

International pressure: the European Union and the OECD

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The codification of the status regimes in federal law coincided with the beginning of international pressure against them. From 2005, the European Commission argued that certain cantonal tax regimes, in particular those for holding, domicile and mixed companies, distorted competition and constituted state aid incompatible with the Free Trade Agreement of 1972 between Switzerland and the European Economic Community. On 13 February 2007, the Commission formally notified Switzerland of its view that the regimes violated the Agreement.¹

Switzerland rejected the legal argument. The Free Trade Agreement of 1972 concerned trade in goods and contained no rules on the taxation of companies. In the Swiss view, the Commission's interpretation had no foundation in the text.² The political argument was harder to resist. The cantonal regimes treated domestic and foreign income differently, a practice known internationally as ring-fencing that was under scrutiny not only in the European Union but also in the Organisation for Economic Co-operation and Development. In June 2010, the European Union proposed a dialogue on its code of conduct for business taxation. In July 2012, after consultations with the parliamentary committees and the cantons, the Federal Council approved a negotiating mandate. On 14 October 2014, Switzerland and all member states of the European Union signed a joint understanding on company taxation, in which Switzerland committed itself to abolish certain tax regimes, in particular those that provided for different treatment of domestic and foreign income.³

The joint understanding of 2014 sealed the fate of the regime that Zug had built in the 1930s and 1950s. From then on, the open question was how the status regimes would be abolished and what would replace them. The answer would have to be found in federal legislation, since the regimes

were now part of the harmonisation law, and would in all likelihood have to be approved by the people.

1 Notes

1. Swiss Federal Department of Foreign Affairs (EDA), "Unternehmensbesteuerung", europa.eda.admin.ch, accessed September 2026: controversy from 2005; formal notification by the European Commission on 13 February 2007 that specific cantonal company taxation regimes violated the 1972 Free Trade Agreement. ↩
2. FDFA, Directorate for European Affairs, "Unternehmensbesteuerung", europa.eda.admin.ch: Switzerland always regarded the Commission decision of 2007 as unfounded; swissinfo.ch, "Steuerstreit: Parteien stärken Bundesrat den Rücken", 25 May 2007: the Swiss position that the cantonal tax privileges for holding, administrative and mixed companies do not fall under the Free Trade Agreement. ↩
3. EDA, "Unternehmensbesteuerung": EU proposal of a dialogue in June 2010; approval of the negotiating mandate by the Federal Council in early July 2012; signature on 14 October 2014 of a joint understanding on company taxation between Switzerland and all EU member states, in which Switzerland undertook to abolish certain tax regimes, in particular those providing different treatment of domestic and foreign earnings (ring-fencing). ↩

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