates at the national level, and three regional cooperatives together cover the entire territory of Switzerland.

<sup>62</sup> The best available technique is updated every five years.

3.100. Liechtenstein's policies do not provide for special protection or internal assistance to domestic industries.

### 3.3.3 Standards and other technical requirements

3.101. In most sectors, the Swiss federal authorities have the exclusive authority for adopting technical regulations, while the cantons are mainly responsible for implementation and market surveillance. The Federal Law on Technical Barriers to trade requires the compatibility of technical regulations with those of Switzerland's main trading partners.<sup>63</sup> New technical regulations (laws and ordinances) are subject to regulatory impact analysis. Switzerland has regularly notified its draft technical regulations, ordinances, and conformity assessment procedures to the TBT Committee.<sup>64</sup> Since the last review, no specific trade concerns have been raised in the TBT Committee regarding Switzerland's or Liechtenstein's measures.

3.102. The Liechtenstein Act of 1995 on the marketability of goods, as amended in 2016, stipulates that goods produced either in conformity with Swiss or EEA regulations may be sold in Liechtenstein. For example, EEA-originating non-agricultural products that do not comply with the Swiss regulations, such as pharmaceuticals, may be imported into Liechtenstein under the Market Control and Surveillance Mechanism (Section 2.3.2.2).<sup>65</sup>

3.103. Since the last review, Switzerland has further aligned its technical requirements with those of the EU. Swiss legislation was aligned (in 2012) with EU Regulation 305/2011 on Construction Products and (in 2016) with EU Regulation 1223/2009 on Cosmetic Products.<sup>66</sup> For cosmetic products, there are some remaining regulatory differences, for example, Switzerland does not require notification of cosmetics. Under the new rules, a safety report must be provided to the authorities upon request. On 25 November 2015, Switzerland adopted a package of revisions harmonizing ten Swiss ordinances with the regulatory framework of the EU for the marketing of products (New Legislative Framework).<sup>67</sup> In general, this reform package harmonizes the definitions in Swiss legislation, as well as the obligations of manufacturers, authorized representatives, importers and distributors, with those of the EU. It also establishes new requirements for conformity assessment bodies to ensure a consistent level of quality for conformity assessment procedures. The revised technical regulations entered into force in 2016.

3.104. On 1 July 2010, Switzerland had introduced the "Cassis de Dijon" principle as a new, additional trade policy instrument to dismantle technical barriers to imports from the EU and EFTA markets and thereby enhance import competition and help reduce the high prices prevailing in Switzerland.<sup>68</sup> Under the "Cassis de Dijon" principle, products that are lawfully put into circulation on the EU and EEA markets and comply with the technical requirements of the EU or the EEA<sup>69</sup> may be placed on the market in Switzerland without any prior inspection or other conformity assessment, even if the products do not comply with Swiss technical requirements.

3.105. From the beginning, there have been a number of exceptions to the "Cassis de Dijon" principle. The instrument is not applicable to products that are subject to an import permit; import prohibition; authorization; notification pursuant to the Swiss legislation concerning chemicals; or an exemption granted by the Federal Council. Products affected by the exceptions include pharmaceuticals, certain chemicals<sup>70</sup>, certain dangerous substances, certain detergents, fertilizers,

<sup>63</sup> Loi fédérale sur les entraves techniques au commerce (LETC), RS 946.51, Article 4, paragraph 2.

<sup>64</sup> 2012: 25; 2013: 9; 2014: 11; 2015: 27; Total: 72.

<sup>65</sup> The legal basis is EEA Council Decision 1/95 (viewed at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A21995D0420\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A21995D0420(01))) and Article 3 of the Adaptation of the Customs Union Treaty.

<sup>66</sup> Ordinance on Cosmetic Products (RS 817.023.31), as amended. See also WTO document G/TBT/N/CHE/146, 24 February 2012.

<sup>67</sup> The EU "alignment package" sectors are: lifts; simple pressure vessels; pressure equipment; equipment and protective systems intended for use in potentially explosive atmosphere (ATEX); electrical equipment (electromagnetic compatibility); measuring instruments; non-automatic weighing instruments; explosives for civil use; and radio and telecommunication equipment. See WTO notifications G/TBT/N/CHE/185 to CHE/194.

<sup>68</sup> For more details, see 2013 TPR of Switzerland and Liechtenstein.

<sup>69</sup> Or those of the EU/EEA member States in case of partially or non-harmonized rules.

<sup>70</sup> Certain chemicals may be placed on the market according to the "Cassis de Dijon" principle. See Federal Office of Public Health online information at: <http://www.bag.admin.ch/anmeldestelle/12778/12780/index.html?lang=en>.

plant protection products, certain measuring instruments, certain motor vehicles, boats, certain animal feedstuffs, GMOs, and certain foodstuffs. The SECO keeps an indicative list of exceptions as a guide for operators (negative list).<sup>71</sup>

3.106. Food imports are covered by the "Cassis de Dijon" principle, but special arrangements are in place prior to their first sale in Switzerland. Food items that do not conform to Swiss technical requirements are subject to approval by the Federal Food Safety and Veterinary Office in the form of a general ruling (*décision de portée générale*), which is normally issued within 60 days. Products benefiting from these arrangements are mainly products for which differences in standards or labelling requirements exist. There has been limited commercial use of the "Cassis de Dijon" principle for the purposes of marketing imported foodstuffs; the Federal Food Safety and Veterinary Office has approved 40 applications since 2010. In 2016, a parliamentary initiative to exclude foodstuffs from the "Cassis de Dijon" principle was rejected by Parliament.

3.107. In 2013, the SECO issued a preliminary, generally positive assessment of the economic impact of the "Cassis de Dijon" principle. However, it found no empirical evidence for the expected price declines due to enhanced import competition and parallel imports – in any case, because of the appreciation of the Swiss franc, price effects would be difficult to isolate, according to the SECO.<sup>72</sup> However, in a recent assessment, the SECO concluded that the numerous exceptions diminish the effectiveness of the "Cassis de Dijon" principle.<sup>73</sup>

3.108. There have been no major changes to Swiss labelling requirements. Labelling requirements are generally set out in sector-specific technical regulations. Some Swiss labelling requirements are maintained (as an exception to the "Cassis-de-Dijon" principle) with the objective of allowing consumers to make an informed choice or to prevent deception. Country of production labelling is mandatory for all imported and domestic foodstuffs and some raw materials used in food.<sup>74</sup> According to the authorities, this is because the indication of the country of manufacture cannot be inferred from the origin of the product and provides relevant information to help consumers decide which product they wish to buy. In accordance with the Agricultural Ordinance on Declaration<sup>75</sup>, imports of meat and eggs produced in a manner prohibited in Switzerland must be labelled as such. Banned production methods, which must be labelled, include the use of hormones, antibiotics, and other antimicrobial substances such as performance stimulators for meat, and eggs from hens reared in battery cages. The ordinance was amended on 1 July 2015 to include beta-antagonists (including ractopamine).<sup>76</sup> The labelling requirements apply from the point of sale to the final consumer in retail trade and in establishments where meals are prepared for the public, such as restaurants. The labelling requirements for GMOs remain unchanged.<sup>77</sup>

3.109. A revision of the Federal Law on Medicinal Products and Medical Devices of 15 December 2000 (Law on Therapeutic Products) is underway.<sup>78</sup> The draft law aims to improve the population's access to medicinal products and the conditions for biomedical research and industry, as well as reduce unnecessary technical barriers to trade (e.g. through simplified authorization procedures) and align Swiss with EU and international legislation.<sup>79</sup>

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<sup>71</sup> SECO online information. Viewed at:

[https://www.seco.admin.ch/seco/fr/home/Aussenwirtschaftspolitik\\_Wirtschaftliche\\_Zusammenarbeit/Wirtschaftsbeziehungen/Technische\\_Handelsbarrieren/Cassis-de-Dijon-Prinzip/Ausnahmen\\_Cassis-de-Dijon-Prinzip.html](https://www.seco.admin.ch/seco/fr/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/Technische_Handelsbarrieren/Cassis-de-Dijon-Prinzip/Ausnahmen_Cassis-de-Dijon-Prinzip.html).

<sup>72</sup> SECO online information. Viewed at:

<https://www.secolive.admin.ch/aktuell/00277/01164/01980/index.html?lang=fr&msg-id=48605>.

<sup>73</sup> SECO (2016), "Barriers to Parallel Imports". Viewed at:

[https://www.seco.admin.ch/seco/fr/home/Publikationen\\_Dienstleistungen/Publikationen\\_und\\_Formulare/konsum-und-preise/Preisunterschiede/behinderung-von-parallelimporten.html](https://www.seco.admin.ch/seco/fr/home/Publikationen_Dienstleistungen/Publikationen_und_Formulare/konsum-und-preise/Preisunterschiede/behinderung-von-parallelimporten.html).

<sup>74</sup> Articles 15 and 16 of the Ordinance of the Federal Department of the Interior (DFI) on Labelling and Advertising of Foodstuffs (RS 817.022.21).

<sup>75</sup> Ordonnance relative à la déclaration de produits agricoles issus de modes de production interdits en Suisse (RS 916.51).

<sup>76</sup> WTO document G/TBT/N/CHE/199, 13 August 2015.

<sup>77</sup> Ordinance of the Federal Department of the Interior (DFI) on Genetically Modified Foodstuffs (RS 817.022.51).

<sup>78</sup> RS 812.21.

<sup>79</sup> The proposed changes were notified to the TBT Committee in the G/TBT/N/series: CHE/105, CHE/125, CHE/130, CHE/132, CHE/133, CHE/135, CHE/140, CHE/141, and CHE/144.

3.110. There are no new developments regarding conformity assessment procedures. The Swiss Accreditation Service (SAS), which is administratively subordinate to the SECO but otherwise independent with its own budget, is responsible for the accreditation of laboratories and inspection and certification bodies. Switzerland has mutual recognition agreements (MRAs) with the EU (covering 20 industrial sectors), EEA/EFTA, Canada, and Turkey. For selected agricultural products, Switzerland and the EU recognize the equivalence of their respective laws in order to facilitate trade.<sup>80</sup>

3.111. In Liechtenstein, conformity assessment bodies are accredited by the Liechtenstein Accreditation Service.<sup>81</sup> Liechtenstein has MRAs on conformity assessment with the other EEA/EFTA countries, Australia, Canada, New Zealand, Switzerland, and the United States. Liechtenstein and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei) have signed an exchange of letters regarding the mutual exchange of information for medical devices, notably requirements for quality systems and audits of quality systems (in force since May 2011).

3.112. There have been no new developments regarding standardization. The Swiss Standards Association (Association Suisse de Normalisation, SNV) has about 700 members, including a few from Liechtenstein. The SNV publishes Swiss and foreign draft standards on the internet (Swiss Information Centre for Technical Rules, switec). Approximately 96% of the 24,575 standards currently in force in the customs territory are aligned with international or European standards, almost unchanged since the last review. National standards predominate for watches and road construction. Swiss standards are reviewed every five years to assess their continued relevance. The SNV is a member of the three European standard-setting organizations (CEN, CENELEC and ETSI).

### 3.3.4 Sanitary and phytosanitary requirements

3.113. Under the Customs Union Treaty, Liechtenstein applies Switzerland's SPS measures. Switzerland has not provided any SPS notifications since the last review, and no specific trade concerns have been raised in the SPS Committee regarding Switzerland's or Liechtenstein's SPS measures.

3.114. A comprehensive reform of the Swiss food safety regime is under way with the aim, *inter alia*, of protecting consumers from unsafe food and further aligning the food safety requirements with the EU *acquis communautaire*.<sup>82</sup> A new food safety law received parliamentary approval on 20 June 2014.<sup>83</sup> The reform involves a revision and restructuring of 27 federal regulations in order to harmonize them with EU legislation. The proposed regulations were submitted for public consultation (closed end-October 2015) and notified to the TBT Committee (see Table A3.1). The new food safety requirements will enter into force on 1 May 2017.

3.115. The new food safety regime brings about a paradigm shift to the Swiss approach on food safety. The positive principle has been abolished as an unnecessary barrier to trade. Under the positive principle all food items and additives offered for sale were required to either be described in an ordinance or approved by the competent federal authorities – otherwise they were prohibited.<sup>84</sup> In future, all safe food items will be allowed unless explicitly prohibited. The "precautionary principle" has been introduced into Swiss law.<sup>85</sup> The definition of food in the new legislation no longer includes tobacco and tobacco products.<sup>86</sup> However, for a transitional period of

<sup>80</sup> Feedstuffs, seeds, wine, spirits and alcoholic beverages from wine, bio-products, fruits, vegetables, animals, and animal products.

<sup>81</sup> The following bodies are accredited: three for certification – Liechtenstein Association for Quality Assurance Certificates Company (Management Systems); SWISS LLOYD GmbH; and Überwachungsgesellschaft für Gesteinsbaustoffe (Products); two for inspection – Office of Food Inspection and Veterinary Affairs, and Überwachungsgesellschaft für Gesteinsbaustoffe; and one for calibration – Negotia Messtechnik AG.

<sup>82</sup> The EU's food safety regime is based on Regulation (EC) No. 178/2002 (general principles and requirements of food law, establishment of the European Food Safety Authority and procedures in matters of food safety).

<sup>83</sup> Loi sur les denrées alimentaires et les objets usuels of 20 June 2014. The draft Food Law was notified as WTO document G/TBT/N/CHE/202, 3 September 2015.

<sup>84</sup> Article 8, paragraphs 1-3 of the Federal Law on foodstuffs and basic commodities (RS 817.0).

<sup>85</sup> Article 21 of the new Food Law.

<sup>86</sup> Article 4(3) of the new Food Law.



no more than four years, the provisions of the old Food Law relating to tobacco and tobacco products will stay in force, in order to allow time for the promulgation of a new dedicated federal law.<sup>87</sup> Switzerland has adopted the novel food concept of the EU; novel foods will be subject to approval by the Federal Food Safety and Veterinary Office, unless listed in the Novel Foods Ordinance. Switzerland has also adopted the EU system of "maximum values" for additives, contaminants, microorganisms, etc., which has replaced the Swiss tolerance system. Traceability requirements apply to food but also to objects and materials in contact with food (packaging, etc.), cosmetics, and toys. Products in contact with food and cosmetics are subject to enhanced protection against deceptive presentation to consumers (advertising, etc.).

3.116. While Switzerland has adopted EU labelling requirements, certain Swiss exceptions remain in place, for example the requirement to indicate the country of production on all food items and feedstuffs.

3.117. Switzerland continues to apply a stringent regulatory regime for agricultural biotechnology products. The Gene Technology Law and related ordinances regulate genetically modified organisms for food and feed use.<sup>88</sup> Commercialization and cultivation of biotechnology crops are subject to approval by the competent federal authorities. Approvals are valid for ten years but may be withdrawn in case of reasonable suspicion that they are hazardous to health or the environment. One GM soya variety and three GM maize varieties are currently authorized for food use. A number of GMO products are authorized for use as feedstuffs.<sup>89</sup> Many applications are under review in the authorization procedure.<sup>90</sup> The 2006-17 moratorium on approvals for the cultivation of biotechnology crops has been extended for four years until 2021.

3.118. There have been no major changes regarding Switzerland's phytosanitary and veterinary requirements. The regimes are fully aligned with those of the EU for imports from third countries, transit or exports of plants (Directive 2000/29/CE), live animals and animal products (Directive 882/2004).

3.119. Since 2009, Switzerland, Liechtenstein and the EU have formed a common veterinary area without veterinary controls on animals and products of animal origin. Since 2012, this area has been enlarged to include Norway and Iceland.<sup>91</sup> Live animals and animal products from outside the common veterinary area (non-EEA countries) can be imported only if the conditions regulating trade (import, transit and export of animals and animal products) with third countries are met.<sup>92</sup> Non-EEA consignments are subject to veterinary inspection at the external border of the common veterinary area, with a lower frequency of controls from countries covered by a bilateral equivalence agreement (e.g. New Zealand). Importers of live animals and animal products must be registered in TRACES (the EU's electronic information and traceability system) and with the Swiss cantonal *Contrôle des denrées alimentaires* or, in the case of Liechtenstein, the Food and Veterinary Office.

3.120. The Swiss phytosanitary regime is governed by the Plant Protection Ordinance of 27 October 2010<sup>93</sup>, which is complemented by the provisions for temporary (emergency) measures<sup>94</sup>, and the Prohibited Plants Ordinance.<sup>95</sup> A plant passport is required for plant imports

<sup>87</sup> Article 73 of the new Food Law.

<sup>88</sup> Federal Law on non-human gene technology (RS 814.91); see also RS 814.911 and RS 817.022.51.

<sup>89</sup> See "*Demandes et autorisations pour des produits OGM*", Federal Food Safety and Veterinary Office online information. Viewed at:

<http://www.blv.admin.ch/themen/04678/04817/04833/04840/index.html?lang=fr>.

<sup>90</sup> Federal Office for Health online information. Viewed at:

<http://www.bag.admin.ch/themen/lebensmittel/04858/04863/04883/index.html?lang=fr>.

<sup>91</sup> Ordonnance du 18 novembre 2015 réglant les échanges d'importation, de transit et d'exportation d'animaux et de produits animaux avec les États membres de l'UE, l'Islande et la Norvège (RS 916.443.11); and Ordonnance du DFI du 18 novembre 2015 réglant les échanges d'importation, de transit et d'exportation d'animaux et de produits animaux avec les États membres de l'UE, l'Islande et la Norvège (RS 916.443.111).

<sup>92</sup> Ordonnance du 18 novembre 2015 réglant les échanges d'importation, de transit et d'exportation d'animaux et de produits animaux avec les pays tiers (RS 916.443.106).

<sup>93</sup> Ordinance on the Protection of Plants (RS 916.20).

<sup>94</sup> *Ordonnance de l'OFAG sur les mesures phytosanitaires à caractère temporaire* (OMPT) (RS 916.202.1), as amended on 13 March 2015.

<sup>95</sup> *Ordonnance du DEFR sur les végétaux interdits* (RS 916.205.1) of 15 April 2002.

from EU member States that are potential carriers of pests hazardous to Switzerland. Plants may be imported only from enterprises approved by the Swiss Federal Plant Protection Service.<sup>96</sup> Specific import requirements are applied to products presenting a high phytosanitary risk, including a phytosanitary certificate (Article 9 of the Plant Protection Ordinance).

### 3.3.5 State trading, state-owned enterprises, and privatization

3.121. The Swiss alcohol regime is governed by the Alcohol Law of 1932 – one of the oldest federal laws – under which the Confederation is vested with exclusive rights (monopolies) with respect to imports and production of ethanol, and production of spirits.<sup>97</sup> Switzerland will abolish its statutory import monopoly for ethanol. The Swiss Parliament has approved a corresponding amendment of the Alcohol Law, which is expected to enter into force by the end of 2018, according to the authorities. Switzerland has regularly notified the activities of the Swiss Alcohol Board (*Régie fédérale des alcools*) – operating on behalf of the Swiss Confederation – to the Working Party on State Trading Enterprises.<sup>98</sup>

3.122. The alcohol import monopoly is exercised by Alcosuisse (a profit centre of the Swiss Alcohol Board) and applied to ethanol containing at least 80% alcohol by volume. Private-sector imports of high-grade alcohol are subject to prior authorization by the Swiss Alcohol Board. Private-sector imports of ethanol and spirits containing no more than 80% by volume are allowed without restriction and permit. The Confederation's import monopoly on ethanol used as bio-fuel was terminated on 1 October 2010. Total imports of ethanol into Switzerland in 2015 amounted to 62 million litres, of which 34 million litres were imported by Alcosuisse and 28 million litres were predominantly for use as bio-fuel.

3.123. Alcosuisse is required by law to sell at cost, and sales prices are fixed by the Federal Council. Alcosuisse does not export ethyl alcohol, according to the authorities, but exports will be liberalized under the reform. The reform of the alcohol regime will be implemented in two stages. The first stage involves integration of the Alcohol Board into the Federal Customs Administration and corporatization of Alcosuisse (state-owned private limited company), which has been slated for privatization. The authorities expect that after lifting the import monopoly some of the major users will import ethanol themselves.

3.124. The Confederation has traditionally conferred its exclusive rights to produce ethanol and spirits to the private sector. Concessions by the Alcohol Board are granted restrictively in accordance with the Alcohol Law. In the second stage of the reform, the restrictive administrative regime (currently involving 43 types of authorization) may be replaced by a producer and importer registration requirement (ethanol register). However, the content and timing of the second stage of the reform remain to be determined.

3.125. The Swiss cantons hold an ancient salt monopoly (*régale du sel*) that covers imports and sales of various types of salt.<sup>99</sup> The monopoly is exercised by the Salines Suisses SA with the purpose of ensuring the security of supply of table and road salt.<sup>100</sup> The cantons, through Salines Suisses, fix the sales price of salt, which includes a tax (*droit de régale*) on imported and domestically produced salt. Road salt (HS 2501.0090), the most widely used salt type, is subject to a tax of SwF 1 per tonne. Imports of salt and salt by-products (with a sodium chloride content of at least 30%, and salt solutions with a sodium chloride content of at least 18%) require authorization by the Salines Suisses. In order not to evade the salt monopoly, imports of salt-containing products such as olives and other vegetables that are preserved in brine but unsuitable for immediate consumption (HS 0711.2000) are also subject to authorization by the Salines Suisses.

<sup>96</sup> Article 9.4 of RS 916.20.

<sup>97</sup> The alcohol monopoly of the Swiss Confederation has its origins in the 19<sup>th</sup> century and reflects efforts by the authorities to curb alcohol abuse in the population at that time (for example of absinthe).

<sup>98</sup> WTO document G/STR/N/16/CHE, 3 May 2016.

<sup>99</sup> Inter-cantonal agreement ("concordat") on the sale of salt in Switzerland of 22 November 1973.

<sup>100</sup> The Salines de Bex SA (owned mainly by the canton of Vaud) and the Salines Suisses du Rhin SA (owned by all cantons, except Vaud, and the Principality of Liechtenstein) merged in 2014 to become the Salines Suisse SA. As a result, the regional monopolies have disappeared and the internal trade between the canton of Vaud and the rest of Switzerland has been liberalized.



3.126. The high profits earned by the salt monopoly have prompted intervention by the Price Supervisor (Section 3[competition]). An amicable settlement (in force since 2014) was reached with the Salines Suisses regarding salt prices (i.e. rebates for excess profits) and some limited liberalizing measures, which affect mainly imports of table salt. Import permits are issued for up to 6 tonnes per year provided the import prices do not undercut those of Salines Suisses and the salt, salt by-products or salt solutions are not available from Salines Suisses.<sup>101</sup> Any variable levy paid to adjust to Swiss price levels is reimbursed; the tax on salts used for further processing is also reimbursed on re-exports. Swiss salt imports amounted to about 10,000 tonnes annually in 2014 and 2015. Customs duties apply on imports of MFN origin.

3.127. Liechtenstein, as a shareholder of Salines Suisses SA, is also supplied by that company. However, because of its EEA membership, Liechtenstein has replaced the monopoly tax with an excise duty on salt of EEA origin (and other EEA-originating products affected by the Swiss salt monopoly). These products are subject to the Market Control and Surveillance Mechanism (Section 2[x]).

3.128. There have been no major developments since the last Review regarding Swiss state-owned enterprises. Swiss SOEs<sup>102</sup> operate in a number of service sectors (e.g. telecoms, banking, rail transport), as well as in the energy and water sectors (Table A3.[SOE]). Some of them benefit from exclusive rights and privileges, on the one hand, and are subject to public services obligations, on the other hand.

3.129. At the federal level, Switzerland has five state-owned enterprises that are wholly owned or majority-owned by the Confederation (SBB – Swiss Federal Railways; Swiss Post<sup>103</sup>; Swisscom; Alcosuisse (under the Swiss Alcohol Board); and RUAG (operating in the aerospace and defence sector)).<sup>104</sup> The ownership rights on behalf of the Confederation are exercised by the Federal Council subject to general oversight by the Federal Parliament; the ownership function is carried out by the competent line ministries in cooperation with the Federal Finance Administration (dual model). The SOEs are audited by private audit firms elected by the General Meeting of the SOE. All state-owned enterprises operate within the framework of the strategic objectives set by the Federal Council every four years, which relate to the legally defined universal service obligation and other matters of public interest<sup>105</sup>, as well as central aspects regarding company development (finance, personnel, risk, investment, etc.). In terms of performance:

- i. Swisscom has been profitable in recent years (2014, 2015) without any federal subsidies, and has paid out a dividend each year to its shareholders.
- ii. In the last few years, Swiss Federal Railways (SBB) yielded profits (SwF 373 million in 2014 and SwF 246 million 2015). SBB received subsidies for three purposes: (i) infrastructure (major share of the subsidies, co-financed by public long-term loans<sup>106</sup>; (ii) regional passenger transport services; and (iii) goods transport services. In total, SBB and its subsidiaries received SwF 3.4 billion (2015) in subsidies and loans by the Swiss Confederation and – to a smaller extent – by the cantons.
- iii. Swiss Post was profitable in 2014 and 2015, mainly due to the performance of Post Finance and Post Mail, and paid out annual dividends to the Confederation

<sup>101</sup> Imports of up to 50 kg for private consumption are exempt from the salt tax.

<sup>102</sup> Based on the definition contained in the OECD Guidelines (Guidelines on Corporate Governance of SOEs. Viewed at: <http://dx.doi.org/10.1787/9789264244160-en>).

<sup>103</sup> The financial services provider Post Finance Ltd. is a wholly-owned subsidiary of Swiss Post. It holds a banking licence and is supervised by the Swiss Financial Market Supervisory Authority (FINMA); however, by ownership policy the business activities are limited and exclude, for example, mortgage loans.

<sup>104</sup> The Confederation owns 21.70% in BLS SA (transport sector).

<sup>105</sup> Universal service in the telecommunications sector is subject to a concession.

<sup>106</sup> The operation, maintenance and construction of SBB infrastructure are financed by three sources: income from track access charges paid by the railway undertakings; a company-internal compensation payment by the SBB Real Estate division, as well as subsidies and loans mostly by the Swiss Confederation and to a smaller extent by the cantons. As of 1 January 2016, the subsidies and loans are paid from the Railway Infrastructure Fund (run with federal transfers, portions of the performance-related heavy vehicle charge, VAT and mineral oil tax, and a contribution of the cantons) and from the Infrastructure Fund (run with earmarked portions of several federal tax revenues).

(SwF 200 million annually). Swiss Post received federal subsidies (SwF 226 million in 2014 and SwF 226 million in 2015), of which SwF 176 million were earmarked for specific regional passenger transport services by Post Auto AG, and SwF 50 million for the delivery of regional and membership press with the respective publishing houses as final beneficiaries.

3.130. Switzerland does not have a privatization agenda.<sup>107</sup> The privatization of Swisscom was considered by the Government in 2014 (due to the financial risks for the Confederation of Swisscom ownership and potential conflicts of interest) but it has decided not to privatize the enterprise for the time being.

3.131. There have been no changes regarding state-owned enterprises in Liechtenstein since its last TPR in 2013. State-owned or private enterprises continue to hold exclusive rights or exercise monopoly powers over public passenger transport, certain postal services, and the supply of energy. The electricity and gas markets are undergoing gradual liberalization in line with the current developments within the EEA. Direct imports of gas and electricity are allowed (see also Table A3.2). The liberalization process will continue with the incorporation and implementation of the respective EU Directives 2009/72/EC and 2009/73/EC into EEA and national law.

### 3.3.6 Competition policy and price controls

3.132. Legislation on competition has not changed substantially since 2004. Four main laws continue to regulate competition: the Federal Law on Cartels and Other Impediments to Competition of 6 October 1995 (RS 251) (Cartel Law), amended in 2004; the Federal Law against Unfair Competition of 22 October 1992 (RS 241), amended in 2002; the Federal Law on the Internal Market of 6 October 1995 (RS 943.02), amended in 2006; and the Law on Price Surveillance of 20 December 1985 (RS 942.20), which allows price investigations by the Price Supervisor when competition is deemed to be lacking.

3.133. There were no new developments regarding the Swiss competition regime during the review period. The regime was evaluated by the "Task Force Cartel Act" which submitted recommendations in the Synthesis Report of 14 January 2009.<sup>108</sup> The Synthesis Report considered it necessary to amend the Cartel Law in order to achieve improvements in the institutions and in the areas of international cooperation, merger control and vertical restraints. In 2012, the Federal Council submitted a far-reaching revision of the Cartel Law to Parliament. Following two years of consideration by the Federal Chambers, a reform of the Cartel Law was rejected and shelved in September 2014.<sup>109</sup>

3.134. The Synthesis Report noted that Switzerland did not have any agreements on cooperation in competition matters with other States. In view of the increasing frequency of cross-border antitrust practices, it deemed it appropriate to conclude cooperation agreements with its main trading partners in order to make the exchange of confidential information possible. The Federal Council decided not to address international cooperation in the legislation but instead through the conclusion of second-generation cooperation agreements allowing the exchange of confidential information with Switzerland's main trading partners. The Switzerland–EU agreement on cooperation and competition matters came into force on 1 December 2014. The agreement provides in particular for notification of enforcement measures, coordination and exchange of information. It also contains clear procedural guarantees for the undertakings concerned. The agreement is procedural in nature and does not entail any harmonization of substantive law.<sup>110</sup>

3.135. The Synthesis Report also observed that, due to certain deficiencies in the Swiss measures to effectively enhance competition, mergers that may have a strong negative effect on competition

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<sup>107</sup> Switzerland's current economic growth strategy (adopted in 2016) does not address the privatization of state-owned enterprises.

<sup>108</sup> COMCO (2009).

<sup>109</sup> The envisaged revision of the Cartel Law covered reforms of the institutional framework (independence and professionalization of the competition authority) and of the legal instruments (*per se* prohibition of hard-core cartels, adoption of the European Union's SIEC test for mergers, amongst others). For details, see the 2013 TPR of Switzerland and Liechtenstein.

<sup>110</sup> *Official Journal* of the European Union. Viewed at: [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22014A1203\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22014A1203(01)&from=EN).

might be approved. According to the Report, the harmonization of the Swiss merger control system with the EU's and introduction of the SIEC-test would eliminate these problems.<sup>111</sup> The Federal Council decided on 22 June 2016 to propose a revision of the merger control system for public consultation until the end of 2017.<sup>112</sup>

3.136. Switzerland's guardian of effective competition consists of a secretariat and the non-permanent Competition Commission (COMCO). The COMCO currently consists of 12 part-time members, including the President and Vice-Presidents (who are nominated by the Federal Council), independent experts, and representatives of various interest groups (e.g. industry, retail, consumer, labour, and agricultural associations). Some members also hold positions on company boards. The secretariat carries out investigations and submits the results to the COMCO for decision. COMCO's decisions can be appealed to the Federal Administrative Court, whose judgments can be appealed to the Federal Supreme Court.<sup>113</sup>

3.137. In Switzerland, limited competition in various industries has resulted in higher prices of certain products and services than in comparable European markets. To counter the high prices prevailing in Switzerland, the COMCO routinely intervenes to expose and prevent market foreclosures, which have the effect of reducing import competition, and by taking pivotal decisions regarding enforcement actions. Priority areas of enforcement are price-fixing and other hard-core horizontal cartels, as well as vertical restraints of competition that foreclose territory. In three landmark rulings, the COMCO issued fines for anti-competitive practices preventing Swiss customers from making parallel or direct imports of Elmex toothpaste (2009), Nikon cameras and photography equipment (2011), and BMW cars (2012). On 28 June 2016, the Federal Supreme Court confirmed the sanction against the producer of Elmex toothpaste. On 16 September 2016, the Federal Administrative Court confirmed the sanction against Nikon. Nikon stated on 27 October 2016 that it would not lodge an appeal against the decision of the Court. In the BMW case, an appeal is pending before the Federal Supreme Court.

3.138. Switzerland has a system of presumption for particularly harmful cartels, i.e. horizontal agreements on prices, quantities or geographical allocation of markets, and vertical agreements on minimum or fixed prices and unequivocal territorial partition. The presumption that these five types of agreements eliminate the competition prevails, but puts the burden of proof on the COMCO and this presumption is regularly rebutted. Nonetheless, the COMCO considers that, despite the failed reform of the Cartel Law, it has sufficient instruments to address such restraints on competition.<sup>114</sup>

3.139. On 29 June 2015, the COMCO completed the revision of the 21 October 2002 Notice on the Competition Law Treatment of Vertical Agreements in the Automobile Sector and its explanatory guidelines, taking into account the present legal framework in the EU.<sup>115</sup> However, due to the legal and economic conditions in the Swiss automobile market, it was not considered appropriate to adopt every aspect of the European Union legislation.<sup>116</sup>

3.140. The COMCO opened 7 new investigations in 2013, 2 in 2014 and 6 in 2015. Amongst the major rulings since the last TPR, the COMCO fined 11 airlines for unlawful price-fixing of air freight (2013). In this case, the air services agreements with the EU (and other States) required the application of Swiss as well as EU rules on competition, which are an integral part of the bilateral ASAs.<sup>117</sup> The COMCO fined a cartel of wholesale distributors of sanitation equipment (2015) for unlawfully fixing prices and output. It prohibited certain practices by booking platforms, whereby restrictive clauses prevented hotels from offering rooms at lower prices via competing distribution channels (2015). It fined the telecom operator Swisscom for abuse of dominance with respect to broadband internet access (2015). The decision, which revolved around a Swisscom bid in an internet tender by Swiss Post, has been appealed before the Federal Administrative Court.

<sup>111</sup> The significant impediment of effective competition (SIEC) test, introduced in 2004 to EU merger control, aims at eliminating enforcement gaps that may exist in the dominance test.

<sup>112</sup> SECO (2016a).

<sup>113</sup> At the end of 2015, 22 appeals were pending.

<sup>114</sup> COMCO (2014).

<sup>115</sup> On 27 May 2010, the European Commission adopted Regulation No. 461/2010 and the guidelines relating thereto, introducing new competition rules for the motor vehicle industry.

<sup>116</sup> For more details, see COMCO (2015), p. 4.

<sup>117</sup> COMCO (2013).

3.141. Other activities of the COMCO have been related to diverse sectors, including for example: (i) financial services (an investigation relating to credit card interchange fees of MasterCard and Visa resulted, on 1 December 2014, in an amicable settlement which provided for a reduction in the domestic interchange fees from 0.95% to 0.44% by 1 August 2017); (ii) media (in a decision dated 14 July 2014, the COMCO concluded the investigation into the Swiss press agency Schweizerische Depeschagentur – SDA – relating to pricing policy and other practices, and approved an amicable settlement; the investigation revealed that from the end of 2008 to early 2010, the SDA had concluded subscription agreements with exclusivity discounts with selected media firms in the German-speaking part of Switzerland); and (iii) consumer goods (in a ruling dated 30 June 2014, the COMCO concluded its investigation into Jura Elektroapparate AG (Jura) by approving an amicable settlement in which Jura undertook in principle to allow its sales partners to sell its products online).

3.142. Bid rigging has been another investigation priority. Since the last Review, the COMCO has opened several investigations and fined companies in the construction industry. In August 2014, the Secretariat concluded the preliminary investigation opened in 2013 into reporting systems used by cantonal building contractors' associations. The secretariat reached the conclusion that these associations encouraged bid rigging by construction companies and could adversely affect competition. Accordingly, the secretariat urged building contractors' associations to ensure that participant companies are no longer able to use the reporting system to find out before the deadline for bids which other companies are submitting an offer.

3.143. The COMCO was called upon to decide a special case in the watch market (2013). The Swatch Group has traditionally held a dominant position in the market for mechanical watch movements and assortments, i.e. the core components used by the Swiss watch industry for mechanical "Swiss-made" watches. The case revolved around, on the one hand, the Swatch Group's expressed intent to phase-out the supply of these products to competing watch manufacturers, and on the other hand, ensuring that no abuse of dominant position *would* occur, namely if the watch manufacturers were obstructed or excluded from the market for mechanical watches. An amicable settlement was reached, which allows the Swatch Group to phase-out its supplies by 2019 without abuse of dominance.

3.144. Advocacy activities play an important role in the COMCO's responsibilities. For example, the COMCO has called for a reduction of the high level of tariff protection for agricultural products in Switzerland (Section 4.1.5). To improve the functioning of the internal market, the COMCO recommended the opening up of the cantonal markets for notarial services. It noted "that the inter-cantonal recognition of public deeds relating to real estate transactions could allow clients to benefit from a broader range of services and choose a notary from anywhere in Switzerland according to their needs in terms of quality, service and price."<sup>118</sup>

3.145. The Swiss courts, on the whole, support the Competition Commission's efforts, as illustrated by five judgements issued in 2015 and 2016: (i) in the off-list medicines case, the Federal Supreme Court confirmed that the application of the Cartel Law can only be excluded by express statutory provisions, and not by *de facto* circumstances in a specific market; (ii) in the aforementioned Swisscom ADSL, BMW, Elmex and Nikon cases, the Federal Administrative Court confirmed the substantive decisions of the COMCO in their entirety and rejected the related appeals. The Swiss Federal Supreme Court confirmed the Elmex decision of the COMCO and rejected the related appeal (its reasoned judgement is not yet available).

#### *Price controls*

3.146. Switzerland's regime of price surveillance and prevention of abusive pricing by public and private monopolies or enterprises with market power remains unchanged. The Law on Price Surveillance has not been amended since 1 January 2007.

3.147. In accordance with the Law on Price Surveillance, the Price Supervisor (appointed by the Federal Council) has the responsibility of observing price developments and preventing abusive price increases or abusive price maintenance in any market where the price level is not the

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<sup>118</sup> COMCO (2014).

consequence of effective competition (Articles 4 and 12).<sup>119</sup> Establishing the conditions for effective competition falls under the purview of the COMCO. Price surveillance covers the prices of goods and services (including administered prices) charged by SOEs (public monopolies), and private enterprises with market power. Enterprises with market power may submit their planned price increases to the Price Supervisor. The Price Supervisor may also act on its own initiative or by notice from the public to determine whether there are indications of abusive price fixing. If abusive price fixing is found, the Price Supervisor may attempt to reach an amicable settlement with the respective enterprise, failing which he is authorized to prohibit all or part of the price increase or order a reduction in price. Entities that fail to meet or attempt to avoid prices agreed by consent are liable to a fine of up to SwF 100,000.

3.148. Since the last Review, the Price Supervisor has reached amicable settlements or price moratoriums with a number of public monopolies and enterprises with market power, notably with Swiss Post AG (regarding tariffs for parcels and letters over 50 g in the non-reserved area); gas network operators (regarding transport tariffs); DHL Express and DPD (regarding customs processing fees); and Adobe Systems Ltd. An understanding regarding salt prices was also reached with Salines Suisse SA, which administers the cantonal salt monopoly (Section 3.[SOE]).

3.149. With respect to administered prices, the Price Supervisor's authority is limited to making recommendations regarding price increases, and he has frequently made use of this right.

3.150. Switzerland maintains administered prices at the federal, cantonal and municipal levels. Goods and services subject to administered prices include medicines, electricity, gas, water, basic telecom services, airport taxes, and notary services. In addition, fees for hospital treatment and medical doctors are regulated at the cantonal level, and taxi tariffs, and tariffs for garbage and waste water collection, amongst others, are regulated at the municipal level.

3.151. The agricultural import threshold prices are a special case of price controls or administered prices – they are also an instrument of agricultural protection (Section 4.[ag]). For certain basic agricultural products (grains and oilseeds), Switzerland applies a system of threshold prices on imports to keep the duty-inclusive prices within certain price ranges. Variable MFN import duties<sup>120</sup> allow the authorities to control and stabilize the domestic prices of the agricultural products concerned around the level of the statutory threshold prices.

3.152. The Price Supervisor publishes an annual report on the main investigations. Since the last Review, the Price Supervisor has launched enquiries on abusive prices in several sectors of the economy, for example the impact of border protection on the prices of agricultural products. As a policy response to the "high-price island" of Switzerland, the Price Supervisor has advocated a sustained reduction of agricultural tariff protection. The Price Supervisor also found that generic medicines are significantly overpriced in comparison with price levels in other European countries and has called for a reform of the legal framework governing prices of generic medicines.<sup>121</sup>

3.153. Liechtenstein maintains price controls on public transport, telecommunications, postal and medical services, and drugs and medical equipment. Prices for electricity and gas (except for grid access/transport) have been liberalized in compliance with the current developments within the EEA (second energy liberalization package). The market is open and prices can be set individually by each electricity or gas supplier. The prices are composed of a tariff for the use of the network (regulated by the Energy Market Commission) and a tariff for the energy itself. Due to the lack of a large number of alternative energy suppliers, most prices for gas and electricity are *de facto* set by the two state-owned companies. Some costumers have already switched their electricity supplier, according to the authorities. An application from a new gas supplier is pending.

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<sup>119</sup> The law does not define abusive pricing but lists factors to take into account, such as cost increases and prices in comparable markets (Article 13).

<sup>120</sup> Within limits set by Switzerland's tariff bindings.

<sup>121</sup> Surveillant des prix (Price Supervisor) online information. Viewed at: <https://www.preisueberwacher.admin.ch/pue/fr/home/documentation/publications/rapports-annuels.html>.

### 3.3.7 Government procurement

#### 3.3.7.1 Overview

3.154. Both Switzerland and Liechtenstein are parties to the WTO plurilateral Government Procurement Agreement (GPA) and have been actively involved in the re-negotiation of the Agreement.<sup>122</sup> The revised GPA entered into force on 6 April 2014 and is now in force for 18 of the current 19 Parties to the GPA, including Liechtenstein. Switzerland is in the process of ratifying the revised GPA in parallel with ongoing legal reforms and is expected to submit its instrument of acceptance in 2017.<sup>123</sup>

3.155. The revised GPA consists of a modernized text, simplifying and streamlining procedures and integrating modern procurement practice, such as the use of electronic tools. It also provides enhanced market access estimated at an additional US\$100 billion annually, bringing the overall estimated value of GPA-covered procurement to US\$1.7 trillion annually. Under the GPA, Switzerland offers comprehensive coverage of entities at all levels of government. Entities at the central level of government are now covered by a functional definition, and include new entities pertaining to the federal judiciary authorities and the federal prosecution authorities (Annex 1)). In Annex 3, the federal railway sector remains excluded.<sup>124</sup> Switzerland also enhanced its coverage of services, including telecommunication services and included an expanded list of non-sensitive defence items that are now covered under the GPA. Switzerland made reservations on the application of the GPA to other signatories that had not extended comparable and effective access to certain entities and/or in certain activities to Swiss firms.<sup>125</sup> Liechtenstein equally provides comprehensive entity coverage and extended its commitments to procurement by its Parliament and Courts<sup>126</sup>, bodies of public law at the national level<sup>127</sup>, and procurement by postal services acting under exclusive rights.<sup>128</sup> In Annex 5, Liechtenstein dropped the exclusion of certain telecommunication services. It maintains some country-specific derogations.<sup>129</sup>

3.156. As EFTA members, both countries are also bound by the EFTA Agreement, which reaffirms their rights and obligations under the GPA and broadens the scope of their commitments among EFTA members.<sup>130</sup> In particular, member States undertake to encourage their covered entities to treat the suppliers and service providers of the other member States in accordance with the principles of transparency and non-discrimination as set out in paragraph 2 of Article 37 of the EFTA Agreement.<sup>131</sup> EFTA has also concluded various FTAs with third countries containing chapters on government procurement. Such provisions either build on the WTO's Government Procurement Agreement (GPA) or substantially replicate its structure and content.<sup>132</sup> In particular, this is the case for the Agreements with the Central American States (Costa Rica, Guatemala and Panama), Chile, Georgia, Mexico, Colombia, Peru, Ukraine, and the Gulf Co-operation Council. The agreements with Singapore and Korea simply state that government procurement between the parties is governed by the GPA. Other FTAs contain more basic provisions mostly aiming at cooperation and future negotiations. The EFTA members generally aim at including chapters on government procurement in ongoing negotiations.

<sup>122</sup> See also WTO online information, "Agreement on Government Procurement: Parties, observers and accessions". Viewed at: [https://www.wto.org/english/tratop\\_e/gproc\\_e/memobs\\_e.htm](https://www.wto.org/english/tratop_e/gproc_e/memobs_e.htm).

<sup>123</sup> See *Report (2016) of the Committee on Government Procurement* (GPA/141, 29 November 2016).

<sup>124</sup> See WTO document GPA/113, Switzerland, Annex 3.

<sup>125</sup> See for instance, Annex 7, General Notes 1, 2 and 3 of Switzerland, WTO document GPA/113. The reservations apply to, *inter alia*: Canada (regional bodies, entities in the water, electricity, local transport, airports and ports subsectors, as well as certain services subsectors); the United States (communal bodies and water, local transport, airports and ports entities, as well as certain services subsectors and challenge procedures); Japan (communal bodies, electricity and local transport entities, as well as challenge procedures); the Republic of Korea (communal bodies, airports and local transport, and challenge procedures); Israel (communal bodies, local transport, certain services subsectors, and challenge procedures); and Singapore (communal bodies, water, and electricity entities).

<sup>126</sup> WTO document GPA/113, Liechtenstein, Annex 1 (central government entities).

<sup>127</sup> WTO document GPA/113, Liechtenstein, Annex 2.

<sup>128</sup> WTO document GPA/113, Liechtenstein, Annex 3.

<sup>129</sup> See for instance, Annex 3, Notes 9 and 10.

<sup>130</sup> See Article 37 of the EFTA Agreement and Annex R, available at: <http://www.efta.int/legal-texts/fta-convention>.

<sup>131</sup> See Article 7 of Annex R to the EFTA Agreement.

<sup>132</sup> See EFTA online information. Viewed at: [http://www.efta.int/sites/default/files/documents/free-trade/EFTA\\_website\\_-\\_Free\\_trade.pdf](http://www.efta.int/sites/default/files/documents/free-trade/EFTA_website_-_Free_trade.pdf).



3.157. The EEA Agreement establishes a single market in public procurement between Iceland, Liechtenstein and Norway, and EU members.<sup>133</sup> A separate bilateral agreement between the European Union and Switzerland on certain aspects of public procurement of 21 June 1999 filled the gap between the scopes of the GPA and the relevant provisions under the EEA.<sup>134</sup> The EFTA Working Group on Public Procurement meets when required and closely follows all EU decision-making on public procurement issues, mainly through participation in the European Commission's Expert Group on Public Procurement (EXPP), the Expert Group on eProcurement (EXEP) and the Economic and Statistical Working Group (ESWG).<sup>135</sup>

### 3.3.7.2 Switzerland

3.158. Switzerland's international commitments on public procurement have been transposed into its national law at the federal level (central administration), and at the sub-federal level (cantonal and municipal). At the federal level, the GPA was integrated into national law through the 1994 Federal Law on Government Procurement (now in force in its current version of 1 January 2016)<sup>136</sup> and its 1995 Ordinance (now in force in its current version of 1 April 2015 incorporating reforms that entered into force in 2010),<sup>137</sup> which set detailed rules for all types of procurement below and above GPA thresholds.<sup>138</sup>

3.159. At the sub-federal levels, the 26 Swiss cantons operate under the revised Inter-Cantonal Concordat on Government Procurement of 1994/2001, and its executive directives.<sup>139</sup> In addition, the 1995 Federal Law on the Internal Market provides for non-discrimination in public procurement at cantonal and local levels. The Confederation-Cantons Commission on Government Procurement (CMCC) is responsible for coordinating the implementation of Switzerland's international commitments at the federal and sub-federal levels, and for ensuring that they are respected and implemented.<sup>140</sup>

3.160. According to the authorities, the Inter-Cantonal Concordat aims to open the procurement markets of cantons, communes and other entities responsible for cantonal or communal tasks, as well as provide market access to foreign suppliers in accordance with Switzerland's international obligations. It has contributed to the harmonization of procurement laws and regulations but there are a number of remaining differences, for example, with regard to: the scope of application, thresholds, notice requirements, price negotiation (permitted at the federal level but not at the cantonal level); the importance of price as a criterion, the exclusion of bidders from ongoing and future procurement, secondary and social criteria, the justification of award decisions, and legal recourse.<sup>141</sup> A centralized electronic platform is shared by the federal government, cantons and communes for public procurement purposes.<sup>142</sup>

3.161. The Swiss legislation is currently undergoing comprehensive reform in order to implement the revised GPA and further harmonize the procurement laws and regulations at the federal and cantonal levels.<sup>143</sup> The reform process began in 2012 with the establishment of a joint federal and cantonal working group, which was mandated to develop a legislative proposal for revised and harmonized parallel drafts of the Federal Law on Government Procurement and Inter-Cantonal

<sup>133</sup> Article 65 (1) and [Annex XVI](#) of the EEA Agreement cover public procurement.

<sup>134</sup> For details, see Section 3.1.10 of WT/TPR/S/280, 19 March 2013.

<sup>135</sup> See EFTA online information, "Public Procurement". Viewed at: <http://www.efta.int/eea/policy-areas/goods/competition-aid-procurement-ipr/procurement>.

<sup>136</sup> Viewed at: <https://www.admin.ch/opc/de/classified-compilation/19940432/index.html>.

<sup>137</sup> Viewed at: <https://www.admin.ch/opc/de/classified-compilation/19950538/index.html>.

<sup>138</sup> For details, see Section 3.1.10 of WT/TPR/S/280, 19 March 2013.

<sup>139</sup> *Accord inter-cantonal sur les marchés publics* (AIMP), 25 November 1994/15 March 2001. Viewed at: <http://www.dtap.ch/de/bpuk/konkordate/ivoeb>.

<sup>140</sup> The CMCC comprises an equal number of representatives from the Confederation and from the cantons.

<sup>141</sup> See <http://www.dtap.ch/de/bpuk/konkordate/ivoeb> and *Explanatory Report on the Revision of the Federal Law on Government Procurement*, available at: [https://www.bkb.admin.ch/dam/bkb/de/dokumente/Oeffentliches\\_Beschaffungswesen/Revision\\_Beschaffungsecht/BoeB\\_Erlaeuternder\\_Bericht.pdf.download.pdf/B%C3%B6B%20ErI%C3%A4uternder%20Bericht.pdf](https://www.bkb.admin.ch/dam/bkb/de/dokumente/Oeffentliches_Beschaffungswesen/Revision_Beschaffungsecht/BoeB_Erlaeuternder_Bericht.pdf.download.pdf/B%C3%B6B%20ErI%C3%A4uternder%20Bericht.pdf).

<sup>142</sup> See <https://www.simap.ch>.

<sup>143</sup> See *Explanatory Report on the Revision of the Federal Law on Government Procurement*, available at: [https://www.bkb.admin.ch/dam/bkb/de/dokumente/Oeffentliches\\_Beschaffungswesen/Revision\\_Beschaffungsecht/BoeB\\_Erlaeuternder\\_Bericht.pdf.download.pdf/B%C3%B6B%20ErI%C3%A4uternder%20Bericht.pdf](https://www.bkb.admin.ch/dam/bkb/de/dokumente/Oeffentliches_Beschaffungswesen/Revision_Beschaffungsecht/BoeB_Erlaeuternder_Bericht.pdf.download.pdf/B%C3%B6B%20ErI%C3%A4uternder%20Bericht.pdf).



Concordat. Legislative consultations on the revision of the Inter-Cantonal Concordat were concluded at the end of 2014. Subsequently, consultations at the federal level were carried out from 1 April to 1 July 2015. According to current plans, the draft legislation will be submitted to the Swiss Parliament in the first half of 2017.

3.162. Important novel elements and areas of reform are expected to include the definition of technical terms and the scope of application, the regulation of additional/subsequent procurement, as well as stricter requirements for the conclusion of contracts and a catalogue of sanctions (for example, to address violations of anti-corruption norms). More flexible instruments such as dialogue, framework agreements, electronic procurement, electronic auctions and shorter timelines are to be introduced in the legislation. The cancellation of a procurement procedure will entail a publication requirement and conflicts of interests will be addressed specifically taking into account the particularities of the public procurement process.

3.163. In order to harmonize federal and cantonal legislation, legal recourse at the federal level will be expanded and will be available from a threshold value of SwF 150,000. The proposed revision is intended to modernize and enhance the clarity and flexibility of the legislation, thereby enhancing its user-friendliness. This is expected to improve market access and competition in order to achieve better value for money. The implementation of the revised legislation may also address some criticism that has been raised in the press with regard to a current lack of transparency in federal procurement practices.<sup>144</sup>

3.164. In 2015, total federal procurement spending amounted to SwF 5.65 billion<sup>145</sup> or 3.22 billion SDR.<sup>146</sup> The estimated value of procurement awarded above the GPA threshold is 1.95 billion SDR.<sup>147</sup> Of this, contracts worth 285 million SDR were awarded in limited/single source proceedings.<sup>148</sup> Similar values were achieved in previous years.<sup>149</sup> At the cantonal level, procurement above the GPA threshold amounted to contracts worth SwF 3.38 billion.<sup>150</sup> Of this, contracts worth SwF 349 million were awarded in limited/single source proceedings.<sup>151</sup>

### 3.3.7.3 Liechtenstein

3.165. In Liechtenstein, in addition to the GPA, public procurement is mainly governed by the relevant EEA rules (EU Directives and directly applicable EU regulations) and the EFTA Convention. The threshold values are those set by the EEA. The Department of Public Procurement, under the Head of the Government Chancellery, is responsible for procurement. In 2008, two EU directives (2004/17/EC and 2004/18/EC) were incorporated into national law and the legislation on public procurement was updated (Act on the Procurement of Utilities for Public Works Contracts, and Supply and Services Contracts in Water, Energy, Transport, and Postal Services; Act on Public Procurement for all other Public Purchases).<sup>152</sup> These laws apply to public purchases, and to projects jointly undertaken by public and private entities when the financial contribution of the public contracting entity exceeds 50%.

3.166. EU countries were required to transpose three directives into national law by 18 April 2016: Directive 2014/24/EU on Public Procurement, Directive 2014/25/EU on Procurement by Entities Operating in the Water, Energy, Transport and Postal Services Sectors, and Directive 2014/23/EU on the Award of Concession Contracts. Consequently, Liechtenstein is in the process of updating its national legislation, and the government has published a report with deadlines for comments of 9 September 2016 for the Draft Government Bill Concerning the Amendment of the Act on Public Procurement and of 7 October 2016 for the Draft Government Bill Concerning the

<sup>144</sup> See, for example, [https://www.letemps.ch/suisse/2017/01/08/marches-publics-milliard-berne-distribue-toute-opacite?utm\\_source=mail&utm\\_medium=share&utm\\_campaign=article](https://www.letemps.ch/suisse/2017/01/08/marches-publics-milliard-berne-distribue-toute-opacite?utm_source=mail&utm_medium=share&utm_campaign=article).

<sup>145</sup> See <https://www.bkb.admin.ch/bkb/de/home/oeffentliches-beschaffungswesen/statistik-beschaffungszahlungen.html>.

<sup>146</sup> Conversion rate of 1 SDR = SwF 1.75 applied as notified to the WTO in GPA/W/325/Add.2, 19 December 2013.

<sup>147</sup> See GPA/137/Add.2, 9 August 2016.

<sup>148</sup> See GPA/137/Add.2, 9 August 2016.

<sup>149</sup> See <https://www.bkb.admin.ch/bkb/de/home/oeffentliches-beschaffungswesen/statistik-beschaffungszahlungen.html> and [https://www.wto.org/english/tratop\\_e/gproc\\_e/notnat\\_e.htm#statPro](https://www.wto.org/english/tratop_e/gproc_e/notnat_e.htm#statPro).

<sup>150</sup> See GPA/137/Add.2, 9 August 2016.

<sup>151</sup> See GPA/137/Add.2, 9 August 2016.

<sup>152</sup> Viewed at: <http://www.gesetze.li/Seite1.jsp?clearsvs=true&clearlrs=true>.

Amendment of the Act on Public Procurement of the Utilities for Public Works Contracts, and Supply and Services Contracts in Water, Energy, Transport, and Postal Services.<sup>153</sup> According to the authorities, construction and services concessions will be covered by procurement regulations in order to increase legal certainty in that regard. The rules have been revised and modernized in order to increase efficiency in spending and the participation of small and medium-sized enterprises in procurement markets. The minimum timelines for tendering have been shortened, and only the winning company needs to submit all the documentation proving that it qualifies for a contract; self-certification is otherwise sufficient. Procedures have been simplified and rendered more flexible. New selection criteria may include the organization, qualifications and experience of staff entrusted with the implementation of the contract, and environmental criteria as well as life-cycle costing can be applied. The reforms envisaged are also intended to further the digitalization of public procurement, for example, through electronic billing.

3.167. Under the 1998 Public Procurement Act, fully open or restricted tendering can be used to assign contracts. Procedures can be carried out using methods such as framework agreements, dynamic purchasing systems, and competitive dialogue. These methods have not yet been used in practice. Contracts above the EEA thresholds are awarded according to international rules (i.e. EEA, GPA and FTA rules); they are announced in the EU electronic government procurement system (Table 3.18). For contracts below the EEA thresholds, public utilities usually use open or negotiated procedures; otherwise, relevant international rules apply. Under the two laws mentioned above (Act on the Procurement of Utilities for Public Works Contracts, and Supply and Services Contracts in Water, Energy, Transport, and Postal Services; Act on Public Procurement for all other Public Purchases), contracts are awarded according to the most economically advantageous tender or to the tender with the lowest price. Additional criteria, such as quality, environmental characteristics, and cost-effectiveness, may also be taken into account. According to the Liechtenstein authorities, there are no preferences for local suppliers. A joint declaration by Liechtenstein and certain neighbouring Swiss cantons enables suppliers from the latter to participate in tenders (on a reciprocal basis) for purchases below the EEA threshold values. Complaints related to public purchases may be lodged with the Complaints Commission in Administrative Matters, the Administrative Court, or with the EFTA Surveillance Authority if EEA provisions are involved.

**Table 3.18 Government procurement in Liechtenstein, 2013-15**

	Internationally awarded contracts (SwF million)	Open tenders (%)	Restricted tenders (%)	Negotiated procedures (%)
2013	45	72	0	28
2014	20	73	0	27
2015	32	80	0	20

Source: Liechtenstein authorities.

### 3.3.8 Trade-related intellectual property rights

#### 3.3.8.1 Overview

3.168. Switzerland maintains a highly esteemed IP system that corresponds to its status as one of the most innovative OECD economies with a vibrant technology industry. During the review period, considerations on intellectual property (IP) have played an important role both in Switzerland's domestic legislative activity as well as in its international trade policy. In the domestic sphere, legislative initiatives in the area of copyright were driven by the motivation to balance appropriate protection and enforcement in the context of new technologies with the privacy and freedom of the internet user. A number of Federal Supreme Court cases regarding IP enforcement on the Internet have provided the backdrop for these deliberations on copyright reform which have not yet resulted in legislative changes. In the area of trademarks and geographical indications, the so-called "Swissness legislation" introduced significant changes with the aim of improving the protection of the Swiss brand at home and abroad. Since 2013, the Swiss government has submitted two important international IP treaties to parliament for approval. In the international sphere, Switzerland has continued its strategy to strengthen and extend its network of

<sup>153</sup> See <http://www.regierung.li/news1.aspx?id=111257&nid=7209>.

comprehensive bilateral free trade agreements, which contain significant IP components, and has remained active in WTO discussions and negotiations in the context of the TRIPS Agreement.

3.169. Liechtenstein's intellectual property system, as a consequence of the customs union with Switzerland, is strongly integrated and interwoven with the IP system of its neighbour, and maintains highly developed and elaborate IP institutions and policies reflecting its status as an advanced – albeit small – economy.

### 3.3.8.2 Economic policy context

3.170. Given the diverse forms that IP takes in international trade, including IP embedded in manufactured goods, IP royalties recorded as services trade, and consumer downloads of IP content, it is difficult to establish a comprehensive tally of the full IP component of Swiss trade. However, several indicators permit an approximate estimation of Switzerland's IP trade and confirm its traditional situation as a net IP-exporting country.

3.171. Rankings of the Swiss economy in global indices of innovation and competitiveness over the reporting period have confirmed its status as a global leader in these categories. Switzerland has retained its overall 1<sup>st</sup> place ranking in both the *Global Competitiveness Index* and the *Global Innovation Index* in the years 2013-2016.<sup>154</sup> Switzerland's ranking in the sub-category of IP protection – improving from 5<sup>th</sup> place in 2013-2014 to 1<sup>st</sup> place in the 2016-2017 report<sup>155</sup> – recognizes IP protection as one central component of its overall innovation policy, which is borne out by intensive use of the IP System for innovation outputs. In that regard, Switzerland ranked 1<sup>st</sup> place in PCT patent applications per million population in 2014-15, falling slightly to 3<sup>rd</sup> place in the 2015-2016 report.<sup>156</sup>

**Chart 3.3 Licence fees, 2010-15**

(SwF million)



Source: Swiss National Bank (SNB) data portal. Viewed at: <https://data.snb.ch/en> [October 2016].

<sup>154</sup> World Economic Forum (2016) and The Global Innovation Index (2016).

<sup>155</sup> World Economic Forum (2016). Indicator: 1<sup>st</sup> pillar: Institutions, 1.02 Intellectual property protection.

<sup>156</sup> World Economic Forum (2016). Indicator: 12<sup>th</sup> pillar: Innovation, 12.07 PCT patent applications/million pop.

3.172. Swiss gross expenditure on research and development remained stable at around 3% of GDP during the reporting period.<sup>157</sup> While most private R&D is attributable to large multinational companies engaged in particularly research-intensive activities domiciled in Switzerland, the proportionately low R&D expenditure of SMEs has been growing at twice the average rate, while large companies' R&D investment showed a downward trend.<sup>158</sup> As part of the Corporate Tax Reform III (CTRIII)<sup>159</sup> adopted in 2016, cantons are encouraged to adopt "patent box" regimes providing tax reductions for qualifying intellectual property income and associated local R&D costs,<sup>160</sup> which are intended to maintain and enhance the attractiveness of Switzerland as a location for R&D intensive industries.

3.173. Switzerland has also maintained its traditional position as a net-exporter of IP throughout the reporting period, with the positive trade balance on IP licence fees peaking at SwF 6.3 bn in 2013. A significant fall in receipts since 2013, and a similar – but less dramatic – reduction in expenses for IP licences has resulted in a much reduced, but still positive, trade balance on IP charges at SwF 3.1 bn in 2015. (See Chart 3.3)

### 3.3.8.3 Structure and use of the IP System

3.174. The competent authorities for IP issues in Switzerland and in Liechtenstein are, respectively, the Swiss Federal Institute of Intellectual Property (FIIP) of the Federal Department (Ministry) of Justice and Police<sup>161</sup>, and the Bureau of Intellectual Property of the Liechtenstein Office (Ministry) of Economic Affairs.<sup>162</sup> Under the 1978 bilateral Treaty on the Protection Conferred by Patents for Inventions, concluded within the framework of the Customs Union Treaty, Liechtenstein and Switzerland form a unitary territory for the purposes of patent protection: valid patents extend to both territories.<sup>163</sup> Patent applications made through the national, regional (i.e. under the European Patent Convention) or international (i.e. under WIPO's Patent Cooperation Treaty) avenues must jointly designate the two countries. With the exception of patents for inventions, Liechtenstein has its own legislation for, *inter alia*, copyright, trademarks, industrial designs and topographies of integrated circuits. In addition, Liechtenstein implements EEA rules on intellectual property.

3.175. Switzerland and Liechtenstein are members of WIPO and are parties to most of its treaties<sup>164</sup>, notably the Patent Cooperation Treaty and the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, as well as to other international conventions of relevance to intellectual property.<sup>165</sup> Since the last TPR in 2013, Liechtenstein has not adhered to or ratified other WIPO treaties in force. Switzerland signed WIPO's Marrakesh VIP Treaty on 28 June 2013,<sup>166</sup> and ratified the Nagoya Protocol to the Convention on Biological Diversity on 11 June 2014.<sup>167</sup> It has submitted both the Marrakesh Treaty and the Beijing Treaty

<sup>157</sup> The Global Innovation Index (2016). Indicator 2.3.2: Gross expenditure on R&D, % of GDP.

<sup>158</sup> KPMG (2016), p. 18.

<sup>159</sup> See Section 3.3.1.1 above for more details on CTRIII.

<sup>160</sup> A number of cantons have published plans for implementing CTRIII in the course of autumn 2016.

Under the plans of the Canton of Geneva, published on 30 August 2016, patent box income would be eligible for a cantonal tax relief of up to 90%, and qualifying R&D expenses would be eligible for a cantonal tax deduction of up to 150%. See presentation by the Geneva State Council viewed at: [http://www.ge.ch/conseil\\_etat/RIE-III/doc/presentation.pdf](http://www.ge.ch/conseil_etat/RIE-III/doc/presentation.pdf).

<sup>161</sup> IPI online information. Viewed at: [www.ipi.ch](http://www.ipi.ch).

<sup>162</sup> Viewed at: [www.avw.llv.li](http://www.avw.llv.li).

<sup>163</sup> Viewed at: <https://www.ipi.ch/patente/schutz-in-der-schweiz.html>; and <http://www.llv.li/#/1691/patentrecht>.

<sup>164</sup> WIPO online information, "About WIPO: Members and Observers". Viewed at: <http://www.wipo.int/>.

<sup>165</sup> For a detailed list of IP-related treaty membership, see for Switzerland: <http://www.wipo.int/wipolex/en/profile.jsp?code=CH>; and for Liechtenstein: <http://www.wipo.int/wipolex/en/profile.jsp?code=LI>.

<sup>166</sup> The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled, adopted on 27 June 2013, seeks to create a set of mandatory limitations and exceptions for the benefit of the blind, visually impaired, and otherwise print disabled (VIPs). Viewed at: <http://www.wipo.int/treaties/en/ip/marrakesh/>.

<sup>167</sup> Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity adopted on 29 October 2009. The treaty entered into force for Switzerland on 12 October 2014.

on Audio-Visual Performances<sup>168</sup> to Parliament for approval in a proposal dated 11 December 2015.<sup>169</sup>

3.176. Switzerland, as an observer to the WIPO Lisbon Agreement<sup>170</sup>, participated actively in the negotiations of the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications<sup>171</sup> that was adopted on 20 May 2015, and the Federal Council is examining possible accession of Switzerland to that agreement.<sup>172</sup>

3.177. The numbers of patent applications, patents granted, and trademark and industrial design applications between 2011 and 2015 in Switzerland and Liechtenstein are shown in Tables 3.19 and 3.20. Overall levels of filings in Switzerland have remained stable or increased slightly since 2011, with patent grants growing the most, while filings abroad by Swiss residents have increased significantly, notably in the area of trademarks. The data illustrates intensive use of the IP system by Swiss residents which corresponds to the highly competitive and innovative domestic economy. Despite a downward trend over the reporting period, this dominance of use by residents remains particularly striking in the patent area where residents outnumbered foreign applicants 13 to 1 as regards patent grants, and more than 14 to 1 as regards applications, in 2015. In the area of trademarks the share of applications by Swiss residents grew to 40% in 2015, whereas it fell slightly in the area of industrial designs.

**Table 3.19 Switzerland: Applications for trademarks, industrial designs, and patents, and patents granted, 2012-15**

	2012	2013	2014	2015
<b>Trademark applications</b>				
Resident	11,438	11,432	11,678	12,383
Non-resident	17,068	17,436	17,345	17,587
Total	28,506	28,868	28,023	29,970
Abroad	142,617	158,920	166,327	151,330
<b>Industrial design applications</b>				
Resident	1,134	1,195	1,112	1,223
Non-resident	1,722	1,753	1,613	1,571
Total	2,856	2,948	2,725	2,794
Abroad	30,017	37,647	35,610	37,580
<b>Patent applications</b>				
Resident	8,101	8,187	8,334	8,573
Non-resident	1,508	631	568	446
Total	9,609	8,818	8,902	9,019
Abroad	33,914	36,810	36,072	35,885
<b>Patents granted</b>				
Resident	2,887	3,027	3,231	3,446
Non-resident	167	174	241	278
Total	3,054	3,201	3,472	3,724
Abroad	16,741	17,160	17,811	18,486

Source: WTO Secretariat, based on WIPO statistical data, last updated in November 2016.

3.178. For Liechtenstein, the data illustrates an increase of filings by residents, particularly in the area of trademarks and patent grants, while overall usage of the IP system remains stable at a level corresponding to its market size.

<sup>168</sup> Switzerland signed the Beijing Treaty on Audio-Visual Performances on 26 June 2012. The treaty deals with the intellectual property rights of performers in audiovisual performances. See WIPO online information. Viewed at: <http://www.wipo.int/treaties/en/ip/beijing/>.

<sup>169</sup> See *Erläuternder Bericht zu zwei Abkommen der Weltorganisation für geistiges Eigentum und zu Änderungen des Urheberrechtsgesetzes* [Explanatory Statement for two WIPO Treaties and Reform of the Copyright Act] dated 11 December 2015. Viewed at: [https://www.ige.ch/fileadmin/user\\_upload/Urheberrecht/d/modernisierung\\_urheberrecht\\_2015\\_d/Erlaeutender\\_Bericht\\_DE.pdf](https://www.ige.ch/fileadmin/user_upload/Urheberrecht/d/modernisierung_urheberrecht_2015_d/Erlaeutender_Bericht_DE.pdf).

<sup>170</sup> The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration provides for the protection of appellations of origin through a central register. See details at: <http://www.wipo.int/treaties/en/registration/lisbon/>.

<sup>171</sup> See details of the Geneva Act at: <http://www.wipo.int/wipolex/en/details.jsp?id=15625>.

<sup>172</sup> *Bericht zur Aussenwirtschaftspolitik 2015, 16.008* [Federal Council Report on External Trade Policy 2015] dated 13 January 2016, p.908.

**Table 3.20 Liechtenstein: Applications for trademarks, industrial designs, and patents, and patents granted, 2012-15**

	2012	2013	2014	2015
<b>Trademark applications</b>				
Resident	3	196	218	176
Non-resident	2,296	2,391	2,441	2,497
Total	2,299	2,587	2,659	2,673
Abroad	4,222	5,951	5,891	4,743
<b>Industrial design applications</b>				
Resident	9	15	17	16
Non-resident	342	395	339	338
Total	351	410	356	354
Abroad	1,078	1,468	1,126	1,165
<b>Patent applications</b>				
Resident	197	250	278	371
Non-resident	..	..	..	..
Total	197	250	278	371
Abroad	829	656	824	891
<b>Patents granted</b>				
Resident	120	113	121	100
Non-resident	..	..	..	..
Total	120	113	121	100
Abroad	422	401	388	414

.. Not available.

Source: WTO Secretariat, based on WIPO statistical data, last updated in November 2016.

### 3.3.8.4 International initiatives and WTO participation

3.179. While multilateral initiatives and organizations in the field of trade and intellectual property remain the preferred fora of activity for Switzerland, Swiss foreign trade strategy resolved in 2004 to also pursue the extension and strengthening of its network of comprehensive bilateral free trade agreements in the absence of multilateral progress, with the express inclusion of intellectual property protection.<sup>173</sup> The Federal Council confirmed this approach most recently in 2016, acknowledging that while the importance of FTAs for intellectual property protection or government procurement escapes a quantitative measurement, a qualitative assessment permits the conclusion that FTAs improve the regulatory framework also in these areas, "providing Swiss market actors with an improved, predictable and legally protected access to foreign markets".<sup>174</sup> The Swiss Federal Council was further expressly mandated in a 2012 "motion"<sup>175</sup> to include adequate and effective protection of geographical indications (GIs) in all future bilateral FTAs. In the period under review, this strategy has been pursued in agreements that Switzerland and Liechtenstein signed as members of EFTA, as well as in Swiss bilateral free trade agreements or bilateral accords specifically addressing the protection of GIs.

3.180. In the context of EFTA, Switzerland and Liechtenstein conclude free trade agreements or trade and economic cooperation agreements with third countries with IP components that range from a general reference to IP protection to highly detailed provisions on certain IP sectors.<sup>176</sup> During the period under review, EFTA agreements with IP provisions have been concluded with the Central American States<sup>177</sup>, Bosnia and Herzegovina<sup>178</sup>, Georgia<sup>179</sup>, and the Philippines.<sup>180</sup> The provisions on intellectual property rights in these agreements cover protection and enforcement, as well as cooperation among the Parties in that regard. They are based on the TRIPS Agreement

<sup>173</sup> SECO (2015), p. 193-194.

<sup>174</sup> Federal Council Report Neue Wachstumspolitik 2016-2019 of 22 June 2016, p. 25.

<sup>175</sup> Motion 12.3642, dated 19 June 2012, of the Council of States' Legal Affairs Committee "Regulating the use of geographical indications in international Treaties".

<sup>176</sup> For a list of FTAs containing an IP element and in force within the EFTA framework see: <http://www.efta.int/free-trade/free-trade-agreements>. For specific references to the IP components see the list at: [https://www.ige.ch/fileadmin/user\\_upload/Juristische\\_Infos/d/efta\\_freihandelsabkommen.pdf](https://www.ige.ch/fileadmin/user_upload/Juristische_Infos/d/efta_freihandelsabkommen.pdf).

<sup>177</sup> Agreement with Costa Rica, Guatemala and Panama, signed 24 June 2013. The agreement entered into force for Switzerland and Liechtenstein on 29 August 2014.

<sup>178</sup> Signed 24 June 2013, entry into force 1 January 2015.

<sup>179</sup> Signed 27 June 2016.

<sup>180</sup> Signed 28 April 2016.



and provide for a high level of protection, taking into account the principles of most-favoured-nation treatment and of national treatment.<sup>181</sup> The agreement EFTA countries had signed in 2009 with the Gulf Cooperation Council<sup>182</sup> entered into force on 1 July 2014, and a first round of review negotiations regarding the 2001 agreement with Mexico<sup>183</sup> took place in May 2016.

3.181. Bilaterally, Switzerland has concluded a Free Trade Agreement with China<sup>184</sup> that entered into force on 1 July 2014. The Agreement contains an elaborate chapter on intellectual property protection, which builds on the Swiss-Chinese bilateral dialogue on intellectual property since 2007 and provides for "more precisely [specified] or enhanced IP protection"<sup>185</sup> than the TRIPS Agreement. The IP provisions<sup>186</sup> provide for, *inter alia*, protection for acoustic trademarks<sup>187</sup>, patentability of inventions in the area of biotechnology and herbal medicines<sup>188</sup>, disclosure of traditional knowledge and genetic resources in patent applications, pharmaceutical test data exclusivity for 6 years<sup>189</sup>, plant variety protection, and protection against misleading use of country names. Under the Agreement, border measures must be available also in respect of patent and design violations both on import and export.<sup>190</sup> Bilateral Swiss memoranda on dialogues on intellectual property exist also with Singapore and India.<sup>191</sup>

3.182. In response to the specific mandate to improve the protection of GIs in the context of bilateral agreements, Switzerland concluded an Agreement on the Protection and Reciprocal Recognition of GIs with Jamaica in 2013, which entered into force on 1 September 2014.<sup>192</sup> Similar to the previous such treaty concluded with the Russian Federation in 2010<sup>193</sup>, the agreement lists indications from both countries that the parties agree to protect, and specifies a high level of protection against any use of these GIs on identical or comparable products that do not originate from the region indicated by the GI.<sup>194</sup>

3.183. Switzerland also maintains one of the largest networks of bilateral investment promotion and protection agreements (BITs)<sup>195</sup>, which also cover intellectual property rights as part of investment protection in the majority of cases. The purpose of the BITs is "to afford international

<sup>181</sup> See description of the individual agreements at: <http://www.efta.int/free-trade/free-trade-agreements>.

<sup>182</sup> Entry into force on 1 July 2014. In the area of IPR, the Parties essentially confirm the WTO TRIPS Agreement. They commit to concluding negotiations on an Annex related to IPR not later than two years after the entry into force of the Agreement. In the meantime, a special consultation mechanism is foreseen in case of problems in the area of IPR affecting trade conditions between the Parties.

<sup>183</sup> Entry into force on 1 July 2001. See the text at: <http://www.efta.int/media/documents/legal-texts/free-trade-relations/mexico/Record%20of%20Understanding%20Annexes%20and%20Protocols/Annex%20XXI%20-%20Protection%20of%20intellectual%20property.pdf>.

<sup>184</sup> Free Trade Agreement between the Swiss Confederation and the People's Republic of China, signed 6 July 2013.

<sup>185</sup> IGE (2013a).

<sup>186</sup> Chapter 11 and Annex IX of the Agreement.

<sup>187</sup> Article 11.7 of the Agreement.

<sup>188</sup> Article 11.8 of the Agreement stipulates the availability of patents for inventions "including in the field of biotechnology and herbal medicine", but upholds the ability of the parties to exclude "methods for treatment of the human or animal body by surgery or therapy or for diagnostic methods practised on the human or animal body" and " plant or animal varieties or essentially biological processes for the production of plants or animals".

<sup>189</sup> Article 11.11, para. 3 of the Agreement also provides that "Reliance on or reference to such data may be permitted in order to avoid unnecessary duplication of tests of agrochemical products involving vertebrate animals, provided that the first applicant is adequately compensated".

<sup>190</sup> See SECO (2013).

<sup>191</sup> See IGE website at: <https://www.ipi.ch/en/ip4all/legal-info/bilateral-relations>. At the request of the Indian side, the bilateral dialogue on intellectual property was suspended in 2011 until further notice.

<sup>192</sup> Agreement between the Swiss Federal Council and the Government of Jamaica on the Protection and Reciprocal Recognition of Geographical Indications concluded 23 September 2013 (RS 0.232.111.194.58).

<sup>193</sup> WTO (2013).

<sup>194</sup> See Article 3 of the Agreement. See more details in Section 3.3.8.8.

<sup>195</sup> According to UNCTAD, the Swiss BIT network is the third largest after Germany and China. (See SECO website at: [https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik\\_Wirtschaftliche\\_Zusammenarbeit/Wirtschaftsbeziehungen/Internationale\\_Investitionen/Vertragspolitik\\_der\\_Schweiz.html](https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/Internationale_Investitionen/Vertragspolitik_der_Schweiz.html)). According to the 2016 Report of the Swiss State Secretariat's Working Group on BITs, dated 7 March 2016, 118 BITs of the total of 131 BITs signed are currently in force. Viewed at: [https://www.seco.admin.ch/dam/seco/en/dokumente/Aussenwirtschaft/Wirtschaftsbeziehungen/Investitionen/Bericht\\_ISA-Arbeitsgruppe.pdf.download.pdf/Bericht\\_ISA-Arbeitsgruppe\\_D\\_7.3.2016.pdf](https://www.seco.admin.ch/dam/seco/en/dokumente/Aussenwirtschaft/Wirtschaftsbeziehungen/Investitionen/Bericht_ISA-Arbeitsgruppe.pdf.download.pdf/Bericht_ISA-Arbeitsgruppe_D_7.3.2016.pdf).



law protection from non-commercial risks associated with investments made by Swiss nationals and Swiss-based companies in partner countries".<sup>196</sup> Since 2010 a clarification has been developed in these agreements which states that the article on expropriation and compensation does not apply to the issuance of compulsory licences that have been granted in relation to intellectual property consistently with the TRIPS Agreement.<sup>197</sup> During the period of review, the International Centre for Settlement of Investment Disputes (ICSID) decided a dispute<sup>198</sup> under the 1988 Swiss-Uruguay BIT<sup>199</sup>, dismissing the challenge that a group of Swiss Philip Morris tobacco companies had brought against a number of Uruguay's tobacco control measures, *inter alia*, on the basis that these measures breached Uruguay's commitments to protect the claimant's right to use their trademarks.<sup>200</sup>

3.184. During the review period, Switzerland has maintained its active participation in the TRIPS Council discussions on, *inter alia*, the review of legislation of newly acceding Members, enforcement, non-violation complaints<sup>201</sup>, and the role of IP for innovation. Switzerland has also maintained constructive involvement in the negotiations of the TRIPS Special Session on a multilateral register for geographical indications for wines and spirits.<sup>202</sup>

3.185. In compliance with Article 63.2, Switzerland notified consolidated versions of amended and new laws or regulations to the TRIPS Council in September 2013<sup>203</sup> and updated its responses to the Checklist of Issues on Enforcement in January 2014.<sup>204</sup> Switzerland has also updated the Council on its implementation of Article 66.2 of the TRIPS Agreement<sup>205</sup>, and reported on its TRIPS-related technical assistance<sup>206</sup>, which included free-of-charge patent searches for WIPO in favour of developing countries, as well as a number of sustained bilateral projects, notably with Colombia and Indonesia.

### 3.3.8.5 Patents

3.186. The Federal Law on Patents of 1954 and its Ordinance governing patent protection in Switzerland and Liechtenstein, having undergone important changes notably with respect to

<sup>196</sup> See SECO website at footnote 110.

<sup>197</sup> The Swiss State Secretariat's Working Group on BITs has now introduced a standard BIT clause to that effect. Report of the Swiss State Secretariat's Working Group on BITs, dated 7 March 2016, Section 3.1.2, p.6. See footnote 195.

<sup>198</sup> Philip Morris Brand Sàrl (Switzerland), Philip Morris Products S.A. (Switzerland) and Abal Hermanos S.A. (Uruguay) v. Oriental Republic of Uruguay (ICSID Case No. ARB/10/7) decided on 8 July 2016. See case details at:

<https://icsid.worldbank.org/apps/icsidweb/cases/pages/casedetail.aspx?CaseNo=ARB/10/7&tab=DOC>.

<sup>199</sup> Agreement between the Swiss Confederation and the Oriental Republic of Uruguay on the Reciprocal Promotion and Protection of Investments, signed 7 October 1988, entered into force on 22 April 1991.

<sup>200</sup> ICSID Case No. ARB/10/7, ICSID Award dated 8 July 2016, para. 450.

<sup>201</sup> See in particular, Switzerland's intervention on TRIPS non-violation in the TRIPS Council meeting of February 2014 (WTO document IP/C/M/75/Add.1, para. 169) which was later cited in the United States' submission of June 2014 on the same topic (WTO document IP/C/W/599, para. 4.15).

<sup>202</sup> Switzerland is a co-sponsor of the Modalities Proposal in the negotiations of the TRIPS Special Session; see WTO documents TN/C/W/52/Add. 3, 29 July 2008 and TN/C/W/60, 19 April 2011.

<sup>203</sup> WTO documents IP/N/1/CHE/5 (summary table of revised laws and regulations); IP/N/1/CHE/C/7 (copyright and related rights); IP/N/1/CHE/D/7 and 8 (designs); IP/N/1/CHE/G/19-20 and IP/N/1/CHE/T/5-6 (trademarks and indications of source); IP/N/1/CHE/G/21 (law on agriculture); IP/N/1/CHE/G/22 (appellations of origin and geographical indications in respect of agricultural products and processed agricultural products); IP/N/1/CHE/G/23 (viticulture and the importation of wine); IP/N/1/CHE/G/24 (list of vine varieties permitted for certification and the production of standard materials and the range of vine varieties); IP/N/1/CHE/O/24 (fees charged by the Federal Institute of Intellectual Property); IP/N/1/CHE/O/25 (cartels and other impediments to competition); IP/N/1/CHE/P/14 (patents for inventions); IP/N/1/CHE/P/15 (law on patent attorneys); IP/N/1/CHE/P/16 (law on the federal patent court); IP/N/1/CHE/P/17 (patent ordinance); IP/N/1/CHE/P/18 (new plant varieties); IP/N/1/CHE/U/4 (unfair competition); IP/N/1/CHE/U/5 (medicinal products and medical devices); IP/N/1/CHE/U/6 (medicines ordinance); IP/N/1/CHE/U/7 (ordinance on the placing on the market of phytosanitary products); and IP/N/1/CHE/U/8 (ordinance on the production and placing on the market of feedstuffs).

<sup>204</sup> WTO document IP/N/6/CHE/2, 12 February 2014.

<sup>205</sup> WTO documents IP/C/W/580/Add.4 in 2012; IP/C/W/594/Add.5 in 2013; IP/C/W/602/Add.4 in 2014; and IP/C/W/611/Add.3 in 2015.

<sup>206</sup> WTO documents IP/C/W/582/Add.4 in 2012; IP/C/W/593/Add.5 in 2013; IP/C/W/601/Add.4 in 2014; and IP/C/W/610/Add.3 in 2015.

exhaustion in the preceding reporting period<sup>207</sup>, have remained substantially unchanged during the current reporting period.<sup>208</sup>

3.187. Since 2012, the Swiss Federal Patent Court has replaced the 26 cantonal courts as the national special court competent for patent litigation at first instance.<sup>209</sup> In the over 100 cases since its establishment, the Court, which permits proceedings and pre-trial procedural acts in English, has developed jurisprudence on, *inter alia*, its substantive jurisdiction on patents, procedural questions such as interim relief, as well the safeguarding of manufacturing and trade secrets in the submission of evidence and the use of expert opinions by technically trained judges.<sup>210</sup> Since 2012, the court has reported a high rate of settlements of over 50% of cases.<sup>211</sup>

3.188. In the area of patents, the share (in percentage) of patent applications by top fields of technology during 2000-2014 is, for Switzerland: pharmaceuticals (12.24), organic fine chemistry (9.43), medical technology (8.23), measurement (6.27), handling (6.06), electrical machinery, apparatus, energy (4.73), biotechnology (4.11), basic materials chemistry (4.01), food chemistry (3.31), other special machines (3.07), and others (38.54).<sup>212</sup> For Liechtenstein, the share is: machine tools (22.31), mechanical elements (11.07), pharmaceuticals (8.99), medical technology (6.22), civil engineering (5.91), transport (5.28), electrical machinery, apparatus, energy (5.10), measurement (3.88), surface technology, coating (3.67), other special machines (3.51), and others (24.06).<sup>213</sup>

### 3.3.8.6 Plant varieties

3.189. Information provided in the 2012 TPR of Switzerland and Liechtenstein on the protection of plant varieties in Switzerland remains valid. In preparation for prospective Membership of UPOV, Liechtenstein is still in the process of establishing a system for the protection of plant varieties to comply with the requirements of the Act of the UPOV Convention (1991).

### 3.3.8.7 Trademarks

3.190. During the reporting period, Switzerland introduced new trademark legislation aiming to improve the protection of the "Swiss brand" by regulating in more detail the use of the indication of source "Swiss", of the Swiss cross and of the Swiss coat of arms on goods and services – generally referred to as "Swissness legislation"<sup>214</sup>, which enters into force on 1 January 2017. The new legislation provides detailed rules on "Swissness" for natural products, for foodstuffs and for industrial products, as well as for services. With the revision of the Federal Act on the Protection of the Swiss Coats of Arms and Other Public Signs, the Swiss cross may now be used on Swiss goods

<sup>207</sup> See documents WT/TPR/S/208 (2009) and WT/TPR/S/280/Rev.1 (2013) for details on the revised legislation, and document WT/TPR/M/208/Add.1 for Switzerland's replies to the questions posed by the delegations of Canada, Colombia, Mexico, and the United States during the TPR meeting. In the context of TRIPS Council meetings, Switzerland provided further information on the application of the revised Patent Law, notably with regard to the disclosure requirement in patent applications. See IP/C/M/69, para. 86; and IP/C/M/66, paras. 79-86.

<sup>208</sup> Part of the ongoing revision of the Swiss Federal Act on Medicinal Products and Medical Devices is the introduction of the possibility to extend the term of protection for supplementary protection certificates for paediatric medicines by six months, which has not yet entered into force. Minor changes have also occurred with respect to submissions of electronic documents and the consequential amendments following changes in the customs regulations. See the latest version of the Federal Law on Patents RS 232.14 at: <https://www.admin.ch/opc/fr/classified-compilation/19540108/index.html>.

<sup>209</sup> RS 173.41.

<sup>210</sup> See Pascal Fehlbaum, "Case law of the new Federal Patent Court in Switzerland", *GRUR Int.* 2014, p. 533-545.

<sup>211</sup> See annual reports of the Federal Patent Court since 2012. Viewed at: <https://www.bundespatentgericht.ch/en/medien/>.

<sup>212</sup> Viewed at: [http://www.wipo.int/instats/statistics/country\\_profile/countries/li.html](http://www.wipo.int/instats/statistics/country_profile/countries/li.html).

<sup>213</sup> Viewed at: [http://www.wipo.int/instats/statistics/country\\_profile/countries/li.html](http://www.wipo.int/instats/statistics/country_profile/countries/li.html).

<sup>214</sup> See changes to the Trademark Protection Law (RS 232.11) adopted on 21 June 2013. An unofficial English translation is available at: [https://www.ige.ch/fileadmin/user\\_upload/Swissness/e/TmPA\\_Amendments\\_of\\_21\\_June\\_2013\\_EN.pdf](https://www.ige.ch/fileadmin/user_upload/Swissness/e/TmPA_Amendments_of_21_June_2013_EN.pdf). For a more detailed explanation see Swiss Federal Institute of Intellectual Property, "The new 'Swissness' legislation - the most important changes". Viewed at: [https://www.ige.ch/fileadmin/user\\_upload/Swissness/e/Swissness\\_Most\\_important\\_changes.pdf](https://www.ige.ch/fileadmin/user_upload/Swissness/e/Swissness_Most_important_changes.pdf).

and services, making it an important advertising tool for producers.<sup>215</sup> The Swiss coat of arms remains reserved for use by the Swiss Confederation, although companies that have been using the Swiss coat of arms for decades as part of their company symbol to label Swiss goods and services, will, as an exception and only upon well-founded request, be accorded a right of continued use. Individual production steps can be promoted as "Swiss" if that step is completely performed in Switzerland (e.g. "designed in Switzerland"), although the Swiss cross may not be used for such products.

3.191. As regards natural products such as plants, minerals or products from hunting or fishing, the place of harvest or extraction – depending on the type of product – is paramount<sup>216</sup> for them to be identified as Swiss. With respect to foodstuffs, at least 80% of the weight of the available raw materials in Switzerland must actually originate in Switzerland<sup>217</sup> and the activity that gave the product its essential characteristics must have taken place in Switzerland.<sup>218</sup> This principle is elaborated in more detail, and exceptions are provided, e.g. for raw materials that are not available or that cannot be produced in Switzerland.

3.192. With respect to industrial products, at least 60% of the manufacturing costs must occur in Switzerland. In addition, at least one essential manufacturing step must have taken place in Switzerland.<sup>219</sup> All production costs (i.e. costs for raw materials, semi-finished products, accessory parts, product-related salaries and production overhead costs) can be taken into account, now also including the costs for research and development, quality assurance and certification. Exceptions are provided for natural products that are not found in Switzerland (e.g. precious metals, steel, and mineral oils) and materials that are not available in sufficient quantities in Switzerland.

3.193. As regards services, under the new legislation a company can offer Swiss services as long as its headquarters are located in Switzerland and the company is actually administered from Switzerland. Exceptions apply with respect to subsidiaries of Swiss parent companies.<sup>220</sup>

3.194. The "Swissness legislation" also permits the registration of a previously recognized geographical indication as a *geographical trademark*.<sup>221</sup> This new IP title is introduced as an additional instrument in order to further facilitate the protection and enforcement of GIs' rights abroad under trademark law regimes.<sup>222</sup> A geographical mark may be used by any person provided that the requirements of the GI regulations are fulfilled, and the holder of a geographical mark may prohibit others from using the mark in the course of trade for identical or comparable goods where such use contravenes the regulations.<sup>223</sup> However, the proprietor of a geographical mark cannot oppose the registration of a later trademark that contains the geographical indication and is applied on goods fulfilling the GI regulations. The geographical mark may not be transferred or licensed.<sup>224</sup>

3.195. In Liechtenstein, the substantive law applicable to the protection of trademarks and geographical indications is based on the corresponding Swiss regulations, and the legal prerequisites for protection are therefore comparable. To be protected, a trademark must be registered with the Liechtenstein registry at the Office of Economic Affairs. Liechtenstein follows the principle of international exhaustion. Since the last report, Liechtenstein amended its Trademark Protection Act,<sup>225</sup> to harmonize provisions with prior Swiss extensions of the IP enforcement competences of its customs administration, which also handles Liechtenstein's

<sup>215</sup> Coat of Arms Protection Act (RS 232.21), revision entering into force 1 January 2017. Formerly, use of the Swiss cross was only permitted for Swiss services.

<sup>216</sup> Article 48a Trademark Protection Law (RS 232.11).

<sup>217</sup> For milk and milk products, this figure is 100% (i.e. the entire quantity of milk).

<sup>218</sup> Article 48b Trademark Protection Law (RS 232.11).

<sup>219</sup> Article 48c Trademark Protection Law (RS 232.11).

<sup>220</sup> Article 49 Trademark Protection Law (RS 232.11).

<sup>221</sup> Article 27a-d Trademark Protection Law (RS 232.11). For a more detailed explanation see "The new 'Swissness' legislation - the most important changes" cited above.

<sup>222</sup> For a more detailed explanation see "The new 'Swissness' legislation - the most important changes" cited above.

<sup>223</sup> Article 27d Trademark Protection Law (RS 232.11).

<sup>224</sup> Article 27e Trademark Protection Law (RS 232.11).

<sup>225</sup> Trademark Protection Act (LR 232.11).

customs matters under the customs union.<sup>226</sup> The amendment also changed a requirement for foreign applicants to appoint an agent or representative *resident* in Liechtenstein which the EFTA Surveillance Agency (ESA) had found to be incompatible with EEA rules.<sup>227</sup> These amendments entered into force on 1 January 2016.

3.196. Since Liechtenstein's food and agricultural products qualify as "Swiss" under the definition of the Swiss Trademark Law by virtue of being produced in the custom union territory,<sup>228</sup> Liechtenstein has introduced amendments to its trademark provisions with largely mirror the "Swissness legislation" and entered into force concurrently on 1 January 2017.<sup>229</sup>

### 3.3.8.8 Geographical indications

3.197. The introduction of the "Swissness legislation" described above further develops the traditional two-pronged system of protection for geographical indications in Switzerland<sup>230</sup> which consists of general protection of geographical indications under the Trademark Law for all products and services, not requiring registration, and the protection of geographical indications for wines and spirits, agricultural products and foodstuffs under several specialized laws and ordinances.

3.198. In addition to the creation of the geographical mark, the "Swissness legislation" also introduces a new register for geographical indications for non-agricultural products, similar to the existing register for agricultural products and processed agricultural products maintained by the Federal Office for Agriculture, which will permit the registration of geographical indications for goods such as watches and textiles.<sup>231</sup> The new register will be maintained by the FIIP.

3.199. The Federal Council, on 17 June 2016, also approved a partial revision of the Ordinance on the Use of the Name "Swiss" for Watches<sup>232</sup> which will enter into force on 1 January 2017, and which aims to strengthen the GI "Swiss" for watches and watch movements, in line with the new "Swissness" legislation. In future, at least 60% of the costs of manufacturing a complete watch (as an end product) must be generated in Switzerland – unlike previously, whereby this rule applied only to the watch movement itself. The movement remains important, however, as at least half of its value must consist of components made in Switzerland, and at least 60% of the costs to manufacture it must be generated in Switzerland. In addition, the technical development of a "Swiss Made" watch and a "Swiss Made" movement must, in future, also take place in Switzerland. The definition of "watch" in the "Swiss Made" Ordinance has also been extended to include smart watches in light of recent technological developments.<sup>233</sup>

3.200. Several free trade agreements with individual countries and groups of countries contain provisions on geographical indications.<sup>234</sup> With respect to GIs, most of the recent bilateral agreements signed by Switzerland and Liechtenstein in the context of EFTA provide GIs for agricultural products and foodstuffs with a higher level of protection than that required by the TRIPS Agreement, by requiring means to prevent their use on goods that are not originating in the place indicated by the designation in question, without the requirement of confusion as regards the

<sup>226</sup> See government explanation of the proposed bill in "Berichte und Anträge der Regierung an den Landtag" Heft 2015/48, p. 6. Viewed at: <http://bua.gmg.biz/BuA/default.aspx?year=2015&nr=48&content=1231677879>.

<sup>227</sup> A further complaint regarding the new version of Art. 39 Trademark Protection Act has been launched and is pending with ESA. See ESA Document No. 799735 "Letter of formal notice to Liechtenstein regarding the 2016 Trademark Act" dated 12 October 2016 for the procedural history of the complaints.

<sup>228</sup> "The place of origin or processing for Swiss indications of source for natural products and foodstuffs is the Swiss territory and customs union areas." Article 48(4) Trademark Protection Law (RS 232.11).

<sup>229</sup> See government explanation of the proposed bill in "Berichte und Anträge der Regierung an den Landtag" Heft 2015/48, p. 6. Viewed at: <http://bua.gmg.biz/BuA/default.aspx?nr=115&year=2016&content=1742765016>.

<sup>230</sup> WTO (2009) and (2011).

<sup>231</sup> Article 50a Trademark Protection Law (RS 232.11).

<sup>232</sup> "Swiss Made" Ordinance for Watches (RS 232.119).

<sup>233</sup> Transition periods apply for watch casings and glass. Explanation by the Intellectual Property Institute. Viewed at: <https://www.ige.ch/en/indications-of-source/swissness/industry-ordinances/revision-of-the-ordinance-on-the-use-of-swiss-for-watches.html>.

<sup>234</sup> See Section 3.3.8.4 above for an overview of bilateral agreements concluded or entered into force during the reporting period.

geographical origin of the good.<sup>235</sup> The bilateral agreement concluded between Switzerland and China follows the same pattern.<sup>236</sup>

3.201. The bilateral agreement between Switzerland and Jamaica<sup>237</sup> covers geographical indications and indications of source. It contains lists of GIs for both agricultural and non-agricultural products of the two parties in Annex II.<sup>238</sup> Article 3 of the Agreement requires parties to provide the means to prevent use of these GIs on "*identical or comparable goods* not originating in the place indicated by the designation in question" and on "*other goods* not originating in the place indicated by the designation in question, in a manner that would mislead the public as to the geographical origin of the goods."<sup>239</sup>

3.202. With respect to Liechtenstein, information provided in previous TPR reports remains up to date.<sup>240</sup>

### 3.3.8.9 Copyright and related rights

3.203. Issues linked to Internet and new technologies affecting copyright have continued to occupy the Swiss legislative process, although no substantive changes to the Swiss copyright legislation<sup>241</sup> have occurred during the review period. A 2010 Swiss Supreme Court decision<sup>242</sup> suggesting legislative action to "adapt copyright protection to new technologies" as well as various related parliamentary motions<sup>243</sup> had led to the establishment of the "Working Group for the Optimization of Collective Management of Copyrights and Neighbouring Rights (AGUR12)"<sup>244</sup> to assess the need for revising the copyright legislation in response to the digital environment, with a particular focus on balancing the privacy and freedom of the internet user, the need to provide fair compensation for artists and copyright owners, and the need to curb online piracy.

3.204. In its substantial report<sup>245</sup> of 28 November 2013, the Working Group AGUR12 recommended a catalogue of measures to balance the different interests raised within its mandate. The catalogue recommends measures such as awareness-raising, improving the efficiency and transparency of the collective rights management organizations, measures for better copyright enforcement, and the adaptation of regulations governing exceptions and limitations.<sup>246</sup> The report

<sup>235</sup> See the EFTA FTAs signed with Georgia (Article 8.4) and Bosnia-Herzegovina (Article 8.5), which use the formulation "prevent the use of a geographical indication for agricultural products and foodstuffs *for identical or comparable products* not originating in the place indicated by the designation in question" (emphasis added). See also the EFTA FTA signed with the Central American States (Article 7.4) which requires means to prevent use of the GIs "for agricultural products and foodstuffs *of the same type* where the goods are not originating in the place indicated by the designation in question" (emphasis added).

<sup>236</sup> See Switzerland-China FTA, Article 11.13, para. 3 "Without prejudice to Articles 22 and 23 of the TRIPS Agreement, the Parties shall take all necessary measures, in accordance with this Agreement, to ensure mutual protection of the geographical indications referred to in paragraph 2 that are used to refer to goods originating in the territory of the Parties. Each Party shall provide interested parties with the legal means to prevent the use of such geographical indications for identical or similar goods not originating in the place indicated by the geographical indication in question."

<sup>237</sup> Agreement between the Swiss Federal Council and the government of Jamaica on the Protection and Reciprocal Recognition of Geographical Indications (RS 0.232.111.194.58).

<sup>238</sup> Jamaican GIs listed in Annex II include drinks, spirits, spices, agricultural products, bakery products, sweets, other foods, wellness products, minerals, non-agricultural products, and pharmaceutical products (including *Jamaican Cannabis Sativa*). See Annex II of the Agreement.

<sup>239</sup> Article 3(1)(a) and (b) of the Agreement (emphasis added).

<sup>240</sup> WTO (2009) and (2013).

<sup>241</sup> A minor change in Article 19 of the Copyright Ordinance (RS 231.11) occurred in 2014 as a consequence of changes to the customs administration competences.

<sup>242</sup> Federal Supreme Court decision BGE 136 II 508 "Logistep" of 2010, suggesting that it was the task of the legislator to take the necessary measures to provide copyright protection adapted to the new technologies.

<sup>243</sup> Postulat Savary (10.3263) of 12 May 2010 on "Does Switzerland need a law against illegal music downloading?"; Postulat Recordon (12.3326) of 9 May 2012 for "A copyright protection that is equitable and compatible with Internet users' freedom"; Postulat Glättli (12.3173) of 16 May 2012 for "Fair compensation of artists while respecting the private sphere of Internet users".

<sup>244</sup> Working Group "AGUR12" established by the Federal Department of Justice and Police on 8 August 2012.

<sup>245</sup> IGE (2013a).

<sup>246</sup> See the catalogue of measures (in English) at: [https://www.ige.ch/fileadmin/user\\_upload/Urheberrecht/e/Schlussbericht\\_der\\_AGUR12\\_Empfehlungen\\_EN.pdf](https://www.ige.ch/fileadmin/user_upload/Urheberrecht/e/Schlussbericht_der_AGUR12_Empfehlungen_EN.pdf)



maintains that the downloading from illegal sources, "as provided for in current law according to the prevailing legal doctrine, should remain legal"<sup>247</sup>, and recommends introducing the necessary statutory provisions to oblige hosting providers who refuse recommended self-regulation to apply a "take down" and "stay down" of illegal content. Further recommendations cover appropriately balanced bases for the blocking of access to web portals featuring infringing content via access providers<sup>248</sup>, introduction of a one-off notification of internet subscribers as a precondition for civil and criminal proceedings<sup>249</sup>, and the introduction of legislation on the exemption of Internet service providers from liability.<sup>250</sup> Rejecting the introduction of "a general cultural flat rate covering all internet usage"<sup>251</sup>, the catalogue recommends legislative action to ensure that the current copyright framework does not act as an unintentional barrier to market entry, and calls on the legislator to ensure that the enforcement of copyright limitations, such as the royalty-free right to citation, is not further eroded.<sup>252</sup>

3.205. Further to a 2013 Supreme Court decision<sup>253</sup> that suggested legislative action to clarify liability of online service providers, and following the Federal Council's response to a related parliamentary motion<sup>254</sup>, the Federal Office of Justice (FOJ) was commissioned in October 2013, to examine the civil liability of platform operators and providers. In its 2015 report<sup>255</sup>, it concludes that the current Swiss provisions on how right owners can obtain user data from service providers, as well as on liability of service providers and damages are sufficient, and that therefore "a general (i.e. covering a wide range of legal fields) statutory regulation of providers' liability under civil law does not currently appear to be appropriate".<sup>256</sup> The Federal Council concluded that no general legislative action was needed beyond the required changes to copyright law.<sup>257</sup>

3.206. A draft revision of the Copyright Act that the Federal Council had developed on the basis of recommendations by the Working Group AGUR12<sup>258</sup> as well as on the basis of other initiatives<sup>259</sup> aimed to modernize copyright legislation including "combating internet piracy more effectively without criminalizing the users of such services".<sup>260</sup> The draft has triggered an exceptionally high number of diverse comments during the consultation period that ended on 31 March 2016, leading the department responsible to reinstate the Working Group (now "AGUR12 II") and continue consultations "with the aim of revising the draft in cooperation with the relevant stakeholders and thus achieve broader acceptance".<sup>261</sup>

3.207. Throughout the review period, Switzerland's trading partners closely followed the work of the Working Group AGUR12. Having recorded serious concerns regarding Switzerland's system of

<sup>247</sup> See section 9.3.1 of the catalogue of measures cited at footnote 246.

<sup>248</sup> See section 9.3.4 of the catalogue of measures cited at footnote 246.

<sup>249</sup> See section 9.3.6 and 9.3.7 of the catalogue of measures cited at footnote 246: "An overzealous enforcement of the law is problematic and is perceived as being aggressive because internet users are often unclear about the legal situation. Prior notification may remedy this."

<sup>250</sup> See section 9.3.8 of the catalogue of measures cited at footnote 246.

<sup>251</sup> See section 9.5.1 of the catalogue of measures cited at footnote 246. "The existing concept of a judicious combination of collective remuneration at a more or less standard rate and individual exploitation is to be maintained."

<sup>252</sup> See section 9.5.3 of the catalogue of measures cited at footnote 246. "The AGUR12 recommends investigating how the exercising of copyright limitations ensured by the Revised Berne Convention, TRIPS, WCT and WPPT can once more be safeguarded, e.g. in a new Art. 28bis CopA and Art. 69b CopA (prohibition of obstructing the use of limitations by technical measures)."

<sup>253</sup> Federal Supreme Court decision 5A\_792/2011 of 14 January 2013 "Tribune de Genève", calling on the legislator to assess whether there is a need to protect internet service providers (ISPs) from any "significant (liability) consequences" they may be facing under the existing Swiss law.

<sup>254</sup> Federal Council report in response to the Postulat Amherd (11.3912) of 29 September 2011 "Legal Basis for Social Media" from autumn 2013.

<sup>255</sup> Federal Department of Justice and Police (2015).

<sup>256</sup> See section "8. Conclusion" of Essential Results cited at footnote 255.

<sup>257</sup> See section "2. Structure and subject of the report" of Essential Results cited at footnote 255.

<sup>258</sup> Final Report of the "Working Group for the Optimization of Collective Management of Copyrights and Neighbouring Rights" (AGUR12) of 28 November 2013 cited at footnote 245.

<sup>259</sup> Postulat Fluri (13.3583) "Remuneration for authors"; Postulat CEAT-N (14.3293) "Blank media"; as well as the parliamentary initiative (13.404) "Stop the unfair levy on blank media".

<sup>260</sup> See description on the website of the Swiss Federal Institute of Intellectual Property. Viewed at: <https://www.ige.ch/en/copyright/modernisation-of-copyright.html>.

<sup>261</sup> See description on the website of the Swiss Federal Institute of Intellectual Property. Viewed at: <https://www.ige.ch/de/urheberrecht/agur12.html>.

online copyright protection and enforcement<sup>262</sup> in the Special 301 Reports since 2012, the United States Trade Representative decided to place Switzerland on the Watch List in the 2016 Special 301 Report.<sup>263</sup> While acknowledging that "Switzerland broadly provides high-levels of IPR protection and enforcement in its territory [and] ... makes important contributions to promoting such protection and enforcement internationally, including in bilateral and multilateral contexts", the "decision to place Switzerland on the Watch List this year is premised on U.S. concerns regarding specific difficulties in Switzerland's system of online copyright protection and enforcement".<sup>264</sup>

3.208. Copyright protection in Liechtenstein is provided by the Law of 19 May 1999 on copyright and related rights and its related ordinance. During the review period, Liechtenstein implemented two EU Directives in the area of copyright. In implementing EU Directive 2011/77,<sup>265</sup> which aims to better protect young performing artists, Liechtenstein increased the term of protection for music compositions with text, and the term of performers' rights with regard to a recorded performance from 50 to 70 years.<sup>266</sup> The rights of phonogram producers were equally extended from 50 to 70 years, coupled with provisions to ensure that the performing artists will participate in the benefits generated from this additional period of exploitation regardless of prior contractual arrangements.<sup>267</sup> In implementing EU Directive 2012/28 ("Orphan Works Directive") Liechtenstein introduced provisions permitting legal online access to orphan works available in online libraries and archives where the inability to identify the authors has been established in one EEA State and the work has been listed in the orphan works Database<sup>268</sup> of the EUIPO Observatory.<sup>269</sup> These amendments entered into force on 1 September 2014 and 1 October 2015 respectively. Liechtenstein recognizes the collective exploitation of authors' rights and neighbouring rights as well as the resale right. International exhaustion is applied for copyrights and neighbouring rights.

### 3.3.8.10 Enforcement

3.209. The laws of Switzerland and Liechtenstein provide for criminal enforcement and border measures concerning intellectual property rights at an advanced level. The intentional infringement of copyright, patents, trademarks and geographical indications is a criminal offence under the laws of Liechtenstein<sup>270</sup> and Switzerland.<sup>271</sup> Since the substantial improvements introduced in 2008, the Swiss Customs Administration, covering both territories, provides *ex officio* and on-demand border measures in case of a suspected import, export or transit of goods infringing not only copyright and trademarks, but also patents, designs, geographical indications and topographies of integrated circuits.<sup>272</sup> Trademark and design right holders have the option to prohibit the import, export and transiting of commercially produced infringing objects for private use and to have those goods withheld by Customs, however private persons in Switzerland who are in possession of unlawfully manufactured goods can still not be legally prosecuted.<sup>273</sup>

<sup>262</sup> USTR (2014), p. 21.

<sup>263</sup> USTR (2016).

<sup>264</sup> USTR (2016), p. 55.

<sup>265</sup> EU Directive 2011/77 (amending Directive 2006/116/EC on the term of protection of copyright and certain related rights).

<sup>266</sup> The term of protection is calculated to begin, in the case of the music compositions with text, after the death of the longest surviving author, and in the case of performers' right, after the first publication or communication to the public of the recording.

<sup>267</sup> See government explanation of the proposed bill in "Berichte und Anträge der Regierung an den Landtag" 23/2014 and 88/2014 respectively. Viewed at:

<http://bua.gmg.biz/BuA/default.aspx?nr=23&year=2014&content=496979026>.

<sup>268</sup> Orphan Works Database. Viewed at: <https://euipo.europa.eu/orphanworks/>.

<sup>269</sup> See government explanation of the proposed bill in "Berichte und Anträge der Regierung an den Landtag" 23/2014 and 88/2014 respectively. Viewed at:

<http://bua.gmg.biz/BuA/default.aspx?nr=88&year=2014&content=1314132476>.

<sup>270</sup> Article 61 Copyright Act (LR 231.1); Article 59 *et seq.* and Article 62 *et seq.* Trademark Protection Act (LR 232.11).

<sup>271</sup> Article 67 Copyright Act (RS 231.1); Article 66 *et seq.* Patent Act (RS 232.14); Articles 61 and 64 Trademark Protection Act (RS 232.11).

<sup>272</sup> Articles 70 to 72h of the Trademark Protection Act (RS 232.11), Articles 75 to 77h of the Copyright Act (RS 231.1). See Switzerland's response to questions during the 2013 TPR in WTO document TPR/M/280/Add.1, p.83.

<sup>273</sup> Article 13 para. 2<sup>bis</sup> and Article 71 Trademark Protection Act (LR 232.11); Article 9 para. 1<sup>bis</sup> and Article 47 Design Act (RS 232.12). See explanation on FIIP website. Viewed at: <https://www.ige.ch/en/legal-info/legal-areas/counterfeiting-piracy/new-legislation-targeting-counterfeiting-and-piracy.html#c3971>.



3.210. The Swiss Anti-Counterfeiting and Piracy Platform, STOP PIRACY, continues to conduct campaigns to raise Swiss consumer awareness regarding counterfeit and pirated goods, focusing in particular on the dangers of fake medicines, luxury products and consumer appliances.<sup>274</sup>

3.211. The Federal Customs Administration (FCA)<sup>275</sup> reports that the number of interventions increased from 2,741 in 2012 to 3,621 in 2015. Most interventions – both commercial shipments as well as tourist traffic – occur in the categories of "handbags, travel bags, wallets, etc."<sup>276</sup> and "watches and jewellery".<sup>277</sup> These figures relate to customs interventions under the IP laws. For pharmaceutical products, Customs intervene under the Law on Therapeutic Products Act based on the imported quantity, which may not extend beyond monthly need. In 2015, 1,134 drugs consignments were seized under the Therapeutic Products Act.<sup>278</sup>

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<sup>274</sup> See *Stop Piracy in the Media online*. Viewed at: <http://www.stop-piracy.ch/presse/stop-piracy-in-den-medien/>.

<sup>275</sup> Federal Customs Administration (2015).

<sup>276</sup> Federal Customs Administration (2015). 59% of interventions in commercial shipments, 39% of interventions in tourist traffic. Cited at footnote 275.

<sup>277</sup> Federal Customs Administration (2015). 30.2% of interventions in commercial shipments, 19.1% of interventions in tourist traffic. Cited at footnote 275.

<sup>278</sup> Federal Customs Administration (2015). Cited at footnote 275.

## 4 TRADE POLICIES BY SECTOR

### 4.1 Agriculture

4.1. Swiss agriculture (including fisheries and forestry) contributed about 0.7% to GDP (2015) and 2.7% to employment (2014).<sup>1</sup> Most of the 54,000 farms (2014) are small family enterprises with less than 30 hectares of land.<sup>2</sup> About half of Swiss farms are located in hilly or mountainous regions – a handicap that is addressed through the direct payments system. The main agricultural products (in value terms) are milk and dairy products, bovine animals, pigs, poultry and eggs, and wheat.<sup>3</sup>

4.2. Switzerland is traditionally a net importer of agricultural and food products (Table A4.1). While imports are spread over most categories of agricultural and processed products, exports are predominantly processed food items. Coffee, non-alcoholic beverages, chocolate, tobacco products and cheese account for the bulk of agricultural exports. While unroasted coffee and cocoa butter (both raw materials) are in the top 10 imports, roasted coffee and chocolate are among the top 10 exports. Switzerland is a net exporter of cheese.

4.3. Swiss agricultural policy pursues diverse objectives, namely sustainable and market-oriented agricultural production that contributes to food security, protection of natural resources, landscape stewardship, decentralized settlement, and animal welfare. The Federal Government is directed by the Swiss Constitution to support agriculture's multi-functionality and delivery of public goods, *inter alia*, with direct payments linked to environmental cross-compliance.<sup>4</sup>

4.4. In Liechtenstein, agriculture's contribution to GDP is marginal, although about one third of its territory is used as farmland. There were 109 farms in 2013 with an average farm size of 33 hectares. Milk is the main agricultural product, followed by meat, grains, and vegetables. Switzerland acts on behalf of Liechtenstein on Customs Union matters, such as imports and exports of agricultural products. Liechtenstein has its own direct payments scheme. Liechtenstein farmers also benefit from some of the Swiss market support measures, such as the subsidy for milk processed into cheese, in return for an annual financial contribution by Liechtenstein. Some Liechtenstein companies participate in the Swiss auctions of the meat tariff quotas and have received export subsidies for processed agricultural products.

#### 4.1.1 Market access

##### 4.1.1.1 Applied MFN tariffs

4.5. Switzerland's applied MFN tariff on agricultural products (WTO definition) – based on *ad valorem* equivalents – averaged an estimated 30.8% in 2016 (Table 3.3). Meat and dairy products benefit from the highest levels of tariff protection, averaging over 100% (AVE). High MFN tariffs in import-competing sectors contrast with free trade in a range of products, such as cotton, where there is no or little domestic production. The Swiss customs tariff (Tares) contains about 2,100 tariff lines for agricultural products (HS eight-digit level). According to the State Secretariat for Economic Affairs (SECO), this includes about 500 tariff-protected products where import protection may not be necessary (e.g. cauliflowers), and approximately another 500 tariff lines where high or prohibitive tariffs are maintained mainly for historical reasons – these tariff peaks may offer scope for tariff cuts without compromising agricultural policy objectives.<sup>5</sup>

4.6. In addition to ordinary customs duties, Switzerland levies guarantee fund contributions to finance its reserve stock scheme for grains, rice, coffee, sugar, certain edible oils and fats, and

<sup>1</sup> The total agricultural labour force was 159,000 in 2014. See Federal Office for Agriculture (2015).

<sup>2</sup> There were 174 farms with more than 100 hectares in 2014.

<sup>3</sup> WTO document G/AG/N/CHE/72, 10 August 2015.

<sup>4</sup> Article 104 of the Swiss Constitution.

<sup>5</sup> SECO (2016a). For example, there are a number of fruit and vegetables to which the out-of-quota tariffs are not applied (see the list at:

[https://www.blw.admin.ch/dam/blw/fr/dokumente/Markt/Einfuhr%20von%20Agrarprodukten/Gemuese%20und%20Obst,%20frisch/Ergaenzung\\_Tabelle\\_Importregelung\\_Obst\\_Gemuese\\_dt.pdf.download.pdf/Compl%C3%A9ment%20au%20tableau%20r%C3%A9glementation%20d%E2%80%99importation%20des%20l%C3%A9gumes%20et%20fruits%20rais.pdf](https://www.blw.admin.ch/dam/blw/fr/dokumente/Markt/Einfuhr%20von%20Agrarprodukten/Gemuese%20und%20Obst,%20frisch/Ergaenzung_Tabelle_Importregelung_Obst_Gemuese_dt.pdf.download.pdf/Compl%C3%A9ment%20au%20tableau%20r%C3%A9glementation%20d%E2%80%99importation%20des%20l%C3%A9gumes%20et%20fruits%20rais.pdf)).

nitrogen fertilizers. The reserve stocks are managed by two private organizations (Réserve Suisse and Agricura) on behalf of the Government (Section 31.4.4).

4.7. Switzerland's MFN customs tariff features tariff escalation, adjustable tariffs, seasonal tariffs, and in-quota tariffs.

- a. Tariff escalation is found in the customs duties on certain processed agricultural products (see Section 3.1.4).<sup>6</sup> The applied tariff rate of each product concerned is composed of a fixed element to protect the Swiss food processing industry (industrial protection) and a variable element of agricultural protection, which raises the duty-paid import prices of the basic agricultural products incorporated in the processed product to the Swiss price level. The variable element is calculated based on differences between Swiss and world market prices for relevant raw materials and a standard recipe for each tariff line. Export refunds to compensate the price difference are paid only for certain milk products, and flour and other milled products. Due to budgetary constraints, the price difference is usually only partially compensated (Section 4.1.4).
- b. Switzerland maintains a complex scheme of adjustable MFN tariffs based on target import prices, in order to protect its farmers or producers of feedstuffs, oilseeds, and feed mixtures. The basic structure of the schemes remains unchanged, as described in previous TPRs.<sup>7</sup>
  - Tariffs are reviewed monthly and adjusted if necessary, so that the duty-inclusive prices, including guarantee fund contributions, are raised to the level of target import prices, called "threshold prices".<sup>8</sup> According to the authorities, the threshold prices do not work as minimum import prices but rather as targets to set the tariffs. The tariffs are then valid for a pre-determined period, at least until the next examination. Once the tariff is set, every shipment is charged exactly that tariff irrespective of the value of the good; the tariffs are therefore not variable. The threshold prices are set in the General Ordinance on Imports of Agricultural Products for some of the main feedstuffs (barley, soybean, meal etc.).<sup>9</sup> On the basis of the threshold prices for 11 product groups, the Federal Department of Economic Affairs, Education and Research determines "indicative import values" for "similar" products, for example, wheat or rape meal. For feed mixtures, the Federal Department sets a standard mixture based on Switzerland's global feedstuff consumption. This is to ensure that feed mixtures are subject to the same level of tariff protection as the imports of its components. The statutory threshold prices were reduced in 2005, 2007 and 2009. The tariffs based on target import prices may not exceed the Uruguay Round bindings. There are no tariff quotas for the products covered by the scheme.
  - Imports of cereals of bread-making quality (e.g. wheat) are subject to a separate tariff mechanism with the statutory target import price called the "reference price". The levied tariffs are based on the tariffs of the grain, the standard flour yield, and an extra fixed tariff (industrial protection). The scheme works in combination with a tariff quota of 70,000 tonnes (TQ No. 27); the adjustable tariffs may not exceed the bound in-quota tariffs of the products concerned.
  - A similar tariff mechanism exists for MFN sugar imports. Switzerland is aiming at approximate price parity with EU sugar prices in order not to hamper the competitiveness of the Swiss food industry.<sup>10</sup> MFN tariffs are examined, normally

<sup>6</sup> Ordinance on the Variable Components and the Rates of Customs Duty Applicable to the Import of Processed Agricultural Products (RS 632.111.722) of 23 November 2011.

<sup>7</sup> WTO (2013).

<sup>8</sup> There is a tolerance band of +/- SwF 3 for deviations from the threshold price. Within this band, there is no legal obligation to adjust the tariffs.

<sup>9</sup> RS 916.01 of 26 October 2011.

<sup>10</sup> The mechanism was introduced following Switzerland's bilateral agreement with the EU on processed agricultural products (2005), which provides for bilateral free trade in sugar-containing products without export subsidies and import duties for sugar used in processed products.

every month, and adjusted if necessary, so that duty-inclusive reference prices are aligned with EU sugar market prices (with a tolerance band of +/- SwF 30/tonne).

It may be noted that Switzerland's adjustable MFN tariffs subject to the scheme described above are not fully captured by the Secretariat's tariff analysis (i.e. tariff averages) in Section 3, since Switzerland notifies its MFN tariffs to the WTO IDB as applied on 1 January of each year.

- c. Switzerland levies seasonal tariffs on 95 agricultural products, all of which are fresh fruit, vegetables, or cut flowers.<sup>11</sup> The seasonal tariffs are applied in combination with tariff quotas for most domestically produced fruit and vegetables.
- During the "out-of-season" period, there is no tariff quota management and imports are allowed in unlimited quantities at the bound in-quota tariff. The out-of-season period is very short for some products (two weeks).
  - During the harvest season ("managed period"), tariff quotas are opened if domestic production is insufficient to satisfy demand. Operators that hold stocks (exceeding their needs for two days) of fruit and vegetables at the beginning of the managed period but which were imported during the out-of-season period, are required to file a new customs declaration and pay the difference between the in-quota and the applicable out-of-quota tariffs (or use parts of their tariff quota at the beginning of the "managed period").
  - No tariff quotas are opened during the harvest season if domestic supplies are sufficient to satisfy demand ("full supply period"). In this case imports in unlimited quantities are allowed at reduced out-of-quota tariffs. The periods when reduced out-of-quota tariffs are applicable are published on the Federal Office for Agriculture's website ([www.import.blw.admin.ch](http://www.import.blw.admin.ch)) or by means of circular letters. The reduced out-of-quota tariffs are set out in the General Ordinance on Imports of Agricultural Products (RS 916.01) and published in the Tares. Clearances at the reduced out-of-quota rates are carried out at the request of the declarant.<sup>12</sup> These reduced rates are not included in the Secretariat's tariff analysis, since Switzerland notifies its MFN tariffs to the WTO IDB as applied on 1 January of each year.

#### 4.1.1.2 Tariff quotas

4.8. Switzerland's high level of tariff protection for agricultural products that face import competition is complemented by facilitated market access via WTO and preferential tariff quotas. In many cases, there is a large gap between the applied MFN in-quota and out-of-quota tariffs (Table A4.2).

4.9. Switzerland's tariff quota administration regime to implement the 28 tariff quota commitments bound in its Schedule is complex. Switzerland has regularly notified annual updates of its administration of WTO tariff quotas and their utilization (up to 2015).<sup>13</sup> In practice, the WTO tariff quotas are implemented through numerous sub-quotas, which in turn may be further sub-divided (e.g. TQ No. 5 for "red meat"). In the Swiss notifications, it is not always clear that such disaggregation exists. In addition, Switzerland administers preferential tariff quotas (Table 3.3), which may be aggregated with WTO tariff quotas.

4.10. The predominant allocation methods are first-come-first-served; auctioning; past imports; *prise en charge* (a discriminatory system whereby the allocation of tariff quota is contingent upon local purchases); and unlimited access at the bound in-quota tariff. When domestic supplies are insufficient, the tariff quotas may also be increased autonomously, resulting in fill ratios greater than 100% (Table A4.2). The Federal Office for Agriculture publishes the tariff quota allocation on its website. The auction results (including accepted bids and the names of buyers) are also

<sup>11</sup> From 2017, Switzerland has granted unlimited access at the bound in-quota tariff for cut flowers.

<sup>12</sup> See [www.tares.ch](http://www.tares.ch) – fresh fruit and vegetables of chapter 7 or 8.

<sup>13</sup> WTO documents G/AG/CHE/13/Add.18, 16 March 2016 and G/AG/CHE/77, 8 November 2016.

published on [www.import.ofag.admin.ch](http://www.import.ofag.admin.ch).<sup>14</sup> The daily fill rates of first-come-first-served "at the border" tariff quotas are published by the Federal Customs Administration.<sup>15</sup>

4.11. Since the last Review, there have been no major changes in tariff quota administration, except for "red meat" (TQ No. 5 – 22,500 tonnes). This tariff quota commitment is implemented through sub-quotas for different categories of meat and meat products (meat from bovine animals, sheep, goats and horses). By 2007, a change towards auctioning of the sub-quotas had been phased in, leaving 10% of the red meat tariff quota subject to allocation by *prise en charge*. However, the *prise en charge* share for beef, sheep meat and offal within the sub-quota (No. 5.7 – 20,703 tonnes) was raised again from 1 January 2015 to 50%.<sup>16</sup> Thus, 50% of the sub-quota is allocated "on the basis of a contribution to Swiss production".<sup>17</sup> In practice, slaughtering facilities are entitled to a 40% tariff quota allocation, based on their shares in the total number of slaughtered animals; 10% is allocated based on the number of animals purchased on public auctions; the rest of the sub-quota (50%) is auctioned. Slaughtering facilities rarely import themselves and usually transfer their import entitlement to import organizations or meat traders. According to the authorities, the change in tariff quota administration affects only the allocation of import rights, but not the level of imports into Switzerland, as the fill rate of the red meat quota continues to exceed 100% (Table A4.2).

4.12. Switzerland's aggregate tariff-quota commitment for dairy products (TQ No. 6 – 527,000 tonnes of milk equivalent) is divided into six sub-quotas with very small allocations for butter (100 tonnes) and whole milk powder (300 tonnes), both of which are auctioned. The tariff quota has had fill rates of more than 100% in recent years.

4.13. Switzerland has three tariff quotas for grains (TQs Nos. 26-28). The tariff quotas for durum wheat and coarse grains for human consumption were under-utilized in recent years, although the authorities allow unlimited imports at the in-quota tariff. The lack of demand for imported grains is a result of competition from import of the processed products (for example, pasta). The bread wheat tariff quota (TQ No. 27 – 70,000 tonnes) was increased autonomously by 20,000 tonnes in 2015.

4.14. The three bound tariff quotas for red and white wine (TQs Nos. 23-25) were merged in 2001 and are administered through a single tariff quota on a first-come-first-served basis.

#### 4.1.2 Domestic support

4.15. Since the last Review, Switzerland has implemented a new policy framework, the Agricultural Policy (AP) 2014-17. The reform entered into force on 1 January 2014 (through an amendment of the Federal Law on Agriculture) and includes a four-year budgetary framework (Article 6 of the Federal Law on Agriculture).<sup>18</sup> At the core of the AP 2014-17 is a re-arrangement and fine-tuning of the direct payments (DP) system, to improve the efficiency and effectiveness of the measures, to reallocate some of the subsidies from livestock and dairy production to the arable sector and marginal areas, and to address conflicts with WTO Green Box criteria. Total DP expenditures were maintained at a level of about SwF 2.8 billion per year. Direct payments averaged SwF 65,000 per farm in 2014 and contributed on average about 22% to farmers' revenues.<sup>19</sup> As at end-2016, Switzerland had yet to provide a domestic support notification covering the AP 2014-17.

4.16. On 18 May 2016, the Federal Council submitted its budget proposal to Parliament for agriculture spending in the 2018-21 period, which is affected by the savings within the framework of the fiscal stabilization programme (Section 1.2). Total agriculture expenditures for the four-year

<sup>14</sup> Federal Office for Agriculture online information. For more information about the auctioning system, see: <https://www.blw.admin.ch/blw/fr/home/markt/einfuhr-von-agrarprodukten/aev14online.html>.

<sup>15</sup> Federal Customs Administration online information. Viewed at: <https://www.ezv.admin.ch/ezv/fr/home/infos-pour-entreprises/interdictions--restrictions-et-conditions/mesures-economiques-et-agricoles/contingents-tarifaires/etat-des-contingents.html>

<sup>16</sup> 40% for goat meat, horse meat and offal. There are also a few tariff quotas that are administered on a first-come-first-served "at office" (OFAG), rather than "at the border", basis, e.g. for sheep and pigs.

<sup>17</sup> WTO document G/AG/N/CHE/13/Add.17, 27 February 2015; and Ordonnance sur les marchés du bétail de boucherie et de la viande (RS 916.341) of 26 November 2003.

<sup>18</sup> Federal Law on Agriculture (RS 910.1) of 29 April 1998.

<sup>19</sup> Federal Office for Agriculture (2015).

period are to be reduced by 3.7% to SwF 13.278 billion. Approximately SwF 11 billion are to be allocated to the direct payments programme (about SwF 2.74 billion annually).

4.17. Agricultural policy in Liechtenstein has the objective of achieving sustainable and market-oriented production, in accordance with the Agriculture Act of 2008. Agriculture expenditures decreased from SwF 15-16 million to less than SwF 14 million in recent years, most of which was allocated to direct payments (Table 4.2). Liechtenstein also makes a financial contribution to the common agricultural policies with Switzerland – the key measure for Liechtenstein is the subsidy for processing milk into cheese. Liechtenstein's variable contribution was nearly SwF 167,000 in 2015.

#### 4.1.2.1 Direct payments

4.18. Under the previous agriculture policy framework (AP 2011), the DP budget was allocated to "general" DPs (80%) and "ecological" DPs (20%), which were tied to compliance with environmental criteria and animal welfare objectives. The DP scheme comprised a set of 13 measures, which were notified in terms of Green Box decoupled income support, regional assistance, or environmental programmes, as explained in detail in the last TPR.<sup>20</sup> The new direct payment system is more complex. The new DP regime comprises seven categories of payments, each targeted to a specific policy objective, with a total of 21 measures (Table 4.1).

4.19. The main DP category is "payments for ensuring food security", for which about SwF 1.1 billion per year have been allocated, covering three types of support:

- The "basic payment" for which virtually the entire agricultural area of 1 million hectares is eligible (SwF 900 per hectare), including permanent pastures<sup>21</sup> but excluding the summer pasturing area. On the permanent pastures, the basic payment replaces the headage premiums for ruminants ("payments for roughage consuming animals" under the AP 2011), which were questioned by WTO Members in terms of compliance with Green Box criteria. To reduce the incentives for production on permanent pastures, the basic payment is no longer tied to the number of animals, but is based on acreage with a minimum stocking density.
- The "payment under difficult production conditions", which provides additional support for producers in the hilly and mountainous zones (ranging from SwF 240 to SwF 360/ha).<sup>22</sup> About 60% of the total agricultural area is eligible.
- The "payment for open arable land and permanent crops" (SwF 400/ha), which is a pre-existing measure that raises the level of support for the arable sector compared with the pasture-based livestock sector (dairy).<sup>23</sup> The policy objective is to stabilize the arable area for food security purposes. The "basic payment" and the "payment for the open arable land and permanent crops" will be notified to the Committee on Agriculture in terms of trade-distorting domestic support (Amber Box), according to the authorities.

4.20. The "farmland payments" have the objective of maintaining a cultivated agricultural landscape in the hilly and mountainous areas. Four of the six measures are per-hectare payments that are tiered according to the slope of the terrain and are conditional on landscape stewardship measures by farmers. The higher the location of the farm, the higher the direct payment. On the summer pasturing area (covering about 465,000 hectares), the "summer pasturing payments" have been maintained with environmental requirements for grazing livestock. The payments have been increased (except for sheep) to SwF 400 per livestock unit (up from SwF 320 under AP 2011).<sup>24</sup>

4.21. The "payments for production systems" are intended to encourage environment-friendly or animal welfare-friendly methods of production. This DP category contains four pre-existing

<sup>20</sup> WTO (2013).

<sup>21</sup> The payment rate is SwF 450/ha on permanent pastures that are cultivated as bio-diversity areas.

<sup>22</sup> This measure replaces the "livestock payments under difficult production conditions" (SwF 300-1,230/ha).

<sup>23</sup> This measure has been retained, albeit at a reduced payment rate (SwF 400/ha compared with SwF 640/ha under the AP 2011).

<sup>24</sup> About 3% of Swiss milk production (totalling 3.5 million tonnes) comes from summer pasturing.

measures and one new incentive. The "payments for organic agriculture" (SwF 200-1,600/ha, depending on the crop) are linked to farming methods that comply with the Organic Farming Ordinance (RS 910.18). About 13% of the agricultural area was eligible in 2014.<sup>25</sup> The "payments for extensive cereal and rapeseed production" have been maintained at SwF 400/ha. The "payments for pasture-based dairy and meat production" (SwF 200/ha) is a new measure to provide an incentive for pasture and roughage-based livestock systems. The animal welfare payments for outdoor systems and livestock housing systems have been retained.

4.22. The "biodiversity payments" comprise three pre-existing environmental measures which have been re-arranged under this DP category with enhanced incentives in some cases (SwF 450-3,800/ha). The incentives cover, for example, the extensive use of pastures and meadows; hedges; or fallowing (SwF 3,300/ha).

4.23. The "payments for landscape quality" is a new incentive for regional projects, which are co-financed by the Federation (90%) and the cantons (10%).

4.24. The "resource efficiency payments" comprise three new incentives for emission-reducing application techniques of manure; precision application of pesticides; and reduced tillage methods. The pre-existing incentives for resource protection projects (water conservation) have been maintained.

4.25. The "transitional payments" are intended to make the change to the new DP system socially acceptable. Farmers are compensated for any shortfall in annual direct payments after 1 January 2014.<sup>26</sup> The transitional payments are to be phased out over a period of 8 years (2021).

4.26. The general eligibility criteria for direct payments include a set of environmental performance standards (proof of ecological performance), including a 7% bio-diversity area requirement. The maximum direct payment is SwF 70,000 per annual work unit.<sup>27</sup> Direct payments are degressive by farm size, income, and assets.<sup>28</sup>

**Table 4.1 Direct payments, 2012-15**

	2012	2013	2014	2015
<b>General direct payments (AP 2011)</b>	2,163	2,148	n.a.	n.a.
<b>Ecological direct payments (AP 2011)</b>	641	667	n.a.	n.a.
<b>Payments for ensuring food security</b>	n.a.	n.a.	1,096.1	1,093.5
Basic payment			824.0	820.7
Payment under difficult production conditions			160.3	160.5
Payment for open arable land and permanent crops			111.8	112.3
<b>Farmland payments</b>	n.a.	n.a.	495.7	504.4
Payments to maintain open landscape			140.6	140.8
Steep slope payments			107.3	108.1
Payments on very steep slopes			13.4	13.5
Steep slope payments for wine growers			11.7	11.9
Alpine pasturing payments			101.6	107.7
Summer pasturing payments			121.0	122.3
<b>Payments for production systems</b>	n.a.	n.a.	439.5	450.1
Payment for organic agriculture			40.4	42.5
Payments for extensive cereal and rapeseed production			31.9	33.5
Payments for pasture-based dairy and meat production			104.8	107.9
Animal welfare payments (outdoor)			186.8	188.2
Animal welfare payments (housing systems)			75.6	78.1
<b>Biodiversity payments</b>	n.a.	n.a.	364.1	386.6
Quality payment			284.0	296.1

<sup>25</sup> Federal Office for Agriculture, *Annual Report on Agriculture 2015*.

<sup>26</sup> Calculated at farm level as the difference between the general DPs in 2011-13 (highest value) and the sum of the payments for ensuring food security and the farmland payments.

<sup>27</sup> Excluding "transitional payments".

<sup>28</sup> The basic payment for ensuring food security is reduced for farms larger than 60 ha; transitional payments are reduced from a level of income of SwF 80,000 and assets of SwF 0.8 million.



	2012	2013	2014	2015
Payment for bio-diversity networks			80.1	90.5
<b>Payments for landscape quality</b>	n.a.	n.a.	70.2	125.5
<b>Resource efficiency payments</b>	n.a.	n.a.	6.3	17.3
Payment for emission-reducing application techniques of manure			2.1	6.2
Payment for reduced tillage			3.8	10.4
Payment for precision application of pesticides			0.3	0.7
<b>Payments for water protection and sustainable use of natural resources</b>			31.0	25.5
<b>Transitional payments</b>	n.a.	n.a.	307.8	177.9
Other	13	15	6.3	-2.3
<b>Total</b>	2,791	2,798	2,773.5	2,777.9

n.a. Not applicable.

Note: Payments for water protection and sustainable use of natural resources are not direct payments but another type of financial support. Since they are financed by the federal direct payments budget (and co-financed by the cantons), they are included in this table.

Source: Federal Office for Agriculture (2015), *Annual Report on Agriculture 2015* and information provided by the authorities.

4.27. Liechtenstein has its own direct payments scheme (109 farmers), which was last modified in 2010 (Table 4.2).<sup>29</sup> Direct payments averaged about SwF 109,000 per farm in 2013 (SwF 65,000 in Switzerland), as the average farm size in Liechtenstein (33 ha) is significantly larger than in Switzerland (19 ha). The direct payments per hectare averaged SwF 3,335 in 2013, compared with SwF 3,417 in Switzerland.

4.28. Liechtenstein has not followed suit in reforming its direct payments system in line with the Swiss AP 2014-17, as this could weaken the competitiveness of its dairy and cattle sector, according to the authorities. A direct payment scheme with a strong focus on the production area would increase competition for the allocation of the already scarce cultivated land. Moreover, support for remote regions and agricultural crops are of minor importance in Liechtenstein.

**Table 4.2 Liechtenstein's direct payments, 2013-15**

(SwF million)

	2013	2014	2015
Total direct payments	11.9	11.3	11.3
Income supplements (farm income aids, payments for selected crops, payments for roughage-consuming animals, payments for pasturing)	6.2	5.7	5.6
Environmental and animal welfare payments	5.2	5.0	5.1
Payments for countryside stewardship in hilly and mountainous regions	0.5	0.5	0.5

Source: Liechtenstein authorities.

#### 4.1.2.2 Market support measures

4.29. In addition to price support through relatively high tariffs on some agricultural products, Switzerland also provides complementary domestic support measures. Switzerland's key domestic support instruments are (i) direct payments and (ii) subsidies and other government expenditures for market support measures (Table 4.3). In its notifications to the WTO Committee on Agriculture, Switzerland has notified price support through applied administered prices for bovine meat, pig meat, milk, poultry meat (the four main products with price support), and 15 other basic agricultural products. However, according to the authorities, Switzerland does not apply administered prices. "Observed" prices as close as practicable to the first point of sale are used to calculate the support (i.e. prices observed by the Federal Office for Agriculture and price data provided by agricultural organizations). Switzerland's last domestic support notification (calendar

<sup>29</sup> Ordinance on Agricultural Income Supplements (SR 910.023) of 23 March 2010.

year 2013) shows a Current Total AMS of SwF 2,556 million, well below the bound Total AMS commitment level of SwF 4,257 million.<sup>30</sup>

**Table 4.3 Market support and direct payments, 2012-15**

(SwF million)

Measure	2012	2013	2014	2015
<b>Market support payments<sup>a</sup></b>				
Dairy sector, of which:	n.a.	301.3	295.5	295.4
Subsidy for milk processed into cheese	265.3	266.4	261.8	262.1
Subsidy for feeding without silage	32.7	32.4	31.2	30.9
Plant production, of which:	72.0	80.5	63.6	62.3
Crop premiums (RS 910.17)	69.0	70.8	60.1	59.6
<b>Direct payments</b>	2,791	2,798	2,773.5	2,801

n.a. Not applicable.

a Including export subsidies.

Source: Federal Office for Agriculture, *Annual Report on Agriculture*, various issues.

#### 4.1.2.3 Milk

4.30. About 40% of Swiss farms (22,000) produce milk for sale. Since the elimination of the milk quota system on 1 May 2009, milk production has increased to a new record of 3.54 million tonnes in 2014 (up from 3.42 million tonnes in 2008), including approximately 29,000 tonnes originating in Liechtenstein and the free zones around Geneva in neighbouring France.

4.31. In Liechtenstein, milk production is constrained by a production quota (of 14,600 tonnes in 2014, with 57 farms producing in that year). According to the authorities, the advantages of the milk quota outweigh its disadvantages, and representatives from the milk sector have declined an exit from the milk quota system. In the period 2005-12, the Government provided SwF 12 million in terms of financial support for modernizing the dairy sector (dairy industry and on-farm processing).

4.32. The key internal support instrument is a subsidy for milk processed into cheese (SwF 0.15/kg of raw milk, unchanged since the last Review).<sup>31</sup> Since cheese production accounts for over 40% of milk deliveries, the subsidy provides support to the broader domestic raw milk market. According to the authorities, given that milk production is traditionally the only income possibility open to farmers in mountainous regions, the subsidy for cheese production has important socio-economic effects and helps to achieve the aim of a decentralized population. Exports of cheese also benefit from indirect support through the subsidy for milk processed into cheese, although the subsidy is not contingent on exports. WTO Members have previously questioned the Green Box compatibility of the subsidy for milk processed into cheese, notified by Switzerland in terms of a regional assistance programme.<sup>32</sup> The subsidy for "feeding without silage" is aimed at assisting the production of non-pasteurized specialty cheeses (unchanged at SwF 0.03/kg of raw milk). In addition, dairy farmers benefit from direct payments (Table 4.3).

4.33. Since July 2013, the pricing policy for raw milk deliveries is based on market segmentation. Initially IP LAIT (the Swiss interbranch organization for milk) introduced this measure for its members. In a second step, IP LAIT requested the extension of the measure to non-members, which was granted by decision of the Federal Council. The policy is implemented by IP LAIT to guide dairy farmers' production decisions and restrain surplus production; the policy is obligatory for both members of IP LAIT and non-members until 31 December 2017.

4.34. The "A segment" comprises domestic sales of milk products that benefit from tariff protection and domestic support (cheese subsidy); (ii) the "B segment" includes world market exports of skimmed-milk powder (milk protein) and domestic sales of butter (milk fat); (iii) the

<sup>30</sup> WTO document G/AG/N/CHE/72, 10 August 2015.

<sup>31</sup> Ordinance on Supplementary Payments and Aid in Relation to Milk (RS 916.350.2).

<sup>32</sup> "Allowance for milk processed into cheese", see WTO document G/AG/CHE/72, 10 August 2015.

"unsupported C segment" comprises world market exports of butter and SMP.<sup>33</sup> In 2015, 85.0% of milk deliveries were in the A segment, 13.1% in the B segment and 1.9% in the C segment. A new dairy export enterprise (LactoFama AG), established by the Swiss milk producers organization and a number of regional producer organizations in 2014, is active in the C milk segment to dispose of surplus production, notably butter and other milk-fat. These exports are financed by a contribution of the milk producers (SwF 0.35/kg marketed milk, limited until 31 December 2016) that are members of the Swiss milk producers' organization.

#### 4.1.2.4 Grains, oilseeds and sugar

4.35. The main domestic support instruments for arable crops are direct payments and crop premiums (Table 4.4). The crop premiums are aimed at ensuring food and feed security (Article 54 of the Federal Law on Agriculture) by strengthening the competitiveness of grains, oilseeds, pulses, sugar beets and certain seeds, which tend to benefit from lower border protection than livestock products. Under the AP 2014-17, the eligible crops and payment rates have been modified. The crop premiums are not subject to payment limits but a graduation of payments applies (same as for DPs) and they may be cumulated with other payments. Switzerland has included the crop premiums as "other product-specific support" (Supporting Table DS:7) in its calculation of the Total Current AMS.<sup>34</sup>

4.36. About 53% of the 2015 crop premiums were allocated to sugar beets. The support was increased to SwF 1,800/ha in 2016 (up from SwF 600/ha in 2014-15), in anticipation of the elimination of the EU sugar quota system in 2017, which may enhance price competition for Swiss and Liechtenstein sugar beet growers. In Switzerland and Liechtenstein, sugar production is constrained by quotas agreed on a private basis between the sugar refineries and the sugar beet producers. The 2015/16 industry agreement provides for a Switzerland-Liechtenstein quota of 260,000 tonnes ("A sugar"). Sugar production was 305,000 tonnes in 2014. The surplus management is handled by private actors, where the Confederation has no role, according to the authorities.

**Table 4.4 Crop premiums, 2013-15**

Total expenditures (SwF million)			Eligible crops	Payment rate (SwF/hectare)
2013	2014	2015		
27.4	20.4	21.3	Rapeseed, sunflower, pumpkin (for oil), linseed, poppy and safflower	700
			Soya	1,000
2.1	1.6	1.5	Seed potatoes and seed maize	700
			Seed legumes and grasses (for feed)	1,000
4.1	4.6	5.4	Pulses (for feed)	1,000
37.1	33.5	31.4	Sugar beets	1,800

Source: Ordinance on premiums for arable farming (RS 910.17); Federal Office for Agriculture, Annual Report on Agriculture, various issues.

#### 4.1.3 Export subsidies

4.37. Switzerland has export subsidy reduction commitments with respect to five product categories (dairy products; breeding cattle and horses; fruit; potatoes; and processed products). Switzerland eliminated export subsidies for basic agricultural products (dairy products; fruit; and potatoes) on 1 January 2010. Switzerland's latest export subsidy notification covers 2015.<sup>35</sup>

4.38. Export subsidies remain in place on processed agricultural products. Export subsidies may be granted pursuant to the Federal Law on Import and Export of Processed Agricultural Products of 13 December 1974 (RS 632.111.72). They are subject to a ceiling of SwF 114.9 million under

<sup>33</sup> The reference price for A-milk was reduced to SwF 0.65/kg in April 2016, down from 0.68/kg. For B-milk and C-milk, the reference prices were, respectively, in the range of SwF 0.45-0.49/kg and SwF 0.15-0.26/kg (January-October 2016). The average producer price for milk was SwF 0.62/kg in 2015 (information provided by the authorities). Reference prices for agricultural products are published by producer and industry organizations; they are not mandatory (Art. 8a of the Federal Law on Agriculture).

<sup>34</sup> WTO document G/AG/N/CHE/71, 21 January 2015.

<sup>35</sup> WTO document G/AG/N/CHE/79, 18 January 2017.

Switzerland's export subsidy reduction commitments. The export subsidies are intended to compensate the domestic food manufacturing industry for the price handicap of using tariff-protected locally produced agricultural raw materials ("*loi chocolatière*"). The following product groups are eligible for refunds when they are incorporated or processed into food products falling under HS chapters 15-22: certain milk and dairy products; and products of the milling industry (i.e. flour and other milled products).<sup>36</sup> Export refunds for sugar/molasses and egg products incorporated into processed products were suspended on 1 February 2012 and export refunds were abolished for skimmed milk on 1 December 2012. The export refunds are periodically adjusted by the Federal Department of Finance according to the difference between domestic and world market prices of the beneficiary basic agricultural products.<sup>37</sup> They are calculated on the basis of the net content of the raw materials incorporated into the final products. Information on the export subsidies granted per tariff line is not available. The refunds are paid to manufacturers after exportation and are subject to checks. In 2015, about 6% of Swiss milk production and about 11% of wheat production was exported as processed products with refunds through the price compensation scheme.<sup>38</sup>

4.39. Export subsidies for processed agricultural products are subject to an annual budget (on a fiscal year basis from December to November).<sup>39</sup> The export subsidy budget for 2015 was increased from SwF 70 million to SwF 95.6 million (Chart 4.1), following the appreciation of the Swiss Franc when the minimum exchange rate of 1.20 SwF per euro was lifted on 15 January 2015 (Section 1.2). Within the budget of SwF 95.6 million for fiscal year 2015, SwF 79.85 million were allocated to (incorporated) milk and dairy products and SwF 13.16 million to flour and other milled products. The annual budgets for the fiscal years 2016 and 2017 were fixed at SwF 94.6 million, respectively. The funds are allocated as follows: SwF 81.593 million for incorporated milk and dairy products, and SwF 13.007 million for flour and other milled products in fiscal year 2016; and SwF 81.877 million and SwF 12.723 million, respectively, in fiscal year 2017. For fiscal years 2018-20, SwF 67.9 million annually has been budgeted. A portion of the annual budget (75%) can be reserved by manufacturers for the subsequent year; the remainder is available for newcomers and manufacturers that have exhausted their entitlements. Liechtenstein companies are eligible for export refunds under the Swiss price compensation scheme within the framework of the Customs Union.

4.40. The Nairobi Package adopted during the Tenth Ministerial Conference in December 2015 contains a commitment to immediately abolish remaining scheduled export subsidy entitlements by developed countries. This decision also affects Switzerland's export subsidies with respect to (i) cattle for breeding, and horses; and (ii) processed agricultural products, albeit with a phase-out period of five years. In accordance with the Ministerial Decision of 18 December 2015 on Export Competition, "This paragraph shall not cover processed products, dairy products, and swine meat of a developed Member that agrees to eliminate as of 1 January 2016 all export subsidies on products destined for least developed countries, and that has notified export subsidies for such products or categories of products in one of its three latest export subsidy notifications examined by the Committee on Agriculture before the date of adoption of this Decision. For these products, scheduled export subsidies shall be eliminated by the end of 2020, and quantity commitment levels shall be applied as a standstill until the end of 2020 at the actual average of quantity levels of the 2003-05 base period. Furthermore, there shall be no export subsidies applied either to new markets or to new products."<sup>40</sup>

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<sup>36</sup> Ordinance Regulating Export Contributions for Processed Agricultural Products (RS 632.111.723) of 23 November 2011. The last amendment of the ordinance dates from 1 April 2016.

<sup>37</sup> EU markets in the case of exports to the EU.

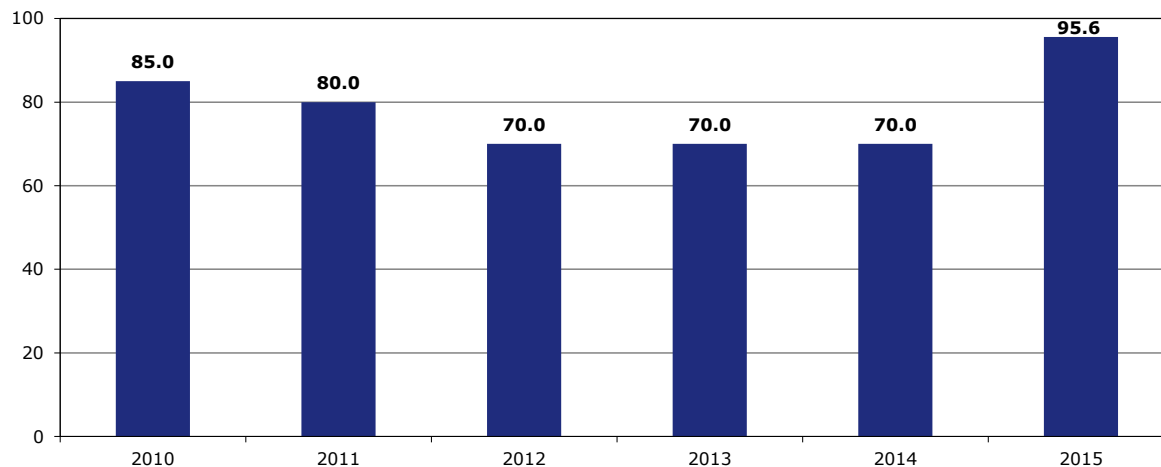
<sup>38</sup> Federal Office for Agriculture (2016).

<sup>39</sup> In the Swiss notifications to the Committee on Agriculture, export subsidies for processed products are reported on a calendar year basis.

<sup>40</sup> See Paragraph 6, footnote 4 of WTO document WT/MIN(15)/45, WT/L/980, 21 December 2015.

**Chart 4.1 Export subsidy expenditures for processed agricultural products, 2010-15**

(SwF million)



Note: Fiscal year starts in December of the preceding year.

Source: WTO notifications and Federal Office for Agriculture, *Annual Report on Agriculture 2015*.

4.41. To implement the Nairobi Ministerial Decision on Export Competition, the Federal Council issued a revision (in force since 1 April 2016) of the Ordinance Regulating Export Contributions for Processed Agricultural Products that terminates export subsidies on products destined for LDCs.<sup>41</sup> Furthermore, the Federal Department of Economic Affairs, Education and Research opened a public consultation in 2016 (closed on 19 January 2017) to address the phase-out of export subsidies for processed agricultural products. The proposal under consideration contains two instruments: new product-specific support for milk and cereals for human consumption that would be granted in the form of direct payments to farmers; and a facilitated inward processing regime for basic dairy products and cereals. Entry into force of the reform is envisaged for January 2019.

4.42. Furthermore, during the review period, export subsidies were provided for (a few) horses on a cantonal level by the Canton of Jura only.<sup>42</sup> According to the authorities, in 2016 the cantonal government of Jura worked on the necessary legal adjustments for the implementation of the Nairobi Ministerial Decision on Export Competition.

4.43. The Swiss Confederation assists Swiss farmers' organizations and inter-professional organizations to promote their agricultural products on the internal market and abroad. In 2015, approximately SwF 60 million were granted to around thirty promotion and marketing organizations. A large part of the financial support is dedicated to the promotion of cheese, meat, milk, fruit and potatoes. The marketing campaigns for organic products and for PDO/PGI products are also co-financed. Each year, the organizations have to apply for financial support of their promotional activities for the following year. Their activities can be co-financed by the Confederation up to a maximum of 50% of the costs, but only for market research and the following communication instruments: advertising (print, TV, radio, online, etc.), new media (homepage, social media, etc.), sales promotion (tastings, advertising material, training, etc.), public relations, events, fairs, sponsoring, and direct-marketing. Price-related activities (for example, a price reduction on products) and distribution costs are not eligible for financial support.

#### 4.1.4 Level of support

4.44. According to OECD estimates, Switzerland's support to agricultural producers (producer support estimate – PSE) declined from SwF 10.7 billion annually in 1986-88 to 5.8 billion in 2013, which reflects the Swiss agricultural policy reforms implemented since the early 1990s. Since 2013, the support has increased, albeit largely for reasons beyond the control of government and

<sup>41</sup> RS 632.111.723, Art. 2a, 11 March 2016.

<sup>42</sup> In 2015, 64 horses were exported with subsidies totalling SwF 22,400.

related to lower world market prices for agricultural commodities.<sup>43</sup> Payments to agricultural producers (SwF 3.5 billion in 2015), including direct payments, crop premiums, and the subsidy for milk processed into cheese, accounted for almost half of the support to farmers.<sup>44</sup> The OECD estimates that, in addition, Swiss farmers benefitted from price support in the magnitude of SwF 3.9 billion in 2015.<sup>45</sup> Market price support, as defined by the OECD, comprises all policy measures that raise the domestic price relative to the border price of the commodity concerned, including border measures (tariffs, tariff quotas, and other import restrictions), administered prices, and export subsidies.

4.45. The percentage PSE (i.e. the support as a share of gross farm revenues) was 62% in 2015 (up from 49% in 2013), meaning that almost two thirds of farmers' revenues were due to support policies (mainly tariff protection and direct payments).<sup>46</sup> In relative terms, Swiss farmers received over three times more support than EU farmers (PSE of 19%). Furthermore, Swiss producer prices for agricultural products were about 90% higher than world market prices in 2015 (nominal protection coefficient of 1.9) – one of the factors contributing to the concerns regarding the "high-price island" of Switzerland (Section 1.2).

4.46. About half of the Swiss support is tied or allocated to individual commodities, which tends to distort farmers' production decisions. The highest level of product-specific support and protection (according to the OECD single commodity transfer estimates) goes to poultry and eggs (SCTs of 76% and 73%), followed by pig meat (SCT of 58%), milk (SCT of 46%), rapeseed (SCT of 45%), and beef and veal (SCT of 42%). The share of decoupled support that does not require production is still low in Switzerland (14% of the PSE in 2015). Other countries have gone much further than Switzerland in decoupling support (for example, 45% of the 2015 PSE in the EU does not require production), which should help reduce production distortions.

**Table 4.5 OECD producer support estimate (PSE) for Switzerland, 2013-15**

	2013	2014	2015
<b>Total value of production at farm gate</b>	<b>8,448.3</b>	<b>8,432.4</b>	<b>8,418.4</b>
<b>Producer support estimate (PSE) (1+2)</b>	<b>5,841.0</b>	<b>6,692.3</b>	<b>7,446.2</b>
<b>Price support (1), of which</b>	<b>2,280.9</b>	<b>3,168.4</b>	<b>3,930.3</b>
Milk	-5.6	415.1	746.2
Beef	366.2	481.2	502.0
Pig meat	512.8	528.8	583.4
<b>Payments to producers (2), of which</b>	<b>3,560.1</b>	<b>3,523.9</b>	<b>3,515.9</b>
Milk price supplement for cheese production	266.4	261.8	262.1
Area payments to sugar beet	37.1	33.5	37.0
Payment for oilseed cultivation	27.4	20.4	25.0
Interest rate concessions	111.0	113.0	114.0
Area payment (from 1999 to 2013)	1,196.0	0.0	0.0
Payments for ensuring food supplies – Basic contribution	0.0	824.0	821.0
Transitional payments (from 2014)	0.0	307.8	178.0

<sup>43</sup> With lower world market prices in U.S. dollars, the price gap between world and domestic prices increases (other factors remaining equal), and in Switzerland this effect was only partly offset by a stronger U.S. dollar *vis-à-vis* the Swiss franc.

<sup>44</sup> OECD (2016).

<sup>45</sup> This is a rough estimate since price gap estimates were only made for the major agricultural products, with extrapolation to the remainder of the agricultural products.

<sup>46</sup> The percentage PSE is a useful indicator for comparisons over time and among countries, *inter alia*, because it eliminates the effect of inflation.

	2013	2014	2015
<b>Percentage PSE (as a percentage of gross farm receipts, incl. (2))</b>	<b>48.6</b>	<b>56.0</b>	<b>62.4</b>
<b>Single commodity transfers (SCT) as a percentage of PSE</b>	29.9	40.0	48.8
<b>Nominal protection coefficient (NPC)</b>	<b>1.4</b>	<b>1.6</b>	<b>1.9</b>

Note: PSE: Total annual monetary transfers to farmers individually (not agriculture generally) from: market price support mainly through border measures but also food aid, export subsidies (calculated by the price gap between domestic and border price); payments to farmers; and tax/fee reductions (revenue forgone).

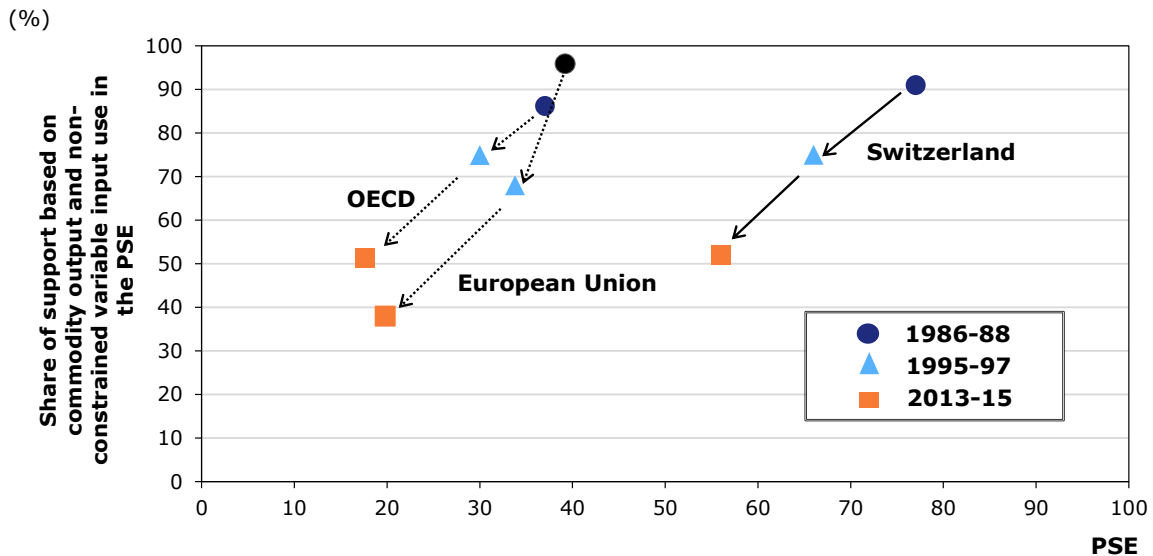
SCT: Sum of transfers to producers granted to a single commodity. The % SCT is expressed as a share of gross farm receipts for the specific commodity.

NPC: Nominal protection coefficient. Ratio between the average price received by producers and the border price (the average producer price includes payments based on current output, e.g. deficiency payments).

Source: OECD PSE database. Viewed at: [http://www.oecd.org/tad/agricultural-policies/ForDistribution\\_CHE.xls](http://www.oecd.org/tad/agricultural-policies/ForDistribution_CHE.xls).

4.47. Overall, Switzerland is in line with the trends in the OECD and the EU in making reforms towards less trade-and-production-distorting measures (Chart 4.2). The arrows in the chart suggest that Swiss agricultural policy has generally been heading in the right direction, but the process of market-oriented reforms needs to be faster to enhance the competitiveness of Swiss agriculture. As noted in Section 3.3.6, domestically there are some calls for policy-makers to consider reducing border protection towards free trade in agricultural products and replace the high tariff protection with more efficient and targeted instruments.<sup>47</sup>

**Chart 4.2 Level and composition of support to agricultural producers**



Note: The level of support is presented by the percentage PSE. The composition of support is presented by the share in gross farm receipts of market price support, payment based on output, and payments based on non-constrained variable input use.

Source: WTO Secretariat representation based on OECD (2016), *Agricultural Policy Monitoring and Evaluation*, PSE/CSE database, Paris.

<sup>47</sup> See Price Supervisor online information at: <https://www.preisueberwacher.admin.ch/pue/fr/home/themes/divers/agriculture.html>.



## 4.2 Mining and Energy

### 4.2.1 Energy

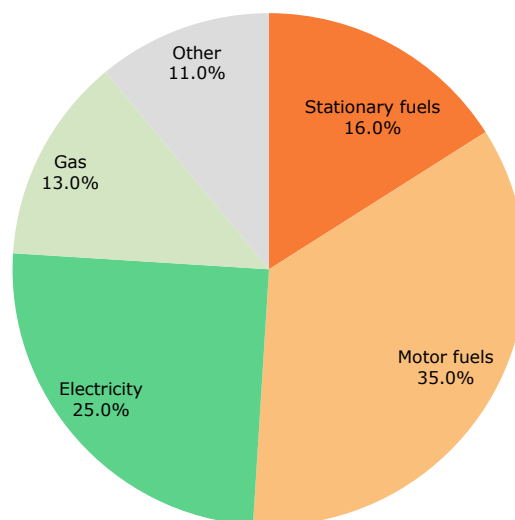
#### 4.2.1.1 Switzerland

4.48. Switzerland's total primary energy supply (TPES) totalled 25.9 million tonnes of oil equivalent (MTOE) in 2015: oil (42.3%), nuclear (22.2%), hydroelectricity (13%), natural gas (11%), and biofuels and waste (11.10%).

4.49. Final energy consumption in Switzerland is shown in Chart 4.3 below.

**Chart 4.3 Final energy consumption, 2015**

**Total: 838,360 TJ**



Source: Swiss Federal Office of Energy (SFOE), Energy Consumption in Switzerland, June 2016.

4.50. Final sectoral consumption for 2015 was split between households (27.7%), industry (18.5%), services (16.5%) and transport (36.4%).

#### 4.2.1.2 Recent developments in the general policy framework

4.51. To a large extent, the main energy-related regulatory changes during the period under review were limited to the electricity sector and, to a lesser extent, to related environmental measures.

##### 4.2.1.2.1 Electricity

4.52. In 2015, electricity represented 25.1% of total energy consumption. Electricity consumption reached 58.2 billion TWh in 2015 (+1.4% from 2014), or 62.6 billion TWh taking into account the losses due to transport and pumping for pump-storage plants. On the supply side, national production amounted to 66 billion KWh (-5.3% as compared to 2014) and there was a net export surplus of 1 bn KWh (against 5.5 bn KWh in 2014). Hydro-electricity represented 59.9% of production, nuclear plants 33.5% and conventional thermal plants and renewable energy 4.5% (of which 1.9% renewable waste, 1.8% photovoltaic, 0.5% biomass, 0.2% biogas, and 0.2% wind).

4.53. Final sectoral use of electricity was split between households (32.2%), industry (30.9%), services (27.1%), transport (8.1%) and agriculture (1.7%). The average end price of energy stood at 16.95 cents per KWh and the consumption per inhabitant stood at 2,233 KWh. In 2015, Switzerland imported 42.3 bn KWh, but exported 43.3 bn KWh, its partners being Italy, France, Germany and Austria.

4.54. In 2014, 334 companies – producing electricity on their own account or for third parties – represented 90% of total production. Their total balance sheet stood at SwF 80.2 billion and total profit at SwF 4,427 million. Their total capital stock is 88.7% owned by public entities (the national railway company SBB/CFF/FFS owns 1.3% of the total, the cantons 56.7% and the municipalities 30.6%), 7.5% owned by private sector actors and 3.9% owned by foreign interests. The private sector is preponderant in production and transport activities, while the public sector is dominant in distribution activities.

4.55. The energy strategy of Switzerland, particularly regarding electricity, has recently been completely overhauled by new legislation adopted by the Parliament on 30 September 2016. This follows a long period of consultations, public debate and parliamentary procedures regarding the "Energy 2050 Strategy", triggered by the Fukushima nuclear incident in March 2011 and the fundamental decision taken by the Federal Council as early as May 2011 to progressively abandon nuclear electricity production in Switzerland – a decision endorsed by the Parliament in its 2011 winter session.

4.56. This legislation remains suspended until the results of a referendum scheduled for 21 May 2017.

4.57. As an interim measure, on 21 June 2013 the Parliament adopted a partial revision of the energy law which entered into force on 1 January 2014 and increased the minimum amount of the "grid surcharge" from 1.3 centimes per kWh to 1.5 centimes per kWh, while exempting large electric consuming enterprises from it (i.e. the fee paid by the final consumer that covers the difference between the production cost and the market price, and guarantees producers of electricity from renewable sources - solar, wind, geothermal and bio-mass -) a price that corresponds to their production costs. A partial revision of the Law on the Use of Hydro-Force (RS 721.90) in 2012 also clarified that there is no obligation to tender for the award of concessions for electrical networks and hydropower plants, but that transparent and non-discriminatory procedures must be followed.

4.58. The main provisions of the new energy law<sup>48</sup> and its first package of measures are as follows. Firstly, the law sets indicative consumption, production, and emissions targets. Compared to 2000, energy consumption per capita should diminish by 16% in 2020 and 43% in 2035, and consumption of electricity per capita by 3% in 2020 and by 13% in 2035. The local production of electricity from renewable energies (discounting hydropower) starting from a 2015 baseline of 2,830 GWh, should raise to 4,400 GWh in 2020 and 11,400 GWh in 2035. Hydropower production should diminish slightly from 39,500 GWh in 2015 to 37,400 GWh in 2035. Furthermore, the public financing of energy research was increased by 25% in 2013 from SwF 200 million to SwF 250 million, and stricter standards of energy efficiency will be created for buildings, machines, vehicles and other equipment while new energy labels will be introduced. Publicity campaigns and vocational training programmes on energy efficiency will also be extended.

4.59. Other amendments contained in the first package of measures include the increase in the grid surcharge rate from SwF 0.015/kWh to SwF 0.023/kWh, including 1.3 ct/kWh for feed-in tariffs for renewables, 0.2 ct/kWh for investment aid for rooftop photovoltaic systems, 0.3 ct/kWh for support for large hydro which is suffering from depressed European wholesale prices, 0.2 ct/kWh for reimbursement of the grid surcharge to electricity-intensive industries, and 0.1 ct/kWh for renaturation of rivers and a few other measures to support renewables and energy efficiency. In addition, the feed-in tariffs will be replaced by feed-in premiums to entice producers to sell their electricity when demand is high, giving them an incentive to sell electricity when it is in short supply and thus fetches a higher price. This system is of limited duration, as it will only be granted for up to five years after the coming into force of the new law.

4.60. The Energy Strategy 2050 also extends the one-off investment grants to new beneficiaries. This one-time subsidy that covers a maximum of 30% of the investment costs of a comparable installation (reference installation) was currently available only for operators of small photovoltaic installations, with a production capacity of less than 30 kilowatts. Larger photovoltaic installations will now also benefit from one-off investment grants and so will large, new hydro-electric power stations with a production capacity of more than 10 megawatts, as well as large-scale renewals or extensions of hydro-electric power stations. The financing will come from the network supplement

<sup>48</sup> The full text of the law is available at: <https://www.admin.ch/opc/fr/federal-gazette/2016/7469.pdf>.

paid by electricity consumers. Investment contributions (including one-off investment grants) will be available until 2030 at the latest.

4.61. In addition, since prices in European electricity trading are exceptionally low due to overcapacity and faltering demand, most Swiss hydro-electric power stations can no longer cover their costs. Hence, as hydro-electric power is a mainstay of Swiss electricity supply, Parliament voted as part of the Energy Strategy 2050 not only to support new installations (where investment can be expected if and when prices recover), but also to grant financial support to existing ones. It will be possible to claim a market premium for electricity produced by large-scale Swiss hydro-electric power stations which must be sold for less than the cost of production. This premium is capped (1.0 ct/KWh) and the total available financial resources are limited. This measure is valid for a period of five years and is financed by the network supplement paid by electricity consumers. In the meantime, a reform of the "water royalty"(i.e. the compensations granted to the local population whose activities have been affected by the construction of the hydro-electric facilities), which accounts for up to 25% of hydropower operating costs, is to be decided by 2019.

4.62. Finally, the law shortens and simplifies approval procedures for new installations for the production of electricity from renewable sources. Thus, from now on, the submission of expert assessments from, for example, the Federal Commission for the Protection of Nature and Cultural Heritage, will be subject to a time-limit. Meanwhile, if there is a conflict of interests between the protection of nature and the landscape and their use for the production of renewable energies and if a court of law is required to decide between the two, both concerns – protection and use – will in future be granted the status of national interest and be given equal value when weighed against each other.

4.63. Another parallel and important regulatory development regarding electricity is the decision taken by the Federal Council on 4 May 2016 to suspend indefinitely the full liberalization of the electricity market. This followed a public consultation process which took place between October 2014 and January 2015. Under the original plans, the free choice of electricity provider (currently limited to industrial users consuming over 100,000 KWh a year which represent 53% of the demand) would have been extended to all consumers, including households, as of January 2018. The Federal Council has indicated that full liberalization will now depend on:

- the conclusion of negotiations regarding an electricity agreement with the European Union (initiated in 2007 and suspended in April 2015 by the EU pending resolution of issues related to free movement of persons and an institutional agreement between the EU and Switzerland);
- the progress achieved by the Energy Strategy 2050;
- the prevailing market conditions; and
- the revision of the Federal Electricity Supply Law.

4.64. An assessment of these four parameters is planned for 2017.

#### **4.2.1.2.2 Environmental measures**

4.65. The revised law on CO<sub>2</sub> emissions of 31 December 2012 entered into force on 1 January 2013 (RS 641.71) together with its implementing ordinance of 30 November 2012 (RS 641.711). Switzerland has undertaken to reduce its greenhouse gas emissions by 2020 by 20% compared to 1990. In order to achieve that goal, the burden of reduction has been split between the residential sector and the transportation sector, taking into account the reduction potential of each sector. A SwF 25 million technology fund has been set up to guarantee loans to companies that are innovative in their use of energy. The CO<sub>2</sub> levy on fossil fuels increased from SwF 36 per tonne of CO<sub>2</sub> to SwF 60, and recently to SwF 84. If emission targets are not met, the levy may be increased up to SwF 120 until 2020. Part of the revenue from this levy is earmarked as additional finance for an ecologic building programme which started in 2010. Some sectors which are exposed to international competition may be exempted from the CO<sub>2</sub> levy, provided they accept binding emission reduction targets.

4.66. An emissions trading system (ETS) has been developed which according to the authorities is compatible with the EU ETS system. Fuel importers are required to use Switzerland-based

measures to compensate for up to 10% of transport emissions. Since 2015, CO<sub>2</sub> emissions from new cars registered in Switzerland are limited to 130 g per km. Fossil fuel power plants are required to compensate for their emissions, 50% of which within Switzerland. Following a modification on 1 January 2015 of the Ordinance on the Taxation of Mineral Oils (RS 641.611), all fuels derived from renewable raw materials are exempt from the petroleum tax provided they meet minimum ecological and social standards.

4.67. In addition, following adoption of the Paris Agreement which should be ratified by Switzerland in 2017, Switzerland has announced its intent to reduce its greenhouse gas emissions by 50% compared to the 1990 level by 2030. A draft of the revised CO<sub>2</sub> law, proposing measures to reach this target, was opened to public consultation in autumn 2016.

#### **4.2.1.2.3 Oil**

4.68. Switzerland has no domestic production of crude oil and Swiss oil demand is fully met by imports. Its main partners for imports of crude oil in 2015 were Nigeria (39%), Mexico (17%), the United States (12%), Kazakhstan (8%), Libya, Azerbaijan and Turkey (6% each). These importations are increasingly diversified. In particular, North America has emerged as a new major source of supply. As far as refined products are concerned the main partners for imports were for the same year Germany (51%), Italy (13%), France, the Netherlands (12% each) and Belgium (9%). More than 99% of refined products come from EU countries, as has been the case for the past 15 years. Oil imports have decreased from about 13 million tonnes per annum (mtpa) in the early 2000s to 12.4 mtpa in 2013 and 10.9 mtpa in 2015. This is partly due to the CO<sub>2</sub> incentive tax imposed since 2008 on fossil fuels, as well as to oil substitution through natural gas and renewable energies and efficiency gains in transportation, heating etc. Due to the closure of the Collombey refinery in March 2015, the share of crude oil in Swiss oil imports has decreased from around 37% to circa a quarter.

4.69. In 2015, Switzerland consumed 9.89 million tonnes of petroleum. Motor fuels and hence transport usages represented 68.4% of this total (of which gasoline 25%, diesel 26.8%, and aviation fuel 16.7%), and stationary fuels 31.6% (of which light fuel oil 30.5%, heavy fuel oil 0.1%, petroleum coke 0.2%, and others 0.8%).

4.70. According to CARBURA, the importer association, the number of importers stood at 59 in 2015, the 8 largest of which accounting for more than two thirds of the imports. The sector is entirely in private hands and opened to foreign investment. The importation of crude oil and oil products is mainly carried out by pipelines, rail tank cars, trucks and Rhine barges, with pipelines accounting for the largest share (35.1% in 2015). Switzerland has one pipeline for oil products (connected to France) and two for crude oil. The first one is connected to France. The second one, connected to Italy, has stood still since the closure of the Collombey refinery.

4.71. Regarding refining, there is only one refinery left in Switzerland (Cressier) after the closure of the Collombey plant in March 2015. The refinery in Cressier belongs to the Dutch-based company Varo Energy. It is supplied with crude oil by one cross-border pipeline owned also by Varo Energy; it has a production capacity of 68,000 barrels per day and it provides about a quarter of the refined products consumed in Switzerland.

4.72. Regarding distribution, the retail market is fully open to competition, and 20 oil retail companies operate 3,461 filling stations in Switzerland as of January 2016. The largest are Avia (604 stations), Agrola (430), BP (361), Ruedi Rüssel (339), Migrol (310), Tamoil (262), ENI Suisse (259), Shell (234) and COOP (233). The share of biodiesel in total road fuel supply (gasoline and diesel) remains very small at only 1.1%.

#### **4.2.1.2.4 Gas**

4.73. In 2015, natural gas represented 11.0% of the total primary energy supply of Switzerland. For the same year, the inland consumption was split between the residential sector (39%), the industrial sector (33%), the commercial sector (21%), power generation (6%) and transport (1%).

4.74. Switzerland has no domestic production of natural gas. The share of gas in the energy mix and in particular in electricity generation (where it represented only 1.0% in 2015) is likely to rise in the coming years due to the nuclear phase-out. Total imports reached 3.5 billion cubic meters (BCM) in 2015, 63% of which comes from Germany, 20% from the Netherlands and 14% from France. In 2015, the main importers were Swiss Gas AG (50% of the total), followed by EGO (17%), GVM (15%), Gaznat SA (9%) and Ail (3%).

4.75. Switzerland has a gas pipeline network of 19,703 km (2,243 km of high-pressure grid, 4,680 km of middle-range pressure grid, and 12,780 km of low-pressure grid). Although Switzerland has 12 active cross-border feeding points in the European gas pipeline network (plus one entry-exit and three exit points), some 70% of Switzerland's gas imports comes through the two northern entry points of the Transitgas pipeline. This pipeline is operated by Transitgas AG, which is owned by Swissgas (51%), FluxySwiss (46%) and Uniper, a wholly owned subsidiary of E.ON Ruhrgas (3%).

4.76. Switzerland has 86 gas utilities, the vast majority of which are akin to the electricity utilities, and are typically local monopolies owned by the cantons and municipalities. They are also often involved in other activities, such as supplying electricity, heat or water. The utilities vary greatly in size. In 2015, the nine biggest, those of the largest cities, sold half of the gas, whereas the 43 smallest utilities (half of the total) accounted for only 10% of total sales. Vertical integration in gas transmission and distribution is strong. For purchasing gas, the local monopolies have set up four regional associations: Gasverbund Mittelland AG, Erdgas Ostschweiz AG, Gaznat SA and Erdgas Zentralschweiz AG (EGZ). Each association operates its own high-pressure grid and supplies gas to its owners at cost. The associations, in turn, obtain most of the gas at cost through Swissgas AG, the gas industry's vehicle for imports (see Table 4.6). Except for EGZ, the regional associations also have direct import contracts with foreign suppliers.

**Table 4.6 Shareholders of Swissgas AG, 2015**

Shareholder	Share (%)
Erdgas Ostschweiz AG, Zurich (EGO)	25.98
Gasverbund Mittelland AG, Arlesheim (GVM)	25.98
Gaznat SA, Lausanne/Vevey	25.98
Swiss Gas Association, Zurich (VSG)	16.45
Erdgas Zentralschweiz AG, Lucerne (EGZ)	5.61

Source: International Energy Agency.

4.77. The Swiss gas market is largely self-regulated. There have been no changes to the regulatory framework during the period under review, which includes the 1963 Pipelines Law (SR 746.1) guaranteeing third-party access to the high pressure grid, including cross-border transit. The law entrusts the Swiss Federal Office of Energy with the responsibility for settling disputes over high pressure grid access and tariffs.

4.78. The gas industry concluded an agreement governing network access with two associations of major industrial customers (IGEB and IG Erdgas) on 1 October 2012. This agreement is referred to as the industry accord (Verbändevereinbarung). Among other provisions, the accord defines the private-law framework for network access. This includes a minimum reservation volume for transport capacity of 150 Nm<sup>3</sup> on the condition that the gas in question is used primarily for the creation of process heat for industrial purposes and that the customer provides the load measurement using remote data.

4.79. The gas industry submitted the industry accord to the Competition Commission (ComCo) for preliminary consultation. While the ComCo in its final report of 16 December 2013 decided against initiating an investigation, it explicitly reserved the right to open an individual case in the event of an infringement of the Cartel Law. This creates a degree of legal uncertainty, particularly in view of the resulting threat of sanctions.

4.80. The drafting of a gas supply law (Gasversorgungsgesetz, GasVG) was put on the Federal Council's legislative programme for 2015-2019. The Swiss Federal Office of Energy is currently working on the draft bill.

#### 4.2.1.2.5 Renewables

4.81. The share of renewables in the total primary energy supply of Switzerland was 23% in 2015, while renewables represented 59.5% of electricity generation.

4.82. Switzerland is well endowed with renewable energy resources. The government estimates that hydropower production could feasibly increase by about 8% (3.2 TWh); while a lower estimate of 2 TWh has been suggested by groups concerned about public acceptance. Various studies rate photovoltaic (PV) technical potential at 6 to 17 TWh. Wind resource potential is relatively low (4 TWh) and public acceptance is a concern. Biomass estimates according to the Energy Strategy 2050 are 4.7 TWh from biogas (agricultural residues and sewage sludge), 1.1 TWh from wood, and 1.7 TWh from municipal waste). Geothermal potential for electricity generation is estimated to be about 4 TWh.

4.83. Measures recently taken to encourage the development of renewable energies have been described above in the general policy framework section.

#### 4.2.1.3 Liechtenstein

##### 4.2.1.3.1 Electricity

4.84. The state-owned Liechtensteinische Kraftwerke (LKW) is a producer and importer of electricity, mainly from Switzerland, for distribution in Liechtenstein. Liechtenstein's energy needs (2014) are largely met through imports (72%). Liberalization of the electricity market, based on EEA law, started with the adoption of a new Electricity Law in 2002, which opened the market for large customers. The market is now fully liberalized. Besides LKW, four other electricity traders are currently active within the Liechtenstein electricity market. Those four traders together have a market share of 8.2%. In order to be active on the Liechtenstein electricity market, the electricity trader is not required to have an establishment in Liechtenstein but has to be registered at Swissgrid AG. Transmission tariffs are subject to approval by the regulator, the Energy Market Commission<sup>49</sup>. The current Electricity Market Act<sup>50</sup> transposes EC Directives 2003/54 and 2005/89. According to the authorities, EC Directive 2009/72 (third energy package for electricity) will be implemented once it has been included in the EEA *acquis*. However, ownership unbundling is not planned.

4.85. As of 2005, independent power producers (IPPs) may sell electricity to any customer. The first IPPs started to enter the market in 2011. There are a number of small-scale hydro-electric power producers besides LKW and the contribution of independent solar power producers has been increasing. According to the Government's Energy Strategy 2020, adopted in 2012, the objective is to increase the share of renewable energies from 8.2% in 2008 to 20% by 2020, through subsidies for improved insulation, sun-collectors, and tighter energy standards in construction. Liechtenstein has implemented a new 5-year feed-in tariff scheme, which ends in February 2020.

##### 4.2.1.3.2 Gas

4.86. Ownership of the pipeline and distribution system for natural gas is in the hands of the state-owned Liechtensteinische Gasversorgung (LGV). LGV is currently *de facto* the only supplier; however, another company is applying for authorization with the aim of starting its activities at the end of 2016/beginning of 2017. Transmission prices are subject to approval by the Energy Market

<sup>49</sup> Ordinance on the Energy Market Commission, LLG 2009, No. 29, available at: [https://www.gesetze.li/lilexprod/lgsystpage2.jsp?menu=1&tablesel=0&formname=showlaw&lqblid=2009024000&version=1&lrstart=73&observe\\_date=30.11.2016](https://www.gesetze.li/lilexprod/lgsystpage2.jsp?menu=1&tablesel=0&formname=showlaw&lqblid=2009024000&version=1&lrstart=73&observe_date=30.11.2016).

<sup>50</sup> Electricity Market Act, LLG 2002, No. 144, available at: [https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lqblid=2002144000&version=2&search\\_text=elektrizit%E4tsmarkt&search\\_loc=titel&sel\\_lawtype=conso&compl\\_list=1&rechts\\_gebiet=0&menu=0&tablesel=0&observe\\_date=30.11.2016](https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lqblid=2002144000&version=2&search_text=elektrizit%E4tsmarkt&search_loc=titel&sel_lawtype=conso&compl_list=1&rechts_gebiet=0&menu=0&tablesel=0&observe_date=30.11.2016). See also the Electricity Market Ordinance, LLG 2009, No. 21, available at: [https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lqblid=2009021000&version=2&search\\_text=elektrizit%E4tsmarkt&search\\_loc=titel&sel\\_lawtype=conso&compl\\_list=1&rechts\\_gebiet=0&menu=0&tablesel=0&observe\\_date=30.11.2016](https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lqblid=2009021000&version=2&search_text=elektrizit%E4tsmarkt&search_loc=titel&sel_lawtype=conso&compl_list=1&rechts_gebiet=0&menu=0&tablesel=0&observe_date=30.11.2016).



Commission.<sup>51</sup> The legal framework (Gas Market Act<sup>52</sup>) is based on EEA legislation, especially EC Directive 2003/55 on common rules for the internal market in natural gas. Liechtenstein is in the process of implementing EC Directive 2009/73 (third energy package for gas).

### 4.3 Services

#### 4.3.1 Financial services

##### 4.3.1.1 Switzerland

4.87. Financial services is a major activity in Switzerland as it accounts for nearly 10% of the country's GDP and over 5% of its total employment.

4.88. Box 4.1 below provides the main economic and statistical indicators of the sector and of its main subsectors (banking, insurance, pension funds and stock exchanges and securities).

#### Box 4.1 Financial services: statistical overview, 2006-15

##### General

###### Share of financial services in GDP

2006: 11.7% (of which insurance 3.59%)  
2011: 10.3% (of which insurance 4.37%)  
2015: 9.5% (of which insurance 4.29%)

###### Share of financial services in total employment

2006: 6.1% (of which insurance 1.56%)  
2011: 6.2% (of which insurance 1.39%)  
2015: 5.6% (of which insurance 1.15%)

###### Net financial services exports

2009: SwF 19.8 billion (42.0% of Switzerland's current account surplus), insurance: SwF 5.5 billion  
2011: SwF 16.9 billion (35.8% of Switzerland's current account surplus), insurance: SwF 4.2 billion  
2015: SwF 16.3 billion (22.3% of Switzerland's current account surplus), insurance: SwF 4.9 billion

###### Capital stock of Swiss financial services providers abroad

2008: SwF 177 billion (23% of Swiss capital stock abroad) of which insurance: SwF 97 billion  
2010: SwF 195 billion (22.2% of Swiss capital stock abroad) of which insurance: SwF 120 billion  
2014: SwF 156 billion (15.0% of Swiss capital stock abroad) of which insurance: SwF 72 billion

###### Significance of the financial services arm of Swiss Post (2015)

3,500 employees, 2,951 million customers, 4,835 million accounts, SwF 114,866 billion of funds under management, SwF 430 million of net profit

##### Banking services

###### Number of banks and recent consolidation

2006: 331 banks (of which, cantonal banks: 24; "big" banks: 2; regional and savings banks: 78; Raiffeisen – i.e. cooperative banks: 1; stock-exchange banks: 52; foreign controlled banks: 120; branches of foreign banks: 29; private banks: 14; other banking institutions: 11)  
2011: 312 banks (of which cantonal banks: 24; "big" banks: 2; regional and savings banks: 66; Raiffeisen – i.e. cooperative banks: 1; stock-exchange banks: 46; foreign controlled banks: 116; branches of foreign banks: 32; private banks: 13; other banking institutions: 12)  
2015: 266 banks (of which cantonal banks: 24; "big" banks: 3; regional and savings banks: 62; Raiffeisen – i.e. cooperative banks: 1; stock-exchange banks: 44; foreign controlled banks: 85; branches of foreign banks: 26; private banks: 7; other banking institutions: 14)

<sup>51</sup> Ordinance on the Energy Market Commission, LLG 2009, No. 29, available at:

[https://www.gesetze.li/lilexprod/lgsystpage2.jsp?menu=1&tablesel=0&formname=showlaw&lglid=2009024000&version=1&lrstart=73&observe\\_date=30.11.2016](https://www.gesetze.li/lilexprod/lgsystpage2.jsp?menu=1&tablesel=0&formname=showlaw&lglid=2009024000&version=1&lrstart=73&observe_date=30.11.2016).

<sup>52</sup> Gas Market Act, LLG 2003, No. 218, available at:

[https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lglid=2003218000&version=2&search\\_text=qasmart&search\\_loc=titel&sel\\_lawtype=conso&compl\\_list=1&rechts\\_gebiet=0&menu=0&tablesel=0&observe\\_date=30.11.2016](https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lglid=2003218000&version=2&search_text=qasmart&search_loc=titel&sel_lawtype=conso&compl_list=1&rechts_gebiet=0&menu=0&tablesel=0&observe_date=30.11.2016). See also Gas market Ordinance, LLG 2009, No. 22, available at: [https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lglid=2009022000&version=1&search\\_text=qasmart&search\\_loc=titel&sel\\_lawtype=conso&compl\\_list=1&rechts\\_gebiet=0&menu=0&tablesel=0&observe\\_date=30.11.2016](https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lglid=2009022000&version=1&search_text=qasmart&search_loc=titel&sel_lawtype=conso&compl_list=1&rechts_gebiet=0&menu=0&tablesel=0&observe_date=30.11.2016).



**Concentration/share of the various types of banks in the total balance sheet for banks in Switzerland (2011)**

Total balance sheet: SwF 2,793 billion

(of which cantonal banks: 16.1%; "big" banks: 52.5%; regional and savings banks: 3.6%; Raiffeisen – i.e. cooperative banks: 5.6%; stock-exchange banks: 4.9%; foreign controlled banks: 10.9%; branches of foreign banks: 2.0%; private banks: 1.9%; other banking institutions: 2.4%)

**Concentration/share of the various types of banks in the total balance sheet for banks in Switzerland (2015)**

Total balance sheet: SwF 3,026 billion

(of which cantonal banks: 17.8%; "big" banks: 47.1%; regional and savings banks: 3.7%; Raiffeisen – i.e. cooperative banks: 6.7%; stock-exchange banks: 6.9%; foreign controlled banks: 8.6%; branches of foreign banks: 2.4%; private banks: 0.2%; other banking institutions: 6.6%)

**Lending activities** (Comprehensive year-end statistics (including "amounts due from securities financing transactions"), 2012): SwF 1,407 billion (domestic lending: 71.0%, of which mortgage claims: 83.4%; foreign lending: 29.0%)

**Lending activities** (Comprehensive year-end statistics (excluding "amounts due from securities financing transactions"), 2015): SwF 1,537 billion (domestic lending: 70.0%, of which mortgage claims: 82.1%; foreign lending: 30.0%)

**Securities activities** (securities holding in bank accounts, 2015)

Total: SwF 5,587 billion; Swiss custody account holders: SwF 2,640 billion (i.e. 47.3% of total); foreign custody account holders: SwF 2,947 billion (i.e. 52.7% of total), of which private customers: SwF 534 billion; commercial customers: SwF 89 billion; and institutional investors: SwF 2,323 billion

**Insurance****Number of insurance companies and recent consolidation**

2009: 258 companies, of which life: 25; non-life: 125; reinsurance: 26; captives: 42; supplementary health insurers: 40

2014: 224 companies, of which life: 21 (of which 3 Swiss branches of foreign insurance companies); non-life: (without health insurers<sup>a</sup>): 104 (of which 49 Swiss branches of foreign insurance companies), reinsurance: 29; captives: 33; supplementary health insurers (without health insurers): 26; base health insurers with supplementary health insurance products: 14

2015: 214 companies, of which life 20 (of which 3 Swiss branches of foreign insurance companies); non-life (without health insurers): 99 (of which 45 Swiss branches of foreign insurance companies); reinsurers: 30; reinsurance captives 29; supplementary health insurers 23; base health insurers with supplementary health insurance products: 13

**Total balance sheet of the insurance sector**

2014: SwF 649.4 billion, of which life insurance: SwF 337.7 billion (52.0%); non-life (w/o health insurers): SwF 150.8 billion (23.2%); supplementary health insurers: SwF 16.0 billion (2.5%); and reinsurance SwF 144.9 billion (22.3%)

2015: SwF 654.3 billion, of which of which life insurance: SwF 343.3 billion (52.5%); non-life (w/o health insurers): SwF 146.9 billion (22.5%); supplementary health insurers: SwF 16.1 billion (2.5%); and reinsurance SwF 148.1 billion (22.6%)

**Concentration:** (cumulative market share of the top five companies)

2014: life insurance: 83.9%; non-life: 48.5%; health insurance: 64.7%; reinsurance: 75.1%

2015: life insurers: 86.2 %; non-life: 52.4 %; health insurance: 65.2 %

**Pensions funds**

**Number of pension funds:** 2009: 2351; 2014: 1866

**Total assets:** 2009: SwF 599 billion (of which collective assets SwF 241 billion), 2014: SwF 777 billion (of which collective assets: SwF 424 billion)

**Stock exchange and securities**

**Capitalization of the companies listed in the Swiss performance index (SPI):** 2010: SwF 964 billion; 2011: SwF 863 billion (i.e. 143.7% of the GDP the same year); 2012 (June): SwF 915 billion; 2014: SwF 1,278 billion; 2015: SwF 1,287 billion (i.e. 201% of the GDP the same year)

**Gross value of publicly issued bonds in Swiss francs:** 2011: SwF 73 billion (Swiss borrowers: SwF 40 billion, foreign borrowers: SwF 33 billion); 2015: SwF 62.03 billion (Swiss borrowers: SwF 44.15 billion, foreign borrowers: SwF 17.88 billion)

**(Securities turnover on the SIX Swiss Exchange (secondary market, 2015):** securities: SwF 1,372 billion (of which Swiss shares: SwF 1,042 billion; foreign shares: SwF 11 billion; Swiss bonds: SwF 91 billion; foreign bonds: SwF 97 billion; structured products and options: SwF 27 billion; investment funds: SwF 104 billion)

a Defined as the addition of (a) providers of base health insurance that do not provide supplementary health insurance, (b) providers of base health insurance that provide supplementary health insurance, and (c) providers of only supplementary health insurance.

Source: Information provided by the authorities.

#### 4.3.1.1.1 Banking services

4.89. A key development regarding the regulatory environment for banking services in Switzerland was the adoption through various legal instruments of the principle of automatic exchange of information (AEOI) regarding tax matters.

4.90. The first such instrument was the signature by Switzerland of the Council of Europe Multilateral Convention on Administrative Assistance in Tax Matters (MAC) on 15 October 2013.

4.91. It was followed by the entry into force of the FATCA 2<sup>53</sup> agreement with the United States on 2 June 2014 together with the FATCA Implementation Law approved by the Swiss Parliament. In addition, the Federal Council adopted a negotiation mandate on 8 October 2014 in order to start negotiations with the United States on a FATCA agreement based on Model 1, i.e. with fully automatic exchange of information.

4.92. The Swiss Parliament approved the AEOI principle, i.e. the OECD Multilateral Competent Authority Agreement (MCAA) and the corresponding Swiss Implementation Law, on 18 December 2015. The approval was followed by a 100-day referendum period. No referendum was launched during this time.

4.93. With the European Union, the adoption of the AEOI principle took the form of the signature of an agreement on 27 May 2015 amending the agreement on the taxation of savings which had been in force since 2005. This agreement includes the OECD's global AEOI standard in full. Both chambers of the Swiss Parliament have approved the agreement, which has entered into force. Data will start to be collected in 2017 and Switzerland and the EU will then exchange information as of 2018.

4.94. In addition, so far Switzerland has signed joint declarations for the introduction of AEOI based on the Multilateral Competent Authority Agreement (MCAA) with nine other States and jurisdictions: Australia, Iceland, Norway, Guernsey, Jersey, Isle of Man, Japan, Canada and South Korea. Other countries and jurisdictions will follow. Switzerland intends to sign similar joint declarations with other States and jurisdictions that have committed to the OECD Standard on AEOI. The Swiss Parliament decides exclusively on the AEOI joint declarations. They will not be subject to referendums. Switzerland has committed to implementing the OECD standard on AEOI by the year 2017, with the first exchange taking place in 2018.

4.95. Switzerland exchanges information in tax matters on request on the basis of double taxation treaties (DTA), tax information exchange agreements (TIEA) and, from 2017 onwards, the OECD/Council of Europe Multilateral Convention on Administrative Assistance in Tax Matters (MAC). The Convention will also be the basis for the spontaneous exchange of information.<sup>54</sup>

4.96. The banking sector also underwent a major regulatory overhaul during the period under review with the adoption of the Financial Market Infrastructure Act (FMIA) and the Financial Market Infrastructure Ordinance (FMIO), which both came into force on 1 January 2016. In addition, the Federal Council dispatched to the Parliament in November 2015 two draft bills, the Financial Services Act (FinSA or FIDLEG) and the Financial Institutions Act (FinIA or FINIG).<sup>55</sup> Discussion of the bills in the Council of States, as the first chamber.

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<sup>53</sup> FATCA stands for Foreign Account Tax Compliance Act, a U.S. act requiring financial institutions worldwide to disclose account information to the U.S. tax authority. Jurisdictions worldwide can either apply the FATCA Regulations of the U.S. Treasury Department or reduce this burden by concluding a FATCA Agreement with the United States. The United States offers its partner jurisdictions the following two different agreements: FATCA Model 1 Agreement (with automatic exchange of information) or FATCA Model 2 Agreement (no automatic exchange of information) where foreign financial institutions will disclose account details directly to the U.S. Tax Authority with the consent of the U.S. clients concerned. The United States will have to request data on recalcitrant clients through normal administrative assistance channels.

<sup>54</sup> An updated list of all States and jurisdictions covered by DTAs and TIEAs is available at: <https://www.sif.admin.ch/sif/en/home/themen/internationale-steuerpolitik/doppelbesteuerung-und-amtshilfe.html>.

<sup>55</sup> The draft versions of the bills are available at: <https://www.sif.admin.ch/sif/en/home/dokumentation/medienmitteilungen/medienmitteilung.msg-id-59331.html>.

4.97. Box 4.2 below describes in more detail the content of these new or planned laws as well as more generally the regulatory framework of banking services in Switzerland.

#### **Box 4.2 Switzerland's regulatory framework for banking services**

##### **Recent or planned regulatory changes**

The Financial Market Infrastructure Act (FMIA) (RS 956.1) and the Financial Market Infrastructure Ordinance (FMIO) (RS 958.11) came into force on 1 January 2016.<sup>a</sup> The FMIA brings the regulation of financial market infrastructures and derivatives trading in line with market developments and international standards. It sets out regulatory requirements for the operation of financial market infrastructures, including stock exchanges, multilateral trading facilities, central counterparties and central securities depositories and trade repositories. In addition, it lists all of the rules on trading in securities and derivatives for all financial market participants, particularly the new derivatives trading rules, which are consistent with international standards.

##### Legislative projects in progress: Financial Services Act (FinSA) and Financial Institutions Act (FinIA)

The FinSA will serve primarily to improve client protection. The current draft contains rules on providing financial services and offering financial instruments for all financial service providers. The proposed regulation takes account of the various features of financial service providers and financial instruments, as well as the different needs of the various client segments. Improvement in client protection is achieved by means of comprehensive transparency provisions, while refraining from imposing bans.

The proposed FinIA makes provision for an activity-based, differentiated supervisory regime for financial institutions requiring authorization. The main change is in the prudential supervision of managers of individual client assets, managers of the assets of occupational benefits schemes and trustees. Not all financial institutions will be supervised by FINMA during this process. The prudential supervision of managers of individual client assets and fiduciaries will be performed by an independent supervisory organization, several types of which are possible.

##### **Supervisory authorities**

Ministry/agency responsible for the coordination and strategic management of international financial, monetary and tax matters: State Secretariat for International Financial Matters, SIF ([www.sif.admin.ch](http://www.sif.admin.ch)).

Sector supervisor (monitoring bank liquidity, supervising financial market infrastructures, etc.): Financial supervision and issuance of banking regulations is performed by the Swiss Financial Market Supervisory Authority, FINMA ([www.finma.ch](http://www.finma.ch)). The Swiss National Bank (SNB) has the task of contributing to the stability of the financial system ([www.snb.ch](http://www.snb.ch)). The SNB also oversees systemically important payment systems, central counterparties and central securities depositories.

Responsibility for competition policy issues: Competition Commission ([www.weko.admin.ch](http://www.weko.admin.ch)).

##### **Preferential and bilateral policies**

Preferential arrangements affecting banking services: none (Switzerland's commitments in FTAs are substantially similar to Switzerland's commitments under the GATS).

Bilateral agreements and MOUs (notably on prudential regulation and supervision): FINMA has concluded banking-specific or multi-sectoral MoUs with supervisory authorities of 27 jurisdictions whose banks have significant presence in Switzerland. The largest Swiss banks under foreign control (assets >10 billion in 2015) are British, Brazilian, French, Greek, and German. Agreements have been concluded with all these countries. These MoUs govern the coordination of supervisory activities, as well as the exchange of information relevant for supervision.

Recognition of prudential measures of other countries through international agreements or unilaterally: In general, FINMA will recognize the consolidated supervision of foreign authorities, if the countries adhere to the relevant Basel Core Principles (BCP). As there is no multilateral framework for the banking sector, such agreements are concluded bilaterally. In the area of securities and markets supervision (which involves the broker-dealer activities of banks), FINMA is signatory to the IOSCO multilateral MoU.

##### **Licensing**

General criteria: clear scope of business; adequate organization; creation of separate bodies for management on the one hand and for direction, supervision and control on the other, if the scope or importance of business activities is significant, for all operators except small private bankers and securities traders; disclosure of the minimal fully paid-in share capital; good reputation of the persons in charge of administration and management of the bank; guarantee by the natural persons or legal entities with a qualified participation (i.e. which directly or indirectly participate in at least 10% of the capital or the voting rights of a bank or whose business activities are such that they may exercise considerable influence over the bank) that their influence will not impact the bank's prudent and solid business activity negatively; obligation for the persons entrusted with management to be domiciled in a place where they can physically manage the bank in a responsible manner (i.e. generally on Swiss territory with exceptions for larger internationally active banks, e.g. head of Asia division and member of group executive board may be domiciled in Asia) (Article 3 of the Banking Law). Cantonal banks no longer benefit from preferential capital requirements. Their tax treatment is subject to cantonal regulations.

Additional criteria for foreign banks: requirements are the same for Swiss and foreign banks; access remains subject to reciprocity, except when covered by international obligations such as the WTO agreements. However, for Swiss branches of foreign banks, FINMA will grant the foreign banks a licence only if;

- a) the foreign bank is appropriately organized, employs adequately qualified staff and has financial resources to operate a branch in Switzerland;
- b) the foreign bank and branch are subjected to adequate supervision;
- c) the competent foreign supervisory authorities make no objection to the establishment of a branch;
- d) the competent foreign supervisory authorities state that they will immediately inform FINMA if circumstances arise that may seriously jeopardize the interests of the bank's creditors;
- e) the competent foreign supervisory authorities are able to provide FINMA with official support;
- f) the licensing requirements set out in Article 3<sup>bis</sup> para. 1 of the Banking Law are met;
- g) the branch meets the licensing requirements within the meaning of Article 3, paras. 2c and d of the Banking Law and has a regulation that precisely defines its business activities and provides adequate organization; and
- h) the foreign bank provides evidence that the company name of the branch qualifies for entry in the Commercial Register.

Special provisions may apply to foreign banks such as FBO-FINMA (RS 952.111) Article 3, para. 2 (fully subjected to Swiss regulation if foreign regulation is not equivalent), Article 4, para. 2 (adequate consolidated supervision by foreign supervisor), Article 7 (collateral requirement if this is necessary for depositor protection). These are set out in the Ordinance of 21 October 1996 of the Swiss Financial Market Supervisory Authority on Foreign Banks in Switzerland (FINMA Foreign Banks Ordinance, FBO-FINMA). In accordance with the FBO-FINMA, the remaining part of the banking regulation, i.e. the Banking Law and the Banking Ordinance are applicable in the same way as for Swiss banks (Article 3, para. 1). Relief may be given on capital adequacy and risk distribution aspects for subsidiaries (Article 3, para. 2).

Licensing organ: FINMA (banking regulation and supervision take place at the federal level, i.e. there are no licensing requirements or regulations at the cantonal level).

Limitation of numbers of licences: none by policy.

Statutory maximum delay to process licences applications: none.

Validity of a licence: unlimited.

Restrictions on banks selling or disposing of licences: licences are specific to the licensed institution and may not be sold or transferred. A significant change in the structure of a bank or its ownership may require a reapplication, which is subject to supervisory review and will be accepted if the licensing criteria are met.

Minimum capital requirements for obtaining a licence: SwF 10 million, usually more in practice, depending on the business plan.

### **Prudential regulations**

Administrative allocation of financial resources: financial resources are not allocated administratively.

Determination of interest rates and fees: banks can freely determine their own interest rates and fees.

### **Measures to ensure compliance with the Basel Committee's Core Principles for Effective Banking Supervision:**

The adoption of Basel III-based capital rules in Switzerland was completed in 2012 when the revised Capital Adequacy Ordinance came into force. Swiss implementation of Basel capital standards was assessed overall as "compliant" in the 2013 Regulatory Consistency Assessment Programme (RCAP) by the BCBS. Some Basel requirements relating to definition of capital, the Swiss Standardized Approach, Credit Risk IRB, and disclosure were assessed to be only "largely compliant" or "materially non-compliant". Since then, FINMA has rectified 20 deviations or potential misinterpretations identified by its own self-assessment and by the RCAP Assessment Team. In 2015, in accordance with the Basel III framework, FINMA introduced reporting and disclosure requirements for the Leverage Ratio and Liquidity Coverage Ratio. In the first half of 2016, FINMA has aligned its circular "Credit risks – banks" with the revised international Basel III banking standards, enhancing capital requirements for derivatives, central counterparty positions, fund investments and securitizations.

On 21 October 2015, the Federal Council has defined new capital adequacy standards for systemically important banks (i.e. the two global systemically important banks UBS and Crédit Suisse and the five domestic systemically important banks, i.e. UBS and Crédit Suisse again and Raiffeisen, Zurich Kantonal Bank and Post Finance) and taken measures to reinforce the current "too big to fail" regime and hence the resilience of these banks. Under the new regulations, global systemically important banks will be subject to a leverage ratio of 5% ("going concern" capital i.e. capital to absorb current operating losses). The 5% relates to the bank's total exposure as a measure of its on- and off-balance sheet positions. At least 3.5% of this must be held in the form of Common Equity Tier 1 capital (CET1) and the remainder in Tier 1 instruments, which would be converted or written down if the CET1 ratio falls below 7% ("high trigger"). In addition, these banks must hold 5% of loss-absorbing debt capital, again measured in terms of total exposure. This bail-in capital ("gone concern" capital i.e. capital to fund an orderly resolution) is earmarked for use in the event of resolution. The result in terms of risk-weighted requirements is a total of 28.6%, consisting of 14.3% for each category. At least 10% must be held in the form of CET1 capital. In addition, the Federal Council decided that Swiss emergency plans drawn up by the global systemically important banks must be ready for implementation by the end of 2019.

The 2014 Financial Sector Assessment Programme by the IMF assessed the Swiss banking supervision to be compliant with 20 out of 29 Basel Core Principles. Two Basel Core Principles were assessed to be "materially non-compliant". Mainly the resourcing of supervision of large second-tier banks and the effectiveness of FINMA's supervisory approach with regard to the involvement of private audit firms have been criticized. FINMA has

been addressing these points by conducting more direct, topic-specific supervisory reviews complementing regulatory audits by audit firms and by reforming its collaboration with audit firms to increase the effectiveness of regulatory audits.

### **Specific provisions against money laundering and terrorist financing**

The Anti-Money Laundering Act of 10 October 1997 (AMLA; RS 955.0) imposes special due diligence obligations on financial intermediaries (banks, securities dealers, casinos, and subject to certain conditions set out in the AML Article 2, fund managers, certain investment companies, and asset managers under the Collective Investments Schemes Act, as well as insurance institutions). These include verification of the identity of the contracting party, establishment of the identity of the beneficial owner, special clarification duties, the duty to keep records, and the duty to implement organizational measures to prevent money laundering and terrorist financing. The financial intermediary must immediately file a report with the Money Laundering Reporting Office Switzerland (MROS) in the Federal Office of Police if it suspects money laundering or terrorist financing.

In the non-banking financial sector (e.g. asset managers, fiduciaries, bureaux de change, money and value transfer services as well as lawyers and notaries providing financial services), the Anti-Money Laundering Act is based on the principle of self-regulation. Self-regulation organizations (SROs) further specify the due diligence obligations contained in the Anti-Money Laundering Act and supervise compliance by their members. Financial intermediaries may either join an SRO or be supervised directly by FINMA, except for lawyers and notaries who can only join an SRO. FINMA recognizes and supervises the SROs.

In February 2012, the Financial Action Task Force (FATF) published the revised international standards on the combating of money laundering and terrorist financing. The Swiss Parliament adapted various laws to those standards in the Federal Act on the Implementation of the Revised FATF Recommendations of 12 December 2014 (RO 2015 1389) in particular on the following points:

- **Beneficial ownership:** the law now expressly stipulates that the financial intermediary has to identify the beneficial owner with the due diligence required by the circumstances. The financial intermediary must obtain a written declaration indicating the natural person who is the beneficial owner particularly when the contracting party is not the beneficial owner or when there is doubt in this respect, and always when the contracting party is a domiciliary company or an operating legal entity.

**Predicate offences:** the FATF has added "tax crimes (related to direct and indirect taxes)" to its list of offences which must mandatorily constitute predicate offences to money laundering. In addition to extending the scope of the felony already enshrined since 2009 in the Swiss legislation for offences regarding indirect taxation, the 2014 law has introduced a predicate offence – aggravated tax misdemeanour – with regard to direct taxation. Tax fraud now constitutes a predicate offence to money laundering if the amount of tax evaded exceeds SwF 300,000 per tax period.

**Regulations on cash payments for purchases of both movable and immovable property:** the new law imposes due diligence obligations on natural persons and legal entities dealing professionally in movable or immovable property that receive cash payments exceeding SwF 100,000 ("dealers" in accordance with Article 2, para. 1 letter b of the AMLA). The due diligence obligations envisaged include verification of the identity of the contracting party, identification of the beneficial owner, duty to keep records, clarification of the background and purpose of the transaction when it seems unusual or there are grounds to suspect that the cash used to pay originates from a felony or an aggravated tax misdemeanour, and the obligation to report immediately suspicions to the MROS.

**Other areas:** the new law also covers issues such as the registration of ecclesiastical and family foundations, transparency regarding legal entities, including companies with bearer shares, politically exposed persons (PEPs), the suspicious activity reporting system and targeted financial sanctions related to terrorism and terrorist financing.

The fourth FATF evaluation of Switzerland published in December 2016<sup>b</sup> acknowledges that the Swiss authorities demonstrate a clear commitment to prosecuting money laundering and that the mutual legal assistance provided by Switzerland is generally satisfactory and has involved the freezing and restitution of large sums linked with international corruption, but that shortcomings associated with maintaining the confidentiality of requests have been observed.

### **Bank deposit insurance scheme**

A review of the Swiss deposit insurance scheme is currently under way. Costs and benefits of a change from the existing ex-post to an ex-ante funded system, an increase of the target level, and a shortening of the maximum pay-out period are being analysed. The Federal Council will decide at the beginning of 2017 on the parameters of an adjustment of the Swiss deposit insurance scheme.

- a The texts of the act and of the ordinance are available at:  
<https://www.sif.admin.ch/sif/en/home/dokumentation/medienmitteilungen/medienmitteilungen.msg-id-59647.html> as well as a factsheet summing up their main provisions; and  
<https://www.efd.admin.ch/dam/efd/en/dokumente/home/themen/wwf-fin-politik/fb-finfrag-e.pdf.download.pdf/fb-finfrag.pdf>.
- b Viewed at: <http://www.fatf-gafi.org/media/fatf/content/images/mer-switzerland-2016.pdf>.

Source: Information provided by the authorities.



#### 4.3.1.1.2 Insurance services

4.98. Box 4.3 below describes in detail the regulatory regime for insurance services, which has remained stable during the period under review.

#### Box 4.3 Switzerland's regulatory framework for insurance, 2016

##### Recent or planned regulatory changes

###### Partial revision of the Insurance Contract Act (ICA)

The ICA governs the contractual relationship between insurance companies and their clients. The revision should adjust the ICA to changed circumstances and the law should be given a modern structure that eliminates the deficits of the current law which is more than a century old. The ICA should also become more user-friendly. The following topics are also on the agenda for the partial revision: client segmentation, written form requirements (inclusion of electronic formats), revocation right, provisional cover, assumption of approval, limitation periods, termination options, statutory deadlines, pre-contractual duty to provide information, pre-contractual duty of disclosure, amendment clauses, continued liability and pending insurance claims, right to claim directly/right to information, and compulsory liability.

###### Partial revision of the Insurance Supervision Act (ISA)

The Insurance Supervision Act sets out how the Swiss Confederation is to exercise supervision over insurance companies and insurance intermediaries. It aims, in particular, to protect insured persons from abuse and the insolvency risks of insurance companies. The revision should provide for rules for recovery and resolution, matching the specific requirements of the insurance business. In addition the following topics are on the agenda for the partial revision: a sophisticated customer-protection-based regulatory and supervisory approach, strengthening of group supervision, supervision of foreign insurance companies and abolition of the exemption regime for internal auditing.

##### Supervisory authorities

Ministry/agency responsible for defining insurance sector policy: State Secretariat for International Financial Matters (SIF)

Ministry/agency responsible for the supervision of the sector: Swiss Financial Market Supervision Authority (FINMA)

Responsibility for competition policy issues: Competition Commission (COMCO)

##### Preferential and bilateral policies

Preferential arrangements affecting insurance services: bilateral agreements with Liechtenstein and the EU (see <https://www.finma.ch/en/documentation/legal-basis/international-treaties/>).

**Agreement of 10 October 1989 between the Swiss Confederation and the European Economic Community (now the EU) on Direct Insurance other than Life Insurance:** this agreement grants Swiss and EU insurance companies active in areas other than life insurance freedom of establishment in the European Union or Switzerland. One requirement of the agreement is that an agency or branch operation must be licensed. Identical access and operating conditions must apply in the host states of the contracting parties. The agreement sets out who is to supervise the agency or branch office. The agreement does not apply to life insurance, reinsurance or social insurance. It is also not applicable to cross-border services that do not go through an agency or branch office.

**Agreement of 19 December 1996 between the Swiss Confederation and the Principality of Liechtenstein on Direct Insurance and Insurance Intermediation:** this agreement guarantees Swiss insurance companies freedom of establishment in the Principality of Liechtenstein and freedom to provide direct insurance services there; Liechtenstein insurance companies enjoy reciprocal rights in Switzerland. Companies require a licence issued in their home country, which is valid in both countries. Licence holders are supervised by the supervisory authority in their home country. The agreement provides for the mutual recognition of the countries' supervisory legislation. It is not applicable to reinsurers or social insurance schemes.

Bilateral agreements and MoUs: FINMA has concluded MoUs with supervisory authorities of countries whose insurers have significant presence in Switzerland (and vice versa). These MoUs govern the coordination of supervisory activities, as well as the exchange of information relevant for supervision. FINMA is also a signatory to the IAIS multilateral MoU.

FTAs: Switzerland's commitments in FTAs are substantially similar to Switzerland's commitments under the GATS.

##### Licensing

Criteria for assessing applications for an insurance licence: organizational, legal, capital, and solvency requirements.

Compatibility of life and/or non-life insurance licences: for insurance companies that operate direct life insurance, the only other insurance classes that they may operate are accident and health insurance as set out in Article 12 of the Insurance Supervision Act (ISA) (RS 961.01).

Differential treatment for foreigners in the licensing process: if there are no deviating regulations in international agreements, a foreign insurance company which intends to commence an insurance activity in Switzerland must, in addition (Article 15, ISA):

- a. be authorized to carry out an insurance activity in its home state;
- b. establish a permanent establishment in Switzerland and appoint as its manager a person with a general power of attorney;
- c. have at its headquarters an amount of capital as set out in Article 8 and a solvability margin as in Article 9 which also encompass the business activity in Switzerland;
- d. be in possession of an organizational fund in Switzerland as in Article 10 and the corresponding assets;
- e. deposit a collateral amount in Switzerland which corresponds to a defined proportion of the solvability margin attributable to the business within Switzerland. The supervisory authority defines this proportion and the calculation, the place at which the deposit is kept and the allocable assets.

Limitation on number of providers: none.

Licensing authority: FINMA is the sole competent authority to evaluate licence applications and to grant licences to private insurers. Insurance regulation and supervision is at federal level, i.e. there are no licensing requirements or regulations at cantonal level for private-sector insurance. However, it must be noted that all insurers governed by public law are not supervised by FINMA (even if the public insurers offer private insurance contracts; see the Federal Court's Decision 138 I 378). For public insurers, there might also be regulations at cantonal level. In certain areas, FINMA and other Swiss supervisory authorities have shared competences (for example, accident insurance and pension funds).

(Article 46a of the Administrative Procedure Act). A maximum processing time of 6 months for licensing applications is defined in Article 13.3 of the Agreement of 10 October 1989 between the Swiss Confederation and the European Economic Community (now EU) on Direct Insurance other than Life Insurance).

Period of validity of a licence: unlimited.

Restrictions on selling or disposing of licences: not transferable. Licences are specific to the licensed institution.

Maximum processing time for applications: in general, there is no maximum processing time defined for applications. However, an appeal may be filed against unlawful refusal or delay in issuing a contestable ruling.

#### **Prudential regulations**

##### Differences in treatment between state-owned firms, other domestically owned firms, foreign-owned branches and foreign-owned subsidiaries

FINMA does not treat state-owned firms differently to other domestically owned firms. However, it must be noted that FINMA is not the responsible supervision authority for insurance carriers governed by public law (even if public insurers offer private insurance contracts; see the Federal Court's Decision 138 I 378).

FINMA does not treat domestically owned firms and foreign-owned subsidiaries differently. There are a few additional requirements for branches (see "Licensing").

Recognition of home country supervision of foreign insurance companies: as a rule, FINMA recognizes the consolidated supervision of foreign authorities. FINMA generally cooperates with the home country supervisor and foreign branches are not required to undergo the Swiss Solvency Test (SST). However, usually there is no freedom of service and all branches of foreign insurers must fulfil all the legal requirements and be supervised by FINMA.

Minimum capital requirements to obtain a licence: Article 8 of ISA requires a minimum capital of SwF 3-20 million to obtain a licence, subject to sector-specific provisions by the Federal Council. The Federal Council's Insurance Supervision Ordinance (ISO) defines this requirement for life insurers (Article 7) at SwF 5-12 million, for non-life-insurers (Article 8) at SwF 3-8 million, and for reinsurers (Article 9) at SwF 3-10 million, depending on the business model.

Administrative allocation of insurance services: life, non-life, and reinsurance services are not allocated administratively.

Approval required for life and non-life premiums and products: in general, there is no requirement for premiums and products, although the latter must comply with the respective legal requirements. However, tariffs and general insurance conditions to be used in Switzerland to insure all risks in employee pension plans and in supplementary health insurance must be approved by FINMA. Also, in the case of natural hazard insurance, FINMA requires its scope of coverage and premium rating to be uniform and binding for all insurers (Article 33 ISA).

Compatibility of life and non-life insurance activities: in accordance with Article 12 of ISA, life insurers' non-life-business is limited to accident and health insurance. Life-insurers who offer accident or health insurance are subject to Article 7 b, ISO, which sets a minimum capital requirement of SwF 8 million to obtain a licence.

Source: Information provided by the authorities.



#### 4.3.1.1.3 Pension fund services

4.99. Box 4.4 below describes in detail the regulatory regime for pension fund services, which is in the process of a complete overhaul. The Federal Council adopted the dispatch on the "Retirement Provision 2020" reform project in late 2014. The 2020 pensions reform aims to ensure, in a balanced manner, that both pillars of retirement provisions are adequately funded and allow a more flexible transition to retirement. It is based on the following objectives: maintenance of the level of benefits under the 1<sup>st</sup> and 2<sup>nd</sup> pillar, financial consolidation of the pension system and the adaptation of benefits to current socio-political needs. In particular, the reform covers issues related to retirement, the adjustment of the minimum conversion rate and compensatory measures, including measures for intermediate generation. Institutional aspects are also taken into account with a view to improving transparency. Furthermore, the 2020 pensions' reform also addresses AVS-related financing issues, particularly with regard to benefits and contributions, as well as additional financing and the introduction of an intervention mechanism. The bill (14.088) is currently in the parliamentary process. The draft bill submitted to Parliament in November 2014 was examined by the Upper House of the Parliament in 2015 and is now being considered by the Lower House. The Upper House (Council of States) amended the draft as regards the measures to compensate for the lower conversion rate in the second pillar (Occupational Pension Plan), and approved the equalization of the retirement age at 65 for both women and men but refused to make the legislation more restrictive on widows', widowers' and orphans' pensions. As to financing, the Council decided that 1% instead of 1.5% of VAT would cover the supplementary costs resulting from demographic change.

4.100. The Lower House (National Council) debated the draft during the 2016 autumn session of Parliament. If debates in Parliament end by March 2017 with a referendum taking place in September 2017, the law could enter into force by 1 January 2018.

#### Box 4.4 Switzerland's regulatory framework for pension funds, 2016

##### Pension fund structure

Occupational benefit plans, also called the 2<sup>nd</sup> pillar, complete the mandatory basic 1<sup>st</sup> pillar AVS/AI/APG system (old age, invalidity, income compensation allowances for illness and maternity leave). Both pillars should ensure that to a large extent retired people maintain their former standard of living. The Federal Act on Occupational Benefit Plans (BVG/LPP) defines minimum benefits in the event of old age, death and invalidity. Pension funds may, however, provide higher benefits.

In principle, the law allows pension funds to decide on the form of organization they prefer, the benefits they want to offer, and ways of financing them. The BVG is mandatory for salaried persons already subject to the AVS, with an annual income of at least SwF 21,060 in 2014 or SwF 21,150 since 2015. This is also the threshold for contribution to the obligatory pension fund scheme.

The obligation to take out insurance sets in with gainful employment, after reaching the age of 17 at the earliest. At first, contributions cover only the risks of death and disability. At 25, the insured person also contributes to old age pension benefits. Certain groups of people are not subject to the mandatory scheme: the self-employed, salaried persons with a job contract that does not exceed three months, family members of a person operating an agricultural establishment in which they are employed, persons who are disabled to at least 70% under the provisions of the AVS. If they wish, such persons may take out minimal insurance on an optional basis.

Pension funds providing the statutory minimum need to be registered. The 2<sup>nd</sup> pillar, when provided by private entities, falls within the scope of the GATS but is subject to specific reservations in the Swiss GATS and FTAs financial services commitments.

##### Supervision

A recognized audit firm audits the management, accounts and investments of pension funds every year. Periodic reviews are also undertaken by a pension scheme expert. Cantonal surveillance authorities check that pension funds comply with legal provisions and regulations. The supreme surveillance body is the occupational pension funds supervisory committee.

##### Licensing criteria

Institutions wishing to participate in the mandatory occupational benefits plans must be officially registered by the competent surveillance authority. They should be organized in the form of a mutual association or a foundation.

**Additional licensing conditions:** none.

**Period of validity of a licence:** generally unlimited.

**Transferability of licences:** not transferable.

**Limitation on the number of providers:** none.

Source: Information provided by the authorities.

#### 4.3.1.1.4 Securities services and capital markets

4.101. The main developments during the period under review include the entry into force of a new Federal Financial Market Infrastructure Act (FMIA or FinfraG) on 1 January 2016.<sup>56</sup> This Act revamps the existing rules and introduces new rules including regarding central counterparties and trade repositories as well as cross-border participation in Swiss trading venues (so-called remote licence regime). The FMIA brings the regulation of financial market infrastructures and derivatives trading in line with market developments and international standards. In addition, to facilitate the access of Swiss financial services providers to the EU, an EU-compliant regulation has been aimed for. The rules for derivatives trading are also primarily oriented towards those of the EU in the European Market Infrastructure Regulation (EMIR). While there are certain differences between the regulations set out in FinfraG on financial market infrastructures and conduct requirements for derivatives trading and the correspondent EU regulations, the Swiss authorities assume that, in general, the new Swiss regulations are equivalent to the EU regulations.

4.102. In addition, as already mentioned above in the banking section, the Federal Council dispatched to the Parliament in November 2015 two draft bills, the Financial Services Act (FinSa or FIDLEG) and the Financial Institutions Act (FinIa or FINIG), which will have an impact on securities services and also capital markets.<sup>57</sup> The parliamentary debates have commenced on those two bills. Discussion of the bills in the lower house is expected this year.

4.103. Box 4.5 below describes in detail the resulting regulatory regime for securities services and capital markets.

#### Box 4.5 Switzerland's market and regulatory regime for securities services and capital markets, 2016

**Supervisory authority and licensing organ:** FINMA

##### Licensing

##### General criteria

Securities dealers must provide information and ensure internal separation of their trading, portfolio management and settlement business; minimum fully paid-up capital is SwF 1.5 million (Article 19, para. 1 and Article 22, para. 1 Stock Exchange and Securities Trading Ordinance, SESTO) (RS 954.11).

Asset managers of Swiss collective investment schemes based in Switzerland must be authorized by FINMA and are subject to its prudential supervision. Asset managers may be a legal entity in the form of companies limited by shares, partnerships limited by shares or limited liability companies, general and limited partnerships or Swiss branches of a foreign asset manager of collective investment schemes.

##### Additional criteria for foreign firms

Foreign securities dealers may request FINMA authorization to establish a Swiss branch. They must provide information and evidence of adequate organization, sufficient financial resources, and qualified staff. In addition, they must be subject to appropriate supervision. In addition, the foreign supervisory authorities must not object to cross-border operations and provide administrative assistance and information to FINMA (Article 41, para. 1 SESTO).

Foreign trading venues can obtain recognition to grant direct access to their facilities to Swiss participants supervised by FINMA if they are subject to appropriate supervision and regulation. Additionally, the competent foreign supervisory authorities must consent to cross-border operations and provide administrative assistance and information to FINMA (Article 41, para. 2, Financial Market Infrastructure Act, FMIA). FINMA shall grant recognition:

- a. if the foreign trading venue is subject to appropriate regulation and supervision; and
- b. if the competent foreign supervisory authorities:
  1. do not have any objections to the cross-border activity of the foreign trading venue,
  2. guarantee that they will inform FINMA if they detect violations of the law or other irregularities on the part of Swiss participants, and

<sup>56</sup> The texts of the act and ordinance are available at:

<https://www.sif.admin.ch/sif/en/home/dokumentation/medienmitteilungen/medienmitteilungen.msg-id-59647.html>, and a factsheet summing up their main provisions is available at:

<https://www.efd.admin.ch/dam/efd/en/dokumente/home/themen/wwf-fin-politik/fb-finfrag-e.pdf.download.pdf/fb-finfrag.pdf>.

<sup>57</sup> The draft versions of the bills are available at:

<https://www.sif.admin.ch/sif/en/home/dokumentation/medienmitteilungen/medienmitteilung.msg-id-59331.html>.

3. provide FINMA with administrative assistance.

A foreign trading venue is deemed to be recognized if FINMA finds that:

- a. the State in which the trading venue has its registered office regulates and supervises its trading venues adequately; and
- b. the conditions in paragraph 2 above are met.

FINMA may refuse recognition if the State in which the foreign trading venue has its registered office does not grant Swiss trading venues actual access to its markets or does not offer them the same competitive opportunities as those granted to domestic trading venues. Any deviating international commitments are reserved.

The provision largely corresponds to the previous Article 14 SESTA (RS 954.1).

To refuse approval because of lacking reciprocity of market access was also possible before 2016 (Article 37, SESTA). However, as before, this possibility is subject to any other international obligations (free trade agreements or GATS). There are no cases where approval was refused on the grounds of lacking reciprocity.

Foreign participants may request FINMA authorization to participate in Swiss trading venues. FINMA shall grant such authorization to foreign participants if, among other requirements, they are subject to appropriate supervision and regulation and if the competent foreign supervisory authority does not object to cross-border operations and provides administrative assistance to FINMA (Article 40, para. 1, FMIA).

Foreign central counterparties: Article 60 of FMIA states:

1. A central counterparty registered abroad must obtain FINMA recognition before it:
  - a. grants supervised Swiss participants direct access to its facilities;
  - b. provides services for a Swiss financial market infrastructure;
  - c. enters into an interoperability agreement with a Swiss central counterparty.
2. FINMA shall grant recognition:
  - a. if the foreign central counterparty is subject to appropriate regulation and supervision; and
  - b. if the competent foreign supervisory authorities:
    1. do not have any objections to the cross-border activity of the foreign central counterparty;
    2. guarantee that they will inform FINMA if they detect violations of the law or other irregularities on the part of Swiss participants; and
    3. provide FINMA with administrative assistance.
3. FINMA may refuse recognition if the State in which the foreign central counterparty has its registered office does not grant Swiss central counterparties actual access to its markets or does not offer them the same competitive opportunities as those granted to domestic central counterparties. Any deviating international commitments are reserved.
4. It may exempt a foreign central counterparty from the obligation to obtain recognition provided this does not adversely affect the protective purpose of this Act.

The regulatory framework for CCPs, including the provisions regarding the recognition of foreign CCPs, has been introduced by the FMIA. There are no cases where FINMA refused recognition of a FMI on the grounds of lacking reciprocity and this possibility is subject to any other international obligations (free trade agreements or GATS).

Trade Repositories (TRs): Article 80 of FMIA states:

1. A trade repository registered abroad must obtain recognition from FINMA before accepting reports in accordance with Article 103.
2. FINMA shall grant recognition:
  - a. if the foreign trade repository is subject to appropriate regulation and supervision; and
  - b. if the competent foreign supervisory authorities:
    1. do not have any objections to the cross-border activity of the foreign trade repository;
    2. guarantee that they will inform FINMA if they detect violations of the law or other irregularities on the part of Swiss participants;
    3. confirm to the competent Swiss financial market supervisory authority that the conditions set out in Article 78, paragraph 1 b and c are fulfilled.
3. A trade repository is deemed to be recognized if FINMA finds that:
  - a. the State in which the foreign trade repository has its registered office regulates and supervises its trade repositories adequately; and
  - b. the conditions in accordance with paragraph 2 are met.
4. FINMA may refuse recognition if the State in which the foreign trade repository has its registered office does not grant Swiss trade repositories actual access to its markets or does not offer them the same competitive opportunities as those granted to the trade repositories of the State in question. Any deviating international commitments are reserved.

The regulatory framework for TRs, including the provisions regarding the recognition of foreign TRs, has been introduced by the FMIA. There are no cases where FINMA refused recognition on the grounds of lacking reciprocity and this possibility is subject to any other international obligations (free trade agreements or GATS).

Foreign asset managers may request FINMA authorization to establish a Swiss branch of a foreign asset manager of collective investment schemes. They must provide information and evidence that the asset manager, including the branch, is subject to appropriate supervisory control at its registered office; the asset manager is adequately organized and has commensurate financial resources and qualified personnel to operate

a branch in Switzerland; and an agreement on cooperation and the exchange of information between FINMA and the relevant foreign supervisory authorities is in place. Further, foreign asset managers may be delegated to manage Swiss collective investment schemes if they are subject to recognized supervision.

**Period of validity of a licence:** generally unlimited.

**Transferability of licences:** not transferable.

**Limitation of the number of provider:** none. As at the end of June 2016, three domestic and 56 foreign trading venues have been granted authorization.

**Restrictions on foreigners buying and selling on the stock market:** none.

Source: Information provided by the authorities.

#### 4.3.1.2 Liechtenstein

##### 4.3.1.2.1 Statistical overview

4.104. Box 4.6 provides the main economic and statistical indicators of the financial services sector in Liechtenstein.

#### Box 4.6 Financial services: statistical overview

##### General

Share of financial services in the GDP: 24%

Share of financial services in total employment: 8.8%

Net financial services exports: not available

Capital stock of Liechtenstein financial services providers abroad: not available

##### Banking services

Number of banks and recent consolidation: 16 of which 6 are foreign (3 banks with Swiss majority shareholders, 2 with Austrian majority shareholders and 1 with Luxemburg majority shareholders).

Total assets under management in the banking system: 2008: SwF 116.7 billion; 2009: SwF 118.3 billion; 2010: SwF 116.2 billion; 2011: SwF 109.2 billion; 2012: SwF 117.7 billion; 2013: SwF 123.4 billion; 2014: SwF 133.9 billion; 2015: SwF 130.5 billion

Assets managed by collective investment schemes: SwF 44.85 billion (as of 31 March 2016)

Assets managed by asset management companies: SwF 33.3 billion<sup>a</sup> (as of 31 December 2015)

Assets managed by trustees or trust corporations: no comprehensive data available

Total balance sheet of the banking system: 2008: SwF 55.67 billion; 2009: SwF 55.053 billion; 2010: SwF 52.466 billion; 2011: SwF 54.6 billion; 2012: SwF 55.9 billion; 2013: SwF 57.1 billion; 2014: SwF 63.4 billion; 2015: SwF 61.4 billion

Net profit of the banking system: 2008: SwF 0.464 billion; 2009: SwF 0.587 billion; 2010: SwF 0.569 billion; 2011: SwF 0.163 billion; 2012: SwF 0.260 billion; 2013: SwF 0.471 billion; 2014: SwF 0.580 billion

Concentration: the top three banks account for approx. 88% of the assets

Number of collective investment schemes: 494

Number of authorized trustees: 114

Number of trust corporations: 266

Number of asset management companies: 118

##### Insurance

Number of insurance companies and recent consolidation: 41 companies at end-2015 (17 non-life insurance companies; 21 life insurance companies; 3 reinsurance companies), 11 of which (8 for non-life, 3 for reinsurance) operated as captive

Number of employees: 596

Number of branches: 12 foreign insurance companies (10 Swiss, 2 EU) have established branches in Liechtenstein

Cross-border activities: as at end-2015, over 355 EEA and Swiss insurance undertakings had registered their intention to provide cross-border insurance services, although these undertakings very rarely become active

Gross premiums of the insurance sector (2015): SwF 3.33 billion, of which 69% in life insurance; 2014: SwF 3.47 billion, of which 68% in life insurance  
Capital investment of the insurance sector (2015): SwF 26.0 billion, of which 95% for life insurance; 2014: SwF 29.1 billion

- a Assets of investment undertakings and asset management companies may be included in the total of assets under management in the banking system only to the extent where they are assets under management for the bank and held in a bank in Liechtenstein. However, there is no legal obligation for investments undertakings and asset management companies to domiciliate assets in a local bank.

Source: Information provided by the authorities.

#### 4.3.1.2.2 Regulatory regime

4.105. EU laws on financial services are of tremendous importance to the Liechtenstein financial centre. The incorporation of the first legislative package on the Financial Supervisory Bodies was delayed due to the need to find a balanced solution to certain questions regarding the institutional set-up of the EEA Agreement and constitutional constraints in the EEA/EFTA States. Therefore, Liechtenstein decided – exceptionally and extraordinarily – to transpose the respective EU acts into Liechtenstein law before they become part of the EEA Agreement. With this "advanced implementation", Liechtenstein's market participants already have to comply with the EU provisions. Due to Liechtenstein's "advanced implementation", it voluntarily imposes obligations stemming from the relevant EU laws on its market participants before they are applicable in the EEA. However, Liechtenstein and its market participants cannot benefit from, only prepare for, the cross-border rights those EU laws will confer as soon as they are incorporated into the EEA Agreement.

4.106. All EU Acts incorporated during the period under review into the EEA Agreement (Annex IX – Financial Services) as well as the links to the relevant decisions of the EEA Joint Committee regarding financial services can be found on the website of the European Free Trade Association (EFTA): <http://www.efta.int/legal-texts/eea>.

4.107. A major development for the regulatory environment for financial services in Liechtenstein is the entry into force of the principle of the automatic exchange of information (AEOI) with the EU (in January 2016) and with 32 further partner countries (in January 2017) in conformity with the OECD standards. This is the follow up and the last step of a policy decision confirmed in 2009 and 2013 by government declarations to support the increasing efforts in international cooperation in tax matters. This "Early Mover" approach has been the framework applied to Liechtenstein's policy and legislation via various legal channels: firstly through membership of the European Economic Area (EEA) – in the context of which the whole financial market *acquis* of the EU forms part of Liechtenstein's legal framework – and through multilateral or bilateral negotiations of treaties or membership and cooperation with relevant international bodies such as the OECD and the Global Forum on Transparency and Exchange of Information (GFTEI).

4.108. As early as November 2013 and prior to the finalization and adoption of the automatic exchange of financial account information, Liechtenstein recognized it as the future single global standard<sup>58</sup> and joined the "early-adopters-group"<sup>59</sup> promoted by Germany, the United Kingdom, France, Italy and Spain. Liechtenstein – even though not a member of the OECD – has been assigned a special role and has been granted a special status in the relevant OECD body developing the standard, i.e. it serves as a rapporteur between the OECD (as developer of the standard) and the Global Forum (as the competent body to monitor and review proper implementation).

4.109. Liechtenstein has put in place all necessary primary and secondary legislation for the automatic exchange of information as of 1 January 2016. In addition to its agreement with the EU, Liechtenstein has successfully negotiated 27 TIEAs<sup>60</sup> and has ratified the Multilateral Convention

<sup>58</sup> Viewed at: [http://www.regierung.li/files/attachments/regierungserklaerung-nov13-eng\\_635480451044806250.pdf?t=635912129364399226](http://www.regierung.li/files/attachments/regierungserklaerung-nov13-eng_635480451044806250.pdf?t=635912129364399226).

<sup>59</sup> Viewed at: <http://www.oecd.org/fr/sites/forummondialsurlatransparenceetlechangederenseignementsadesfinsfiscales/AEOIjointstatement.pdf>.

<sup>60</sup> Viewed at: <http://www.llv.li/files/stv/int-uebersicht-dba-tiea-engl.pdf>.

on Administrative Assistance in Tax Matters and the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (MCAA).<sup>61</sup> Liechtenstein therefore currently has EOI arrangements according to the OECD standard with more than 40 partners and that figure has more than doubled with the entry into force of the Multilateral Convention on 1 December 2016. Liechtenstein received a "largely compliant" rating (as did, for example, Germany and the Netherlands) in the Global Forum Peer Report Phase II.<sup>62</sup>

4.110. Liechtenstein joined the Inclusive Framework for the implementation of the package of measures against Base Erosion and Profit Shifting (BEPS) in March 2016 as one of the first non-OECD countries and thereby committed officially to the BEPS outcome. Liechtenstein is a member of the OECD's Forum on Harmful Tax Practices. It signed the OECD's Multilateral Competent Authority Agreement (MCAA) for the automatic exchange of country-by-country reports<sup>63</sup> in January 2016 and will be implementing the spontaneous exchange of tax rulings as provided for under the BEPS project. The Liechtenstein Parliament has approved an adaptation of the Tax Act which includes:

- the introduction of a linking rule for dividends within corporate groups to tackle hybrid instruments and to avoid double non-taxation – thus Liechtenstein will give up the unconditional exemption for dividend income and will be, in this respect, in line with the current revised parent-subsidiary directive, which entered into force at the end of 2015;
- the introduction of country-by-country reporting for multinational enterprises in accordance with OECD requirements;
- in the area of transfer pricing: introduction of the recommended documentation requirements;
- the abolishment of the intellectual property box regime with grandfathering until 2020.

4.111. As of 1 January 2016, Liechtenstein has changed its legislation for administrative assistance in tax matters to include group requests according to Article 26 of the OECD Model DTA. Serious tax crimes have been made a predicate offence for money laundering from 1 January 2016 and the range of mutual legal assistance provided in tax matters has been considerably expanded as well.

4.112. Box 4.7 below describes in detail the regulatory framework for banking services in Liechtenstein, which has overall remained stable during the period under review save for the transposition of new EU/EEA banking legislation.

#### **Box 4.7 Liechtenstein's regulatory framework for banking services, 2015**

##### **Main regulations**

Banking Act of 1992 (LLG 1992, No. 108, as amended) and the corresponding Banking Ordinance (LLG 1994, No. 22, as amended)<sup>a</sup>

##### **Supervisory authority**

The Financial Market Authority (FMA), established in January 2005, is responsible for supervising banks, investment firms, investment undertakings, trustees, lawyers, accountants, and auditors.

##### **Preferential and bilateral policies**

Preferential arrangements affecting banking services: as a result of Liechtenstein's participation in the EEA, all of its banking, securities, insurance, and accounting legislation is based on EU legislation, although the national accounting standards for financial institutions (mainly banks, which are not quoted) are also similar to the accounting rules of the Swiss FINMA. Banks in Liechtenstein and Switzerland have very similar principles of accountancy, and the structure of the balance sheet and the income statement are practically identical. Both countries apply similar valuation rules. Generally the company may choose between the national accounting standard and the IFRS standard. However, only 3 banking groups in Liechtenstein apply IFRS on a consolidated level. The national accounting standard is applied on stand-alone basis only.

<sup>61</sup> Viewed at: <https://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/MCAA-Signatories.pdf>.

<sup>62</sup> Viewed at: <http://www.oecd.org/tax/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews-liechtenstein-2015-9789264245082-en.htm>.

<sup>63</sup> Viewed at: <http://www.oecd.org/ctp/exchange-of-tax-information/a-boost-to-transparency-in-international-tax-matters-31-countries-sign-tax-co-operation-agreement.htm>.



**Licensing**

General criteria: banks and investment firms (i.e. an asset management company in the sense of the EU Markets in Financial Instruments Directive 2004/39<sup>b</sup>) require a licence from the FMA in order to commence operations, and may only take the legal form of limited companies (Aktiengesellschaft).<sup>c</sup> The head offices and the principal management must be domiciled in Liechtenstein. The minimum required fully paid-up initial capital is SwF 10 million for banks and SwF 1.5 million (or the equivalent in euros or U.S. dollars) for investment firms. After commencing business activity, the minimum capital must not drop below the amount of the minimum capital. The members of the board of directors may have their domicile outside of Liechtenstein as long as they fulfil the obligations of their functions; they must be authorized to fully represent their company.<sup>d</sup>

Additional criteria for foreign banks

Establishment of a branch or subsidiary of a non-EEA bank or investment firm requires a licence. Additional requirements are: the institution must be subject to home consolidated supervision comparable to Liechtenstein supervision, and the home authorities must raise no objections. To establish a branch in Liechtenstein a foreign institution requires a licence issued by the FMA; this is granted if it is supervised in its home country (consolidated supervision in the case of a group) in a manner comparable to Liechtenstein supervision, the home supervisory authorities do not object to the presence of the bank in Liechtenstein, and the branch is organized, staffed and funded adequately. No reciprocity requirements exist. Investment firms and banks domiciled in an EEA member State have free movement of services rights for the activities covered by their home licences; they do not require a Liechtenstein licence. However, a notification is sent to the FMA by the home supervisory authority. The latter also supervises the investment firms and banks' operations in Liechtenstein. The same applies to the establishment of branches of EEA financial institutions in Liechtenstein.

**Prudential regulations**

Administrative allocation of financial resources: financial resources are not allocated administratively

Determination of interest rates and fees: banks may determine interest rates and fees freely

**Specific provisions against money laundering**

The core legal basis for the AML/CFT preventive measures in Liechtenstein is the Liechtenstein Due Diligence Act, No. 47/2009, and the Liechtenstein Due Diligence Ordinance, No. 98/2009. As an EEA member, Liechtenstein implemented the Third EU Anti-Money Laundering Directive (2005/60/EC) and the related implementing measures, which have been incorporated into the above-mentioned acts.

The Liechtenstein Due Diligence Act imposes special due diligence obligations on financial institutions (banks and investment firms, e-money institutions, payment institutions, insurance companies, asset management companies, etc.) as well as designated non-financial business professions (DNFBPs) such as professional trustees, auditors, lawyers, dealers in goods, real estate agents, etc.

Obligations include the requirement to identify and verify the identity of the customer and the beneficial owner, ongoing monitoring of the business relationship (including scrutiny of transactions), and preparation of a business profile (information on the source of funds and the purpose and intended nature of the business relationship). The Due Diligence Act also provides for record keeping obligations and the duty to implement organizational measures to prevent money laundering and terrorism financing.

Where suspicion of money laundering, a predicate offence of money laundering, organized crime, or terrorist financing exists, all financial institutions and DNFBPs are required to report immediately to the Financial Intelligence Unit (FIU). Likewise, all offices of the national administration and the Liechtenstein Financial Market Authority are subject to the obligation to report to the FIU.

The European institutions have recently adopted measures to reinforce the EU's existing rules on anti-money laundering and fund transfers, particularly taking into account the revised FATF Recommendations. The new measures were published in June 2015. As mentioned above, due to its EEA membership, Liechtenstein is implementing the new directive (4<sup>th</sup> Anti-Money Laundering Directive) into domestic law within two years of its publication. Liechtenstein has already adopted measures to transpose the new requirements and complete transposition is envisaged for 2017. The revised wire transfer regulation will be directly applicable upon incorporation into the EEA Agreement.

The compliance of the Liechtenstein AML/CFT framework with the FATF Recommendations has been regularly assessed by the International Monetary Fund in cooperation with experts from MONEYVAL. The most recent 4<sup>th</sup> assessment visit to Liechtenstein took place in June 2013. The respective IMF/MONEYVAL report was published in June 2014 on the website of the Council of Europe/MONEYVAL. The Liechtenstein framework to prevent money laundering and terrorist financing was overall assessed very positively. In total, 38 out of 40+9 recommendations were rated positively, either as "compliant" or "largely compliant".

The report acknowledges that "Liechtenstein has made significant steps and achieved considerable progress since the last mutual evaluation, particularly in bringing its legal framework more closely in line with the FATF recommendations, consolidating an overall robust institutional framework for combating money laundering (ML) and terrorist financing (TF) and moving towards greater transparency.

**Bank deposit insurance scheme**

The Liechtenstein Bankers Association (LBA) established the Liechtenstein Deposit Guarantee and Investor Protection Foundation of the Liechtenstein Bankers Association (*Einlagensicherungs- und Anlegerschutzstiftung des Liechtensteinischen Bankenverbands, EAS*), an autonomous foundation under Liechtenstein law. The Foundation has assumed the obligation, in the event of a bank's insolvency or bankruptcy, to pay compensation up to a specified maximum (SwF 100,000). All banks operating in Liechtenstein participate in the EAS.

- a The full text of the Banking Act is available at: <https://www.gesetze.li/lilexprod/lfshowpdf.jsp?lqblid=1992108000&version=18&signed=n&tablesel=0>).
- b Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:02004L0039-20070921:EN:NOT>.
- c Exceptions may be granted by the FMA.
- d Banks are obliged to adopt a dual management structure, with a board of non-executive directors and a management board; internal auditors, reporting directly to the board of directors, must also be appointed.

Source: Information provided by the authorities.

4.113. Box 4.8 below describes in detail the regulatory framework for insurance services in Liechtenstein, which was extensively revised in 2015 through the adoption of a new Insurance Act and its implementing ordinance.

**Box 4.8 Liechtenstein's regulatory framework for insurance services, 2016****Main regulations**

The Insurance Supervision Act (LLG 2015, No. 231)<sup>a</sup> and the Associated Ordinance (LLG 2015, No. 239, fully in force since 1 January 2016)

**Supervisory authority:** the FMA

**Preferential and bilateral policies**

**Preferential arrangements affecting insurance services:** none

As a result of Liechtenstein's participation in the EEA, all of its banking, securities, insurance, and accounting legislation is based on EU legislation. The FMA fully participates in the European Insurance and Occupational Pensions Authority (EIOPA) without the right to vote. On the basis of a bilateral agreement (*Direktversicherungsabkommen*) in force since 1998, insurance undertakings domiciled in Switzerland or Liechtenstein are granted freedom of establishment and operation in the other country. This agreement was extended in 2007 to allow insurance intermediaries to engage in cross-border activities. Since October 2012, the FMA has also been a signatory to the IAIS multilateral MoU.

**Licensing**

A licence is required for conducting insurance activities.

Undertakings must adopt the legal form of a limited company, *Societas Europaea* (SE), a cooperative, or European Cooperative Society (SCE).

On 1 January 2016, the completely revised Insurance Supervision Act entered into force. Liechtenstein has thus implemented the EU Solvency II Directive into national law. Solvency II is a risk-based system that defines new requirements in regard to governance, risk management, and reporting. The new system makes appropriate qualitative and quantitative tools available to national supervisory authorities, allowing them to appropriately assess the total solvency of an insurance undertaking. The main administration of the company (including accounting) must be situated in Liechtenstein.

Undertakings domiciled and licensed in an EEA country may conduct direct insurance business in Liechtenstein without a Liechtenstein licence: the single-licence principle has applied since accession to the EEA.

Insurance companies are prohibited from undertaking non-insurance activities.

Cross-border provision of insurance services by EEA companies is possible, provided the insurance undertakings have the necessary solvency margin.

Non-EEA-country insurance undertakings (except Switzerland, see above) require authorization in order to operate in Liechtenstein; they must establish an agency subsidiary or a branch office in Liechtenstein.

- a The full texts of this act and ordinance are available at: [https://www.gesetze.li/lilexprod/lgpage2.jsp?formname=showlaw&lqblid=2015231000&version=0&search\\_loc=text&lqblid\\_von=2015231000&lqblid\\_bis=2015231000&sel\\_lawtype=chrono&rechts\\_gebiet=0&menu=0&tablesel=0&observe\\_date=03.05.2016](https://www.gesetze.li/lilexprod/lgpage2.jsp?formname=showlaw&lqblid=2015231000&version=0&search_loc=text&lqblid_von=2015231000&lqblid_bis=2015231000&sel_lawtype=chrono&rechts_gebiet=0&menu=0&tablesel=0&observe_date=03.05.2016); and [https://www.gesetze.li/lilexprod/lgpage2.jsp?formname=showlaw&lqblid=2015239000&version=0&search\\_loc=text&lqblid\\_von=2015239000&lqblid\\_bis=2015239000&sel\\_lawtype=chrono&rechts\\_gebiet=0&menu=0&tablesel=0&observe\\_date=03.05.2016](https://www.gesetze.li/lilexprod/lgpage2.jsp?formname=showlaw&lqblid=2015239000&version=0&search_loc=text&lqblid_von=2015239000&lqblid_bis=2015239000&sel_lawtype=chrono&rechts_gebiet=0&menu=0&tablesel=0&observe_date=03.05.2016).

Source: Information provided by the authorities.

4.114. Box 4.9 below describes in detail the regulatory framework for investment undertakings/collective investment schemes, asset management companies, and payment services providers. The regulatory framework for investment undertakings has been extensively revised by the new Law on Investment Undertakings (IUA, LLG 2016, No. 45) which entered into force on 1 October 2016.<sup>64</sup> The main change brought about by this new legislation is the creation of four types of investment undertakings: i) investment undertakings for single investors; ii) investment undertakings for families; iii) investment undertakings for community of interests; and iv) investment undertakings for enterprises.

#### **Box 4.9 Regulatory framework for investment undertakings, asset management companies, and payment services providers**

##### **Collective investment schemes**

###### Main regulations

The Law on Investment Undertakings (IUA, LLG 2005, No. 156), the Act on Certain Undertakings for Collective Investment in Transferable Securities (UCITSA, LLG 2011, No. 295) and the Act on Alternative Investment Fund Managers (AIFMG, LLG 2013, No. 49)<sup>a</sup>

###### Recent or planned regulatory changes

On 2 December 2015, the Parliament adopted the new Law on Investment Undertakings (IUA, LLG 2016, No. 45) which will replace the old IUA from 2005. On the same day, the Parliament adopted amendments to the AIFMG in order to implement the EU regulations on European Venture Capital Funds (EuVECA) and European Social Entrepreneurship Funds (EuSEF). The UCITS V Directive has been implemented through an amendment of the UCITSA, which entered into force on 18 August 2016.

###### Licensing

Any collective investment scheme requires a licence from the FMA. Collective investment schemes are divided into investment funds on a contractual basis (common contractual fund), investment funds which have the legal form of a trusteeship, and investment companies (which have the legal form of a public limited company). Furthermore, investment funds (without UCITS) may be constituted under a partnership (investment limited partnership or investment partnership of limited partners) too. The minimum required fully paid-up capital is SwF 1 million for management companies under the IUA and €125,000 or the equivalent amount in SwF for UCITS management companies and AIFMs (internally managed investment companies or alternative investment funds €300,000 or the equivalent amount in SwF). Investment companies must be incorporated as public limited companies, with fixed or variable capital. Regardless of form, these collective investment schemes (with fixed or variable capital) are obliged to have both a board of directors and a custodian bank, which must be registered in Liechtenstein. Mostly, the principal administration of collective investment schemes in Liechtenstein is domiciled in Liechtenstein. According to notification procedures, the management companies can be domiciled in another EEA country and manage Liechtenstein collective investment schemes from there.

###### Business scope

Mutual funds may be marketed only by banks, fund management companies, or trustees with commercial presence in Liechtenstein. There are no secondary markets or underwritings in Liechtenstein. Liechtenstein banks may participate in secondary markets through their Swiss operations. Units of foreign investment undertakings may be sold in Liechtenstein under licence or, if reciprocity exists, after notification.

##### **Asset management companies**

###### Relevant legislation

The law on asset management (Asset Management Act, AMA) (LLG 2005, No. 278) entered into force on 1 January 2006. This Act lays the foundation for asset management companies as new, internationally recognized, financial intermediaries<sup>b</sup> (supervisory authority: the FMA).

Licensing conditions: minimum fully paid-up capital requirement of SwF 100,000

<sup>64</sup> The text of this law is available at:  
<https://www.gesetze.li/lilexprod/ifshowpdf.jsp?lqblid=2016045000&version=1&signed=n&tablesel=0>.

**Payment services providers**Relevant legislation

The law on payment services (Payment Service Act, PSA) entered into force on 1 November 2009. It transposes the European Payment Service Directive into national law and regulates the establishment of payment service providers as new financial intermediaries as well as the requirements and obligations for the provision of payment services.<sup>c</sup>

Supervisory authority: the FMA

Licences granted: none

- a The texts of this legislation are available at:  
<https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lqblid=2005156000&queltiqdate=03052016>;  
<https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lqblid=2011295000&queltiqdate=03052016> and  
[https://www.gesetze.li/lilexprod/lqpage2.jsp?formname=showlaw&lqblid=2013049000&version=0&search\\_text=AIFMG&search\\_loc=text&sel\\_lawtype=chrono&rechts\\_gebiet=0&menu=0&tablesel=0&observe\\_date=29.04.2016](https://www.gesetze.li/lilexprod/lqpage2.jsp?formname=showlaw&lqblid=2013049000&version=0&search_text=AIFMG&search_loc=text&sel_lawtype=chrono&rechts_gebiet=0&menu=0&tablesel=0&observe_date=29.04.2016).
- b The text of this law is available at:  
<https://www.gesetze.li/lilexprod/ifshowpdf.jsp?lqblid=2005278000&version=11&signed=n&tablesel=0>).
- c The text of this law is available at:  
<https://www.gesetze.li/lilexprod/ifshowpdf.jsp?lqblid=2009271000&version=12&signed=n&tablesel=0>).

Source: Information provided by the authorities.

4.115. Finally, Box 4.10 describes in detail the regulatory framework for pension funds in Liechtenstein.

**Box 4.10 Liechtenstein's regulatory framework for pension funds****Pension funds****Main regulations**

The Pension Funds Act (LLG 2007, No. 11) and the Associated Ordinance (LLG 2007, No. 16). As a result of Liechtenstein's participation in the EEA, the legislation on Pension Funds is based on EU law, which provides a prudential framework for pension funds based on minimum harmonization and mutual recognition.

**Pension fund structure**

A pension fund means an institution, irrespective of its legal form, operating on a funded basis, established separately from any sponsoring undertaking for the purpose of providing retirement benefits on the basis of an agreement in the context of an occupational activity. Institutions under the PFA must be kept strictly separate from institutions under the Occupational Pensions Act. There are no institutions subject to both laws. According to Article 1 of the Occupational Pensions Ordinance, the Occupational Pensions Act and the Occupational Pensions Ordinance only apply to persons insured by the Liechtenstein Old Age and Survivors Insurance (AVS). In all other cases, the Pension Funds Act applies. In case of a cross-border Pension Fund only the prudential regulation of the home member State is applicable. However, the pension fund has to comply with the social and labour law of the host member State.

**Licensing**

Pensions funds must hold a licence by the FMA prior to taking up business activities.

**Supervisory authorities**

The Office of Public health for health insurance, compulsory accident insurance and the first pillar of the pension system; and the FMA for the second and third pillars of the pension system.

Source: Information provided by the authorities.

### 4.3.2 Telecommunications services

#### 4.3.2.1 Switzerland

4.116. Box 4.11 provides the main economic indicators for the telecommunications sector in Switzerland, while Box 4.12 describes in some detail its regulatory framework and recent developments.

#### Box 4.11 Market structure and regulatory framework of Switzerland's telecommunications sector, 2016

##### **Economic data (2014)**

###### Gross value added (% of total economy)

2006: 1.33

2011: 1.29

2014: 1.24

###### Employment in the sector (% of total)

2006: 0.6

2011: 0.68

2015: 0.72

##### **Penetration rates**

Total telephone subscribers (per 100 inhabitants): 194

Penetration rate for fixed lines: 48.7%

Mobile phone subscribers (% of total subscribers): 73.3

Internet users (per 100 inhabitants aged of 14 years old and over): 87.4 (Source: OFS)

Fixed broadband subscriptions (per 100 inhabitants, June 2015): 50.5 (Source: OECD, Broadband portal)

Mobile broadband subscriptions (per 100 inhabitants, June 2015): 103.8 (Source: OECD, Broadband portal)

##### **Main actors**

###### Number of telecom services providers hosting SMS/MMS services and premium rate services

There are 3 operators (Swisscom, Sunrise and Salt) which have the authorization to allocate and host SMS/MMS short numbers. All three are active in hosting SMS/MMS services. Premium-rate services (premium-rate phone numbers) are hosted by 56 telecom-service providers. (Source: data OFCOM/TP/NA, June 2016).

###### Names and market shares of the leading companies for fixed telecom services

Total: 84 companies

Market leaders (by duration of connections): Swisscom: 55.0%, Sunrise: 14.0%; UPC Cablecom: 13.5% (Cablecom was renamed UPC Cablecom in 2011)

Market leaders (by number of subscribers): Swisscom: 62.3%, UPC Cablecom: 11.8%, Sunrise: 9.1% (Cablecom was renamed UPC Cablecom in 2011)

###### Name and market shares of the leading companies for mobile telephones services

Total: 13 companies

Market leaders (by number of contracts): Swisscom: 56.0%; Sunrise: 18.4%; Orange: 18.5%. Eight other companies are simple resellers and two (UPC Schweiz GmbH and Lycamobile AG) are mobile virtual network operators (MVNOs). There is no legislation forcing the three network operating companies to make an offer to MVNOs

###### Name and market shares of the broadband Internet services

Total: 169 companies

Market leaders (by number of contracts): Swisscom: 53.4%; UPC Cablecom: 21.0%; Sunrise: 9.1%

###### Foreign ownership participation in telecom companies

Orange/Salt and UPC Cablecom are 100% foreign-owned

Sunrise has been listed on the Swiss stock market SIX Swiss Exchange since 2015 (IPO, 6 February 2015)

###### State ownership

51% of the shares of Swisscom

##### **Establishment of new companies, mergers or closures during the review period**

On 23 February 2015, Orange Communications SA (Orange Suisse) was sold to NJJ Capital. NJJ Capital is a private holding owned by the French businessman Xavier Niel. On 23 April 2015, the company was renamed Salt.

Source: OFCOM Statistical Observatory, unless exceptions. Viewed at: [www.ofcom.admin.ch](http://www.ofcom.admin.ch); and Swiss statistics. Viewed at: <http://www.bfs.admin.ch/bfs/portal/en/index/themen/06/02/blank/data.html> (28 September 2016); and <http://www.bfs.admin.ch/bfs/portal/en/index/themen/04/02/02.html> (28 September 2016).

## Box 4.12 Regulatory framework for telecommunication services in Switzerland

### Access/interconnection regulation and competition issues

#### Access and interconnection regulation procedures

The Swiss Telecommunications Act prescribes that telecommunications regulation is enforced ex-post following complaints by telecommunications service providers to the Swiss Federal Communications Commission (ComCom). Only in case of a complaint does ComCom review the reference offer of the operator with significant market power. If significant market power (SMP) is denied by the operator, ComCom must first analyse the market power of the operator in question according to competition law. During this market analysis process, ComCom is required to consult the Swiss Competition Authority (COMCO). The legislator chose this approach, which is unusual by international standards, with the intention of protecting investments into fibre access networks and to restrain the powers of the regulator so there is no unnecessary regulation. Much weight was attached to the bargaining ability of the market players by the legislator. From its point of view, the regulator should only intervene if the market players are unable to reach an agreement. ComCom has no power to intervene autonomously.

#### Fixed-access regulation

Telecommunication service providers with significant market power must provide services and facilities to other telecommunications service providers according to Article 11 of the Swiss Telecommunications Law (RS 784.10). The services and facilities have to be provided at cost-oriented prices and on non-discriminatory and transparent terms and conditions. The cost-oriented prices of an operator with significant market power are calculated on the basis of the "long-run incremental costs" (LRIC), a method applied by most European countries. Operators with significant market power must publish a reference offer according to the rules given by the Swiss Telecommunications Law and the Ordinance on Telecommunications Services every year.

#### Mobile-access regulation

In principle, the rules regarding fixed voice termination also apply to mobile voice services. To date there have been one or more complaints against each of the mobile network operators, but no telecommunications service provider has ever upheld its complaint for long enough for ComCom to make a decision. In every case, the parties involved found an agreement and the applicant withdrew its lawsuit. Thus, so far, there have not been any decisions on mobile termination rates by ComCom. The content of the agreements is not known to the regulator.

#### Recent or planned changes

On 1 July 2014, a revised version of the Ordinance on Telecommunications Services entered into force. The revision included further guidelines on how to handle the modern equivalent asset approach, which is part of the LRIC cost model, in case of major technological shifts. Furthermore there was a change regarding the costing methodology to calculate the cost of ducts and trenches. The new costing methodology is related to the infrastructures renewals accounting approach as it is applied to water utilities in the UK for example.

Within the last four years, telecommunications services providers filed complaints on nearly all forms of access obligations imposed on the SMP operator by law (see Article 11 of the Swiss Telecommunications Act). Most of these decisions were the subject of an appeal to the Swiss Federal Administrative Court. On 18 January 2016, the Swiss Federal Administrative Court decided that from 1 January 2013, fibre-optic cables are to be considered the modern equivalent asset to build an access network with. Due to this decision, there are ongoing procedures regarding the prices since 2012 and ComCom is preparing the final decisions.

#### Number of complaints filed or resolutions of access/interconnection disputes among operators

Compared with the four preceding years, the number of complaints has significantly decreased. Nevertheless, ComCom has had to lower most of the prices of the SMP operator (Swisscom AG) contested by other telecommunications service providers. However, the difference between prices in the reference offers and prices in ComCom's decisions has been steadily declining.

### Other regulatory aspects

#### Regulatory supervision

The Federal Communications Commission (ComCom) is the independent authority regulating the telecommunications market. The activities and main tasks of this extra-parliamentary commission are the following:

- the attribution of the concessions for the use of radio-communication frequencies;
- the granting of the concessions (s) for the universal services;
- the setting of access conditions (unbundling interconnection, leased lines, etc.) when providers cannot reach an agreement;
- the approval of national numbering plans;
- the setting of the implementation modalities of number portability and of the free choice of the provider;
- decision-making regarding monitoring measures and administrative sanctions.

As stipulated by the Telecommunications Law, ComCom calls on the Federal Office of Communications (OFCOM) for the preparation of the cases and the execution of its decisions.

#### Facility sharing

For reasons of public interest, OFCOM may require providers of telecommunication services to allow joint use of their installations for an appropriate compensation. This is particularly relevant for mobile operators. Mobile-concessions include a clause on site sharing, but on a voluntary basis. ComCom has published a



guideline about technical elements which can be shared.

#### Local loop unbundling

Local loop unbundling on regulated terms and conditions is limited to twisted copper pair loops. At the moment, the unbundling on regulated terms and conditions of fibre local loops is not permitted by law. Demand for unbundled local loops reached its maximum in summer 2012. Since then, demand has decreased rapidly. To cope with the demand for higher bandwidths, operators who unbundled local loops are substituting them with other wholesale products available on commercial terms and conditions. These commercially offered access products may be unbundled fibre local loops or any type of bitstream.

SMP operators were required to offer local bitstreams over copper local loops on regulated terms and conditions during four years only. Since 2014, there has no longer been a reference offer for local bitstream.

#### Number portability

Providers must ensure portability of numbers and freedom of choice in the selection of suppliers of national and international connections.

#### Spectrum management

Auction of all mobile frequencies (including the "digital dividend" in the 800 MHz band as well as the 2,600 MHz band).

Orange, Sunrise and Swisscom were assigned mobile telephony frequencies in the auction that took place in early 2012. The assignment concerned frequencies that were already free or that would soon become free, and all those granted to operators in the past (all in all 620 MHz were offered, of which 575 MHz were allocated). The auction covered the spectrum bands 800, 900, 1,800, 2,100 and 2,600 MHz. All three companies won 20 MHz in the 800 MHz band (digital dividend). The frequencies may be used on a technology-neutral basis, which means, all mobile radio technologies (including LTE/4G) can be used in all these bands. While fully open, the auction did not attract any new entrants or MVNOs.

Roaming: There are transparency obligations regarding roaming for SMS. Operators may decide to apply the EU zero rate. However termination fees are higher in Switzerland than in the EU, hence operators tend to resort to commercial negotiations with their partners. On the other hand, roaming fees are increasingly included in the bundled offers.

#### Transparency

New provisions regarding transparency entered into force in 2015.

Firstly, the protection of value added services consumers was improved via the reinforcement of the provisions on the indication of prices. Article 11a *bis*, al. 3, of the Ordinance on the Indication of Prices (OIP; RS 942.211) stipulates that when a service is offered via internet and is billed on a provider's invoice or via a pre-paid connection, it can only be billed to the final consumer if this consumer has explicitly confirmed the acceptance of the offer.

Furthermore telecommunication providers will no longer be able to bill supplements in excess of the indicated prices, for instance for the establishment or the duration of a call towards a number giving access to a value-added service. Calls to the 0800 numbers will hence become truly free whatever the origin of the call, a fixed connection or a mobile (new Articles 39a et 39b of the Ordinance on Telecommunications OST). Finally, price transparency was also improved regarding calls directed to numbers dedicated to companies' networks (058). When initialising the call, customers will be have to been informed, simply and for free, when additional taxes will be billed for such calls as compared to numbers containing a geographical dialling code (Article 10, al. 1 *bis*, OST).

Accounting rates: not used.

#### Licensing

Switzerland applies a registration ("announcement") regime for telecommunications network and service providers. Licensing is only used for the right of use of frequencies and the universal service obligation.

#### Universal service (beneficiaries, contributors, services covered, level, expenditures, method of calculation and management)

ComCom shall ensure that the universal service (US) is guaranteed for all sections of the population in all parts of Switzerland. To this end, it shall periodically grant one or more US licences. An invitation to tender shall be issued for the granting of the licence(s). The procedure shall be conducted in accordance with the principles of objectivity, non-discrimination and transparency.

If it is clear in advance that the invitation to tender cannot proceed under conditions of competition, or if it does not produce any suitable candidates or when only one bid was submitted, the ComCom may appoint one or more providers of telecommunications, obliging them/it to offer the services making up the US.

On 21 June 2007, ComCom designated Swisscom, the only applicant, as the universal licensee for a period of 10 years, i.e. from 1 January 2008 to 31 December 2017. To date, the US licensee has not applied for any financial compensation. Any compensation would be provided from a universal service fund (USF). The

decisive factor in calculating a provider's fee is its turnover in the services provided in the country minus the costs of the telecommunications services it has purchased wholesale from third-party providers or billed for third parties. Providers with a relevant annual turnover of less than SwF 5 million are exempted from the fee.

The content of the US, which is examined periodically by the Federal Council, consists of public telephone service (national and international calls, telefax) and data transmission (Internet access) at a fixed location, emergency call services, public payphones and specific services for disabled persons. Mobile telephony is not part of the US. However, the US provider is free to use the most suitable technology. For example, it may provide US in the form of mobile communication; such cases do effectively occur in mountain areas. Some of these services are tagged with a ceiling price. The US licensee must measure, and report yearly, on the quality of the services. The latest modification, which concerns the broadband data rate (Internet connection at a "new" minimum speed of 2,000/200 kbit/s), entered into force on 1 January 2015. There are no specific regulations on universal service and cross-subsidization.

Source: Information provided by the authorities.

**Table 4.7 Telecom tariffs, 2012-15**

	2012	2013	2014	2015
<b>Fixed-lines national services<sup>a</sup></b>				
Index of real prices for a:				
small user	91.8	92.5	96.9	100.0
medium user	98.0	99.2	99.7	100.0
large user	93.1	94.8	99.6	100.0
<b>Mobile services<sup>b</sup></b>				
Index of real prices for a:				
small user	100.0	90.6	76.5	66.2
medium user	100.0	94.7	91.8	72.1
large user	100.0	104.0	95.7	70.4
<b>Internet services (only broadband services)<sup>a</sup></b>				
Index of real prices for a:				
small user	133.5	126.1	116.5	100.0
medium user	147.6	148.6	121.3	100.0
large user	131.0	133.5	106.8	100.0
<b>Access/Interconnection rates<sup>c</sup></b> (monthly charge per line)	15.8 <sup>d</sup>	15.8 <sup>d</sup>	13.5 <sup>d</sup>	12.2 <sup>d</sup>

a Indexed data: 2015=100.

b Indexed data: 2012=100.

c Wholesale price of unbundled local loop.

d Price as offered by Swisscom (SMP operator). Due to open legal procedures the price might be changed by ComCom in the final decision.

Sources: Retail Data: OFCOM Statistical Observatory. Viewed at: [www.ofcom.admin.ch](http://www.ofcom.admin.ch).

Interconnection rates: information provided by the Swiss authorities.

**Table 4.8 Retail mobile roaming rates, 2015**

Service (prices in SwF per minute/SMS/MB)	Q4 2015
Retail voice roaming: calls made – prepaid & post-paid – EU – based on billed minutes	0.319
Retail voice roaming: calls made – prepaid & post-paid – rest of world – based on billed minutes	1.994
Retail voice roaming: calls received – prepaid & post-paid – EU – based on billed minutes	0.196
Retail voice roaming: calls received – prepaid & post-paid – rest of world – based on billed minutes	1.592

Source: Retail Data: OFCOM Statistical Observatory. Viewed at: [www.ofcom.admin.ch](http://www.ofcom.admin.ch).

Wholesale Data: information provided by the Swiss authorities.

### 4.3.2.2 Liechtenstein

4.117. The telecommunications sector in Liechtenstein is governed by the applicable EEA Law.<sup>65</sup> Box 4.13 below provides the main economic indicators of the sector, while Box 4.14 describes the main features of its regulatory regime.

#### Box 4.13 Market structure and main economic indicators of Liechtenstein's telecommunications sector, 2016

##### Main actors

Name and market share of the leading company for fixed telecom services: Telecom Liechtenstein AG (85% market share).

Name and market shares of the leading companies for mobile telephones services: Salt (Liechtenstein) AG/Salt Mobile SA (40% market share), Swisscom (Schweiz) AG (39% market share), and Telecom Liechtenstein AG (19% market share).<sup>a</sup> Swisscom (Schweiz) AG and Salt Mobile SA have a significant number of cross-border customers living in Liechtenstein, who subscribe to their Swiss mobile networks (with Swiss number ranges +41 7xx and contracts subject to Swiss legislation over which the National Regulatory Authority of Liechtenstein has no jurisdiction).

Companies providing value added telecom services: Telecom Liechtenstein AG

Foreign ownership participation in telecom companies: Some two thirds of all registered enterprises are fully or partly owned by foreigners. The Austrian Mobilkom Beteiligungs GmbH holds a 24.9% share in Telecom Liechtenstein AG. Salt (Liechtenstein) AG and Swisscom (Schweiz) AG are 100% foreign-owned.

State ownership: Liechtensteinische Kraftwerke (LKW) owns, operates and maintains the major part of the fixed communication network infrastructures (Twisted Copper, HFC and fibre), and is 100% state-owned. The Principality of Liechtenstein retains 75.1% ownership of Telecom Liechtenstein AG. Both LKW and Telecom Liechtenstein AG are regulated, due to significant market power (see Box 4.14, paragraph on competition policy).

##### Penetration rates (2015)

Population: 37,623

Households (2010): 15,474

ISDN subscribers: 5,112

Main (fixed) telephone lines in operation: 17,312

Main (fixed) telephone lines/100 inhabitants: 46

Main (fixed) telephone lines/100 households: 112

Mobile cellular telephone subscribers (digital): 41,471

Mobile cellular telephone subscribers/100 inhabitants: 110

Internet subscribers (fixed line): 15,608

Internet subscribers (fixed line)/100 households: 101

Mobile broadband/100 inhabitants: 102

##### Tariffs (evolution of tariffs since the last TPR in 2013)

Bundle and flat rate offers are becoming predominant in both fixed and mobile services. This development makes tariff comparison more complex for the end-user

For local services: stable tariffs

For international services: stable tariffs

For mobile services: decreasing tariffs (roaming directive)

For interconnection rates: decreasing tariffs

For internet services: stable tariffs, coupled with a significant increase in Mbit/s performance for fixed and increased data volume or Mbit/s performance for mobile internet service

##### Market developments

The trend towards web- and mobile-based services continues. Although the decline in the fixed network is quite moderate compared to other countries, a strong uptake in mobile and web-based services can be observed – triggered mainly by data-only mobile internet-access offered by one provider for international travellers. In the fixed network, a trend towards IP-based voice services, which are bundled with internet-access and TV, can be observed.

Currently, many discussions are taking place regarding "Internet of Things" and "Machine-to-Machine-Communication" and mobile operators are investing intensively in the development and deployment of services and infrastructure. These developments are closely monitored by the Office for Communications – especially

<sup>65</sup> See Annex XI to the EEA Agreement. Viewed at: <http://www.efta.int/media/documents/legal-texts/eea/the-eea-agreement/Annexes%20to%20the%20Agreement/annex11.pdf>.

with regard to the competition in the traditional telecoms markets.

#### **Establishment of new companies, mergers or closures since the last TPR in 2013**

Since the last review, 15 enterprises have left the notification register (ceasing telecom services in the Liechtenstein market), and 12 enterprises notified entrance to the telecom market of Liechtenstein, all of them focusing on business customers (data services) or telecom service providers (wholesale offers, e.g. mobile messaging, IoT, and fixed voice interconnection). Mobilkom Liechtenstein AG merged into Telecom Liechtenstein AG in August 2014. This was the only change with relevance to the national retail market.

- a The last 2%-market share is held by "non-leading companies" as only a few people in Liechtenstein have contracts with them. The companies are: Sunrise, European Internetworking and First Mobile. Sunrise customers have to pay roaming fees in Liechtenstein. European Internet ceased to exist recently and First Mobile is a start-up in its early stages

Source: Information provided by the authorities.

### **Box 4.14 Regulatory framework of telecom services in Liechtenstein**

#### **Recent or planned regulatory changes**

The telecommunications market in Liechtenstein is subject to vertical separation, separating the provision of the passive network infrastructure from the provision of services. In order to enhance efficiency, in the sense of maximizing consumer welfare and achieving optimal allocation of resources (e.g. avoiding double investments into the communication networks and achieving synergies with the electric power network infrastructure of Liechtensteinische Kraftwerke), the Government of the Principality of Liechtenstein decided to separate the passive network and the active network for the provision of services by means of a "consolidation agreement" signed by the state-owned Liechtensteinische Kraftwerke (LKW) and Telecom Liechtenstein AG. The purpose of the agreement was to concentrate all retail customer relationships and intelligent network components (active network) in Telecom Liechtenstein's hands and to combine all passive network components, including in particular the local loop, transmission lines, cable routes, civil engineering infrastructure, in the hands of Liechtensteinische Kraftwerke. LKW is obliged to grant unhindered, non-discriminatory wholesale access to the passive network to all registered telecommunication service providers. The agreement, which was also notified to the EFTA Supervisory Authority (ESA), was put into effect on 1 January 2007.

Since the EU telecommunications regulatory framework applies through the EEA, Liechtenstein has transposed the Telecom Package 2002, including the Access Directive (2002/19/EC); the Authorization Directive (2002/20/EC); the Framework Directive (2002/21/EC); the Universal Service Directive (2002/22/EC); and the e-Privacy Directive (2002/58/EC).

As a result, a new Communication Act<sup>a</sup> entered into force in June 2006.

In 2007, the corresponding ordinances of the Communication Act entered into force (Ordinance concerning the Responsibilities and Powers of the Regulatory Authority in the Field of Electronic Communication of 3 April 2007, Ordinance concerning Electronic Communications Networks and Services of 3 April 2007, Ordinance concerning Means of Identification and Frequencies in the Field of Electronic Communication of 8 May 2007, Ordinance about Levy of Usage and Administration Fees by the Communication Act of 13 April 2004 (Revision), the Liechtenstein Numbering Plan referred to as ITU-T E.164 of 3 April 2007 and Ordinance concerning Radio Equipment and Communications Terminal Equipment of 3 April 2007).

The Communication Act was revised in 2010<sup>b</sup> due to changes in the legal environment as well as technical advancement in electronic communication. Other reasons for the revision were the protection of users and the fight against the abuse of call numbers. In the same year, the main part of the corresponding ordinances was also revised.

The Telecom Package 2009, which consists of Directives 2009/136/EC and 2009/140/EC as well as Regulation (EC) 1211/2009, is currently under preparation to be incorporated into the EEA Agreement. Another revision of the Communication Act will transpose, *inter alia*, the amendments of the new telecom package directives into national law.

Furthermore the relevant roaming regulations were transposed into Liechtenstein's laws implementing the respective roaming tariffs. The Office for Communications is closely screening the application of these tariffs.

**Mobile roaming and net-neutrality:** On 26 November 2015, the European Union adopted Regulation 2015/2120 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No. 531/2012 on roaming on public mobile communications networks within the Union. As in Regulation 531/2012, the political aim is to eliminate the differentiation between domestic and roaming tariffs. The new regulation provides for the abolition of roaming surcharges. Furthermore, it aims to establish common rules to safeguard equal and non-discriminatory treatment of traffic in the provision of internet access services and related end-users' rights. It aims to protect end-users and simultaneously guarantee the continued functioning of the internet ecosystem as an engine of innovation. The supervision and control of enforcement rests with

the National Regulatory Authority. Therefore, the Office for Communications is competent and responsible for the transposition into national law and for ensuring the correct application by the operators.

### **Interconnection**

Telecom Liechtenstein AG and Liechtensteinische Kraftwerke are obliged to make their infrastructure and services available to other enterprises offering telecommunication services, in a neutral, non-discriminatory, and cost-based manner. Interconnection obligations are based on the relevant EU principles and therefore apply to all market participants. Neither Telecom Liechtenstein AG nor Liechtensteinische Kraftwerke enjoys any exclusive rights.

On national level, the mobile operators are interconnected to Telecom Liechtenstein AG only. All operators run further international interconnections. Mobile interconnection charges are agreed between operators. The mobile termination fees are regulated as a result of the mobile termination market analysis, by a phased reduction of price caps ending at 0.0765 SwF/min as of 1 January 2013. As of 1 May 2016, the termination tariffs had been reduced to 0.039 SwF/min as a result of an agreement between the Liechtenstein operators responding to the measures of the Roaming IV Regulation, which will abolish roaming tariffs within the EEA.

### **Competition policy**

Market analysis/enquiries: In 2009-2012, the Office for Communications conducted several market analyses on the markets for access to the public telephone network at fixed locations ("M1"), call origination and termination on fixed networks ("M2" and "M3"), network infrastructure access at fixed locations ("M4"), broadband ("M5"), terminating segments of leased lines (wholesale market; "M6"), trunk segments of leased lines (wholesale market) and mobile termination ("M7"). The Office for Communications finalized the market analysis for M6 as defined by the EFTA Surveillance Authority (ESA) in the recommendation of 5 November 2008, concluding that there was no dominant position in M6.

In 2013-2016, the market for physical access to infrastructures in the core network was analysed by the Office for Communications with the result that Liechtensteinische Kraftwerke has significant market power. Liechtensteinische Kraftwerke was obliged to grant access to their network (including the access to ducts and other passive infrastructure) in a non-discriminatory manner, charging cost-oriented prices. Furthermore, Liechtensteinische Kraftwerke is obliged to adhere to accounting separation, non-discrimination, publication of a reference offer and transparency.

The relevant reference offer for granting access to the twisted pair copper network as well as the reference offer for collocation were both revised in 2014 and approval was granted in January 2015. Also in January 2015, the relevant prices were approved by the Office for Communications.

In addition, preliminary work for reanalysing the market for voice call termination on individual mobile networks has commenced.

Dominant suppliers: The Office for Communications identified Telecom Liechtenstein AG (in M1, M2, M3, M5, M7, Liechtensteinische Kraftwerke (in M4 and in the market for physical access to infrastructures for high-capacity transmission routes in the core network) as well as each mobile network operator (M7) as providers with significant market power, and applied specific regulatory remedies under the Communication Act of June 2006. In the wholesale market of leased lines, comprising trunk as well as terminating segments, effective competition prevails and no measures of special regulation are required in the sense of an ex-ante regulation.

### **Other regulatory aspects**

Regulatory supervision: The Office for Communications (online information available at: <http://www.llv.li/#/1833/> in English)

Facility sharing and local-loop unbundling: Both services are offered by Liechtensteinische Kraftwerke to registered telecom service providers under transparent, cost-oriented, non-discriminatory conditions, according to the reference unbundling offer, which was authorized by the Office for Communications in the framework of the M4 market analysis.

FTTB network infrastructure (fibre to the building): Liechtensteinische Kraftwerke is preparing the rollout of a national FTTB access network, with expected completion in the early 2030s. The Office for Communications is following the project planning of Liechtensteinische Kraftwerke in order to make sure that the future offer of glass fibre local loops as well as the migration phase will be in line with the regulatory obligations (non-discrimination and transparency) and will further competition in the telecoms market.

Number portability: Not implemented. A consultation conducted by the Office for Communications in June 2012 resulted in low interest from the alternative providers in Liechtenstein, since the costs for (mobile) number portability would be extremely high due to the relatively low numbers of users on each network.

Spectrum management: The Liechtenstein Frequency Allocation Plan (FAP) consists of several parts including the principles of spectrum management. These principles are described with a transparent approach on both national and international levels. The integral components of FAP are: frequency ranges and radio interface requirements, as well as comprehensive lists of specific assignments and harmonized frequency ranges. All the relevant CEPT and ECC or European Commission decisions are also listed and referenced in the FAP.

The technical and operational requirements of the frequency use in Liechtenstein create a transparent and comprehensive picture which reflects the components of the R&TTE and soon to be introduced RED directives

of the European Union. This is important for the users themselves, but above all for the manufacturers and distributors of radio devices.

The FAP complies fully with the ITU (International Telecommunication Union) and the CEPT (European Conference of Postal and Telecommunication Administrations) recommendations.

Viewed at: <http://www.llv.li/files/ak/pdf-llv-ak-frequenzzuweisungsplan.pdf>.

**Accounting rates:** not used.

**Licensing:** The 2006 Communication Act eliminated the licencing system. All activities in the area of electronic communication are licence-free; however a notification to the Liechtenstein Office for Communications, the national regulatory authority, is required.

**Universal service:** provided by Telecom Liechtenstein AG.

- a The text of this Act is available at:  
[https://www.gesetze.li/lilexprod/lgsystpage2.jsp?search\\_loc=text&rechts\\_gebiet=0&menu=0&tables\\_el=0&observe\\_date=18.10.2016&formname=showlaw&lqblid=2006091000&version=1](https://www.gesetze.li/lilexprod/lgsystpage2.jsp?search_loc=text&rechts_gebiet=0&menu=0&tables_el=0&observe_date=18.10.2016&formname=showlaw&lqblid=2006091000&version=1).
- b The text of this Act, as revised in 2010, is available at:  
[https://www.gesetze.li/lilexprod/lgsystpage2.jsp?search\\_loc=text&rechts\\_gebiet=0&menu=0&tables\\_el=0&observe\\_date=18.10.2016&formname=showlaw&lqblid=2006091000&version=2](https://www.gesetze.li/lilexprod/lgsystpage2.jsp?search_loc=text&rechts_gebiet=0&menu=0&tables_el=0&observe_date=18.10.2016&formname=showlaw&lqblid=2006091000&version=2).

Source: Information provided by the authorities.

### 4.3.3 Postal, express and courier services

#### 4.3.3.1 Switzerland

4.118. Box 4.15 below describes the main features of the postal services sector in Switzerland.

#### Box 4.15 Main features of the Swiss postal sector, 2016

##### Gross value added (% of total economy)

2006: 0.80

2011: 0.73

2014: 0.52

##### Employment in the sector (% of total)

2006: 1.17

2011: 0.92

2015: 0.85

Governmental authority: Federal Department of Environment, Transport, Energy and Communications (DETEC)

Regulatory authorities: the regulation of the sector is shared among three authorities:

- The Federal Office of Communications (OFCOM) prepares the official decisions of the DETEC, the Federal Council and the Parliament relating to matters in the postal sector. It systematically observes and analyses the national and international markets in the postal sector, supervises the services provided under the universal service regarding provision of payment transaction services as well as access to those services. Furthermore, it evaluates the postal legislation and develops new legal principles. In addition, it attends international affairs in the postal sector and in the sector of payments and it evaluates applications for press support.

- The Postal Commission (PostCom) is an independent regulatory authority. It monitors universal services, checks that Swiss Post computes correctly the net costs of universal service and respects the prohibition of cross-subsidization. At the request of the municipalities concerned, PostCom emits recommendations to Swiss Post in case of closure or transfers of post offices or of their transformation into agencies (i.e. a partner who undertakes postal operations on behalf of Swiss Post, e.g. a grocery store). It adjudicates disputes between postal services providers concerning access to P.O. boxes or exchange of addresses data. It administers the registration of postal services operators and monitors the application of usual social and working conditions of the branch by these operators. Finally, it institutes and monitors the "Independent Conciliation Organ" which is tasked with making proposals of conciliation in cases of dispute between postal services providers and their clients.

- "Mister Price" (Preisueberwacher) is the price surveillance authority with a right of recommendation for the prices of the reserved services, which are subject to final approval by the Federal Council. For non-reserved services, it has a right of decision for services where Swiss Post has a dominant position. In case of price abuse, it must first try to obtain an out of court settlement.



Designated operator

Swiss Post is legally obliged to ensure the universal service for postal services and payment services. The scope of the universal service obligation is defined in the Postal Law (LPO; RS 783.0) of 17 December 2010 and the Postal Ordinance (OPO; RS 783.01) of 29 August 2012. The mandate is not limited in time. The Postal Law must be evaluated every 4 years and the scope of the universal service obligation will be adapted if necessary. The first evaluation report was published by the Swiss Government by the end of 2016.

Swiss Post is a public law limited company held at 100% by the Swiss Confederation.

Restructuring/postal reform

The law on postal reform was voted on by the Parliament on December 2010 and entered into force together with the postal ordinance on December 2012. The reform process was declared concluded by the Federal Council on June 2013. The reform entails the transformation of Swiss Post into a public law limited company and its separation from Post Finance. The postal ordinance specifies notably the scope of the universal service regarding postal services and payments services, various rules regarding the regulation of the market, interoperability, the price support mechanism for the diffusion of the press and institutional arrangements.

Universal service

Deposit, collection, transport and distribution of all letters and of parcels up to 20 kilogrammes at least five days a week according to uniform principles in terms of quality and tariffs. Swiss Post must exploit a network of post offices covering the entire territory and ensure that services are available at a reasonable distance for all regions and all segments of the population.

Reserved services

Letters whose weight does not exceed 50 grams, of a maximum thinness of 2 cm and of B4 format (353x250 mm) for a price that can reach up to three times the base tariff for letters.

Services opened to competition: the parcels market has been fully opened to competition since 1 January 2004. Companies providing non-reserved services and whose turnover exceeds SwF 500,000 must "announce" the commencement of their activities to PostCom in the framework of an "ordinary announcement obligation". Companies offering such services but having a turnover below this threshold are subject to a simplified announcement procedure.

Rates: the Federal Council sets maximum/ceiling rates for reserved service through an ordinance. The rates of the various services must be fixed according to economic and uniform principles. In particular, the tariffs of letters and parcels covered by universal services must be set independently from distance. The competent authorities only check compliance with these principles on a case-by-case basis.

Financing methods: Swiss Post must self-finance its activities and has no access to financial markets. The Federal Council set quadrennial objectives for the company. The present objectives cover the period 2013-2016.

Status of personnel: since the 2010 reform, the personnel hired by Swiss Post have had a private law status. All the employment contracts had to be transferred to a private law status agreement within two years of 1 October 2012 (entry into force of the new postal law). The transformation was completed in Summer 2016.

All postal providers including Swiss Post and the subcontractors with which they realize more than 50% of their turnover must abide by the usual working and social conditions of the branch and conclude a collective working agreement.

Source: UPU; information provided by the authorities and Swiss statistics. Viewed at: <http://www.bfs.admin.ch/bfs/portal/en/index/themen/06/02/blank/data.html> (28 September 2016); and <http://www.bfs.admin.ch/bfs/portal/en/index/themen/04/02/02.html> (28 September 2016).

4.119. Table 4.9 below shows the turnover of Swiss Post and its various perimeters and of the alternative postal providers (as a group), employment figures, as well as the number of alternative postal services providers subject to the two "announcement procedures". There is no information available on the market share of foreign-owned postal services providers.

**Table 4.9 Main economic indicators of the Swiss postal services sector, 2015**

	2015
Swiss Post Group: Operating income (includes all activities, for example, communication market, logistics market, passenger transport market, financial services market)	SwF 8,224 million
Swiss Post (not including associated companies with postal services): Revenues from postal services (includes letters up to 2 kg; parcels up to 30 kg, newspapers, periodicals, express courier, domestic, import, and export)	SwF 3,118 million

	2015
Other postal services providers: Revenues from postal services (includes letters up to 2 kg, parcels up to 30 kg, newspapers, periodicals, express courier, domestic, import, and export)	SwF 819 million
Number of postal services providers subject to the ordinary duty to register	41
Number of postal services providers subject to the simplified duty to register	116
Employment postal sector	62,341 employees or 44,131 full-time equivalents (Swiss Post Group)

Source: Information provided by the authorities.

4.120. Switzerland does not have any GATS commitments regarding postal services (i.e. services defined by the CPC/W120 classification system as the collection, pick up, transport and distribution of letters and parcels by public entities) and courier services (the same services provided by private entities). But Switzerland has subsequently undertaken extensive commitments in these sectors. The formulation of these FTAs commitments varies somewhat depending of the agreement concerned.

4.121. With respect to recent FTAs, such as the Agreement between EFTA and Central America (Costa Rica, Guatemala and Panama), Switzerland undertook some commitments in the area of postal and courier services. However, these commitments are limited to "express delivery services" defined in the agreement as follows: "Express delivery services are taken as "*letter deliveries*" which are delivered at five times the price applied by Swiss Post (La Poste Suisse/Die Schweizerische Post) to the delivery of a priority letter of first level of weight and format and as "*parcel deliveries*" which are delivered at double the basic tariff applied by Swiss Post to the delivery of a parcel of first level of weight, as according to Swiss law". The commitments for "express delivery services" are full for market access and national treatment

4.122. Regarding more specifically the express services subsector, express carriers are considered as alternative postal services providers by the Postal Law. Hence, they are subject to an announcement procedure and to the working conditions of the postal and courier sector. There is no specific licencing regime. Switzerland does not apply any GATS market access or national treatment restrictions to the sector and only requires evidence of an address in Switzerland for the company's headquarters.

4.123. As evidenced by Table 4.10 below, express carriers are among the top postal services providers in Switzerland both in terms of volume and revenues

**Table 4.10 Number of postal service providers with more than 1% of the total Swiss postal market, 2015**

	2015	Including express and courier services	Notes
In terms of volume	5	Yes	letters, parcels, newspapers, periodicals, also all express and courier services, domestic, import, and export
In terms of revenues	7	Yes	letters, parcels, newspapers, periodicals, also all express and courier services, domestic, import, and export

Source: Information provided by the authorities.

#### 4.3.3.2 Liechtenstein

4.124. Liechtenstein's accession to the EEA brought major changes in the area of postal services. Since 1 January 2000, all tasks regarding postal services previously performed by the Swiss Post have been taken over by the Liechtensteinische Post AG. In addition, the Liechtensteinische Post AG is universal service supplier.

4.125. In 2004, the Postal Act was amended with regard to the further opening of the postal market.<sup>66</sup> The monopoly limit regarding the conveyance of letters was lowered to 100 grams, and then to 50 grams as of 2006.

4.126. Directive 2008/6/EC (Third Postal Directive) provides for the total liberalization of postal services within the Single Market. The gradual opening of the market and the liberalization of the postal services has entered into a crucial phase. The Member states are obliged to ensure that high quality universal services are offered for an affordable price. The establishment of an independent national regulatory authority is one of the main pillars of the EU postal reform. It also contains the legal framework for the definition of universal service obligations and tariff principles, and provisions concerning the transparency of the accounting of universal service providers as well as the determination of and compliance with quality standards. This directive has not been incorporated into the EEA Agreement yet. However, the preparatory work for national implementation has been completed.

#### 4.3.4 Architectural services

4.127. Architectural services in Switzerland are lightly regulated as there is no federal legislation limiting the access to the profession and only 6 cantons out of 26 regulate access.

4.128. Box 4.16 describes the main economic indicators and regulatory features of architectural services in Switzerland.

#### Box 4.16 Main economic and regulatory features of architectural services in Switzerland

##### Statistical data

Number of architects (2015): 5,330

##### Regulatory data

##### GATS commitments

None for modes 1, 2 and 3 for market access, none for modes 1, 2 and 3 except for national treatment for the Canton of Lucerne where three years of prior professional practice in Switzerland is required for modes 1 and 3.

##### FTAs commitments

- for positive listing agreements (EFTA-Colombia, EFTA-Korea, EFTA-Singapore, EFTA-Ukraine, Switzerland-China: none for market access and national treatment for modes 1, 2 and 3.  
- for negative listing agreements (EFTA-Hong Kong, China, Japan-Switzerland): full commitments except one reservation to national treatment for an existing measure regarding official certification for construction authorizations and stipulating that "Applications for construction authorizations may require the signature of a natural person registered in the Swiss Registers of Engineers, Architects and Technicians (REG)".

##### Applied regime

There is no federal legislation limiting access to the profession and only 6 cantons out of 26 regulate this access. In the other cantons, the architectural profession is not regulated. This means that the foreign architect does not need to obtain recognition of his/her professional qualifications and may work directly on the basis of his/her foreign qualification. In the 6 cantons where the profession is regulated the rules are the following:

##### - access

In the Cantons of **Geneva**, **Vaud**, and **Neuchâtel**, an authorization is required in order to work in this profession. Authorization is granted on the basis of proof of specific professional qualifications. In these cantons, authorization to work in this profession is set forth in spatial planning legislation. It is therefore

<sup>66</sup> The relevant basic legislation is available at:

[https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lqblid=1999035000&version=5&search\\_loc=titel&lrnr=783.0&sel\\_lawtype=conso&compl\\_list=1&rechts\\_gebiet=0&menu=0&tablesel=0&observe\\_date=26.04.2016](https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lqblid=1999035000&version=5&search_loc=titel&lrnr=783.0&sel_lawtype=conso&compl_list=1&rechts_gebiet=0&menu=0&tablesel=0&observe_date=26.04.2016) (Act of 18 December 1998 on the Liechtenstein Postal System (Postal Act) LGBl. 1999 No. 35 (LR 783.0));

[https://www.gesetze.li/lilexprod/lqpage2.jsp?formname=showlaw&lqblid=2004106000&version=0&search\\_loc=text&lqblid\\_von=2004106000&lqblid\\_bis=2004106000&sel\\_lawtype=chrono&rechts\\_gebiet=0&menu=0&tablesel=0&observe\\_date=28.10.2016](https://www.gesetze.li/lilexprod/lqpage2.jsp?formname=showlaw&lqblid=2004106000&version=0&search_loc=text&lqblid_von=2004106000&lqblid_bis=2004106000&sel_lawtype=chrono&rechts_gebiet=0&menu=0&tablesel=0&observe_date=28.10.2016) (Act of the Amendment of the Postal Act, LGBl. 2004 No. 106, (LR 783.0)); and

[https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lqblid=1999248000&version=3&search\\_loc=titel&lrnr=783.0&sel\\_lawtype=conso&compl\\_list=1&rechts\\_gebiet=0&menu=0&tablesel=0&observe\\_date=26.04.2016](https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lqblid=1999248000&version=3&search_loc=titel&lrnr=783.0&sel_lawtype=conso&compl_list=1&rechts_gebiet=0&menu=0&tablesel=0&observe_date=26.04.2016) (Ordinance of 14 December 1999 to the Postal Act, LGBl. 1999 No. 248, (LR 783.01)).

required in order to sign building permit applications. If the architect does not intend to sign building permit applications, e.g. because he/she works as an employee of an architectural firm and the building plans are signed by the employer or by another architect holding such authorization, therefore working in the profession is possible without the need for recognition (i.e. the profession is not regulated).

Authorization to work in this profession is required regardless of how the profession will be carried out, i.e. on a long-term basis (domiciliation in Switzerland) or on a more temporary basis (provision of services, limited to 90 days per calendar year within the framework of the Agreement of 21 June 1999 on the Free Movement of Persons).

In the Canton of **Fribourg**, the situation is identical with the exception that if the architect provides services without becoming domiciled within the territory of the Canton of Fribourg, he/she must be qualified to work in this capacity and must obtain recognition of his/her qualification before starting to carry out this activity (i.e. the profession is regulated). However, no formal authorization to carry out this profession will be issued to him/her. In such cases, when submitting a building permit application to the competent cantonal authority, the architect providing the services must show proof that his/her professional qualifications have been recognized.

In the Canton of **Ticino**, the person must obtain authorization from the Ordine Ingegneri e Architetti del Canton Ticino (OTIA) in order to work as an architect. This authorization is also specifically requested both when applying for a building permit (Art. 4 of Building Code) and for the project study and execution phases for contracts subject to legislation on public procurement contracts (Art. 34 al. 1 let. d of RLCPubb/CIAP). It is therefore specifically required in order to sign building permit applications and to manage construction. This requirement applies both to architects domiciled in Switzerland and to architects who only provide services on a temporary basis.

In the Canton of **Lucerne**, architects must have the necessary training but there is no procedure for registration with a professional association or register, nor is there any requirement to obtain authorization to work in this profession.

#### Qualifications

- A local qualification: a Bachelor's or Master's degree from a Swiss higher education institution (UAS, EPFL or USI) and a non-compulsory inscription in the Swiss Register of Engineers, Architects and Technicians (REG) (either Architect REG A: full scope of exercise, or REG B: narrower scope of exercise<sup>a</sup>). Inscription in the REG is one way to obtain cantonal authorization, but it is not the only one. Cantonal authorization is also issued if the applicant has a Bachelor's or Master's degree but is not registered in the REG. Additionally, it is possible for a construction draftsman (without being architect), for example, to pass a special examination at the REG ("self-made architect" exam) to obtain cantonal authorization, even if he/she does not hold a BSc or MA degree as an architect;

- or, alternatively, a recognized foreign qualification, which grants the same rights as those enjoyed by holders of a Swiss qualification with the sole exception of the right to use a legally protected qualification title.

There are two main legal bases and procedures for the recognition of foreign qualifications, one specific for EU and EFTA citizens and one generic applying to both EU and EFTA citizens and citizens of other states.

- First, the Agreement of 21 June 1999 on the Free Movement of Persons (AFMP) allows citizens of EU/EFTA countries to seek recognition of their professional qualifications if they are fully qualified, in their country of origin, to work in this profession in question. The AFMP refers to its Annex III to Directive 2005/36/EC on the recognition of professional qualifications. For architects holding a qualification listed in Annex 5.7.1 or Annex VI of the Directive, this directive provides for automatic recognition (i.e. no need to examine the content of training). For architects who are fully qualified in their country of origin but whose qualification is not listed in either of these two annexes, recognition of the qualification will require comparison of training content and possible "compensatory measures" i.e. additional exams and tests.

- Second, the Ordinance of 12 November 2014 to the Higher Education Act provides for recognition of foreign qualifications that are comparable to a degree programme at a Swiss university of applied sciences (UAS). It applies indistinctly to citizens of EU/EFTA member States. It establishes various criteria, namely equivalence of duration, level and content of training. Training must also include acquisition of practical competences.

If the conditions for recognition are met, this procedure leads to equivalence with a Bachelor's degree or a Master's degree in architecture awarded by a Swiss university of applied sciences (UAS). It is worth noting that so far there is no legal basis enabling recognition for a Bachelor's degree or a Master's degree in architecture awarded by a Swiss federal institute of technology (the EPF in Lausanne and the ETH in Zurich). The same holds true for degrees in architecture awarded by the Università della Svizzera italiana in Lugano (USI); since there is no legal basis, it is not possible to submit a request for equivalence with the Master's degree in architecture awarded by the USI.

**Procedures**

There are 3 different procedures applicable depending on the case:

- Architects that satisfy the conditions for automatic recognition under Directive 2005/36/EC may contact SERI. They will receive a letter from SERI confirming that the qualification must be automatically recognized and that they must be automatically inscribed in the registers of cantons that regulate this activity (MPQ register in the Canton of Geneva, CAMAC in the Canton of Vaud, OTIA in the Canton of Ticino, etc.). This letter may also be presented when submitting bids for public procurement contracts. It is usually mailed out within 1-2 weeks if the application file is complete.

- For EU/EFTA architects fully qualified in their country of origin but whose qualification does not appear in Annex 5.7.1 or VI of Directive 2005/36/EC, the procedure involves comparing training content with that required for Swiss qualifications in the cantons that regulate the profession (Articles 11-14 of Directive 2005/36/EC). If the qualification is not known, this comparison may take three or four months. The amount of time required for possible compensatory measures will increase this duration.

- For architects from third States who are fully qualified to work in this profession in their country of origin, and whose training is comparable to a degree programme at a Swiss UAS, the procedure is similar to the one described directly above. However, it may last a little longer. Moreover, possible compensatory measures may be less supple than those set forth in Directive 2005/36/EC. In particular, applicants are not generally allowed to choose between the various compensatory measures.

**Scope of practice:** the regulation covers the right to sign a construction request in order to get the construction permit.

**Legal monopoly:** no, shared with civil engineers.

**Possibility for foreign architect to exercise independently:** yes.

a For more details on the REG, see <http://reg.ch/en>.

Source: Information provided by the authorities.

**4.3.5 Construction services**

4.129. Construction is a significant activity in Switzerland as it represents over 5% of the GDP.

4.130. Table 4.11 below provides the main economic indicators of the construction services sector in Switzerland.

**Table 4.11 Construction sector main economic indicators, 2006, 2011 and 2015**

	2006	2011	2015
Gross value added (% of total economy)	4.87	5.15	5.35 <sup>a</sup>
Services exports (% of commercial export services)	1.73	1.41	1.01
Services imports (% of commercial import services)	0.81	0.68	0.48
Turnover (SwF billion)			
Construction	16.37	19.70	18.38
of which:			
Building	8.96	9.46	9.06
Civil engineering	7.41	10.24	9.32
Number of new dwellings	41,989	47,174	48,000 <sup>b</sup>
Number of full-time equivalent workers of which:	81,400	82,400	78,100
Swiss (% of total)	44.23	44.30	45.20
Foreigners (% of total)	55.77	55.70	54.80

a 2014 provisional data.

b Estimates.

Source: Swiss statistics. Viewed at: <http://www.bfs.admin.ch/bfs/portal/en/index/themen/04/02/02.html> (28 September 2016); and Société Suisse des Entrepreneurs, facts and figures (2008, 2013, and 2015). Viewed at: <http://www.baumeister.ch/fr/politik-kommunikation/economie/faits-et-chiffres/> (28 September 2016).

4.131. The regulatory access regime for construction services in Switzerland is fairly liberal. Box 4.17 below describes the main regulatory features of the construction services sector in Switzerland.

### Box 4.17 Regulatory framework for construction services

#### GATS commitments

- For 3.A (general construction work for buildings), 3.B (general construction work for civil engineering), 3.D (building completion and finishing work) and 3.E (other construction and related engineering services): for both market access and national treatment: mode 1 unbound due to lack of technical feasibility, modes 2 and 3 none
- For 3.B (installation and assembly work): for market access: mode 1 unbound due to lack of technical feasibility, modes 2 and 3 none; for national treatment: mode 1 unbound due to lack of technical feasibility, mode 2 none, modes 3 and 4 unbound for installations in the area of energy, heating, water, communications and elevators

#### FTAs commitments

For positive listing agreements (EFTA-Colombia, EFTA-Korea, EFTA-Singapore, EFTA-Ukraine, Switzerland-China)

- For 3.A (general construction work for buildings), 3.B (general construction work for civil engineering), 3.D (building completion and finishing work) and 3.E (other construction and related engineering services): for both market access and national treatment: mode 1 unbound due lack of technical feasibility, modes 2 and 3 none
- For 3.B (installation and assembly work): for market access: mode 1 unbound due to lack of technical feasibility, modes 2 and 3 none; for national treatment: mode 1 unbound due to lack of technical feasibility, mode 2 none, modes 3 and 4: unbound for gas, water and electricity meters, gas pipelines, electricity and main water lines, which are reserved exclusively to cantons or municipalities or to specific operators

#### For negative listing agreements

(EFTA-Hong Kong, China; Switzerland-Japan): no restriction except for two reservations to cover respectively:

- national treatment for existing measures on official certification for construction authorizations and stipulating that "applications for construction authorizations may require the signature of a natural person registered in the Swiss Register of Engineers, Architects and Technicians (REG)"
- and national treatment and market access for existing and future measures in construction work for engineering works; services incidental to mining (limited to the oil sector) stating that "concession issued by cantons is required for the prospecting and exploitation of oil. Cantons may grant such concession on a case-by-case and discretionary basis. In the Cantons of Zürich, Schwyz, Glarus, Zug, Schaffhausen, Appenzell Innerrhoden, Appenzell Ausserrhoden, St. Gallen, Aargau and Thurgau foreign capital participation in an enterprise holding such a concession is restricted to not more than 25% (Intercantonal Agreement on the prospecting and exploitation of oil, Article 3). Other cantons apply similar measures.

Qualification: "Switzerland reserves the right to maintain, modify or adopt any measures restricting market access and/or national treatment in respect of the prospecting and exploitation of oil.

#### EU/EFTA providers

In accordance with the Agreement on the Free Movement of Persons (AFMP), professionals who are legally established in the EU/EFTA may provide services in Switzerland without permanently establishing themselves in the country. In such cases, the duration of service provision is limited to 90 days per calendar year. If the profession they wish to pursue is regulated, which is the case only in the Ticino Canton, they can take advantage of a fast-track verification procedure for their professional qualifications, as set out in the EU Directive 2005/36/EC2 and the DRPA3. The service provision must be declared in advance to SERI4.

#### Applied regime

The regulatory regime described in the negative listing agreements is applicable *erga omnes*, regardless of the nationality of suppliers.

#### Licensing, authorization or registration requirements, professional qualification requirements, and procedures (including pre-qualifications)

In the absence of federal legislation in this area, it is up to individual cantons to decide whether to regulate the building contractor profession. As it currently stands, this profession is regulated only by the Canton of **Ticino**. In all other Swiss cantons, the building contractor profession is not regulated. Consequently, anyone may work in this capacity without having to obtain prior recognition of his or her foreign qualifications.

In **Ticino**, building contractors are the persons primarily responsible for managing and organising the activities of a construction company. All work on the structure of buildings (main and secondary contract work) is regulated and therefore subject to the declaration requirement. The regulated activities include main and secondary contract work (masonry, civil engineering, road construction, etc.), and, in particular, activities that are carried out under the supervision of a civil engineer, an architect or a building contractor. These activities also include masonry work, concrete casting and reinforcement, and civil engineering work for the construction of roads, bridges and railways. Less extensive work is not regulated and may be performed regardless of the canton, i.e. without any verification of professional qualifications.



At the federal level, in all cases, persons intending to provide services must also register with the State Secretariat for Migration ([www.sem.admin.ch](http://www.sem.admin.ch), CH-EU/EFTA registration procedure) and follow the registration procedure for short-term work in Switzerland: <https://meweb.admin.ch/meldeverfahren>. This obligation also applies to non-regulated professions.

Source: Information provided by the authorities.

#### 4.3.6 Health and social services "cluster"

4.132. Under this heading the following sectors and subsectors will be described: firstly health services *lato sensu*, i.e. medical and dental services (MTN.GNS/W/120 item 1.A.h, CPC 9312) and private-hospital services (part of MTN.GNS/W/120 item 8.A, part of CPC 9311), and secondly social services (MTN.GNS/W/120 item 8.C, CPC 933) and of CPC 8121).

##### 4.3.6.1 Health services

4.133. Table 4.12 provides the main indicators of the human health sector in Switzerland.

**Table 4.12 Human health activities sector, 2006, 2011 and 2014-15**

	2006	2011	2014	2015
Gross value added (% of total economy)	4.63	4.85	5.26 <sup>a</sup>	..
Employment in the sector (% of total) <sup>b</sup>	6.0	6.5	6.8 <sup>c</sup>	7.0
Health expenditure per capita, PPP (constant 2011 international, US\$)	4,268	5,819	6,468	..
Health expenditure, total (% of GDP)	10.39	11.21	11.66	..
Health expenditure, private (% of GDP)	4.25	3.91	3.96	..
Health expenditure, public (% of total health expenditure)	59.12	64.22	66.00	..
Out-of-pocket health expenditure (% of total expenditure on health)	30.79	26.41	26.80	..
Physicians (per 1,000 people)	3.86	3.92	4.22	4.29
Swiss	..	..	..	2.9
Foreigners	..	..	..	1.4
Hospital beds (per 1,000 people)	5.4	4.9	4.6	..
Life expectancy at birth, total (years)	81.49	82.70	82.85	..
Mortality rate, infant (per 1,000 live births)	4.20	3.80	3.50	3.4
Nurses and midwives (per 1,000 people)	14.54	16.6	17.56	..

.. Not available.

a Provisional.

b Based on full-time equivalent jobs (4<sup>th</sup> quarter for each year).

c Full-time employment in category 87 (*Heime* = incl. nursing homes) is not included. This category, however, also partly contains employees working in the health sector. Therefore, the effective percentage would be higher.

Source: Federal Statistical Office. Viewed at:

<http://www.bfs.admin.ch/bfs/portal/en/index/themen/06/02/blank/data.html> (28 September 2016); and <http://www.bfs.admin.ch/bfs/portal/en/index/themen/04/02/02.html> (28 September 2016);

Population: Federal Statistical Office. Viewed at:

<https://www.bfs.admin.ch/bfs/de/home/statistiken/bevoelkerung/stand-entwicklung/bevoelkerung.assetdetail.161714.html%20> (8 November 2016);

Physicians: Swiss Medical Association (professionally active physicians). Viewed at:

<http://www.fmh.ch/services/statistik.html> (8 November 2016);

Nurses: OECD Data. Viewed at: <https://data.oecd.org/healthres/nurses.htm> (8 November 2016);

and World Bank World Development Indicators. Viewed at:

<http://databank.worldbank.org/data/reports.aspx?source=world-development-indicators> (28 September 2016).

##### 4.3.6.1.1 Medical professions

4.134. Medical professions are governed by a common regulatory regime based on a non-discriminatory economic needs test regime administered at cantonal level and geared at providing universal access to health services at an acceptable cost for the social security system. This regime is partially reflected in Switzerland's FTA commitments. According to the Swiss Medical Federation, in 2015, there were 35,325 doctors in activity in Switzerland; 18,128 of which in the

ambulatory sector; 25.9% of the ambulatory doctors are of foreign nationality, while this percentage stands at 37.5% in the hospital sector; 56% of the ambulatory doctors practice in individual cabinets while the remaining 44% practice in double or collective cabinets.

4.135. Table 4.13 describes in more detail the number of physicians and its evolution in proportion to the population.

**Table 4.13 Number of physicians and its evolution, 2010-15**

Years	Practising physicians	Professionally active physicians	Population	Practising physicians	Professionally active physicians
	Number (head count)	Number (head count)	Number	Rate per 1,000	Rate per 1,000
2010	29,803	30,273			
2011	30,327	30,849	7,870,134	3.85	3.92
2012	31,313	31,858	7,954,662	3.94	4.00
2013	32,681	33,242	8,039,060	4.07	4.14
2014	33,785	34,348	8,139,631	4.15	4.22
2015	34,762	35,325	8,237,666	4.22	4.29

Source: Information provided by the authorities.

4.136. Box 4.18 below describes the regulatory framework for medical and dental services in Switzerland.

#### Box 4.18 Regulatory framework for medical services in Switzerland

##### GATS commitments

For market access: modes 1 and 2: none; modes 3 and 4: unbound

For national treatment: modes 1 and 2: none; modes 3 and 4: Swiss nationality necessary to practise independently

##### FTAs commitments

For positive listing agreements: EFTA-Colombia; EFTA-Korea; EFTA-Singapore; EFTA-Ukraine; Switzerland-China): same as GATS commitments

For negative listing agreements: (EFTA-Hong Kong, China; Switzerland-Japan): no restrictions except for three reservations:

- One to national treatment and market access for the following existing measures:

-- The number of service suppliers admitted to practice on account of the compulsory medical and health insurance is limited per canton and per occupation (quantitative ceiling). Cantons may exclude any further admission if the density of service suppliers in the canton is above the regional or the national average (RS 832.10, Article 55a and RS 832.103, all articles).

-- Swiss nationality is required to practice a medical profession independently. However, a foreign natural person may exercise the medical profession in a practice provided the practice is located in a region where the number of professionals is proven to be insufficient (economic needs test), and if its diploma is recognized as equivalent and the foreign natural person speaks a national language. Moreover, a foreign natural person may be allowed to independently practice a medical profession in a specific hospital if that person is allowed to teach within accredited course programmes in that hospital, and if his or her diploma is recognized as equivalent. (RS 811.11, Articles 2, 12, 15, 34, 36; RS 811.112.0, Article 14). Foreign persons with Swiss diplomas can practice independently. However, regardless of nationality, only doctors with post-diploma professional experience in a recognized Swiss institute can practice independently and without being subject to quantitative limits on account of the compulsory medical and health insurance (LAMal 55a).

- One to national treatment and market access for existing (and, at cantonal level, future) measures regarding blood collection and storage whereby at federal level collecting human blood from donors for transfusion, for the manufacture of therapeutic products, or for supply to a third party, including the import of blood products, is subject to authorization. Only juridical persons domiciled in Switzerland and registered in a cantonal Commercial Register as well as natural persons residing in Switzerland may be granted such authorization (RS 812.21, Articles 2, 10 and 34) and at cantonal level authorization issued by the cantons is required for operating establishments such as hospitals which do not collect, but stock blood or blood products (RS 812.21, Article 34). Cantons have and may maintain measures restricting market access and/or national treatment.

- And one to national treatment and market access for maintaining, modifying or adopting any measures restricting market access and/or national treatment with respect to human health, veterinary, social services or

intermediation services relating to social services, as well as related retailing services.

**EU/EFTA providers:** In accordance with the Agreement on the Free Movement of Persons (AFMP), professionals who are legally established in the EU/EFTA may provide services in Switzerland without permanently establishing themselves in the country. In such cases, the duration of service provision is limited to 90 days per calendar year. If the profession they wish to pursue is regulated, they can take advantage of a fast-track verification procedure for their professional qualifications, as set out in the EU Directive 2005/36/EC<sup>2</sup> and the DRPA.<sup>3</sup> The service provision must be declared in advance to the State Secretariat for Education Research and Innovation (SERI).

#### **Applied regime**

The negative listing FTA commitments correspond to the applied regime *erga omnes* as, regardless of nationality, only doctors with post-diploma professional experience in a recognized Swiss institute are not subjected to quantitative limits.

The number of service suppliers admitted to practice on account of the compulsory medical and health insurance is limited per canton and per occupation (quantitative ceiling). Cantons may exclude any further admission if the density of service suppliers in the canton is above the regional or the national average (RS 832.10, Article 55a and RS 832.103, all articles).

From 2013 to 2016, 18 out of 26 cantons applied article 55a LaAMal, and 8 cantons chose not to apply the limitation. For the period from 2016 to 30 June 2019, 8 cantons (Aargau, Appenzell Innerrhoden, Appenzell Ausserrhoden, Fribourg, Grisons, Jura, Zug, and Zurich) decided not to reintroduce the limitation.

In these cantons, medical professionals can practice their medical profession independently, even if they do not have the necessary 3-year-professional experience in a recognized Swiss institute (here also, the nationality of the medical professional does not matter).

#### **Qualification requirements and recognition procedures**

**UE/EFTA providers:** Medical professions fall within the scope of the Agreement of 21 June 1999 on the Free Movement of Persons (AFMP) which allows citizens of EU/EFTA countries to seek recognition of their professional qualifications if they are fully qualified, in their country of origin, to work in this profession in question. The AFMP refers to its Annex III to Directive 2005/36/EC on the recognition of professional qualifications. For medical, dental and veterinary medicine as well as for pharmacy the recognition is based on sectoral agreements (so-called "automatic recognition"). The EU Directive sets notably the minimum requirements for education and spells out explicitly in its annexes the diplomas that must be recognized. The competent authority for recognition is the MEBEKO (Federal Commission of Medical Professions)

**Other providers:** as a general rule, Switzerland does not recognize medicine diplomas delivered outside the UE and EFTA. It is however possible for a foreign doctor to obtain a Swiss federal diploma by taking the Swiss exam, regardless of his/her nationality. The academic training section of the Federal Commission of Medical Professions (MEBEKO) decides if the applicant fulfils the admission conditions of the federal exam and if the applicant must undertake all or part of the exam based on their background and professional experience.

- a Federal Act of 14 December 2012 on the Declaration Requirement and the Verification of Service Provider Qualifications in Regulated Professions, RS 935.01.

Source: Information provided by the authorities.

#### **4.3.6.1.2 Hospital services**

4.137. Hospitals, public or private, are also subject to a non-discriminatory economic needs test regime administered at cantonal level and geared at providing universal access to health services at an acceptable cost for the social security system. In addition, the Swiss health insurance law (KVG) gives the Swiss cantons the possibility of financing hospitals with a global budget, a procedure which amounts to a limitation of the total value of services transactions provided. Three cantons (Geneva, Ticino and Vaud) use this instrument so far.

4.138. There are no limitations regarding hospitals and hospital treatment not reimbursed by the Swiss social security system, such as aesthetical surgery.

4.139. The only foreign-owned hospital/clinic services operator exercising in Switzerland is the Privatklinikgruppe Hirslanden, which currently runs 16 hospitals/clinics and whose number of beds operated is shown in Table 4.14 below. Since 2007, the hospital group has been owned by Mediclinics International from South Africa.

**Table 4.14 Number of beds operated by the Privatklinikgruppe Hirslanden, 2012-16**

	2012	2013	2014	2015	2016
Number of beds	1,479	1,487	1,567	1,655	1,680

Source: Information provided by the authorities.

4.140. Box 4.19 below describes this applied regime in more detail as well as Switzerland's FTA commitments regarding hospital services.

#### Box 4.19 Regulatory framework for hospital services in Switzerland

##### GATS commitments

No commitments

##### FTAs commitments

For positive listing agreements (EFTA-Colombia; EFTA-Korea; EFTA-Singapore; EFTA-Ukraine; Switzerland-China): no commitments

For negative listing agreements (EFTA-Hong Kong, China; Switzerland-Japan): no restrictions for the three categories (medical and dental services/services provided by midwives, nurses, physiotherapists and paramedical personnel, and other human health services) except for two reservations:

- One to national treatment and market access for the following existing measures:

-- The number of service suppliers admitted to practice on account of the compulsory medical and health insurance is limited per canton and per occupation (quantitative ceiling). Cantons may exclude any further admission if the density of service suppliers in the canton is above the regional or the national average (RS 832.10, Article 55a and RS 832.103, all articles).

-- Swiss nationality is required to practice a medical profession independently. However, a foreign natural person may exercise the medical profession in a practice provided the practice is located in a region where the number of professionals is proven to be insufficient (economic needs test), and if its diploma is recognised as equivalent and the foreign natural person speaks a national language. Moreover, a foreign natural person may be allowed to independently practice a medical profession in a specific hospital if that person is allowed to teach within accredited course programmes in that hospital, and if his or her diploma is recognized as equivalent (RS 811.11, Articles 2, 12, 15, 34, 36; RS 811.112.0, Article 14).

- And one to national treatment and market access for maintaining, modifying or adopting any measures restricting market access and/or national treatment with respect to human health, veterinary, social services or intermediation services relating to social services, as well as related retailing services.

##### Applied regime

The negative listing FTAs commitments correspond to the applied regime *erga omnes* as, regardless of nationality, only doctors with post-diploma professional experience in a recognized Swiss institute are not subjected to quantitative limits. According to Article 39 KVG, the Swiss Cantons have to establish a list of hospitals eligible to provide medical services paid by the health insurance (reimbursement of in-patient hospital services is co-financed by the health insurance and by the cantons). The number of service providers has to be in line with demand/the services needed in order to ensure access of the population to in-patient care. Articles 39 and 49a KVG are applicable to all service providers regardless of their nationality or of the nationality of their owners.<sup>a</sup>

Furthermore, Article 51 KVG gives the Swiss Cantons the possibility to finance hospitals with a global budget. Currently, 3 out of 26 cantons (Geneva, Ticino and Vaud) use the instrument of hospital financing by global budget. Most global budgets are determined on the basis of the predicted quantity of services. If a hospital exceeds predicted quantity, reimbursement is limited to marginal cost of services. If applied, the measure is applicable to all service providers regardless of their nationality or of the nationality of their owners.

##### Licensing procedures for hospitals and clinics including foreign-owned ones

The establishment of a hospital requires a cantonal authorization. Furthermore, the cantons are responsible for examining whether sanitary rules and regulations are being complied with.

Article 39 of the Swiss Health Insurance Law (KVG) lists the following prerequisites which hospitals must fulfil in order to be able to provide services covered by the health insurance: guarantee of sufficient medical care, of necessary and skilled personnel, of appropriate medical equipment and of appropriate pharmaceutical provision.

a For further information, see the cantonal hospital lists (online information of the Swiss Cantonal Health Care Directors). Viewed at: <http://www.gdk-cds.ch/index.php?id=624&L=1> (available only in French and German); and the text of the Swiss Health Insurance Law (KVG). Viewed at: <https://www.admin.ch/opc/fr/classified-compilation/19940073/index.html> (available only in French, German and Italian).

Source: Information provided by the authorities.

### 4.3.6.2 Social services

#### 4.3.6.2.1 Overview

4.141. Residential care and social work activities represented 2.32% of the gross value added of the Swiss economy in 2014 and 5.24% of employment in 2015.<sup>67</sup> Social services (with or without accommodation) are normally regulated at cantonal or municipal level. In some cases federal legislation does also apply, regarding surveillance, quality of services or financing (e.g. childcare services, shelter for disabled children and placement of children out of family) or through decisions of the Social Insurance Institution (granting of benefits or any measures). Service providers are either public agencies, semi-public entities or private organizations, and they can coexist. They operate with a level of competition that varies greatly from one canton to another, or from one sector to another, and different philosophies prevail. But these kinds of services are closely supervised due to the interests to be protected and they are not very appealing to profit organizations because of limited earnings prospects, if any, and the complexity of requirements.

4.142. Most of the private organizations are non-profit organized, as a result of the policy of conditional subsidies followed by cantons and municipalities. Three legal forms are compatible with non-profit business, but services can also be provided on a profit basis with some exceptions depending on the cantons. And in some cases individuals or families can benefit from financial aid regardless of the provider, subsidized or unsubsidized. In terms of staff and management, having appropriate qualifications is a prerequisite to obtaining the necessary authorizations as a service provider.

4.143. According to the authorities and based on information available at federal level, it can be said that these conditions apply to both national and foreign service providers.

#### 4.3.6.2.2 Retirement houses and medicalized homes

4.144. Among social services, the only subsector that has real trade relevance, essentially through foreign investment/mode 3, is that of private retirement houses and medicalized homes. The other types of social services (e.g. residential care activities, establishments for disabled persons and for psychosocial problems) are essentially of a not-for-profit nature and are domestically owned, managed and provided.

4.145. There were in total 1,575 retirement houses and medicalized homes in Switzerland in 2014, 460 of which were public, 480 were private but publicly subsidized (i.e. benefitting from guaranteed subsidies based on running costs or investment costs and/or from a guaranteed coverage of the exploitation deficit) and 635 were purely private. As illustrated by the table below public retirement houses tend to prevail in the western part of the country while private establishments dominate in the eastern part (Table 4.15).

**Table 4.15 Number of institutions by legal/economic status and sector, 2014**

Canton	Retirement houses and medicalized homes			
	Public	Subsidized private	Private	Total
ZH	105	45	90	240
BE	55	78	177	310
LU	44	4	15	63
UR	5	2	3	10
SZ	18	4	9	31
OW	1	1	5	7
NW	1	2	4	7
GL	7	..	1	8
ZG	4	5	8	17

<sup>67</sup> Swiss statistics. Viewed at:

<http://www.bfs.admin.ch/bfs/portal/en/index/themen/06/02/blank/data.html> [28 September 2016];  
<http://www.bfs.admin.ch/bfs/portal/en/index/themen/04/02/02.html> [28 September 2016].

Canton	Retirement houses and medicalized homes			
	Public	Subsidized private	Private	Total
FR	24	18	3	45
SO	9	8	31	48
BS	6	15	13	34
BL	2	8	21	31
SH	11	2	4	17
AR	16	3	10	29
AI	3	..	1	4
SG	63	9	42	114
GR	15	25	13	53
AG	15	11	74	100
TG	10	9	33	52
TI	26	29	6	61
VD	2	115	16	133
VS	6	36	2	44
NE	2	5	50	57
GE	5	44	..	49
JU	5	2	4	11
<b>CH</b>	<b>460</b>	<b>480</b>	<b>635</b>	<b>1,575</b>

.. Not available.

Source: Swiss Federal Statistics Office, *Statistique des institutions médico-sociales 2014*, Santé, 14 March 2016.

4.146. In total, these three types of establishment offer 100,000 beds and employ 48,000 persons, a significant number of which of foreign origin. There is no data available on the number of beds and on employment by type of establishment. Forecasts<sup>68</sup> predict the creation of 50,000 additional beds by 2040 as well as of 23,000 new full-time jobs in the sector by the same date. The market is relatively concentrated and moving towards the high end of the market, implying that some customers have to mobilize savings in addition to their pension to be able to afford such services. The market is open and internationalized: while its leader, Swiss Prime Site, a real estate company, is Swiss and has recently taken over two Swiss operators Tertianum and Boas Yakhin; its number 2 Senevita belongs to Orpea, a French company, number 2 on the European market; its number 3 Seniocare to the Austrian company Senecura; its number 4 is the French company Korian Medica which is also the European leader; while its number 5 is Credit Suisse Real estate Fund Living Plus, a Swiss real estate company.

#### 4.3.7 Air transport services

4.147. Box 4.20 below describes the main regulatory and economic characteristics of the air transport services sector in Switzerland while Table 4.16 details the features of the bilateral air services agreements signed or modified by Switzerland and entered into force during the period under review.

<sup>68</sup> Business Scoot "le marché des maisons de retraite médicalisées en Suisse", October 2016.



**Box 4.20 Switzerland's market and regulatory regime for air transport subsectors, 2016****Computer reservation services**

General regulatory framework: there is no regulation granting a monopoly or prescribing the compulsory use of a CRS supplier. Switzerland applies EC Regulation 80/2009<sup>a</sup>

Economic characteristics: all CRS providers may operate as long as they comply with EU Regulation 80/2009. This does not imply that they have a local branch established

**Selling and marketing of air transport services**

General regulatory framework: there are no specific regulations (including foreign exchange controls) preventing or limiting the sale by foreign airlines of their own tickets through whatever channel (online, airports counters, city offices). This is not affected by individual provisions of bilateral agreements

**Aircraft repair and maintenance**

General regulatory framework: no specific limitations on the establishment of foreign providers

Number of certified repair stations: 84 certified by the European Aviation Safety Agency (EASA); 10 of them are also certified by the Federal Aviation Administration and 4 by TCCA Canada

**Ground handling services**

General regulatory framework: Switzerland applies EC Regulation 97/67<sup>b</sup>  
Bilateral agreements may contain clauses granting specific rights to the carriers of the countries concerned

Main providers: Zurich: Swissport, Dnata, and Airline Assistance Switzerland for passenger handling; Dnata and Cargologic for cargo handling (all Swiss companies or branches); Geneva: Swissport, Dnata for passenger and cargo handling (all Swiss companies or branches)

**Airport management services**

General regulatory framework: concessioned airports are managed by public or private entities (even for private entities, the majority of the capital may be in public hands)

Economic characteristics: international airports (with line and charter traffic) are: Zurich (passengers: 26,294,317; cargo tonnes: 291,082); Geneva (passengers: 15,694,603; cargo tonnes: 32,806); Basel (passengers: 7,052,113; cargo tonnes: 48,977); Berne (passengers: 175,121); Lugano (passengers: 156,435; cargo tonnes: 57); Altenrhein (passengers: 91,976); and Sion (passengers: 6,660). Total domestic traffic 655,303 passengers (start from departure airport and arrival at destination airport count as 1 passenger)<sup>c</sup>

**Commercial aviation**

General regulatory framework:

National establishment rules: in line with EU Regulation 1008/2008<sup>d</sup>

Cargo: no specific policy

Charter: Switzerland applies EC Regulation 1008/2008<sup>e</sup>, thus charter traffic is not discriminated and is based on the principle of reciprocity. Low-cost carriers do operate from Switzerland

Domestic traffic: Domestic traffic is limited in principle to Swiss operators unless it has been agreed otherwise in the bilateral ASA: Such an opening has been negotiated but not finalized between Switzerland and EU

Slot allocation: in line with EU Regulation 96/97<sup>f</sup>

- a Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:035:0047:0055:EN:PDF>.
- b Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31997L0067:en:NOT>.
- c All figures 2015, general aviation not included.
- d Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:293:0003:0020:en:PDF>.
- e Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:293:0003:0020:en:PDF>.
- f Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996L0097:EN:HTML>.

Source: Information provided by the Swiss authorities.

4.148. These agreements are all extremely liberal and go beyond traditional so-called open skies agreements, in particular due to the presence of the principal place of business clause for withholding, which corresponds to the peculiar situation of Swiss, which is majority foreign owned. One can note that this liberal policy is a general policy since the geographical partners concerned are very diverse.

**Table 4.16 Switzerland's air transport agreements<sup>69</sup> concluded or modified between January 2012 and December 2015**

Partner	Date	Entry into force	5th <sup>a</sup>	7th <sup>b</sup>	Cabotage <sup>c</sup>	Coop <sup>d</sup>	Designation <sup>e</sup>	Withholding <sup>f</sup>	Pricing <sup>g</sup>	Capacity <sup>h</sup>	Stat <sup>i</sup>	ALI
Japan (modified)	23/07/13	05/02/14	Y	N	N	Y	M	PPoB	FP	FD	no	38
Mauritius (new)	05/05/15	01/08/15	Y	N	N	Y	M	PPoB	DD	FD	no	36
New Zealand (modified)	19/11/14	27/07/15	Y	N	N	Y	M	PPoB	DD	FD	no	36
Saudi Arabia, Kingdom of (new)	04/07/09	05/02/15	N	N	N	Y	M	PPoB	DD	FD	no	36
Serbia (modified)	15/04/15	08/12/15	N	N	N	Y	M	PPoB	DD	FD	no	36

- a Fifth freedom: "Y" granted, "N" not granted.  
b Seventh freedom: "Y" granted, "N" not granted.  
c Cabotage: "Y" granted, "N" not granted.  
d Cooperation clause (e.g. allowance of code share): "Y" present, "N" absent.  
e Designation: "S" single, "M" multiple.  
f Withholding: "PPOB" principal place of business, "SOEC" substantial ownership and effective control; "COI" community of interest  
g Pricing: "DD" dual disapproval, "FD" free determination, "DA" double approval, "COO" country of origin, "ZP" zone pricing.  
h Capacity clause: "PD" Pre Determination; "B1" Bermuda I, "FD" Free determination, "O" other, "n/a" not available.  
i A "no" indicates that an exchange of statistics is not foreseen by the agreement.

Source: Information provided by the authorities.

4.149. Another significant recent development regarding Switzerland's bilateral air transport relationship with the EU are the negotiations initiated in November 2011 to complement the 1999 EU–Switzerland bilateral air transport agreement and to grant mutually eighth and ninth freedom i.e. cabotage right. While these negotiations ended positively in a consensus, the implementation of their results were suspended by the EU following the 9 February 2014 vote against mass immigration and conditioned by the EU to the conclusion of an agreement on institutional questions and on a coupling of the respective emission trading schemes of EU and of Switzerland, two questions so far unresolved.

<sup>69</sup> The term "air transport agreements" is used here to refer to air services agreements, memoranda of understanding, exchange of notes, and other such relevant instruments.

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## REFERENCES

- COMCO (2009), "Evaluation of the Cartel Act", *Synthesis Report*. Viewed at: <https://www.weko.admin.ch/weko/en/home/documentation/evaluation-and-revision-of-the-cartel-act/evaluation-of-the-cartel-act.html>.
- COMCO (2013), *Annual Report on Competition Policy Developments in Switzerland*. Viewed at: <https://www.weko.admin.ch/weko/en/home/COMCO/annual-reports.html>.
- COMCO (2014), *Annual Report on Competition Policy Developments in Switzerland*. Viewed at: <https://www.weko.admin.ch/weko/en/home/COMCO/annual-reports.html>.
- COMCO (2015), *Annual Report on Competition Policy Developments in Switzerland*. Viewed at: <https://www.weko.admin.ch/weko/en/home/COMCO/annual-reports.html>.
- Council of the European Union (2016), *Council conclusions on a homogeneous extended single market and EU relations with Non-EU Western European countries*, Brussels, 13 December. Viewed at: [http://www.consilium.europa.eu/press-releases-pdf/2016/12/47244652378\\_en.pdf](http://www.consilium.europa.eu/press-releases-pdf/2016/12/47244652378_en.pdf).
- Federal Council (2016), *New Growth Policy 2016-2019*. Viewed at: <https://www.news.admin.ch/news/message/attachments/44559.pdf> [28/09/16].
- Federal Customs Administration (2015), "Counterfeiting and Piracy: 2015 Intellectual Property Law Statistics from the FCA". Viewed at: [http://www.ezv.admin.ch/zollinfo\\_firmen/04202/04284/04299/index.html?lang=en](http://www.ezv.admin.ch/zollinfo_firmen/04202/04284/04299/index.html?lang=en).
- Federal Department of Justice and Police (2015), Federal Council Report, *Providers' liability under civil law*. Report of the Federal Council of 11 December, cited in its English translation as "Essential Results". Viewed at: <http://www.ejpd.admin.ch/dam/data/bj/aktuell/news/2015/2015-12-110/res-ber-br-e.pdf>.
- Federal Office for Agriculture (2015), *Annual Report on Agriculture*. Viewed at: <http://www.agrarbericht.ch/fr> [29/09/16].
- Federal Office for Agriculture (2016), *Annual Report on Agriculture 2016*.
- Federal Office for National Economic Supply (2015), *Rapport sur le stockage stratégique*, page 8, 2015. Viewed at: <https://www.bwl.admin.ch/bwl/fr/home/themen/pflichtlager.html>. [January 2016].
- IGE (2013a), Press Release, *Signing of Free Trade Agreement with China*, 12 July. Viewed at: <https://www.ipi.ch/en/ip4all/detail-view/news/1847-unterzeichnung-des-freihandelsabkommen-mit-china.html>.
- IGE (2013b), Final Report of the "Working Group for the Optimization of Collective Management of Copyrights and Neighbouring Rights" (AGUR12) of 28 November 2013. Viewed at: [https://www.ige.ch/fileadmin/user\\_upload/Urheberrecht/d/Schlussberichtder\\_AGUR12vom28\\_11\\_2013.pdf](https://www.ige.ch/fileadmin/user_upload/Urheberrecht/d/Schlussberichtder_AGUR12vom28_11_2013.pdf).
- IMF (2012), *Switzerland: 2012 Article IV Consultation — Concluding Statement*. Viewed at: <http://www.imf.org/external/np/ms/2012/032012.htm>.
- IMF (2015), *Switzerland: 2015 Article IV Consultation-Staff Report*. Viewed at: <http://www.imf.org/external/pubs/cat/longres.aspx?sk=42954.0>.
- IMF (2016), *Article IV Mission to Switzerland*. Viewed at: <http://www.imf.org/en/News/Articles/2016/09/26/MS092616-Switzerland-Staff-Concluding-Statement-of-2016-Article-IV-Mission>.

KPMG (2016) Report on *Tax Incentives for R&D in Switzerland*, April.  
Viewed at: <https://assets.kpmg.com/content/dam/kpmg/pdf/2016/04/ch-tax-incentives-for-rd-in-switzerland-en.pdf>, citing Swiss Federal Statistical Office (2014), *F&E in der schweizerischen Privatwirtschaft 2012* [R&D in the Swiss Private Economy 2012], p. 18.

OECD (2016), *Agricultural Policy Monitoring and Evaluation 2016*.  
Viewed at: [http://www.oecd-ilibrary.org/agriculture-and-food/agricultural-policy-monitoring-and-evaluation-2016\\_agr\\_pol-2016-en](http://www.oecd-ilibrary.org/agriculture-and-food/agricultural-policy-monitoring-and-evaluation-2016_agr_pol-2016-en).

SECO (2013), Factsheet on the *FTA between Switzerland and China*, July.  
Viewed at: <http://www.news.admin.ch/NSBSubscriber/message/attachments/31348.pdf>.

SECO (2015), Report *Grundlagen für die Neue Wachstumspolitik. Analyse der bisherigen und Ausblick auf die zukünftige Strategie. Bericht in Erfüllung des Postulates 13.3907 Leutenegger Oberholzer vom 27. November 2013* issued 21 January 2015, p. 193-194.

SECO (2016a), *Economic Trends, Autumn*. Viewed at: [https://www.seco.admin.ch/seco/fr/home/Publikationen\\_Dienstleistungen/Publikationen\\_und\\_Formulare/konjunktur.html](https://www.seco.admin.ch/seco/fr/home/Publikationen_Dienstleistungen/Publikationen_und_Formulare/konjunktur.html).

SECO (2016b), "Barriers to parallel imports". Viewed at: [https://www.seco.admin.ch/seco/fr/home/Publikationen\\_Dienstleistungen/Publikationen\\_und\\_Formulare/konsum-und-preise/Preisunterschiede/behinderung-von-parallelimporten.html](https://www.seco.admin.ch/seco/fr/home/Publikationen_Dienstleistungen/Publikationen_und_Formulare/konsum-und-preise/Preisunterschiede/behinderung-von-parallelimporten.html).

SNB (2015), *Direct investment*, various issues.  
Viewed at: [http://www.snb.ch/en/iabout/stat/statrep/id/statpub\\_fdi\\_all](http://www.snb.ch/en/iabout/stat/statrep/id/statpub_fdi_all)

SNB (2016), *Annual Report 2015*. Viewed at:  
[http://www.snb.ch/en/iabout/pub/annrep/id/pub\\_annrep\\_2015](http://www.snb.ch/en/iabout/pub/annrep/id/pub_annrep_2015).

The Global Innovation Index (2016), *Rankings 2013-2016*.  
Viewed at: [www.globalinnovationindex.org](http://www.globalinnovationindex.org).

UNCTAD (2016), *World Investment Report*, various issues. Viewed at:  
<http://unctad.org/en/pages/DIAE/World%20Investment%20Report/WIR-Series.aspx>.

USTR (2014), *Special 301 Report*, p. 21. Viewed at:  
<https://ustr.gov/sites/default/files/USTR%202014%20Special%20301%20Report%20to%20Congress%20FINAL.pdf>.

USTR (2016), *Special 301 Report*. Viewed at: <https://ustr.gov/sites/default/files/USTR-2016-Special-301-Report.pdf>

World Bank (2016), *Doing Business 2016 – Measuring Regulatory Quality and Efficiency, Economy Profile 2016 – Switzerland*, Washington, pp 67-72.

WCO (2016), *Compendium of Authorized Economic Programmes*, p. 51.

World Economic Forum (2015), *Global Competitiveness Report 2015-2016*, Geneva, pp. 336-337.  
Viewed at: [www.weforum.org/reports](http://www.weforum.org/reports).

World Economic Forum (2016), *Global Competitiveness Report 2016-2017*.  
Viewed at: [www.weforum.org/reports](http://www.weforum.org/reports).

WTO (2000), *Trade Policy Review: Switzerland and Liechtenstein*, Geneva.

WTO (2009), *Trade Policy Review: Switzerland and Liechtenstein*, Geneva.

WTO (2011), *Trade Policy Review: Canada*, Geneva.

WTO (2013), *Trade Policy Review: Switzerland and Liechtenstein*, Geneva.

## 5 APPENDIX TABLES

Table A1.1 Merchandise exports by product group, 2012-15

	2012	2013	2014	2015
<b>Total (SwF million)</b>	<b>200,612.3</b>	<b>201,213.3</b>	<b>208,357.4</b>	<b>202,918.9</b>
	(% of total)			
<b>Forestry and agricultural products, fisheries</b>	<b>4.3</b>	<b>4.6</b>	<b>4.5</b>	<b>4.5</b>
Food, beverages and tobacco	3.8	4.1	4.0	4.0
Feeding stuffs for animals	0.1	0.1	0.1	0.1
Live animals	0.0	0.0	0.0	0.0
Horticultural products	0.0	0.0	0.0	0.0
Forestry products (not firewood)	0.3	0.3	0.3	0.2
Products for commercial/industrial further processing such as oils, fats, starches, plants and vegetable parts, etc.	0.1	0.1	0.1	0.1
<b>Energy source</b>	<b>3.4</b>	<b>1.7</b>	<b>1.5</b>	<b>1.3</b>
Solid combustibles	0.0	0.0	0.0	0.0
Petroleum and distillates	0.4	0.5	0.4	0.3
Gas	0.0	0.0	0.0	0.0
Electrical energy	3.0	1.2	1.1	1.0
<b>Textiles, clothing, shoes</b>	<b>1.6</b>	<b>1.5</b>	<b>1.5</b>	<b>1.6</b>
Textiles	0.7	0.7	0.7	0.7
Articles of apparel and clothing	0.7	0.7	0.6	0.7
Shoes, parts and accessories	0.2	0.2	0.2	0.2
<b>Paper, articles of paper and products of the printing industry</b>	<b>1.1</b>	<b>1.1</b>	<b>1.0</b>	<b>0.9</b>
Basic materials for paper production, such as cellulose and cellulose fibre and paper and carton waste	0.1	0.0	0.0	0.0
Paper and carton in rolls, strips or sheets	0.5	0.4	0.4	0.4
Goods from paper or carton	0.3	0.3	0.3	0.3
Products of the printing industry	0.3	0.3	0.2	0.2
<b>Leather, rubber, plastics</b>	<b>2.1</b>	<b>2.2</b>	<b>2.1</b>	<b>2.0</b>
Leather	0.2	0.2	0.2	0.2
Rubber	0.2	0.2	0.2	0.2
Plastics	1.6	1.7	1.7	1.6
<b>Products of the chemical and pharmaceutical industry</b>	<b>39.4</b>	<b>40.2</b>	<b>41.0</b>	<b>41.7</b>
Chemical raw materials, basic materials and unformed plastics	3.1	2.8	2.9	2.9
Chemical end products, vitamins, diagnostic products, including active substances	36.3	37.4	38.1	38.8
Pharmaceuticals, vitamins, diagnostics (incl. active substances)	32.0	33.1	34.0	34.7
<b>Stones and earth</b>	<b>0.4</b>	<b>0.4</b>	<b>0.4</b>	<b>0.4</b>
Mineral raw materials and basic products	0.0	0.0	0.0	0.0
Goods from stone and cement	0.1	0.1	0.1	0.1
Ceramic wares	0.0	0.0	0.0	0.0
Glass	0.3	0.3	0.3	0.3
<b>Metals</b>	<b>5.9</b>	<b>6.0</b>	<b>6.0</b>	<b>5.8</b>
Iron and steel	0.6	0.6	0.6	0.5
Non-ferrous metals	1.0	1.0	1.0	1.0
Metal goods	4.3	4.4	4.4	4.3
<b>Machines, appliances, electronics</b>	<b>16.6</b>	<b>16.6</b>	<b>16.0</b>	<b>15.3</b>
Industrial machinery	9.8	9.8	9.7	9.2
Non-electrical engines	1.2	1.3	1.3	1.1
Mechanical engineering	8.4	8.4	8.2	7.9
Agricultural machines	0.1	0.1	0.1	0.1
Household appliances	0.5	0.5	0.4	0.5
Office machines	0.4	0.4	0.4	0.4
Electrical and electronic industry appliances and devices	5.7	5.7	5.2	5.0
Military equipment	0.2	0.2	0.2	0.2
<b>Vehicles</b>	<b>2.5</b>	<b>2.6</b>	<b>2.7</b>	<b>2.9</b>
Road vehicles	1.1	1.1	1.1	1.1
Railed vehicles	0.5	0.6	0.5	0.5
Air and spacecraft	1.0	0.9	1.1	1.3
Watercraft	0.0	0.0	0.0	0.1
<b>Precision instruments, clocks and watches and jewellery</b>	<b>22.0</b>	<b>22.5</b>	<b>22.6</b>	<b>23.0</b>
Precision instruments and equipment	7.1	7.3	7.0	7.1
Watches	10.7	10.9	10.7	10.6
Jewellery and household goods made from precious metals	4.2	4.4	4.9	5.3
Jewellery	3.8	4.2	4.8	5.3

	2012	2013	2014	2015
<b>Various goods such as music instruments, home furnishings, toys, sports equipment, etc.</b>	<b>0.7</b>	<b>0.7</b>	<b>0.7</b>	<b>0.6</b>
Exposed film	0.0	0.0	0.0	0.0
Music instruments	0.0	0.0	0.0	0.0
Home furnishings	0.4	0.4	0.4	0.4
Toys and sports equipment	0.1	0.1	0.1	0.0
Stationery goods	0.1	0.1	0.1	0.1
Various goods such as umbrellas, neon signs, festive articles, brushes, lighters, pipes, etc.	0.1	0.1	0.1	0.1

Note: Calculations based on total "business cycle" (total 1) without gold bars and other precious metals, coin, precious stones and gems, works of art and antiques. Product group is based on nature of goods which is a national nomenclature.

Source: WTO Secretariat calculations, based on Swiss-Impex database of the Swiss Federal Customs Administration. Viewed at: <https://www.swiss-impex.admin.ch/index.xhtml> (30 September 2016).



**Table A1.2 Merchandise exports by destination, 2012-15**

	2012	2013	2014	2015
Total (SwF million)	200,612.3	201,213.3	208,357.4	202,918.9
	(% of total)			
<b>Americas</b>	<b>15.9</b>	<b>16.6</b>	<b>17.3</b>	<b>18.4</b>
United States	11.1	11.6	12.4	13.5
Other America	4.8	5.1	4.9	4.9
Canada	1.5	1.6	1.6	1.6
Brazil	1.2	1.1	1.0	1.0
<b>Europe</b>	<b>57.2</b>	<b>56.6</b>	<b>56.4</b>	<b>55.2</b>
EU-28	55.6	54.9	54.8	53.7
Germany	19.9	18.7	18.5	18.1
France	7.1	7.0	7.2	6.8
Italy	7.2	7.2	6.6	6.3
United Kingdom	4.4	4.4	4.8	5.8
Austria	2.9	3.0	3.0	2.8
Spain	2.7	2.6	2.8	2.6
Belgium	2.3	2.6	2.7	2.6
Netherlands	2.6	2.7	2.5	2.3
Poland	0.9	1.0	1.1	1.0
EFTA	0.5	0.5	0.5	0.4
Other Europe	1.1	1.2	1.1	1.1
Turkey	0.9	1.0	0.9	0.9
<b>Commonwealth of Independent States (CIS)</b>	<b>2.1</b>	<b>2.2</b>	<b>1.9</b>	<b>1.5</b>
Russian Federation	1.5	1.5	1.3	1.1
<b>Africa</b>	<b>1.7</b>	<b>1.8</b>	<b>1.8</b>	<b>1.6</b>
<b>Middle East</b>	<b>4.3</b>	<b>4.4</b>	<b>4.5</b>	<b>5.0</b>
United Arab Emirates	1.4	1.3	1.5	1.5
Saudi Arabia, Kingdom of	1.0	1.1	1.1	1.4
<b>Asia</b>	<b>18.9</b>	<b>18.4</b>	<b>18.1</b>	<b>18.3</b>
China	3.7	4.1	4.2	4.4
Japan	3.4	3.0	3.0	3.1
Other Asia	11.7	11.3	10.9	10.7
Hong Kong, China	3.5	3.3	3.3	2.8
Singapore	1.8	1.8	1.5	1.7
Korea, Republic of	1.2	1.3	1.3	1.3
Australia	1.2	1.2	1.1	1.1
India	1.3	1.0	0.8	0.9
<b>Other</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Note: Calculations based on total "business cycle" (total 1) without gold bars and other precious metals, coin, precious stones and gems, works of art and antiques.

Source: WTO Secretariat calculations, based on Swiss-Impex database of the Swiss Federal Customs Administration. Viewed at: <https://www.swiss-impex.admin.ch/index.xhtml> (30 September 2016).

**Table A1.3 Merchandise imports by product group, 2012-15**

	2012	2013	2014	2015
Total (SwF million)	176,781.1	177,642.1	178,604.7	166,392.1
	(% of total)			
<b>Raw materials and semi-finished products</b>	<b>23.2</b>	<b>23.3</b>	<b>23.2</b>	<b>22.5</b>
Raw materials	0.9	0.9	0.9	0.9
Semi-finished and intermediate products	22.2	22.3	22.3	21.6
Food industry	1.5	1.5	1.6	1.6
Other products for industry and manufacturing	20.5	20.6	20.5	19.8
Chemical semi-finished and intermediate products	5.8	5.9	5.8	5.4
Metal-based	4.6	4.6	4.6	4.4
Electrical and electronic	2.3	2.3	2.2	2.2
Machines and appliances	0.4	0.5	0.5	0.5
Plastic semi-finished products and intermediate products	1.8	1.9	1.9	1.8
Watch components	1.2	1.1	1.1	1.1
Other	4.4	4.4	4.4	4.3
<b>Energy sources</b>	<b>9.9</b>	<b>8.1</b>	<b>6.7</b>	<b>5.1</b>
Crude oil and basic products	1.6	2.2	2.1	0.8
Motor fuels	3.9	3.3	2.6	2.3
Thermal fuels	1.4	1.4	1.0	0.9
Electrical energy	3.0	1.2	1.0	1.1
<b>Capital goods</b>	<b>22.7</b>	<b>23.5</b>	<b>23.7</b>	<b>24.3</b>
Machines and appliances	17.6	18.4	18.6	18.8
Power generators (excl. vehicle engines)	2.0	2.0	2.0	2.0
Production machines	2.2	2.4	2.4	2.4
Work machines and equipment	5.5	5.6	5.8	5.7
Machines and appliances for building outfitting	1.2	1.2	1.2	1.3
Machines and appliances for the service sector	6.7	7.1	7.1	7.5
Commercial vehicles	2.8	2.6	2.6	3.0
Building requisites goods	2.3	2.5	2.5	2.4
<b>Consumer goods</b>	<b>44.2</b>	<b>45.2</b>	<b>46.4</b>	<b>48.1</b>
Food, beverages and tobacco	4.3	4.6	4.6	4.6
Foodstuffs	3.3	3.5	3.5	3.6
Beverages and tobacco	0.9	0.9	0.9	0.9
Animal feed	0.1	0.1	0.1	0.1
Non-durable consumer goods other than food and beverages	22.1	23.4	24.0	23.7
Clothing and shoes & bed and other household linen	3.8	3.9	4.0	4.2
Personal care products, cosmetics, pharmaceutical products, etc.	17.3	18.5	19.1	18.6
Pharmaceutical products (including sanitary articles)	15.5	16.7	17.2	16.8
Printed matter	1.0	1.0	0.9	0.9
Consumer durables	17.9	17.3	17.9	19.8
Home furnishings	2.3	2.3	2.3	2.4
Household articles	1.0	1.0	1.1	1.1
Household appliances	0.4	0.3	0.4	0.4
Consumer electronics	1.2	1.1	1.0	1.0
Toys, sports and leisure equipment	0.7	0.7	0.7	0.8
Vehicles such as cars and motorbikes	6.6	6.0	6.1	6.8
Timepieces, jewellery and optical goods	5.9	5.8	6.2	7.3
Musical instruments and accessories	0.1	0.0	0.0	0.1

Note: Calculations based on total "business cycle" (total 1) without gold bars and other precious metals, coin, precious stones and gems, works of art and antiques. Product group is based on broad economic categories.

Source: WTO Secretariat calculations, based on Swiss-Impex database of the Swiss Federal Customs Administration. Viewed at: <https://www.swiss-impex.admin.ch/index.xhtml> (30 September 2016).

**Table A1.4 Merchandise imports by origin, 2012-15**

	2012	2013	2014	2015
Total (SwF million)	176,781.1	177,642.1	178,604.7	166,392.1
	(% of total)			
<b>Americas</b>	<b>7.1</b>	<b>7.6</b>	<b>8.1</b>	<b>9.0</b>
United States	5.2	5.5	6.1	7.0
Other America	1.9	2.1	2.0	2.0
Mexico	0.5	0.7	0.7	0.7
<b>Europe</b>	<b>76.9</b>	<b>75.3</b>	<b>74.2</b>	<b>73.5</b>
EU-28	76.0	74.3	73.1	72.4
Germany	30.6	29.1	28.7	28.2
Italy	10.3	10.3	9.9	9.7
France	8.5	8.3	8.1	8.0
Austria	4.3	4.5	4.8	4.4
Ireland	3.8	4.0	4.0	4.2
United Kingdom	3.5	3.5	3.6	3.9
Netherlands	3.6	3.3	3.0	3.0
Spain	2.8	2.7	2.6	2.6
Belgium	2.4	2.2	1.9	1.8
Czech Republic	1.2	1.2	1.3	1.4
Poland	0.9	0.9	1.0	1.0
Sweden	0.7	0.8	0.7	0.7
Hungary	0.5	0.6	0.6	0.6
EFTA	0.2	0.2	0.2	0.2
Other Europe	0.8	0.8	0.9	0.9
Turkey	0.6	0.7	0.7	0.8
<b>Commonwealth of Independent States (CIS)</b>	<b>0.7</b>	<b>1.1</b>	<b>1.0</b>	<b>0.4</b>
<b>Africa</b>	<b>1.6</b>	<b>2.0</b>	<b>1.7</b>	<b>0.9</b>
<b>Middle East</b>	<b>0.7</b>	<b>0.7</b>	<b>0.8</b>	<b>0.9</b>
<b>Asia</b>	<b>12.9</b>	<b>13.3</b>	<b>14.2</b>	<b>15.2</b>
China	5.8	6.4	6.8	7.4
Japan	2.2	1.8	1.8	1.9
Other Asia	4.9	5.1	5.6	5.9
Singapore	0.5	0.6	0.7	1.0
Hong Kong, China	0.8	0.8	1.0	0.8
India	0.7	0.8	0.8	0.8
Chinese Taipei	0.5	0.5	0.5	0.6
Viet Nam	0.3	0.4	0.5	0.6
<b>Other</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Note: Calculations based on total "business cycle" (total 1) without gold bars and other precious metals, coin, precious stones and gems, works of art and antiques.

Source: WTO Secretariat calculations, based on Swiss-impex database of the Swiss Federal Customs Administration. Viewed at: <https://www.swiss-impex.admin.ch/index.xhtml> (30 September 2016).

**Table A1.5 Liechtenstein's direct imports and exports, 2010-14**

	Direct imports		Direct exports	
	Million SwF	%age change	Million SwF	%age change
2010	1,882	2.2%	3,325	7.9%
2011	1,965	4.4%	3,329	0.1%
2012	1,852	5.7%	3,368	1.2%
2013	1,909	2.6%	3,389	0.0%
2014	2,040	6.9%	3,453	1.9%

Note: Excluding trade with Switzerland.

Source: Statistical Yearbook of Liechtenstein 2016. [Viewed at http://www.llv.li/files/as/jahrbuch-2016.pdf](http://www.llv.li/files/as/jahrbuch-2016.pdf).

**Table A1.6 Trade in services by sector and destination/origin, 2012-15**

	2012	2013	2014	2015
<b>Exports (SwF billion)</b>	<b>102.3</b>	<b>105.9</b>	<b>110.9</b>	<b>108.8</b>
	(% of total exports)			
<u>By sector</u>				
Transport	11.4	11.4	11.5	9.8
Tourism	14.7	14.7	14.7	14.5
Insurance and pension services	6.0	5.9	5.9	5.9
Financial services	20.2	19.6	18.1	18.3
Licence fees	15.8	16.3	15.1	14.3
Telecommunications, computer and information services	9.3	9.6	11.6	12.1
Research and development services	3.3	2.8	3.3	3.6
Consulting services	5.3	5.2	5.1	5.1
Technical, trade-related, and other business services	6.6	6.5	7.2	8.6
Other services	7.4	8.0	7.6	7.7
<u>By major destinations<sup>a</sup></u>				
EU-28	35.2	35.8	35.7	35.6
of which:				
Germany	8.6	8.8	9.2	9.0
United Kingdom	6.3	6.0	6.2	5.9
France	4.1	4.6	4.4	4.1
Italy	3.5	3.3	2.8	3.1
Luxembourg <sup>b</sup>	2.1	2.0	1.8	2.6
United States	12.5	13.1	14.2	15.6
Russian Federation <sup>b</sup>	1.7	1.9	2.0	1.9
China	1.7	1.8	1.7	1.8
Japan	1.3	1.2	1.1	1.3
Singapore <sup>b</sup>	0.7	1.1	0.9	1.1
India <sup>b</sup>	0.4	0.4	0.4	0.4
<b>Imports (SwF billion)</b>	<b>80.8</b>	<b>85.6</b>	<b>91.5</b>	<b>90.8</b>
	(% of total imports)			
<u>By sector</u>				
Transport	13.7	13.6	12.6	9.3
Tourism	17.6	17.5	16.9	17.0
Insurance and pension services	1.9	1.6	1.5	1.8
Financial services	4.3	4.0	3.9	3.9
Licence fees	12.9	12.7	14.2	13.7
Telecommunications, computer and information services	13.2	14.1	14.3	14.6
Research and development services	9.4	8.3	10.1	10.3
Consulting services	15.0	15.9	15.9	16.2
Technical, trade-related, and other business services	7.2	7.1	7.1	9.4
Other services	4.7	5.2	3.6	3.9
<u>By major origins<sup>a</sup></u>				
EU-28	40.2	41.2	41.3	40.4
of which:				
Germany	10.8	11.4	11.2	10.6
United Kingdom	8.2	8.0	8.5	9.4
France	5.1	6.0	5.5	5.3
United States	17.0	17.3	19.4	20.3
Japan	1.4	1.3	1.5	1.7
China	1.7	1.7	1.3	1.4
India <sup>b</sup>	0.9	0.8	0.8	1.1

a Without tourism.

b Without research and development services (confidential).

Source: Swiss National Bank (SNB) data portal. Viewed at: <https://data.snb.ch/en> (accessed in October 2016).

**Table A1.7 Foreign direct investment by selected trading partners, 2012-15**

(SwF billion)

	Capital flows <sup>a</sup>				Capital stock at year-end (book value)			
	2012	2013	2014	2015	2012	2013	2014	2015
<b>FDI in Switzerland<sup>b</sup></b>	<b>27.2</b>	<b>0.6</b>	<b>7.4</b>	<b>67.8</b>	<b>680.0</b>	<b>696.4</b>	<b>770.6</b>	<b>833.2</b>
Europe	26.0	-5.9	0.0	50.9	580.3	589.4	612.6	660.5
EU-28	35.6	6.6	17.3	54.9	546.6	568.4	598.3	649.8
Austria	-2.3	-2.2	-0.7	3.7	61.7	60.2	59.3	62.6
Belgium	-2.4	0.4	-1.6	1.8	3.9	4.4	4.7	5.9
Denmark	-1.6	-0.1	-0.2	-2.6	4.2	4.2	5.9	3.5
Germany	0.4	-0.7	-1.4	1.5	30.0	26.3	24.6	25.0
France	2.9	-1.1	-1.5	0.6	39.7	38.0	39.6	40.3
Italy	-0.1	0.0	-0.3	0.1	4.0	4.0	4.2	4.3
Luxembourg	-8.5	11.4	6.3	13.8	147.9	155.5	189.9	202.1
Netherlands	10.4	6.9	4.9	8.6	157.0	178.9	181.3	197.0
Sweden	-0.9	0.3	-1.1	2.0	4.4	4.6	4.9	9.8
Spain	0.4	-0.3	-0.9	0.1	10.7	10.5	9.5	10.2
United Kingdom	1.9	5.8	16.3	13.6	14.9	19.9	25.5	38.1
Other European countries	-9.6	-12.5	-17.3	-3.9	33.7	21.0	14.3	10.7
North America	7.4	8.5	5.5	0.9	79.3	88.9	100.4	97.5
Canada	-0.1	0.1	-0.1	0.3	0.3	0.4	-0.3	-0.3
United States	7.5	8.4	5.7	0.7	79.0	88.5	100.7	97.8
Central and South America	0.2	-3.5	2.2	20.5	10.6	7.4	45.2	65.5
Offshore financial centres	1.9	-0.5	2.7	20.1	15.7	15.5	46.8	67.4
Asia, Africa, Oceania	-6.4	1.4	-0.4	-4.6	9.8	10.8	12.4	9.7
Japan	0.4	-0.1	0.0	0.5	3.4	3.2	3.9	5.6
<b>Swiss direct investment abroad<sup>c</sup></b>	<b>40.9</b>	<b>35.8</b>	<b>-1.0</b>	<b>100.1</b>	<b>1,088.6</b>	<b>1,064.8</b>	<b>1,073.6</b>	<b>1,120.8</b>
EU-28	10.7	11.7	7.4	79.5	468.0	462.1	480.6	544.9
Belgium	1.4	0.4	0.2	2.8	14.4	16.1	12.7	15.1
Germany	-3.8	0.6	2.2	2.2	53.0	52.0	35.7	38.2
France	-4.7	2.6	-1.2	22.4	28.9	30.7	33.9	47.1
Ireland	0.9	1.8	-1.9	41.4	21.1	23.3	28.7	70.7
Italy	0.4	1.3	1.7	-0.6	19.7	20.9	16.6	15.6
Luxembourg	4.3	-9.7	2.3	8.4	116.6	96.9	126.5	137.8
Netherlands	-17.5	2.4	10.7	15.4	57.9	61.0	110.8	121.9
United Kingdom	28.2	3.3	-8.7	-10.5	82.5	79.1	60.6	50.9
Argentina	3.5	0.1	0.3	0.3	6.9	6.6	4.3	4.9
Australia	-4.9	1.7	-2.5	8.6	18.3	18.9	15.5	17.2
Brazil	1.7	1.2	1.3	-0.5	22.1	21.2	13.1	9.3
Canada	3.5	2.6	2.6	-1.6	37.7	44.1	41.3	41.5
Chile	0.2	0.4	0.0	-3.3	3.5	3.5	2.1	-1.5
China	1.5	1.8	3.4	1.6	14.9	17.1	20.3	20.0
Hong Kong, China	3.3	-1.6	0.7	0.9	8.7	7.3	6.4	6.9
India	0.8	0.4	0.5	0.8	7.3	6.8	4.5	4.8
Indonesia	0.5	0.2	1.9	1.8	6.9	5.7	5.5	6.4
Japan	0.5	0.0	-0.3	0.3	14.4	11.5	9.0	9.4
Korea, Republic of	0.5	0.1	0.4	0.4	4.8	4.8	4.8	4.9
Mexico	0.8	0.7	-3.1	0.3	12.7	13.0	7.6	7.4
Russian Federation	1.0	0.1	0.8	0.6	14.6	15.0	9.4	8.5
Singapore	-0.3	1.8	0.4	0.5	20.3	20.1	17.4	17.6
Turkey	0.0	0.3	0.5	0.6	2.6	2.7	2.8	2.6
United Arab Emirates	-1.4	5.4	1.1	5.5	9.1	11.3	20.2	26.0
United States	10.2	0.5	-4.9	7.7	200.3	194.0	187.6	205.1

a The minus sign (-) indicates a return flow of capital into Switzerland (disinvestment).

b Figures for capital stocks are based on place of origin of the immediate investor of the company in Switzerland.

c Figures for capital stock – until 2013, breakdown by place of ultimate participation; as of 2014, breakdown according to place of direct participation.

Source: Swiss National bank, SNB data portal. Viewed at: <https://data.snb.ch/en> (12 January 2017).



**Table A2.1 Most recent notifications made by Switzerland to the WTO<sup>a</sup>**

<b>Agreement/ decision</b>	<b>Symbol and date of most recent notification</b>	<b>Description of requirement and frequency</b>
<b>Agreement on Agriculture</b>		
Articles 10 and 18.2	G/AG/N/CHE/75, 21/06/2016	Export subsidies; annual
Article 18.2	G/AG/N/CHE/72, 10/08/2015	Domestic support; annual
Article 18.2	G/AG/N/CHE/13/Add.18, 16/03/2016	Administration of tariff quotas; ad hoc
Article 18.2	G/AG/N/CHE/73, 17/11/2015	Volume of imports under tariff quotas; annual
Article 18.3	G/AG/N/CHE/68, 26/09/2014	New or modified exempt domestic support measures; ad hoc
Articles 5.7 and 18.2	G/AG/N/CHE/74, 18/02/2016	Special safeguard provisions; annual
Article 16.2	G/AG/N/CHE/76, 24/06/2016	Actions taken within the framework of the Decision on LDCs and Net-Food- Importing Developing Countries; ad hoc
<b>Agreement on Government Procurement</b>		
Article XIX:5	GPA/W/336/Add.3, 06/01/2016	Thresholds, semi-annual
<b>Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement)</b>		
Article 16.4	G/ADP/N/188/Add.1, 16/10/2009	Anti-dumping measures; semi-annual
Articles 16.4 and 16.5	G/ADP/N/193/CHE, 23/12/2009	Authorities and procedures; once
Article 18.5	G/ADP/N/1/CHE/1, 4/05/1995	Laws and regulations; ad hoc
<b>Agreement on Implementation of Article VII of the GATT 1994 (Agreement on Customs Valuation)</b>		
Article 22	G/VAL/N/1/CHE/1, 28/08/1995	Laws and regulations; once
<b>Agreement on Import Licensing Procedures</b>		
Articles 1.4(a) and 8.2(b)	G/LIC/N/1/CHE/3, 20/01/2012	Laws and regulations; once
Article 7.3	G/LIC/N/3/CHE/12, 30/09/2016	Completion of questionnaire; annual
<b>Agreement on Preshipment Inspection</b>		
Article 5	G/PSI/N/1/Add.2, 26/07/1995	Laws and regulations; once
<b>Agreement on Rules of Origin</b>		
Article 5 and Annex II, paragraph 4	G/RO/N/60/Rev.1, 08/04/2009	Changes in laws and regulations (rules of origin in effect); ad hoc
<b>Agreement on Safeguards</b>		
Article 12.6	G/SG/N/1/CHE/1, 24/07/1995	Laws and regulations; once
<b>Agreement on Subsidies and Countervailing Measures</b>		
Articles 25.1 and XVI.1 of the GATT 1994	G/SCM/N/284/CHE, 13/07/2015	Subsidy programmes; every three years for full notifications, annual for changes
Article 25.11	G/SCM/N/195/Add.1, 14/10/2009	Countervailing actions taken; semi-annual
Articles 25.11 and 25.12	G/SCM/N/202/CHE, 23/12/2009	Authorities and procedures; once
Article 32.6	G/SCM/N/1/CHE/1, 04/05/1995	Laws and regulations; once
<b>Agreement on Technical Barriers to Trade</b>		
Article 2.9	G/TBT/N/CHE/211, 05/04/2016	Technical regulations, ad hoc
Article 5.6	G/TBT/N/CHE/190, 19/03/2015	Conformity assessment procedures; ad hoc
Articles 10.1, 10.2, and 10.3	G/TBT/ENQ/38/Rev.1, 08/07/2011	Enquiry point; once
Article 15.2	G/TBT/2/Add.7/Rev.2, 16/05/2014	Implementation and administration of the Agreement; once
Annex 3C	G/TBT/CS/2/Rev.22, 29/02/2016	Acceptance of the Code of Good Practice; once
<b>Agreement on Textiles and Clothing</b>		
Articles 2.8(c) and 2.11	G/TMB/N/467, 19/02/2004	Integration programme (fourth stage); once
<b>Agreement on the Application of Sanitary and Phytosanitary Measures</b>		
Annex B, paragraph 7	G/SPS/N/CHE/72, 27/07/2011	Sanitary and phytosanitary measures; ad hoc
Annex B, paragraph 3	G/SPS/ENQ/23, 27/03/2008	Enquiry point; once
Annex B, paragraph 10	G/SPS/NNA/8, 20/12/2004	National notification authority; once

Agreement/ decision	Symbol and date of most recent notification	Description of requirement and frequency
<b>Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)</b>		
Article 63.2	IP/N/1/CHE/C/7, 04/11/2013	Laws and regulations; once
	IP/N/6/CHE/2, 12/02/2014	Checklist of issues on enforcement; once
Article 69	IP/N/3/Rev.11, 04/02/2010	Contact point; once
<b>Agreement on Trade-Related Investment Measures (TRIMS)</b>		
Article 5.1	G/TRIMS/N/1/CHE/1, 20/09/1995	Trade-related investment measures; once
Article 6.2	G/TRIMS/N/2/Rev.1, 28/07/1997	Publications in which TRIMS may be found; ad hoc
<b>Decision on Notification Procedures for Quantitative Restrictions</b>		
G/L/59/Rev.1	G/MA/QR/N/CHE/1, 02/05/2014	Notifications of quantitative restrictions; every two years
<b>General Agreement on Trade in Services</b>		
Article III:3	S/C/N/859, 27/01/2016	Laws/regulations; ad hoc
Article III:4 and/or IV:2	S/ENQ/78/Rev.16, 22/04/2016	Enquiry point; once only
Article V:7(a)	WT/REG357/N/1, S/C/N/774, 21/11/2014	Economic integration agreements; ad hoc
Article VII:4	S/C/N/395, 25/05/2007	Autonomous recognition measures; ad hoc
<b>General Agreement on Tariffs and Trade 1994</b>		
Article XVII:4(a)	G/STR/N/16/CHE, 03/05/2016	Notification on state-trading enterprises; every three years for full notifications, on an annual basis for changes (as from 2004, every two years)
Article XXIV:7(a)	WT/REG360/N/1, 08/01/2015	Agreement establishing a free-trade area; ad hoc
Article XXVIII:5	G/MA/303, 04/11/2014	Modification of the Schedule of Concessions (reservation of the right to modify the Schedule during a three-year period); every three years

a As per October 2016.

Source: WTO Secretariat.

**Table A2.2 Most recent notifications made by Liechtenstein to the WTO<sup>a</sup>**

Agreement/ decision	Symbol and date of most recent notification	Description of requirement and frequency
<b>Agreement on Agriculture</b>		
Articles 10 and 18.2	G/AG/N/CHE/75, 21/06/2016	Export subsidies; annual
Article 18.2	G/AG/N/CHE/72, 10/08/2015	Domestic support; annual
Article 18.2	G/AG/N/CHE/13/Add.18, 16/03/2016	Administration of tariff quotas; ad hoc
Article 18.2	G/AG/N/CHE/73, 17/11/2015	Volume of imports under tariff quotas; annual
Article 18.3	G/AG/N/CHE/68, 26/09/2014	New or modified exempt domestic support measures; ad hoc
<b>Agreement on Government Procurement</b>		
Article XIX:5	GPA/130/Add.3, 08/10/2015	Statistics; annual
<b>Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement)</b>		
Article 16.4	G/ADP/N/188/Add.1, 16/10/2009	Anti-dumping measures; semi-annual
Articles 16.5 and 25.12	G/ADP/N/193/LIE, 05/03/2010	Authorities and procedures; once
Article 18.5	G/ADP/N/1/CHE/1, 04/05/1995	Laws and regulations; ad hoc
<b>Agreement on Implementation of Article VII of the GATT 1994 (Agreement on Customs Valuation)</b>		
Article 22	G/VAL/N/1/LIE/1, 06/11/1996 G/VAL/N/1/CHE/1, 28/08/1995	Laws and regulations; once
<b>Agreement on Import Licensing Procedures</b>		
Articles 1.4(a) and 8.2(b)	G/LIC/N/1/LIE/3, 23/02/2012	Laws and regulations; once
Article 7.3	G/LIC/N/3/LIE/8, 03/11/2014	Completion of questionnaire; annual
<b>Agreement on Preshipment Inspection</b>		
Article 5	G/PSI/N/1/Add.7, 24/02/1998 G/PSI/N/1/Add.2, 26/07/1995	Laws and regulations; once
<b>Agreement on Rules of Origin</b>		
Article 5 and Annex II, paragraph 4	G/RO/N/60/Rev.1, 08/04/2009	Changes in laws and regulations (rules of origin in effect); ad hoc
<b>Agreement on Safeguards</b>		
Article 12.6	G/SG/N/1/CHE/1, 24/07/1995	Laws and regulations; once
<b>Agreement on Subsidies and Countervailing Measures</b>		
Articles 25.1 and XVI.1 of the GATT 1994	G/SCM/N/284/LIE, 22/09/2015 G/SCM/N/284/CHE, 13/07/2015	Subsidy programmes; every three years for full notifications, annual for changes
Article 25.11	G/SCM/N/195/Add.1, 14/10/2009	Countervailing actions taken; semi-annual
Article 25.12	G/SCM/N/202/LIE, 05/03/2010	Authorities and procedures; once
Article 32.6	G/SCM/N/1/LIE/1, 31/01/1997 G/SCM/N/1/CHE/1, 4 May 1995	Laws and regulations; once
<b>Agreement on Technical Barriers to Trade</b>		
Articles 10.1, 10.2, and 10.3	G/TBT/ENQ/38/Rev.1, 08/07/2011	Enquiry point; once
Annex 3C	G/TBT/CS/2/Rev.22, 29/02/2016	Acceptance of the Code of Good Practice; once
<b>Agreement on Textiles and Clothing</b>		
Articles 2.8(c) and 2.11	G/TMB/N/467, 19/02/2004	Integration programme (fourth stage); once
<b>Agreement on the Application of Sanitary and Phytosanitary Measures</b>		
Annex B, paragraph 7	G/SPS/N/CHE/72, 27/07/2011	Sanitary and phytosanitary measures; ad hoc
Annex B, paragraph 3	G/SPS/ENQ/23, 27/03/2008	Enquiry point; once
Annex B, paragraph 10	G/SPS/NNA/8, 20/12/2004	National notification authority; once

Agreement/ decision	Symbol and date of most recent notification	Description of requirement and frequency
<b>Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)</b>		
Article 63.2	IP/N/1/LIE/C/3, 02/03/2004	Laws and regulations; once
	IP/N/6/LIE/1, 18/02/1997	Checklist of issues on enforcement; once
Article 69	IP/N/3/Rev.7, 19/08/2003	Contact point; once
<b>Agreement on Trade-Related Investment Measures (TRIMS)</b>		
Article 6.2	G/TRIMS/N/2/Rev.1, 28/07/1997	Publications in which TRIMS may be found; ad hoc
<b>Decision on Notification Procedures for Quantitative Restrictions</b>		
G/L/59/Rev.1	G/MA/QR/N/LIE/1, 11/06/2014 G/MA/QR/N/CHE/1, 02/05/2014	Notifications of quantitative restrictions; every two years
<b>General Agreement on Trade in Services</b>		
Article III:3	S/C/N/671, 22/11/2012	Laws/regulations; ad hoc
Article III:4 and/or IV:2	S/ENQ/78/Rev.16, 22/04/2016	Enquiry point; once only
Article V:7(a)	WT/REG357/N/1 S/C/N/774, 21/11/2014	Economic integration agreements; ad hoc
Article VII:4	S/C/N/395, 25/05/2007	Autonomous recognition measures; ad hoc
<b>General Agreement on Tariffs and Trade 1994</b>		
Article XVII:4(a)	G/STR/N/16/LIE, 22/07/2016 G/STR/N/16/CHE, 03/05/2016	Notification on state-trading enterprises; every three years for full notifications, on an annual basis for changes (as from 2004, every two years)
Article XXIV:7(a)	WT/REG360/N/1, 08/01/2015	Agreement establishing a free-trade area; ad hoc
Article XXVIII:5	G/MA/303, 04/11/2014	Modification of the Schedule of Concessions (reservation of the right to modify the Schedule during a three- year period); every three years

a As per October 2016.

Source: WTO Secretariat.

**Table A2.3 Participation in EFTA free trade agreements, November 2016**

Signature	Entry into force	Notified to GATT/WTO (document series)	Agreement
04.01.1960	03.05.1960	L/3328 (GATT) WT/REG154 S/C/N/207	Convention establishing the EFTA (applies to Iceland, Liechtenstein, Norway, and Switzerland) (amended in 2002)
10.12.1991	01.04.1992	L/6989/Add.1 (GATT) WT/REG86 G/L/349	EFTA-Turkey (goods, IP, competition, state aid, dispute settlement, government procurement, evolutionary clause)
02.05.1992	01.01.1994	WT/REG138 S/C/N/28	EEA (applies to all EU member States, Iceland, Norway, and Liechtenstein)
17.09.1992	01.01.1993	L/7129 and Add.1 (GATT)	EFTA-Israel (goods, IP, competition, state aid, dispute settlement, government procurement, services, investment, evolutionary clause)
19.06.1997	01.12.1999	WT/REG91	EFTA-Morocco (goods, IP, competition, state aid, dispute settlement, government procurement, services, investment, evolutionary clause)
30.11.1998	01 07.1999	WT/REG79	EFTA-Palestine (goods, IP, competition, state aid, dispute settlement, government procurement, services, investment, evolutionary clause)
27.11.2000	01.07.2001	WT/REG126 S/C/N/166	EFTA-Mexico (goods, IP, competition, state aid, dispute settlement, government procurement, services, and investment)
21.06.2001	01.09.2002	WT/REG133	EFTA-Jordan (goods, IP, competition, state aid, dispute settlement, government procurement, services, investment, evolutionary clause)
19.06.2000	01.05.2002	WT/REG117	EFTA-Former Yugoslav Republic of Macedonia (goods, IP, competition, state aid, dispute settlement, government procurement, services, investment, evolutionary clause)
26.02.2002	01.01.2003	WT/REG148 S/C/N/226	EFTA-Singapore (goods, IP, competition, state aid, dispute settlement, government procurement, services, and investment)
26.06.2003	01.12.2004	WT/REG179 S/C/N/309	EFTA-Chile (goods, IP, competition, state aid, dispute settlement, government procurement, services, and investment)
24.06.2004	01.01.2007	WT/REG224	EFTA-Lebanon (goods, IP, competition, state aid, dispute settlement, government procurement, services, investment, evolutionary clause)
17.12.2004	01.06.2006	WT/REG201	EFTA-Tunisia (goods, services, IP, competition, state aid, dispute settlement, government procurement, services, investment , evolutionary clause)
15.12.2005	01.09.2006	WT/REG217 S/C/N/373	EFTA-Republic of Korea (goods, IP, competition, state aid, dispute settlement, government procurement, services, and investment)
26.06.2006	01.05.2008	WT/REG256	EFTA-Southern African Customs Union (goods, competition, state aid, dispute settlement, IP, services, government procurement, investment, evolutionary clause)
27.01.2007	01.08.2007	WT/REG232	EFTA-Egypt (goods, IP, competition, state aid, dispute settlement, government procurement, services, investment, evolutionary clause)
26.01.2008	01.07.2009	WT/REG271	EFTA-Canada (goods, IP, competition, state aid, dispute settlement, government procurement, services, investment, evolutionary clause)
25.11.2008	01.07.2011	WT/REG299/N/1 S/C/N/600	EFTA-Colombia (goods, processed agricultural products, services, investment, IP, government procurement, competition, state aid, dispute settlement)

Signature	Entry into force	Notified to GATT/WTO (document series)	Agreement
17.12.2009	01.11.2010	WT/REG292/N/1	EFTA-Albania (goods, IP, competition, state aid, government procurement, services, investment, dispute settlement, evolutionary clause)
17.09.2009	01.10.2010	WT/REG290	EFTA-Serbia (goods, IP, competition, state aid, government procurement, services, investment, dispute settlement, evolutionary clause)
24.06.2010	01.07.2011	WT/REG295	EFTA-Peru (goods, processed agricultural products, IP, competition, state aid, government procurement, services, investment, dispute settlement)
24.06.2010	01.06.2012	WT/REG315 S/C/N/644	EFTA-Ukraine (goods, IP, competition, state aid, government procurement, services, investment, dispute settlement, evolutionary clause)
21.06.2011	01.10.2012	WT/REG322/N/1 S/C/N/654	EFTA-Hong Kong, China (goods, IP, competition, state aid, government procurement, services, investment, dispute settlement, sustainable development, evolutionary clause)
14.11.2011	01.09.2012	WT/REG323/N/1	EFTA-Montenegro (goods, IP, competition, state aid, government procurement, services, investment, dispute settlement, sustainable development, evolutionary clause)
22.06.2009	01.07.2014		EFTA-Gulf Cooperation Council (goods, services, government procurement, competition, dispute settlement)
24.06.2013	19.08.2014	WT/REG357/N/1 S/C/N/774	EFTA-Central American States <sup>a</sup> (goods, services, investment, IP, government procurement, competition, sustainable development, dispute settlement)
24.06.2013	01.01.2015	WT/REG360/N/1	EFTA-Bosnia and Herzegovina (goods, IP, investment, services, government procurement, payments and capital movements, sustainable development, dispute settlement)

a Agreement initially in force for Costa Rica and Panama. The Protocol on the accession of Guatemala to the FTA is not yet in force.

Source: WTO Secretariat; and EFTA Secretariat (2016), *55<sup>th</sup> Annual Report of the European Free Trade Association 2015*. Viewed at: <http://www.efta.int/sites/default/files/publications/annual-report/annual-report-2015.pdf>.



Table A3.1 SPS, 2015

	Ordinance	Notification G/TBT/N-series	Date	Comments
1.	Ordinance on food and basic commodities – RS 817.02 (Ordonnance sur les denrées alimentaires et les objets usuels)	CHE/198 CHE/199 CHE/200 CHE/201 CHE/202	13/08/2015 13/08/2015 14/08/2015 18/08/2015 03/09/2015	Provides a framework for all provisions on food and basic commodities.
2.	Ordinance on the implementation of the food legislation - RS 817.042 (Ordonnance sur l'exécution de la législation sur les denrées alimentaires)			
3.	Ordinance on the national control plan - RS 817.032 (Ordonnance sur le plan de contrôle national de la chaîne alimentaire et des objets usuels)	CHE/202	03/09/2015	Establishes the general principles of the federal policy on food safety and the basis for controlling, according to risk criteria, different categories of enterprises and products.
4.	Ordinance on animal slaughtering and meat control - RS 817.190 (Ordonnance concernant l'abattage d'animaux et le contrôle des viandes)	CHE/204	03/09/2015	The changes compared to the previous ordinance concern wild game. The distinction previously made based on the size of the establishment in which game is processed has been replaced by a risk-based approach.
5.	Ordinance on hygiene - RS 817.024.1 (Ordonnance du DFI sur l'hygiène dans les activités liées aux denrées alimentaires)	CHE/204	03/09/2015	Introduction of the EU provisions on frozen foods and salmonella in swine carcasses; establishment of a non-EU hygiene criterion on campylobacter in the poultry slaughter process.
6.	Ordinance on food information – RS 817.022.16 (Ordonnance du DFI concernant l'information sur les denrées alimentaires)	CHE/202	03/09/2015	Includes a specific Swiss provision whereby the name of the country of production must be displayed on all food products. Otherwise no major changes compared to the previous ordinance.
7.	Ordinance on food of plant origin, mushrooms and edible salt – RS 817.022.17 (Ordonnance du DFI sur les denrées alimentaires d'origine végétale, les champignons et le sel comestible)	CHE/203	03/09/2015	The relevant ordinances have been restructured in order to align them with EU legislation. The use of certain plants as food supplements has been prohibited for health reasons. For the first time certain insect species may be authorized as food, if risk assessments show that no threat is posed to human health.
8.	Ordinance on food of animal origin - RS 817.022.108 (Ordonnance du DFI sur les denrées alimentaires d'origine animale)	CHE/203	03/09/2015	
9.	Ordinance on food intended for persons with special dietary needs - RS 817.022.104 (Ordonnance du DFI sur les denrées alimentaires destinées aux personnes ayant des besoins nutritionnels particuliers)	CHE/203	03/09/2015	
10.	Ordinance on food supplements – RS 817.022.14 (Ordonnance du DFI sur les compléments alimentaires)	CHE/203	03/09/2015	
11.	Ordinance on new types of food – RS 817.022.2 (Ordonnance du DFI sur les nouvelles sortes de denrées alimentaires)	CHE/203	03/09/2015	
12.	Ordinance on beverages – RS 817.022.12 (Ordonnance du DFI sur les boissons)	CHE/203	03/09/2015	
13.	Ordinance on the quality of water intended for human consumption or to come into contact with the human body (Ordonnance du DFI sur la qualité des eaux destinées à la consommation humaine ou à entrer en contact avec le corps humain)	CHE/203	03/09/2015	

	Ordinance	Notification G/TBT/N-series	Date	Comments
14.	Ordinance on hygiene in animal slaughtering - RS 817.190.1 (Ordonnance du DFI concernant l'hygiène lors de l'abattage d'animaux)	CHE/204	03/09/2015	New provisions on wild game reflect those in the ordinance on animal slaughtering and meat control.
15.	Ordinance on materials and articles intended to come into contact with food - RS 817.023.21 (Ordonnance du DFI sur les matériaux et objets destinés à entrer en contact avec les denrées alimentaires)	CHE/200	14/08/2015	Materials and articles intended to enter into contact with food, which are expected to enter into contact with food under normal or reasonably foreseeable conditions of use, or which are intended to transfer their constituents to food, and which are made from metal, plastic, cellulose, glass, paper or cardboard, wax or paraffin, or silicone; packaging inks. The main amendments include: observance of good manufacturing practices (GMP) has been made mandatory at all stages of manufacturing; introduction of traceability requirements.
16.	Ordinance on additives - RS 817.022.31 (Ordonnance du DFI sur les additifs admis dans les denrées alimentaires)	CHE/205	03/09/2015	Minor amendments to harmonize Swiss legislation with the EU legislation.
17.	Ordinance on flavourings and food additives with flavouring properties - RS 817.022.41 (Ordonnance du DFI sur les arômes et les additifs alimentaires ayant des propriétés aromatisantes utilisés dans ou sur les denrées alimentaires)	CHE/205	03/09/2015	Flavourings are categorized as ingredients. Exhaustive list of permitted flavourings.
18.	Ordinance on the addition of vitamins, minerals and certain other substances to food - RS 817.022.32 (Ordonnance du DFI sur l'adjonction de vitamines, de sels minéraux et de certaines autres substances aux denrées alimentaires)	CHE/205	03/09/2015	A new provision has been added stating that substances should be bio-available.
19.	Ordinance on technological procedures and processing aids used in food processing - RS 817.022.42 (Ordonnance du DFI sur les procédés et les auxiliaires technologiques utilisés pour le traitement des denrées alimentaires)	CHE/205	03/09/2015	Aligned with EU law.
20.	Ordinance on contaminants – RS 817.022.15 (Ordonnance du DFI sur les teneurs maximales en contaminants)	CHE/206	03/09/2015	Mainly restructuring of previous ordinances to align them with the EU acquis. Maximum values for contaminants not regulated in the EU are maintained.
21.	Ordinance on residues of pharmacologically active substances and feed additives in foods of animal origin - RS 817.022.13 (Ordonnance du DFI sur les résidus de substances pharmacologiquement actives et d'additifs pour l'alimentation animale dans les denrées alimentaires d'origine animale)	CHE/206	03/09/2015	Mainly restructuring of previous ordinances in line with EU acquis. The ordinance establishes maximum concentration levels and reference values – the same system as in the EU.
22.	Ordinance on the limits applicable to pesticide residues in or on products of plant or animal origin – RS 817.021.23 (Ordonnance du DFI sur les limites maximales applicables aux résidus de pesticides présents dans ou sur les produits d'origine végétale ou animale)	CHE/206	03/09/2015	Requires a status report on residues from the Federal Food Safety and Veterinary Office. The FSVO continues to have the authority to modify the annexes, taking into account advances in knowledge.

	Ordinance	Notification G/TBT/N-series	Date	Comments
23.	Ordinance on cosmetics – RS 817.023.31 (Ordonnance du DFI sur les cosmétiques)	CHE/199	13/08/2015	Main amendments concern marketing requirements, including: product information file containing a safety assessment report prepared by a qualified person; good manufacturing practices; traceability; labelling; introduction of six criteria to be met by claims concerning cosmetics.
24.	Ordinance on toy safety – RS 817.023.11 (Ordonnance du DFI sur la sécurité des jouets)	CHE/201	18/08/2015	New limits for chemical substances in toys and new migration limits.
25.	Ordinance on articles intended to come in contact with mucous membranes, skin and hair, and on candles, matches, lighters and joke articles - RS 817.023.41 (Ordonnance du DFI sur les objets destinés à entrer en contact avec les muqueuses, la peau ou le système pileux et capillaire, et sur les bougies, les allumettes, les briquets et les articles de farces et attrapes)	CHE/198	13/08/2015	Amendments to the requirements concerning the release of chemical substances in contact with the skin, hair or mucous membranes.
26.	Ordinance on aerosol dispensers – RS 817.023.61 (Ordonnance du DFI sur les générateurs d'aérosols)			
27.	Ordinance of the FSVO on the importation and placing on the market of food products contaminated by caesium in the light of the accident at the Chernobyl nuclear power station - RS 817.022.151 (Ordonnance de l'OSAV concernant l'importation et la mise sur le marché de denrées alimentaires contaminées par du césium à la suite de l'accident survenu à la centrale nucléaire de Tchernobyl)	CHE/206	03/09/2015	

Source: Swiss notifications to the WTO TBT Committee.

**Table A3.2 State-owned enterprises and exclusive arrangements, 2016**

Sector	Entity	Exclusive arrangements
<b>Switzerland</b>		
Telecommunications	Swisscom (joint stock company, 51% ownership by the Confederation)	PSO as universal service licensee (put to tender every 7 years), additional mandates in strategic objectives of the Federal Council 2014-17.
Rail transport	Swiss federal railways SBB (joint stock company, 100% ownership by the Confederation); and other transport companies	Licence/concession as infrastructure manager and for operating passenger transport services (regional and long-distance passenger transport). PSO according to specific law and bylaws, further specified in strategic objectives of the Federal Council 2015-18.
Postal services	Swiss Post (joint stock company, 100% ownership by the Confederation)	Exclusive rights to supply services related to delivery of domestic and international inbound letters of up to 50 g. PSO according to specific law and bylaws, further specified in strategic objectives of the Federal Council 2013-16.
Alcohol and spirits	Swiss Alcohol Board/Alcosuisse	Exclusive import rights.
Aerospace and defence technology	RUAG (joint stock company 100% owned by the Swiss Confederation)	Legal mandate of securing supply in the Swiss armament sector. Bound by the strategic objectives of the Federal Council 2016-19.
Electricity	Cantonal or local entities	Generation and supply of electricity ( <i>de facto</i> monopoly)
	Swissgrid (majority public ownership)	Exclusive rights for the operation of the Swiss high voltage electricity transmission system
Water	Cantonal or local entities	Collection, purification, and distribution of water
Gas	Swissgas	A joint procurement, transport and import platform for four regional shareholders (regional companies). The Association of the Swiss Natural Gas Industry is also a shareholder.
	Transitgas (51% controlled by Swissgas)	International gas transit
	Regional entities Local and cantonal utilities	Regional gas distribution Local gas distribution
Passenger transport by bus, tramway, cable, boat, etc.	Cantonal or local entities	Scheduled passenger transport
Airport management	Zurich International Airport (minority public ownership); Geneva International Airport (public ownership); Europe Airport Basel-Mulhouse-Freiburg (public ownership); and other entities	Services related to the management of airports
	Cantonal entities	Exclusive rights to supply insurance services for fire and natural damage to buildings.
Certain insurance services	SUVA	Exclusive rights to supply statutory workplace accident insurance services.
Certain banking services	Cantonal banks (majority ownership by cantons); and other banks	Exclusive rights to issue specific mortgage bonds ( <i>Schweizer Pfandbriefe</i> ) only through "issuing institutions" whose mortgage loans amount to at least 60% of their balance sheet (the issuing institutions are owned either by cantonal or private banks).
Salt	Salines Suisses	Salt monopoly jointly administered by the cantons through Salines Suisses, with exclusive import, production and distribution rights.

Sector	Entity	Exclusive arrangements
<b>Liechtenstein</b>		
Electricity	Liechtensteinische Kraftwerke (LKW) (wholly state-owned)	Generation, imports, and distribution of electricity; direct imports are allowed.
Drinking water	Gruppenwasserversorgung Liechtenstein Oberland	Exclusive production and distribution rights (except industry and large customers).
	Wasserversorgung Liechtenstein Unterland	Exclusive production and distribution rights (except industry and large customers).
Gas	Liechtensteinische Gasversorgung (LGV) (wholly state-owned)	Imports and distribution of gas; direct imports are allowed.
Telecommunications	Telecom Liechtenstein (75.1% state-owned)	Provides fixed-net and mobile services.
	LKW (wholly state-owned)	LKW owns and operates the major part of the fixed communication network infrastructure (twisted copper, HFC and fibre).
Public transport services by bus	Liechtensteinmobil (wholly state-owned)	Exclusive supply rights.
Postal services	Liechtenstein Post AG (75% state-owned by Liechtenstein)	Exclusive rights for letters and direct mailing up to 50 g.

Source: Information provided by the Swiss and Liechtenstein authorities.

**Table A4.1 Switzerland's major traded agricultural products, 2012-15**

	2012	2013	2014	2015	2012	2013	2014	2015
	SwF million				% of total agriculture			
<b>Total agricultural exports<sup>a</sup></b>	<b>8,275</b>	<b>8,890</b>	<b>9,083</b>	<b>8,777</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>
<b>Subtotal for top 10<sup>b</sup></b>	<b>5,872</b>	<b>6,435</b>	<b>6,663</b>	<b>6,585</b>	<b>71.0</b>	<b>72.4</b>	<b>73.4</b>	<b>75.0</b>
HS 220290 Non-alcoholic beverages (non-alcoholic beer, shandy, and milk in glass bottles/cans)	1,530	1,636	1,731	1,811	18.5	18.4	19.1	20.6
HS 090121 Coffee roasted: -- Not decaffeinated	1,497	1,834	1,834	1,740	18.1	20.6	20.2	19.8
HS 210690 Food preparations: - Other	634	643	635	635	7.7	7.2	7.0	7.2
HS 040690 Cheese and curd: - Other cheese	499	516	551	524	6.0	5.8	6.1	6.0
HS 240220 Cigarettes containing tobacco	545	520	588	522	6.6	5.8	6.5	5.9
HS 180632 Chocolate and other food preparations containing cocoa: other, in blocks, slabs or bars: -- Not filled	401	431	449	417	4.8	4.9	4.9	4.8
HS 180690 Chocolate and other food preparations containing cocoa: - Other	238	250	272	302	2.9	2.8	3.0	3.4
HS 190110 Malt extract; food preparations of flour, groats, meal, starch or malt extract; - Preparations for infant use, put up for retail sale	216	273	275	279	2.6	3.1	3.0	3.2
HS 090122 Coffee roasted:-- Decaffeinated	183	194	184	195	2.2	2.2	2.0	2.2
HS 170490 Sugar confectionery, not containing cocoa: - Other	131	138	143	160	1.6	1.6	1.6	1.8
<b>Total agricultural imports<sup>a</sup></b>	<b>11,001</b>	<b>11,601</b>	<b>11,638</b>	<b>11,120</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>
<b>Subtotal for top 10<sup>b</sup></b>	<b>3,205</b>	<b>3,201</b>	<b>3,239</b>	<b>3,094</b>	<b>29.1</b>	<b>27.6</b>	<b>27.8</b>	<b>27.8</b>
HS 220421 Wine of fresh grapes: -- In containers holding 2 l or less	835	878	821	752	7.6	7.6	7.1	6.8
HS 090111 Coffee not roasted: -- Not decaffeinated	593	501	529	606	5.4	4.3	4.5	5.4
HS 210690 Food preparations: - Other	458	433	397	357	4.2	3.7	3.4	3.2
HS 190590 Bread, pastry, cakes, biscuits and other bakers' wares: - Other	299	329	338	313	2.7	2.8	2.9	2.8
HS 040690 Cheese and curd: - Other cheese	212	221	227	198	1.9	1.9	2.0	1.8
HS 060290 Other live plants: - Other	224	227	215	188	2.0	2.0	1.8	1.7
HS 180400 Cocoa butter, fat and oil	104	111	184	186	0.9	1.0	1.6	1.7
HS 220410 Sparkling wine	181	183	190	178	1.6	1.6	1.6	1.6
HS 230910 Dog or cat food, put up for retail sale	167	175	177	164	1.5	1.5	1.5	1.5
HS 180690 Chocolate and other food preparations containing cocoa: - Other	132	143	160	152	1.2	1.2	1.4	1.4

a Agriculture (WTO definition).

b Products are ranked according to 2015 values.

Source: WTO Secretariat's calculations, based on UNSD Comtrade.

**Table A4. 2 WTO tariff quotas for agricultural products, 2015 and 2016**

	Applied MFN tariff: In-quota tariff (%)		Applied MFN tariff: Out-of-quota tariff (%)		Imports under tariff quotas in 2015 <sup>b</sup>		
	As reported in 2016 tariff schedule (tariff range)	AVE <sup>a</sup>	As reported in 2016 tariff schedule (tariff range)	AVE <sup>a</sup>	Tariff quota quantity	In-quota imports	2015 fill rate (%)
(1) Live horses, asses, mules and hinnies	3-120 SwF/each	0.5	900-3,834 SwF/each	60.3	3,322 (units)	3,781 (units)	114
(2) Live bovine animals	60 SwF/each	2.8	1,275-2,500 SwF/each	85.6	20 (units)	1,245 (units)	6,225
(3) Live swine	10-33 SwF/each	0.3	1,000-1,309 SwF/each	61.5	50 (units)	13 (units)	26
(4) Live sheep and goats	3-5 SwF/each	1.2	59.5-122 SwF/each	27.5	187 (units)	489 (units)	261
(5) Animals for slaughter; meat mainly produced on the basis of coarse fodder	25-95 SwF/each; 20-375 SwF/100 kg gross	25.2	59.5-1,309 SwF/each; 68-2,212 SwF/100 kg gross	173.2	22,500 (tonnes)	46,249 (tonnes)	206
(6) Animals for slaughter; meat mainly produced on the basis of concentrated fodder	40-63 SwF/each; 30-225 SwF/100 kg gross	8.3	1309 SwF/each; 55-3,140 SwF/100 kg gross	142.8	54,482 (tonnes)	55,426 (tonnes)	102
(7) Dairy produce, in milk equivalent	18-50 SwF/100 kg gross	10.2	40-1,642 SwF/100 kg gross	131.2	527,000 (tonnes)	686,141 (tonnes)	130
(8) Casein	4 SwF/100 kg gross	0.9	553.1-909 SwF/100 kg gross	155.4	697 (tonnes)	915 (tonnes)	131
(9) Birds' eggs, in shell	50 SwF/100 kg gross	14.9	371 SwF/100 kg gross	52.5	33,735 (gross tonnes)	31,929 (gross tonnes)	95
(10) Dried egg products <sup>c</sup>	255 SwF/100 kg gross	<b>34.6</b>	500-1,596 SwF/100 kg gross	<b>25.5</b>	977 (gross tonnes)	877 (gross tonnes)	90
(11) Egg products other than dried <sup>c</sup>	79 SwF/100 kg gross	<b>33.9</b>	134-420 SwF/100 kg gross	<b>33.4</b>	6,866 (gross tonnes)	7,578 (gross tonnes)	110
(12) Bovine semen	0.1 SwF/usual unit	0.8	5 SwF/usual unit	75.8	20,000 (doses)	385,456 (doses)	1,927
(13) Cut flowers	12.5-25 SwF/100 kg gross	2.7	81-196 SwF/100 kg gross	7.5	4,590 (gross tonnes)	8,306 (gross tonnes)	181
(14) Seed potatoes, potatoes for processing, table potatoes, potato products (in potato equivalent)	1.4-70 SwF/100 kg gross	19.8	44-785 SwF/100 kg gross	116.2	22,250 (tonnes)	37,281 (tonnes)	168
(15) Fresh vegetables	0-10 SwF/100 kg gross	5.2	85-1,756 SwF/100 kg gross	129.8	166,076 (tonnes)	217,651 (tonnes)	131
(16) Frozen vegetables	55 SwF/100 kg gross	37.5	170 SwF/100 kg gross	118.7	4,500 (tonnes)	4,737 (tonnes)	105
(17) Fresh apples, pears and quinces	2-5 SwF/100 kg gross	2.3	133-153 SwF/100 kg gross	106.7	15,810 (tonnes)	8,380 (tonnes)	53
(18) Fresh apricots, cherries, plums and sloes	3-10 SwF/100 kg gross	1.8	102-255 SwF/100 kg gross	70.9	16,340 (tonnes)	18,494 (tonnes)	113
(19) Other fresh fruit	3-5 SwF/100 kg gross	0.6	255-510 SwF/100 kg gross	62.6	13,360 (tonnes)	17,433 (tonnes)	130
(20) Fruit for cider	2 SwF/100 kg gross	13.8	17-21 SwF/100 kg gross	76.9	172 (tonnes)	4 (tonnes)	2
(21) Seed fruit products (in seed fruit equivalent)	9-100 SwF/100 kg gross	30.6	82-260 SwF/100 kg gross	72.9	244 (tonnes)	1,310 (tonnes)	537
(22) Grapes for pressing and grape juice	34-100 SwF/100 kg gross	43.0	3.47-4.3 SwF/litre; 272-782 SwF/100 kg gross	107.8	100,000 (hectolitres)	66,034 (hectolitres)	66



	Applied MFN tariff: In-quota tariff (%)		Applied MFN tariff: Out-of-quota tariff (%)		Imports under tariff quotas in 2015 <sup>b</sup>		
	As reported in 2016 tariff schedule (tariff range)	AVE <sup>a</sup>	As reported in 2016 tariff schedule (tariff range)	AVE <sup>a</sup>	Tariff quota quantity	In-quota imports	2015 fill rate (%)
(23), (24), (25) White wine and red wine <sup>c</sup>	34-50 SwF/100 kg gross	<b>20.1</b>	1.08-3.27 SwF/litre	<b>15.3</b>	1,700,000 (hectolitres)	1,602,052 (hectolitres)	94
(26) Durum wheat, undenatured	1 SwF/100 kg gross	2.4	30 SwF/100 kg gross	62.5	110,000 (tonnes)	64,482 (tonnes)	59
(27) Bread grains, other cereals and cereal products suitable for use for human consumption	18 SwF/100 kg gross	20.7	0%; 38-40 SwF/100 kg gross	46.0	70,000 (tonnes)	89,112 (tonnes)	127
(28) Coarse grains for human consumption	0%; 2.5-3 SwF/100 kg gross	5.6	20 SwF/100 kg gross	29.9	70,000 (tonnes)	35,484 (tonnes)	51

a *Ad valorem* equivalents (AVEs) were estimated based on 2015 import data at the HS 8-digit level. If no import data were available for 2015, 2014 import data were used in calculations

b 2015 imports under tariff quota from WTO notification (G/AG/N/CHE/77), 8 November 2016.

c The AVE of in-quota tariffs is higher than the AVE of out-of-quota tariffs because of different unit prices used in the calculations.

Source: WTO Secretariat calculations, based on data provided by the authorities; and WTO notification (G/AG/N/CHE/77), 8 November 2016.