

## Freeports: function and law

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A freeport, in Swiss terminology a customs free warehouse (*Zollfreilager*), is a secured area in which goods may be stored without being imported into the Swiss customs territory. While the goods remain there, neither customs duties nor value added tax are levied. They can be sold, repackaged or re-exported without ever being cleared. The institution has its origin in the transit trade of the nineteenth century, when warehouses at railway junctions and ports allowed merchants to hold stocks of coffee, grain or cotton until they knew where the goods would finally be sold. Part A of this book described the *Kaufhaus*, the medieval customs and trading house of Basel, as a distant ancestor of these institutions.<sup>1</sup>

The Customs Act of 2005, in force since 1 May 2007, distinguishes two forms of storage. Open customs warehouses are operated by private companies under a licence and supervised by the customs authority. Customs free warehouses are designated areas available to multiple depositors. Under both regimes, goods remain under customs supervision. The law was originally designed for commodities and industrial goods. Over the decades, however, a growing share of the value stored in Swiss warehouses came to consist of works of art, wine, precious metals and other valuable movables. A freeport offers the collector security, climate control and specialised handling. It also allows the deferral of value added tax, which at the Swiss rate of 8.1 per cent represents a significant amount on a work worth several million francs.<sup>2</sup>

For goods in genuine transit, the tax advantage is lawful and transparent. The concern of regulators arose because some works remained in the warehouses for decades and changed hands repeatedly without leaving the premises. In such cases the warehouse served as a place of permanent storage and private trading, beyond the reach of the ordinary rules on import, taxation and documentation. Commentators in the international press and in reports prepared for the OECD and the European Parliament

described freeports as potential instruments of tax evasion and money laundering. The operators replied that the goods were subject to customs supervision and that the warehouses kept detailed records.<sup>3</sup>

## 1 Notes

1. On the concept of customs free warehouses and open customs warehouses and their historical origins in the transit trade, see the Customs Act of 18 March 2005 (CustA, SR 631.0) and its predecessor of 1925, and Part A of this book. To be verified. ↩
2. Art. 50–57 CustA (SR 631.0), in force since 1 May 2007, on open customs warehouses and customs free warehouses, and the corresponding provisions of the Customs Ordinance (SR 631.01); Swiss VAT standard rate of 8.1 per cent since 1 January 2024. To be verified. ↩
3. On the debate about freeports as instruments of opacity, see the OECD work on free trade zones and the study prepared for the European Parliament's Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance (TAX3), Money laundering and tax evasion risks in free ports (2018). To be verified. ↩

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