



## Department of Economy

As of : March 2022

# Trade and Investment Policy

## Bilateral Relations Switzerland / EU

### Current Status

The European Union (EU) is by far Switzerland's most important trading partner. At the same time, Switzerland is also one of the EU's largest export and import markets. 66% of Swiss imports come from the EU and 48% of Swiss exports go to the EU. SwissHoldings member companies are also strongly intertwined with the EU. At the end of 2019, member companies' direct investments in the EU amounted to CHF 236 billion. This is 53% of all direct investments abroad by SwissHoldings member companies.

Accordingly, the relationship between Switzerland and the EU is very important to the Swiss economy. As a result, Switzerland is pursuing a bilateral path, starting with the free trade agreement in 1972, Switzerland has established a dense and constantly evolving network of agreements with the association of states. Particularly significant are the Bilateral I and II agreements, which grant the contracting parties non-discriminatory access to each other's markets and establish close cooperation in various areas between Switzerland and the EU. This bilateral approach has brought numerous benefits to our country. However, the EU has made further developments on the network of agreements that are conditional on clarification of the institutional framework. Based on this demand, a draft agreement was drawn up between 2014 and 2018.

In a meeting on 26 May 2021, the Federal Council decided not to sign the Institutional Framework Agreement and to terminate the negotiations with the EU, as various substantial differences could not be resolved. Nevertheless, it would like to continue bilateral cooperation and develop a common agenda on further cooperation with the EU. In response to several postulates from Parliament, over the course of 2022, the Federal Council will present a report that includes an assessment of relations with the EU and measures for the ongoing development of a bilateral path to ensure a mutually beneficial relationship with the EU.

In the meantime, the Federal Council is seeking a rapid de-blocking of the cohesion contribution. This was released by parliament in the fall session of 2021. In addition, the Federal Council approved the memorandum of understanding with the EU for the implementation of the Swiss contribution in November 2021. The conclusion of the bilateral implementation agreement is scheduled for 2022.

At the end of February, the federal council outlined guidelines for a new negotiation package with the EU. The body wants to regulate contentious issues such as the dynamic adoption of law, dispute settlement and exceptions and safeguard clauses on a sectoral basis in the future rather than on an overarching basis. Other possible parts of the package include new internal market agreements and the continuation of Switzerland's cohesion contribution. The Federal Council plans to begin initial exploratory talks with the EU on this new proposal in the coming weeks.



<p><b>Outlook</b></p>	<p>Orderly and secure relations between the European Union and Switzerland are essential for both sides. The EU member states will remain extremely important trading partners for the strongly export-oriented Swiss economy for the foreseeable future. It must therefore remain a priority goal that the bilateral path can be successfully continued.</p> <p>SwissHoldings welcomes the fact that the Federal Council is endeavoring to develop a common agenda on further cooperation with the EU in order to ensure the smoothest possible application of the bilateral agreements; even without the conclusion of the InstA. In this context, the Federal Council has instructed the Federal Department of Justice and Police (FDJP), in cooperation with the other departments, to examine the possibility of independent adjustments in national law with the aim of stabilizing bilateral relations.</p> <p>From our point of view, it is also important to exhaust all possibilities that Switzerland can implement unilaterally to strengthen the framework conditions in order to ensure the competitiveness of our country.</p>
-----------------------	---

## Abolishment of Industrial Tariffs

<p><b>Current Status</b></p>	<p>The <a href="#">bill to revise the Customs Tariff Act</a> is intended to set customs duties on industrial products to zero. For the purposes of this bill, the term "industrial products" covers all goods with the exception of agricultural (including animal feed) and fishery products. In addition to eliminating tariffs, the bill also seeks to simplify the tariff structure for industrial products. The planned simplification of the tariff structure will reduce the number of tariffs in the industrial sector from 6172 today to 4592. The bill is part of the "Import Facilitation" package of measures in the fight against Switzerland as a high-price island.</p> <p>The National Council and Council of States approved the bill in the final vote on October 1, 2021 (<a href="#">final vote text</a>). After the referendum deadline of January 20, 2022 passed without action, the Federal Council decided that it would be put into effect on January 1, 2024.</p>
<p><b>Outlook</b></p>	<p>Our association welcomes the decision of the Parliament to adopt the amendment and will accompany the technical implementation of the industrial tariff dismantling.</p>



## Free Trade Agreement

<p><b>Current Status</b></p>	<p>The Swiss economy has a strong global orientation and is therefore dependent on cross-border trade and international investment activities. Thus, the constant improvement of access to foreign markets was and is a focus of Swiss foreign policy. This is done, amongst other channels, through free trade agreements with third parties. In addition to the EFTA Convention and the free trade agreement with the European Union (EU), Switzerland has a network of 33 free trade agreements with 43 partners worldwide. Therefore, in association with the other EFTA states, Switzerland is currently negotiating free trade agreements with seven new partner states: namely India, Kosovo, Malaysia, Mercosur, Moldova, Thailand and Vietnam, as well as the modernization of various existing agreements.</p> <p>In recent years, criticism of globalization has become more prominent and free trade agreements are increasingly viewed critically. In particular, fears regarding Sustainable Development Goals (SDGs) and climate targets are fueling protectionist tendencies. In the context of these developments, discussions about the sustainability of free trade agreements have also increased.</p> <p>Following the narrow approval of the free trade agreement with Indonesia, attention will now increasingly focus on the free trade agreement with Mercosur. Negotiations between EFTA and the Mercosur countries were concluded in Buenos Aires in August 2019. Currently, the legal review is underway, which was delayed by Covid. In addition, the legal review revealed that different interpretations on some substantive points still need to be clarified. According to the practice of the Federal Council, an optional referendum is to be expected.</p>
<p><b>Outlook</b></p>	<p>Especially against the backdrop of trade conflicts, the blockade of the World Trade Organization (WTO), growing protectionism and the expansion of free trade agreements is very important for the export-oriented Swiss economy and the member companies of SwissHoldings. Free trade agreements provide privileged access to important markets and lead to overall growth and prosperity for Switzerland. They also ensure that Swiss companies are not at a competitive disadvantage compared to companies in other countries. SwissHoldings thus supports the Federal Council's strategy for expanding and modernizing the network of free trade agreements.</p> <p>Concerns are increasingly being expressed about sustainable development in connection with global trade. Of course, SwissHoldings recognizes and supports the claim that sustainability aspects are deservedly taken into account within the considerations of free trade agreements. The chapter on "Sustainability and Trade" provides a solid foundation for promoting sustainable development. Moreover, it should not be neglected that intensified trade relations are an important factor in promoting sustainable development. In addition to significant economic aspects, the improvement of the labor market and, as a result, social progress, knowledge and technology transfer also play an important role.</p> <p>SwissHoldings will continue to advocate for the important expansion of the Swiss network of free trade agreements.</p>



## Investment Control

<p><b>Current Status</b></p>	<p>In Switzerland, the question is currently being discussed on whether foreign direct investment within Swiss companies poses a threat to Switzerland overall.</p> <p>The Federal Council has dealt with this issue in detail within the context of the report "<a href="#">Cross-border Investments and Investment Controls</a>" and has come to the conclusion that the introduction of regulatory control for direct investments would not bring any added value at the present time. Notwithstanding, both councils have voted in favor of the <a href="#">Rieder Motion</a>. Whereby mandating that the Federal Council draft a bill for investment control of foreign direct investment in Swiss companies - among other things, by establishing an approval authority for transactions that are subject to investment control. In particular, the focus is on takeovers and investments by companies from the dynamically growing emerging markets in infrastructures such as energy, transport, telecommunications, data storage and financial infrastructure.</p> <p>On August 25, 2021, the Federal Council defined the parameters for a control system for foreign investments to implement the Rieder motion. The consultation draft is expected to be available by the end of March 2022.</p>
<p><b>Outlook</b></p>	<p>Switzerland is one of the largest direct investors in the world. Swiss companies had a capital stock of CHF 1.445 billion abroad in 2019. The counterpart to this is the stock of CHF 1.370 billion of foreign direct investment in Switzerland. SwissHoldings member companies are important direct investors. Their capital stock amounted to CHF 444 billion at the end of 2019. Accordingly, it is a key concern for SwissHoldings that investment activity is maintained and that Switzerland is not weakened as an investment location. This is all the more important, as Covid-19 is likely to have triggered a sharp decline in foreign direct investment inflows last year. However, while competition for investment from abroad is intensifying, Switzerland is becoming increasingly dependent on foreign investment for its growth and prosperity.</p> <p>As a basic principle, it should be noted that the investment control mechanism must be targeted (i.e. focused on clearly defined objectives), efficient in implementation and administratively lean. An unnecessary administrative burden on companies should be avoided. Investors should also be granted the highest possible level of transparency and legal certainty.</p> <p>SwissHoldings will actively accompany the preparation of the draft law. Confidence in Switzerland as an open - but already not barrier-free - investment location and liberal economic policy must be maintained.</p>



## Corporate Social Responsibility

### Corporate Responsibility Initiative

<p><b>Current Status</b></p>	<p>The popular initiative was put to a vote on November 29, 2020. The lead for this business campaign was taken by economiesuisse and SwissHoldings was also involved in the campaign. The initiative narrowly won a majority of the voting (50.7% in favor) - but the bill was rejected thanks to a clear failure to win a majority with the cantons (cantons: 14.5 NO, 8.5 YES).</p> <p>This paved the way for the enforcement of the indirect counter-proposal. The Federal Council presented the Ordinance on an indirect counter-proposal on December 3, 2021. The new obligations were based on the EU regulations and in some cases go beyond them. The law will come into effect as early as January 1, 2022. This means that Swiss companies, as of the 2023 fiscal year, will have to report under the new rules for the first time.</p> <p>SwissHoldings supports the direction of the implementing Ordinance. In particular, it is considered positive that the sector-specific due diligence obligations have been closely coordinated with the guidelines of the OECD and to the International Labor Organization (ILO); to ensure that a risk-based approach is explicitly pursued for the area of child labor.</p>
<p><b>Outlook</b></p>	<p>The new obligations associated with the implementation of the counterproposal are challenging, especially in the area of child labor. SwissHoldings will support the implementation work of the member companies, to the fullest extent and offer a platform for the exchange of expertise.</p>

### Sustainable Development Strategy 2030 / Federal Councils CSR Action Plan

<p><b>Current Status</b></p>	<p>With the "Sustainable Development 2030" strategy, the Federal Council shows how it intends to implement the 2030 Agenda for Sustainable Development over the next ten years. The strategy is now designed for ten years instead of the previous four. In doing so, the Federal Council anchors the goal of sustainable development as an important requirement for all federal policy areas. The Federal Council has defined the three priority themes of "sustainable consumption and production", "climate, energy, biodiversity" and "equal opportunities" as strategic directions for federal policy. The strategy also sets out how the economy, financial market and the field of education (research and innovation) can drive sustainable development forward; in conjunction with what framework conditions are necessary to achieve this.</p> <p>At its meeting on November 4, 2020, the Federal Council sent the strategy out for consultation and lasted until February 18, 2021. SwissHoldings submitted a statement as part of this consultation. The Strategy 2030 and the associated Action Plan 2021-2023 were adopted by the Federal Council on June 23, 2021.</p> <p>SwissHoldings also advocates appropriate regulation in the area of Corporate Social Responsibility. With a focus on international standards and best practices, the Federal Council's National Action Plan on Business and Human Rights (NAP) and SECO's CSR Position Paper directs Switzerland in the right direction. On the important issue of Corporate Social Responsibility, only an internationally coordinated approach can achieve the desired results.</p> <p>On January 15, 2020, the Federal Council approved the revised <a href="#">Action Plans</a></p>
------------------------------	---



	<p><a href="#">2020 - 2023</a> on Corporate Social Responsibility and Business and Human Rights. On September 14, 2021, the Swiss Forum on Business and Human Rights was also held, which included a cross-stakeholder exchange on good practices and proven approaches.</p> <p>The Federal Council has also revised its <a href="#">position paper and action plan on Corporate Responsibility for Society and the Environment</a>. From a strategic perspective, it has been adapted in such a way that the stakeholders' dialog has been strengthened and the review on the implementation of CSR tactics have been expanded. In addition, greater emphasis was placed on the topic of digitalization.</p>
<b>Outlook</b>	<p>The Federal Council's action plans are currently being implemented. SwissHoldings supports the work of the Confederation in this area within the framework of the Federal Commission for the Consultation of the NCP (NCP Advisory Council) and the support group national action plan on "Business and Human Rights".</p>

## Accounting and Reporting

### IFRS Standards

<b>Current Status</b>	<p>Three consultations are currently being held by the IASB on the classification of liabilities (<a href="#">Non-Current Liabilities with Covenants</a>), on supplier finance <a href="#">arrangements</a> and on the promotion of the reduction of vehicle emissions (<a href="#">Negative Low Emission Vehicle Credits</a>). SwissHoldings will submit a statement on the consultation regarding supplier finance arrangements. In addition, the association submitted a statement on disclosure requirements for subsidiaries that are not subject to public accountability at the beginning of the year (<a href="#">link</a>).</p> <p>In addition, after appropriate consultation the IFRS decided to expand its activities to include non-financial reporting. To implement this, the <a href="#">IFRS Foundation Constitution</a> has been amended to allow the establishment of the International Sustainability Standard Board. This is to be responsible for the development of standards in the area of sustainable corporate governance. The Technical Readiness Working Group has already published a prototype for disclosure requirements in the area of <a href="#">general non-financial reporting</a> and <a href="#">climate reporting</a> as preparatory work</p>
<b>Outlook</b>	<p>SwissHoldings will continue to actively follow the development of IFRS accounting and participate in relevant consultations.</p>



## Developments at the EU Level

<p><b>Current Status</b></p>	<p>At the EU level, the topic of sustainability is at the center of public discussion. In this context, the European Commission has become active through various initiatives.</p> <p>In the area of reporting, the focus is primarily on three regulations. On one hand, there is Regulation 2019/2088 on sustainability-related disclosure requirements in the financial services sector, which is aimed at financial services providers. Alternatively, the taxonomy regulation and the directive on non-financial reporting also impose new requirements on companies from the real economy.</p> <p>The Taxonomy Regulation introduces a classification system for environmentally sustainable economic activities. This system aims to promote sustainable investments and minimize greenwashing. Companies that fall under the scope of the non-financial reporting directive must disclose their activities to the extent that they qualify as environmentally sustainable under the taxonomy. For more information on the current status of the draft, please refer to the subchapter "Sustainable Finance".</p> <p>In addition, the directive on non-financial reporting is currently being revised. The European Commission conducted a consultation in spring 2020 (<a href="#">link to SwissHoldings' statement</a>).</p> <p>On April 21, 2021, the European Commission published the draft revision under the new name Corporate Sustainability Reporting Directive (CSRD). This comprises the following key figures:</p> <ul style="list-style-type: none"> <li>• The scope of application is extended to all large as well as all listed companies.</li> <li>• Companies are required to prepare their non-financial reports in accordance with the mandatory EU standard.</li> <li>• Audit of non-financial information by independent third parties becomes mandatory.</li> <li>• The information must be published together with the annual report in electronic format.</li> </ul> <p>The draft CSRD is currently being processed by the European Parliament and the European Council.</p> <p>In addition, the European Commission is currently looking into possible regulations in the area of sustainable corporate governance and related due diligence. It opened a consultation on this at the end of October 2020. A draft regulation is expected in Q1 2022 after it had been postponed several times.</p>
<p><b>Outlook</b></p>	<p>SwissHoldings welcomes in principle the initiatives for improved transparency of ESG risks and consolidation of the requirements for companies regarding this situation. However, the obligation to publish information on sustainably classified activities in the context of non-financial reporting should be carried out in accordance with the principles of financial reporting and in an internationally coordinated context. The transfer of international recommendations (such as TCFD) into Swiss legislation should also be principle-based - whereby the "Comply or Explain" principle is to be provided for, which gives companies the necessary leeway during implementation. Mandatory disclosures of predefined KPIs cannot be derived from these recommendations. In addition, corresponding transparency requirements should be appropriately graded according to size, complexity, risk profile and structure of the business model. Efforts to increase transparency and clarity must be proportionate, practicable and appropriately designed. Overly burdensome regulations must be prevented.</p>



SwissHoldings is monitoring ongoing developments and continues to accompany the business, particularly within the framework of the working group of umbrella organizations at the European level.

## Capital Markets

### Sustainable Finance

#### Current Status

The topic of "Sustainable Finance" has gained importance in conjunction with 'Sustainable Corporate Governance'. Particularly in the discourse surrounding the Paris Agreement, it became clear that private investors have an important role to play with regards to combating climate change. The subject of these considerations is that the participation of private investors ensures market mechanisms can perform their important guidance function and thus resources flow towards the most promising sustainable investment assets.

Sustainable finance has long since reached the financial markets. The number of sustainable financial products has increased massively in recent years. A [study](#) by Swiss Sustainable Finance showed that CHF 1'520.2 billion was invested in sustainable financial products at the end of 2020 - an increase of 31% compared to 2019.

The issue has also arrived at the political level. In June 2019, the Federal Council [set up](#) an internal working group under the leadership of the State Secretariat for Financial Affairs on the topic of sustainable finance. On June 24, 2020, the Federal Council adopted a [report](#) and [guidelines](#) on Sustainability in the Financial Sector. The aim is to strengthen the competitiveness of the Swiss financial market in this area and make an effective contribution to sustainability. The following priorities emerge from the report:

- The systematic disclosure of relevant and comparable climate and environmental information for financial products
- Strengthening legal certainty with respect to fiduciary duties or with respect to the consideration of climate/environmental risks and impacts
- Strengthening the consideration of climate/environmental risks and impacts in financial market stability issues
- Monitoring developments at international and, in particular, EU level.

The Federal Council intends to address these in cooperation with the industry and other interest groups.

The four directives were further specified in December 2020 when the Federal Council adopted the following measures:

- Development of a binding implementation of the recommendations of the Task Force for Climate-Related Financial Disclosures (TCFD) - Whereas on August 18, 2021 the Federal Council decided on the key parameters for future binding climate reporting by large Swiss companies. By summer 2022, the Federal Department of Finance is to prepare a consultation draft.
- Proposal to adapt financial market law to avoid any greenwashing by fall 2021.



	<ul style="list-style-type: none"> <li>• Recommendations to the financial market acts to publish methods and strategies on how climate and environmental risks are taken into account. The recommendation has been compiled and will be reviewed at the end of 2022.</li> <li>• Expand Switzerland's involvement in international environmental conferences and initiatives.</li> </ul> <p>SwissHoldings is closely following the work regarding the binding implementation of TCFD. From SwissHoldings' point of view, a principle-based anchoring of the recommendations is essential, which provides companies the necessary leeway for its implementation via the "Comply or Explain" principle.</p> <p>In line with the goals of the Federal Council, the Green Fintech Network presented an <a href="#">action plan</a> for a green and innovative Swiss financial center in April 2021. This included 16 proposals, ranging from the establishment of a platform for sustainability data, to launching the Innovation Challenge for Green Fintech Startups, as well as the promotion of Open Finance and increasing financing opportunities for Green Fintechs. For companies, the action plan calls for improved non-financial reporting and actively supports the implementation of the TCFD and the development of Nature-Related Financial Disclosures (TNFD).</p> <p>Sustainable finance is also high on the agenda at EU level. The European Commission has presented an action plan for financing sustainable growth, which has already resulted in several legislative initiatives. This includes the <a href="#">Taxonomy Regulation</a>, which is particularly relevant for companies. The regulation came into effect in 2020 and provides a framework for assessing the environmental sustainability of economic activities and requires companies affected by the regulation to report on it. Under the regulation, they must disclose sales, capital and operating expenses associated with environmentally sustainable economic activities. The regulation is based on six environmental objectives: climate change mitigation, climate adaptation, conservation and protection of water and marine resources, transition to a circular economy, pollution prevention and control, and conservation of biodiversity and ecosystems.</p> <p>The <a href="#">Delegated Acts</a> further specify the information and the methodology for its preparation in <a href="#">Delegated Acts on Climate Targets, which was published in 2021. These delegated acts</a> on environmental targets are expected in 2022. The timeline foresees that initial qualitative information and the share of activities covered by the Taxonomy must be disclosed by the 2021 reporting period. This can be as early as January 1, 2022 but companies must then prepare the first full report for the 2023 reporting period.</p> <p>In addition, discussions are already taking place on how the Taxonomy could be extended to the area of social sustainability.</p> <p>On July 6, the European Commission published the revised <a href="#">Sustainable Finance Strategy</a>, which is particularly designed to finance the transition to a sustainable economy. It proposes measures in the four areas: transition finance, inclusivity, resilience and contribution to the financial system and global ambition. The European Commission will report on progress for implementation in 2023.</p> <p>Developments in the area of sustainable financing, as well as regulatory innovations in particular, could also affect companies outside the financial sector.</p>
<p><b>Outlook</b></p>	<p>SwissHoldings shares the view that private sector investments can make an important contribution to achieving global climate and sustainability goals. Increased attention to sustainable finance can create awareness for the great</p>



contribution and high commitment of the private sector by the sustainable development of society.

For SwissHoldings, it is important that investors and the private banking sector can continue to use their discretion with regard to corporate financing. This would help determine which companies or technologies they consider to be particularly sustainable. Market-driven sustainability and consideration of ESG criteria are increasingly part of financial markets. These broad-based efforts by the private sector should not be unnecessarily restricted by the State.

SwissHoldings sees the current initiatives for greater standardization within the area of sustainable finance as fundamentally positive. However, the creation of binding classification systems should only be carried out with restraint and, if possible, in an internationally coordinated manner. Companies already report extensively on their sustainability efforts as part of their financial and non-financial reporting.

On Binding Classification Systems ("Taxonomy") specifically: The core objective of sustainability should continue to be a transformation that is as broad as possible. This includes all companies and provides the opportunity to adapt their business model. Delimiting individual business activities into a rigid "Black/White" system does not do justice to this claim. The marginal benefit in terms of sustainability of investments in sectors - which currently have a lower standard but a high potential for transformation - is generally much higher. A lack of differentiation in the audit requirements also means that investments to gradually improve sustainability performance may often not prove worthwhile in practice, which subsequently slows them down.

In addition to the ESG factors, a properly understood sustainable economic activity also includes the contribution of companies to the economic development of a society. This is appropriately captured in the triple bottom line principles of sustainability but is inadequately addressed in the arguments towards sustainable finance that is currently under discussion. Socio-economic development contributions of the economy, such as in relation to old-age and pension provisions, the education and training of employees (keyword vocational training), etc., must be included in the corresponding considerations.



## Exchange Equivalence - Extension of the Exchange Protection Measure

<p><b>Current Status</b></p>	<p>The EU granted Switzerland <b>stock exchange equivalence</b> only until the end of June 2019, but then did not extend it. For this reason, <b>Switzerland activated the measure to protect the Swiss stock exchange infrastructure on July 1, 2019</b>. Since January 1, 2019, foreign trading venues are subject to a recognition obligation, whereby they should admit certain shares of Swiss companies to trading or enable trading of such shares (see <a href="#">also link</a>).</p> <p>The Ordinance regulating the Stock Exchange Protection Measure (see <a href="#">link to Ordinance</a>) is based exclusively on the Federal Constitution (Art. 184 para. 3 BV) and was therefore limited in time (until December 31, 2021). <b>The Federal Council</b> decided in November 2021 to extend the measures and to launch a consultation on the transfer of the Protective Measure into ordinary law. This will run until March 4.</p>
<p><b>Outlook</b></p>	<p>SwissHoldings is supporting the bill on a cross-sectoral basis and advocating for the interests of its member companies. The association will participate in the ongoing consultation process (see also the comments in the legal section).</p>

## Monetary Policy SNB

<p><b>Current Status</b></p>	<p>In today's extraordinary times due to the "COVID 19" challenges, the Swiss National Bank (SNB) is increasingly becoming the focus of attention. At the parliamentary level, various proposals have been discussed with the aim of tying the SNB's distributions to certain purposes.</p> <p>Currently, there is a <a href="#">motion on</a> the WAK-N demanding that the federal share of future SNB distributions be used directly for the reduction of the Corona debt. This motion was adopted in the National Council. However, it still has to clear the hurdle in the Council of States.</p>
<p><b>Outlook</b></p>	<p>SwissHoldings will closely follow the ongoing developments and from our perspective the SNB's distribution practice to date has proven its worth. The organization is critical of a "politicization" or further earmarking of the SNB's profits.</p>

## Swiss-EU Relations

<p><b>Current Status</b></p>	<p>At the end of May 2021, the Federal Council decided to break off negotiations for an institutional framework agreement with the European Union. The EU has subsequently announced that it will no longer update the current bilateral agreements and will not conclude any new agreements with Switzerland until the disputed points have been resolved.</p> <p>In the meantime, the initial consequences of the anticipated erosion are being felt within the bilateral treaty relationship. For example, the Swiss medical technology industry must now export its products to the European single market in accordance with the "third-country condition". Furthermore, the EU has suspended full association with the EU research programs Horizon Europe, Euratom, Digital Europe and ITER. In addition, they have blocked open equivalence procedures, such as the failure to revise EU financial services legislation, which makes market access for banking services more</p>
------------------------------	--



difficult. Consequently, the fact that new agreements are not currently being concluded to encourage participation in the further development of the EU single market is also likely to have an impact within the medium term. The area of cross-border electricity trading is particularly worthy of mention here.

In its communication since May 2021, the Federal Council has always emphasized an awareness of the damaging potential regarding the progressive erosion of the bilateral path for Switzerland as a business location. Therefore, it has always reiterated its desire to continue along the bilateral path. With this goal in mind, the Federal Council proposed the launch of a regular and structured dialogue with the EU at the political level. Whereby, the framework on a common agenda for future cooperation is to be developed and monitored in the interests of both sides. Part of this strategy is also a rapid de-blocking of the cohesion contribution. This contribution was released by Parliament in the fall session of 2021, with the additional approval of a "Memorandum of Understanding" amongst the EU on the implementation of the Swiss contribution.

Switzerland's first official meeting with the EU since the end of May 2021 on bilateral contractual relations took place in November 2021 between President Cassis and Vice-President of the EU Commission Maroš Šefčovič. At this meeting, Switzerland focused on presenting its concerns for the path forward. However, it did not outline any substantive proposals or benchmarks for clarifying the contractual relationship during the exchange. For its part, the EU emphasized during the visit that it expects Switzerland to present a binding roadmap in the next few months for resolving the outstanding issues: such as dynamic adoption of law, settlement of disputes, agreement on state aid and regular payments of cohesion contributions.

Nevertheless, the Federal Council's current thinking on these issues can be deduced from the recent statements made by the body with regard to political initiatives in parliament. For example, the response to NR Nussbaumer's Motion (21.4457: Initiation of Exploratory Talks with the EEA Council) indicates that there is currently little to suggest that in the near future the Council will be seeking to set a fundamentally new course in European policy; as would be the case with the exploration of EEA accession. Rather, it appears that the Federal Council will opt for a pragmatic middle course of action. There seems to be a growing consensus that the bilateral approach and the principle of (partial) access to the single market should be maintained or further developed. To that degree, the open institutional issues should no longer be addressed in an overarching manner (as is the failed framework agreement) but addressing each agreement separately with the EU.

This course of action could consist of seeking selective solutions in the most urgent areas of the bilateral relationship. For instance, should Switzerland agree with the EU on a continuation of research cooperation on the existing dynamization agreement regarding technical barriers to trade including dispute settlement; or on an electricity agreement with dynamic adoption of law and dispute settlement. Therefore, as a possible compromise, an entirely new treaty package ("Bilateral III") is also currently being discussed. The package would aim at new cooperation agreements, while at the same time clarifying institutional issues for market access on a sectoral basis. What these approaches have in common is that the free movement of persons should be excluded from the institutional superstructure and, in particular, from the dynamic development of the law and the settlement of disputes, or should be underpinned by a safeguard clause.

At the latest, the Federal Council announced that the report on the Assessment of Bilateral Relations and Possible Measures for the Continuation of the Bilateral Path would be available in 2022. There should be clarity as to how the panel assesses the individual options. It is not yet clear how the EU will react to such a compromise proposal on its part.



## Outlook

Orderly relations between the European Union and Switzerland are important for both sides. For the foreseeable future, the member states of the EU will remain important trading partners with the overly export-oriented Swiss economy. The primary goal of Swiss foreign economic policy must continue to prevent further erosion of existing market integration, in conjunction with cooperation agreements to further expand bilateral relations.

From SwissHoldings' point of view, a domestic political consensus is essential for successful talks with the EU. In the case of the "technical" bilateral agreements, the dynamic adoption of EU law and conformity standards seems to be less controversial across the political camp in Switzerland. The great fragmentation in the political landscape when it comes to taking a position can be seen to focus on the Agreement on the Free Movement of Persons. Therefore, it relates directly to the questions of wage protection, access to social welfare systems and the design of migration policy in general. Against this backdrop, the sectoral approaches brought into play (keyword "limited dynamization of the bilaterals" or "Bilateral III") offer the chance for the current domestic political stalemate to be resolved and a common direction defined. Another argument in favor of this approach is that so far all attempts by Switzerland to make progress on the European issue by "throwing big dice" have failed.

Such a sectoral approach implies laying new foundations for deepening bilateral relations and not simply correcting existing treaties retrospectively. This requires a concession from the EU. So far, it seems that the EU Commission does not want to move away from the position that the open institutional questions are to be clarified according to the "Framework Agreement" model. Alternatively, support for such a pragmatic approach comes at the level of EU member states. For instance, Austria, Germany, and the Scandinavian countries recently decided autonomously to accept the import of medical devices certified in Switzerland during a transitional period; despite the non-updating of the Agreement on Technical Barriers to Trade (MRA). From the association's point of view, these bilateral relations with individual member states must be specifically deepened and used to strengthen the association's own negotiating position vis-à-vis the EU.

In the longer term, Switzerland will not be able to avoid clarifying the tension between the goal of extremely profitable participation in the EU single market and the concern to shape its own economic policy as sovereignly as possible. Notwithstanding the background regarding the EU specifically, as they have shown increasingly dogmatic tendencies toward centralization. Specifically in response to the growing efforts toward independence within the Union. Should the EU insist on a general institutional superstructure to regulate the bilateral contractual relationship with Switzerland, quantified fact-based assessments are necessary to understand how the agreement would affect Switzerland as a business location in the short, medium and long term. In addition, for each new agreement, this would also include an application for the institutional rules beyond the five market access agreements. Not mentioning the actual free trade agreement itself. Previous statements by stakeholders in Switzerland have (so far) limited their cost-benefit analyses of such an institutional superstructure towards their immediate fields of interest, while presented exclusively from a short-term perspective.

SwissHoldings also needs robust bases in the form of scenario analyses and direct quantification of developments. This would help shape the political debate in the interests of its members. Consequently, such an institutional superstructure in the bilateral treaty relationship between Switzerland and the EU is likely to have a strong impact on the conditions for industrial groups in Switzerland. Particularly affecting the longer term, as this is most likely to be felt in the future design of trade, tax and employer policy. It is important to have sound analyses on the expected implications of such institutional rules;



in addition to possible alternatives overall. Ensuring that the interests of the members can be specifically represented. Such a systematic and strategic approach would also set the association apart. Specifically within the current discussion compared with other trade associations, which have so far refrained from underpinning their own position with concrete impactful analyses; including those with a longer-term focus.