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Berne and Brussels row over corporate taxation

Following the renewed approval of the free movement of persons, Switzerland and the European Union are now in negotiations on electricity transit and free trade in agricultural goods. The EU is also looking to attack cantonal tax privileges for foreign companies. By René Lenzin

On 8 February, the Swiss people definitively endorsed the agreement with the EU on the free movement of persons and extended it to the new EU members, Bulgaria and Rumania (see page 12). A major hurdle in the bilateral relations process has therefore been cleared, but there is still a long way to go. Berne and Brussels are currently holding negotiations on further agreements in two main areas:

- Given its location at the heart of Europe and its role as an important producer of electricity, Switzerland has a key part to play in the liberalised European electricity market. Both parties are therefore attempting to reach an agreement on electricity transit.
- More free trade in agricultural goods and food products is also on the agenda. Negotiations concern a reduction in protective duties and quotas as well as the harmonisation of production regulations. The issue has sparked controversy in Swiss political circles. Those in favour anticipate lower consumer prices, while opponents fear for the survival of many farmers.

Discussions are also being held on less weighty issues, mostly concerning developments in EU law. Talks have been ongoing for some time on a framework agreement for bilateral negotiations that will make the process of adjusting Swiss legislation in line with such new provisions more efficient. These talks involve institutionalised dialogue that extends beyond the expert groups already set up in certain specialist areas. Micheline Calmy-Rey, Minister of Foreign Affairs, broached the issue of an agreement of this nature again after the referendum on 8 February, but the response from the parties was muted. Many politicians fear the EU's intention is the automatic implementation of its law in Switzerland, effectively making Switzerland a second-class member of the EU.

Negotiations without negotiation

The most complex issue in the relationship between Berne and Brussels is one about which negotiations are not officially taking place: the taxation of European companies

in Switzerland. The differing cantonal tax rates and, in some cases, low levels of tax for offshore companies – companies with an address in Switzerland, but no employees – have long angered many EU countries. The EU is also critical of the unequal treatment of Swiss and foreign holding companies in Switzerland. The former cannot carry out their own business activities, whereas the latter can. This enables them to generate revenues in the EU, but pay tax in Switzerland's fiscal paradise.

Brussels has given Switzerland an ultimatum to abolish these tax privileges because they contravene the Free Trade Agreement of 1972. Unless Switzerland makes concessions on this issue, the EU has indicated there will be no progress in other areas. Switzerland disputes any connection with the 1972 agreement and does not want to negotiate on its tax system or cantonal autonomy. However, the Federal Council is prepared to accommodate the EU by carrying out independent reforms. It launched proposals in December for the abolition of offshore companies and a ban on business activities by foreign holding companies. What impact these measures will have on Switzerland as a business location and whether they will pour oil on troubled waters in the EU remains to be seen.

Fingerprint in passport? The Swiss people will vote on biometric passports and complementary medicine on 17 May.

By René Lenzin

All passports are set to contain biometric data from the end of this year. What this essentially means is that the facial image and fingerprints of the passport holder are to be stored on a chip. The Federal Council and Parliament have decided to stop producing the old passports and just to issue biometric travel documents from now on. The old passports will however remain valid until their expiry date. A referendum has been called against this decision and it is now up to the people to decide.

Technically, the decision has to do with implementing European law. By acceding to the Schengen Agreement, Switzerland has also undertaken to accept any further devel-

opments of it. As the European Union has made biometric passports mandatory, Switzerland is also taking this step. However, this development was initiated by the USA and not Europe. Immigration regulations were tightened there in the wake of the attacks of 11 September 2001. Now, the only way you can enter America without a visa is with a biometric passport.

The decision was virtually unchallenged in the Council of States, where it was approved by 36 votes to 2. There was greater resistance in the National Council, which voted 94 to 81 in favour. Opponents of the scheme argue that data protection is not rigorous enough with the central storage of biometric data.

"As part of their responsibilities, federal government and the cantons will ensure that complementary medicine is considered" – a parliamentary majority wants this principle to be enshrined in the constitution against the will of the Federal Council. Their aim is to assign greater importance to alternative therapies, such as anthroposophical medicine, homeopathy, neural therapy, herbal medicine and traditional Chinese medicine. Mainstream and complementary medicine should work more closely together. The new provision is a counter-proposal to a more far-reaching popular initiative which has now been withdrawn. The bill was approved by 152 votes to 6 in the National Council and by 41 votes to 0 in the Council of States.