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INTERNATIONAL AND NATIONAL LAW IN ENSURING THE FOREIGN ECONOMIC ACTIVITY OF THE SWISS CONFEDERATION

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Since the modern economy of countries is not closed within the framework of the national state, but is widely integrated into the system of world economic relations, the issues of integration of national systems of legal support for economic and financial activities of countries with the norms and requirements of international law are of particular importance. At the same time, it is important to take into account the peculiarities of the state structure of the respective countries. The federalism differences in the system of distribution of powers between administrative-territorial entities and the central government in the establishment and implementation of foreign economic activity and international cooperation.

There is also a need to study the Swiss experience on effective regulatory support of foreign economic activity may be of interest to countries with different state structures, including in the context of comparative law and integration with international law.

The study of the legal system of support for foreign economic activity of the Swiss Confederation confirms that in the context of a globalized world economic system, the issues of integration of national systems of legal support for foreign economic and financial activities of countries with the norms and requirements of international law are of particular importance. At the same time, regulatory support for the status of relevant government structures and their functions in relation to international activities in the field of foreign trade and investment cooperation is formed depending on the specifics of the country's state structure. In accordance with this, relations are built between subjects of central and regional authorities and subjects of economic and commercial activity in matters of entering international markets.

By integrating national legal norms to support the foreign economic activity of enterprises with international law, Switzerland effectively promotes exports. Strong support for Swiss companies, focused on needs and activities abroad, is provided through the tools of economic diplomacy and export support. Based on the norms of international law, the Swiss Confederation successfully implements the task of supporting the national economy and national business, medium and small enterprises by signing interstate agreements, such as the Free Trade Agreement, the Investment Protection Agreement, and the Agreement for the avoidance of double taxation.

The use of effective mechanisms and tools in the implementation of the country's development strategies, regulated by the norms of national and international law, ensures a jump in Switzerland's competitiveness in international markets, which results in the level of socio-economic development of the country.

Keywords: *Swiss Confederation, international law, international activities, foreign policy, foreign economic activity, international economic law, export support, economic diplomacy.*

Фліссак К.

Міжнародне і національне право у забезпеченні зовнішньоекономічної активності Швейцарської Конфедерації

Оскільки сучасна економіка країн не замикається в рамках національної держави, а широко інтегрується в систему світогосподарських зв'язків, то особливої ваги набувають питання інтеграції національних систем правового забезпечення економічної і фінансової діяльності країн з нормами і вимогами міжнародного права. При цьому вкрай обмежено в дослідженнях українських науковців розглядається практика Швейцарії, держави з конфедеративним устроєм. Швейцарський досвід щодо ефективного нормативно-правового забезпечення зовнішньоекономічної діяльності може представляти інтерес для країн з різним державним устроєм, в тому числі в контексті порівняльного права та інтеграції з нормами міжнародного права. Для розкриття зазначеної проблематики у статті розглянуто особливості державного устрою Швейцарії, відповідно до якого будуються нормативно-правові взаємовідносини між суб'єктами державної і регіональної влади та суб'єктами господарської і комерційної діяльності, в тому числі з виходом на міжнародні ринки. Відображено роль і значення міжнародного права для ефективного забезпечення зовнішньоекономічної активності країни. Акцентовано увагу на нормативно-правовому забезпеченні статусу відповідних владних структур і їхніх функцій щодо міжнародної діяльності в сфері зовнішньої торгівлі й інвестиційного співробітництва. Висвітлено використання відповідних механізмів та інструментів у реалізації стратегій розвитку країни, регламентованих нормами національного і міжнародного права, з виходом на бажані результати. Сформульовано висновки в частині врахування швейцарського досвіду співвідношення міжнародного і внутрішньодержавного права у просуванні національних економічних інтересів на міжнародних ринках.

З'ясовано, що на основі норм міжнародного права Швейцарська Конфедерація успішно реалізує завдання підтримки національної економіки і національного бізнесу, середніх і малих підприємств шляхом підписання міждержавних угод, таких як Угода про вільну торгівлю, Угода про захист інвестицій, Угода про уникнення подвійного оподаткування. Обґрунтовано, що використання ефективних механізмів та інструментів у реалізації стратегій розвитку країни, регламентованих нормами національного і міжнародного права, забезпечує високу конкурентоспроможність Швейцарії на міжнародних ринках, результатом якої є рівень соціально-економічного розвитку країни. Нагромаджений позитивний практичний досвід у Швейцарській Конфедерації, особливістю якої є специфічна система зовнішньоекономічних відносин, що обумовлена розподілом повноважень між центральною владою і кантонами та регламентується поєднанням норм національного і міжнародного права, може бути корисним для країн з різним державним устроєм.

Ключові слова: Швейцарська Конфедерація, міжнародне право, міжнародна діяльність, зовнішня політика, зовнішньоекономічна діяльність, міжнародне економічне право, підтримка експорту, економічна дипломатія.

Formulation of the problem. Achieving maximum efficiency of the level of socio-economic development of any country in the modern conditions in a globalized world is impossible without a comprehensive combination of a wide range of methods and forms of economic activity with appropriate regulatory support. Since the modern economy of countries is not closed within the framework of the national state, but is widely integrated into the system of world economic relations, the issues of integration of national systems of legal support for economic and financial activities of countries with the norms and requirements of international law are of particular importance. At the same time, it is important to take into account the peculiarities of the state structure of the relevant countries, which may be based on unitarity or federalism. The latter forms differences in the system of powers distribution between administrative-territorial entities and the central government in the establishment and implementation of foreign economic activity and international cooperation. Specific features characterize both bilateral and multilateral relations with both partner countries and international organizations. Worthy of attention is the practical positive experience in the field under consideration, accumulated in the Swiss Confederation, the peculiarity of which is a specific system of foreign economic relations, which is due to the confederate structure of the state and is regulated by a combination of national and international law. At the same time, full compliance with the national interests of the country remains a strict requirement.

The analysis of recent research and publications on the problems of legal regulation and ensuring foreign economic activity in the context of integration with the norms of international law confirms its relevance. In general, the topic under consideration is represented by a fairly wide range of scientific publications by both foreign and domestic authors. A special place among them is occupied by scientific publications on the relationship between international and national law. In the professional literature, the authors consider the features of the integrated application of national and international legal norms in the regulation of various types of activities,

in particular in the field of foreign economic relations, in ensuring the promotion of national economic interests in international markets, when considering and resolving disputes in the context of conflicts of interest. Among the Ukrainian authors who study this problem are S. Alekseev [1], S. B. Karvatska [2], M. I. Kozyubra [3], I. M. Panchenko, A. M. Tkachenko [4] and a number of others. When conducting research, the authors take as a basis the regulatory support of the European Union, individual large states with a unitary or federal structure.

In the original research of foreign authors, we find an analysis of the formation of federal relations and regional policy in Switzerland. Certain aspects of this problem are covered in the scientific publications of P. Bundi, D. Eberli, S. Buetikofer [9], S. Mueller [16], A.J. Brown [6], T. Fleiner [12], N. Schmitt [21].

At the same time, the practice of Switzerland, a state with a Confederate structure, remains a «white spot» in the research of Ukrainian scientists. The Swiss experience of effective regulatory support for foreign economic activity may be of interest to countries with different state structures, including in the context of comparative law and integration with international law.

Presentation of the main research material. The analysis of regulatory support for Swiss foreign economic activity provides for the identification of the main positions that need to be considered:

– first, the peculiarities of the state structure of the country, according to which relations are built between subjects of state and regional authorities and subjects of economic and commercial activity, including access to international markets;

– secondly, the role and significance of foreign economic activity for the country, including in the formation of indicators of national accounts;

– third, regulatory and legal support of the status of relevant government agencies and their functions in relation to international activities in the field of foreign trade and investment cooperation;

– fourth, the use of appropriate mechanisms and tools in the implementation of the country's development strategies regulated by the norms of national and international law, with access to the desired results.

A study of the relationship between international and domestic law of the Swiss Confederation shows that as soon as Switzerland adopts an international legal norm, it will become part of the Swiss legal system. This corresponds to the monistic system, which, unlike the dualistic system, does not provide that a rule of international law should be included in national legislation through an additional act, for example, a Law [24]. Thus, in Switzerland, a provision of international law automatically comes into force at the national level after the completion of internal approval procedures and the entry into force of a provision of international law at the interstate level. For this reason, the Federal Council checks whether the provisions contained in a rule of international law comply with national legislation before ratifying an international treaty. Where there is no political will to implement certain provisions at the national level, Switzerland is in principle entitled to make reservations.

Assessing the direct application of international law in Swiss practice, it should be noted that not all provisions of international law directly establish rights and obligations. In some cases, they need to be developed and refined. Norms of international law that are not directly applied are in most cases programmatic in nature and are primarily aimed at the legislators responsible for their implementation.

The state structure of the country is defined by the Federal Constitution of April 18, 1999, according to which 26 cantons form the Swiss Confederation [8]. A fundamentally important feature of the country is that the Federal Constitution does not limit the sovereignty of the cantons (Article 3), that is, the cantons are sovereign and exercise all rights that are not transferred to the Confederation. This legal norm has fundamentally important manifestations in the practice of cantons in various spheres, including in foreign economic activity.

Among the principles of Switzerland's activity as a state governed by the rule of law is the position that the Confederation and cantons adhere to international law (Article 5, Paragraph 4 of the Federal Constitution). At the same time, it should be noted that in certain situations, fundamental rights may be restricted for the subjects of the Confederation (Article 36 of the Federal Constitution). At the same time, restrictions on fundamental rights require legislative justification. Serious restrictions must be provided for by the law itself. The exception is cases of serious, immediate danger that cannot be prevented in any other way. Restrictions on fundamental rights must be justified by the public interest, but the basic content of fundamental rights is inviolable.

The Federal Constitution defines the distribution of competence between the Confederation and the cantons, defines that foreign affairs are under the jurisdiction of the Confederation (Article 54), while there is a legal norm according to which cantons participate in the preparation of foreign policy decisions affecting their competence or their main interests (Article 55). An essential feature of the practical manifestation of cantonal sovereignty is the legal norm regulating relations between cantons and foreign countries.

Thus, Article 56 of the Federal Constitution provides that the cantons:

- 1) may enter into agreements with foreign countries within their jurisdiction;
- 2) shall inform the Confederation prior to the conclusion of treaties, and these treaties shall not be contrary neither to the laws and interests of the Confederation, nor to the rights of other cantons;
- 3) carry out direct communication with subordinate foreign authorities; in other cases, cantons carry out communication with foreign countries through the mediation of the Confederation.

Thus, cantons can interact with state bodies of foreign countries. If we are talking about contacts with the central authorities, then this happens with the direct participation of federal bodies, but with regional or municipal authorities of foreign states, the cantons build contacts independently.

The legal regulation of cantons' activities in the sphere of foreign economic relations with foreign partners is also carried out by such regulatory documents as the law «On state and administrative organizations» (RVOG) of March 21, 1997 [20] and the «Regulation on Government and administrative organizations» (RVOV), adopted by the resolution of the Swiss Confederation Council of November 25, 1998 [19].

The constitutional norm on foreign relations of Switzerland provides that foreign economic policy is implemented at the level of the Confederation (Article 101). At the same time, the Confederation protects the interests of the Swiss economy abroad; in special cases, the Confederation may take measures to protect the national economy, and if necessary, its actions may deviate from the principle of economic freedom.

The level of importance of effective legal support for Switzerland's foreign economic relations is determined by the importance of the activities of Swiss enterprises in foreign markets for the country's economy and its socio-economic state. According to statistics, the Swiss economy is characterized by a high export orientation. Thus, according to the results of operations in 2010, 64.8% of gross domestic product (GDP) was obtained from the export of goods and services, including 47.5% from the export of goods, in 2020 – 64.1% and 47.6%, respectively, in 2023 – 73.3% and 54.7%¹. Given such a high dependence of the country's economy on exports, the Swiss government pays special attention to foreign economic policy, the central place in which is given to measures and mechanisms for promoting the development of national exports.

Switzerland's international cooperation is implemented by three federal bodies: The Office for development and cooperation (DEZA) and the Department of human security (AMS) in the Federal Department of Foreign Affairs (EDA), as well as the State secretariat for Economics (SECO). The Office for development and cooperation (DEZA) is responsible for coordinating development cooperation and humanitarian assistance. The Department of human security (AMS) works in the field of peace, human rights and personal protection. The State secretariat for Economics (SECO) focuses on sustainable economic and trade policies. All these structures complement each other in ensuring international cooperation of the Swiss Confederation and take advantage of synergy.

The functioning of the Federal Department of Foreign Affairs (EDA) is regulated by the «Regulation on the activities of the Department of Foreign Affairs of the Confederation», adopted on April 20, 2011 by the Swiss Federal Council (Der Schweizerische Bundesrat) [17]. According to this regulatory document, the Department of Foreign Affairs (EDA) of the Confederation protects Switzerland's foreign policy interests within the framework of its constitutional mandate. At the same time, its goals are:

- 1) striving for the country's active participation in international relations, as well as for participation in the identification and formation of international organizations and bodies that are important for Switzerland;
- 2) ensuring the coherence of Switzerland's foreign policy in cooperation with other departments;
- 3) ensuring the quality and effectiveness of diplomatic and consular activities, as well as Switzerland's activities within the framework of international cooperation based on the principles of international law.

In achieving these goals, the Department of Foreign Affairs performs the following functions:

- plans and forms bilateral and multilateral relations in Switzerland in cooperation with other departments;
- deals with issues of international law and participates in the development of international treaties.
- is responsible for federal humanitarian assistance and, in cooperation with the Department of economics, education and research of the Confederation, develops a Confederate development policy;
- deals with Swiss international security policy issues in cooperation with relevant departments.

By adhering to and promoting international law, Switzerland represents the interests and values of its foreign policy, thereby ensuring predictability and stability that meets the country's national interests. An important aspect of ensuring compliance with international law is compliance with standards. Thus, states are obliged to comply only with the norms of international law to which they have acceded. The decision to join is under the jurisdiction of the state. In Switzerland, such decisions are usually the responsibility of the federal councils and – through a mandatory or optional referendum – of the people. For example, here legally binding treaties, as o

¹ Calculated by the author based on the data: [7].

as federal laws, are subject to an optional referendum. According to the analysis of Swiss practice, international law encourages cooperation, primarily the development of foreign trade. According to the Department of Foreign Affairs, the Swiss economy earns every second franc abroad and therefore values a stable legal regime. Important areas of international activity and cooperation of countries, as evidenced by the experience of Switzerland, are the environment, the fight against terrorism, telecommunications, and transport [11].

The importance of international law for the country's economy is also characterized by economic analysis. Switzerland as a market is a managed market with a consumer population of about 8.8 million people. Despite this, local businesses are often significantly more successful than international ones, provide jobs, pay taxes and thus contribute to the socio-economic development of Switzerland. This is largely due to the fact that thousands of Swiss companies were able to gain a foothold in foreign markets. They sell their services and products abroad or set up branches and businesses there. But also as suppliers, they benefit from the extensive international value chains they are involved in. So, in 2023 alone, they exported goods and services worth 589.3 billion Swiss francs [7], which accounted for 73.3% of GDP. In terms of the volume of investments made abroad, Switzerland ranks 9th among the countries of the world [14].

The fact that Swiss firms can quickly gain access to foreign markets and their clients is also explained by the fact that Switzerland was able to agree with partner countries on the general rules of the game – international economic law. For example, mutual recognition of product standards, the level of import or export duties, access to dispute resolution procedures, and the protection of investment or intellectual property play an important role. All this is regulated by international law in the form of international treaties that are binding between two or more states.

In addition, Switzerland has concluded other bilateral treaties over the years. This includes 30 free trade agreements, about 120 investment protection agreements, and more than 100 double taxation agreements. The analysis shows that as the number of contracts, i.e. legally regulated relations, increases, Switzerland's exports also increase. This is not direct proof that the number of contracts directly increases exports. However, calculations by the State Economic Secretariat show that exports to countries with which Switzerland has concluded a free trade agreement are growing faster (+10.5% per year for the first four years after the agreement came into force, compared to 5.7% in total exports) [14].

By integrating national legal norms to support the foreign economic activity of enterprises with international law, Switzerland effectively promotes exports. Strong support for Swiss companies, focused on needs and activities abroad, is provided through the tools of economic diplomacy and export support [25]. As a medium-sized trade-oriented economy, Switzerland depends on open markets, legal certainty and predictability of a rules-based global economic system. In addition to the multilateral system, Switzerland enters into bilateral agreements in the economic and financial spheres, including free trade agreements, investment protection and the avoidance of double taxation. This expands access to foreign markets.

Swiss representative offices abroad take an active part in the negotiations and implementation of such agreements. As part of export support and consular protection, they can also advise and support individual Swiss companies.

Export promotion is implemented by providing support to Swiss companies in the development of their international business, on the one hand, through the authorized federal export promotion agency Switzerland Global Enterprise (S-GE), and on the other hand, through state representative offices abroad. S-GE's range of services is aimed at small and medium-sized businesses [23]. The Export Support Service is the first place to contact for any administrative export issues. In addition, S-GE consultants in countries can also directly provide the necessary information.

It is also important to note that Switzerland Global Enterprise (S-GE) informs potential foreign investors on behalf of the Federal Government and the cantons about the special strengths and framework conditions of Switzerland's economic situation. Swiss Business Hubs are the first point of attraction for foreign investors. Future-oriented companies that are active in innovative ecosystems such as healthcare, digital world, automation, food and finance (Health, Digital world, Automation, Food und Finance) are becoming the target of close attention. In countries where there are no Swiss Business Hubs, foreign investors can contact S-GE in Switzerland directly.

In some countries, the Federal Department of foreign affairs, together with S-GE, operates a network of «Swiss Business Hubs». They are integrated into embassies or consulates general and offer a wide range of services, such as in-depth market analysis, finding suitable distributors in the target market, or helping with product certification. Swiss embassies and consulates general provide basic assistance even where there is no Swiss Busi-

ness Hub. This offer includes information, advice, contact mediation, assistance in organizing events or trips of delegations, as well as consular protection.

Based on the norms of international law, the Swiss Confederation successfully implements the task of supporting the national economy and national business, medium and small enterprises by signing interstate agreements, such as the Free Trade Agreement, the Investment Protection Agreement, and the Agreement for the avoidance of double taxation.

By promoting national exports, the Free Trade Agreement mainly aims to facilitate trade by removing trade barriers between two or more countries. Reducing tariffs as much as possible is a key element. A significant number of Free Trade Agreements also regulate services, investment, and public procurement. However, such agreements include provisions on sustainability. Along with the European Free Trade Association (EFTA)² Convention and the Free Trade Agreement with the European Union, Switzerland has signed 33 free trade agreements with 43 partners. Agreements are usually concluded within the framework of the European Free Trade Association. However, Switzerland has the ability to enter into free trade agreements even outside the EFTA, as, for example, in the case of Japan or the People's Republic of China [13].

Investment protection agreements encourage investment by providing a certain degree of protection against non-commercial risks. Such risks include discrimination by the partner government against local investors, illegal expropriation, or unjustified obstacles to payments and capital flows. To date, Switzerland has concluded more than 120 investment protection agreements with countries in Africa, Latin America, Asia and Europe. The state secretariat for Economics (SECO) maintains a register of existing investment protection agreements with other countries with an appropriate analysis of the achieved level and assessment of new opportunities [22].

Double taxation agreements allow avoiding double taxation of individuals and legal entities by granting member states the right to tax certain types of income and assets. Therefore, they are an important element in promoting international economic activity. Switzerland currently has double taxation agreements concluded in more than 100 countries and is committed to further expanding their network [10]. The federal tax administration maintains an appropriate database of tax information for cantons.

Switzerland's international cooperation, which is based on the norms of international law, is carried out in the interests of sustainable development and countering global risks. For the period 2021-2024, the Federal Council has defined the following four equivalent goals in the Confederation's international cooperation strategy:

- 1) *economic development* – focused on promoting sustainable economic growth, developing markets and creating decent jobs;
- 2) *climate change and the environment* – combating climate change and its consequences, as well as ensuring the rational use of natural resources;
- 3) *human development* – save lives, provide quality primary health care, including education and health care, and help reduce the reasons for fleeing countries and irregular migration;
- 4) *peace and governance* – promote peace, the rule of law and gender equality [15].

To this end, Switzerland also pursues long-term interests: a peaceful and just international order, a stable and investment-friendly economic framework, reducing the causes of flight and illegal migration, and global sustainable development.

Switzerland's economic development cooperation aims to promote economic growth and sustainable prosperity. Decent jobs are central to this process. Switzerland focuses on its dual education system in development cooperation. This contributes to the development of competence and professionalism, which are in demand in various labour markets in developing countries. In addition, Switzerland's international cooperation is aimed at promoting sound economic policy frameworks and cooperation with the private sector. This helps partner countries integrate into the global economy. Switzerland takes into account the opportunities offered by technological progress and digitalization.

Defining for Switzerland's international cooperation is the «Agenda for sustainable development for the period up to 2030» (Agenda 2030) adopted unanimously by the international community in 2015 [5]. This International Act contains 17 Sustainable development goals and sets out a common framework that equally covers economic, social and environmental aspects aimed at both developing and developed countries. Switzerland supports developing countries in the implementation of the Agenda for the period up to 2030. Based on the Sustainable

² The European Free Trade Association (EFTA) is a free trade area that unites the customs territories of four European countries that have not joined the European Union, in particular, the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation. The Free Trade Zone provides member countries with a free trade regime for goods and services, as well as guarantees the free movement of capital and individuals [26].

Development Strategy (SNE), Switzerland has the appropriate tools to implement the «Agenda for the period up to 2030» (Agenda 2030) at the national level. The Switzerland sustainable development strategy (SNE) focuses on three key themes: «Consumption and production», «Energy, climate and biodiversification» and «Equal opportunities».

As a result of globalization, international relations have become more important and at the same time more complex. Switzerland, which is neither a political nor a military power, advocates an inter-state dialogue focused not on force, but on law, and actively participates in the development of international law. Thus, Switzerland contributes to the protection of the country's interests, which is a priority goal of its foreign policy.

Conclusions. The study of the legal system of support for foreign economic activity of the Swiss Confederation confirms that in the context of a globalized world economic system, the issues of integration of national systems of legal support for foreign economic and financial activities of countries with the norms and requirements of international law are of particular importance. At the same time, regulatory support for the status of relevant government structures and their functions in relation to international activities in the field of foreign trade and investment cooperation is formed depending on the specifics of the country's state structure. In accordance with this, relations are built between subjects of central and regional authorities and subjects of economic and commercial activity in matters of entering international markets.

By integrating national legal norms to support the foreign economic activity of enterprises with international law, Switzerland effectively promotes exports. Strong support for Swiss companies, focused on needs and activities abroad, is provided through the tools of economic diplomacy and export support.

Based on the norms of international law, the Swiss Confederation successfully implements the task of supporting the national economy and national business, medium and small enterprises by signing interstate agreements, such as the Free Trade Agreement, the Investment Protection Agreement, and the Agreement for the avoidance of double taxation.

The use of effective mechanisms and tools in the implementation of the country's development strategies, regulated by the norms of national and international law, ensures a jump in Switzerland's competitiveness in international markets, which results in the level of socio-economic development of the country. The accumulated positive practical experience in the Swiss Confederation, which is characterized by a specific system of foreign economic relations, due to the distribution of powers between the central government and the cantons and regulated by a combination of national and international law, can be useful for countries with different state structures. At the same time, full compliance with the national interests of the country should remain a strict requirement.

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