

19. Treaties, Agreements and Conventions

Christian Reber LL.M., Attorney at Law,
Spectrum Value Management Ltd., Rapperswil-Jona



1. Introduction

On November 25, 1850, only two years after the foundation of the Swiss Confederation in its present form, the signature of the Convention of Friendship, Commerce and Extradition opened a long series of treaties, conventions and agreements between the United States and Switzerland on various matters. Since the democratic and federative Swiss constitution of 1848, shaped after the American model, contrasted with the autocratic governments of Austria, France, Prussia and Russia, the fact that Switzerland concluded its first general convention with the United States had a special meaning: President Taylor of the United States wished to extend to Switzerland “a fraternal hand in the very midst of the storms with which she was threatened, and to offer her a treaty of friendship whereby the two freest peoples on earth will treat each other reciprocally on a footing of equality” (President Furrer of the Swiss Confederation in a message to the Swiss Federal Assembly).

The following pages contain a list of bilateral treaties, conventions and agreements between the U.S. and Switzerland arranged alphabetically according to subject matter. To each treaty title the sources of Swiss and U.S. official printings containing the full text are added, where available. Please note that not all treaties are published. Most German, French and Italian texts can be found on the web site of the Swiss Government at <http://www.admin.ch/ch/d/sr/iindex.html>. A database containing the U.S.-Swiss bilateral treaties can also be found on the web site of the Swiss Federal Department of Foreign Affairs at <https://www.eda.admin.ch/eda/de/home/aussenpolitik/voelkerrecht/internationale-vertraege/datenbank-staatsvertraege.html>. The web site of the U.S. Department of State shows at <http://www.state.gov/documents/organization/218912.pdf> (page 286-287 of the pdf-file) a list of some of the bilateral Swiss-U.S. treaties in force as of January 1, 2013. The published supplement for 2014/15 (<http://www.state.gov/documents/organization/235185.pdf>) lists the FATCA implementation Agreement on page 67.

Abbreviations

AS	Sammlung der eidgenössischen Gesetze (until 1948: Amtliche Sammlung der Bundesgesetze und Verordnungen)
BBI	Bundesblatt der Schweizerischen Eidgenossenschaft
Bevans	Treaties and Other International Agreements of the United States of America, 1776-1949, compiled under the direction of Charles I. Bevans
BS	Bereinigte Sammlung der Bundesgesetze und Verordnungen 1848-1947
Fed. Reg.	Federal Register
ILM	International Legal Materials
LNTS	League of Nations Treaty Series
SR	Systematische Sammlung des Bundesrechts (This edition replaces the BS; its second part containing the international instruments is only partially published as yet, but it will be amended successively.)

Stat.	United States Statutes at Large
TIAS	Treaties and Other International Acts Series, issued singly in pamphlets by the Department of State
TS	Treaty Series, issued singly in pamphlets by the Department of State until replaced in 1945 by the TIAS
UNTS	United Nations Treaty Series
UST	United States Treaties and Other International Agreements, volumes published on a calendar-year basis beginning January 1, 1950

2. Treaties, Agreements and Conventions in Force

2.1 Atomic Energy

Agreement for Co-operation Between the Swiss Federal Council and the Government of the United States of America Concerning Peaceful Uses of Nuclear Energy (with Memorandum and Annexes).

Signed at Berne October 31, 1997; entered into force June 23, 1998

(TIAS; AS 2003 3203; AS 2003 3203; SR 0.732.933.62).

The United States and Switzerland have decided to cooperate in the civil use of atomic energy and in particular to pursue a research and development program for the realization of the peaceful and humanitarian use of atomic energy, including the design, construction, and operation of power-producing reactors and research reactors, and the exchange of information relating to the development of peaceful uses of atomic energy and to the problems of health and safety connected therewith. The agreement regulates the preconditions for the cooperation, the exchange of materials, equipment and devices, the delivery of enriched uranium by the United States to Switzerland, and the controlling rights of the United States.

Agreement of February 28, 1972 among the International Atomic Energy Agency, the Government of the Swiss Confederation and the Government of the United States regarding the application of control measures.

Entered into force February 28, 1972

(23 UST 184; AS 1973 306; SR 0.732.011.933.6)

This agreement stipulates the application of the IAEA control measures.

Arrangement between the United States Atomic Energy Commission (USAEC) and the Division of Science and Research (DSR), an Office of the Government of Switzerland, to exchange information in the field of fast reactor physics.

Signed between the Federal Department of Home Affairs (Division of Science and Research) and the US Atomic Energy Commission March 20, 1970; entered into force March 20, 1970.

(not published)

Agreement between the United States Department of Energy and the Swiss Federal Institute for Reactor Research in the

area of Carbide Fuel Development.

Signed at Bern November 15, 1982; entered into force November 15, 1982.

(TIAS 10608; 1871 UNTS 395; not published in Switzerland)

Agreement regarding participation in the USNRC international piping integrity research group, with appendices.

Signed at Bern and Bethesda February 3 and March 3, 1987; entered into force March 3, 1987.

(TIAS 12219; not published in Switzerland)

Implementing Agreement between the United States Nuclear Regulatory Commission and the Swiss Federal Office of Energy related to participation in the USNRC programs of severe accident research, probabilistic risk assessment research, safety research on deregulation, and aging related research

Signed and entered into force September 29, 1999.

(not published)

Arrangement between the Swiss Federal Office of Energy (F.O.E.) and the United States Nuclear Regulatory Commission (U.S.N.R.C.) for the exchange of technical information and cooperation in nuclear safety matters, with addenda.

Signed between the F.O.E. and the U.S.N.R.C. at Vienna September 18, 2002, entered into force September 18, 2002.

(TIAS; not published in Switzerland)

Implementing Agreement between the United States Nuclear Regulatory Commission and the Swiss Federal Nuclear Safety Inspectorate relating to participation in the USNRC Program of severe accident research.

Signed July 26, 2013, entered into force July 1, 2013, valid until August 30, 2018.

(not published)

2.2 Aviation*Air service agreement relating to equipment at Cointrin Airport.*

Signed at Bern April 30, 1947; entered into force April 30, 1947.

(61 Stat. 3859; TIAS 1736; 11 Bevans 957; 42 UNTS 235; not published in Switzerland)

Agreement concerning the reciprocal acceptance of certificates of airworthiness for imported aircraft.

Exchange of notes at Bern October 13, 1961; entered into force October 13, 1961 (provisionally) and November 21, 1962 (definitively).

(13 UST 2479; TIAS 5214; 459 UNTS 219; AS 1962 1614; SR 0.748.213.193.36)

Amendment

Exchange of notes at Washington January 7, 1977; entered into force January 7, 1977.

(28 UST 2446; TIAS 8563; AS 1977 1243; SR 0.748.213.193.36)

According to this agreement, certificates of airworthiness issued by the competent authorities of one country for aircraft constructed in such country and subsequently to be registered in the other country shall be accepted by the competent authorities of such other country as if they had been issued under the regulations in force on the subject in such other country if certain conditions set forth in the agreement are satisfied.

Memorandum of Agreement between the Federal Aviation Administration Department of Transportation, United States of America and the Federal Office for Civil Aviation, Federal Department of Transport, Communications and Energy, Swiss Confederation: "Supply Support Services".

Signed January 7 & 28, 1993, effective since January 28, 1993

(not published).

Under this agreement, the Federal Aviation Administration will furnish to the Federal Office for Civil Aviation parts and repair services for air navigation systems and equipment.

Agreement for promotion of aviation safety.

signed at Washington on September 26, 1996; entered into force on September 26, 1996, (TIAS; AS 1997 1454; SR 0.748.213.183.36)

Air Transport Agreement

Signed at Berne, June 21, 2010; entered into force on June 21, 2010.

(TIAS 10621; AS 2010 4215, SR 0.748.127.193.36)

According to this agreement the Swiss and the U.S. airlines have free access to any airport in the other country. The airlines are basically free to fix their tariffs and to determine their capacity offer.

Exchange of Diplomatic Notes of 23 December 2008 between the Swiss Federal Council and the Government of the United States of America concerning the transmittal of Passenger Name Record information (PNR) by air carriers to foreign authorities.

Signed December 23, 2008, entered into force on December 23, 2008.

(AS 2009 1259/1259, SR 0.748.710.933.6)

Exchange of Letters between Switzerland and the United States of America concerning the Establishment of a Safe Harbor Framework regarding the Protection of Personal Data Transferred to the United States of America.

Signed December 9, 2008, entered into force on February 16, 2009.

(AS 2009 1793/1793; SR 0.235.233.6)

Memorandum of Understanding between the Transportation Security Administration Department of Homeland Security of the United States of America and the Federal Department of Justice and Police of the Swiss Confederation concerning the Deployment of In-flight Security Officers.

Signed and entered into force August 19, 2009.

(not published)

2.3 Commerce*Convention of friendship, commerce and extradition*

Signed at Berne November 25, 1850; entered into force November 8, 1855.

(11 Bevans 894; 11 Stat. 587; TS 353; BS 11 773; SR 0.142.113.361)

Articles 8-12 terminated March 24, 1900, as a result of notice given by the United States on March 23, 1899 (AS 17 212); articles 13-17 relating to extradition were superseded and expressly repealed by the extradition treaty signed May 14, 1900 (31 Stat. 1928; TS 354; 11 Bevans 904; SR 0.353.933.6).

This convention stipulates the principle that the citizens of the two Contracting States shall be admitted and treated upon a footing of reciprocal equality in the two countries, where such admissions and treatment shall not conflict with the constitutional and legal provisions of the Contracting Parties. Citizens of the United States or Switzerland, as well as their families, shall be free to sojourn temporarily or establish themselves permanently in the United States or Switzerland, to possess therein property, to exercise their professions or to manage their affairs. They shall have free access to courts, and shall be free to defend their rights in the same manner as native citizens. The citizens of one of the two States who shall desire or be required to return to their country shall be received at all times and under all circumstances in the country to

which they belong and in which they shall have preserved their rights.

The citizens of each of the two States shall have power to dispose of their personal property within the jurisdiction of the other, by sale, testament, donation, etc. The Convention regulates the succession to property, particularly by inheritance, the preservation of the property of absent heirs domiciled in the other State and in the conveyance of real estate.

The Convention contains provisions relating to the installation of Consuls and Vice-Consuls in the large cities and important commercial places of the two States.

Agreement on customs, with the lists of the stipulated tariff concessions.

Signed at Geneva November 20, 1961; entered into force January 1, 1963.

(not published in the U.S.; AS 1962 1640ff; SR 0.632.293.361, 0.632.293.361.1, and 0.632.293.361.2)

Letters of understanding between the Swiss Federal Department of Justice and Police and the Government of the United States of America concerning the stationing of customs officials and the opening of a customs office as part of the embassy.

Signed August 4, 2003, entered into force August 5, 2003.

(not published)

Joint Declaration of the Swiss Confederation and the United States of America on Cooperation and Promotion regarding Electronic Commerce.

Signed and entered into force October 10, 2008

(not published)

2.4 Deblocking of Assets

Agreement relating to the deblocking of Swiss assets in the United States.

Exchange of notes signed at Washington November 22, 1946; entered into force November 22, 1946.

(not published in the U.S.; BS 14 356 SR 0.982.2)

Exchange of letters between the Federal Department of Foreign Affairs and United States Department of commerce concerning Nazi-seized assets and related matters in the period during and shortly after World War II (sharing of pertinent historical records and other data).

Signed March 14, 1997; entered into force March 14, 1997.

(not published)

2.5 Defense

Agreement on Safeguarding Classified Information

Exchange of notes December 19, 1961 between the Embassy of Switzerland at Washington DC and the Department of State of the US; entered into force December 19, 1961.

Amendment

Exchange of notes August 6, 1981; entered into force August 6, 1981.

Declassification of the Agreement on Safeguarding Classified Information of December 19, 1961, its Amendment of August 6, 1981 and the Security Protocol concerning the security procedures for industrial operations between the Federal Military Department of Switzerland and the Department of Defense of the United States of July 20, 1989.

Exchange of notes December 1, 2000 / March 5, 2001; entered into force March 5, 2001.

(not published in Switzerland)

Security Protocol concerning the security procedures for industrial operations

Signed between the Federal Military Department of Switzer-

land and the Department of Defense of the United States July 20, 1983; entered into force July 20, 1983.

Memorandum of understanding for coproduction of the M109A1B self propelled 155 MM Howitzer.

Signed at Washington July 18, 1988; entered into force July 18, 1988.

(TIAS 11507; not published in Switzerland)

Agreement amending the memorandum of understanding of February 25, 1988, as amended, for the coproduction of the stinger post plus (stinger-RMP) weapon system.

Signed at Washington and Berne March 23 and May 4, 1995; entered into force May 4, 1995.

(TIAS 12642; not published in Switzerland)

Agreement between the Department of Defense of the United States of America and the Swiss Federal Council on the Exchange of Military Personnel between the US NAVY and the Swiss Air Force and Anti-Aircraft Command.

Signed at Bern and Washington July 5, and August 17, 1995; entered into force August 17, 1995.

(not published)

Memorandum of Understanding concerning procedures for mutually beneficial training opportunities.

Signed between the Swiss Federal Council and United States Air Forces in Europe May 26, 1999; entered into force May 26, 1999.

(not published in Switzerland)

Acquisition and Cross-Servicing Agreement (US-SZ-01)

Signed between the Department of Defense of the United States of America and the Swiss Federal Department of Defense, Civil Protection and Sports December 6, 2001; entered into force December 6, 2001.

(not published in Switzerland)

Implementing Arrangement (EC-SZ-01) concerning Mutual Logistic Support

Signed between the Department of Defense of the United States of America and the Swiss Federal Department of Defense, Civil Protection and Sports December 6, 2001; entered into force December 6, 2001.

(not published in Switzerland)

Memorandum of Understanding between the Government of the Swiss Confederation and the Government of the United States of America concerning reciprocal defense procurement.

Signed between the Department of Defense of the United States of America and the Swiss Federal Department of Defense, Civil Protection and Sports November 29, 2006; entered into force February 15, 2007.

(not published in Switzerland)

In this memorandum of understanding the U.S. and the Swiss Government seek to achieve and maintain a long-term, equitable balance in their purchases of defense equipment. It is the intention of the memorandum of understanding to remove barriers to reciprocal defense trade.

Federal Department of Defense, Civil Protection and Sports of Switzerland and Department of Defense of the United States continued Cooperation in the Development of Internet-Based Education and Training Solutions to support Defense and Security Policy.

Signed and entered into force December 28, 2009.

(not published)

Agreement between United States Navy of the United States of America and the Federal Department of Defense, Civil Protection and Sports acting for the Swiss Federal Council of

the Swiss Confederation regarding the exchange of military personnel (short title: MPEP Agreement).

Signed and entered into force July 20, 2009.

(AS 2010 3777/3777; SR 0.512.133.61)

2.6 Drugs

Memorandum of Understanding between the Federal Office for Foreign Economic Affairs, Federal Department of Public Economy of the Swiss Confederation, and the Food and Drug Administration, U.S. Department of Health and Human Services, on Good Laboratory Practices (GLP).

Signed at Washington April 29, 1985; entered into force April 29, 1985.

(50 Fed. Reg. 29485; not published in Switzerland)

In this memorandum, the Federal Office for Foreign Economic Affairs of Switzerland and the Food and Drug Administration of the United States (FDA) express their concern for assuring the quality and integrity of safety evaluation data that support the approval of applications for research and/or marketing permits for human and animal drugs. The memorandum affords reciprocal recognition to each country's good laboratory practice program, provides for the mutual acceptance of safety test data collected in either country, and sets forth procedures for continuing cooperative efforts for achieving quality safety data. As a consequence, it will not be necessary for either party to conduct nonclinical laboratory inspections in the other country.

Memorandum of understanding on reciprocal recognition of good laboratory practice (GLP) - Inspections

Signed at Washington June 22, 1988; entered into force June 22, 1988.

(not published)

This memorandum between the Federal Office for Foreign Economic Affairs of Switzerland and the Environmental Protection Agency of the United States (EPA) regulates the cooperation and the exchange of technical information between the U.S. and Switzerland in the field of the good laboratory practice with regard to agronomic and industrial chemicals.

Memorandum of understanding between the Food and Drug Administration Department of Health and Human Services of the United States of America and SWISSMEDIC of the Swiss Confederation regarding exchange of information about pharmaceutical products for human and animal use, and medical devices.

Signed September 22, 2003, entered into force September 22, 2003.

(not published)

2.7 Education

Memorandum of Understanding between the Government of the United States of America and the Government of Switzerland on the Fulbright Exchange Program.

Signed and entered into force June 17, 1999.

(not published in Switzerland)

2.8 Enforcement of Judgements

Agreement for the enforcement of maintenance (support) obligations.

Signed August 31, 2004; entered into force September 30, 2004.

(TIAS; AS 2004, 4231/4231; SR 0.211.213.133.6)

2.9 Environment

Agreement between the Federal Department for Environment, Transport, Energy and Communication of Switzerland and the National Oceanic and Atmospheric Administration of the United States of America for Cooperation in the GLOBE Program.

Signed at Berne April 22, 1998; entered into force April 22, 1998.

(TIAS; not published in Switzerland)

The GLOBE (Global Learning and Observation for the Benefit of Environment) has been developed for the benefit of environment and science. The worldwide collected information on environment (chemical composition of nature, such as pH-value of water, composition of air and ground, change in climate etc.) reflects and helps us understand the development of environment.

2.10 Extradition

Extradition treaty

Signed at Washington November 14, 1990, entered into force September 10, 1997.

(TIAS; AS 1997 2764; SR 0.353.933.6)

The new extradition treaty closes the gaps and weak points of the old treaty of 1900 and its supplements.

The Swiss authorities no longer have to furnish a complete evidence file. It is sufficient if the request contains a summary of the facts of the case, of the relevant evidence and of the conclusions providing a reasonable basis to believe that the person sought committed the offence for which extradition is requested. Furthermore, extradition is not any more limited to a list of extraditable offences. It is only required that the offence is punishable under the law of both contracting parties by deprivation of liberty for a period exceeding one year. Extradition shall not be declined because the person sought is a national of the requested State unless it has jurisdiction to prosecute that person. An advantage of the new treaty is also the possibility of simplified extradition. The cooperation between the two countries with regard to extradition is now much easier and more efficient than under the old treaty.

2.11 Judicial Assistance

Treaty on mutual assistance in criminal matters with related notes.

Signed at Berne May 25, 1973; entered into force January 23, 1977.

(27 UST 2019; TIAS 8302; 1052 UNTS 61; AS 1977 42; SR 0.351.933.6)

This treaty is the first of its kind between a Common Law and a European Civil Law country, a fact which created a great number of procedural problems. Both States undertake to afford each other mutual assistance in criminal investigations in respect of certain offences, the punishment of which falls within the jurisdiction of the judicial authorities of the requesting State. The assistance to be granted includes mainly ascertaining the whereabouts of persons, taking the testimony or statements of persons, effecting the production of documents, the service of judicial documents and authentication of documents.

The treaty does not apply to investigations concerning political and military offences. Also excluded are the enforcement of cartel or antitrust law, as well as the prosecution of tax violations. Political, antitrust and fiscal offenses fall under the treaty if the investigation is directed against a person connected with organized crime. Assistance may be refused to the extent that the requested State considers that the execution of the request is likely to prejudice its sovereignty, security or similar essential interests. The information obtained by the requesting State pursuant to the treaty shall not be used for investigative purposes relating to an offence other than the one for which assistance has been granted.

As already mentioned, the treaty contains special provisions concerning organized crime which apply to investigations involving persons reasonably suspected to be involved in the

illegal activities of an organized criminal group. In such cases the requested State shall employ compulsory measures even if the investigation concerns acts which would not be punishable in the requested State. Under certain conditions assistance has to be given in tax, antitrust and custom duties matters.

Requests shall be executed in accordance with the procedural law of the requested State. A person may not be compelled to testify or produce documents, if under the law of either State he has a right to refuse. In cases where there is no right to refuse, the Swiss authority will, nevertheless, limit the provision of evidence disclosing bank, manufacturing, or business secrets to investigations of serious offenses. In order to obtain such evidence the American authorities must show the importance of the disclosure and prove that reasonable but unsuccessful efforts have been made in the United States to obtain the evidence in other ways.

Difficulties or doubts arising as to the interpretation or application of the treaty should be resolved by mutual agreement. If not possible, disputes shall be submitted to arbitration.

Memorandum of Understanding on mutual assistance in criminal matters and ancillary administrative proceedings.

Signed at Washington November 10, 1987.

(not published)

This memorandum regulates the exchange of opinions and related understandings between the U.S. and Swiss judicial authorities in order to avoid conflicts arising from the exercise of jurisdiction in law enforcement. Further the U.S. and Switzerland agree to more effectively utilize the Swiss-U.S. treaty to combat all forms of organized crime.

The Memorandum of Understanding to establish mutually acceptable means for improving international law enforcement cooperation in the field of insider trading, signed at Washington August 31, 1982, has been repealed.

On July 1, 1988 a new article 161 of the Swiss Penal Code entered into force according to which insider trading is a criminal offense. This new provision enables the Swiss authorities to grant judicial assistance under the treaty on mutual assistance in criminal matters also with regard to insider trading cases and, therefore, renders the memorandum of understanding obsolete.

Exchange of notes relating to the ancillary administrative proceedings in the field of offences in connection with the offer, purchase or sale of securities, futures and options.

Signed at Washington November 3, 1993; entered into force November 3, 1993.

(not published in the U.S.; AS 1994 197; SR 0.351.933.66)

The offender of law provisions enacted in connection with the offer, purchase or sale of securities, futures and options may not only be found guilty and sentenced in a criminal proceeding but also may be subject to other sanctions. Therefore the U.S. judicial authorities understand that the mutual legal assistance provided by the Swiss-U.S. treaty should also be granted in certain ancillary proceedings related to cases of violation of law provisions enacted in connection with the offer, purchase or sale of securities, futures and options.

Memorandum of Understanding between the Government of Switzerland and the Government of the United States of America regarding law enforcement assistance and cooperation in criminal matters

Signed April 18, 1995; entered into force April 18, 1995.

(not published)

Arrangement between the Federal Department of Justice and Police of the Swiss Confederation and the Department of Justice of the United States of America acting for the Competent Law Enforcement Authorities of the Swiss Confederation

and of the United States of America on the creation of joint investigation teams concerning the fight against terrorism and the financing of terrorism.

Signed July 12, 2006, entered into force December 1, 2007 (SR 0.360.336.1)

Agreement between the Swiss Confederation and the United States of America on Enhancing Cooperation in Preventing and Combating Serious Crime

Signed and entered into force December 12, 2012

(Not published, office in charge: FEDPOL)

Memorandum of Understanding between the Federal Department of Justice and Police of the Swiss Confederation and the Department of Justice, Federal Bureau of Investigation, Terrorist Screening Center, of the United States of America for the Exchange of Information on Individuals Connected to Activities Related to Terrorism, with annex

Signed and entered into force December 12, 2012

(Not published, office in charge: FEDPOL)

2.12 Mapping

Basic exchange and cooperative agreement concerning global geospatial information and services cooperation, with annexes.

Signed at Brussels June 19, 2001. Entered into force June 19, 2001

(not published)

2.13 Narcotic Drugs

Arrangements for the direct exchange of certain information regarding the traffic in narcotic drugs.

Exchange of notes at Berne November 15 and 16, 1929; entered into force November 16, 1929.

(11 Bevans 917; BS 12 539; SR 0.812.121.933.6)

The United States and Switzerland bind themselves mutually by this agreement to the direct exchange between the American Treasury Department and the Federal Office of Public Hygiene of information and evidence with reference to persons engaged in illicit traffic in narcotics; for example photographs, fingerprints, descriptions of methods employed by such persons, information about suspected movements of narcotic drugs or of persons involved. The competent authorities shall collaborate in investigations or examinations.

2.14 Nationality

Convention relative to military obligations of certain persons having dual nationality.

Signed at Berne November 11, 1937; entered into force December 7, 1938

(11 Bevans 936; 53 Stat. 1791; TS 943; 193 LNTS 181; BS 11 588; SR 0.141.133.6)

This convention provides that a person born in the territory of one of the Contracting Parties, of parents who are nationals of the other, who possesses the nationality of the United States and Switzerland, and has his habitual residence in the State of his birth, shall not be held liable by the other State for military service or for payment of taxes in lieu thereof, even in the case of a temporary stay in the latter State. If this stay is protracted beyond the period of two years a special regulation applies.

2.15 Pacific Settlement of Disputes

Treaty of arbitration and conciliation

Signed at Washington February 16, 1931; entered into force May 23, 1932.

(11 Bevans 920; 47 Stat. 1983; TS 844; 129 LNTS 465; BS 11 381; SR 0.193.413.36)

The United States and Switzerland bind themselves by this

treaty to submit to arbitration or to conciliation in every dispute arising between the Contracting Parties, of whatever nature, when ordinary diplomatic proceedings have failed. The treaty stipulates the cases of application of conciliation or arbitration. It regulates the procedure for the constitution of the Permanent Commission of Conciliation and contains rules of procedure applicable to the conciliation and the arbitration.

2.16 Patents

Arrangement relating to reciprocal benefits under the patent laws of the two countries.

Exchange of notes at Berne January 17 and 28, 1908; entered into force January 28, 1908.

(11 Bevans 909; BS 2 922; SR 232.149.336)

According to the Swiss patent law, under certain circumstances a license may be granted if the invention protected by a patent is not exploited within given limits. If this does not suffice, the patent may be revoked; in the United States, no patent can be cancelled for this reason. Following the terms of the understanding, Switzerland agrees to accept the exploitation of the invention in the United States to be the equivalent of its exploitation in Switzerland.

2.17 Permanent Resident Status

Memorandum of Understanding (MoU) between the Swiss Federal Council and the Government of the United States of America on the status of nationals of one country in the other country.

Signed at Berne July 6, 1995; entered into force July 6, 1995 (BBI 1995 vol. III, p. 669)

Within the limits of the law, the U.S. makes its best efforts to grant immigrant visas and permanent residence status to Swiss citizens as well as similar treatment to that which U.S. citizens receive in Switzerland to Swiss citizens residing in the U.S. in legal non-immigrant status and applying for permanent residence.

2.18 Postal Matters

Agreement concerning the exchange of parcel post, and regulations of execution.

Signed at Washington April 1 and at Berne May 18, 1932; operative April 1, 1932.

(47 Stat. 1997; Post Office Department print; not published in Switzerland)

International express mail agreement, with detailed regulations.

Signed at Berne and Washington December 7, 1978 and January 22, 1979; entered into force February 1, 1979.

(32 UST 5549; TIAS 10008; 1265 UNTS 131; not published in Switzerland)

2.19 Privileges and Immunities

Agreement concerning the status, privileges, and immunities of the SALT (START) delegation in Switzerland with annex.

Exchange of notes at Berne November 21 and 22, 1972; entered into force November 22, 1972.

(23 UST 3736; TIAS 7523; not published in Switzerland)

Related Agreement

Exchange of notes at Berne June 9, 1982; entered into force June 9, 1982.

(TIAS 10414; not published in Switzerland)

Switzerland undertakes by this agreement to concede to the delegation of the United States to the negotiations concerning limitation of strategic arms (SALT) and concerning the limitation and reduction of strategic arms (START), as well as the persons of which it is composed, to enjoy the same sta-

tus, privileges and immunities granted to a special mission, to its representatives and members, as well as to the family members who accompany them. An identical agreement was concluded between the Union of Soviet Socialist Republics and Switzerland.

Agreement on rights, privileges and immunities of the United States-Union of Soviet Socialist Republics Standing Consultative Commission

Exchange of notes at Berne February 26 and March 5, 1973; entered into force March 5, 1973.

(24 UST 772; TIAS 7582; 944 UNTS 95; not published in Switzerland)

Switzerland binds itself by this agreement to allow the delegation of the United States to the United States-Union of Soviet Socialist Republics Standing Consultative Commission, as well as the individuals of whom it is composed, to enjoy the same status, privileges and immunities granted to the delegation to the Strategic Arms Limitation Talks. An identical agreement was concluded between the Union of Soviet Socialist Republics and Switzerland.

Agreement establishing rights, privileges and immunities of the delegation to the negotiations concerning theater (intermediate range) nuclear forces (TNF).

Exchange of letters at Berne October 17, 1980; entered into force October 17, 1980, (33 UST 610; TIAS 10056; not published in Switzerland)

Related Agreement

Exchange of notes at Berne November 11 and 20, 1981; entered into force November 20, 1981.

(33 UST 4237; TIAS 10298; not published in Switzerland)

Switzerland undertakes by this agreement to accord to the delegation of the United States of America and to those who compose this delegation the same formula and the same privileges and immunities as those which were accorded to the delegation to the Strategic Arms Limitation Talks.

Agreement establishing rights, privileges and immunities of the United States delegation to the negotiations on nuclear and space arms.

Exchange of notes at Berne March 1 and 5, 1985; entered into force March 5, 1985.

(TIAS 11188; not published in Switzerland)

Switzerland undertakes by this agreement to concede the delegation of the United States to the Negotiations on Nuclear and Space Arms the same status, privileges and immunities granted to the delegation to the Strategic Arms Limitations Talks.

2.20 Publications

Agreement relating to the exchange of official publications

Exchange of notes at Washington January 5 and February 24, 1950; entered into force February 24, 1950.

(1 UST 396; TIAS 2058; 93 UNTS 3; not published in Switzerland)

This agreement contains provisions concerning the exchange of official publications between the United States and Switzerland. The governments of the two States engaged themselves to regularly furnish a copy of each of their official publications which is indicated in a selected, and from time to time revised, list prepared by the other government. The exchanges are between the Swiss Federal Chancery and the Library of Congress of the United States, as well as between the Smithsonian Institution and the Swiss Parliamentary Library. Blank forms, circulars which are not of a public character, or confidential publications are excepted.

2.21 Science and Research

Agreement between the Swiss Federal Council for Scientific and Technological Cooperation and the Government of the United States of America.

Signed April 1, 2009, entered into force July 24, 2009

(AS 2009 5049/5049; SR 0.420.336.1)

2.22 Social Security

Agreement on social security, with final protocol

Signed at Washington July 18, 1979; entered into force November 1, 1980.

(32 UST 2165; TIAS 9830 1252 UNTS 127; AS 1980 1671; SR 0.831.109.336.1)

Supplementary agreement on social security

Signed at Berne June 1, 1988; entered into force October 1, 1989.

(TIAS 12126; AS 1989 2252; SR 0.831.109.336.1)

The provisions of this agreement, as far as they concern subjection to compulsory social security law, apply now to third country citizens as well. Further, it has been clarified that the spouse and the children of a transferee are subject to social security of the host country only if they enter employment in that country. Finally, the method to assess U.S. social security benefits has been conformed to new U.S. legislation.

Administrative agreement for the implementation of the agreement on social security of July 18, 1979

Signed at Berne December 20, 1979; entered into force November 1, 1980.

(32 UST 2165; TIAS 9830; 1252 UNTS 137 AS 1980 1684; SR 0.831.109.336.11)

This agreement applies to Swiss and U.S. Federal Old-Age, Survivors and Disability Insurance for nationals of the two countries, refugees and stateless persons residing in either country, other persons with respect to rights from persons of above groups.

The agreement provides for equality of treatment of the nationals of the two countries under the social security law of both countries. Benefits to which a U.S. or Swiss national is entitled under a country's national law or this agreement will not be withheld merely because the person is outside of that country.

An employed person is subject to compulsory social security coverage of the country in the territory of which he is employed. However, employed persons who are sent by their employer with a place of business in one country to the other country, shall be subject to compulsory social security coverage in the first country only, provided that the employment in the other country is not expected to last longer than 5 years. A person who is self-employed and a resident of the territory of either contracting state is subject to compulsory social security coverage only of the country in whose territory he resides.

The agreement provides that for U.S. nationals a contribution period of at least one year shall be required for entitlement to Swiss ordinary Old-Age, Survivors and Disability Insurance Pensions. Where a person has completed at least 6 quarters under U.S. laws, but does not have sufficient quarters to satisfy U.S. requirements for benefits, periods of coverage completed under Swiss laws shall be taken into account for purposes of determining benefit eligibility.

Supplementary administrative agreement amending the administrative agreement for the implementation of the agreement on social security.

Signed at Berne June 1, 1988; entered into force October 1, 1989.

(not published in the U.S.; AS 1989 2255; SR 0.831.109.336.11)

Agreement on Social security between the Swiss Confederation and the United States of America (with Administrative Arrangement)

Signed and entered into force December 3, 2012

(Not published, office in charge: BSV - Bundesamt für Sozialversicherung)

2.23 Taxation

Convention for the avoidance of double taxation with respect to taxes on income.

Signed at Washington October 2, 1996; entered into force December 19, 1997.

(TIAS; AS 1999 1459, RO 1999 1460; SR 0.672.933.61; BBI 1997 II 1104 ff., FF 1997 II 997 ss.)

The new Convention follows closely the pattern of recent U.S. income tax treaties with other OECD member countries. Its provisions have taken effect, in respect of tax withheld at the source, to amounts paid or credited on or after February 1, 1998, and, in respect of other taxes, to taxable periods beginning on or after January 1, 1998.

The Convention refers, in the case of the United States, to the Federal income taxes, including excise taxes imposed on insurance premiums paid to foreign insurers and with respect to private foundations. In the case of Switzerland, it refers to the Federal, Cantonal and Communal taxes on income (total income, earned income, income from property, business profits, etc.).

Swiss enterprises are not subject to income taxation by the United States, and vice versa, unless they carry on business through a permanent establishment in the other country or derive income from real property situated in the other country. Individual residents of one of the two States, working in the other for not more than 183 days in any twelve-month period commencing or ending in the taxable year concerned, shall be exempt from income taxes if they receive compensation for labor or personal services performed as an employee of a person or an enterprise of their home country.

The Convention sets up rules to avoid double taxation of dividend, interest and royalties income derived from sources within one of the Contracting States by a resident or an enterprise of the other State.

Residents of a Contracting State qualify for the treaty benefits if they meet any one of the requirements contained in the limitation on benefits provision of the new Convention.

On September 23, 2009, the U.S. and Switzerland signed a protocol to amend certain provisions of the existing Convention (BBI 2010 217/235). The key amendments are: (i) no taxation at source on dividends in the case of pension plans that meet certain requirements; (ii) introduction of arbitration procedures that are substantially like the OECD provisions; and (iii) amending Article 26 of the Convention regarding the exchange of information to substantially adapt the OECD standard. As of the day of this publication, the amendment has not entered into force: While Swiss parliament has ratified the amendment in March 2012, it is as of today still pending for ratification by the U.S. senate.

Agreement of 19 August 2009 between the Swiss Confederation and the United States of America on the request for information from the Internal Revenue Service of the United States of America regarding UBS AG, a corporation established under the laws of the Swiss Confederation.

Signed and entered into force August 19, 2009; amended on March 31, 2010.

(AS 2009 5669; SR 0.672.933.612; amendment protocol AS 2010 1459)

The agreement sets out the details on the modalities of administrative assistance in connection with certain accounts

of UBS customers that allegedly have not declared such accounts to the IRS. As a consideration for this agreed upon procedure, the parties agreed to sign the protocol for a revision of the exchange of information provisions (and certain other provisions) of the Convention for the avoidance of double taxation with respect to taxes on income no later than September 30, 2009 and the U.S. agreed to withdraw its "John Doe Summons" that was pending against UBS in the United States Court for the Southern District of Florida.

The agreement will remain in force until both contracting parties have confirmed in writing the fulfillment of their obligations contained under this agreement

Convention for the avoidance of double taxation with respect to taxes on estates and inheritances.

Signed at Washington July 9, 1951; entered into force September 17, 1952.

(3 UST 3972; TIAS 2533; 165 UNTS 51; AS 1952 645; SR 0.672.933.62)

This convention refers to taxes asserted upon death, in the case of the United States to the Federal estate tax, and in the case of Switzerland to estate and inheritance taxes imposed by the cantons and any political subdivision thereof. In imposing the tax in the case of a decedent who was at the time of his death a citizen of or domiciled in Switzerland, the United States shall allow a specific exemption which would be allowable if the decedent had been domiciled in the United States. A similar exemption shall be allowed by Switzerland in the case of an estate of a decedent who at the time of his death was a citizen of or domiciled in the United States.

If both of the Contracting States determine that the decedent was a citizen of or domiciled in its territory, each shall allow against its tax a credit for the tax imposed in the other State with respect to certain property included for tax by both States.

Any claim for a credit or refund of tax based upon this Convention must be made within five years from the date of death of the decedent.

Agreement between Switzerland and the United States of America for Cooperation to Facilitate the Implementation of FATCA

Signed February 14, 2013. Will enter into force on July 1, 2014.

(The Message by the Federal Council is published in BBI 2013/3181. The agreement can be downloaded at <http://www.sif.admin.ch>).

Switzerland has entered into a type 2 Intergovernmental Agreement with the U.S. The aim of this agreement is to facilitate FATCA implementation while avoiding a full automatic exchange of information. Swiss financial institutions do not have an obligation to disclose recalcitrant U.S. clients to the IRS. Instead they can report the aggregated recalcitrant U.S. accounts to the IRS and the IRS has then to initiate a proceeding for administrative assistance pursuant to the Swiss-U.S. DTA in order to obtain detailed information on such recalcitrant U.S. accounts.

Joint Statement between the U.S. Department of Justice and the Swiss Federal Department of Finance

Issued August 29, 2013

(Not officially published, can be downloaded at <http://www.news.admin.ch/NSBSubscriber/message/attachments/31815.pdf>)

After the Swiss parliament did not pass the "Lex USA" proposed by the Federal Council that would have allowed Swiss banks to directly cooperate with the U.S. authorities in their law enforcement efforts regarding tax evasion, the U.S. Department of Justice and the Swiss Federal Department of Finance issued a joint statement whereby it was clarified that Swiss banks would still be able to participate in the program proposed by the U.S. Department of Justice to obtain resolution concerning their status

in connection with the Department's overall investigations into tax evasion by U.S. persons with the assistance of Swiss banks.

2.24 Telecommunication

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country.

Exchange of notes at Berne January 12 and May 16, 1967; entered into force May 16, 1967.

(18 UST 554; TIAS 6264; 685 UNTS 319; AS 1991 797; SR 0.784.403.336)

This agreement regulates the preconditions under which an individual who is licensed by the United States or Switzerland as an amateur radio operator, and who operates an amateur radio station licensed by one State, shall be permitted by the other State to operate such station in the territory of such other State.

2.25 Trade

Agreement within the context of the multilateral trade negotiations regarding motor vehicles and related letter of November 19, 1980.

Done at Berne April 11, 1979; entered into force January 1, 1980.

(32 UST 5521; TIAS 10004, 1265 UNTS 181; not published in Switzerland)

Arrangement within the context of the multilateral trade negotiations concerning cheeses, with exchange of letters and related letter of November 19, 1980.

Done at Geneva and Berne April 12, 1979; entered into force January 1, 1980.

(32 UST 5527; TIAS 10005; 1265 UNTS 151; AS 1979 2587; SR 0.632.293.362 and 0.632.293.362.1)

Commitment of Switzerland within the context of the multilateral trade negotiations concerning access to its market for beef, and related letter of November 19, 1980.

Done at Geneva and Berne April 12 and July 10, 1979; entered into force January 1, 1980.

(32 UST 5539; TIAS 10006; 1265 UNTS 163; SR 0.632.231.53)

Agreement within the context of the multilateral trade negotiations concerning the treatment of certain chemicals.

Exchange of letters at Geneva and Washington December 18 and 21, 1979; entered into force January 1, 1980.

(32 UST 5545; TIAS 10007; 1265 UNTS 171; AS 1985 937; SR 0.632.293.363)

Convention between Switzerland and the United States of America to expand bilateral coverage under the WTO Government Procurement Agreement (exchange of letters).

Signed December 19, 1996, entered into force March 21, 1997

(not published in the U.S.; BBI 1997 Vol II p. 245; AS FF 1997 II 1470)

Joint Statement establishing a Joint Economic Commission

Signed between the Government of the Swiss Confederation and the Government of the United States of America at Davos January 29, 2000; entered into force January 29, 2000.

(not published)

Agreement between the Government of the Swiss Confederation and the Government of the United States of America establishing a trade and investment forum

Signed at Washington May 25, 2006, entered into force May 25, 2006

(TIAS, not published in Switzerland)

Memorandum of Understanding regarding the granting of a SECO contribution to the SECO/USAID SME development programme composed of the Small Business Expansion Project implemented by Carana Corporation and the Micro and Small Enterprises Project implemented by the Center for Entrepreneurship and Executive Development (CEED)

Signed and entered into force September 1, 2014, ends December 31, 2016

(not published)

2.26 Trademarks

Agreement relating to the registration of trademarks

Exchange of notes at Washington April 27 and May 14, 1883; entered into force May 14, 1883.

(11 Bevans 901; TS 471; not published in Switzerland)

The Paris Convention for the protection of Industrial Property of March 20, 1883, revised for the last time at Stockholm on July 14, 1967, (828 UNTS 305; SR 0.232.04) grants the reciprocity in industrial property matters between the United States and Switzerland.

2.27 Traffic

Exchange of letters between the Embassy of Switzerland at Washington and the Registry of Motor Vehicles of the Commonwealth of Massachusetts regarding the reciprocal recognition of driver's licenses, registration cards and registration plates.

Exchange of letters signed at Washington and Boston March 21 and May 24, 1977; entered into force May 24, 1977.

(not published)

Reciprocal agreement between Country of Switzerland and the State of Louisiana for the exchange of rights and privileges in the use of driver's licenses.

Signed April 19 and 23, 2001; entered into force July 1, 2001.

(not published in the U.S.; AS 2003 3795; SR 0.741.531.933.61)

2.28 Visas

Agreement relating to the waiver of passport visa fees for nonimmigrants.

Exchange of notes at Berne May 11, 1925, entered into force May 11, 1925, operative June 1, 1925. The status of this agreement is under review.

(11 Bevans 915, not published in Switzerland)

Agreement relating to the waiver of passport visa fees for nonimmigrants.

Exchange of notes at Washington October 22 and 31 and November 4 and 13 1947, entered into force November 13, 1947. The status of this agreement is under review.

(6 UST 93; TIAS 3172; 251 UNTS 79; not published in Switzerland)

U.S. visa waiver pilot program (VWP)

Exchange of notes at Berne May 31, 1988 and June 12, 1989, entered into force on July 1, 1989 limited until September 30, 1991; extended until September 30, 1994; extended until September 30, 1997; extended until April 30, 1998; extended for an unlimited period

(not published)

The United States waive visa requirements for citizens of some European states (including Switzerland) who are proceeding to the United States for pleasure for a period not longer than 90 days and who are traveling with one of the airlines named in the program (most European airlines). After the terror attacks on the World Trade Center, the US Congress enacted the "9/11 Act of 2007". In order to increase security, this law requires from all VWP countries striving for an

extension of this program after December 31, 2012, to "enter into an agreement with the United States to share information regarding whether citizen and nationals of that country traveling to the United States represent a threat to the security or welfare of the United States or its citizens". Requirements for the VWP countries are the negotiation and conclusion of two agreements: (i) Preventing and Combating Serious Crime Agreement (PSCS) (concerning the bilateral exchange of information on major criminals); and (ii) Homeland Security Presidential Directive 6 (HSPD6) (concerning the bilateral exchange of information on terrorists). These two required agreements have been signed and entered into force on December 12, 2012 (see 8.2.11). As of January 21, 2016, the United States began implementing changes under the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015 (the Act) as a consequence of the Paris terrorist attacks. Under the Act, travelers in the following categories are no longer eligible to travel or be admitted to the United States under the VWP: (i) Nationals of VWP countries who have traveled to or been present in Iran, Iraq, Sudan, or Syria on or after March 1, 2011 (with limited exceptions for travel for diplomatic or military purposes in the service of a VWP country) and (ii) Nationals of VWP countries who are also nationals of Iran, Iraq, Sudan, or Syria.