Switzerland as a laboratory for fiscal federalism and global fiscal governance

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In the twenty-first century, taxation has become a major object of contestation in international political and economic relations and has given rise to attempts to establish global fiscal governance. In this way, the international community is trying to harness the power of multinational enterprises (MNE), which can be seen, among other things, in their ability to shift profits, investments, and branch offices to the places with the most beneficial tax conditions. After the United States and other major industrial nations had "freed" international business and capital from certain currency, trade, and investment restrictions in the aftermath of the 1970s recession multinationals turned from being vehicles of higher growth and prosperity into the dubious face of globalization and hyper-capitalism. Once hailed by some as being at the "forefront" of modern capitalism – and thus also preventing socialism – investment companies today are well integrated into the economies of post-communist autocracies such as Russia and socialist market economies such as China. At the same time, holding and investment companies had been cherished by small states or special regions such as Luxembourg, Singapore or Hong Kong, whose economic policies include indulging financial services and modest taxation.[1] Switzerland, although it has a diverse economy and a full-fledged democracy, has typically been perceived as a tax haven of this kind and an offshore financial center as well.

In fact, the alpine nation has been a privileged refuge for multinational branches and head offices for decades, recently mainly for international commodity and tech firms. Transnational and global fiscal governance has altered the rules of the game, however. Since 2009, Swiss bank secrecy for foreign asset holders has come under pressure and finally ended. In 2019, Swiss voters decided to abolish the era of general tax privileges for holding, investment, and other "base companies."[2] In doing so, the Swiss Government and its citizens complied with demands from the European Union (EU), the OECD, and the G20 states. That the outside world could actively influence Swiss decision-making and get the federal state to encroach on the tax jurisdiction of the Swiss cantons is a spectacular recent development and sheds new light on Switzerland as a kind of "laboratory" as a small nation previously strongly inclined towards in tax competition. Switzerland's status as a formal outsider to the EU, but closely integrated with its economy and some of its legislation, has made the small country a suitable testing ground for the international community's efforts to implement (and enforce) solutions to the economic pressures and challenges of hyper-globalization. This article takes a non-nostalgic look back at earlier episodes of the international conflicts and disputes created by the Swiss "worlds of taxation." This term is an attempt to capture the multi-dimensionality of Swiss tax policy, shared and negotiated between municipalities, cantons, and the federal state – fiscal federalism – and linked to the wider world. The inclusion of these intra- and interstate dimensions of tax policy hopefully also allows for a plausible extension of social contract theory as advanced by New Fiscal Sociology.[3]

Fiscal federalism and its "laboratories"

In 2000, economist Lars P. Feld suggested that Switzerland could be considered a "laboratory" for fiscal federalism. Feld was hardly the first to use the "laboratory" metaphor in the context of a federal system's political economy.[4] But he chose to apply it at a time when the European Union and its unified market were expanding and the Swiss position vis-à-vis the EU had been settled with bilateral treaties. After considerable economic hardship during the structural adjustment process of the early and mid-1990s, the Swiss economy was on the rise again and preparing to be on the winning side of globalization. Fiscal federalism was no obstacle to such zeal, on the contrary. With its 26 cantonal tax authorities, the federal tax state and the 2,000 plus municipal taxing authorities, Switzerland seemed a good example of the beneficial effects of both tax competition and fiscal equalization. Historically, *verti-*

cal fiscal equalization in the Swiss context included cash transfers (subsidies) from the federal government to the cantons, the shifting of public tasks and expenses from the cantons to the federal state, but also the cantonal governments' participation in the collection of the federal income and gains tax and in a share of its yield. By contrast, the current OECD definition of fiscal equalization as "a transfer of fiscal resources across jurisdictions with the aim of offsetting differences in revenue raising capacity or public service cost" [5] corresponds more to *horizontal* fiscal equalization among the cantons. Swiss political myth holds that this multi-dimensional equalization scheme was the price for limiting nationwide tax harmonization to formal requirements – the obligation to raise income and wealth taxes in all cantons and to do so according to standardized procedures – while forgoing an adjustment of tax rates and tax burdens. In reality, however, the fiscal equalization scheme has further legitimized tax competition, as it helped to redistribute the yields of attracting foreign capital and companies (and their tax monies) among and within the cantons. If such an arrangement worked in a country considered in the late nineteenth century to be a showcase for nation-building based on a common will instead of homogeneity in culture, religion, or language[6], why should it not inspire a larger union of friendly states in the new millennium?

Twenty years later, however, the Swiss laboratory is undergoing reverse engineering. In May 2019, Swiss voters decided to abolish general tax privileges for Swiss and international holdings, domiciliary and mixed companies.[7] Domiciliary companies are foreign-controlled stock corporations with a registered but only symbolic presence in Switzerland ("letterbox companies"), while mixed companies have their main business activities outside, but a minor part also within Switzerland. These legal forms had allowed for considerable tax deferral and tax saving. With its pronounced federalist structure and its system of direct democratic codetermination, Switzerland has a significant number of veto points when it comes to tax and financial issues, often to the chagrin of government authorities (the value added tax failed three times at the ballot box before voters finally gave the green light to its introduction in 1993). Even in the case of the third Corporate Tax Reform Act, as the legislation to abolish the "holding privilege" was originally named, an initial rejection by the voters in 2017[8] compelled Parliament and the Government to have another go. The revised act omitted some of the previously suggested, highly controversial compensatory new tax benefits proposed to prevent an exodus of multinationals. But the essence of the reform was retained, the abolition of corporate tax codes that were "internationally no longer accepted."[9]

The focal point of a dispute that had been intensifying since the late 1990s and reached its peak during the international financial and debt crisis of 2007–10 was the allegation that Switzerland was practicing unfair and even harmful tax and economic competition. Although this was a longstanding accusation, the dynamics of globalization gave it a new impetus, as did the global fiscal governance initiatives instituted by the G20, the OECD, and the EU. Such initiatives were also intended to make up for the legal omissions in the 1980s and 1990s liberalization euphoria.[10] The same fate awaited Swiss banking secrecy, which had bolstered the Swiss financial industry's rise as the global center for offshore wealth management. The fact that many private assets managed by Swiss banks remained untaxed in their country of origin was hardly news in 2008. What was new, however, was that the main Swiss banks – and the Swiss authorities – began to provide foreign governments with tax-relevant asset information. Between 2009 and 2017, bank secrecy for foreign customers was replaced by a de facto – later also de jure – administrative exchange of information, first with the United States, then expanded to various multilateral agreements.[11] In the same period, the cantonal tax privileges for holding companies and mixed companies came under increasing pressure and were then doomed for expiration by the May 2019 referendum vote. This coincidence aptly demonstrates the intertwined nature of cantonal tax regimes, federal taxation policy, the Swiss financial industry, and the international environment. Within the context of G20 and OECD global tax governance initiatives, these interconnections between national tax policies have been brought into focus in a way unseen since the end of World War II.

The European Union, for example, has used the OECD's Initiative against Base Erosion and Profit Shifting (BEPS) to create a common consolidated corporate tax base that links together the old dream of a European fiscal union and the restriction of highly mobile capital against the background of hyper-globalization.[12] In this context, the idea of Switzerland as a "laboratory" takes on fresh nuance: tax policy deal-

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ings with Switzerland can be viewed as a test site for the enforcement of a new macro tax policy that is now increasingly being directed against EU member states such as "Belgium, Cyprus, Hungary, Ireland, Luxembourg, Malta and the Netherlands," a group of smaller countries that are all suspected of infringing the laws of fair economic competition by offering corporate tax benefits or tax shelters, which is interpreted as "aggressive tax planning" by the European Parliament.[13] The twenty-first century project of a EU fiscal union is thus probably motivated by the fallout of the post-2008 financial and debt crises, by a profound sense of having lost control over the financialization and digitalization of global capitalism, and by the fact that small EU member countries, like other small, but aspiring nations around the globe, are using taxation as an economic policy instrument. At the same time, the EU fiscal union measures are reminiscent of the ambitious European tax harmonization plans of the 1960s, which were sparked by concerns about market justice and the facilitation of transnational trade and consumption, for example by means of a harmonized value added tax.[14] At the time, intergovernmental double taxation agreements (DTAs) were expected to ensure that economic prosperity and integration were not hampered by multiple tax burdens. But DTAs also became a gateway for tax privileges that violated the fiction of fair competition and sparked a debate in which questions of economic *winners and losers* and arguments for tax justice came to the fore. In order to understand this, we need to back to the post World War I era, when war debt, political and societal changes favored high taxation in many war-ridden European nations, and when Switzerland's flourishing as a site for international organizations and companies began. It was a time when holding companies came into vogue: firms that were formally separate from the production entities and operations they owned and created to control other businesses, at home or overseas.

Post-WWI internationalism: the League of Nations, and holding companies

The era of tax privileges for holding and investment companies had begun in 1903 in two Swiss cantons. Originally, they offered tax-saving opportunities to local industries through legal reforms with the aim of keeping them from moving. Those reforms were inspired by models in some US states and the Netherlands, which privileged certain types of investment companies. World War I brought about a breakthrough in the use of this economic and tax policy instrument and in 1919 the term "holding company" entered the Swiss Code of Obligations to describe companies "whose purpose consists mainly in holding shares in other enterprises."[15] The privileged taxation of such companies was just one of the advantages and arrangements that turned Switzerland into a safe haven for foreign capital. A lively exchange of knowledge and experience between cantonal administrations, business lawyers, and politicians allowed for the spread of such practices throughout the 1920s. In 1924, the internationally-connected Zurich lawyer Georg Wettstein wrote an appraisal of the success of the holding company, in which he compared the practices in Switzerland with those in other countries. For Wettstein, such companies embodied the "power" of free-market enterprises and stood "at the forefront of capitalist development" and would therefore provide "to a certain extent, a counterbalance" to socialist tendencies that had gained considerable momentum during and after World War I. The urbane lawyer, who also wrote for the *London Stock Exchange Gazette* and *The Times*, noted that those who were fearful of possible economic "Überfremdung" [foreign infiltration] through such international holdings, should consider the fact that Switzerland's hotels and export industry were heavily "dependent on foreigners." In addition, "internationalism" was celebrating "a major success" at the League of Nations. The "capitalist concentration in the form of trust investment companies" was for Wettstein a "healthy economic factor of international progress." It would allow enterprises to balance their risks and at the same time increase public revenue.[16] From the fact that the second extraordinary federal war tax from 1919 entailed privileges for holding companies Wettstein concluded that such tax privileges were not so much aimed at tax competition among Swiss cantons as an "invitation to foreign capital" to "at least relocate its administrative headquarters to the security of Switzerland." Public companies might have enjoyed greater privileges in the Netherlands (which attracted German business on a large scale) and, to a certain extent, in Great Britain. But nowhere did non-operative holding companies enjoy more tax favors than in Switzerland. Wettstein's piece was published in the Swiss *Journal for Cantonal and Municipal Administrations*, and he encouraged his readers from government bodies to cherish the Swiss lead in such tax matters and not to allow their country to be overtaken.

And indeed, by 1928, 16 cantons had special tax and exemption regulations for holding and/or domiciliary companies. At the federal level, the privileging of holding companies and investment companies was integrated into federal tax legislation in the 1930s and 1940s. Measures against arbitrary cantonal tax agreements further paved the way for preferential treatment of such companies by law. During World War II, some cantons had rescinded these legal advantages, but from the late 1950s onward, there was a stark revival of tax privileges for holding companies. Together with the abolition of capital controls and the return to currency convertibility around 1958, such tax privileges promoted the massive inflow of foreign companies into Switzerland. In just nine years, between 1955 and 1964, the number of registered joint stock companies grew by 80 percent. Between 1964 and 1975, their absolute number almost doubled.[17] Alongside the number of stock companies, the share of federal tax receipts from legal entities grew, and by 1961/62 already amounted to 42 percent of the total income from the federal income and gains tax (called originally "federal defense tax").[18] Part of the boom was the result of the establishment of companies, originating from the United States, Germany or elsewhere, within a holding or trust structure.

By 1966, all Swiss cantons had introduced special tax rates for holding companies. In most cantons, holdings did not pay cantonal taxes on net profits, and were subject only to a dramatically reduced tax rate on capital. The majority of cantons also offered similar privileges for domiciliary companies. Due to the entanglement of the cantonal tax worlds with the federal tax state, such arrangements would prove financially worthwhile because the companies paid the regular federal income and gains tax, a share of which was reserved for the cantons. Normal stock corporations could also enjoy certain tax privileges, if they were set up as a "mixed company" with only a limited share of their business activities in Switzerland. In the central Swiss canton of Zug, which had specialized in this type of tax privileges, such companies were required to generate at least 80 percent of their revenue abroad. Of this amount earned abroad, only one quarter was taxed. Revenues generated in Switzerland were taxed normally, which in the case of Zug was also at a low rate. This preferential treatment of mixed companies was based on administrative practices introduced in the late 1950s. It was no coincidence that, during this time, Philipp Brothers opened an office in Zug, the first of many large international commodity-trading firms to do so.

The economic boom and its shadows: capital outflows and twisted DTAs

Shortly after taking office, US President John F. Kennedy sought, in the context of the negative American balance of payments, to tackle the problem of capital flight from the United States.[19] In April 1961, President Kennedy announced a tax reform plan that included various tax cuts, which the Democrat President justified by pointing to the more favorable taxation of American companies and direct investment abroad. While the Kennedy administration was wary of directly attacking US investors for "outflows" of capital and corporate activity, it did publicly direct its outrage at "tax havens such as Switzerland," whose financial centers attracted "dirty money" and encouraged "tax deferral."[20] Kennedy was not the only foreign politician to register concerns about the fiscal consequences of capital and corporate mobility. In 1962, the Bundestag commissioned the German government to draw up a report "on the distortions of competition resulting from relocations and the inter-state tax differences."[21] Such international criticism and the 1961/62 debates on a possible Swiss associate membership of the European Economic Community prompted the Swiss Federal Council to introduce an anti-tax avoidance regulation for double taxation agreements (DTAs) in December 1962. This decision provided that the countries of origin of foreign investors and investment companies were entitled to withhold taxes on unjustified tax relief. The German federal government report, published in 1964, calculated the exodus of German capital, both private and corporate, to Switzerland, linking it directly to instruments such as the lump-sum taxation of wealthy foreigners – a taxation based on taxpayers' annual living expenditure and not on their income and assets – special regulations for holding and domiciliary companies, and generally lower taxation rates. The report criticized states such as Switzerland that guaranteed absolute tax secrecy – even when legal tax avoidance became illegal tax evasion – and refused to "conclude mutual legal assistance agreements or provide tax information to foreign states." [22] The German government did, however, acknowledge the Swiss government's efforts to combat abuses of DTA, while nonetheless stating that changes to the Switzerland–Germany DTA were imperative because the tax differential between Germany and Switzerland continued to be upheld by the existing agreement. In December 1964, the Erhard administration asked Switzerland for a revision of the double taxation treaty that had been concluded in 1931 and renewed in 1957 and 1959.

In the mid-1960s, Switzerland was faced with several states making similar demands, as well as calling for mutual assistance in cases of suspected tax evasion.[23] The exchange of experiences within committees of the European Community or the OECD encouraged countries such as Germany and France to defend themselves against the proliferation of Swiss tax competition by demanding the revision of double taxation treaties. In addition to the DTA with Germany, between 1965 and 1967 Switzerland revised or newly instituted seven other DTAs with France, Sweden, the Netherlands, Great Britain, Spain, Ireland, and South Africa. In April 1966, the Swiss Federal Tax Administration advised colleagues in the Federal Office for Commerce that it would be preferable not to address a desirable double taxation agreement with Italy on the occasion of an Italian ministerial visit, as the Swiss bargaining position was at that moment "embattled" and Switzerland was, "under heavy 'shelling'" from the European Economic Community (EEC) regarding DTAs.[24] But how did double taxation agreements become the basis for siphoning water from the Swiss tax oasis at all?

At the end of the nineteenth century, the parallel evolution of modern taxation, simplified mobility, and increasing transnational commerce had initially created the problem of multiple taxation of income or profits from activities in several countries. Before World War I, bilateral agreements were supposed to solve this problem. After the war, the International Chamber of Commerce and the League of Nations became the main arenas for promoting and coordinating agreements to avoid double taxation: both to restore peaceful economic exchange and to get transnational tax evasion under control. The fact that the League of Nations produced differing model-agreements and variants for bilateral DTAs points to the diverging interests of the participating national delegations. French delegates insisted from the outset that the avoidance of double taxation for corporate activities needed to be linked to the obligation to exchange information in cases of suspected tax evasion. This linkage is also present in the 1946 London Model Treaty for the Prevention of International Double Taxation and Fiscal Evasion.[25] France also became increasingly active in taxing the capital gains of foreign companies. Since the 1930s, Swiss industrial companies active in France had attempted to counter these tendencies with their own proposal for a DTA between Switzerland and France. Their efforts were supported by Swiss asset management interests, which resisted any initiative to impose an official disclosure obligation or to soften Swiss banking secrecy. In autumn 1937, years of tough negotiations finally ended in an agreement: the DTA issue was linked to a Swiss National Bank loan favorable to France and a mere temporary duty of disclosure for tax-related information was accorded.

After World War II, the DTA model-agreements dossier was passed on to the Organization for European Economic Cooperation (OEEC) and its successor organization, the OECD, which led to the establishment of an OECD Committee on Fiscal Affairs (CFA) in the second half of the 1950s. Between 1956 and 1961, the CFA prepared several interim reports, as well as a final report in 1963 (published in 1977) containing the first OECD model-agreement for intergovernmental avoidance of double taxation. As early as the 1960s, CFA experts already envisioned the ideal of a single, multilateral agreement, the obstacles to which included both differing tax definitions and divergent fiscal policy interests. The United States found it difficult to accept a provision whereby "residents" would receive tax breaks to mitigate a situation in which they were taxed twice, both in their country of origin and in their country of residence. According to US tax law, US citizens must declare their worldwide income, regardless of any other foreign residences.[26] Inasmuch as economically prosperous Europe was able to modify trade and payment flows with the United States, it became increasingly untenable for the US government to allow American companies to be able to divide their corporate structures into parent and subsidiary companies in order to accumulate profits in European tax havens and thus exploit the "multiplicity of foreign tax systems and international agreements," as President Kennedy had stated in his Congress Message on Taxation from April 20, 1961. With this formulation, President Kennedy's April 1961 Special Message to Congress addressed not only Swiss and other tax optimization locales, but also the double-taxation treaties themselves. These agreements threatened to degenerate from a trade facilitation instrument to a tax avoidance gimmick. The US delegates fought against such tendencies in the CFA and other bodies, an endeavor that partially overlapped with the EEC's objectives and roadmap for tax harmonization. For the EEC Reports on Tax Harmonization, published in 1962/63, also recommended the revision of such double-taxation agreements, which were no (longer) conducive to an undisturbed flow of economic activity.

Switzerland responded to this constellation of conflicts with the already mentioned resolution of the Federal Council against the "unjustified or improper use" of double-taxation agreements. The Swiss financial industry welcomed this step as an attempt to counter the "danger" of DTA revisions by individual states.[27] From the Federal Tax Administration's point of view, the OECD's 1963 model-agreement had sparked the myriad DTA appeal requests and dashed the hopes of Swiss finance. The OECD and the EEC were thus not just bodies that generated model agreements and harmonization schedules. Their working committees also created multilateral channels of communication that enabled the exchange of experiences, also with regard to negotiations with Switzerland: "The Germans know that we have accepted the introduction of administrative assistance proceedings with three states, there is thus no point in resisting the German demand any longer," was the fatalistic interpretation of one lawyer in the Swiss Ministry of Foreign Affairs (EPD) in April 1965.[28] And a year and a half later, the liberal chairman of a Swiss Senate Committee remarked that it was well known that French and German fiscal experts had met in Brussels and that their exchange of views had without any doubt informed the German side about the tenor of confidential letters exchanged within the context of the French–Swiss convention.[29]

When the French government announced its request for a DTA revision, Switzerland was already in the process of renegotiating its agreements with the Netherlands and Germany. With new DTAs in the pipeline with Ireland and Spain, the OECD's CFA and the European Free Trade Association's (EFTA) Double Taxation Working Group also began to make demands on Switzerland. Behind closed doors, representatives of the Swiss federal administration did not hide their frustration with certain cantonal tax practices. It was "unpleasant" that people now came to Switzerland, not intending to settle there as wealthy rentiers, as before, but "as industrial magnates," who only came for the purposes of "misusing [the DTA] and escaping fair taxation," said one annoyed Vice-Director of the Federal Tax Administration in April 1965.[30] Nevertheless, business associations and representatives of the Swiss financial world continued to support the holding and domicile tax privileges and to prevent external and internal criticism of Swiss tax specialties and banking secrecy from fueling each other. Nonetheless, the revised double taxation agreement with France, concluded in September 1966, led to certain concessions by the Swiss, including a provision that interest and license income declared by French domiciled companies residing in Switzerland would now be taxed by the country of origin and would no longer fall under the protections of the DTA. This worried business tax lawyers. For Peter Böckli, who worked for a US commercial law firm in New York and Paris, the DTA with France represented a "turning point in Swiss double taxation law" because France had practically "snubbed" the OECD model-agreement. The revised agreement limited the right of taxation of the state of residence, which hurt Switzerland as a destination for wealthy French citizens and firms. Only with "great difficulty" had the Swiss side been able to avert far-reaching concessions in terms of information exchange and administrative assistance proceedings.[31] Another author writing in the *Archives de droit fiscal suisse* warned in 1969 that the notion of restricting cantonal tax privileges by means of a DTA could catch on.

The Swiss "battle plan" to accelerate the DTA negotiations with Germany in order to avoid negative spillover from the French negotiations encouraging similar German demands failed. Instead, the Swiss delegation, in which representatives from the banking and business sectors also participated, witnessed how the German side extended their "claws," using the French–Swiss DTA as leverage.[32] In addition to higher withholding taxes on royalties and bank interest income, the catalog of German revision demands included the exclusion of German companies that mainly carried out tax saving activities on behalf of related corporations in their home country from the DTA and from mutual assistance in tax matters. The latter was not a new demand, but the concrete follow-up to an issue that had been pursued since the Weimar Era. The Swiss counter-attack was to at least delay ratification of the agreement with France. Simultaneously, the Swiss government had to calm the domestic political waves triggered by the agreement with France.

The vain zeal for ending tax competition, and the continuing adaption of the Swiss worlds of taxation

First social-democratic, but then also independent or center-right parliamentarians appealed to these transnational tensions and disruptions when they demanded the abolition of unjustified tax privileges and/or a far-reaching harmonization of the Swiss tax system in the late 1960s and early 1970s. At the height of these demands for harmonization, which were accompanied by vehement criticisms of inter-cantonal tax competition, negotiations with Germany on revisions to the DTA came to a close in the summer of 1971. In the end, Switzerland had to make similar concessions to those made to France. Meanwhile, the Swiss authorities were also engaged in difficult negotiations with Italy and with the United States. Using the Swiss case, the latter tried to establish an exemplary bilateral mutual assistance agreement, which would also apply to economic offenses and tax criminal cases. Like the German negotiators before them, the US authorities under the Nixon government were inspired by the success of French negotiating tactics. The long-term goal of the Americans remained the cracking of Swiss banking secrecy for American criminal (tax) proceedings.[33] OECD model-agreements and negotiation channels that leaked information to the outside gave the Swiss players the impression of an increasing "interdependence." Not only were the demands of the various states quite similar, but the scandal of international tax refugees in Switzerland echoed way beyond the country's borders and strengthened the alpine nation's reputation as a place light on tax justice. For the Swiss Ministry of Finance, it became obvious that Switzerland was at odds with the trend of "harmonizing international tax structures." [34] However, a financial industry "superpower" such as Switzerland simply could not afford to sidestep such trends anymore.[35] In the early 1970s, some politicians, political parties, and the federal administration attempted to use this international constellation to gain momentum for its project to fundamentally reform not only the tax system, but also the federal constitution and thus fiscal federalism, against the wishes of certain economic and financial interests and many Swiss cantons. Ideas for a more encompassing harmonization of Swiss taxation that included similar tax rates and the abolition of the holding company and other tax privileges would eventually end in failure due to varying interests within government, administration and parliament, the veto power of the Swiss referendum system, and the turn of the tide in the late 1970s. This new context of economic crisis and public debt brought about a revival of a competitive logic, which could be combined with new international tax and economic policy principles, such as the Laffer curve in US tax reform projects or the "great moderation" in monetary policy and public spending. The radical dreams of some to approach cantonal tax rates or even substituting a part of cantonal taxing rights with an expansion of federal tax authority (and thus end or significantly reduce tax competition) had already been shattered in the late 1970s. But those who had finally given in to a mere formal tax harmonization might not have foreseen that the federal law on the harmonization of the cantonal and communal taxes that was enacted in late 1990, together with the federal law on the federal income and gains tax, would encourage the generalization of the competitive paradigm throughout Switzerland. And not only this. The 1990s and 2000s saw a spillover of the cantonal "laboratories" of tax competition policy to the level of the federal state. This resulted in a series of federal corporate tax reforms between 1997 and 2008. The federal state, which played the role of regulator, profiteer and mediator in the intra- and transnationally intertwined Swiss tax and economic worlds, now became the pacemaker of tax competition. The generalization of the competitive paradigm was not only a formal consequence of legal harmonization procedure, but was also justified as a way to tackle globalization and the accelerated international economic competition. From the perspective of a small state, tax policy appeared as an equivalent to the trade and customs policies enacted by other, larger, states in their economic zeal.

But the empires struck back. In the late 1990s, the debates, decisions and reports of the OECD and the Council of Europe that had criticized banking secrecy and harmful tax competition and recommended their abolition for years, were provided with fresh support through their juncture with the powerful states of the G7 and the G20. The experience of the global financial, fiscal and economic crises around 2007-2010 fueled the search for coordinated measures to at least partially recapture the earlier unleashed market forces. The earlier schemes of the Swiss fiscal and banking institutions were now more than an annoyance (to be compensated by other valuable financial or diplomatic services, as before). The transformation of the Swiss business model described at the beginning of this essay, was conducted in unison with Switzerland's attempt to re-configure its economic policy beyond tax-venue competition, for example through free trade agreements with the new big players such as China. Furthermore, the erosion of the old business happened simultaneously to Switzerland's rise to an international FinTech center and Crypto Valley and initially has not hindered this recent development. But the corollary of Switzerland´s role as one of the World´s most important international commodity hubs is an ever mounting pressure to comply with initiatives by OECD and the mighty G7 and G20 groups to thwart the power of corporate finance and hyper-globalized MNEs. Since 2010, the Swiss authorities had, step by step, indulged the international community´s demands for accepting the automatic exchange of tax information and for cooperating with the BEPS project. The current OECD plans[36] to reallocate taxing rights over and profits from "highly digitalized MNEs" go far beyond the initial model treaties and standardization of tax information. These plans trigger grim fears among the Swiss elites that the balancing act practiced so aptly by the Swiss worlds of taxation for decades will come to a final end. The great powers have taken a firm grip on the tax policy tightrope.[37] Against the specter of a worldwide "homogenization of taxation", the Swiss Minister of Finance is searching for an alliance of "resistance" in countries as diverse as Luxembourg, Ireland, and Sweden, but also Canada, Singapore and Saudi Arabia.[38] It remains to be seen whether the Swiss will manage a way out of this new situation as they always did in difficult times: by adopting the role of the obliging, but not disinterested, middlemen.

Endnotes

This text draws on, but also expands the author´s writing on the "Swiss Worlds of Taxation" in various book sections and journal essays, namely Huerlimann 2016, 2017, 2018, 2019 (see references). These findings and reflections are currently brought into a monograph. My thanks go to Julia Sittmann, Berlin, for her support in translating the first German draft of this text, and to Akos Rona-Tas for his very careful reading and highly valuable comments The responsibility for all shortcomings rests entirely with the author.

1 Buckley 2018; Martinus et al. 2019 (see references); on Hong Kong´s corporate tax policy see various articles in the Bulletin for International Taxation from the early 1980s.

2 The OECD in its tax terminology defines a base company quite trenchantly as a "company situated in a low-tax or non-tax country (i.e. tax haven), which is used to shelter income and reduce taxes in the taxpayer's home country» and which carries "certain activities on behalf of related companies in high-tax countries", see https://www.oecd.org/ctp/glossaryoftaxterms.htm.

3 I am indebted here to the immense and highly fruitful influence of scholars like Isaac W. Martin, Ajay Mehrotra, Monica Prasad, but also W. Elliot Brownlee, who had been a historian of the political economy of taxation "avant la nouvelle vague".

4 The origin of the laboratory metaphor is ascribed to Justice Louis Brandeis, and was made prominent by David Osborne in his 1988 book. Wallace Oates in 2008 ´reviewed´ the development of scholarship on fiscal federalism that he had encouraged in 1972.

5 Quoted from the OECD Network on Fiscal Relations Across Levels of Government, see reference section.

6 I refer to French Historian and Philosopher Ernest Renan and his reflections on "What is a Nation" (1882).

7 Information on this referendum vote in English can be found here: https://www.efd.admin.ch/efd/en/home/dokumentation/legislation/abstimmungen/staf.html

8 See for the referendum vote on the Corporate Tax Reform Act III in February 2017: https://www.efd.admin.ch/efd/en/home/dokumentation/legislation/abstimmungen/third-series-of-corporate-tax-reforms--ctr-iii-.html.

9 I am quoting from the Swiss Federal Council´s Message on the Federal Law on the Tax Reform Bill 17, from March 21, 2018, p. 2548 (see the reference section for the whole document).

10 This omission was recently also alluded by Thomas Piketty in his "Capital et inégalité" (see reference section).

11 I am referring (1) to the Swiss adoption of the US-Foreign Account Tax Compliance Act (FATCA), in vigor since June 2014; (2) to a series of revised or new double taxation agreements (DTAs) containing art. 26 on the «exchange of information upon request» of the OECD Model Agreement. The Swiss Federal Council´s principal decision to embark on OECD standards was taken in March 2009, also as a reaction of OECD´s announcement to potentially list Switzerland on its black or grey lists of uncooperative tax havens. (3) On a multilateral level, Switzerland has adopted the now global standard on the automatic exchange of financial account information (AEOI), in force in Switzerland since 2017, and joined the action plan for OECD's base erosion and profit shifting (BEPS) project. BEPS measures are being implemented by the Swiss since 2018.

12 See: Common Consolidated Corporate Tax Base (CCCTB) (IP/11/319), Brussels, March 16, 2011. Online: https://ec.europa.eu/commission/presscorner/detail/en/IP_11_319 (last accessed: Nov 15, 2019).

13 See : European Parliament (March 13, 2018): Tax avoidance: multinationals to pay taxes where profits are made (https://www.europarl.europa.eu/news/en/headlines/economy/20180308STO99329/tax-avoidance-multinationals-to-pay-taxes-where-profits-are-made) (last accessed: Nov 15, 2019).

14 I am here referring to the EEC Fiscal and Financial Committee of the early 1960s, chaired by economist and tax scholar Fritz Neumark and with the participation of such eminent scholars and tax reform advisers as Alain Barrère or Carl S. Shoup (see reference section).

15 Swiss Code of Obligation (as of 1968), art. 671, cl. 4; Art. 711, cl. 2, quoted by the Swiss Federal Tax Administration collaborator Heinz Masshardt in 1968 (p. 354f, see reference section).

16 I am referring to Georg Wettstein´s 1924 journal article "On the Taxation of the Holding Company", published in the Swiss Journal for State and Municipal Administration, pp. 177-181 (see reference section).

17 For more details and the data source see Huerlimann 2019.

18 As reported by Walter Stäuber in 1966 (p. 116), see reference section.

19 In his Special Message to the Congress on Gold and the Balance of Payments Deficit, February 6, 1961.

20 See: Special Message to the Congress on Taxation, April 20, 1961, part III on the tax treatment of foreign income. The term *dirty money* was used by the US national security adviser McGeorge Bundy in a talk with the Swiss ambassador August R. Lindt, see Lindt´s cable to the Swiss Foreign Minister from March 3, 1962 (accessible through the database "Diplomatic Documents of Switzerland", see: https://dodis.ch/18897).

21 Such was the wording in a parliamentary bill from April 12, 1962 by the Bundestag factions of CDU/CSU and FDP. The bill entailed the demand that the German Federal Government produce a report on "the distortion of economic competition as a consequence of business relocations and the tax differences between nation states".

22 Report of the German federal government on the distortion of economic competition as a consequence of business relocations and the tax differences between nation states (1964), p. 8 (see reference section).

23 The archival sources for the following text sections were consulted at the Swiss Federal Archives (SFA), within the records of the Swiss Federal Tax Administration and the Swiss Federal Finance Administration. Some SFA documents relevant for Swiss foreign (trade) policy also had been digitized and published within the Diplomatic Documents of Switzerland (database and books).

24 Letter by the Federal Tax Administration´s vice director to the Federal Office for Commerce concerning a double taxation agreement with Italy, April 7, 1966 (see: https://dodis.ch/31280).

25 See the Model Bilateral Conventions for the Prevention of International Double Taxation and Fiscal Evasion, Report of the

Second Regional Tax Conference, League of Nations Doc. C.2.M.2. 1945 II A (1945).

26 US tax expert Adrian Kragen showed in 1964 both understanding for the US government position and for a multilateral agreement: "Although United States policy and treaty makers might be reluctant, due to the present concern with the "flight" of the dollar and with the tax haven problem, to include any definition which might encourage residence in a foreign country while retaining some ties with the United States, this should not be a substantial obstacle to use of the definition for purposes other than determining tax liability of citizens." (Kragen 1964, p. 311, see in the reference section).

27 Wording used by the Swiss Banking Association in a confidential letter from July 7, 1962, to the directorates of their member banks regarding "foreign criticism towards the Swiss banking business", see: https://dodis.ch/30737.

28 Confidential minutes of the debate with representatives of the cantons and economic associations concerning the Swiss DTA negotiations with the Netherlands, Germany, Ireland and Spain as well as the work of the OECD Committee on Fiscal Affairs and the EFTA Working Group on double taxation, April 7, 1965, see: http://dodis.ch/31446.

29 Paul Torche in the meeting of the Senate Committee on Tax Reform, November 23, 1966 (file: Swiss Federal Archives BAR#E6300B#2000/144#2).

30 Confidential minutes of April 7, 1965 (op. cit.).

31 Peter Böckli in a journal article on the French-Swiss double taxation agreement from September 9, 1966 (see reference section).

32 Minutes of the meeting of the Senate Committee on Tax Reform, November 23, 1966 (op. cit.).

33 See the minutes of the study group for assessing the draft for a Swiss-US-agreement on legal assistance in penal cases, March 22, 1971, see: https://dodis.ch/35394; the Swiss Banking Association´s delegate declared that more than 700 investigation cases had been prepared by the US authorities.

34 Note from the Federal Finance Administration to Federal Councilor Pierre Graber concerning the case of the German department store owner and tax evader Helmut Horten, February 26, 1971, see: https://dodis.ch/35292.

35 The expression "Grossmacht" was used by the Swiss Foreign Minister Pierre Graber, the study group for assessing the draft for a Swiss-US-agreement on legal assistance in penal cases, March 22, 1971 (op. cit.).

36 See for a critical assessment : Tax Justice Network (October 7, 2019): OECD reform weak on corporate tax havens, harsh on poorer countries (https://www.taxjustice.net/2019/10/07/oecd-reform-weak-on-corporate-tax-havens-harsh-on-poorer-countries/).

37 See the OECD documents from 2019 listed in the reference section.

38 Words used by the Swiss Minister of Finance Ueli Mauer in an interview with the newspaper Neue Zuercher Zeitung (NZZ), November 5, 2019.

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