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# STRATEGY WITH CHINA : SWISS COOPERATION OR U.S. CONFRONTATION ? THE SUCCESSFUL SWISS PATH WITH A FREE TRADE AGREEMENT

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FONDATION  
**JEAN MONNET**  
POUR L'EUROPE

**STRATEGY WITH CHINA:  
SWISS COOPERATION OR  
U.S. CONFRONTATION?  
THE SUCCESSFUL SWISS  
PATH WITH A FREE TRADE  
AGREEMENT**

PHILIPPE G. NELL



*To my children Alexandre, Richard, Robert and Anne-Marie  
source of love, inspiration and motivation*

*To my grandchildren Chloé and Ethan  
source of tenderness and joy*

*To Hans-Peter and Ursula  
source of wisdom, courage and vision*



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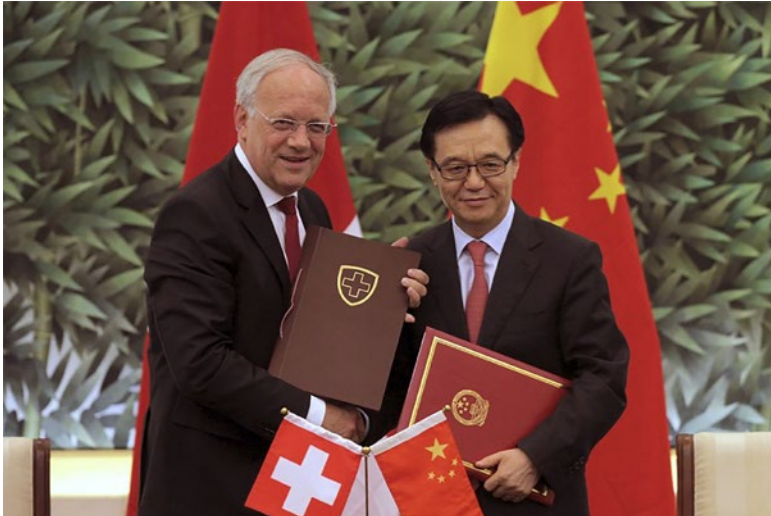
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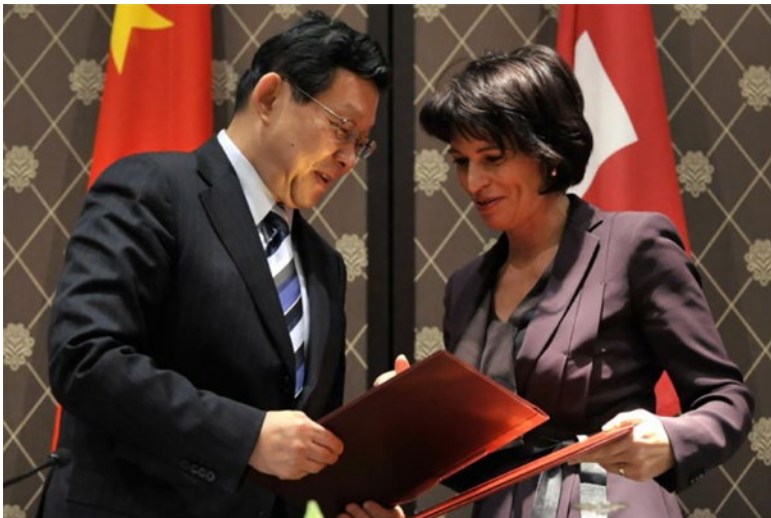
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Chen Deming, Minister of Commerce of the People's Republic of China, and Doris Leuthard, Federal Councillor for Economic Affairs of Switzerland. Signing Ceremony launching the Feasibility Study for the Free Trade Agreement on the margins of the 7th WTO Ministerial Meeting, Geneva, November 30, 2009.

## Preface

by Gary Clyde Hufbauer\*

The contrast between US and Swiss approaches to China could not be sharper. Aside from military competition, the United States confronts China on multiple economic issues – trade, investment and technology. Switzerland cannot possibly confront China on geopolitical terrain; instead Switzerland has sensibly pursued a path of cooperative engagement, expertly documented by Philippe Nell.

Contemporary relations between Switzerland and China date from a friendship agreement concluded in 1918, followed decades later by Swiss recognition of the People's Republic of China in 1950. In the 1970s and 1980s, Switzerland negotiated special subject agreements with China, covering matters such as civil aviation, most-favored-nation tariffs, investment protection and nuclear cooperation. Another wave of commercial memoranda followed in the 2000s. The FTA itself, essentially a capstone to prior agreements, was concluded in 2013.

Details of the FTA are critical to Swiss firms exporting to or investing in China, and Chinese firms doing business in Switzerland. As well, the negotiating history makes essential reading for medium-sized countries contemplating their own FTA talks while steering a course between the US and China. China has already concluded FTAs with several small and medium-sized countries

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and regions and is about to add Japan within the 15-member Regional Comprehensive Economic Partnership pact (RCEP) to be signed by the end of 2020. Together, these trade agreements, including the forthcoming RCEP pact including Japan, could cover more than 40 percent of China's exports. Over the next decade other countries will seek to join China's FTA roster, and their officials and business leaders can learn a great deal from Nell's account of Swiss experience.

As a bonus to readers, Nell not only recounts recent US-China trade battles but also compares the terms of Chinese FTAs with other partners, such as Australia and Chile, with the deal reached between Switzerland and China.

Despite the disparity in size, Swiss negotiators achieved excellent terms. By 2028, Chinese tariffs will be phased out on 92 percent of lines. The remaining Chinese tariffs on non-agricultural products largely affect industries where Switzerland is a world leader and China is attempting to catch up – products of the chemical, pharmaceutical, machinery and watch sectors. For its part, Switzerland maintained high tariffs on lines protecting agriculture, a sensitive subject in the Swiss economy, but relevant to less than one percent of Chinese exports. Otherwise Chinese exports enjoy duty-free entry to the Swiss market.

In contrast to merchandise trade, where Switzerland annually runs a bilateral deficit with China around US\$2 billion (excluding gold), Switzerland enjoys a comparable bilateral surplus in services trade. The FTA notably reduced Chinese barriers to environmental, financial, transportation, market research, consulting and other services. As well, the FTA upgraded Chinese protection of intellectual property rights, a major concern for Switzerland with its huge trove of patents, trademarks, and geographical indications.

The stock of direct investment in China by Swiss firms now exceeds SFR 23 billion, and leading Chinese firms have established positions in Switzerland. While dialogue under FTA auspices will

promote further two-way expansion, the Protection Agreement deals with investors, and service liberalization is covered both in the GATS and the aviation agreement as well as the FTA.

Unlike the United States, Switzerland does not seek to discipline subsidies to Chinese state-owned enterprises, nor breach the Great Firewall that surrounds Chinese digital space, nor frontally curb the practice of forced technology transfer. Neither does Switzerland engage in rhetorical battles with China over containment of Covid-19. By leaving these and other sensitive subjects off the bilateral agenda, Switzerland has been able to strike meaningful commercial deals with China and avoid imposing the high costs that the United States incurs through its trade war with China. On the contrary, Switzerland has significantly improved its access to the Chinese market compared to its main competitors. Nell highlights the remarkable results achieved by several industries since the entry into force of the FTA. The Swiss model is one that many countries may choose to follow.

# Introduction and acknowledgments

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The US-China trade war is taking a heavy toll on both economies. Angered by a large bilateral trade deficit, China's policies on technology transfer, intellectual property, and subsidies to state-owned enterprises, President Trump boldly imposed heavy tariffs on Chinese imports. A tit-for-tat tariff war ensued with a phase one agreement signed in Washington on January 15, 2020.

The suggestion to study the very different Swiss-China relationship arose in a discussion with Fred Bergsten, Director Emeritus of the Peterson Institute for International Economics, in May 2019 in Washington. The Swiss authorities took another path with China. They embraced a cooperation strategy, granted China market economy status according to the WTO accession protocol of China and concluded a free trade agreement (FTA). Thereafter, the Swiss trade deficit with China decreased significantly. The Swiss experience may be of interest for other countries.

The publication of this book coincides with an important milestone, the 70th Anniversary of Switzerland's diplomatic recognition of the People's Republic of China and pays tribute to a strong relationship. It focuses on their FTA, by far their most important bilateral economic agreement, with an emphasis on merchandise trade, services, investment and intellectual property. Elements representing an upgrade of WTO Agreements are highlighted, especially additional liberalization of services, patents and geographical indications. Tariff dismantling is reviewed with phase-out periods and remaining duties. The opening of China's market for Swiss products is assessed. Overall, Swiss exporters have performed very well.

The contribution of the FTA is, however, qualified by two surveys of Swiss firms operating in China that highlight significant implementation difficulties in the early period. User rates of the FTA are

compared with user rates of the General System of Preferences for the main Chinese exports to Switzerland. The comparison enables an assessment of the real benefit of the FTA, both for Chinese exporters and for Swiss importers.

In order to underline the contrast between the Swiss and US strategies, an appraisal of the challenges, potential, benefits and costs of the first phase of the Economic and Trade Agreement between the United States and China, and the prospects for a second phase, is provided. Finally, the main elements of China's FTAs with select countries are compared to the Swiss-Chinese FTA.

I became familiar with China by heading the Swiss delegation during the last two years of China's WTO accession negotiations. Highly complex and technical, with major political and economic implications, they led to substantial economic reforms in China and to a progressive opening of the economy by lowering tariffs to an average of less than 10%, progressively removing all quantitative restrictions and engaging in the liberalization of certain services.

While it was evident that China would face serious difficulties complying with some WTO commitments, particularly in the area of intellectual property, no one might have predicted that, less than two decades later, China would become the world's leading exporter and largest market for many western multinationals. This remarkable achievement, the prospects for the future and the current tensions with the United States have made writing this book all the more appealing.

I would like to thank Gary Clyde Hufbauer for very helpful comments and suggestions, Christian Etter for reviewing thoroughly the text with his experience as Chief negotiator of the FTA for Switzerland, Simon Wüthrich for useful recommendations, Laura Vanoli for providing detailed Swiss customs statistics, Jean-Daniel Rey for information on the WTO and Christoph Wild on the Swiss gold industry, Yves Reymond for updates from Beijing, Maurice Altermatt, Christophe Perritaz and Mathias Schaeli for

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Philippe G. Nell  
September, 2020

# 1. Background

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Launched in 2018, the US-China trade war inflicted significant costs on both parties. Switzerland chose a different path. Like the United States, Switzerland has substantial trade and investment interests with China. Swiss authorities are also fully aware of the difficult problems faced by foreign firms doing business in China. The geopolitical contexts for Switzerland and the United States are, however, completely different. While the US defends its political, economic, technological and military world leadership in its rivalry with China, Switzerland seeks the best conditions for its own economy, good framework conditions for foreign economic affairs, and respect of human rights.

Highly specialized and highly dependent on international trade and investment, Switzerland is very vulnerable to any action taken by its major partners, the European Union and the United States in particular. Deprived of leverage, Switzerland does not adopt confrontational strategies. Trade-restrictive measures and retaliation could only lead to higher prices for domestic consumers and erode the overall competitiveness of the economy. A major difference with the United States is that, as a small country, Switzerland is a price-taker at the international level. President Trump believes that the United States is a price-maker, and China pays the tariffs, an assessment contradicted by most economists.

A conflictual relationship has never been an option for Switzerland, which, for instance, did not take countermeasures against US duties on steel and aluminum in 2018, but instead initiated a panel at the WTO.

With China, the Swiss government has set the objective to improve market access and support, to the extent possible, constructive changes in Chinese policies. While the first objective has been met with a comprehensive free trade agreement, the second one has proven very slow and difficult.

## 1.1. The political side

Switzerland and China have longstanding relations. As early as 1918, they concluded a friendship agreement underscoring peace and friendship between the two countries and their nationals. Provisions for official representation were agreed, opening thereby the way to diplomatic relations<sup>1</sup>.

By recognizing the People's Republic of China on January 17, 1950, one of the first western countries to do so, Switzerland had sensed China's enormous potential and its key geopolitical position. Diplomatic relations were established on September 14, 1950. Ties were strengthened on November 12, 1973, with an Agreement on Civil Aviation, and on December 20, 1974, with a Treaty on Commerce and Trade<sup>2</sup>. The most important article ensures the reciprocal grant of most-favored-nation treatment. MFN applies to customs duties, taxes, surcharges and other fiscal charges levied on imports, exports and re-exports, transit, transshipment and storage of goods, as well as procedures and formalities relating thereto. The nine-article agreement includes provisions on payment in Swiss francs, renminbi or other convertible currencies, encourages technical exchanges in industrial and technical fields, and refers to trade in some services. A Joint Economic Commission was established to review relations. Economic ties started to deepen with China's policy to open its economy in 1978. The special relationship between both countries led the Swiss elevator producer Schindler to establish the first western industrial joint venture with a Chinese partner in 1980.

Framework conditions were then further strengthened with Agreements on Nuclear Cooperation (1986), the Promotion and the Reciprocal Protection of Investments (1987), and Technical

<sup>1</sup> *Traité d'amitié entre la Confédération suisse et la République de Chine*, concluded June 13, 1918. Entry into force October 8, 1919. Available on line: <https://www.admin.ch/opc/fr/classified-compilation/19180011/index.html>, accessed 19/03/20.

<sup>2</sup> *Accord de commerce entre la Confédération suisse et la République populaire de Chine*, concluded December 20, 1974. Entry into force April 30, 1975. Available on line: <https://www.admin.ch/opc/fr/classified-compilation/19740367/index.html>, accessed 19/03/20.

and Scientific Cooperation (1989). An Arrangement on the establishment of a dialogue on human rights (1991)<sup>3</sup> and exchange of notes covering interchange of trainees (1997) and of young professionals (1999), and a Memorandum of Understanding on Higher Education (1999) completed the picture.

## 1.2. Intertwining the multilateral and bilateral relations

The multilateral level significantly contributed to Swiss-Chinese trade relations. Let us recall that China was one of the twenty-three signatories of GATT in 1947. Participation was then suspended by China's revolution and the withdrawal from GATT by the Chinese National Government in Taiwan. That decision was never recognized by the People's Republic of China. China established observer status in GATT (1982), began negotiations toward the resumption of member status in GATT (1987), and then membership in the WTO (1995) through a Working Party<sup>4</sup>.

The stakes were high for many countries, which had imposed multiple anti-dumping duties and quantitative restrictions on Chinese imports. The United States was in an unusual situation because Congress had to agree to eliminate the yearly review of the grant of MFN status to China and instead adopt Permanent Normal Trade Relations Legislation (PNTR). The United States therefore played a leading role in the accession process. US negotiators inserted language from the US Congress in various parts of the Working Party Report, which China and other WTO Members accepted. The language ensured transitional trade-defence measures – for textiles and product-specific safeguards, and for price comparisons in dumping and subsidies investigations – plus a review mechanism.

<sup>3</sup> For a summary of the 16th round of the human rights dialogue held June 12, 2018, see: *Switzerland and China conduct human rights dialogue*, Swiss Federal Department of Foreign Affairs. Available on line: <https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-71104.html>, accessed 07/05/20.

<sup>4</sup> Philippe G. Nell: «China's accession to the WTO: Challenges ahead», *Baslerschriften zur europäischen Integration*, EuropaInstitut der Universität Basel Nr. 63, 2003. Available on line: [https://europa.unibas.ch/fileadmin/user\\_upload/europa/PDFs\\_Basel\\_Papers/BS63.pdf](https://europa.unibas.ch/fileadmin/user_upload/europa/PDFs_Basel_Papers/BS63.pdf).

During the Working Party's fourteen years of negotiations, the Chairmanship was held by the Swiss Ambassador Pierre-Louis Girard, who acted with determination and objectivity to bring the negotiations to conclusion. Beijing was fully aware of the difficult role of the Swiss chairman, aiming at compromises in several areas to reach consensus between key stakeholders. The accession of China to the WTO (2001) was welcomed by the Swiss authorities and the business community because China was thereby integrated in the multilateral rules-based trading system. It was however fully clear to WTO members that China – defined in the WTO Working Party Report as a socialist market economy in transition – would face very serious challenges to meet its WTO commitments. One of the most difficult areas was intellectual property, given the massive production of counterfeit goods. This has been compounded in recent years with restrictive Chinese rules that require technology transfer and put foreign investors at a great disadvantage.

Building on China's accession to the WTO and the Joint Economic Commission, Switzerland and China concluded several Memoranda of Understanding (MoU) covering tourism (2004), intellectual property protection (2007), investment cooperation (2007), economic cooperation (2007), and dialogue and cooperation (2007). For Switzerland, this was part of a strategy eventually leading to an FTA.

In the fall of 2006, Switzerland fell into an uncomfortable situation to manage its interests both with China and the United States. In order not to impair the path toward an FTA with China and in line with its policy of rarely participating as a complainant or a third party in WTO dispute settlement proceedings, Switzerland did not accept a US proposal to be a third party on a WTO panel examining Chinese practices affecting the protection and enforcement intellectual property<sup>5</sup>.

<sup>5</sup> WTO, *China – Measures affecting the protection and the enforcement of intellectual property rights*, 2009. Available on line: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds362\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds362_e.htm), accessed 12/09/19.

Based on the active participation of Switzerland in the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Council of the WTO and of the importance of innovation and patents for the Swiss economy, the US Trade Representative (USTR) had anticipated Swiss support. The US authorities considered it important to build a strong coalition of WTO members denouncing China's practices. Australia, Canada, the European Union, Japan and several developing countries<sup>6</sup> joined the panel as third parties.

The United States expected a cooperative stand from Switzerland all the more so since both countries had signed, on May 25, 2006, an Agreement establishing a Trade and Investment Cooperation Forum. The Forum envisaged a focus on «trade and investment matters that may be appropriate for negotiation or joint action in plurilateral and multilateral fora<sup>7</sup>.»

For the USTR, the Swiss position was all the more difficult to understand because Switzerland had participated as a third party in two intellectual property rights disputes, referring to section 110(5) of the US Copyright Act (1999) and to the patent protection for pharmaceutical products by Canada (1999). In addition, Switzerland had filed a few complaints, notably in 2002 on the US steel safeguard measures<sup>8</sup>.

Nevertheless, the USTR respected the Swiss position and the two countries worked very closely together during the following months within the framework of the Forum to launch negotiations

<sup>6</sup> The other WTO members were: Argentina, Brazil, India, the Republic of Korea, Mexico, China Taipei, Thailand, and Turkey.

<sup>7</sup> *Agreement between the Government of the United States of America and the Government of the Swiss Confederation establishing a Trade and Investment Cooperation Forum*, Washington, May 25, 2006, art. 2, b. Available on line: <https://ustr.gov/sites/default/files/US-Switzerland%20TIFA.pdf>, accessed 11/03/20.

<sup>8</sup> Switzerland had also filed the following complaints: Slovak Republic – Measures concerning the Importation of Dairy Products and the Transit of Cattle, 1998 (no panel established); India – Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products (1997; mutually-agreed solution, 1998); Australia – Anti-Dumping Measures on Imports of Coated Wood free Paper Sheets (1998; mutually-agreed solution same year).

on an Anti-Counterfeiting Trade Agreement (ACTA). Following strong opposition from European civil society and rejection by the European Parliament<sup>9</sup>, Switzerland followed the EU in not signing the Agreement with the full understanding of the United States.

The panel against China on means affecting the protection and enforcement of intellectual property rights also served Switzerland's interests. The WTO panel identified Chinese measures inconsistent with the TRIPS Agreement, highlighting «the disposal by China's customs of confiscated goods following the removal of infringing features and the denial of copyright and related rights protection and enforcement to creative works of authorship, sound recordings and performances that have not been authorized for publication or distribution within China<sup>10</sup>.» China did not appeal the recommendations of the panel. Its Copyright law and the Regulations for Customs Protection of Intellectual Property Rights were revised accordingly.

In 2018, Switzerland acted differently by joining a US panel on technology transfer matters violating WTO law and impacting significantly on foreign investors. The panel investigated several issues: the denial by China of the right of a foreign patent holder to enforce patent rights against a Chinese joint-venture partner following the end of a technology transfer contract, mandatory adverse contractual terms less favorable for imported technology, and obstacles to the negotiation of «freely market-based terms in licensing and other technology-related contracts<sup>11</sup>.»

<sup>9</sup> The European Parliament rejected ACTA on July 4, 2012 impeding thereby a membership of the EU and its member states. ACTA had been negotiated by the EU and its member states, the United States, Australia, Canada, Japan, Mexico, Morocco, New Zealand, Singapore, the Republic of Korea and Switzerland.

<sup>10</sup> WTO, *China Measures Affecting the Protection and Enforcement of Intellectual Property Rights*, WT/DS362, 2009. Available on line: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds362\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds362_e.htm), accessed 15/07/20.

<sup>11</sup> WTO, *China Certain Measures Concerning the Protection of Intellectual Property Rights. Request for Consultations by the United States*, WT/DS542/8 October 18, 2018. Available on line: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds542\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds542_e.htm), accessed 21/07/20.

Some of the most contentious points refer to Chinese requirements that licensors of imported technology contracts indemnify licensees for all liabilities for infringement resulting from the use of the transferred technology, and that any improvements in imported technology belong to the party making the improvement. The US complaint also addressed the prohibition for an imported technology license contract from restricting a Chinese party from improving the technology or from using the improved technology, and the right to continue to use technology transferred under a technology transfer contract after the expiration of the contract.

The United States covered these issues in its bilateral negotiations with China and requested the WTO panel to suspend its work in June 2019<sup>12</sup>. Yet all the questions are of great concern for Swiss investors.

Switzerland and China have also enhanced their bilateral cooperation with a MoU on Promoting Dialogue and Cooperation (2007), a Protocol on export of swine meat (2008), an Arrangement on environmental protection and energy saving (2009), an Agreement on the promotion and the reciprocal protection of investments (2010), a MoU regarding cooperation on labor and employment issues (2011), and the joint support for the establishment of the Sino-Swiss Zhenjiang ecological industrial park (2012)<sup>13</sup>.

This fruitful basis led to a Free Trade Agreement (2014) and an Agreement on Labor and Employment Cooperation (2014). The intensification of relations continued then with an Agreement to avoid double taxation (2015), and Agreements on Cooperation in

<sup>12</sup> WTO, *China Certain Measures Concerning the Protection of Intellectual Property Rights. Request for Consultations by the United States*, WT/DS542/12, March 5, 2020. Available on line: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds542\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds542_e.htm), accessed 21/07/20.

<sup>13</sup> State Secretariat for Economic Affairs, *People's Republic of China, Country information*, Bern, Switzerland. Available on line: [https://www.seco.admin.ch/seco/de/home/Aussenwirtschaftspolitik\\_Wirtschaftliche\\_Zusammenarbeit/Wirtschaftsbeziehungen/laenderinformationen/asien--ozeanien.html](https://www.seco.admin.ch/seco/de/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/laenderinformationen/asien--ozeanien.html), accessed 29/11/19.

the areas of foodstuffs, medicinal products, medical devices and cosmetics (2015), social security (2017) and automatic exchange of information on financial accounts (2018)<sup>14</sup>.

It is worth noting that the investment agreement replaces the 1987 agreement by bringing it into line with the most recent investment protection standards. As a result, in 2010, Swiss investors were among the best protected in China<sup>15</sup>. With the new investment protection and the double taxation Agreements, the FTA completed the Swiss gold standard for its economy: protection against unfair treatment in case of expropriations, avoidance of double taxation and free trade. In terms of economic benefits for Swiss firms, the latter is the most important.

Small-sized land-locked economy, Switzerland has been very active to establish a global image around the world. China is part of this strategy with mainly two axes.

First, Switzerland has long sought to make its contribution to the international community. As a cornerstone, its neutrality status was recognized by the great powers at the 1648 Peace Treaty of Westphalia and at the Vienna Conference in 1815. One of the objectives was to leave the critical Gotthard route through the Alps to Italy in the hands of the Swiss Confederation.

Another important Swiss contribution was the creation of the International Red Cross by Henri Dunant and the organization by the Swiss government of an official diplomatic conference in 1864 to adopt the first Geneva Convention on « the Amelioration of the Condition of the Wounded in Armies in the Field. » The International Committee of the Red Cross is highly respected and present throughout the world with local chapters. It is headquartered in

<sup>14</sup> *Ibid.*

<sup>15</sup> Swiss Federal Council, Entry into force of the Agreement between Switzerland and China on the Promotion and Reciprocal Protection of Investments, *Press release*, April 13, 2010. Available on line: <https://www.admin.ch/gov/en/start/dokumentation/medienmitteilungen.msg-id-32588.html>, accessed 13/07/20.

Geneva, a center of United Nations Agencies. This has only been possible with a very strong involvement of the Swiss authorities, who support in many ways what the Swiss call « International Geneva. »

Second, Swiss firms began early to expand abroad with trade and foreign investment. Some of them have already celebrated the centenary of the presence of factories in various countries around the world. In 2018, Swiss companies employed 2.1 million<sup>16</sup> people worldwide. This is a very significant figure for a country of 8.6 million people. FDI amounted to SFR 1,467 bn resulting in a structural current account surplus with license fees, intellectual property income, and interests and dividends earned on investments held abroad.

As the economy gained momentum in the second part of the twentieth century, foreign expansion increased significantly to overcome a small-sized domestic market. Trade grew also rapidly to reach economies of scales and high productivity. This process was accompanied by a large number of economic agreements with foreign partners. It was made possible by a dense network of diplomatic relations and a strong interest to enhance international cooperation. This led in the 1960s, 70s and 80s to more than 200 agreements only with the European Economic Community. Since then, it did not abate as the need to further integrate with the European Union increased significantly with its internal market and with globalization around the world.

Switzerland's outward orientation was facilitated by a strong emigration of Swiss people worldwide in the nineteenth and early twentieth century as the country was poor and could not provide a living to a predominantly rural population and large families.

<sup>16</sup> Swiss subsidiaries abroad employed staff in Europe (45%), in Asia (25%), in North America (17%), in Central and South America (8%), in Africa (3%) and in Oceania (1%). Source: Swiss National Bank. *Direct Investment*. Available on line: [https://www.snb.ch/en/i/about/stat/statrep/id/statpub\\_fdi\\_all](https://www.snb.ch/en/i/about/stat/statrep/id/statpub_fdi_all), accessed 28/04/20.



The United States and Latin America became the most popular destinations. Today, more than one million US Americans have Swiss roots and more than 770'000 Swiss live abroad<sup>17</sup>.

<sup>17</sup> Department of Foreign Affairs, *Suisses de l'étranger*, Berne. Available on line : <https://www.eda.admin.ch/eda/fr/dfae/vivre-etranger/cinquieme-suisse.html>, accessed 15/07/20.

## 2. Process, trade relations and content of the FTA

Since the early 1990s, Switzerland has anchored its foreign trade policy on three pillars: the multilateral stage with the WTO, regional integration with access to the internal market of the European Union (EU), and strengthening extra-EU bilateral relations with free trade agreements<sup>18</sup>.

The multilateral pillar has faced significant difficulties under the Doha Round, leaving further trade liberalization primarily to FTAs. Switzerland has established a large network around the world, mainly under the umbrella of the European Free Trade Association<sup>19</sup> (EFTA), covering more than 70 % of Swiss trade. It includes the European Union, EFTA, Faeroe Islands, Bosnia-Herzegovina, North Macedonia, Montenegro, Georgia, Ukraine and Turkey. In North America, Canada and Mexico. Costa Rica and Panama in Central America and Chile, Colombia and Peru in South America. In the Mediterranean, Jordan, Lebanon, Israel, Palestinian Authority, Egypt, Tunisia, Morocco. In Southern Africa, South African Customs Union (SACU)<sup>20</sup>. In the Middle East, the Gulf Cooperation Council (GCC)<sup>21</sup>. In Asia, China, Japan, Philippines, Singapore, the Republic of Korea and Hong

<sup>18</sup> For a review of the Swiss foreign economic policy, see Philippe G. Nell : « Swiss Foreign Economic Policy: Key Challenges with a Focus on US Trade Protectionist Measures », *Estudios Internacionales*, 193, Universidad de Chile, 2019. Available on line : <https://revistaei.uchile.cl/index.php/REI/article/view/54140/56926>, accessed 12/03/20.

<sup>19</sup> The members of EFTA are : Iceland, Liechtenstein, Norway, and Switzerland. Switzerland has presently a network of 30 FTAs all of them with EFTA except the European Union (27 members), China, Japan and the Faeroe Islands. Available on line : [https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik\\_Wirtschaftliche\\_Zusammenarbeit/Wirtschaftsbeziehungen/Freihandelsabkommen/Liste\\_der\\_Freihandelsabkommen\\_der\\_Schweiz.html](https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/Freihandelsabkommen/Liste_der_Freihandelsabkommen_der_Schweiz.html), accessed 12/10/19.

<sup>20</sup> The members of SACU are : Botswana, Lesotho, Namibia, South Africa, and Eswatini (former Swaziland).

<sup>21</sup> The members of the GCC are : Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and United Arab Emirates.

Kong. Agreements have been signed and are under ratification with Ecuador, Guatemala and Indonesia. Negotiations were concluded in August 2019 with Mercosur<sup>22</sup>.

A cumulation regime of origin was established between the EU, EFTA and some European and Mediterranean countries. The regime fosters industrial cooperation by offering the possibility to use originating inputs from any FTA party, thereby facilitating the export and reexport of goods under preferences. Switzerland has fully liberalized trade in industrial products (HS Chapters 25-98) in its FTAs, but granted only limited concessions for agricultural and food products (HS Chapters 1-24<sup>23</sup>) which compete directly with Swiss production. An objective has always been to introduce WTO-plus provisions, in particular for intellectual property and trade in services.

Since 2002, China has concluded sixteen FTAs with the following twenty-four countries or regions in Asia: Hong Kong; Macao; Taiwan<sup>24</sup>; Association of Southeast Asian Nations (ASEAN)<sup>25</sup>; the Republic of Korea; Singapore; Pakistan; Maldives; Georgia;

<sup>22</sup> The members of Mercosur are Argentina, Brazil, Paraguay and Uruguay.

<sup>23</sup> The terms «HS Chapter» refer to the Harmonized Commodity Description and Coding System generally referred to as «Harmonized System» or simply «HS». It is a multipurpose international product nomenclature developed by the World Customs Organization (WCO). It comprises 99 chapters with about 5,000 commodity groups, each identified by a six-digit code, arranged in a legal and logical structure and supported by well-defined rules to achieve uniform classification. The system is used by more than 200 countries and economies as a basis for their Customs tariffs and for the collection of international trade statistics. Over 98% of the merchandise in international trade is classified in terms of the HS. Available on line: <http://www.wcoomd.org/en/topics/nomenclature/overview/what-is-the-harmonized-system.aspx>, accessed 07/07/20.

<sup>24</sup> The Agreements with Hong Kong and Macao were concluded under the “one country, two systems” principle and called Mainland and Hong Kong Closer and Economic Partnership Arrangement, and Mainland and Macao Closer and Economic Partnership Arrangement. These agreements were signed by China and the separate customs territories of Hong Kong and Macao. The Agreement with Taiwan was called «Economic Framework Agreement.» Source: Ministry of Commerce of the People’s Republic of China (MOFCOM). Available on line: <http://fta.mofcom.gov.cn/topic/enhongkong.shtml>, accessed, 20/07/20. *Bilaterals.org*, China-Taiwan Trade Pact fails to deliver 10 years on. Available on line: <https://www.bilaterals.org/?china-taiwan-trade-pact-fails-to&lang=en>, accessed 20/07/20.

<sup>25</sup> The members of ASEAN are: Brunei Darussalam, Cambodia, Indonesia, People’s Democratic Republic of Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam.

in Oceania, Australia; New Zealand; in Latin America, Chile; Costa Rica; Peru; in Europe, Iceland; Switzerland. In 2016, China’s exports and imports with its FTA partners amounted respectively to 34.4% and to 25% (excluding Hong Kong, Macau, and Taiwan).

In 2020, China was pursuing ambitious plans to extend its network of FTAs by negotiating with the Regional Comprehensive Economic Partnership (ASEAN and five of its FTA partners, including Japan)<sup>26</sup>, Cambodia, Sri Lanka, the GCC, Israel, Palestine, Moldova, Norway, Panama, and upgrading the Agreements with New Zealand and Peru. A second phase was also under way with South Korea. Furthermore, several agreements were at the stage of feasibility studies with Canada, Colombia, Bangladesh, Nepal, Fiji, Papua New Guinea and Mongolia, as well as upgrading with Switzerland.

Discussions with the European Union have not led to free trade negotiations. EU members have shown significant differences on how to proceed in particular with Taiwan, and an EU Report of July 2004 considered that China’s level of reforms was not sufficient to grant it market economy status. China therefore looked toward the EFTA states to strengthen its presence in the European market<sup>27</sup>. Incidentally, in the late 1990s, the lack of interest of the EU in an FTA with Canada led the latter to propose FTA negotiations to EFTA countries as well. China has sought to negotiate separately with each EFTA country, both to gain experience with western industrial countries and to enhance its bargaining power.

<sup>26</sup> The aim is to establish a free-trade area covering 30% of the world’s population and nearly 30% of world GDP. China has already concluded an FTA with each member of the Regional Comprehensive Economic Partnership, except Japan and Cambodia. Source: MOFCOM, FTA network. Available on line: <http://fta.mofcom.gov.cn/list/chinacambodiaen/chinacambodiaen-news/1/encateinfo.html>, accessed 20/07/20.

<sup>27</sup> For a review of China’s FTA policy, Marc Lanteigne: «The Sino-Swiss Free Trade Agreement», *Center for Security Studies*, ETH Zurich, no. 147, February 2014. Available on line: <https://ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/pdfs/CSSAnalyses147-EN.pdf>, accessed 29/04/20.

## 2.1. The process with China

China was already an important trading partner for Switzerland in 2006 as the Swiss started to express their interest in an FTA. The growth potential of the Chinese market was well recognized, yet significant Chinese trade barriers limited opportunities in several areas. An FTA would provide Swiss industry some competitive advantages and had to be pursued.

China did not respond directly at first but indicated that recognition by Switzerland of its status as a market economy was an essential condition to engage in discussions. En route to Beijing in July 2007, Doris Leuthard, then Swiss Minister for Economic Affairs, instructed her staff to send a telefax to her Chinese counterparts recognizing China as a market economy in terms of the WTO. The following day, the process toward an FTA was launched with a Joint Declaration on Economic Cooperation, signed by Minister Doris Leuthard and the then Minister of Commerce of China Bo Xilai. The text included a reference to Switzerland's recognition of China's market economy status.

This step was absolutely decisive in launching the process of negotiating an FTA. According to Kong<sup>28</sup>, Switzerland was seen as a reliable partner with aligned political interests. An agreement would bring mutual benefits to complementary economies. China's decisions to engage in FTAs were not taken on the basis of specific industrial interests, but in a global perspective. This differs from Switzerland and EFTA, where specific industrial interest can carry considerable weight. A key issue for one sector – shipbuilding subsidies (EFTA-Canada) or intellectual property protection for pharmaceuticals (EFTA-India) – could block the completion of FTA negotiations for years. For China, the commitment and motivation of a potential partner are essential. Switzerland had an extensive network of FTAs, a solid implementation record and is considered an easier negotiating partner than other advanced

<sup>28</sup> Kong Qingjiang: « China's Uncharted FTA Strategy », *Journal of World Trade*, 46, 2012.

countries. In particular, Switzerland had no interest in protecting traditional sensitive industries such as textiles, footwear, steel, ceramics, electronics or cars. An FTA with Switzerland would require finding compromises on difficult issues such as intellectual property, labor rights and competition, and at the same time, send a signal to Europe for market opening and cooperation.

The first step was an internal examination by each side of the feasibility of an FTA. This was followed, on January 27, 2009, by the decision of Hans-Rudolf Merz, then President of the Swiss Confederation, and Wen Jiabo, then Chinese Prime Minister, to explore jointly the feasibility of an FTA. Two workshops took place in Beijing (April 2009) and in Bern (October 2009). These meetings focused on the opportunities and challenges of intensifying bilateral trade and deepening collaboration through an FTA. On November 30, 2009, Doris Leuthard, then Swiss Minister for Economic Affairs, and Chen Deming, then Chinese Minister of Commerce, agreed in Geneva to set up a joint working group and entrust it with the feasibility study for a Swiss-Chinese FTA<sup>29</sup>.

The joint working group met three times to analyze bilateral economic relations as well as cooperation schemes covering investment protection, science, technology, intellectual property protection, environment and sustainable development. The various chapters of an FTA were also discussed with potential outcomes and challenges. The joint working group concluded its review with a positive recommendation for an FTA, highlighting the fact that both economies were competitive and complementary<sup>30</sup>. Doris Leuthard, then President of the Swiss Confederation,

<sup>29</sup> Swiss Federal Council, *Message relatif à l'approbation de l'accord de libre-échange entre la Suisse et la Chine et de l'accord sur la coopération en matière de travail et d'emploi entre la Suisse et la Chine*, 4/09/13, pp. 7-8. Available on line: <https://www.news.admin.ch/news/message/attachments/31891.pdf>, accessed 29/11/19.

<sup>30</sup> The joint feasibility study on a Switzerland-China Free Trade Agreement was issued on August 9, 2010. Available on line: <https://www.bing.com/search?q=joint+feasibility+study+on+achina+switzerland+free+trade+agreement&form=EDGTCT&qs=PF&cvid=-4d1093733ec94dcdac64436cecc28a8b&refig=9c5658f2848046d5a5d8f0f9c5cfa948&c-c=CH&setlang=fr-FR&plvar=0&PC=HCTS>, accessed 31/01/20.

and Hu Jintao, then President of China, met on August 13, 2010 in Beijing and decided to launch negotiations. A MoU to this effect was signed.

Negotiations were launched in January 2011 by Johann N. Schneider-Ammann, then Swiss Minister of Economic Affairs, and Gao Hucheng, then Chinese Minister of Commerce. After nine rounds, they were concluded in May 2013 and the FTA was signed on July 6, 2013, shortly after Iceland (April 13, 2013). Norway's negotiations faced a six-year suspension over the award of the Nobel Peace Prize to jailed dissident Liu Xiaobo in 2010 and resumed only in 2018<sup>31</sup>.

## 2.2. The trade relations and the content of the Free Trade Agreement

The Swiss-China trade relations have increased remarkably since 2000. The accession of China to the WTO led to a major opening of the economy and also much better access to world markets. The comprehensive Swiss-China FTA further strengthened relations by eliminating barriers and increasing cooperation. In parallel, agreements covering labor and employment cooperation, technical barriers to trade (TBT), and sanitary and phytosanitary measures (SPS) were also concluded. The hallmark of the FTA is trade liberalization for goods with additional opening for services, some commitments beyond the WTO for intellectual property protection, exchange of information for government procurement complementing the ongoing negotiations of China to become a member of the plurilateral WTO Agreement on Government Procurement, and various working groups to explore specific issues.

According to the Chinese Ambassador to the WTO, the Swiss-China Agreement is «one of the highest levels and most

<sup>31</sup> *South China Morning Post*, «China wants free-trade talks with Norway to be accelerated», Reuters, August 2, 2018. Available on line: <https://www.scmp.com/news/china/economy/article/2157973/china-wants-free-trade-talks-norway-be-accelerated>, accessed 11/11/19.

comprehensive that China has achieved in recent years<sup>32</sup>.» The Agreement includes many new rules that China's previous agreements seldom considered covering government procurement, labor and employment cooperation, and competition. For the first time, China agreed to a chapter on environmental issues and to a chapter on specific rights for intellectual property protection.

### 2.2.1 Goods

The growth of Swiss-China trade during the past thirty years has been spectacular (Table 1). Swiss exports increased from SFR 409 million in 1990 to SFR 1.4 bn in 2000, SFR 3.3 bn in 2005, SFR 7.1 bn in 2010, SFR 9 bn in 2015, and SFR 13.4 bn in 2019. These figures do not include Swiss exports of gold as they are very large, highly volatile, and mainly reflect very low value-added refining operations on imported gold by a few gold refineries.

It is noteworthy to point that Swiss export growth to China has systematically exceeded export growth to the world. Some of the highest growth rates to China were reached in 1990 (+34.2%), 2000 (+44.4%), and 2010 (+31.1%). China has also been very successful on the Swiss market almost doubling exports every five years since 1990. Since 2016, however, in parallel with a significant reduction in China's GDP growth rates, the pace of two-way trade has slowed, but still considerably exceeds growth of Swiss and Chinese exports to the world. Overall, the share of China in Swiss exports increased between 2013 and 2019 from 4.1 % to 5.5 %, and in Swiss imports from 6.4 % to 7.3 %. For China, however, Switzerland represents a very small share of both exports and imports<sup>33</sup>.

<sup>32</sup> WTO, *Free Trade Agreement Between Switzerland and China, Note of the Meeting of September 15, 2015, Committee on Regional Trade Agreements*, WT/REG351/M/1.

<sup>33</sup> In 2019, according to Chinese official statistics, China's exports and imports (including gold) with Switzerland reached 0.2 % (US\$4.5 bn) and 1.3 % (US\$27.4 bn) of total Chinese exports and imports respectively. Source: International Trade Center, *Trade Map, International Trade Statistics* (Chinese data).

In 2019, Swiss exports to China were concentrated in three product categories, namely pharmaceuticals and chemicals (42%), watches and precision instruments (30%), and machines and electronic products (19%). Swiss imports from China consisted mainly of machines and electronic products (42%), textiles, clothing and shoes (17%), precision instruments and parts for watches (11%), and plastic products (9%).

**Table 1. Switzerland: Export and Import Trade with China, 1990-2019**

(Gold trade not included)

Year	Exports to China (SFR millions)	Exports to China Growth rate (%)	Total Swiss exports to the world Growth rate (%)	Imports from China (SFR millions)	Imports from China Growth rate (%)	Total Swiss imports from the world Growth rate (%)	Bitateral trade balance Switzerland-China (SFR millions)
1990	409			412			-3
1995	843	106	1	1.075	161	14	-232
2000	1.398	66	42	2.294	113	36	-896
2005	3.253	133	16	3.367	47	24	-114
2010	7.079	118	17	6.072	80	23	+1.007
2013	8.206	16	2	11.387	88	4	-3.181
2014	8.814	7.4	3.6	12.148	7	0.5	-3.334
2015	8.955	1.6	-2.6	12.346	1.6	-6.8	-3.391
2016	9.863	10.1	3.7	12.284	-0.5	4.3	-2.421
2017	11.403	15.8	4.8	12.995	5.8	7.0	-1.592
2018	12.180	6.8	5.7	14.242	9.6	8.7	-2.062
2019	13.392	10.0	3.9	14.894	4.6	1.6	-1.502

Source: Swiss Federal Customs Administration, Swiss-Impex, Elaboration by the author.

Since 1990, Switzerland has run merchandise trade deficits (excluding trade in gold) with China except in 1998, 2004, 2007-11. In 2012, the Swiss Customs Administration changed the

methodology to register imports from the country of provenance (Netherlands, harbor Rotterdam) to the country of origin (China: production). Imports from China suddenly increased by 63.3%, and China ran a substantial trade surplus with Switzerland, a position maintained as of today.

Based on the new methodology, Switzerland registered a deficit position in 2013 as the FTA was about to enter into force. The Swiss trade deficit with China then decreased during the first six years of implementation of the FTA by 53%, from SFR 3.2 bn (2013) to SFR 1.5 bn (2019). Swiss exports to China grew during that period by 63% and Swiss imports from China by 31%, while overall Swiss exports grew by 20.4% and overall Swiss imports by 15.4%. China's exports and imports to the world grew by 13.1% and 6.1% in the period 2013-2019, respectively. Swiss export performance to China was therefore remarkable, being much larger than Swiss export growth to the world and China's import growth from the world.

This result was achieved despite considerably reduced (albeit still relatively high) growth rates of the Chinese economy and can be attributed, on the one hand, to the increased competitive position of Swiss exports due to the FTA compared to its main competitors and, on the other hand, to the highly-competitive Swiss export industry. While the share of industry in GDP has been steadily decreasing over the years in several industrialized countries, including France and the United States, Switzerland has maintained a high level (25.4%). With a population of 8.6 million people, a strong export industry, high productivity and high specialization are essential to Swiss prosperity. These key elements contributed to build a good economic relationship between Switzerland – eager to sell its high-quality and technological-advanced investment and consumer goods – and China, an industrial powerhouse on an unprecedented development path.

It is important to underline that the remarkable Swiss export performance between 2000 and 2005 (+133%) occurred despite a 31% appreciation of the Swiss franc/renminbi real exchange rate

(Table 2). In the following years, exports grew by 118 % (2005-2010) to slow down to 27 % (2010-2015) with a 10.6 % and 15 % depreciation of the Swiss franc respectively. Exports did not respond strongly to the exchange rate depreciation, particularly between 2010 and 2015 and the pace of export growth rate accelerated further from 2015 to 2019 to reach 50 % with a real exchange rate appreciation of 0.1 %.

In the 2000-2019 period, Swiss exports grew by 858 % and the real exchange rate depreciated by 0.4 %. It should be noted that export growth has remained very robust over the 2000-2005 period despite a strong appreciation of the Swiss franc against the renminbi. It appears that appreciation did not impact negatively on exports, whereas depreciation did not bring a significant advantage in particular during the 2010-15 period, with Swiss products being highly specialized, not very price sensitive and presumably with low price elasticity. In nominal terms, the Swiss franc has alternated with appreciation and depreciation periods for a total appreciation of 41.8 % from 2000 to 2019. Switzerland's lower inflation rate contributed substantially to containing the real appreciation of the Swiss franc against the renminbi.

**Table 2. Swiss Export Growth to China, Real and Nominal Exchange Rates, 2000-2019**

(In percent)

Year	Export Growth Rate	Real Exchange Rate Change: Swiss franc/renminbi	Nominal Exchange Rate Change: Swiss franc/renminbi
2000-2005	133	+ 31.0	+34.2
2005-2010	118	-10.6	-1.2
2010-2015	27	-15.0	-0.4
2015-2019	50	+0.1	+7.5
<b>2000-2019</b>	<b>858</b>	<b>-0.4</b>	<b>+41.8</b>

Source: Swiss National Bank, Bilateral exchange rates indices, annually. For detailed data, see Annex Table 1. Elaboration by the author.

As far as imports are concerned, Swiss trade policy for industrial products has always been very market-oriented, with, for example, the absence of quotas on textiles and clothing under the Multifibre Arrangement<sup>34</sup> and its successor the WTO Agreement on Textiles and Clothing<sup>35</sup>. In addition, Switzerland has never imposed anti-dumping duties or taken any countervailing or safeguard measure against China or other countries. Likewise, China has never taken any such trade defensive measure against Switzerland.

The Swiss trade policy has been clear and fully transparent. Agriculture, which accounts for only 0.7 % of GDP and 3 % of employment, has been and remains, however, highly protected.

#### a. Customs duties: the scope of trade liberalization

Since July 1st 2014, Chinese non-agricultural products benefit from tariff-free access to the Swiss market for 99.8 % of tariff lines, the remaining ones – casein and albumins: link to agriculture<sup>36</sup> – being dutiable at 8.5 % (Table 3). The share of duty-free tariff lines increased significantly (19.4 % to 99.8 %) and the average level of duties declined from 2.2 % to zero. For food products, liberalization is more modest with the share of duty-free tariff lines increasing from 21.9 % to 46.7 % and the average applied tariff decreasing only from 28.2 % to 24.6 %. The average rate on dutiable imports increased sharply from 37.6 % to 50.2 % because many tariff lines with low duties were fully liberalized. The average for remaining dutiable imports therefore increased.

<sup>34</sup> The Multifibre Arrangement (MFA) regulated textiles and clothing trade from 1974 to 1995 with quotas on exports from developing to several developed countries (United States, Canada, Japan, EU member states...)

<sup>35</sup> In the framework of the WTO Agreement on Textiles and Clothing, all MFA quotas were gradually dismantled and completely abolished on January 1, 2005.

<sup>36</sup> Casein is a phosphoprotein of milk (HS 3501). Albumins include several hundred proteins such as egg albumin dried and milk albumin (HS 3502).

**Table 3. Switzerland: Trade Liberalization with China, 2014**

(In percent)

	ALL PRODUCTS			Agricultural products			Non-Agricultural products		
	Average applied tariff		Share of duty-free tariff lines	Average applied tariff		Share of duty-free tariff lines	Average applied tariff		Share of duty-free tariff lines
	Overall	On Dutiable		Overall	On Dutiable		Overall	On Dutiable	
MFN	8.4	10.6	20.0	28.2	37.6	21.9	2.2	2.8	19.4
FTA	5.9	49.8	86.2	24.6	50.2	46.7	0.0	8.5	99.8

Source: WTO, Factual presentation. Free Trade Agreement between Switzerland and China, Committee on Regional Trade Agreements, WT/REG351/1, June 18, 2015.

In addition, Switzerland grants China preferential tariff-rate quotas (TRQs) within its MFN TRQs in its WTO Schedule of Tariff Concessions for several agricultural and food products under Chapters 1, 2, 3, 4, 7, 10, 11, 20 and 22<sup>37</sup>.

China's liberalization time-table will extend from 2014 until 2028. In the food sector, MFN-duties ranging from 10% to 20% ad valorem are generally dismantled over 10 years to smooth out the decline in protection. Many industrial tariffs will be fully eliminated after 5, 10, 12 or 15 years and some will be reduced by 60% of their pre-FTA levels. China requested longer liberalization terms for various reasons, including the much higher level of its tariffs compared to Switzerland. This applies in particular to the chemical, clothing, footwear, watch and machine industries. Despite the fact that Switzerland accounts for only a small share of Chinese imports, China has sought a balanced agreement and phase-out periods comparable to those of other FTAs.

<sup>37</sup> These chapters of the Harmonized System cover live animals (1), meat (2), fish (3), dairy produce (4), vegetables (7), cereals (10), products of the milling industry (11), preparations of vegetables, fruit (20), and beverages, spirits (22).

For non-agricultural products, China's overall average duty will decline from 8.9% to 0.9%, and the share of duty-free tariff lines will increase from 8.5% to 92.9% (Table 4). For agricultural products, the overall average duty will decrease from 15% to 3.7% and the share of duty-free tariff lines will increase from 7.8% to 88.1%.

**Table 4. China: Trade Liberalization with Switzerland, 2014-2028**

(In percent)

Year	ALL PRODUCTS			Agricultural products			Non-Agricultural products		
	Average applied tariff		Share of duty-free tariff lines	Average applied tariff		Share of duty-free tariff lines	Average applied tariff		Share of duty-free tariff lines
	Overall	On Dutiable		Overall	On Dutiable		Overall	On Dutiable	
2014									
MFN	9.8	10.7	8.4	15.0	16.3	7.8	8.9	9.7	8.5
2014	8.0	10.4	22.9	13.3	15.7	15.3	7.2	9.4	24.1
2015	6.9	9.0	22.9	12.0	14.1	15.3	6.1	8.0	24.1
2016	5.8	7.6	22.9	10.6	12.6	15.3	5.0	6.6	24.1
2017	4.7	6.1	22.9	9.3	11.0	15.3	4.0	5.3	24.1
2018	3.6	9.5	61.6	8.0	13.2	39.7	2.9	8.4	65.2
2019	3.2	8.3	61.6	7.1	11.8	39.7	2.5	7.2	65.2
2020	2.7	7.0	61.6	6.3	10.4	39.7	2.1	6.1	65.2
2021	2.2	5.8	61.6	5.4	9.0	39.7	1.7	4.9	65.2
2022	1.8	4.6	61.6	4.6	7.6	39.7	1.3	3.8	65.2
2023	1.3	15.9	91.8	3.7	29.4	87.4	0.9	12.2	92.5
2024	1.3	15.9	91.8	3.7	29.3	87.4	0.9	12.2	92.5
2025	1.3	16.4	92.1	3.7	30.9	88.1	0.9	12.5	92.7
2026	1.3	16.4	92.1	3.7	30.9	88.1	0.9	12.5	92.7
2027	1.3	16.4	92.1	3.7	30.9	88.1	0.9	12.4	92.7
2028	1.3	16.6	92.2	3.7	30.9	88.1	0.9	12.7	92.9

Source: WTO, Factual presentation. Free Trade Agreement between Switzerland and China, Committee on Regional Trade Agreements, WT/REG351/1, June 18, 2015.

Of importance for Switzerland, some tariffs will remain in 2028 for 7.1% of non-agricultural products' tariff lines with a quite substantive average tariff rate of 12.7%. This will moderate the benefit of the FTA for specific Swiss exporters. It reflects China's sensitivities and possibly the balance of the agreement with only minor Swiss concessions on agricultural trade. The tobacco, pneumatic tires, films, wool, paper and printing, buses, cars and motorcycles industries as well as specific types of machines for textiles, cutting paper, and horizontal and vertical machining centers are not subject to any liberalization. Tariffs are generally high, up to 47% (films rolls), and China did not agree to increase potential competition from Swiss products, although Switzerland has presently no major production in these fields except cigarettes, paper and machines.

#### b. Other provisions on trade in goods

The FTA integrates several GATT 1994 articles and WTO Agreements, providing thereby a more solid basis for the covered rules. This includes the incorporation *mutatis mutandis* of Art. III of GATT 1994 on National Treatment, Art. XI of GATT 1994 with respect to import and export restrictions, Art. XVII of GATT 1994 and the Understanding on its Interpretation referring to State Enterprises, Art. XX and XXI of GATT 1994 for general and security exceptions, and, the WTO Agreements on Sanitary and Phytosanitary Measures (SPS) and on Technical Barriers to Trade (TBT).

China and Switzerland also concluded three side agreements to promote cooperation between their authorities on SPS and TBT matters. The latter cover first, the mutual recognition of test results from recognized measuring instruments; second, cooperation in the areas of telecommunication equipment, electromagnetic compatibility, electrical equipment; and third, certification and accreditation of laboratories that perform tests.

Referring to trade defence measures – anti-dumping and counter-vailing measures –, subsidies, state aids, and customs valuation, both countries refer to their rights and obligations under corresponding WTO Agreements and GATT 1994 Articles. It must be pointed out that China has so far never taken any measure against Swiss exports to address dumping, subsidies or to safeguard a national industry. Switzerland has no legislation to take such actions against any foreign partner.

Finally, comprehensive measures are foreseen to deal with customs issues and to promote trade facilitation. They encompass governmental controls based on risk management, high standards of public service, and consultation procedures. The FTA foresees bilateral safeguards to be invoked during a five-year transition period to address serious injury or threat thereof for a domestic industry resulting from tariff reduction or elimination. For products with a dismantling calendar beyond five years, the transition period extends to three years after reaching zero tariffs. Art. 3 (Investigation) and Art. 4 (Determination of Serious Injury or Threat Thereof) of the WTO Agreement on Safeguards are incorporated in the FTA *mutatis mutandis*.

#### 2.2.2 Services

According to the Swiss National Bank, Switzerland's exports of services to China increased gradually from SFR 2.8 bn in 2013 to SFR 3.9 bn in 2018<sup>38</sup>. Swiss imports of services from China followed the same upward trend from SFR 1.6 bn (2013) to SFR 1.9 bn (2018). Swiss data by economic branches is not available. But Chinese statistics are much more extensive, reporting about US\$4 bn for China's exports of services to Switzerland and US\$8 bn for China's imports of services from Switzerland. Data of both countries indicate a substantial trade surplus for Switzerland.

<sup>38</sup> This accounted for 1.7% and 1.5% of Swiss exports and imports of services. Swiss National Bank, *Balance of Payments, Current Account Services, by Country – year*. Available on line: [https://data.snb.ch/en/topics/aube#!/cube/bopserva?fromDate=2012&toDate=2018&dim-Sel=D0\(C1,H,J\),D1\(DT\),D2\(E,A,S\)](https://data.snb.ch/en/topics/aube#!/cube/bopserva?fromDate=2012&toDate=2018&dim-Sel=D0(C1,H,J),D1(DT),D2(E,A,S)), accessed 09/01/20.



In years prior to the FTA, China's exports to Switzerland focused on other business services, transportation, computer and information technology (Table 5). As to be expected, financial services, insurance, communication and construction had very low figures. Tourism was gradually growing.

**Table 5. Services: China's Exports and Imports with Switzerland, 2011-2013**

(US\$ millions)

Services	Exports 2011	Imports 2011	Exports 2012	Imports 2012	Exports 2013	Imports 2013
Transportation	1165	1078	1298	942	1276	2423
Travel	88	143	101	196	108	272
Communication	3	10	2	13	1	24
Construction	18	18	11	27	5	56
Insurance	8	314	15	253	15	584
Financial	0	5	8	4	11	12
Computer and info.	358	53	1044	63	807	115
Royalties and licence fees	11	474	4	590	10	784
Other business services	1178	2365	1277	4482	1511	3227
Cultural and recreational	2	38	2	50	0.3	84
<b>Total</b>	<b>2831</b>	<b>4498</b>	<b>3762</b>	<b>6620</b>	<b>3744</b>	<b>7581</b>

Note: "Other business services": consulting, advertising, media and other business services. Royalties and licence fees refer to film and audio-visual materials. Source: WTO Statistics database. Elaboration by the author.

China's largest imports from Switzerland were for other business services and transportation. Royalties and licence fees, insurance, and travel also reached significant levels. Very low trade in financial services reflects China's then closed market. Noteworthy is the very rapid increase of royalties and licence fees linked to growing Swiss foreign direct investment in China.

The FTA provides for a further opening of services based on the commitments under the four modes of the WTO General Agreement on Trade of Services (GATS)<sup>39</sup>.

Switzerland brought improvements to:

- Business services, by adding some legal services, and training services for computer and related services, and, new commitments for rental/leasing of equipment without operators. GATS limitations are reduced for architectural services – the canton of Lucerne no longer requires prior practice (modes 1 and 3)<sup>40</sup> – and for engineering services – a Swiss nationality requirement is replaced by a Swiss licence for cadastral and related activities, which is issued to qualified professionals after passing an examination. Market access for highly-qualified providers of short-term contractual services is broadened to installation and repair of machinery, management consulting, architectural, integrated engineering and urban planning services.
- Communication services to cover new commitments under postal and express delivery services.
- Construction and related engineering services by expanding to cover installation and assembly work.
- Educational services to cover teaching of Chinese languages and cooking.
- Environmental services to cover market access for refuse disposal services and some other environmental services.

<sup>39</sup> Source: WTO, *Factual presentation. Free Trade Agreement between Switzerland and China*, Committee on Regional Trade Agreements, WT/REG351/1, June 18, 2015. WTO, *Free Trade Agreement between Switzerland and China, Questions and Replies*, Committee on Regional Trade Agreements, WT/REG351/2, September 15, 2015.

<sup>40</sup> Mode 1 refers to cross-border trade; mode 3 refers to commercial presence (foreign investment).

- f) Financial services with the removal of some restrictions for insurance (modes 1, 2<sup>41</sup>; cross-border aircraft liability insurance) and banking (mode 2; securities in Swiss francs).
- g) Tourism and travel services with the elimination of market access and national treatment limitations for commercial presence of hotels, restaurants and tourist guide services.
- h) Transport services with a new partial coverage of maritime transport services and additional coverage for air, road and rail transport services.

China, in turn, improved on its GATS commitments in six areas:

- a) Business services with additional coverage on some research and development services, better market access through commercial presence for some computer and related services, some real estate services and business services related to market research, management, technical and scientific consulting, mining and certain printing of packaging material. Better access to providers of short-term contractual services.
- b) Environmental services with market access through commercial presence for sewage, refuse disposal and sanitation services.
- c) Financial services with expansion of cross-border activities and increase of the joint venture participation in securities firms to 49%.
- d) Tourism and travel-related services with better market access through commercial presence for travel agency and tour operators.

<sup>41</sup> Mode 2 refers to consumption abroad.

- e) Recreational, cultural and sporting services, unbound under GATS, China binds some sporting services under the FTA.
- f) Transport services with an expansion of the scope for air transport services to cover, subject to some limitations, ground handling services, removal of economic needs test and limitations on national treatment for aircraft repair services under commercial presence (mode 3).

### 2.2.3 Investment

Swiss foreign direct investments (FDI) in China have increased vigorously from a stock of SFR 80 million (1993) to SFR 1.6 bn (2000), SFR 3.5 bn (2005), SFR 8.5 bn (2010) and then even faster to SFR 13.2 bn (2011), SFR 17.1 bn (2013), SFR 20 bn (2014), and then subsequently at a slower pace to reach SFR 22.9 bn in 2018<sup>42</sup>. The Swiss Embassy in Beijing estimates that 850 to 1000 Swiss firms are present in China<sup>43</sup> employing more than 175,000 people<sup>44</sup>. A significant number of Swiss SMEs are present in China. They are eager to establish research centers and to cooperate with local universities. China is now the most important destination of Swiss FDI in Asia, supplanting Japan (SFR 17 bn). Most Swiss firms are located in the three main economic areas along China's Eastern coast<sup>45</sup>.

<sup>42</sup> Source: Swiss National Bank, *Swiss Direct Investment Abroad by Country*. Available on line: [https://data.snb.ch/en/topics/aube#!/cube/fdiausbla?fromDate=1990&toDate=2018&dim-Sel=d0\(T0,T1,B3,T2,T3,CN,T5,T6\)](https://data.snb.ch/en/topics/aube#!/cube/fdiausbla?fromDate=1990&toDate=2018&dim-Sel=d0(T0,T1,B3,T2,T3,CN,T5,T6)), accessed 13/07/20.

<sup>43</sup> Swiss Embassy, Beijing, *China 2019 Economic Report*, June 2019. Available on line: <https://www.s-ge.com/sites/default/files/publication/free/economic-report-china-eda-2019-06.pdf>, accessed 18/07/20.

<sup>44</sup> Swiss National Bank. *Direct investments 2018*. Zurich. Available on line: [https://www.snb.ch/en/mmr/reference/Direktinvestitionen\\_2018/source/Direktinvestitionen\\_2018\\_12.en.pdf](https://www.snb.ch/en/mmr/reference/Direktinvestitionen_2018/source/Direktinvestitionen_2018_12.en.pdf), accessed 20/07/20.

<sup>45</sup> These are: a) the Pearl River Delta surrounding Guangzhou, Shenzhen and Hong Kong; b) the Yangtze River Delta surrounding Shanghai, Hangzhou and Nanjing; c) the Bohai Economic Rim surrounding Beijing and Tianjin.

All major Swiss firms and many medium-sized companies are present in China. The following examples illustrate some of the latest investments<sup>46</sup>:

- a) Nestlé has established 37 factories in China with more than 55,000 employees, four research and development centers, partnerships with several local brands, and has become a major purchaser of locally produced staples. The latest factories were a Cereals Snack Plant in the Shuangcheng District (2019: US\$14 million), two factories producing foods for special medical purposes and skin care products in Taizhou (2018: US\$150 million), and a ready-to-drink instant coffee, peanut milk and rice porridge plant in Chendgu (2015: US\$270 million). China represents the second largest market for Nestlé's products in the world.
- b) Novartis has set up a campus for early drug research with 1,300 people in Shanghai (2016: US\$1 bn). It is the third major research center for Novartis, after Basel and Cambridge in Massachusetts. As of 2020, the emphasis has been put on drug development with clinical development and trials, following the acceleration of approvals for new medicines by China's authorities. In 2019, Novartis established, with China's internet firm Tencent, an online long-term disease management platform for heart patients. It covers daily health monitoring and condition assessments.
- c) Roche launched an innovation center (2019: US\$122 million) in Shanghai focusing on research and early development of innovative drugs for immunology, inflammation and infectious diseases. It should become the third strategic global center of the Swiss firm, alongside Basel and San Francisco.

<sup>46</sup> Information of the remaining of this section is made available by the Swiss Chinese Chamber of Commerce, *Sino-Swiss Business News*. Available on line: <http://www.swisscham.org/news/>, accessed 09/01/20. For Lonza, source: *News Release*, Lonza to establish Strategic Biomanufacturing Base in China Using GE Healthcare Solution, Basel, 10/12/18. Available on line: [https://www7.lonza.com/~media/Files/japan/News/181210\\_China\\_News\\_Release\\_FINAL\\_FINAL.pdf](https://www7.lonza.com/~media/Files/japan/News/181210_China_News_Release_FINAL_FINAL.pdf)

Roche established a new diagnostic manufacturing facility in Suzhou (2018: US\$450 million) producing mainly Immunochemistry and Clinical Chemistry tests.

- d) Lonza undertook a major investment in Guangzhou in 2019 with a new biologics facility. It is scheduled to be operational in 2020 and will host Lonza proprietary platform for cell-line construction as well as process development, cell banking and pilot labs. Lonza will carry out development and manufacturing from early- to late-clinical and early-commercial stages. The Swiss firm will provide China the same high standard as elsewhere in the world.
- e) The automation and power technology firm Asea Brown Boveri (ABB) has launched a partnership with the Chinese Telecom Huawei to develop China's industrial cloud systems in 2019. The platform should combine industrial machines with analytics for the industrial internet of things. In order to strengthen its e-mobility portfolio, ABB has decided, in 2019, to acquire a majority stake of 67 percent in Shanghai Chargedot New Energy Technology Co., Ltd. ("Chargedot"), a leading Chinese e-mobility solution provider. ABB also opened a new customer experience center in Beijing in July 2019 and, later in the year, an innovation center in Shenzhen to provide solutions for smart buildings.
- f) Firmenich, the world's largest privately-owned perfume and taste company, inaugurated in March 2019 a fragrance manufacturing site in the Zhangjiagang Free Trade Zone in Jiangsu Province. Production will aim at local flavors for products such as dairy drinks, tea and noodles. This was a significant investment (US\$75 million) and China has become Firmenich's second most important market.
- g) Bühler, a leader for machinery in the food industry, has announced the construction of a design and manufacturing center in cooperation with Premier Tech (Canada). The firms will develop packaging solutions that are more efficient,

accurate and safe for food products using automation technologies. In 2018, Bühler inaugurated a large new factory in Changzhou.

- h) In 2018, the Swiss chemical firm Clariant opened two new additive facilities in Zhenjiang to increase capacity for producing synergistic additive solutions (AddWorks) and micronized waxes (Ceridust) for plastics, coatings and ink industries.
- i) The same year, Bobst inaugurated a new factory and a Compliance Center in Changzhou to produce packaging machines with web fed printing and technologies for flexible materials.
- j) In 2016, Burckhardt Compression acquired a 60 percent stake in Shenyang Yuanda Compressor Co., Ltd., and gained access in additional market segments, widened its product portfolio and moved closer to a well-established local supply chain.
- k) In 2017, UBS Asset Management became the first Qualified Domestic Limited Partner license holder to receive a Private Fund Management license allowing UBS to offer onshore fixed income, equity, and multi-asset private funds to both institutional and high net worth investors in China.
- l) In 2017, Zurich General Insurance opened its third branch in Guangdong Province. Its Beijing office was established in 1993, the first one of a continental European firm.

Chinese investments in Switzerland have also become significant in recent times, particularly following acquisition by China National Chemical Corporation (Chemchina) of the Swiss firm Syngenta in 2017 for US\$43 bn. Syngenta, specializes in crop protection and high-quality seeds, realized sales of US\$13.5 bn in 2018 with 28,000 people and operates in 90 countries.

Other important acquisitions were made by Sinopec (Addax, trading firm, 2009), by Wanda Group (Infront, sports marketing firm, US\$1.2 bn, 2015), by HNA Group with several purchases

(Swissport, world leader for aircraft ground handling services, 2015; Gategroup, world leader for airline catering, 2016; Glencore storage and logistics, 2017), and by Alibaba Group (Way Ray, leader, technologies for connected cars, 2017).

In addition, China National Cereals, Oils and Foodstuffs Corporation has established its global corporate and trading headquarters in Geneva (2017), and Zhejiang Henglin Chair Industry acquired Lista Office Group (2019), a Swiss producer of furniture. In the telecommunication sector, Huawei Technologies AG employs 300 persons in three main Swiss locations. It offers services and solutions to Swiss telecommunication operators and service providers.

In 2015, the People's Bank of China (PBoC) enlarged the pilot scheme of the RMB Qualified Foreign Institutional Investor (RQFII) to include Switzerland with a quota of RMB 50 bn. In November 2015, the China Construction Bank joined the Swiss market and was granted authorization for RMB clearing. In addition, the Industrial and Commercial Bank of China, the largest and highest valued bank in the world, opened a branch in 2018 in Zurich. Two other banks<sup>47</sup> have expressed a similar interest to the Chinese authorities. In view of RMB internationalization, the Swiss National Bank cooperates with the PBoC based on Memoranda of Understanding referring to currency swaps and RMB clearing arrangements in Switzerland. Cooperation is constantly strengthened through the yearly Swiss-Chinese Financial Dialogue. Collaboration is also being discussed between the Zurich stock exchange operator SIX and its Chinese counterpart in Shanghai, both to intensify cooperation and to assess the feasibility of listing securities such as depository receipts on their markets.

By focusing on investment promotion through cooperative activities, the FTA complements the 2010 Bilateral Agreement on the protection of investments, which provides for fair and equitable legally binding treatment of investments made by investors of the

<sup>47</sup> Agricultural Bank of China and Bank of China.

other party. The FTA aims at enhancing cooperation by identifying investment opportunities, exchanging information on ways to promote investment abroad, on regulations, on assistance to investors, and by working toward a legal environment fostering investment.

On the practical level, support is provided in China by the Swiss Business Hub headquartered in Beijing with offices in Guangzhou and Shanghai, the Swiss House and the Swiss-Chinese Chamber of Commerce in Shanghai. Their aim is to help Swiss SMEs enter the Chinese market through exports or FDI, and they offer a broad range of services. On the scientific side, the Swiss scientific consulate, called Swissnex, connects Swiss and Chinese researchers, start-ups and young entrepreneurs to foster investigation and innovation. Activities focus on entrepreneurship, art, science and academic relations.

The FTA should contribute to strengthen FDI positions of both parties. Swiss companies invest in China to produce for the local market, to export and to benefit from China's research and development capability. For several firms, China has become a key market. In turn, China has been very active in Switzerland to get acquainted with the European market, benefit from the Swiss innovation, and acquire firms with a leading position in the world.

#### 2.2.4 Intellectual property

The FTA incorporates the national treatment and most-favored-nation principles. They are applicable in accordance with the relevant provisions of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The term "intellectual property" includes patents, trade secrets (algorithms regularly updated, formulas, techniques, processes), geographical indications and indications of source, copyright and related rights, trademarks for goods and services, industrial designs, plant varieties and integrated circuit topographies.

Commitments go beyond those of the TRIPS agreement in the following areas<sup>48</sup>:

- a) The patentability of biotechnological inventions is explicitly regulated and the grounds for exclusion set out in the TRIPS Agreement are, as in the other FTAs concluded by Switzerland, specified within the meaning of the Convention of October 5, 1973 on the European Patent.
- b) The confidentiality of test data must be protected for at least six years in marketing authorization procedures for pharmaceutical and agrochemical products. Parties must refrain from using such data in subsequent authorization procedures during that period to prevent unfair commercial use.
- c) Industrial designs shall be granted a term of protection of ten years (TRIPS) and 25 years for industrial designs that can be considered as works of applied art under the Berne Convention<sup>49</sup>.
- d) The higher level of protection of geographical indications (GI) for wines and spirits provided for in Article 23 of the TRIPS Agreement is extended to all products. A Party may require registration of a GI according to legislation in the other Party in order to benefit from legal protection.
- e) Adequate and effective protection of goods or services against a misleading indication of source, and of their country names (e. g. "Switzerland", "Swiss"), their national flags and coats of arms shall be provided. Protection shall prohibit misuse and registration as company or trademark names.

<sup>48</sup> WTO, *Factual presentation. Free Trade Agreement between Switzerland and China*, op.cit., June 18, 2015. Swiss Federal Institute for Intellectual Property, *Bilateral Free Trade Agreement with China*. Available on line: <https://www.ige.ch/en/law-and-policy/international-ip-law/bilateral-agreements/free-trade-agreements/switzerland-china.html>, accessed 07/05/20.

<sup>49</sup> The Berne Convention for the Protection of Literary and Artistic Works grants copyright protection (50 years after the death of the author) to all works except photographic and cinematographic.

- f) For copyright and related rights, the FTA extends the rights applied to audio media to audio-visual media (videos, DVDs, etc.) and the rights applicable to performers of audio performances to audio-visual performances.
- g) For trademarks, protection must also be provided for shapes of goods and sounds.
- h) China undertakes to give priority to certain plant varieties of importance to Swiss industry by 2016, when considering the addition of new species to its national list of plant varieties for protection<sup>50</sup>.
- i) China commits to strengthening the enforcement of intellectual property rights by suspending the release of goods infringing patents, industrial designs, trademarks or copyrights and granting applicants the right to inspect the goods.

In civil proceedings, rights holders shall obtain compensation for the damage resulting from infringement and removal of the goods from the market or their destruction. Judicial authorities are empowered to order measures to prevent infringement of intellectual property rights and to preserve evidence. Criminal procedures and penalties shall apply to trademark counterfeiting and copyright piracy on a commercial scale.

### 2.2.5 Government procurement

The FTA does not foresee the liberalization of government procurement. Negotiations may take place following the conclusion of the ongoing negotiations of China to become a member – since 2002 an observer – of the WTO plurilateral Government

<sup>50</sup> These plant varieties are broccoli, lettuce, sunflower, perlagonium, petunia and spinach. Source: *Switzerland-China Free Trade Agreement*, Annex IX. Available on line : [https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik\\_Wirtschaftliche\\_Zusammenarbeit/Wirtschaftsbeziehungen/Freihandelsabkommen/Partner\\_weltweit/china/Abkommenstexte.html](https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/Freihandelsabkommen/Partner_weltweit/china/Abkommenstexte.html), accessed 21/07/20.

Procurement Agreement. In the meantime, exchange of information on the implementation of legislation is foreseen. Contact points are designated to facilitate contacts.

### 2.2.6 Work program

The FTA established various working groups with regard to industry, in particular for watches; with regard to services, health (traditional Chinese medicine, among others), facilitation of film co-production and tourism; with regard to agriculture, in particular sustainable ecological production; with regard to quality control, various aspects of product safety, for example; with regard to the protection of intellectual property, protection standards and their implementation.

### 3. Impact of the FTA on Swiss-China trade

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China's continuing strong growth, nowadays more oriented toward the domestic market, offers a great potential for the Swiss export industry. The impact of the Swiss-China FTA on trade is further analyzed in the next sections, reflecting the degree of liberalization and of the use of the agreement by Chinese and Swiss firms.

#### 3.1. Degree of liberalization: Switzerland

Switzerland liberalized, upon entry into force, all the tariff lines referring to manufactured goods. As China already benefited from the Swiss General System of Preferences (GSP), this meant an additional opening of the Swiss market for textiles, clothing, footwear and some agricultural products mainly with tariff preferences under WTO tariff-rate quotas. For the other products, unilaterally granted preferences under GSP were turned into contractually guaranteed concessions. It is noteworthy to point out that the European Union withdrew China from its GSP system on January 1, 2015, based on EU policy not to grant GSP to countries classified by the World Bank as upper-middle income countries. In prior years, specific product categories deemed sufficiently competitive had been withdrawn from GSP coverage by the EU. Switzerland removed China from its GSP system in 2014 following the entry into force of the FTA<sup>51</sup>.

The Swiss-China FTA offers China the legal security of an open Swiss market. The situation for tariffs is straightforward and

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<sup>51</sup> Ordinance establishing preferential customs duties in favor of developing countries, 632.911, July 1, 2014. Available on line: <https://www.admin.ch/opc/fr/classified-compilation/20061738/201407010000/632.911.pdf>, accessed 12/07/19.

summarized in Table 6. Column 1 refers to 8-digit HS tariff lines and the two last columns are based on the average of Swiss imports from China during the period 2011-2013.

**Table 6. Switzerland: Trade Liberalization and Import Volumes with China, 2014**

Number of 8-digit HS tariff lines	Duty phase-out period	Share of tariff lines in Swiss tariff schedule (percent)	Swiss imports from China (2011-2013) (US\$ millions)	Share of imports in total Swiss imports from China 2011-2013 (percent)
1,660	MFN duty-free	20.0	3,605.0	35.4
5,491	2014	66.2	6,561.3	64.4
1,148	Remain dutiable	13.8	21.6	0.2
8,299	<b>Total</b>	<b>100.0</b>	<b>10,187.9</b>	<b>100.0</b>

Source: WTO, Factual presentation. Free Trade Agreement between Switzerland and China, Committee on Regional Trade Agreements, WT/REG351/1, June 18, 2015.

The MFN duty-free base, the level of liberalization and the phase-out periods differ between the two partners. Switzerland has fully liberalized trade for industrial products. This implies 66.2% of the tariff lines of the Swiss schedule (64.4% of imports from China<sup>52</sup>; US\$6.6 bn) while 20% of the tariff lines (US\$3.6 bn of imports from China) were already duty free on a MFN basis. The very low figure for imports from China still subject to customs duties reflects the very high Swiss tariffs on these agricultural and food products.

Switzerland grants market access to China for agricultural products under WTO tariff-rate quotas as well as for low or non-sensitive tariff lines such as tropical products, or for imports outside the Swiss harvest season. The latter include live plants and cut

<sup>52</sup> This percentage is based on the 2011-2013 trade flows.

flowers, certain vegetables and fruit. Concessions are also provided for fruit juices, some meat products (including wild game birds, turkey, duck and goose parts) and honey. Following the model of Swiss FTAs concluded so far, the industrial protection element applied to processed agricultural products such as bakery products and chocolate, among others, is dismantled. An additional reduction is granted for some 20 tariff lines of particular interest to China for export (including confectionery and bakery products, pasta and peanut butter)<sup>53</sup>. It is important to note that the FTA, as the other FTAs of Switzerland (and of China), does not provide for recognition of food hygiene regulations or veterinary requirements. Products from China will therefore continue to be subject to the same criteria as Swiss foodstuffs and will have to meet the common corresponding requirements of Switzerland and the European Union. Vice versa, Swiss exports will continue to be subject to Chinese regulations.

Tariffs remain mainly on agricultural and food products valued at US\$21 million (0.2% of Swiss imports from China; 13.8% of Swiss tariff lines)<sup>54</sup>. The average duty for these 1148 remaining positions is 49.8%. HS Chapter 7 (129.4%, vegetables), 2 (125.2%, meat), and 4 (77.2%, dairy products) feature the highest average duties.

The Swiss agricultural sector benefits from one of the highest levels of protection and government support in the world. More than half<sup>55</sup> of the 50'852 farms are in hilly regions or in mountains. They are small sized (58%: less than 20 ha) and family-owned.

<sup>53</sup> Source: Swiss Federal Office of Agriculture, *L'accord de libre-échange entre la Suisse et la Chine*, Bern, July 6, 2013. Available on line: <https://www.blw.admin.ch/blw/fr/home/international/agrarmaerkte-und-agrarhandel/freihandelsabkommen/freihandelsabkommen-schweiz-china.html>, accessed 05/12/19.

<sup>54</sup> They refer to HS Section I (live animals, 184 tariff lines (TL); average final tariff dutiable (AFTD): 111.4%), Section II (vegetable products, 464 TL; AFTD: 52.7%), Section III (animal or vegetable fats and oils, 120 TL; AFTD: 49.1%), Section IV (food preparation, 366 TL; AFTD: 19.6%) and Section VI (chemicals, 14 TL; AFTD: 29.3%).

<sup>55</sup> 56.4% of the farms are in hilly regions or in the mountains. Source: *Rapport Agricole 2019*, Federal Office of Agriculture, Berne. Available on line: <https://www.agrarbericht.ch/fr/exploitation>, accessed 27/01/20.



In 2015, government support represented 62 % of farmers' gross revenues, three times the EU level, with prices 90 % higher than world market prices<sup>56</sup>. Farmers enjoy a constitutional mandate encompassing food security, conservation of natural resources, landscape maintenance and decentralized land use. The difficulty for Switzerland to open its agricultural market represents a significant obstacle in modernizing FTAs with Mexico and Canada or entering FTA negotiations with the United States.

Taking China's 25 top export products to the world (2011-13), 14 of them benefited from MFN duty-free import into Switzerland. Five products had a MFN tariff higher than 0.5 % namely pull-overs knitted or crocheted of man-made fibers of other materials (HS 6110.30: 6.4 %), waterproof footwear (HS 6402.99: 5 %), suitcases with outer surface of plastics or textile materials (HS 4202.12: 3.6 %), toys, tricycles (HS 9503.00: 2 %) and reception apparatus for television (HS 8528.72: 1.3 %).

This data shows that the Swiss market, even without using the GSP, was already very open for Chinese manufactured exports before the entry into force of the FTA. Overall, Chinese imports into Switzerland were subject to an average MFN duty of 3.5 % in 2017<sup>57</sup> with major gains to be realized in clothing<sup>58</sup>. Referring to agricultural products, China has obtained a preferential access to Swiss TRQs almost exclusively for in-quota rates. The effective benefit of the rather small preference depends on other entitled countries as the quotas get filled. For Swiss farmers, protection remains secured by the quotas. It must also be recalled that the Swiss market is small for China. In 2018, it accounted only for 0.7 % of China's exports.

<sup>56</sup> WTO, *Switzerland and Liechtenstein Trade Policy Review*, 2017. Available on line: [https://www.wto.org/english/tratop\\_e/tpr\\_e/s355\\_e.pdf](https://www.wto.org/english/tratop_e/tpr_e/s355_e.pdf), accessed 13/12/19.

<sup>57</sup> Source: Legge Stefan, Patrick Ziltener and Jian Han: «2018. Sino-Swiss FTA – Utilization Rate Analysis», in *Sino-Swiss Free Trade Agreement - 2018 Academic Evaluation Report*. Edited by Casas T. et al. Basel: MPDI, 2018, pp. 22–26. Available on line: [https://www.alexandria.unisg.ch/255103/1/2018-11-05\\_fta\\_report\\_web%20Einzelseiten.pdf](https://www.alexandria.unisg.ch/255103/1/2018-11-05_fta_report_web%20Einzelseiten.pdf), accessed 19/07/20.

<sup>58</sup> The effective use of GSP and FTA preferences is analyzed under section 3.4.2

### 3.2. Degree of liberalization : China

China started with a higher average MFN rate (9.8 %) and 700 MFN duty-free 8-digit tariff lines (8.5 % of all tariff lines) covering 77.3 % of imports from Switzerland (Table 7). China attributes 73 % of imports from Switzerland to “other products” primarily classified under HS Chapter 98 and including unclassified goods, mainly re-imports and goods with a value less than 2000 renminbi not subject to tariff or licensing. MFN duty-free imports also cover China's imports of gold from Switzerland, a very substantial amount in value terms.

Switzerland does not mine any gold but is the largest refiner in the world. The companies' workflow includes the reception and weighing of the gold, homogenization, refining by chemical and electrolytic processes, and transformation by casting and mechanical operations. The value added in Switzerland for processing is low in relation to the value of the gold, that is less than one percent, i.e. less than SFR 500.– per kilogram. However, the impact on Swiss exports of only four large and two smaller manufacturers is very significant, not only with China but also with India and the Middle East and, for Swiss gold imports, with Latin America, Africa and the United States. In 2019, unwrought gold accounted for 19.7 % (SFR 61.5 bn) and 21.9 % (SFR 60.3 bn) of Swiss total exports and imports respectively.

In 2018, gold and precious metals exports to China amounted to US\$17.3 bn (+39.3 %) and accounted for 60.7 % of total Swiss exports to China. In 2019, exports of gold to China fell to US\$7.9 bn (-54.2 %; 37.1 % of Swiss exports to China). As the data for 2018 and 2019 shows, fluctuations in Swiss gold exports to individual countries can be very large on an annual basis with very few Swiss manufacturers involved and limited domestic value added.

For this reason, the Swiss Customs Administration compiles two trade statistics, one called business cycle without gold, and the other including data on gold. For domestic analytical purposes,

gold is subtracted from total exports and imports in order to clearly show the relative performance of Switzerland's main industries. WTO and IMF data includes gold data.

**Table 7. China: Trade Liberalization and Import Volumes with Switzerland, 2014-2028**

(Gold trade included)

Duty phase-out period	Number of 8-digit HS tariff lines	Share of tariff lines in China's tariff schedule (percent)	China's imports from Switzerland 2011-2013 (US\$ millions)	Share in total Chinese imports from Switzerland 2011-2013 (percent)
<b>MFN duty free</b>	700	8.5	27,316.7	77.3
2014	1,193	14.4	216.0	0.6
2018	3,209	38.8	833.0	2.4
2023	2,496	30.2	2,955.5	8.5
2025	24	0.3	59.4	0.2
2028	12	0.1	172.8	0.5
Remain dutiable	644	7.8	3,747.5	10.6
<b>TOTAL</b>	<b>8,278</b>	<b>100.0</b>	<b>35,300.9</b>	<b>100.0</b>

Source: WTO, Factual presentation. Free Trade Agreement between Switzerland and China, Committee on Regional Trade Agreements, WT/REG351/1, June 18, 2015.

Table 7 presents China's trade liberalization with data on MFN duty-free access and phase-out periods at 8-digit HS tariff lines. The average of Chinese imports from Switzerland are indicated for the period 2011-13. The dismantling of tariffs is mainly carried out over 10 years. Few 8-digit HS tariff lines will be eliminated by 2025 (24 tariff lines) and by 2028 (12 tariff lines).

A number of the tariff lines on which China maintains tariffs, although mostly reduced by 60%, correspond to major Swiss exports sectors. Switzerland had not faced such a situation in other FTA negotiations. This can be explained by the fact that China has had to reconcile Switzerland's technological lead in chemicals,

pharmaceuticals and machinery with its product-specific sensitivities reflecting the ambition to join the world leaders in these fields. Its objectives are clearly stated in the Made in China 2025 strategy initially published in 2015<sup>59</sup>. Tariffs have therefore been examined very carefully in certain high-tech areas to ensure that China does not face open competition.

Upon entry into force of the FTA, China has added 1193 eight-digit HS tariff-free lines (14.4% of the tariff lines). By 2028, the phasing out of tariffs will lead to 7634 eight-digit HS tariff-free lines corresponding to 92.2% of tariff lines. China will keep 644 eight-digit HS tariff lines (7.8% of the tariff lines) at an average tariff of 16.6%.

The trade volumes in Table 7 are based on data from China, with total imports from Switzerland averaging annually US\$35.3 bn for the period 2011-13. This average is strongly affected by a sharp increase of HS Chapter 99 "commodities not elsewhere classified (nec)" (+ US\$33 bn) in 2013<sup>60</sup>. In that year, out of a total of US\$56.2 bn, China imported US\$46.3 bn under HS Chapter 99 from Switzerland. While the WTO Secretariat allocates a very large share of trade to HS Chapter 98 (other products and unclassified goods), the International Trade Centre refers to HS Chapter 99 (unclassified goods).

The large statistical discrepancy for the period 2011-13 between China's imports from Switzerland – US\$35.3 bn – and Swiss exports to China – US\$12.5 bn – cannot be explained by customs valuation procedures. In recent years, China has recorded very low imports of gold from Switzerland under HS Chapter 71 (precious metals), despite high exports according to Swiss customs data and, at the same time, very high imports under HS Chapter 99. This may suggest that MFN duty-free gold imports from Switzerland are not always registered by China under HS Chapter 71, but also under Chapter 99. Some of the

<sup>59</sup> This strategy aims at transforming China into an advanced manufacturing center. Available online: <https://www.china-briefing.com/news/made-in-china-2025-implications-for-foreign-businesses/>, accessed 24/03/20.

<sup>60</sup> Source: International Trade Centre, *Trade Map International Trade Statistics*, tables based on data from China's General Customs Administration.

very large differences could also be attributed to commodity trading and to invoicing by firms located in Switzerland for products, which were never exported from Switzerland. Re-exports of Swiss products from other countries may also account for some of the difference<sup>61</sup>.

For clarification purposes, we have compared for 2013 the main Swiss exports to China (more than US\$100 million) with the main Chinese imports from Switzerland. We have selected the seven largest categories of Swiss exports to China, namely machinery, watches, pharmaceuticals, optical and medical instruments, electrical machinery, organic chemicals and plastics. For these products, which represent the core of Swiss industry, Swiss exports to China amounted to US\$7.7 bn (94 % of Swiss exports to China) and Chinese imports from Switzerland to US\$8.3 bn imports. The difference in data can be considered as acceptable.

Having said that, we note that between 2014 and 2028, according to Chinese data, China will fully liberalize, a volume of US\$4.2 bn Swiss imports and maintain significantly reduced or full duties on US\$3.7 bn of Swiss imports. Switzerland will benefit from legal security for this preferential access to the Chinese market.

As regards the share of China's total imports from Switzerland with remaining duties, it is limited to 10,6 % according to Chinese data. This ratio is affected by a very large amount of MFN duty-free trade with Switzerland under HS Chapter 98. On the basis of Swiss data, if we take Swiss exports to China for the tariff headings with remaining duties covering only organic chemicals and watches, we arrive at 26.1 % of Swiss exports to China – without gold exports due to their very large annual fluctuations and low value added in Switzerland – with remaining duties for 2013. For 2019, the ratio rises to 29.9 %. Taking into account the other tariff headings subject to duties, we can estimate that on average more

<sup>61</sup> The WTO Secretariat also mentions as possible reasons: different dates of statistics; differences in currency exchange rates; possible time-lags in the transportation of goods; use by China of the concept of general trade including transit flows and duty-free warehouse flows. Source: WTO, *Fac-tual Presentation, Free Trade Agreement Between Switzerland and China, op. cit.*, p. 4, 18/05/15.

than 30 % to 35 % of Swiss exports (excluding MFN duty-free gold) remain subject to duties under the Swiss-Chinese FTA. Until now, this point had been overlooked by using Chinese data which differed significantly from the Swiss data in terms of volume.

With regard to specific products, China is particularly sensitive to certain Swiss chemicals with the exclusion from liberalization of sixteen 8-digit tariff lines of HS Chapter 29, and eighteen tariff lines with a limited tariff reduction. In HS Chapter 30 (medicines), two 8-digit tariff lines benefit from only partial tariff reduction, while in HS Chapter 31 (fertilizers), three 8-digit tariff lines with a 50 % MFN duty and in HS Chapter 32 (dyes, paints) two 8-digit tariff lines are excluded from dismantling<sup>62</sup>. In HS Chapter 84 (machines), thirty-two 8-digit tariff lines were excluded from liberalization and eighteen were only partially liberalized. For watches (HS Chapter 91), China maintained duties ranging from 4.4 % to 9 % for most categories (down from MFN levels of 11.0 % to 22.5 %).

While Switzerland implemented full liberalization of trade in industrial products upon entry into force of the FTA and kept duties in only five HS sections (agriculture), China has set a time table for dismantling and will retain duties in nineteen sections of the HS. Table 8 presents for each section the number of 8-digit MFN duty-free tariff lines and the number of additional 8-digit duty-free tariff lines at the end of each phasing-out period.

We note a fairly important number of 8-digit HS tariff lines with significant average tariffs for key Swiss industries, such as prepared foodstuffs (31.8 %), textiles (28.1 %), vehicles and transport equipment (25.8 %), machines (12.4 %), pharmaceuticals and chemicals (10.4 %), watches and precision instruments (7.5 %).

<sup>62</sup> For HS Chapter 31, the exclusions cover three tariff lines with a MFN tariff of 50 %: HS 3102.21 urea; HS 3105.20 mineral or chemical fertilizer, and HS 3105.30 diammonium phosphate. For HS Chapter 32, the exclusions cover HS 3204.11 disperse dyes and preparations, and HS 3204.1990 synthetic organic coloring matters.

Table 8. China: Dismantling Calendar by HS Section, 2014-2028

HS Section	MFN average tariff (%)	Nr. of tariff lines*	MFN duty-free lines* 2014	Number of additional duty-free tariff lines per year under the FTA*					Nr. of tariff lines*: Remain dutiable	Avg. final tariff; Dutiable (%)
				2014	2018	2023	2025	2028		
I. Live animals and products	11.6	488	63	8	137	251	1		26	13.5
II. Vegetable prod.	14.3	511	54	42	111	262			42	44.5
III. Anim./veg. fats/oils	13.0	56		1	15	17			23	10.7
IV. Prepared foodstuffs	17.7	306	1	59	44	143	6		53	31.8
V. Mineral products	3.8	201	37	116	45	3				
VI. Pharma/chem. prod.	6.8	1286	9	180	893	134	1		69	10.4
VII. Plastics, prod.	9.4	272	1	9	179	65	1		17	11.7
VIII. Leather, skins	12.3	105		14	33	57			2	5.6
IX. Wood and articles	4.4	208	76	56	56	5			15	10.4
X. Pulp of wood, paper	5.3	161	35		16	2			108	6.5
XI. Textiles, clothing	11.4	1141		210	421	494			16	28.1
XII. Footwear	17.9	71			16	52			3	10.0
XIII. Glass, ceramic	13.5	197	1	8	51	132			5	12.4
XIV. Precious metals, jewelry	10.5	90	32	9	19	19	2		9	25.0
XV. Base metals, art.	7.3	770	4	241	350	165	4		6	4.7
XVI. Machines	8.3	1511	284	146	584	362	8	9	118	12.4
XVII. Vehicles, transport equipment	13.1	351	1	58	149	57		2	84	25.8

XVIII. Watches, precision instruments	9.9	334	34	35	81	140	1	1	42	7.5
XIX. Arms, ammunition	13.0	21				19			2	9.1
XX. Miscellaneous art.	11.5	186	65	1	8	110			2	6.6
XXI. Art, antiques	9.8	10	2		1	7				
Other HS Chapter 98	0.0	1	1							
<b>TOTAL</b>	<b>9.8</b>	<b>8277</b>	<b>700</b>	<b>1193</b>	<b>3209</b>	<b>2496</b>	<b>24</b>	<b>12</b>	<b>644</b>	<b>16.6</b>

\*8-digit tariff lines

Source: WTO, Factual presentation. Free Trade Agreement between Switzerland and China, Committee on Regional Trade Agreements, WT/REG351/1, June 18, 2015.

By 2018, most of the phasing out had taken place for mineral products, wood products, paper, precious metals and jewelry. An important number of tariff lines will be fully liberalized in 2023 for textiles (494), machines (362), vegetable products (262), base metals articles (165), prepared foodstuffs, beverages, tobacco (143), pharmaceuticals and chemicals (134) and cement, ceramic, glass (132). China's dismantling calendar shows that, at the end of the liberalization process, dutiable products in several HS sections will face duties higher than the MFN average for all Chinese imports in that section. Their average (16.6%) is almost double the MFN average (9.8%).

A comparison between Switzerland and China shows that the number of tariff lines that remain dutiable are higher in the Swiss schedule (1148) than in the Chinese one (644). The Swiss lines all refer to agricultural and food products. China, on the other hand, has liberalized considerably these two sectors keeping only a very limited number of dutiable lines (148; 10.7% of all tariff lines of HS sections I-IV)<sup>63</sup>.

<sup>63</sup> These sections cover live animals and animal products (I), vegetable products (II), animal or vegetable fats and oils (III), and prepared foodstuffs, beverages, tobacco (IV).

### 3.3. Swiss industry interests

Swiss exports to China (2019) focus on pharmaceuticals (32%), machines (20%), watches (15%) as well as optical instruments and medical devices (8%)<sup>64</sup>. Some food products also have a very good potential. As mentioned earlier, China has not granted full tariff elimination for a number of these products. The tariff preferences will nevertheless provide Swiss exporters an advantage over their competitors from the European Union and the United States. While a complete tariff dismantling for cheese and coffee capsules would have been welcome, it is questionable whether it was appropriate to maintain a very low duty (1.2%) on one of the largest Swiss export categories, blood fraction medicine<sup>65</sup>. The remaining duties on watches could be justified by China's ambition to begin to compete in the future in the mid- and high-end product segments.

With regard to foodstuffs, Chinese tariffs have been considerably reduced for products of importance to Switzerland such as cheese (12% to 4.8% after 10 years), coffee capsules<sup>66</sup> (15% to 6% after 10 years) and chocolate (8-10% to 0% after a maximum of 10 years for some tariff lines), mineral and natural waters (10-20% to 0% after 5 or 10 years), wine (14-20% to 0% after 10 years). China has made no concession for tobacco (10%), cigarettes and cigars (25%) and other smoking products (57%).

The Swiss pharmaceutical sector will benefit from the opening of the Chinese market with a reduction or elimination of the tariff for blood fractions (3% to 1.2% over 10 years), vaccines for human medicine, bacteria and virus (3% to 0% over 10 years), medicines (6% to 0% over 5 and 10 years; 5% to 2% for a tariff heading).

<sup>64</sup> These percentages do not take into account Swiss gold exports to China, which are exempt from MFN duties.

<sup>65</sup> Fractions are derived from the four main components of blood (red blood cells, white blood cells, platelets, and plasma) to treat patients with anemia or massive blood loss.

<sup>66</sup> Tariff position 0901.21, roasted coffee not decaffeinated.

For the high-quality Swiss textile industry, liberalization should also be of interest since China has completely abolished tariffs on yarns and fabrics from 5-6% and 10-14% respectively over 5 or 10 years. Only a few tariff headings referring to wool and carded wool, and cotton, carded or combed cotton have not benefited from any tariff reduction.

The Swiss machine sector will continue to face tariffs for several positions. Various types of machines or electrical products have not benefited from any tariff reductions. This also applies to buses, cars, trucks chassis and motorcycles, all of which are not manufactured in Switzerland. Locomotives and passenger cars, on the other hand, benefit from full tariff liberalization from an MFN rate of 3 or 5%. The production of railway equipment has grown rapidly in Switzerland in recent years.

The Swiss watch industry will benefit from a reduction in tariffs from 11-23% to 4.4%-9.2% depending on the type of watch or input. China has not agreed to further liberalize this sector due to the leading position of the Swiss industry worldwide. It should be noted that China manufactures most of the one billion watches produced each year in the world. In 2019, Switzerland accounted for only 2.3% of the total number of watches exported in the world but 54.9% of the total value of global watch exports. China led the world in watch exports with 644.3 million pieces, followed by Hong Kong (197.8 million), and Switzerland (23.6 million)<sup>67</sup>. While the average export price of Chinese watches was US\$4, the average price of Swiss watches was US\$998. This means that Swiss watches, which are only in the medium and high price range, do not pose a threat to Chinese watches.

The collection of customs duties should not have been an argument for China. When China joined the WTO, Switzerland, as a major exporter of watches, negotiated the reduction of the tariff for

<sup>67</sup> Source: Federation of the Swiss Watch Industry, *The Swiss and world watchmaking industries in 2019*, FH 2020. Available on line: [http://www.fhs.swiss/file/59/Watchmaking\\_2019.pdf](http://www.fhs.swiss/file/59/Watchmaking_2019.pdf), accessed 21/07/20.

watches. An agreement was only reached in the last round of bilateral negotiations between Pascal Couchepin, the Swiss Economy Minister at the time and his Chinese counterpart. China agreed to reduce the rates of certain tariff headings but kept them at a level well above the average Chinese tariff (9.9%). This clearly showed China's reluctance to open its market to highly competitive Swiss producers. Nevertheless, China had to abolish import quotas within a short period of time. Swiss exports then increased very significantly.

Finally, the benefits for Swiss industry can be highlighted with the tariff reductions achieved in the FTA by Switzerland's top 25 exports to the world<sup>68</sup>:

- a) Three of them are MFN duty-free on imports into China, namely electrical energy (only relevant for trade with Switzerland's neighbors), unwrought or powdered platinum and other semi-manufactured, non-monetary forms of gold.
- b) Eleven of them will be duty-free by 2028 at the latest, namely specific pharmaceuticals and chemicals with MFN duty rates ranging from 3% to 6.3%, diamonds (8%), specific machines (5%), water including mineral water (35%), instruments, appliances (4%) and orthopedic products (4%).
- c) Eleven of them will continue to be subject to duties reduced at 60% at the end of the dismantling period, namely various types of watches, blood fractions, immunological products, organic chemicals, organic chemicals other than antibiotics, precious metals, orthopedic appliances and roasted coffee.

### 3.4. First experiences with the FTA

This section identifies the categories of Swiss export products that have led trade and have been the main beneficiaries of the FTA since its entry into force. A handful of products have performed very well,

<sup>68</sup> WTO, *Factual presentation. Free Trade Agreement between Switzerland and China*, op.cit., p. 42-43.

mainly in the pharmaceutical, machinery, medical instruments and watch sectors. The food industry is treated separately to showcase a few success stories, all the more so since Switzerland has a very high cost structure due to a highly protected agricultural market.

The practical value of the FTA for Swiss firms is addressed by surveys highlighting initial administrative difficulties of the Chinese Customs authorities. The benefit of the FTA for Chinese exporters is assessed by comparing the actual use of the FTA on one hand, and of the erstwhile GSP system on the other, with a special emphasis on clothing.

### 3.4.1 Switzerland

#### a. The strong drivers of Swiss industry

Over the past 30 years, the structure of Swiss exports has undergone important changes. The share of pharmaceuticals in total exports has risen sharply, from 5.8% in 1990 to 34% in 2019, followed by watches (8.9% to 9%), medical instruments (6% to 7%), and food products (3.7% to 4.2%). Machinery (32.7% to 14.5%) and metal products (9.3% to 5.6%) recorded losses in their share of Swiss exports, although exports increased significantly in nominal value. Textiles, clothing and footwear (6% to 2%) faced a very strong competition from low cost countries and from EU regimes for outward processing of textiles<sup>69</sup> and did not grow in value terms<sup>70</sup>.

Swiss exports to China increased significantly more (+63%) than Swiss exports to the rest of the world (+19%) in the period 2013-19, whilst China's imports from the rest of the world increased by

<sup>69</sup> For an analysis of the loss of export markets of the Swiss industry associated with the EU regime of outward processing of textiles with Central and Eastern Europe, see: Philippe G. Nell: «EFTA and the EU/Eastern Europe Regime for Outward Processing of Textiles: Major Integration through Paneuropean cumulation», *Aussenwirtschaft*, II, 1998.

<sup>70</sup> Swiss export of textiles, clothing and footwear remained at the same level in absolute terms between 1990 and 2019 with SFR 4.98 bn.

only 6.1% over the same period. This means that Swiss exporters performed significantly better than average and gained market shares in Chinese imports. This is a solid achievement, especially as China's annual GDP growth rate has been steadily declining from over 10% in 2010 to around 6% in 2019.

The products listed in table 9 recorded an increase in exports to China of more than SFR 50 million in the first five years of the FTA. They cover more than 60% of Swiss exports to China with a trade-weighted growth rate of 112% over the period 2013-19. They all belong to the gold diamond league of Swiss exports. Their key characteristics are high quality, reliability, brands, Swiss made denomination and constant innovation.

Given that trade flows can be affected by exchange rates fluctuations, it is relevant to examine the relationship between the Swiss franc and the renminbi since the entry into force of the FTA. Between 2013 and 2019, the Swiss franc appreciated against the renminbi by 4% in nominal terms and depreciated by 7.4% in real terms, with Swiss inflation being negative or very low, while China's inflation was higher. However, it should be noted that after an initial real depreciation of the Swiss franc in 2014 (-1.5%) and 2015 (-6.1%), the real exchange rate remained very stable with only minor appreciations of the Swiss franc in 2016 (+1.7%) and 2017 (+0.7%), followed by a depreciation in 2018 (-2.6%) and a very slight appreciation in 2019 (0.3%)<sup>71</sup> (Annex Table 1).

The largest depreciation took place in 2015, after which the real exchange rate experienced only small fluctuations. Despite a fairly important depreciation in 2015, Swiss exports to China hardly grew that year (+0.5%). They subsequently recorded strong growth in the following years (2016: +10.1%; 2017: +15.6%; 2018: +6.8%; and 2019: +10%). This implies that the exchange rate does not appear to have played a significant role in the performance of Swiss exports to China.

<sup>71</sup> Source: Swiss National Bank, *Bilateral exchange rate indices, annually*. Available on line: <https://data.snb.ch/en/topics/ziredev#/cube/devwkibiia>, accessed 30/07/20.

**Table 9. Switzerland: Main Export Drivers to China, 2013-2019**

(Exports with > SFR 50 million growth)

HS tariff line	Name	Exports 2013 (SFR millions)	Exports 2019 (SFR millions)	Growth rate 2013-2019 (percent)	Share of exports 2019 in total exports to China (percent)	Year of tariff elimination under FTA
1901	Food prep. for infant use	19	80	321	0.6	2023
2933	Heterocyclic compounds	174	256	47	1.9	2018
2934	Nucleic acids	26	190	631	1.4	2018
3002	Antisera, blood fractions	733	2071	183	15.5	D (1.2%)
3004	Medicaments	914	2137	134	16.0	2018
3304	Cosmetics	6	260	4233	1.9	2023
8419	Plant/Lab. Equip.	89	157	76	1.2	2014
8428	Lifting, handling, loading machines	6	70	1.067	0.5	2018
8541	Semi-conductors	46	146	217	1.1	2014
8542	Electronic circuits	30	123	310	0.9	2014
8802	Aircraft	3	66	2100	0.5	2014
9001	Optical fibres, lenses	5	74	1380	0.6	2018/2023
9018	Instr. medical	88	156	77	1.2	2023
9021	Orthopedic appl.	267	393	47	2.9	2018/2023
9031	Measuring instr.	80	145	81	1.1	2014/2023
9101	Wrist watches (precious metals)	264	422	60	3.2	D (4.4%-8%)
9102	Wrist watches (no precious metals)	1142	1458	28	10.9	D (4.4%-8%)
9103	Clocks	0	50	5000	0.4	D(8%)
<b>TOTAL</b>		<b>3892</b>	<b>8254</b>	<b>112*</b>	<b>61.6</b>	

Source: Swiss-Impex and FTA Switzerland-China, Appendix 1 to Annex 1, Schedule of China. Elaboration by the author.

Notes: D: no full tariff elimination after 10 years; remaining ad valorem tariff in brackets.

\*: trade-weighted growth rate for the 2013-2019 period

For most of these products, their remarkable performance is due to fairly low exports in 2013, a large and growing Chinese market, liberal rules of origin, and tariff preferences under the FTA. Fourteen of the eighteen product categories benefit from a full duty elimination and four categories from a 60% reduction. The granting of preferences is conditional on compliance with the rules of origin. They are designed to intensify industrial cooperation between free-trade partners and to avoid granting advantages to third country products. These rules prescribe manufacturing processes by limiting the use of inputs from third countries or require a certain level of value added to be achieved in the free-trade zone. Final products fulfilling these conditions can benefit from the FTA preferences as well as inputs from each Party which can be included as originating<sup>72</sup> materials in assembly processes under bilateral cumulation.

The references for Swiss manufacturers are the common rules of origin applied with the European Union, EFTA partners, the participants of the Barcelona process<sup>73</sup>, and of the European Union's Stabilization and Association Process<sup>74</sup>. All these countries have an FTA with the European and EFTA countries with the same rules of origin within the framework of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin of 2010 (RCPRO)<sup>75</sup>.

Integration is deepened not only through bilateral cumulation but also through diagonal cumulation. The latter offers the possibility

<sup>72</sup> The term «originating» refers to any input or product which complies with the rules of origin of an FTA.

<sup>73</sup> The Barcelona Process includes: Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestine Liberalization Organization, Syria, Tunisia and Turkey.

<sup>74</sup> The European Union's Association and Stabilization Process includes: Albania, Bosnia and Herzegovina, Macedonia, Montenegro, Serbia and Kosovo (under Resolution 1244 -1999- of the United Nations Security Council).

<sup>75</sup> The rules are available in the *COUNCIL DECISION of 26 March 2012 on the conclusion of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (2013/94/EU)*. Available on line: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2013:054:FULL&from=EN>, accessed 10/03/20.

to incorporate inputs originating in any party into a manufacturing process and to trade originating products between the parties. However, diagonal cumulation is only possible between countries bound by bilateral FTAs.

For Switzerland, this means that more than 60% of exports and 75% of imports may be subject to the RCPRO rules, with companies adapting their production and outsourcing of inputs to meet them. Since firms cannot change the composition of manufacturing processes solely for the Chinese market, they are less likely to use the Swiss-China FTA if its rules of origin are more restrictive than those of the RCPRO's. The upcoming analysis of Switzerland's main export products to China therefore not only focuses on the preferences granted under the FTA, but also compares the rules of origin of the FTA and those of the RCPRO.

In the field of organic chemicals, heterocyclic compounds (exports: + 47%) and nucleic acids (+ 631%) benefited from an optimal situation with the complete elimination of a 6.5% duty by 2018 and rules of origin – change of tariff subheading<sup>76</sup> – more liberal than in the RCPRO – change of tariff heading<sup>77</sup> with restrictions on the use of some headings or requirements of a value added of 60%.

In the area of pharmaceuticals, antisera and blood fractions experienced the strongest growth (+183%). These products were subject to a 3% tariff in 2013, which will be gradually reduced over 10 years, but not fully eliminated. A tariff of 1.2% will be maintained. The rule of origin – value added of 40% – is liberal and no more restrictive than the rule of the RCPRO -change of tariff heading with maximum of 20% of the same heading.

<sup>76</sup> A subheading is a six-digit position in the Harmonized System and corresponds to a fairly detailed level for a product or its components. A rule of origin with a subheading change is more liberal than rule with a heading or chapter change, because it allows components from other subheadings of the same heading to be used to comply with a rule of origin.

<sup>77</sup> A heading is a four-digit position in the Harmonized System. Table 9 displays products at the four-digit level.



The export of medicines (+134%) benefited from the elimination of a 6.5% duty as of 2018. The rules of origin are the same as for antisera and blood fractions and no more restrictive than those of the RCPRO. The export performance of both blood fractions and medicines to China reflects the leading position of the Swiss pharmaceutical industry in the world, strengthened by the preferences granted under the FTA. In this context, it is worth mentioning that the world's largest pharmaceutical company is Roche, headquartered in Basel, Switzerland.

The same applies to cosmetics and beauty products with very strong growth (+ 4,233%) and a significant presence of Swiss firms in China with research centers and production sites. Tariffs of 6.5% and 10% have been abolished since 2018; for one position, a 15% tariff will be eliminated by 2023. The rules of origin – value added of 40% or change of tariff heading – are no more restrictive than those in the RCPRO (same as blood fractions).

In the machine sector, despite strong competition and high prices for Swiss products, growth has been robust. Swiss companies have significantly increased their exports of many products, often starting from a very low level. The rules of origin of the FTA – value added of 50% – are no more restrictive than those of the RCPRO – value added of 40% with conditions –. This means that any product qualifying for preferences in the RCPRO area should also qualify for preferences under the FTA with China.

Among the best performing product categories in the machine sector, plant and laboratory equipment (HS 8419; +76%) benefited from an immediate elimination of the duty (10%). Lifting, handling and loading machines (HS 8428; +1300%) has been subject to a progressive phasing out of a 10% duty by 2018.

For several machinery products, exports increased significantly, although by less than SFR 50 million; this includes appliances for pipes, boilers, tanks (HS 8481: + SFR 44 million), air or vacuum pumps (HS 8414: + SFR 38 million); machines and mechanical appliances (HS 8479: + SFR 33 million) and machine tools for

sharpening (HS 8460: + SFR 28 million). Almost all the products under these headings benefit from a gradual elimination of duties by 2018 or 2023; for a few, however, tariffs ranging from 3.9% to 15% will remain.

In the field of electrical machinery and equipment (HS chapter 85), another stronghold of Swiss industry, semiconductor devices (HS 8541; +217%) and electronic integrated circuits processors and controllers (HS 8542; +310%) have increased exports by more than SFR 50 million since 2013. Their remarkable growth cannot be attributed to tariff preferences granted under the FTA, as these HS headings are MFN duty-free under China's tariff. These industries have benefited from the expansion of the Chinese market and the specificities of their products. The FTA may have contributed to the expansion of trade also in these cases through its provisions on improved market access for accompanying services, enhanced intellectual property protection and closer cooperation of licensing authorities.

Noteworthy also is the growth of electric motors and generators (HS 8501: + SFR 37 million), electric resistors (HS 8533: + SFR 22 million) and switches, relays for electric circuits (HS 8535: + SFR 17 million). While electric resistors are exempt from MFN duties, tariffs up to 18% are being phased out for the other two product categories within 5, 10 or 12 years depending on the product.

Swiss exports have been very successful in optical, measuring and medical instruments. Optical fibers (HS 9001: +1,380%) are benefiting from a gradual elimination of tariffs ranging from 5% to 20% (most positions) over 5 or 10 years. The pattern is the same for instruments and devices used in the medical, surgical and dental areas (HS 9018; +77%) with tariffs ranging from 4 to 8%.

Orthopedic appliances, dental fittings and artificial parts of the body (HS 9021; +47%) benefit from a full elimination of a 4% duty over a period of 5 to 10 years with the exception of orthopedic or fracture appliances (HS 9021.10) for which a duty of 1.6% duty remains in force after 10 years. Measuring instruments (HS

9031: +81 %) also performed well, with duties of 5 % and 10 % having been abolished at the entry into force of the FTA or over a period of 5 to 10 years. For spare parts, China's schedule offers MFN-duty free imports. The rules of origin of the FTA – value added of 40 % – are more liberal than those of the RCPTA. This is a positive factor for increasing exports to China.

Starting from a very high level in 2013, watches (HS 9101, 9102) also performed well with an average growth rate of 34 %. Watches with precious metal (+ 60%) grew faster than watches without precious metal (+ 28%), albeit from a much smaller base. Clocks recorded a very strong growth rising from SFR 1 million (2013) to SFR 50 million in 2019. China did not agree to fully open its market in order to limit competition from Swiss watches on its own industry. Tariffs will be abolished for only a few tariff headings and reduced by 60 % for the others from 11 % to 23 % down to 4.4 % to 9.2 %.

The rules of origin of the FTA and of the RCPTA are the same for watches – value added of 40 % –. In fact, they are not relevant for Swiss manufacturers subject to much stricter rules to qualify for the Swiss made denomination. According to Swiss law<sup>78</sup>, a Swiss watch must have a Swiss movement (60 % of the manufacturing cost and 50 % of the value of the parts manufactured in Switzerland), the movement must be assembled and encased in Switzerland, the watch must be assembled and controlled in Switzerland, and 60 % of the manufacturing cost must be allocable to Switzerland.

Since China's accession to the WTO and the elimination of import quotas for watches, Swiss exports have increased very significantly from SFR 36 million in 2001 to SFR 352 million in 2005, SFR 1.1 bn in 2010 and SFR 1.6 bn in 2012. This performance is all the more remarkable since watches had to pay a tariff ranging from 11 % to 23 %, a value-added tax of 17 %, and a sales tax on luxury products of 20 % (for watches with prices above US\$1600).

<sup>78</sup> *Swiss Ordinance of 23.12.71 regulating the use of the name «Swiss» for watches*, 232.119. Available on line: <https://www.admin.ch/opc/fr/classified-compilation/19710361/index.html>, accessed 20/07/20.

The upward trend was broken in 2013 (SFR 1.45 bn) when the Chinese authorities decided to stop providing public funding for the acquisition of luxury goods by public officials. This policy was aimed at fighting corruption and the giving of gifts to officials<sup>79</sup>. Advertising for luxury goods was also restricted in some cities. This shock on the demand side could not initially be offset by the FTA. On the contrary, Swiss watch exports continued to fall to SFR 1.40 bn (2014), SFR 1.34 bn (2015) and SFR 1.29 bn (2016).

They then rebounded strongly in 2017 (SFR 1.54 bn) to reach a new landmark in 2019 (SFR 1.88 bn). This renewed growth was associated with a doubling to 60 % in April 2016 of the import tariff on luxury goods brought back to China by travellers and reinforced controls on tourists at the border. The aim of these customs actions was to prevent Chinese tourists from circumventing the payment of the value-added tax and a luxury tax by buying luxury watches abroad, which had become one of the purposes for these trips<sup>80</sup>. These measures were also intended to promote the sales of domestically-produced luxury products. As a matter of fact, the Swiss Watch Federation had noticed, in recent years, a very strong growth in watch exports to countries with a high number of Chinese tourists such as the United States, the United Kingdom and South Korea.

In 2019, the Swiss watch industry also exported clocks to China worth SFR 50 million with an import duty of 11.4 %. The increase compared to 2013 (no exports) and 2018 (SFR 1 million) is very significant. Overall the Swiss watch industry occupies a strong position in the market, which the tariff reductions provided for in the FTA will maintain and strengthen.

<sup>79</sup> Credit Suisse, Global Research, *Swiss Issues Industries, Swiss Watch Industry, Prospects and Challenges*, October 2013. Available on line: <https://www.credit-suisse.com/about-us-news/en/articles/media-releases/42206-201310.html>, accessed 09/01/20.

<sup>80</sup> A. Adams: «China's Drastic Tax Increases on Luxury Watches Bought Outside of China», *A Blog to Watch*, 17/07/16. Available on line: <https://www.ablogtowatch.com/chinas-drastic-tax-increases-luxury-watches-bought-outside-china/>, accessed 16/07/20.

## b. China: opportunities for the Swiss food industry

Exports of a few Swiss food products have increased considerably since the FTA came into force (Table 10). In absolute terms, infant food preparations led the way, followed by milk and cream, coffee capsules and chocolate. Food preparations based on cereals, bread and coffee extracts, yogurt and fruit juices also registered sharp growth. In total, ten product categories accounted for 81.7% of Swiss food exports to China and recorded a trade-weighted growth rate of 278% between 2013 and 2019.

**Table 10. Switzerland: Food Exports to China with Significant Growth, 2013-2019**

HS tariff	Name	Exports 2013 (SFR millions)	Exports 2019 (SFR millions)	Growth rate 2013-2019 (percent)	Share exports 2019 in total food exports to China (percent)	Year of tariff elimination under FTA
0402	Milk and cream	0.3	16.5	5400	10	2018, D (10%)
0403	Yogurt, buttermilk	1.2	1.8	50	1	2025
0406	Cheese and curd	0.8	2.8	250	2	2023
0901	Coffee capsules	1.3	9.8	654	6	2023, D (6%)
1806	Chocolate	10.0	16.5	65	10	2018/2023
1901	Infant food preparations	18.9	79.8	322	48	2023
1904	Prep. foods cereals	0.7	1.7	143	1	2018/2025, D (30%)
1905	Bread, pastry, biscuits	1.4	2.5	79	2	2023/2025
2009	Fruit juices	0.9	1.2	33	0.7	2023
2101	Extracts of coffee, tea	0.2	2.4	1100	1	2018/D (17%,32%)
<b>TOTAL</b>		<b>35.7</b>	<b>135.0</b>	<b>278*</b>	<b>81.7</b>	

Source: Swiss-Impex and FTA Switzerland-China, Appendix 1 to Annex 1, Schedule of China. Elaboration by the author.

Notes: D: no full tariff elimination after 10 years; remaining tariff rate in brackets.

\*: trade-weighted growth rate for the 2013-2019 period

The largest exports benefit from a complete dismantling of tariffs (infant food preparations: 15%, 2023; chocolate: 10%, 2014; 8%, 2018 and 2023; milk and cream: 8%, 2018). However, a small share of the milk and cream products do not enjoy any tariff reduction (10%) and coffee capsules benefit from a partial liberalization (6% duty will remain after 10 years).

The rules of origin have the same level of restrictiveness for milk, cream, yogurt and cheese in the FTA with China – change of chapter – as in the RCPRO. Moreover, all materials of HS Chapter 4 goods (dairy products) must be wholly-obtained in the exporting country. For coffee capsules, the FTA requires a value added of 70% and manufacturing from raw coffee beans, including roasting, while the RCPRO has a flexible rule accepting manufacturing from any heading. For chocolate, the FTA is more flexible with a change in tariff heading and a value added of 50%; the RCPRO restricts inputs of HS Chapter 17<sup>81</sup> to 30% of the ex-works price of the final product. For infant food preparations, the RCPRO requires wholly-obtained cereals as input and limits Chapter 17 inputs to 30% of the ex-works price, while the FTA has no restriction for Chapter 17, but excludes third-country inputs from Chapters 4 and 11<sup>82</sup>. Finally, the rule of origin for coffee and tea extracts is fairly similar for both the FTA and the RCPRO, except for the additional requirement of wholly-obtained chicory. Overall, compared to the RCPRO's, the rules of origin of the FTA should not be more difficult to comply with, except for coffee capsules.

Some other products did not perform that well. Confectionery exports stagnated (SFR 3 million; + 0.8%, 10% duty eliminated already in 2014), exports of jams and jellies fell by 47% to SFR 1.9 million, despite the elimination of a 30% tariff by 2018, and wine exports declined significantly from SFR 3.1 million (2013) to SFR 1.1 million (2019) with large fluctuations from year to year despite a gradual reduction of a 14% or 20% duty.

<sup>81</sup> Chapter 17: sugars and sugar confectionery.

<sup>82</sup> Chapter 4: dairy products. Chapter 11: products of the milling industry.

Overall, the Chinese market represents an excellent potential for Swiss exports of highly-specialized, high-quality premium food products. They benefit from significant tariff preferences, which will strengthen their competitiveness and offset part of the high Swiss costs for agricultural inputs.

### c. FTA assessment by Swiss firms

The text of the FTA is publicly available. Firms can access tailored information provided by Chambers of Commerce and governments. The use of Swiss FTAs has been analyzed in 2015 by a survey of 406 approved exporters<sup>83</sup>, 165 shippers and import-export firms<sup>84</sup>. The sample included the metal sector (26%), the electronics industry (13%), chemicals and pharmaceuticals (9%), other industries (31%) as well as wholesale and retail trade (21%).

Most Swiss firms exporting to the European Union (97%) and EFTA (90%) use the respective FTA. With regard to the other major trading partners of the RCPRO, the utilization rate by Swiss firms is also high with Israel (79%), Morocco (79%), Turkey (77%) and Egypt (76%). Turning to other continents, the Republic of Korea (82%) is in the lead, followed by Chile (80%), Peru (79%), Canada (77%), Mexico (76%) and Colombia (75%). Utilization is lower for Japan (71%), Hong Kong and Singapore (70%), both of which operate most of their imports on an MFN duty-free basis. China also scores well with 76%.

The study also reveals that a significant part of approved exporters (41%) do not use FTAs because outlays exceed benefits (29%), the rules of origin cannot be complied with (19%), issuing of

<sup>83</sup> The approved exporter status simplifies the procedures for certifying the preferential origin of products by requiring only a signed declaration on the invoice or on a document identifying the products.

<sup>84</sup> Polyquest, *Teilprojekt 1. Freihandelsabkommen. Ergebnisse*, published by the Swiss Customs Administration 2016. Available on line: <https://www.bing.com/search?q=teilprojekt+1.+freihandelsabkommen.+ergebnisse%2C+poliquest&form=EDGTCT&q=PF&cvid=424948fad7cc-49ce841eb50dee22f84a&refig=f7b1ff543be24603d164f31b92041426&cc=CH&setlang=-fr-FR&plvar=0&PC=HCTS>, accessed 29/04/20.

the proofs of origin is burdensome (17%), to avoid ex-post costs (12%) or because exports are MFN duty-free. Shippers face the same issues with a particular emphasis on the lack of resources and of detailed knowledge of the various agreements.

As far as imports are concerned, Swiss firms mainly use FTAs in Europe with the European Union (97%) and EFTA (90%). Imports from other European countries are very low and involve few importers. The same applies to the Mediterranean and the Middle East, with the exception of Turkey (78%) and Israel (67%). With regard to Asia, importers mainly use FTAs with China (76%), Japan (65%), the Republic of Korea (63%) and Hong Kong (58%). These ratios highlight the interest of Swiss firms in the most important Swiss FTAs. User rates are based on inquiries. They should be interpreted with caution as they do not cover all exporters and importers, and do not take trade volumes into account. For China, they suggest much higher utilization rates on the import side than is indicated by preference utilization.

The impact of the FTA has also been polled by two surveys conducted in China – 2016 and 2018 – to which 90 firms responded (from eighteen sectors covering manufacturing and services, such as architecture and consulting). Compared to the previous analysis, the data base is much smaller, but the focus exclusively on China.

After one year of entry into force<sup>85</sup>, about one third of the firms that returned the questionnaire were using the FTA, one third were not using it, and one third were considering doing so in the future. Firms indicated that the reduction or elimination of tariffs was the major driver for using the FTA. Less bureaucracy was also mentioned. On the other hand, less discrimination was not that important. This reflects the fact that Switzerland's main competitors do not benefit from an FTA with China.

<sup>85</sup> SwissCham Shanghai, *Survey Analysis, Sino-Swiss Free Trade Agreement*, January 2016. Available on line: <https://www.swisscham.org/shanghai/wp-content/uploads/sites/3/2018/07/Sino-Swiss-FTA-Survey-2016.pdf>, accessed 07/09/20.

Companies not using the FTA indicated that either their products were not covered (services companies and companies trading in products not originating in Switzerland), they lacked the know-how or they were not ready yet. A large number of the participating firms indicated that implementation was difficult: almost half of them reported problems such as red tape and administrative costs, which lead to additional time and expense in importing goods into China, and the fact that customs officials are not sufficiently informed about FTA procedures. Firms also pointed to higher costs due to longer storage periods for goods and extra expenses for issuing documents. More than one third of firms requested more information on the functioning of the agreement from Chinese Ministries, official Swiss trade promotion agencies, and Chambers of Commerce.

The same survey was carried out again three years after the entry into force of the agreement<sup>86</sup>. Although the overall results were better, the Agreement was far from deploying all its benefits. In the second semester of 2017, most firms felt that implementation was not yet smooth.

This assessment was associated with obstacles due to administrative procedures, insufficient knowledge by Chinese customs officers, and the direct transport rule. The latter requires that a good be transported directly from the exporting to the importing country, or in case of transshipment that it be proven that the goods do not undergo more than basic handling. All EU and EFTA agreements include such a rule. Its purpose is to prevent products from third countries from benefiting from the FTA. For land-locked Switzerland, however, the rule imposes higher costs, particularly in trade with overseas countries.

For many firms, the implementation of the FTA often proved more time-consuming than exporting to China under MFN duties which is not surprising given the additional requirements of any FTA, such as the compliance with and documentation of rules of origin and

<sup>86</sup> SwissCham Shanghai, *Second Survey, Sino-Swiss Free Trade Agreement*, January 2018. Available on line: <http://www.swisscham.org/shanghai/wp-content/uploads/sites/3/2018/07/Sino-Swiss-FTA-Survey-2018.pdf>, accessed 12/06/20.

transshipment. An improved implementation by Chinese customs and the progressive dismantling of tariffs should, however, gradually increase the net benefit to Swiss exporters of manufactured products using the FTA. It should be stressed that firms determine their production processes to meet the rules of origin of the FTAs between Switzerland, the European Union and the RCPRO members, which cover more than half of Swiss exports to the world.

### 3.4.2 China

Referring to China's exports to Switzerland, they increased significantly more (31%) than total Swiss imports (15%) in the period 2013-19. Swiss economic growth has also been moderate. This means that Chinese exporters outperformed the Swiss market and gained market shares. This is a solid achievement, as China already had a strong position in a highly competitive and demanding market.

An assessment of the FTA must take into account the fact that China benefited from the GSP system until the entry into force of the FTA. Table 11 compares the two arrangements for 27 HS Chapters representing, in 2013 and 2019, 95% and 96% of China's exports to Switzerland respectively. From the outset, it must be noted that the Swiss GSP did not apply to China for textiles, clothing and footwear.

In order to evaluate the effective use of the GSP or FTA by product category, it is first necessary to generate the value of dutiable imports by subtracting MFN-duty-free imports from total imports. Second, the effective use of preferences is calculated as the quotient of imports benefiting from preferences and dutiable imports<sup>87</sup>. Table 11 also includes a comparison of the rules of

<sup>87</sup> For a given two- or four-digit heading, not all imports are subject to customs duties; some imports are MFN duty-free, some are returned goods and some have been subject to temporary export for outward processing. Example: with imports totalling SFR 120 under a four-digit tariff heading, where imports under some subheadings worth SFR 20 were granted MFN duty-free tariff, imports subject to customs duties amount to SFR 100. If all goods subject to customs duties are imported under the preferences of the FTA, the utilization rate is 100%. If the value of the dutiable goods imported under FTA preferences is only SFR 45, the utilization rate is 45%.

origin under the GSP and the FTA. To facilitate the reading of the table, higher utilization rates and more liberal rules of origin under the FTA are highlighted in yellow; conversely, lower utilization rates and less liberal rules of origin are highlighted in red.

MFN duty-free imports for organic chemicals (Chapter 29) reached SFR 450 million in 2019; the FTA utilization rate for the dutiable imports was 69%. We note substantial MFN duty-free imports for machinery (Chapter 84) and electrical machinery (Chapter 85) with user rates of 57% and 51% respectively, and for instruments (Chapter 90) and furniture (Chapter 94) with much lower utilization rates of only 19% and 38% respectively.

Three of the four largest import categories -machinery, organic chemicals and watches<sup>88</sup>- feature utilization rates above 50%. Chinese and Swiss firms in these industries are integrated into supply chains and tend to seek more preferences. This is confirmed by comparing the utilization rates of Legge, Ziltener and Han<sup>89</sup>. We note between 2017 and 2019 a slight increase for non-electrical (+3%) and electrical (+0.7%) machinery and a robust growth for organic chemicals (+10.5%).

Several industries with lower import volumes and virtually no MFN duty-free imports also reach utilization rates above 50% – namely wood (53%), iron and steel (53%), paper (55%), plastics (56%), vehicles (56%) and aluminum (73%) –.

Below the 50% limit are sectors such as other metallic articles (Chapter 83; 32%), headgear (Chapter 65; 35%), leather (Chapter 42; 36%), toys (Chapter 95; 40%), tools (Chapter 82; 43%) and other articles (Chapter 96; 43%).

<sup>88</sup> Under HS Chapter 91 (watches), Switzerland mainly imports components such as boxes and bracelets from China.

<sup>89</sup> Legge Stefan, Patrick Ziltener and Jian Han: «2018. Sino-Swiss FTA – Utilization Rate Analysis», in *Sino-Swiss Free Trade Agreement - 2018 Academic Evaluation Report*, op.cit. 2018, p. 24. Available on line: [https://www.alexandria.unisg.ch/255103/1/2018-11-05\\_fta\\_report\\_web%20Einzelseiten.pdf](https://www.alexandria.unisg.ch/255103/1/2018-11-05_fta_report_web%20Einzelseiten.pdf), accessed 30/04/20.

Surprisingly, clothing and footwear, which are subject to the highest import duties, show very low utilization rates of 18/23% and 22% respectively. For knitted (-2.1%) and non-knitted (-3.3%) clothing, the 2019 utilization rates are even lower than in 2017<sup>90</sup>.

**Table 11. China's Major Exports to Switzerland: Comparison of GSP (2013) and FTA (2019) Utilization Rates**

(HS 2 digit)

HS tariff Chapter	Name	Exports 2013 (SFR millions)	Exp. under GSP 2013 (SFR millions)*	Exp. 2019 (SFR million)	Exp. under FTA 2019 (SFR millions)*	Exp. growth 2013-2019 (percent)	Utiliz. rate GSP** (percent)	Utiliz. rate FTA*** (percent)	Rules of origin FTA versus GSP
29	Organic chem.	621	224	1048	303	69	66	69	<liberal
32	Dyes, pigments	44	21	84	38	91	46	55	>liberal
38	Misc. chem.	24	6	51	5	113	36	36	>liberal
39	Plastics and articles	286	174	355	197	24	61	56	>liberal
42	Leather, prod.	257	116	301	109	17	45	36	>liberal
44	Wood and products	79	42	83	44	5	53	53	>liberal
48	Paper and products	45	22	74	41	64	48	55	>liberal
61	Clothing, knitted	635	No pref.	730	169	15	No pref.	23	
62	Clothing not knitted	807	No pref.	1065	195	32	No pref.	18	
63	Other art. textiles	102	No pref.	146	68	43	No pref.	46	
64	Footwear	311	No pref.	406	91	31	No pref.	22	
65	Headgear	47	20	73	26	55	42	35	>liberal
69	Ceramic prod.	47	25	51	21	9	54	41	>liberal

<sup>90</sup> *Ibid.*

HS tariff Chapter	Name	Exports 2013	Exp. GSP 2013	Exp. 2019	Exp. FTA 2019	Exp. growth 2013-2019	Utiliz. rate GSP**	Utiliz. rate FTA***	Rules of origin FTA GSP
70	Glass, glassware	48	26	64	27	33	54	42	<liberal
71	Precious metals	125	18	529	14	323	27	8	<liberal
73	Art. iron or steel	206	119	263	139	28	58	53	>liberal
76	Aluminium, art.	54	41	89	63	65	76	73	>liberal
82	Tools	81	42	94	41	16	53	43	<liberal
83	Other art. metal	77	35	79	25	3	46	32	<liberal
84	Non elect. mach.	2011	227	2731	361	36	65	57	<liberal
85	Electr. machinery	2990	404	3671	447	23	39	51	<liberal
87	Vehicles	107	55	204	112	91	53	56	>liberal
90	Instruments	278	47	416	28	50	28	19	<liberal
91	Watches	756	520	766	402	1	70	60	<liberal
94	Furniture	402	87	489	92	22	45	38	<liberal
95	Toys	318	120	419	143	32	38	40	<liberal
96	Other art.	54	26	84	35	56	49	43	<liberal
	<b>Share in China's exports to Switzerland (%)</b>	<b>95</b>		<b>96</b>					
	<b>Trade-weighted utiliz. rate (%)</b>						<b>55.4</b>	<b>48.8</b>	
	<b>TOTAL</b>	<b>10812</b>	<b>2417</b>	<b>14365</b>	<b>3236</b>	<b>33****</b>			

Source: Swiss Customs Administration, Swiss-Impex. Elaboration by the author.

\*: Total exports – MFN duty-free exports

\*\* : Exports using GSP preferences / (Total exports – MFN duty-free exports)

\*\*\*: Exports using FTA- preferences / (Total exports – MFN duty-free exports)

\*\*\*\*: Trade-weighted growth rate for the 2013-2019 period

In 2019, several sectors exhibit a lower utilization rate than in 2013 under the GSP. This observation refers to leather, headgear, ceramics, precious metals, iron and steel, aluminum, tools, other articles of

metal, non-electrical machinery, watches and furniture. For leather, headgear, ceramics and iron and steel the FTA rules of origin are more liberal than the GSP, apparently without any positive effect on the utilization rate of the FTA. For the other industries, a lower FTA utilization rate is associated with less liberal rules of origin.

Utilization rates were higher under the FTA for four industries, whose exports exceeded SFR 100 million -organic chemicals, electrical machinery, vehicles, toys - with only vehicles being subject to more liberal rules of origin- and for two industries (dyes pigments, paper) whose exports were less than SFR 100 million and whose rules of origin were more liberal. Utilization rates were equal for two industries (miscellaneous chemicals, wood products) with more liberal rules of origin in the FTA.

These comparisons suggest that the nature of the rules of origin - more or less liberal than in the GSP - has not systematically led to a greater or lesser use by users under the FTA.

This may be explained by the fact that the GSP and FTA rules may be considered liberal. The less liberal rules of the FTA remain nevertheless very liberal, for instance with a value-added requirement of 40 % against 30 % under the former GSP. These requirements are low; for example, non-preferential rules of origin usually require at least a value added of 50 % to grant national origin. Hence, the difference between both regimes does not have a consistent and robust impact on the utilization rate of the FTA.

Overall, average utilization rates weighted by export volume were lower under the FTA (48.8 %) than under the GSP (55.4 %). However, it should be noted that the GSP did not cover textiles and footwear. If, for the purpose of comparison, these two product categories are excluded, the average utilization rate under the FTA rises to 53.6 %, slightly below that of the GSP.

These results are disappointing. One might have expected that Chinese exporters and Swiss importers would have been able to

maintain the level of GSP utilization rates or even to increase those rates as preferences were made permanent under the FTA. It may also be noted that compared to the European Union (63%)<sup>91</sup>, GSP utilization rates were much lower for Switzerland, despite the fact that the Swiss GSP is subject to the same rules of origin.

The difficulties experienced by Swiss exporters in China with domestic customs procedures do not apply to Chinese exporters on the Swiss market. The overall low level of Swiss customs duties on industrial products provides no explanation, as utilization rates have increased in some industries -electrical machinery- and decreased in others -non electrical machinery- with similar characteristics.

Even though watches and their components<sup>92</sup> achieved the highest utilization rate under the GSP (70%), they could not avoid a significant drop with the FTA (60%). This may suggest, as in other industries, that very rapid growth and high business margins led new suppliers not to apply for preferences under the FTA, and that some established suppliers did not make the transition from the GSP to the FTA. This is certainly not the expected outcome of the FTA. To the contrary, preferences are there to be used to enhance competitiveness in value chains and provide additional benefits to consumers.

The utilization rates under the FTA for clothing and footwear also raise concerns. They are very low and presented in Table 12 for product categories with exports to Switzerland of more than SFR 50 million at the four-digit HS level.

<sup>91</sup> Keck Alexander, Andreas Lendle: «New Evidence on Preference Utilization», *World Trade Organization Staff Working Paper* No, ERSD-2012-12. Available on line: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2144118](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2144118), accessed 29/04/20.  
Nilsson Lars: «Small Trade Flows and Preference Utilization: The Case of the European Union», *South African Journal of Economics*, 2011, 79:392-410.

<sup>92</sup> In 2019, Switzerland imported SFR 599 million worth of watch components (bracelets, cases...) and SFR 167 million worth of watches from China.

**Table 12. Clothing, Footwear: Utilization Rates and Duties Paid for Specific Product Categories of Chinese Exports to Switzerland, 2019**

(Exports > SFR 50 million)

HS 4-digit tariff lines	Name	Exports 2019 (SFR millions)	Exports under FTA (SFR millions)	Utiliz. rate FTA* (percent)	Duties paid (SFR millions)
6104	Women's suits, dresses	127	16	12	5.6
6109	T-shirts	51	10	19	1.9
6110	Jerseys, pullovers	261	70	27	6.9
6112	Track suits, swimsuits	59	5	8	1.1
6201	Men's overcoats, anoraks	78	13	17	4.3
6202	Women's overcoats, anoraks	224	25	11	14.2
6203	Men's blazers, trousers	135	22	16	4.7
6204	Women's blazers, dresses	316	52	17	17.2
6206	Women's blouses, shirts	69	10	14	3.9
6210	Garments rubberised, covered with plastics	80	33	42	3.1
6212	Brassieres, suspenders	59	8	13	1.2
6307	Made-up articles of textiles materials	62	30	49	5.7
6402	Footwear with uppers rubber, plastics	124	39	31	2.7
6403	Footwear with uppers leather	112	15	14	2.6
6404	Footwear with uppers textiles materials	155	32	21	3.0
<b>TOTAL</b>	<b>Clothing (HS tariff lines above)</b>	<b>1521</b>	<b>294</b>	<b>24**</b>	<b>69.8</b>
	<b>Footwear (HS tariff lines above)</b>	<b>391</b>	<b>86</b>	<b>24**</b>	<b>8.3</b>

Source: Swiss-Impex. Elaboration by the author.

\*: Exports using FTA- preferences / (Total exports – MFN duty-free exports)

\*\* : Trade-weighted utilization rate



The clothing tariff headings in Table 12 account for 78.3 % of Chinese exports to Switzerland for clothing and made-up articles of textiles materials (HS 6307)<sup>93</sup>. The utilization rates are higher for the latter (49 %) and for garments rubberised, covered, coated or impregnated with plastics (42 %; HS 6210) than for other categories of clothing. The differences in the utilization rates are significant for the main product categories such as jerseys and pullovers (27 %) on the one hand, and women's blazers, dresses (17 %) as well as women's overcoats (11 %) on the other.

With a trade-weighted utilization rate of 24.3 % for the major export categories, the use of the FTA is very low. It cannot be explained by restrictive rules of origin as these are very liberal. They require only 40 % value added in China or the purchase of inputs classified in another chapter of the Harmonized System. This means that Chinese manufacturers could comply with the rules of origin either by importing fabrics from a third country or by adding 40 % of value in their production process. Swiss importers could save duties and improve their margins by working closely with their Chinese suppliers.

Footwear does not fare better in achieving the same trade-weighted user rate as clothing (24.3 %) for imports into Switzerland, which cover 96 % of this sector from China. Significant differences are noted depending on the type of uppers, rubber and plastics (31 %) performing better than textiles materials (21 %) and leather (14 %). The rules of origin are the same as for textiles and clothing and should be easily met by Chinese producers.

These results call for further analysis as one would have expected the FTA to lead to a significant use of the preferences, particularly for clothing and footwear, the products for which Switzerland has eliminated the highest tariffs. For other products, we have to

<sup>93</sup> This tariff position includes, inter alia, bed and table linen, curtains, blankets and articles for interior furnishing.

recognise that the FTA does not lead to a more extensive use of preferences than under the former GSP. To the contrary, the FTA is characterized by lower utilization rates for most industries.

The data analyzed by Keck and Lendle show much higher utilization rates for preferential imports into Australia (61 %), Canada (90 %), the European Union (87 %) and the United States (92 %)<sup>94</sup>. Comparing the utilization rates of FTAs by Swiss imports, Legge finds that China (42 %) is in an intermediate position between Germany (71 %) and the Republic of Korea (59 %) on the one hand, and Japan (27 %) and Canada (24 %)<sup>95</sup> on the other. This suggests that Swiss importers and Chinese exporters still have a good potential to benefit from preferences in the future.

### 3.5. Synthetic counterfactual trade analysis

The impact of the FTA on trade can also be analyzed by comparing trade data with what trade would have been in the absence of an FTA. Legge conducted such a study with a synthetic counterfactual method using a combination of other countries to estimate the Swiss-Chinese trade trend. He concluded that on average, in 2017, Swiss imports and exports were US\$2.5 bn (+24%) and US\$1.3 bn (+13%) higher with China respectively due to the FTA<sup>96</sup>.

Legge explains the stronger increase in Swiss imports by the elimination of all tariffs on non-food manufactured products upon entry into force of the FTA. We would like to point out that, with the exception of textiles, clothing and footwear, the FTA and GSP regimes are quite comparable, both in terms of liberal rules

<sup>94</sup> Keck Alexander, Andreas Lendle: «New Evidence on Preference Utilization», *WTO Staff Working Paper*, op. cit. Available on line: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2144118](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2144118), accessed 29/04/20.

<sup>95</sup> Legge Stefan, Patrick Ziltener and Jian Han: «2018. Sino-Swiss FTA – Utilization Rate Analysis», in *Sino-Swiss FTA – 2018 Academic Evaluation Report*, op.cit, p. 41.

<sup>96</sup> Legge Stefan: «Sino-Swiss FTA – Impact on Trade», in *Sino-Swiss FTA – 2018 Academic Evaluation Report*. Edited by Casas, T., et al. Basel: MDPI, pp. 32-33. Available on line: [https://www.alexandria.unisg.ch/255103/1/2018-11-05\\_fta\\_report\\_web%20Einzelseiten.pdf](https://www.alexandria.unisg.ch/255103/1/2018-11-05_fta_report_web%20Einzelseiten.pdf), accessed 28/08/20.

of origin and full elimination of tariffs for industrial products. Based on the weaker use of the FTA compared to the GSP, Legge's results on the import side are not supported by our analysis. To the contrary, the FTA has not kept up with the GSP user rate and therefore cannot be credited with an increase in Swiss imports from China. The growth of Chinese exports to Switzerland has probably been based on market power, with increased penetration of the Swiss market for new and higher-value products.

With regard to the growth of Swiss exports to China, it should be noted that Chinese imports from the world fell by about 18.5% between 2013 and 2016, then rose vigorously by 16% both in 2017 and 2018, and then declined in 2019 (-3.1%) in the midst of the trade war with the United States. Swiss exports to China – specializing in pharmaceuticals, machinery, watches and medical equipment – have not been affected to the same extent as other countries: Swiss exports to China grew by more than 6% every year since 2014 except 2015.

### 3.6. Enhanced cooperation

The work program of the FTA has led to a strengthened cooperation in several areas, including intellectual property, the watch industry, sanitary and phytosanitary measures, and technical barriers to trade.

#### 3.6.1 Intellectual property

Initiated under a Memorandum of Understanding in 2007, a regular bilateral dialogue on intellectual property takes place, allowing a comprehensive exchange of information and the search for solutions to concrete problems. Collaboration was extended in 2017 with a new MoU between the Swiss Federal Institute of Intellectual Property and the State Intellectual Property Office of the Peoples' Republic of China covering:

- The exchange of information and views on the latest developments in their respective intellectual property systems.

- The exchange of information on the legislation and administrative procedures of their respective States in the sphere of intellectual property.
- The exchange of information and experience in patent examination and staff training.
- The exchange of documentation on intellectual property that has been agreed by both Parties.
- The exchange of best practices in promoting innovation and socioeconomic development using intellectual property.
- The exchange of information and experience on the workings of intellectual property (use and commercialization).
- The exchange of views on major issues of common concern with regard to the international intellectual property system.
- Organization of exchanges in response to the needs of users of intellectual property in both countries, including, where appropriate, in the framework of industry roundtables; other activities agreed by both Parties<sup>97</sup>.

It is particularly useful for the Swiss side to know the Chinese officials, their instruments and to contact them rapidly to address specific issues. The bilateral dialogue includes a roundtable with industry representatives and government officials. Business representatives get the opportunity to present problems, needs for improvement, and specific requests. Although these measures are soft, they raise awareness and bring files forward provided that they are presented in an appropriate manner and the benefits to China can be demonstrated.

<sup>97</sup> *Memorandum of Understanding between the Swiss Federal Institute of Intellectual property and the State Intellectual Property Office of the Peoples' Republic of China*, Bern, January 17, 2017. Available on line: [https://www.ige.ch/fileadmin/user\\_upload/recht/bilateral/e/MoU\\_SIPO-IPI\\_20170116.pdf](https://www.ige.ch/fileadmin/user_upload/recht/bilateral/e/MoU_SIPO-IPI_20170116.pdf), accessed 07/05/20.

To date, several results have been achieved as the following examples show.

First, following detailed explanations from Switzerland to generate understanding, the Chinese Trademark Office has significantly enhanced cooperation with the Swiss authorities to prevent the commercial misuse of the Swiss flag, the Swiss cross or the Swiss name. Previous to registering a trademark with a Swiss sign or name, Chinese officials contact their Swiss counterparts who check the legitimacy of the Swiss reference. The Swiss authorities are active all around the world to prevent the misuse of the Swiss name when there is no Swiss connection with the product or the applicant. The objective is to avoid misleading the consumer as to the real origin of a product and unfair competition for the Swiss producer.

Second, in the pharmaceutical area, the bilateral dialogue has helped to strengthen China's understanding of Swiss concerns regarding patent compensation and the protection of test data. Both topics have been introduced into Chinese legislation or are currently being addressed. They are of utmost importance to Swiss pharmaceutical firms as they have a direct impact on revenues to finance expensive research and development outlays and on competition.

Third, a trademark application by a large Swiss firm dating back several years was finally accepted by the Chinese authorities a few days after a thorough discussion at a dialogue's meeting.

Fourth, the dialogue facilitated contacts between the Swiss watch industry and the Chinese authorities in the fight against watch piracy and counterfeiting. Measures could be launched against producers or sales of such products as well as with platform providers like Alibaba.

### 3.6.2 Watch industry

The Working Group on watches set up within the framework of the Swiss-China FTA provides a better understanding of the

expectations of both parties. It is made up of the Federation of the Swiss Watch Industry, the Swiss State Secretariat for Economic Affairs, the China Watch Association and the Chinese Ministry of Industry and Information Technology. The main topics addressed are the fight against counterfeit products both on physical markets and on the internet, with training for the authorities, issues related to market access, technical regulations and training for watchmakers.

Tangible results include a hotline, via the Hong Kong office of the Federation of the Swiss Watch Industry, to assist Chinese authorities in authenticating products. Operations to seize counterfeit products in the field show that cooperation is effective and that results can be achieved, though Switzerland would like more actions to seize products and to close down businesses and workshops<sup>98</sup>.

### 3.6.3 Sanitary and phytosanitary measures, technical barriers to trade

Switzerland has been able to establish a very fruitful cooperation in order to facilitate access to China for various categories of products with important technical requirements. To this end, it has established a subcommittee with the General Administration of Customs of China (GACC) and the State Administration for Market Regulation (SAMR).

The objective of the collaboration with GACC is to facilitate the fulfilment of various import requirements illustrated with the following examples:

- a) China imposes a certification process for all food products imported into China regardless of their risk profile. The proposals will be reviewed by a subcommittee of the Codex

<sup>98</sup> Source: Bilan, Interview, Maurice Altermatt, 17/01/17.

Committee on Food Export and Import Certification and Inspection. Switzerland has the opportunity to participate and to follow closely the process.

- b) In the meat sector, processing firms must be inspected by the Chinese authorities in order to export to China. The subcommittee has initiated contact between the competent authorities in China and in Switzerland to facilitate the process.
- c) Trade in pork meat is carried out within the framework of a State Protocol. Poultry and beef require similar protocols.
- d) Imports of feedstuffs into China must be registered in China, which require detailed information on feed additives, production process, main ingredients and proof of official registration for free sale.
- e) Certification for import of feedstuffs with various requirements depending on the product.
- f) Deepening of technical cooperation in the area of plant quarantine with a MoU similar to the European Union one to address import and export issues, in particular for cereals, vegetables, fruit and seeds.
- g) Collaboration on food security through imports and exports.
- h) Cooperation in the framework of China's Rapid Alert System for defective telecommunication products imported into Switzerland. China has established such a system with the European Union, including technical cooperation.

Discussions are also being held with the National Medical Product Agency (NMPA). They focus on medical devices, drugs and cosmetics. The NMPA cooperates closely with the US Food and Drug Administration. Its experts can observe US experts during inspections in China and obtain the results with the possibility of discussing them. A similar type of collaboration is also sought

with Switzerland. The NMPA would also be interested to exchange views with the Swiss agencies responsible for medicines and food safety within the framework of a steering committee.

Cooperation with the SAMR takes place in the framework of a Subcommittee on technical barriers to trade. Swiss experts have the opportunity to follow some important Chinese projects focusing on standardization, certification and inspection. The Chinese Standardization Administration aims at developing in the coming years a standard strategy for 2035. Existing international standards should not be replaced but supplemented, where they do not provide sufficient quality and safety. They could be internationalized with the realization of the Belt and Road Initiative. These standards play a key role for China's industrial policy. Their internationalization should, however, take place within the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC) and the International Telecommunication Union (ITU). China is interested to exchange views on a regular basis with its partners. In the future, the focus could be more on voluntary than on mandatory norms. The authorities will be responsible for implementation.

China envisages to reform the Chinese Compulsory Certification Scheme (CCC). Mandatory third-party certification will be withdrawn for some products and replaced by a supplier's declaration of conformity. Overall, this should reduce costs of conformity assessments. Already now, producers can provide the technical specifications of products on a website and, provided they are compliant, bring their product in free circulation in China with the CCC mark. The CCC system has been partially opened to private international conformity assessment bodies.

For telecommunications products that do not meet the technical requirements, Switzerland is interested to cooperate closely with Chinese customs and the SAMR. A platform could be established with the European Union and later extended to Switzerland through the Chinese Rapid Alert System.

The SAMR might be interested to participate in Good Laboratory Practice inspections for chemicals in Switzerland. Further, its Accreditation, Inspection and Testing Department would be interested to conduct tests in parallel with Swiss laboratories and then compare and discuss the results. Such exchanges are already taking place with Germany and the Republic of Korea. Other areas of cooperation may encompass conformity assessment bodies dealing with new and future-oriented sectors.

Intellectual property, watches issues, as well as sanitary and phytosanitary measures and technical barriers to trade are three key dialogues that strengthen the impact of the Swiss-China FTA on the Swiss economy. They are comprehensive, cover broad areas and offer good platforms for cooperation. They also raise specific issues and seek to achieve concrete results through persuasion, reflecting Switzerland's international soft power. They offer the opportunity to draw attention to important matters and to seek solutions.

## 4. U.S. confrontational strategy with China

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The importance of the Chinese economy in the world is uncontested. China has become a manufacturing powerhouse. Low costs, quality, reliability, efficiency, good infrastructure, a fast-growing market and excellent logistics by sea and air have contributed to offshoring from the United States, Europe, and Japan. China offers a great potential for foreign firms with a competitive export platform, and a huge and expanding domestic market. In recent years, more than 80 % of manufacturing exports have been carried out by foreign invested firms.

China's remarkable growth of the past twenty years has lifted millions of people out of poverty not only in China (more than 850 million) but also in Latin America, Africa and Asia. Latin America benefited from a surge in commodity prices and export volumes, while Asia could supply more intermediate and final goods to China. Foreign industries, such as the Swiss watch industry, integrated China in their value chains to import components and strengthen international competitiveness. Smart phones, computers, televisions and home appliances are produced in China for the world.

The prominence of the Chinese domestic market has been recognized by multinational companies. China is becoming rapidly their second largest market in terms of turnover, if not their largest. German car manufacturers have sold more vehicles to China than to the United States over the past years<sup>99</sup>. At purchasing

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<sup>99</sup> In 2017, China was the largest and fastest growing market for Mercedes Benz, BMW, Porsche and Volkswagen and the largest market for Audi. Source: *Car Sales Statistics*. Available on line: <https://www.best-selling-cars.com/china/2017-full-year-china-worldwide-german-luxury-car-sales/>, accessed 23/06/20.

power parity<sup>100</sup>, China has today the largest GDP in the world<sup>101</sup>. Its growth model has been shifting progressively from reliance on investments and exports to domestic consumption.

China's trade surplus in goods has declined over the past years from a peak of US\$600 bn (5.4 % of GDP) in 2015 to US\$430 bn (3.0 % of GDP) in 2019. The share of exports of goods to GDP has also declined from a peak of 31 % in 2008 to 20.7 % in 2015 and to 17.6 % in 2019. The latest decline is partly the result of the trade war with the United States.

By comparison, US trade deficit accounted for 4.3 % of GDP in 2019 and US exports for 7.7 % of GDP. In relative terms, China's export sector remains large but is not unique at the international level. In 2019, several important trading nations had a higher export-to-GDP ratio than China. Of particular note were Germany (37 %), the Republic of Korea (32 %) and France (19 %), while the United Kingdom (16 %) or Japan (14 %) had a lower ratio.

It is to underline that the internationalization of the Chinese economy has led to a substantial reduction in the current account surplus, which fell from 9.9 % of GDP in 2007 to 0.4 % in 2018. Due to the strong growth of imports of goods, the net contribution of exports to GDP has been very low or negative in recent years. In addition, the trade deficit in services increased from US\$13.6 bn in 2008 to US\$256 bn in 2018 and has been mainly driven by tourism. Thereby, China supported the economies of the destination countries.

In its latest Article IV Consultation Report on China, the International Monetary Fund (IMF) acknowledges the significant

<sup>100</sup> Purchasing power parity is a measurement of prices in different countries that uses the prices of specific goods to compare the absolute purchasing power of the countries' currencies.

<sup>101</sup> In 2019, China was leading the world with US\$27 trillion (19.3 %) followed by the US with US\$21.4 trillion. Source: *Statistics Times*, 17/01/20. Available on line: <http://statisticstimes.com/economy/countries-by-gdp-ppp.php>, accessed 25/06/20.

adjustment of China's current account since 2007<sup>102</sup>. It is the result of a strong increase in investment, real exchange rate appreciation, slow growth in China's major export markets and a growing services deficit. According to the IMF, China's current account surplus will continue to fall over the coming years and its external sector is in line with the fundamentals. This is very important and China can no longer be blamed today for artificially maintaining unbalanced external accounts.

The gradual shift of manufacturing production to China has allowed the rest of the world to benefit from lower prices and greater choice, but has also increased its dependence on the Middle Kingdom and its vulnerability in the event of an emergency. This came up clearly during the initial phase of the coronavirus crisis, when China became the global supplier for protection material such as masks, gowns and gloves, and some countries imposed export restrictions. Like the United States, China acts as a growth engine for many countries by being among their three main export markets. This is not likely to change in the near future. China will continue to significantly influence global growth.

#### 4.1. U.S.-China Economic and Trade Agreement

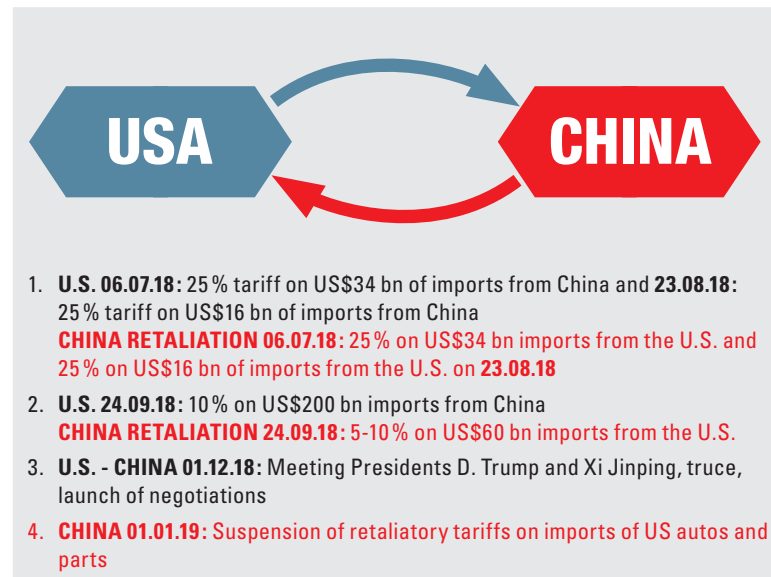
According to the United States, China remains essentially a non-market economy nineteen years after WTO accession, thus benefiting from unfair competitive advantages. The European Union and several large trading nations share the same view. Furthermore, China threatens the supremacy of the United States and its OECD partners in advanced technologies and capital-intensive sectors such as telecommunications, energy, cement plants and railway equipment.

<sup>102</sup> International Monetary Fund, *People's Republic of China, 2019 Art. IV Consultation, IMF Country Report 19/266*, Washington, August 2019. Available on line: <https://www.imf.org/en/Publications/CR/Issues/2019/08/08/Peoples-Republic-of-China-2019-Article-IV-Consultation-Press-Release-Staff-Report-Staff-48576>, accessed 18/06/20.

The United States launched a trade war in 2018 against China to correct the US trade deficit and to seek significant changes in Chinese policies on subsidies, state-owned enterprises, intellectual property and technology transfer. The US strategy toward China contrasts sharply with that of Switzerland. While the Swiss have taken great precautions to maintain harmonious relations with China at all times and have developed a strategy of cooperation based on soft power, the US leveraged its market to pressure on China.

Box 1 presents the main stages of a war of tit-for-tat tariffs. China reacted to every measure imposed by the United States by also increasing tariffs on US imports<sup>103</sup>.

### Box 1. United States - China: Measures taken under the Tit-for-Tat Tariff War



<sup>103</sup> Chad P. Bown, Melina Kolb: «Trump's War Timeline: An Up-to-Date Guide», *Trade and Investment Policy Watch*, Peterson Institute for International Economics, 13/03/20. Available on line: <https://www.piie.com/sites/default/files/documents/trump-trade-war-timeline.pdf>, accessed 22/06/20.

- U.S. 10.05.19:** Breakdown of the negotiations, increase from 10 % to 25 % on US\$200 bn imports of 24.09.18  
**CHINA RETALIATION 01.06.19:** Increase tariffs on \$36 bn of the US\$60 bn of imports of 24.09.18
- U.S. - CHINA, June 2019:** Meeting Presidents D. Trump and Xi Jinping, resumption of the negotiations
- U.S. 01.09.19:** Additional increase of 15 % on US\$110 bn imports from China  
**CHINA RETALIATION 01.09.19:** Additional increase on US\$70 bn imports from the U.S.
- CHINA 15.09.19:** Suspension of duties on US\$2 bn of imports from the U.S.
- U.S. 15.09.19:** Increase of duties (25 % to 30 %) on US\$250 bn imports from China deferred from 01.10 to 15.10
- U.S. 11.10.19:** Suspension of increase of duties of 15.10 due to progress in the negotiations
- U.S. - CHINA 13.12.19:** Cancellation of duty increases (15.12.19) due to conclusion of phase one negotiations.

Source: Peterson Institute for International Economics, various documents, elaboration by the author.

The trade war began in July 2018 with substantial tariff increases by President D. Trump on products from China worth US\$34 bn, to which China responded with corresponding increases on US imports. President D. Trump escalated the conflict in September by increasing tariffs on a volume of imports from China of US\$200 bn, to which China responded with corresponding increases on US imports of US\$60 bn.

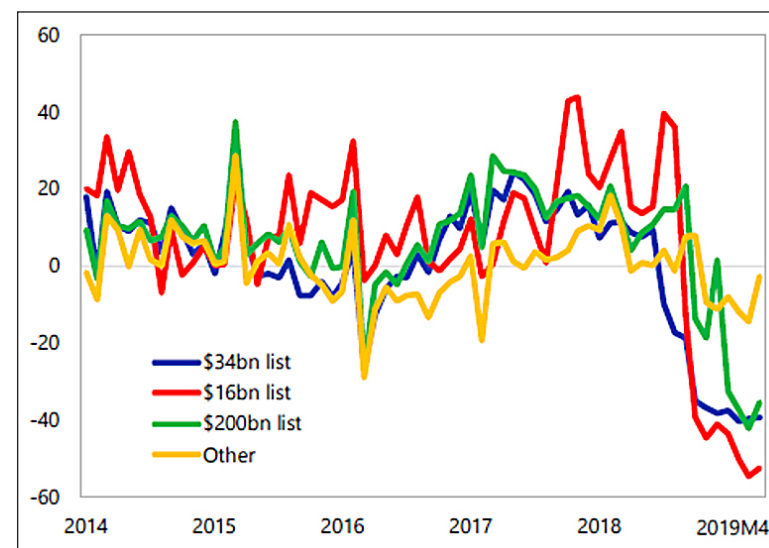
In December 2018, President D. Trump and President Xi Jinping put a truce to their trade war and launched negotiations on the side lines of the WTO Ministerial Conference held in Buenos Aires. The talks broke down in May 2019, tariffs were further raised on both sides. On June 29, at the margin of the G-20 meeting in Osaka, President D. Trump agreed not to increase customs duties on US\$325 bn in imports from China and President Xi Jinping undertook to increase imports of agricultural products from the United States. The two Presidents also decided to resume the negotiations.

Dissatisfied with the progress in the talks, President D. Trump announced on August 1, 2019 a 10% increase of customs duties on US\$300 bn of imports from China. On August 13, the US administration stated that 10% additional customs duties would be levied from September 1 on a first tranche of US\$110 bn, and on December 15 on a second tranche of US\$160 bn. On August 23, China retaliated by stating publicly that it would increase customs duties on US\$75 bn of imports from the US on September 1 and December 15, with in particular an increase in duties on US cars from 12.6% to 42.6%. In no way relaxing the trade war, President D. Trump announced on the same day an increase in tariffs from 10% to 15% on US\$110 bn and US\$160 bn. In addition, the 25% duty on US\$250 bn would be raised to 30% on October 1.

On September 11, China took the initiative to calm hostilities by announcing the suspension of additional duties on US\$2 bn of imports covering animal feeds, chemicals and petroleum products. President D. Trump immediately responded positively by delaying the increase in customs duties from 25 to 30% on US\$250 bn of imports from 1 to 15 October. On October 11, President D. Trump called off this tariff increase in view of significant progress in the negotiations to achieve the first phase of an agreement. Finally, the escalation of the trade war ended on December 13 with the cancellation by both sides of the duties scheduled to come into force two days later due to the conclusion of the first phase of an Economic and Trade Agreement, which was signed in Washington on January 15, 2020<sup>104</sup>.

<sup>104</sup> *Economic and Trade Agreement between the United States of America and the People's Republic of China*, Washington, January 15, 2020. Available on line: <https://ustr.gov/countries-regions/china-mongolia-taiwan/peoples-republic-china/phase-one-trade-agreement/text>, accessed 21/05/20.

**Figure 1. United States: Impact of Tariff Increases on Imports from China**



Source: IMF, China Art. IV Consultation, August, 2019, p. 44.

The US-China trade war has affected significantly commerce. US tariffs on Chinese imports increased in several steps from an average of 3.1% in January 2018 to 21% in December 2019. China followed suit, moving from an average of 8.0% to 21.1%<sup>105</sup>.

Between 2018 and 2019, US exports to China declined from US\$120.3 bn to US\$106.4 bn (-17%). US imports from China also fell from US\$539.2 bn to 451.7 bn (-16.2%) and the US trade deficit with China decreased by US\$63.8 bn.

The cost of the trade war has been significant for consumers and industry of both economies. US farmers ran surpluses, lost markets and were granted substantial financial support from the government. US agricultural exports to China decreased from

<sup>105</sup> Chad P. Bown: «US-China trade war: an up-to-date chart», *Peterson Institute for International Economics Chart*, Washington, 14/02/20. Available on line: <https://www.piie.com/research/piie-charts/us-china-trade-war-tariffs-date-chart>, accessed 22/06/20.



US\$15.8 bn (2017) to US\$5.9 bn (2018) and remained subdued the following year. In 2019, farmers received an estimated US\$22.4 bn in federal government support corresponding to 40% of their income to compensate for their losses due to retaliatory measures taken by China, but also by other partners due to the US raising tariffs on steel and aluminium for national security reasons. The government's assistance was divided between cash payments, purchases of surplus products, support for access to new markets, disaster assistance and insurance.

The phase one trade agreement addresses some key US trade, investment, financial and monetary concerns. The contrast with the Swiss strategy is significant in form and substance. The results highlight what a political, economic and military world power may achieve with China as compared to a well-respected but small player such as Switzerland. The results also show what the United States could not achieve as well as the complexity and the very high cost of a confrontational strategy.

The Agreement is a partial one and should be complemented by a second phase with structural issues requiring more time for resolution. US and Chinese extra-tariffs on imports were not eliminated. The implementation of additional tariffs, which had been foreseen, was however suspended, and average tariffs were slightly decreased to 19.3% by the United States and 20.3% by China<sup>106</sup>. The escalation was stopped. China has agreed to policy changes in several areas and to rebalance trade by importing more US products and services in 2020 and 2021. Swiss business could benefit from improvements in various Chinese regimes which are likely to be extended to other partners on a most-favored-nation basis.

#### 4.1.1 Trade rebalancing

China shall significantly increase US imports to bring down the US-China trade deficit in the coming years. In 2020 and 2021,

<sup>106</sup> Chad P. Bown: «US-China trade war», op.cit. 14/02/20.

China's imports are expected to grow by US\$32.9 bn and US\$44.8 bn for manufactured products, US\$12.5 bn and 19.5 bn for agricultural products, US\$18.5 bn and 33.9 bn for energy products and US\$12.8 bn and US\$23.1 bn for services<sup>107</sup>, respectively. The trajectory of increases will continue from 2022 to 2025.

China's imports should focus on key US sectors in manufacturing<sup>108</sup>, agriculture<sup>109</sup>, energy<sup>110</sup> and services<sup>111</sup>. The Agreement includes detailed provisions on agriculture covering cooperation, dairy products, meat, aquatic products, sanitary and phytosanitary measures, feed additives, pet food, tariff-rate quotas, domestic support, agricultural biotechnology and food safety. The objective of trade rebalancing is very ambitious and subject to significant caveats and uncertainties.

The world recession resulting from the pandemic of the coronavirus will affect China's growth, domestic demand, investments, exports and imports including with the United States. This implies that China's imports from the United States may not grow as envisaged, that is 55% over the 2017 baseline. According to G. Hufbauer<sup>112</sup>, China and the United States will enter into a managed trade relation, contrary to all modern market principles and more akin to the Soviet-type relationship with its satellites before the fall of the Berlin Wall in 1989. Efficiency and comparative advantage should be sacrificed for the sake of a lower US trade deficit with China. By excluding some competitive providers from all around the world, China is likely to violate the WTO

<sup>107</sup> The baseline for the calculation of the additional imports is the year 2017 (US\$134.2 bn).

<sup>108</sup> Industrial machinery, electrical equipment and machinery, pharmaceuticals, aircraft, vehicle, optical and medical instruments, and, iron and steel.

<sup>109</sup> Oilseeds, meat, cereals, cotton and seafood.

<sup>110</sup> Liquefied natural gas, crude oil, refined products and coal.

<sup>111</sup> Charges for use of intellectual property, business travel and tourism, financial services and insurance, cloud and related services.

<sup>112</sup> Gary C. Hufbauer: «Managed trade: Centerpiece of US-China phase one trade deal», *Trade and Investment Policy Watch*, Peterson Institute for International Economics, Washington, 16/01/20. Available on line: <https://www.piie.com/blogs/trade-and-investment-policy-watch/managed-trade-centerpiece-us-china-phase-one-deal>, accessed 20/05/20.

most-favored-nation principle of non-discrimination among foreign partners. Instead of artificial trade targets, the Agreement should have focused on the elimination of extra-tariffs and trade-distorting technical barriers.

Since it is highly unlikely that Chinese consumers will suddenly increase their overall consumption, the growth in Chinese imports from the United States would have to come at the expense of China's other major trading partners. In manufacturing, the increase of the US share (58%) of China's imports of aircrafts would be at the expense of Airbus, vehicles (US share of China's imports: 26%) at the expense of the European Union and Japan, optical instruments (26%) at the expense of the European Union, Japan and Taiwan, pharmaceuticals (15%) at the expense of the European Union and Switzerland, and industrial machinery (11%) at the expense of the European Union, Japan, Korea and Taiwan<sup>113</sup>. The United States has a smaller presence in other industries. According to IMF estimates, the European Union could face a loss of exports of US\$84 bn and the Republic of Korea and Singapore of 2.1% and 3.8% of GDP respectively<sup>114</sup>.

Trade diversion in agriculture should also affect large suppliers of the Chinese market from Latin America in particular for oil-seeds (US share of China's imports: 35%) at the expense of Brazil and Argentina, and meat (US: 21%) at the expense of the European Union, Brazil, Australia and New Zealand. The United States also has a very strong position for cotton (43%), which could be strengthened at the expense of Australia, India, Uzbekistan, and Brazil, and could gain market shares for seafood (16%) at the

<sup>113</sup> Chad P. Bown: «Unappreciated hazards of the China-US phase one trade deal», *Trade and Investment Policy Watch*, Peterson Institute for International Economics, 21/01/20. Available on line: <https://www.piie.com/blogs/trade-and-investment-policy-watch/unappreciated-hazards-us-china-phase-one-deal>, accessed 20/05/20.

<sup>114</sup> International Monetary Fund, *People's Republic of China, 2019 Art. IV Consultation, op. cit.*, p. 21.

expense of Russia, Canada, Norway, and New Zealand, and for cereals (21%) at the expense of Australia, Vietnam, Thailand, and Ukraine<sup>115</sup>.

In the energy sector, except for refined products (16%), the US share of Chinese imports was less than 5% in 2017, and the risk to displace traditional suppliers of China is much smaller than in manufacturing and agriculture<sup>116</sup>. The IMF considers that the United States and China will have difficulty eliminating their trade imbalance through Chinese trade commitments. A 400% increase in US exports of aircraft, machinery and agricultural products to China would lead to US\$200 bn in exports, which would still not, by far, erase the trade deficit and seems unrealistic in the short term<sup>117</sup>.

Thus far, the objectives of the phase one trade agreement are far from being met. Between January and June 2020, US exports to China fell (-4.6%) as well as US imports from China (-17.1%) and the US deficit (-21%) with China<sup>118</sup>. US exports continued to be hampered, not only by the additional tariffs, but also by the severe impact of the pandemic COVID-19 on the Chinese economy.

The trade relationship between the United States and China is comprehensive, deep and very extensive. The trade rebalancing should have not only focused on Chinese imports from the United States, but also taken into account the foreign content of Chinese exports to the United States. The increasing integration of China into the global economy implies a constant search for efficiency and cost reduction. China is thus part of value chains and its manufactured exports to the United States indirectly embody exports from other Asian countries and partners from all around the world, including the United States. In addition, the subsidiaries of

<sup>115</sup> *Ibid.*

<sup>116</sup> *Ibid.*

<sup>117</sup> *Ibid.*

<sup>118</sup> Source: Foreign Trade, *Trade in Goods with China*, United States Census Bureau. Available on line: <https://www.census.gov/foreign-trade/balance/c5700.html>, accessed 23/06/20.

US multinationals realize a large turnover in China estimated at US\$376 bn in 2017<sup>119</sup>. Total sales of US firms to China amounted to US\$505 bn, only 11 % less than Chinese sales to the United States. According the Federal Reserve Bank of New York, US firms have absorbed most of the extra-tariffs, uncertainty and expected lower profits have led to a US\$1.7 trillion fall in market capitalization, and investment growth declined by 0.3 % in 2019 and should pursue this trend in 2020 (-1.9 %)<sup>120</sup>.

The confrontational climate between the United States and China has been aggravated with US accusations to China for its presumed responsibility on the COVID-19 crisis and its spread around the world. The COVID-19 Accountability Act was introduced on May 13, 2020 in the House of Representatives and in the Senate to require the President to take several actions and report back within 60 days<sup>121</sup>.

The main objective of the bill is to undertake a thorough investigation on the outbreak of the pandemics in China. Provisions also refer to the closure of wet markets in China, which may constitute a danger for health, the release of pro-democracy activists in Hong Kong arrested post COVID-19 and the regranting of an observer status for Taiwan at the World Health Organization. The Food and Drug Administration should be empowered to investigate the Chinese pharmaceutical industry. If China's cooperation is not satisfactory, the President may take various sanctions including assets freeze, travel bans, visa revocations, restrictions on loans to China's businesses and prohibition for Chinese firms to be listed on US stock exchanges. The Chinese Foreign Ministry

<sup>119</sup> Mary Amiti, Sang Hoon Kong, and David E. Weinstein: «The Investment Cost of the U.S.-China Trade War», *Street Economics*, Federal Reserve Bank of New York Liberty, May 28, 2020. Available on line: <https://libertystreeteconomics.newyorkfed.org/2020/05/the-investment-cost-of-the-us-china-trade-war.html>, accessed 9/06/20.

<sup>120</sup> *Ibid.*

<sup>121</sup> Source: Marshall introduced COVID-19 Accountability Act, *Media Release* 18/05/20. Available on line: <https://marshall.house.gov/media/press-releases/marshall-introduces-covid-19-accountability-act>, accessed 21/05/20.

has responded vigorously stating that the presumption of guilt was not only irresponsible but immoral<sup>122</sup>. This new development does not contribute to building confidence between the business communities of the two countries. Moreover, these circumstances will maintain a climate of uncertainty for business regarding the trade regime and new tariffs.

#### 4.1.2 Intellectual property

The Agreement devotes a significant part to intellectual property in conjunction with a WTO panel on technology transfer temporarily suspended by the United States. The main concerns of the United States were presented in a detailed report published in March 2018 by the United States Trade Representative<sup>123</sup>. Progress could be achieved in several key areas.

First, China agreed to strengthen disciplines to protect trade secrets and confidential business information. This implies effective enforcement against misappropriation of such information (art. 1.2) encompassing all methods of trade secret theft including electronic intrusions, breach of duty not to disclose information that is secret, and unauthorized disclosure. In civil proceedings, China has agreed to shift the burden of proof to the accused party to show that it did not misappropriate a trade secret. China shall take provisional measures to prevent the use of trade secrets, and provide its judicial authorities the competence to grant preliminary injunction based on specific facts. China shall provide for the application of criminal procedures and penalties. Government personnel should also be prohibited from disclosing trade secrets or confidential business information.

<sup>122</sup> *Global Times*, US accountability act against China immoral and irresponsible, 13/05/20. Available on line: <https://www.globaltimes.cn/content/1188265.shtml>, accessed 21/05/20.

<sup>123</sup> United States Trade Representative, *Findings of the Investigation into China's Acts, Policies and Practices Related to Technology Transfer, Intellectual Property and Innovation under Section 301 of the Trade Act of 1994*, Washington. Available on line: <https://ustr.gov/sites/default/files/Section%20301%20FINAL.PDF>, accessed 26/06/20.

Second, the Agreement seeks progress on the effective protection and the enforcement of pharmaceutical-related intellectual property rights. Emphasis is put on allowing a patent holder, licensee or holder of market approval to seek, prior to the marketing approval of an allegedly infringing product, civil judicial proceedings and rapid remedies (art. 1.11, 2).

Third, China shall provide patent term extensions to compensate for long delays that occur on granting a patent or marketing approvals (art. 1.12).

Fourth, China shall act against piracy and counterfeiting on e-platforms. China shall require quick take down of the information and extend to twenty working days the deadline for right holders to file a judicial or administrative complaint. Major e-commerce platforms shall take measures against infringement of intellectual property rights.

Fifth, the Agreement devotes a section on the manufacture and export of pirated and counterfeit goods, an area of major interest to Swiss industry. A specific emphasis is put on counterfeit medicines. China shall publish online annually information covering seizures, revocation of business licences, and actions of competent administrations (section G, art. 1.17). Specific action shall be taken to stop manufacturing and distribution of counterfeit medicines with a significant impact on public health and safety (art. 1.19). Provisions are foreseen for the destruction of counterfeit goods with respect to border measures and civil judicial procedures. A good shall not be released for sale with the simple removal of a counterfeit trademark. China shall increase personal at the border to inspect and seize counterfeit and pirated goods (art. 1.22). The same section of the Agreement provides that governments and their entities shall use only licensed software (art. 1.23) and that bad faith trademarks registration shall not be allowed (art. 1.24).

Sixth, the Agreement foresees several measures to strengthen judicial enforcement and procedure in intellectual property cases. Administration authorities shall transfer cases for criminal

enforcement, if there is a reasonable suspicion that a violation of intellectual property rights has occurred. Civil remedies and criminal penalties shall be sufficient to deter future intellectual property theft or infringement. China shall increase the sanctions and the fines. The enforcement of copyrights and related rights shall also be strengthened; for instance, the accused infringer shall have the burden of proof and demonstrate that the use of a work is authorized.

Seventh, the Agreement addresses forced technology transfer. It shall not occur and technology transfer shall be based on market terms (art. 2.1). Technology transfer should not be a condition for market access or approving administrative or licensing requirements. Processes shall be fair, transparent, impartial, and non-discriminatory (art. 2.4, 1).

Similar to the WTO Accession Protocol, China undertakes numerous commitments, which require detailed implementing measures throughout the country and also significant resources. In 2001, it was clear to WTO Members that China would need a fairly long time to fulfil the obligations on intellectual property in its Accession Protocol and in the Working Party Report. The same could be true with respect to the intellectual property chapter of the US-China Agreement.

#### 4.1.3 Financial services

The Agreement further opens China's market for the US financial industry in several areas:

First, subsidiaries of US financial institutions providing security investment fund custody services shall benefit from an easing of the conditions to meet asset requirements (art. 4.2, 2).

Second, US financial institutions applying to serve as Type-A lead underwriters for non-financial debt instruments shall be evaluated on the basis of US institutions international qualifications (art. 4.2, 3).

Third, applications for bank card clearing institutions by US suppliers such as Mastercard or Visa or to operate as a wholly-owned foreign subsidiary shall be accepted rapidly (5 days) and settled within 90 days (art. 4.4).

Fourth, any pending US license application to provide credit rating services on domestic bonds shall be reviewed for approval and majority ownership shall be allowed in existing joint-ventures (art. 4.3).

Fifth, the acquisition of non-performing loans should be allowed directly from China's banks at the provincial level and at the national level, once the scheme will be established, on a non-discriminatory basis with Chinese firms (art. 4.5).

Sixth, the foreign equity cap in the life, pension and health insurance sectors shall be removed for US firms, wholly US-owned firms shall participate in these sectors, and any scope limitations, discriminatory regulations and burdensome licensing shall be phased out.

Seventh, foreign equity limits shall be abolished for securities, fund management and futures services, and US firms shall offer the same scope of services as Chinese financial services suppliers.

Eighth, existing licenses may be kept by US-invested securities firms when they become US controlled, US majority-owned or wholly US-owned securities companies (art. 4.7, al.4).

Ninth, investments in shares of mainland China, traded on the Hong Kong stock exchange, are allowed for US-owned private fund managers, who also may get approval to provide investment advisory services (art. 4.7, al. 5).

In financial services, China confirmed liberalization steps previously announced or already implemented with the aim to increase

competitiveness<sup>124</sup>. It is a limited opening qualified by the Central Bank as reflecting «the orderly, broad progress in opening up financial services on our own initiative and will strengthen our financial system's competitiveness and resilience<sup>125</sup>.» According to Vice Premier Lu, «other countries should receive the same standard of treatment as granted to the US under the phase one agreement.» The following Box shows that market opening was already under way for some US as well as some European firms.

## Box 2. China: Market Opening in Financial Services

- Securities fund custodian services: Standard Chartered received a licence in October 2018.
- Type-A lead underwriting: BNP Paribas and Deutsche Bank were granted a license in September 2019.
- Credit rating: Standard & Poor's had obtained a license.
- Securities: JP Morgan had been approved for a majority ownership and was awaiting approval for a 51% participation in a China venture.
- Futures: Union Bank of Switzerland fully owned a business since 2016.
- Insurance: Allianz was granted an approval for wholly foreign-owned unit in November 2019.
- Payments/bank card clearing: PayPal got an approval for a 70% participation, and Mastercard and American Express had approval to set up joint ventures.
- Purchase of non-performing loans: many foreign firms operate already with provincial licenses.

Source: Martin Chorzempa: "Did the US-China phase one deal deliver a win for US financial services?" Trade and Investment Policy Watch, Peterson Institute for International Economics, Washington, 27/01/20, Elaboration by the author.

<sup>124</sup> Martin Chorzempa: «Did the US-China phase one deal deliver a win for US financial services?», *Investment Policy Watch*, Peterson Institute for International Economics, Washington, 27/01/20. Available on line: <https://www.piie.com/blogs/trade-and-investment-policy-watch/did-us-china-phase-one-deal-deliver-win-us-financial>, accessed 21/05/20.

<sup>125</sup> *Ibid.*

The phase one agreement is likely to set market opening in financial services on a broad basis. In each area, technical barriers may delay the granting of licenses and could represent big hurdles. The processes will need to be closely monitored. Reforms are being consolidated and moving in the right direction. A comprehensive financial integration in the world economy will still require to eliminate significant obstacles such as capital controls, and restrictive practices on data flows and data localization.

#### 4.1.4 Macroeconomic policies and exchange rate matters

On macroeconomic policies and exchange rate matters, the United States and China emphasize the importance of sound fundamentals, avoiding unsustainable external imbalances, and refraining from competitive devaluations and the targeting of exchange rates for competitive purposes (art. 5.1) including “through large scale, persistent, one-sided intervention in exchange markets” (art. 5.2, 3). Currency manipulation should be avoided and the exchange rate should be determined by the market (art. 5.2, 2). Both countries will cooperate closely, exchange information and deal with any unsolved issue under the Bilateral Evaluation and Dispute Resolution Arrangement established under Chapter 7 of the Agreement. If they are unable to reach an agreement, they may request the IMF to undertake rigorous surveillance of the macroeconomic and exchange rate policies or to initiate consultations (art. 5.4, 2). By accepting currency issues under the dispute settlement mechanism of the Economic and Trade Agreement, China exposed itself to the risk of US tariff measures to respond to a depreciation of the renminbi (RMB). This could lead to a new trade war and the denunciation of the agreement by China<sup>126</sup>.

<sup>126</sup> Jeffrey J. Schott: «The US-China currency deal will provoke new trade tensions», *Trade and Investment Policy Watch*, Peterson Institute for International Economics, Washington, 07/02/20. Available on line: <https://www.piie.com/blogs/trade-and-investment-policy-watch/us-china-currency-deal-will-provoke-new-trade-tensions>, accessed 22/05/20.

Currency issues are very sensitive because they may provide a competitive advantage to one partner by lowering the price of exports and increasing the price of imports. Since 2016, the US Treasury has included China in the monitoring list of its biannual Report on macroeconomic and foreign exchange policies of the major US partners, although China met only one - significant trade surplus with the United States - of three criteria<sup>127</sup>. China has remained on the Report because its trade surplus with the United States is a disproportionate share of the US deficit<sup>128</sup>. In August 2019, Treasury determined - for the first time since 1994 - that China was a currency manipulator under Section 3004 of the Omnibus Trade and Competitiveness Act of 1988.

Over the summer, China had taken steps to devalue the RMB to gain unfair competitive advantage in international trade while maintaining substantial foreign exchange reserves<sup>129</sup>. The RMB reached its lowest level toward the US dollar in eleven years and the lowest level on a trade-weighted basis since 2014<sup>130</sup>. This important issue was dealt with under Chapter 5 of the Economic and Trade Agreement with enforceable commitments related to China's obligations under the IMF and the G-20 to avoid competitive devaluation and currency manipulation. On that basis, and following an appreciation of the RMB, the US Treasury removed China from the status of currency manipulator on January 13, 2020, but kept the country on the Monitoring List<sup>131</sup>.

<sup>127</sup> The other two criteria are: current account surplus (>2% of GDP) and foreign exchange interventions by Central Banks (>2% of GDP).

<sup>128</sup> U.S. Department of the Treasury, *Report to Congress. Macroeconomic and Foreign Exchange Policies of Major Trading Partners of the United States*, Washington, May 2019, p. 41. Available on line: <https://home.treasury.gov/system/files/206/2019-05-28-May-2019-FX-Report.pdf>, accessed 22/05/20.

<sup>129</sup> U.S. Department of the Treasury, *Report to Congress. Macroeconomic and Foreign Exchange Policies of Major Trading Partners of the United States*, Washington, January 2020, p. 1. Available on line: <https://home.treasury.gov/system/files/136/20200113-Jan-2020-FX-Report-FINAL.pdf>, accessed 22/05/20.

<sup>130</sup> *Ibid*, p. 4.

<sup>131</sup> Jeffrey J. Schott: «The US-China currency deal will provoke new trade tensions», *op. cit.* Peterson Institute for International Economics, Washington.

It might be interesting to briefly highlight the delicate situation of Switzerland in the context of the three criteria of the US Treasury. Switzerland has been on the Treasury Monitoring List since October 2016 except in the May 2019 Report. Switzerland always meets the current account criterion with a surplus of around 10 % of GDP, and either the criterion of trade surplus or that of intervention on the foreign exchange markets to limit the appreciation of the Swiss franc. The latter aims at avoiding an overvaluation of the Swiss franc endangering Swiss industry and deflationary pressures. The IMF has recognized the particular situation of Switzerland in various Article IV Consultation Reports. The status of the Swiss franc as a reserve, safe-haven and private investment currency leads to strong pressures on the exchange rate in situations, where international uncertainty prevails. Foreign exchange interventions have led to large reserves of the Swiss National Bank, which amounted to 115 % of GDP in 2019<sup>132</sup>. In its latest Article IV Report, the IMF notes that « 85 % of foreign exchange acquisitions occurred during severe risks episodes...the Swiss National Bank's actions allowed the real exchange rate to appreciate in line with its long-term trend<sup>133</sup>. »

Between June 2017 and June 2019, foreign exchange operations of the SNB were modest<sup>134</sup>. The situation changed drastically in early 2020 with the coronavirus crisis and the world recession. According to estimates from the Union Bank of Switzerland<sup>135</sup>, SNB's interventions amounted to 10.5 % of GDP from June 2019 to June 2020. However, the renewed actions of the SNB should be supported by the IMF as they are reserved to respond to « large

<sup>132</sup> International Monetary Fund, *Switzerland 2019 Article IV Consultation, IMF Country Report No. 19/280*, Washington, June 2019, p. 9. Available on line: <https://www.imf.org/en/Publications/CR/Issues/2019/06/26/Switzerland-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-47033>, accessed 22/07/20.

<sup>133</sup> *Ibid.*, p. 12.

<sup>134</sup> *Ibid.*, p. 13.

<sup>135</sup> Investtrends.ch, Schweiz: Ein Währungsmanipulator? July 22, 2020. Available on line: <https://investtrends.ch/aktuell/opinion/schweiz-ein-waehrungsmanipulator/>, accessed 22/07/20.

safe-haven pressures that would otherwise cause excessive volatility in inflation and output, but while preserving the trend appreciation<sup>136</sup>. »

SNB's interventions, a trade surplus of US\$43 bn from May 2019 to May 2020 and a current account surplus of 11.2 % of GDP over the past four quarters mean that Switzerland meets all three US Treasury criteria for currency manipulation. The US Treasury should enter into discussions with Switzerland, which will have to demonstrate that its interventions on the foreign exchange markets are not a trade policy instrument and do not aim at strengthening competitiveness.

Switzerland will also have to emphasize that it fulfils the US Treasury current account surplus criterion on the basis of significant distortions<sup>137</sup>. For example, the very high level of foreign direct investment by companies established in Switzerland contributes, through the reinvestment of their earnings abroad, to the export of capital, even if these companies are mainly owned by foreign investors. Therefore, these capital exports should not be attributed to the Swiss current account balance but to that of the foreign investors'. The revenue figures are also very strongly influenced by interests and dividends, earned on foreign investments abroad by large multinational enterprises, owned mainly by non-Swiss nationals, and by commodity trading, an activity that has experienced significant growth in recent years, and which generates very large revenues, even if the goods do not enter Swiss customs territory.

<sup>136</sup> International Monetary Fund, *Switzerland 2019 Article IV Consultation, IMF Country Report No. 19/280*, June 2019, *op.cit.* p. 13.

<sup>137</sup> See, Thomas Jordan, *High Swiss current account surplus: consequences for SNB monetary policy?* University of Basel, Faculty of Business and Economics, Basel, 17/11/17. Available on line: [https://www.snb.ch/en/mmr/speeches/id/ref\\_20171123\\_tjn](https://www.snb.ch/en/mmr/speeches/id/ref_20171123_tjn), accessed 23/07/20.

## 4.2. The challenges of the US strategy

In 2019, US imports of goods from China decreased by US\$87.6 bn, while they increased by US\$47.4 bn<sup>138</sup> from the rest of the world. Commodities did not push up imports as their prices eased on average by 10.6 %<sup>139</sup>. A few countries benefited from the US-China trade war by increasing significantly their exports to the United States; among them, Vietnam (+ US\$17.4 bn), Mexico (+ US\$13.7 bn) and Taiwan (+ US\$8.5 bn) established new historical landmarks. Unsurprisingly, the trade conflict did not lead to a substantial decline of the US trade deficit, which only fell by US\$17.6 bn. The resilience of the trade deficit may be explained with a fall of US exports by US\$22.5 bn, partly due to the trade war and the strength of domestic demand in an economy still recently characterized by near-full employment and the lowest unemployment rate in 50 years.

The United States has weakened the Chinese economy. The trade war has had an impact on Chinese growth, confidence and attractiveness to foreign investors. Furthermore, the additional duties have affected the profitability of exporters, who have not been able to pass them on entirely to US importers. China could nevertheless offset the loss of sales to the United States by increasing exports to other partners and set a new record for world exports with US\$2,498 bn (+ 4 bn).

### 4.2.1 Phase One Agreement

The US objective of reducing its trade deficit, by choosing as a target its partner with which it had the largest deficit, seems to be doomed to failure. On the one hand, at the level of production, the United States has not the capacity to replace a very large

<sup>138</sup> Source: U.S. Department of Commerce, U.S. Census Bureau, *Foreign Trade*, Washington. Available on line: <https://www.census.gov/foreign-trade/balance/c5820.html>, accessed 17/06/20.

<sup>139</sup> International Monetary Fund, *IMF Primary Commodity Prices, Indices of Primary Commodity Prices, 2009-2019*. Available on line: <https://www.imf.org/en/Research/commodity-prices>, accessed 19/06/20.

part of the Chinese imports subject to additional customs duties. As a result, US importers look for alternative suppliers worldwide or make arrangements with Chinese exporters to share the additional duties. On the other hand, demand in China has decreased due to the coronavirus crisis as economic growth is expected to fall from 6.2 % in 2019 to 1.2 % in 2020.

The difficulty for China to increase its imports from the United States has been confirmed during the first eight months of 2020 with results well below target for all covered products (47 % of expected US exports), manufactured products (58 %), agricultural products (39 %), and energy goods (24 %)<sup>140</sup>. According to Robert B. Zoellick, former United States Trade Representative (2001-05) and former President of the World Bank (2007-12), the goals were unrealistic from the beginning and have now become a fantasy with the significant decline of China's economic growth linked to the coronavirus pandemic<sup>141</sup>.

Nearly 200 organizations representing US farmers have written a letter to President D. Trump in June urging him to put pressure on China to increase its imports of US agricultural products<sup>142</sup>. China has failed to meet its obligations under the Phase One Economic and Trade Agreement to bring its regulatory system for agricultural biotechnology in conformity with international standards, to import US rice and to comply with a WTO panel's recommendations on the in-quota tariff and subsidy regime for rice. Although China has made some tariff exemptions, they remain largely insufficient as retaliatory tariffs, particularly for

<sup>140</sup> Chad P. Bown: «US-China phase one tracker: China's purchases of US goods as of April 2020», *PIIE Charts*, Peterson Institute for International Economics, 04/06/20. Available on line: <https://www.piie.com/research/piie-charts/us-china-phase-one-tracker-chinas-purchases-us-goods>, accessed 22/06/20.

<sup>141</sup> Webinar, What future for the global trading system? Anabel Gonzáles, Pascal Lamy, Robert B. Zoellick, Peterson Institute for International Economics, *Trade Winds*, 17/06/20. Available on line: <https://www.piie.com/events/what-future-global-trading-system>, accessed 23/06/20.

<sup>142</sup> Source: *Inside US Trade*, 19/06/20.



dairy products, make US products uncompetitive. China's import objectives for agricultural and manufactured products are very unlikely to be met for the following reasons:

First, it would require significant increases in production from US farmers and US industry. Purchases of inputs such as seeds and fertilizers and investments in additional machinery, and expansion of production capacity by industry may only take place with sound export perspectives in a growing market.

Second, despite the fact that China may face sanctions under the Agreement for not fulfilling the trade targets, the establishment of relationships with new suppliers may take time and requires trust both at the business and government policy levels.

Third, China may hesitate to break relations with suppliers and look for new ones in the United States, and wait for the results of the next US presidential elections in November 2020.

Fourth, most US imports face additional tariffs making them very unattractive for China's private sector. On agriculture, China's tariffs average 41.5 % on US imports and 16.4 % on imports from the rest of the world. The difference is also substantial for manufacturing (16.0 %<sup>143</sup>; 5.2 %), energy (18.1 %; 1.3 %) and goods uncovered by the Agreement (18.4 %; 5.7 %)<sup>144</sup>.

Fifth, a significant part of US exports to China (39 %; US\$ 51 bn, 2017) are not covered by the managed part of the agreement. China will have no incentive to purchase more of these products, and to reduce thereby the US trade deficit.

<sup>143</sup> Pharmaceuticals, vehicles, aircrafts are exempted from the tariff increases.

<sup>144</sup> A detailed analysis including major agricultural products and industries has been conducted by Chad P. Bown, Mary E. Lovely: « Trump's phase one deal relies on China's state-owned enterprises », *Policy Brief*, Peterson Institute for International Economics, Washington, 03/03/20. Available on line: <https://www.piie.com/blogs/trade-and-investment-policy-watch/trumps-phase-one-deal-relies-chinas-state-owned-enterprises>, accessed 20/05/20.

Sixth, China's state-owned firms account only for 26 % of China's imports from the world. They are not a substitute for the private sector and could not meet the import targets, even if the government would force them to do so<sup>145</sup>.

Seventh, China's reduction of extra-tariffs from 15 % to 7.5 % on US\$122 bn trade and exemptions for 696 products will not be sufficient to rebalance trade.

Eighth, US soybeans exports to China decreased from US\$12 bn in 2017 to US\$5 bn 2019. A recovery is not foreseen due to the African swine flu, which had a big impact on the number of swines (-40 %) and the demand for soybeans as a feed. The 25 % extra-tariff on US agricultural products will continue to affect negatively US prospects for regaining market shares on the Chinese market.

This does not mean that despite all its tensions with the United States, China is not making efforts to fulfil its obligations. There are positive signs. During the first months of 2020, the United States noted progress for exports of blueberries and California Hass avocados. China expanded its lists of US producers and processors eligible to export beef, pork, poultry, seafood, dairy and infant formula. US exports of dairy permeate powder was also made possible as China adopted a new standard in May. However, this remains largely insufficient to meet the very high targets of the Agreement.

On intellectual property, China's commitments are also very ambitious. China will have to modify legal directives, adapt judicial and administrative guidelines, issue new penalties, educate the population through campaigns, and train personal. China will have to fundamentally change its approach toward the protection of intellectual property and adapt its structures accordingly. Certain measures should be relatively easy to implement, such as for

<sup>145</sup> *Ibid.*

example patent term extensions to compensate for long delays that occur on granting a patent or marketing approvals or provisions for technology transfer.

Other measures, such as the fight against counterfeiting, will require considerable efforts and resources. The Swiss watch industry has experienced the complexity and the challenges of a close cooperation with the authorities in various emerging economies to seize recently produced counterfeit watches on production sites or at the border. Cooperation with judicial and administrative authorities as well as the police, under strict confidentiality and time pressure, has been difficult to achieve. Switzerland will be a major beneficiary of these measures and would certainly support them with technical cooperation.

The US-China trade agreement will only deliver results in this field provided a detailed calendar of verifiable actions is established and put into force with close monitoring. The task is huge. The measures will face domestic resistance and it will take time to achieve progress.

With regard to macroeconomic and exchange rate policies, and the opening of financial markets, China should be able to fulfil its commitments. They are part of well-established policy objectives.

#### 4.2.2 Phase Two Agreement

The United States and China plan to negotiate a second phase of their Economic and Trade Agreement. This should lead to the elimination of additional import duties on both sides and to an end to the trade war. The success of the negotiations will depend on the extent to which China will make significant commitments and undertake the reforms necessary to move toward a market economy. The main issues are deep-seated. They refer to competition, state-owned enterprises (SOEs), subsidies and China's ambition to become the most technologically advanced nation in the world.

The IMF notes that one third of SOEs are making losses and that their growing dominance should be reversed<sup>146</sup>. As of June 2018, their average return on assets was 3.9% compared to 9.9% for private firms. Holding 28% of industrial assets, they made only 18% of the profits. At the end of 2017, their debts reached 120% of GDP<sup>147</sup>. SOEs are active in key industries – defense, electricity, oil and gas, telecom, coal, shipping, aviation, and rail – in pillar industries – auto, chemicals, construction, electronics, equipment manufacturing, nonferrous metals, prospecting, steel, and technology – and in other areas such as pharmaceuticals, real estate, tourism, investment, professional services, general trade and general manufacturing, and in agriculture. SOEs should be subject to reforms with the introduction of mixed ownership, acquisitions and mergers, and changes in forms of government control.

The IMF recognizes that changes are needed to improve productivity and to make China more open, particularly in the areas of services and investment. These objectives are ambitious, will take a long time, and will need to be implemented with social measures to compensate for job losses.

China's partners, including Switzerland, are concerned about the new directions emerging from the 19th National Congress of the Communist Party of China (2017), which mark a brake on openness. A new guiding ideology, «Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era», was inserted into the party's Constitution. Reforms will aim at introducing corporate governance and at the institutionalisation of the Party Leadership.

The government is no longer willing to consider privatising the SOEs, but wants to keep them under the cover of state capitalism. This means that despite the fact that forty-eight of them are in the Fortune 500, they will continue to operate outside the market

<sup>146</sup> IMF, *China Art. IV Consultation Report, 2019, op. cit.*

<sup>147</sup> Zoe Ye Zhang: «China's SOE Reforms: What the Latest Round of Reforms Mean for the Markets», *China Briefing Forum*, Dezan Shira & Associates, 29/05/19. Available on line: <https://www.china-briefing.com/news/chinas-soe-reform-process/>, accessed 23/06/20.

economy and to benefit from the competitive advantages conferred by their status. The Chinese authorities want to maintain political control in all sectors and decision-making areas. China seeks to make firms «stronger, better, and bigger», so that they become «world-class, globally competitive firms<sup>148</sup>.»

Pascal Lamy<sup>149</sup>, former Director-General of the WTO, shares the US view that China has not fulfilled the expectations upon WTO accession to transform its economy into a market economy. The financial crisis of 2008, the fall of the Chinese stock market in 2015, the nationalist overtones of President Xi Jinping and his grip on power have created a new situation. The share of state-owned enterprises in the Chinese economy (30 %) does not correspond to a market economy where it is around 5 %. This results in significant distortions that can no longer be ignored today given China's size and presence on world markets. According to Pascal Lamy, the period of convergence is over and the European Union has to find a way to coexist with China by establishing strict rules for state aids.

The United States criticises<sup>150</sup> China for lack of transparency by notifying its subsidies to the WTO Subsidies Committee for the first time nearly five years late in 2006. The United States has had in subsequent years to insist that China also included subsidies granted at provincial and local levels, and to specific industries. Dissatisfied with China's notifications, the United States carried out its own investigations and presented a first counter notification in 2011 with more than 200 unreported subsidies. Finally, in 2016, China submitted a list to the WTO including some

<sup>148</sup> *Ibid.*

<sup>149</sup> Webinar, What future for the global trading system? Anabel Gonz ales, Pascal Lamy, Robert B. Zoellick, *Trade Winds*, *op.cit.*, 17/06/20.

<sup>150</sup> United States Trade Representative, *2017 Report to Congress on China's WTO Compliance*, Washington, January 2018. Available on line: <https://ustr.gov/sites/default/files/files/Press/Reports/China%202017%20WTO%20Report.pdf>, accessed 24/06/20.

sub-central subsidy programs, but far from containing all subsidies. The United States has filed several counter notifications with more than 500 subsidy measures and continues to identify new ones.

The European Union is no longer prepared to accept subsidies from China. In June 2020, the European Commission initiated proceedings against two Egyptian subsidiaries of Chinese firms exporting to the European Union glass fibers, originally purchased in China, on suspicion of having obtained subsidies from the Chinese and Egyptian governments. These firms are established in the China-Egypt Suez Economic and Trade Cooperation Zone, which is part of China's "Belt and Road" initiative. This is the first time that the European Union has taken such action against an exporting country, citing China as the country of subsidization<sup>151</sup>.

The European Commission is preparing a White Paper on the issue of foreign subsidies<sup>152</sup>. The aim is to remedy their distorting effects on the internal market by developing an appropriate instrument and strengthening global rules in the WTO framework. For EU industry, which represents 20 % of the EU economy, and is highly integrated into global value chains, fair competition on a global scale is essential.

State-owned enterprises are not only beneficiaries of subsidies but also at the heart of the Made in China (MIC) 2025 strategy. The latter aims first to upgrade manufacturing capacity within ten years (2025), second to be able to compete with the best performing developed countries, and third to become a world leader in the manufacturing sector (2049). The plan focuses on strategic industries including information technology, robotics, green energy and

<sup>151</sup> This case refers to Jushi Egypt for Fiberglass Industry SAE and Hengshi Egypt Fiberglass Fabrics SAE. They are the subsidiaries of China Jushi Co. and Zhejiang Hengshi Fiberglass Fabrics Co.

<sup>152</sup> European Commission, *A new industrial strategy for Europe, Communication from the European Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions*, Com (2020) 102 final, Brussels, 10/03/20. Available on line: [https://ec.europa.eu/info/sites/info/files/communication-eu-industrial-strategy-march-2020\\_en.pdf](https://ec.europa.eu/info/sites/info/files/communication-eu-industrial-strategy-march-2020_en.pdf), accessed 29/06/20.

green vehicles, aerospace equipment, ocean engineering and high-tech ships, railway equipment, power equipment, new materials, medicine and medical devices, and agriculture machinery.

Like many emerging economies, China is facing the so-called middle-income trap. The issue refers to how can a middle-income country resolutely increase per capita income and get closer to that of the industrialized countries. The solution has one essential element, the country must increase its productivity level. Achievement has so far been very difficult in the world. A strategy must be developed to move from the current intermediate level of technology to a higher one. Substantial resources are required to improve technical education, facilitate access to the most advanced technologies, deepen research and development, and promote innovation. To this end, Chinese firms have been very active since 2015 through acquisition of high-tech companies in industrialized countries and forced technology transfers.

The high-tech sectors are currently dominated by foreign firms in China. Its authorities want to increase the domestic value added of key components and basic materials to 40% in 2020 and 70% in 2025. This could have a major impact on its suppliers from the Republic of Korea, Japan, Germany and the United States and could violate WTO rules on quantitative restrictions. MIC 2025 builds on the successful industrial policy strategies of Germany and Japan. China is also inspired by the German «industry 4.0» strategy aimed at improving productivity by combining artificial intelligence, robots, sensors and the internet.

For China, it is about strengthening its economic and technological competitiveness and becoming the most powerful world economy. China's main competitors see this development as a real danger. In the United States, the Foreign Relations Council think tank considers that MIC 2025 is «real existential threat to U.S. technological leadership<sup>153</sup>.»

<sup>153</sup> Wikipedia, Made in China 2025. Available on line: [https://en.wikipedia.org/wiki/Made\\_in\\_China\\_2025](https://en.wikipedia.org/wiki/Made_in_China_2025), accessed 26/06/20.

China's position today no longer corresponds by far to that of a developing country, given that the share of high technology in industrial value-added is equal to that of Belgium or Spain<sup>154</sup>. China has clearly stated its ambitions and is now engaged with the United States in a struggle for technological supremacy from the second half of the twenty-first century onward.

The fierce competition between the two economic powers is illustrated in the field of telecommunications. The Chinese state-owned firm Huawei has taken the lead in successfully developing 5G technology. 5G aims to connect up to one million devices per square kilometer, ten times more than 4G and 100 times faster than 4G. 5G will become an essential element in the competitiveness of companies and nations. Huawei is already developing 6G with considerable financial means. In this area, China has become a strategic rival to the United States<sup>155</sup>.

In order to restrain Huawei, the United States has imposed restrictions on the supply of sophisticated semi-conductors for its 5G network. The United States has not only curbed sales of microchips produced in the US but also sales of microchips produced abroad with US designs or US-made equipment. The United States has tried to dissuade several countries from selecting Huawei's technology for national security reasons.

The United States, the European Union and Japan are willing to fight the technology battle, but not against an economic power that forces technology transfer, does not respect intellectual property rights, and that constantly seeks to gain new market shares

<sup>154</sup> IMF, *China Art. IV Consultation Report, 2019, op.cit.*, p. 13.

<sup>155</sup> Jean Zwahlen: La 5G Une révolution technologique, ses implications géopolitiques, ses défis stratégiques pour l'UE et la Suisse dans *Multilatéralisme: Crises et Perspectives, Collection Débats et Documents no. 17, Fondation Jean Monnet pour l'Europe, Lausanne, Juillet 2020*. Available on line: <https://jean-monnet.ch/wp-content/uploads/2020/07/20-07-multilateralisme-crisis-perspectives-cdd-17.pdf>, accessed 16/07/20.

through unfair competition. China's global expansion is no longer acceptable following the revocation of convergence with the market economy.

Given that China continues to exert strong pressure on the manufacturing industries of many countries and that its economy is still not in line with market principles, OECD members should identify the distortions in China that give it unfair competitive advantages in international markets and engage together in negotiations. China has achieved a globally recognized level of industrial performance and competitiveness, and needs to work on extending market mechanisms to its entire economy. The large number of SOEs and the social consequences of reforms will involve a gradual process with the assistance and understanding of China's main partners.

Since it should not be conceivable to carry out such reforms in a short period of time, the trade war between the United States and China could continue for several more years without any change in US policy. Globalisation has brought economies closer together and opened up large markets in which a level playing field with the same basic rules is essential. Who could accept to play a tennis or a football match with more lenient rules for his opponent and still hope to win?

## 5. Comparison of the China-Swiss FTA with other FTAs of China

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This chapter briefly highlights the key features of China's main FTAs in order to better assess the level of trade liberalization in the China-Swiss FTA. Emphasis is placed on the degree of liberalization for goods, the additional market access granted for services, the specific provisions complementing the WTO agreements in areas such as technical barriers to trade, sanitary and phytosanitary measures, intellectual property and government procurement.

The FTAs reviewed include two industrial countries (Australia, New Zealand), two Asian countries (Republic of Korea, Singapore) and two Latin American countries (Chile and Costa Rica). Each of these economies has particular characteristics, which have had an impact on the degree of trade liberalization and the areas covered by the respective FTAs.

### 5.1. China-Australia<sup>156</sup>

The free trade agreement between China and Australia has come into force on December 20, 2015 and will be fully implemented on June 1, 2029. It strengthens the Bilateral Strategic Partnership and includes Memoranda of Understanding covering investment facilitation, and, work and holiday visa.

China-Australia trade relations are dominated by few product categories. Minerals account for 75 % of Chinese imports from Australia, while machinery, textiles and other manufactured

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<sup>156</sup> This section is based on: WTO Secretariat, *Factual Presentation. Free Trade Agreement between Australia and China. (Goods and Services)*, Committee on Regional Trade Agreements, WT/REG369/1.Rev.1, 14/11/16.

products account for 42 %, 12 % and 10 % respectively of Australian imports from China<sup>157</sup>. In 2014, China was the main destination of Australian exports (20.6 %) and the main source of its imports (33.9 %). With respect to China, Australia ranked 7th for Chinese imports (4.9 %) and 12th for Chinese exports (2.1 %).

As with Switzerland (77.3 %), a large share of Chinese imports from Australia were already exempt from MFN duties (71.4 %) when the FTA entered into force (Annex Table 2). The composition differs significantly, with minerals (75 %) and other products (13 %) dominating imports from Australia, and other products (73 %) bearing the largest share with Switzerland. Imports under HS Chapter 98<sup>158</sup> (US\$6.9 bn) were not included by the WTO Secretariat in its analysis, while they were for Switzerland. At the end of the dismantling period, the share of tariff lines (3.2 %) remaining dutiable is much lower and the share of trade volume (4.9 %) remaining dutiable is lower than in the Swiss-Chinese FTA (10.6 % according to Chinese import data; more than 30 % according to Swiss export data).

Food products will continue to be subject to customs duties, the average of which is roughly the same as in the Swiss-Chinese FTA. China grants Australia duty-free tariff-rate quotas, which will increase over time from 30,000 metric tons to 44,324 metric tons for various wool products. For chemicals, liberalization is greater than under the Swiss-Chinese FTA with only three tariff lines still subject to duty. For industrial products, China has retained duties in only five HS sections with Australia, and mainly for pulp and wood products. On the other hand, some reduced duties were maintained in each section with Switzerland, in particular for paper, machinery and watches. While 644 lines remain subject to duties for Swiss exports to China, with an average duty of 16.6 %, this number drops to 263 tariff lines for Australia, with almost the same average duty (16.1 %).

<sup>157</sup> These percentages are an average 2011-2013.

<sup>158</sup> HS Chapter 98 includes special classification provisions for national use.

Australia, in turn, has liberalized all tariff lines for Chinese imports by 2019 (Annex Table 3). This contrasts with Switzerland, which has retained 13.8 % of tariff lines dutiable exclusively for agricultural and food products to protect farmers.

The China-Australia FTA also includes a bilateral safeguard measure to be invoked during the transition period. In addition, China may trigger an agricultural safeguard measure during a period of 15 years for beef and 17 years for milk powder.

In the services area, China has enhanced its GATS commitments in services covering business, telecommunication, construction, environment, banking, insurance, hospitals and human health, sports and recreation, road and air transport. Australia, in turn, has improved or taken new commitments in all categories of services, except financial services. According to the Chinese Ministry of Commerce, both sides achieved high-quality openings in their respective markets and covered many sectors<sup>159</sup>. Market access for corporate investment has also been eased by the lowering of review thresholds contributing thereby to enhanced predictability<sup>160</sup>.

Sanitary and phytosanitary measures as well as technical barriers to trade are also part of the FTA. The Parties reaffirm their commitments under the corresponding WTO agreements, strengthen several aspects to facilitate trade and establish two Committees. The dispute settlement provisions of the FTA do not apply to these two areas.

On intellectual property, the China-Australia FTA is less specific and includes fewer provisions going beyond WTO rules. The two partners reaffirm their rights under the WTO agreement on Trade-Related Aspects of Intellectual Property Rights and other international arrangements to which they are both parties. They

<sup>159</sup> Ministry of Commerce of the PRC, *China, Australia practically conclude free trade agreement*, 19/11/14. Available on line: [http://fta.mofcom.gov.cn/enarticle/enaustralia/enaustrianews/201411/19037\\_1.html](http://fta.mofcom.gov.cn/enarticle/enaustralia/enaustrianews/201411/19037_1.html), accessed 27/01/20.

<sup>160</sup> *Ibid.*

recognize that geographical indications can be protected by a trademark or sui generis system or other legal measures. Cooperation is foreseen for the protection of plant breeders' rights. The protection of genetic resources, traditional knowledge and folklore is also addressed.

Electronic commerce is covered by the FTA, whereby the parties confirm the implementation of international commitments and standards. The dispute settlement mechanism does not apply to that area.

For China, this FTA provides one of the highest levels of liberalization with a broad coverage. It will lead to enhanced cooperation between the business communities of both countries and also strengthen political ties as well as the China-Australia Comprehensive Strategic Partnership<sup>161</sup>.

## 5.2. China-New Zealand<sup>162</sup>

The free trade agreement between China and New Zealand has come into force on October 1, 2008. It is the first FTA negotiated by China with an OECD Member. That year, China was an important trading partner for New Zealand, ranking 2nd for imports (13.3 %) and 4th for exports (5.9 %) of goods. On the other hand, New Zealand accounted for only 0.2 % of China's exports and imports.

As with Australia, trade is highly concentrated in a few product categories. Chinese imports from New Zealand mainly focus on animal products (28 %), wood products (14 %), wood pulp (12 %), textiles (9 %) and food preparations (7 %). In turn, New Zealand's

<sup>161</sup> Ministry of Commerce of the PRC, *Gao Hucheng Visits the Australian Premier Tony Abbott and Delivers the Congratulatory Letter of President Xi Jinping*, 24/06/15. Available on line: [http://fta.mofcom.gov.cn/enarticle/enaustralia/enaustrianews/201506/22315\\_1.html](http://fta.mofcom.gov.cn/enarticle/enaustralia/enaustrianews/201506/22315_1.html), accessed 27/01/20.

<sup>162</sup> This section is based on: WTO Secretariat, *Factual Presentation. Free Trade Agreement between New Zealand and China. (Goods and Services)*, Committee on Regional Trade Agreements, WT/REG266/1, 20/09/10.

imports from China mainly include machinery (35 %), textiles (21 %), miscellaneous products (10 %), base metals (6.5 %) and footwear (4 %).

At the time of entry into force of the FTA, 26 % of Chinese imports from New Zealand were exempt from MFN duties (Annex Table 4). This percentage is much lower than that of Switzerland and Australia, and is related to the strong agricultural orientation of New Zealand's exports. By the end of the transition period, duties averaging 15.6 % will remain on a volume of 12 % of Chinese imports<sup>163</sup>, which is much higher compared to Australia but lower than Switzerland's, according to Swiss export data.

Duties will remain in only seven HS sections covering wood and articles (6 %; 41 tariff lines), pulp and paper (6.7 %; 118), animal or vegetable fats and oils (19.3 %; 19), textiles (38.4 %; 11), food preparation (6; 50 %), chemicals (3; 50 %), and vegetable products (55.8 %; 25). All the other sections of the HS are fully liberalized. The pattern reflects the comparative advantages of New Zealand and China's sensitivities. As with Australia, China has maintained a tariff-rate quota for wool and also MFN tariff-rate quotas for 36 tariff lines referring to wheat, corn, rice, sugar, fertilizer and cotton. New Zealand has fully liberalized its trade with China by 2016 (Annex Table 5).

As in the case of Australia, the FTA foresees the possibility to take safeguard measures to address serious injury or threat thereof during the transition period defined as a three-year period after the entry into force of the Agreement. For products with a liberalization period of 5 years and more, the transition period extends to 2 years after the dismantling of the duties. China has also obtained a special safeguard to be triggered if imports for eleven tariff lines relating to dairy products exceed a specific level. Additional duties can then be levied up to the level of the MFN duty until the end of the calendar year.

<sup>163</sup> This percentage of imports from New Zealand is calculated on the basis of the average of imports between 2005 and 2007.

Regarding services, China has made some improvements in the areas of business, education, environment, air and road transport. New Zealand has enhanced market access for business, construction and education services, and taken a new commitment for environmental services.

For sanitary and phytosanitary measures, the implementation of the WTO Agreement is strengthened with arrangements covering inter alia risk analysis, adaptation to regional conditions, determination of equivalence, and technical assistance. Risk-based verification and import controls, whose results may be shared with non-Parties, are new elements in relation to WTO commitments. A Joint Management Committee shall monitor the application of the SPS chapter.

Likewise, the chapter on technical barriers to trade of the FTA also introduces new elements, although of a programmatic nature only. « Each Party shall give positive consideration to accepting as equivalent, technical regulations of the other Party, even if these regulations differ from its own, provided that those technical regulations produce outcomes that are equivalent to those produced by its own technical regulations in meeting its legitimate objectives and achieving the same level of protection<sup>164</sup>. » In addition, the FTA establishes an Agreement on Cooperation in the field of conformity assessments for electrical and electronic equipment and components with mandatory standards for specified products. Finally, the FTA sets up a joint TBT Committee with a broad mandate to deal with all issues, and fosters cooperation between regulatory authorities, accreditation agencies and conformity assessment bodies.

With regard to intellectual property, the provisions are limited to the parties reaffirming their commitments under the WTO TRIPS Agreement and other multilateral agreements. They set up contact points for notification of new legislation and exchange

<sup>164</sup> *New Zealand – China FTA*, art. 95. Available on line: <https://www.mfat.govt.nz/assets/China/CHAPTER-8-Technical-Barriers-to-Trade.pdf>, accessed 29/01/20.

of information. Consultations leading to dispute procedures may take place on any intellectual property issue; in case of failure to reach an agreement, the dispute settlement mechanism of the FTA or of another agreement, to which both parties are members, may be invoked.

It should be noted that China and New Zealand have significantly improved the FTA in 2019 by adding new chapters covering trade and the environment, electronic commerce, competition policy and government procurement. The FTA has also been strengthened with further market access commitments for services and goods as well as improvements for customs matters, including rules of origin, and for technical barriers to trade<sup>165</sup>.

### 5.3. China-Republic of Korea<sup>166</sup>

The free trade agreement between China and the Republic of Korea (thereafter Korea) has come into force on December 20, 2015. It is China's most important FTA in terms of trade volume and has a comprehensive coverage with seventeen areas, including electronic commerce and government procurement.

Both countries are important trading partners. In 2014, China was Korea's main export destination (25.4%) and import source (17.1%). Korea was also well placed for China, accounting for 4.3% of Chinese exports and 9.7% of imports. Korean imports from China were concentrated on machinery (43%), base metals (16%), chemicals (8%) and textiles (7%). Major Chinese imports from Korea were machinery (49%), optical equipment (13%),

<sup>165</sup> Ministry of Commerce of the PRC, *Joint Media Statement between the People's Republic of China and New Zealand on the Upgrade of the China-New Zealand Free Trade Agreement*, 04/11/19. Available on line: [http://fta.mofcom.gov.cn/enarticle/ennewzealand/ennewzealand-news/201911/41742\\_1.html](http://fta.mofcom.gov.cn/enarticle/ennewzealand/ennewzealand-news/201911/41742_1.html), accessed 27/01/20.

<sup>166</sup> This section is based on: *WTO Secretariat, Factual Presentation. Free Trade Agreement between the Republic of Korea and China. (Goods and Services)*, Committee on Regional Trade Agreements, WT/REG370/1, 03/03/17.



chemicals (10 %) and plastics (7 %). As with Switzerland, there is significant intra-industry trade in machinery and chemicals based on the specialization and the technological level of each partner.

In 2015, a significant part of Chinese exports to Korea (41.4 %) and of Korean exports to China (41.1 %) were exempt of MFN duties. Similar to the Swiss-Chinese FTA, this FTA does not fully liberalize trade on either side. At the end of the dismantling period in 2034, China will retain 779 dutiable tariff lines, representing 9.4 % of its tariff schedule and 14.2 % of its imports<sup>167</sup> from Korea (Annex Table 6). Korea, in turn, will maintain 979 dutiable tariff lines covering 8 % of its tariff lines and 9.5 % of its imports from China (Annex Table 7).

China will keep more than ten dutiable tariff lines in each section of the HS, except for mineral products, leather, footwear, arms and ammunition, and works of art. The average tariff on dutiable products will be 14.9 %. The highest duties will apply to vegetable products (52.6 %), jewelry, pearls, precious metals (32.2 %), prepared foodstuffs (30.5 %), and vehicles (20.5 %). The sections with the highest number of dutiable lines are machinery (201), wood products (107), footwear (82), chemical products (68), and base metals (65). Of particular note, China will maintain a 25 % tariff on cars and tariffs ranging from 10 to 45 % on car parts. Lithium batteries, televisions and organic light-emitting diodes panels for television are also excluded from the liberalization<sup>168</sup>.

Korea, in turn, has fully liberalized ten sections of the HS. Tariffs averaging 84.9 % will remain mainly for textiles (9.5 %; 153 tariff lines), live animals and animal products (31.1 %; 219), prepared foodstuffs (65.9 %; 136), animal or vegetable fats and oils (76.2 %;

<sup>167</sup> This percentage of imports from Korea is calculated on the basis of the average of imports between 2012 and 2014.

<sup>168</sup> Jeffrey J. Schott, Eugin Jung, Cathleen Cimino-Isaacs: «An Assessment of the Korea-China Free Trade Agreement», *Policy Brief*, Peterson Institute for International Economics, December 2015. Available on line: file:///C:/Users/phill/Desktop/CHINA%20FTA/CHINA-KOREA%20FTA%20PIIE.pdf, accessed 29/01/20.

11), chemicals (139 %; 23), and vegetable products (202.9 %; 299). Korea has also granted China tariff-rate quotas for fish, beans, starches, soybeans, prepared fish and vegetable materials.

The FTA foresees the possibility to take a bilateral safeguard measure to protect a domestic sector facing serious difficulties arising from trade liberalization. The measure may suspend a further reduction of a customs duty or raise the rate up to the MFN level.

Both countries are seeking complementary cooperation in the areas of advanced manufacturing, film and television production and healthcare. China could benefit from Korea's expertise in semi-conductors and chips and Korea from Chinese tourism. Value chains should be strengthened between both partners<sup>169</sup>.

China did not make commitments for services sectors not covered by its GATS schedule, but proceeded to improvements for business, construction, environmental, financial, recreational and transport services. In turn, Korea has partially liberalized education and recreational, cultural and sports services, both without commitments under GATS. In addition, restrictions on commercial presence (mode 3) were removed for environmental services. Improvements were also made in the other categories of services, with the exception of health-related and social services. Moreover, both sides have facilitated visa procedures for business visitors and services salespersons for stays of up to 90 days, for intra-corporate transferees by extending the initial stay from one to three years with possible subsequent extensions, and for contractual service providers for up to one year for a specific list of sectors (e.g. architecture, engineering).

For sanitary and phytosanitary measures and technical barriers to trade, the relevant WTO agreements are incorporated in the

<sup>169</sup> Ministry of Commerce of the PRC, *China ROK sign Free Trade Agreement*, 02/06/15. Available on line: [http://fta.mofcom.gov.cn/enarticle/enkorea/enkoreanews/201506/21876\\_1.html](http://fta.mofcom.gov.cn/enarticle/enkorea/enkoreanews/201506/21876_1.html), accessed 27/01/20.

FTA. Both parties confirm their WTO commitments and agree to further cooperation. The dispute settlement provisions of the FTA do not apply to these chapters. The TBT provisions expand on the WTO TBT agreement in particular by elaborating on transparency requirements, recognizing that results of conformity assessment procedures can be accepted on the basis of a broad range of mechanisms and by envisaging arrangements enhancing conformity assessment cooperation.

As regards intellectual property, the FTA focuses on civil, administrative and criminal procedures as well as remedies. It was also agreed to take action against copyright infringement on the internet.

#### 5.4. China-Singapore<sup>170</sup>

The free trade agreement between China and Singapore entered into force on January 1, 2009 and is based on the China-ASEAN Free Trade Area. It is the first comprehensive bilateral FTA with an Asian country. It accelerates the trade liberalization schedule under the China-ASEAN Agreement<sup>171</sup> and extends the breadth and depth of bilateral economic relations. It should further promote East Asian economic integration.

While China accounts for about 10 % of Singapore's imports and exports, the latter only represents between 1 and 2 percent of China's global trade. Prior to the FTA (2006-08), Singapore major imports from China were machinery (65 %), base metals (9 %) and minerals (6 %)<sup>172</sup>. Chinese imports from Singapore were concentrated on machinery (56 %), base metals (16 %), plastics (11 %)

<sup>170</sup> This section is based on: *WTO Secretariat, Factual Presentation. Free Trade Agreement between Singapore and China. (Goods and Services), Committee on Regional Trade Agreements, WT/REG262/1, 07/07/14.*

<sup>171</sup> The China-ASEAN Agreement entered into force on 01/01/05 for goods (notified under the Enabling Clause) and on 01/07/07 for services (notified under GATS art. V). Source: *China-Singaporean FTA signed in Beijing*, MOFCOM, 28/10/08. Available on line: [http://fta.mofcom.gov.cn/enarticle/ensingapore/ensingaporenews/200910/1204\\_1.html](http://fta.mofcom.gov.cn/enarticle/ensingapore/ensingaporenews/200910/1204_1.html), accessed 28/08/20.

<sup>172</sup> Average 2006-2008.

and chemicals (9 %). As with the Republic of Korea and Switzerland, there is significant intra-industry trade between the two FTA partners.

The FTA is interesting because Singapore had already fully liberalized its trade on an MFN basis, except for six products where duties were eliminated upon entry into force of the agreement (Annex Table 8).

Despite Singapore's full trade liberalization, China maintained duties on 5.4 % of its tariff lines representing 3 % of its imports from Singapore (Annex Table 9). This is the most significant trade liberalization undertaken by China in any FTA. China's average tariff on dutiable is 15.8 % with tariffs in particular for wood pulp and paper (6.7 %; 118 tariff lines), wood products (7.5 %; 57), vehicles (17.8 %; 87), machinery (18.3 %; 27), 30), chemicals (20.5 %; 30), textiles (20.5 %; 24), prepared food (30 %; 22), and, live animals and animal products (48.9 %). China has not maintained any tariff-rate quota for agricultural products.

In order to benefit from the preferences, products must achieve a minimum of 40 % of regional value or comply with alternative rules for certain products. This will mainly apply to Singapore's exports to China, since China can export all its products, except for six tariff lines, at zero MFN duty to Singapore. For Singapore, whose industrial sector is rather narrow, the rules of origin requirements may prove to be quite restrictive, unless Singapore companies source their supplies in China.

Singapore and China have confirmed their rights and obligations under the Agreements on the application of sanitary and phytosanitary measures and on technical barriers to trade of the WTO. However, they may take measures such as the prohibition or removal from the market, when they consider that a product does not comply with their own SPS or TBT regulations. They have established a Joint Working Group to discuss these issues. They have also built on art. 6 of the WTO Agreement on SPS to

recognize pest-free or disease-free status in all or parts of the partner's country. Both sides also agreed to consider mutual recognition of conformity assessment based on the TBT Agreement of the WTO.

As in other FTAs, a bilateral safeguard may be invoked during the transition period and up to 5 years after the end of the dismantling of a tariff.

For services, China's horizontal commitments are similar to the GATS, with the exception of the removal of the limitation of all existing subsidies to the domestic suppliers of audio-visual, aviation and medical services. As regards to specific commitments, China has improved on some business, environmental, air and road services, and accepted new ones for health-related and social services as well as recreational, cultural and sports services.

Singapore has extended the scope for the temporary movement of persons across borders to supply services (mode 4), now covering a broader spectrum from intra-corporate transferees to business visitors, and contractual services providers. Stays for intra-corporate transferees were increased from five to eight years.

Singapore has also provided improvement to business, communication, financial, tourism, cultural and maritime services. New commitments were taken in all categories of services, except communication and construction. It is important to underline that the FTA has no provisions on government procurement. Nor does it deal with intellectual property, which is very different from the Swiss-Chinese FTA and other agreements reviewed in this chapter.

The China-Singapore FTA was upgraded with a protocol which entered into force on October 16, 2019. The coverage of the FTA was expanded to e-commerce, competition policies and the relationship between trade and the environment. Improvements were also made in the areas of customs matters, trade facilitation,

services<sup>173</sup>, and economic cooperation. The most important modifications referred to investment. MFN and national treatment should apply to the management, operation, sale and other investment-related activities. In addition, in a side letter, Singapore has granted a Qualifying Full Bank (QFB) license to a Chinese bank, making China the owner of the largest number of QFB licenses in Singapore.

### 5.5. China-Chile<sup>174</sup>

The free trade agreement between China and Chile entered into force on October 1, 2006. It is the first FTA concluded by China with a Latin American country. Services and investment were added to the agreement with supplementary agreements signed in 2008<sup>175</sup> and 2012 respectively. The FTA was further upgraded in 2017 with regard to services.

In the period 2003-05, Chile's accounted for 0.3% of China's exports and China for 12.4% of Chile's exports. The latter were mainly composed of metals, minerals and wood pulp (89%). Chinese exports to Chile were also concentrated in a few product categories, namely machinery, textiles, footwear and miscellaneous products (74%).

At the entry into force of the FTA, 38.9% of China's imports from Chile were MFN duty-free. At the end of the dismantling period, only 2.8% of China's tariff lines will remain dutiable, averaging 16.7%, representing 0.9% of Chile's exports to China (Annex

<sup>173</sup> Singapore has eliminated restrictions for courier services for the first time.

<sup>174</sup> This section is based on: WTO Secretariat, *Factual Presentation. Free Trade Agreement between Chile and China. (Goods and Services)*, Committee on Regional Trade Agreements, WT/REG230/1, 23/04/08.

<sup>175</sup> Ministry of Commerce of the PRC, *Supplementary Agreement on Trade in Services of the Free Trade Agreement*. Available on line: <http://fta.mofcom.gov.cn/topic/enchile.shtml>, accessed 27/01/20.

Table 10). More than ten dutiable tariff lines will remain only for wood pulp (125), wood products (25), vegetable products (25), animal or vegetable fats and oils (19) and textiles (11).

On the Chilean's side, only 0.4% of the tariff lines were MFN duty free in 2006. The FTA will liberalize 98.1% of the tariff lines. With regards to China, only 3.1% of imports will remain dutiable (Annex Table 11). More than ten tariff lines will remain subject to duties only for textiles (66 tariff lines), base metals (31 tariff lines), machinery and prepared foodstuffs (17 tariff lines).

Safeguard measures are foreseen in case of a rise of imports causing injury or threat thereof to the domestic industry. The suspension of further duty reductions or even rate increases may follow for a specific period. The scheme provides for consultations and compensation.

Regarding sanitary and phytosanitary measures and technical barriers to trade, both parties reaffirm their WTO rights and obligations and establish two committees to monitor the implementation of the provisions. In the TBT area, they envisage to consider a mutual recognition agreement. Products subject to mandatory assessment procedures and requiring authorization should be notified to the other party.

The FTA also includes provisions on e-commerce, environment and trade, competition, government procurement as well as economic and technological cooperation. The Agreement provides an excellent basis to foster the China-Chile Comprehensive Strategic Partnership.

In the field of intellectual property, China and Chile have committed to carry out cooperation activities that include training courses, notification of contact points, and information on improvements and jurisprudence. The FTA also protects a list of geographical indications for each partner, and foresees measures at the border to fight counterfeit and pirated copyright goods.

## 5.6. China-Costa Rica<sup>176</sup>

The free trade agreement between China and Costa Rica entered into force on August 1, 2011. That year, trade between the two countries represented a very small share of Chinese exports (0.02%) and imports (0.5%). The importance of China was greater for Costa Rica with 2.1% of total exports (rank 11) and 8.4% of imports (rank 3). Trade statistics of both parties differ significantly. While China registers a substantial trade deficit, Costa Rica also displays a trade deficit for most years. The parties explain these differences with transfer pricing and the addition by China to the import price of the profit for intangible intellectual property<sup>177</sup>.

In the period 2000-2011, Costa Rica's major imports from China included machinery (24.3%), base metals (13.1%), textiles (12.7%), miscellaneous products (8%), and chemicals (7.5%). Chinese imports from Costa Rica were concentrated on a single industry, machinery (98.8%).

At the time of entry into force of the Agreement, 2.2% of Costa Rica's tariff lines were MFN duty-free corresponding to 12.1% of imports from China. Costa Rica has not fully liberalized trade, as 9% of tariff lines representing 14.9% of Chinese imports will remain subject to customs duties (Annex Table 13). The largest number of dutiable tariff lines are for prepared foodstuffs (107), plastics, rubber (90), base metals (88), and live animals and animal products (76).

China, for its part, will retain only 3.3% of the tariff lines dutiable at an average rate of 16.5%. (Annex Table 12). Costa Rica did not export these products to China between 2000 and 2011. They

<sup>176</sup> This section is based on: WTO Secretariat, *Factual Presentation. Free Trade Agreement between Costa Rica and China. (Goods and Services)*, Committee on Regional Trade Agreements, WT/REG310/1/Rev. 1, 18/04/13.

<sup>177</sup> *Ibid*, p. 4.

mainly refer to wood pulp (118), wood products (50), vegetable products (28), animal or vegetable fats and oils (19), and prepared foodstuffs (19).

On agriculture, the FTA prohibits export subsidies for agricultural products traded between the parties. Both countries are committed to their elimination at the multilateral level, and to work toward the reduction of trade-distorting domestic support in the framework of the WTO.

With regard to services, Costa Rica has improved its commitments in all categories, except for financial- and health-related services, where WTO commitments have not been incorporated. Horizontally, Costa Rica has introduced fourteen restrictions to market access that are not included in its GATS schedule. For instance, in case of a tie in the selection parameters for public works concessions, including public services contracts, Costa Rican bidders will be awarded the contract on a preferential basis over foreigners; temporary entry of business persons under certain categories is subject to numerical quotas and economic needs tests; professional services suppliers may be subject to, inter alia, membership in the relevant professional association, nationality and residency requirements, social services assessments and, in some cases, reciprocity requirements.

China has also added some horizontal restrictions not included in its GATS schedule, mainly referring to subsidies to domestic services suppliers. Market access commitments have been only improved for some business services and for sporting and other recreational services.

On sanitary and phytosanitary measures and on technical barriers to trade, China and Costa Rica affirm their rights and obligations under the corresponding WTO agreements. Parties should enhance the understanding of their regulatory systems, in particular with regard to laboratory testing techniques, disease and pest control systems, and risk analysis methodology. Specific

provisions cover health and plant inspection, and quarantine. The FTA establishes a committee in each area to strengthen cooperation and deal with key issues.

With respect to intellectual property, the FTA provides for the protection of geographical indications on the basis of a list submitted by Costa Rica<sup>178</sup>. At the time of the review of the FTA by the WTO Committee on Regional Agreements, China had not yet submitted a list. Actions against counterfeit goods and pirated copyright are also foreseen.

Finally, the FTA includes provisions on bilateral safeguards similar to the other FTAs concluded by China.

### 5.7. Differences and common points between FTAs

Since 2002, China has established a fairly extensive network of FTAs. With the exception of Hong Kong, ASEAN, the Republic of Korea and Taiwan, trade with FTA partners does not exceed 5 % of Chinese exports or imports. Relatively low volumes of trade did not prevent China from concluding FTAs. The same observation applies to most of the FTAs of the United States, the European Union or Switzerland with its EFTA partners. Provided that an FTA eliminates tariffs, further liberalizes services, introduces provisions beyond the WTO in various areas and strengthens economic ties, it constructively enriches relations between partners and opens new business opportunities.

The relative importance of China to its partners varies considerably and is highlighted in Table 13. The first and third columns present China's trade share in the year preceding the entry into force of the FTA. While China accounted for only 3 % of Costa Rica's total exports and 5.9 % of New Zealand's, it was already a key partner for Australia (29.6 %) and the Republic of Korea

<sup>178</sup> The list of Costa Rica includes: Banano de Costa Rica, Café de Costa Rica, Guanacaste Madera (wood), Orosi, Tres Rios, Turrialba, West Valley, Brunca, Central Valley and Bunacaste (all coffee).

(26%). Subsequent to the entry into force of their FTA, New Zealand and Chile increased China's share in their exports very vigorously. China's growth was more modest in relative terms for Singapore and Australia and slightly negative for the Republic of Korea, albeit from a high level, and more so for Costa Rica, though from a low basis.

On the import side, China's footprint in the partners' economies was already significant before the FTAs started to take effect, with import shares ranging from 7.1% for Costa Rica to 22.8% for Australia. By 2019, China had very strongly increased its foothold in Chile, vigorously in New Zealand and Costa Rica, more modestly in Singapore and Australia, and only slightly in the Republic of Korea, although from a high level. China's remarkable performance is noteworthy, with an increase in market share in all countries.

Switzerland appears in the lower part of this table because a large share of its trade is with the European Union (2013: 60%; 2019: 55.4%) and the United States (2013: 8.7%; 2019: 12.5%). In 2013, China, nevertheless, accounted for 4.1% of Swiss total exports and 6.4% of Swiss imports<sup>179</sup> and, above all, represented great potential for the future. This is being achieved with a strong export performance between 2013 and 2019, a characteristic shared by several countries of Table 13. With regard to imports, China has only slightly (+0.9%) increased its market share in Switzerland. This is understandable in view of strong competition and limited growth potential on the basis of a population of 8.6 million.

<sup>179</sup> In 2019, China accounted for 5.5% of Swiss total exports and 7.3% of Swiss total imports (without gold). Including gold, the ratios were 6.9% and 5.9% respectively.

**Table 13. Trade Liberalization: Comparison between various FTAs of China**

FTA partners	Share of China in total exports of FTA partners (in percent)		Share of China in total imports of FTA partners (in percent)		MFN duty-free imports (in percent of China's total imports)	Tariff lines with remaining duties (in percent of China's tariff schedule)	Imports with remaining duties (in percent of China's total imports)
	Year before FTA***	2019	Year before FTA***	2019			
Australia	29.6	32.8	22.8	25.5	71.4	3.2	4.9
New Zealand	5.9	26.8	13.2	20.2	26.0	2.9	12
Rep. of Korea	26.0	25.1	20.7	21.3	41.0	9.4	14.2
Singapore	9.1	13.2	10.5	13.7	46.3	5.4	3
Chile	11.7	31.3	9.6	22.8	38.9	2.8	0.9
Costa Rica	3.0	1.1	7.1	13.2	98.1	3.3	0
Switzerland	4.1	5.5	6.4	7.3	77.3	7.8	10.6*/30**

Notes

\* Based on China's imports from Switzerland

\*\*Based on Swiss exports to China

\*\*\*Year: same year as the entry into force (December) of the FTA for Australia and Korea, and year before the entry into force for the other countries.

Australia: column 1, 3 (2015); column 5, 7 (average 2012-2014)

New Zealand: column 1, 3 (2007); column 5, 7 (average 2005-2007)

Korea: column 1, 3 (2015); column 5, 7 (average 2012-2014)

Singapore: column 1, 3 (2008); column 5, 7 (average 2006-2008)

Chile: column 1, 3 (2006); column 5, 7 (average 2003-2005)

Costa Rica: column 1, 3 (2010); column 5, 7 (average 2008-2010)

Switzerland: column 1, 3 (2013, without gold; Swiss data); column 2, 4 (2019, without gold; Swiss data); column 5, 7 (average 2011-2013, with gold, China's data)

Sources: WTO, Factual Presentation. Free Trade Agreement between China and the various countries. International Trade Center, Trade Map. Elaboration by the author.

It is also interesting to note that, in most cases, about three quarters of trade is dominated by only a very few product categories. This highlights the specialization of China and of its partners, their ability to successfully expand trade through the FTAs, and

to realize significant gains. For several of China's free trade partners, there is also a strong asymmetry in the relative importance of their reciprocal trade. This results in a large difference in their interdependence, with China, for example, accounting for 31.3% of Chile's exports in 2019, but Chile only 0.6% of China's exports. This can lead to situations of vulnerability to falling demand and commodity prices, changes in regulatory or fiscal regimes, exchange rate fluctuations or trade conflicts.

The difference in the composition of trade implies that the share of exports benefiting from China's MFN duty-free tariff lines varies significantly from 26% (New Zealand) to 98.1% (Costa Rica). Switzerland also exhibits a very high share (77%), although mainly for products imported under HS Chapter 98 (71%) according to Chinese data.

China has not fully liberalized trade with any partner. Switzerland presents a very peculiar pattern, with the second highest share of MFN duty-free exports to China (77%) and the second highest percentage of tariff lines remaining dutiable at the end of the phase-out period (7.8%).

It is interesting to note that, despite the large differences between the seven economies included in this analysis, the average remaining customs duties are very close, ranging from 15.8% for Singapore to 16.7% for Chile. Their importance can be assessed in terms of share of exports to China<sup>180</sup>. This share is nil for Costa Rica and very low for Chile (0.9%), Singapore (3%) and Australia (4.9%), reflecting complementary economies. It is however much higher for Korea (14.2%), New Zealand (12%), and Switzerland (10.6% or about 30% on the basis of Swiss export data). While China has not recorded any imports under HS Chapters 98 or 99 for Australia, Chile and Costa Rica over the past 10 years, trade was minimal for New Zealand, very low for Korea (less than 1% of

<sup>180</sup> These shares were calculated by the WTO with data before the entry into force of the various FTAs.

China's imports from Korea), but quite high with very large fluctuations for both Singapore (2018: 1.5%; 2019: 32%) and Switzerland (2013: 82%; 2018: 24%; 2019: 1%).

As our analysis for Switzerland and Schott on Korea have shown, the level of liberalization should be assessed in terms of the remaining duties applied to the relevant products. The high concentration of Swiss exports in a few product categories<sup>181</sup>, including some sensitive ones for China, leads to a high ratio of Swiss trade subject to partial or no trade liberalization. The reasons why China and its free-trade partners have maintained tariffs on some products are specific to each negotiation and to strategic and political economy considerations. For Switzerland, they are discussed in chapter 3.

The review of several FTAs in this section has shown that China and its free-trade partners have not only affirmed their rights and obligations under the WTO agreements on sanitary and phytosanitary measures and technical barriers to trade, but also adopted, to a greater or lesser extent, provisions aimed at facilitating trade, with recognition of various processes and enhanced cooperation. These are positive developments.

All the agreements reviewed in this chapter have led to further liberalization in the area of services. It is encouraging to note that improvements in existing commitments, or even the conclusion of new ones, are feasible. However, given the differences between the countries and the wide variation in additional commitments, it is not possible to assess their impact on trade in services or commercial presence.

As a knowledge-based economy, Switzerland has major interests in the area of intellectual property. This field is therefore a priority in all Swiss FTA negotiations. With China, the result is to be seen as offering a comparably high level of intellectual property

<sup>181</sup> See Table 9.

protection with important WTO plus provisions referring in particular to the patentability of biotechnological inventions and the protection of undisclosed information for market authorization. In addition, the FTA also provides for the extension of the protection of geographical indications, as defined for wine and spirits in the TRIPS Agreement, to all products registered in the two countries in accordance with their legislation, and substantial enforcement measures. The chapter on intellectual property is all the more remarkable because it has proved very difficult to negotiate provisions in FTAs that go beyond those of the WTO.

Finally, several agreements have already been upgraded through modernization processes. Improvements have been made for trade in goods and services, and new areas such as e-commerce, trade and environment, competition or government procurement have been introduced. In this spirit, Switzerland and China have also launched a modernization process. For Switzerland, the focus should be on accelerating and extending the elimination of customs duties, supplementing the liberalization of services taking into account the interests of each party, introducing the opening up of government procurement, first at the central and regional level with the thresholds and rules of the WTO plurilateral agreement, providing rules for e-commerce, and reinforcing cybersecurity. To enhance China's incentive to embark on negotiations, Switzerland should be prepared to consider China's specific interests, particularly in the area of agriculture and the movement of specialised personnel.

## Conclusion

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The road to a free trade agreement between Switzerland and China has not been easy. Six years passed between the start of the process and the signing of the agreement. In 2007, Switzerland granted China market economy status according to the WTO, despite a very large public sector and the recognition that China still had major reforms to implement. In the same year, Switzerland also abstained from participating in a US-led WTO panel against China on intellectual property<sup>182</sup>. These steps were part of the strategy to conclude an FTA.

Although China has not eliminated all tariffs on Swiss industrial exports and has granted somewhat more extensive tariff dismantling to other FTA partners, the agreement is a landmark for Swiss foreign economic policy. Swiss companies enjoy a competitive advantage and the Swiss government has gained privileged access to the Chinese authorities. As a result, Swiss exports to China have far outstripped the overall growth of Swiss exports and the overall growth of Chinese imports over the past five years.

While Swiss companies have faced administrative obstacles with Chinese customs, especially in the first two years of implementation, the use of the FTA should continue to improve as some remaining duties will be eliminated or further reduced. Furthermore, rules of origin should not constitute an obstacle as they are broadly liberal and in line with other major Swiss FTAs. High-quality Swiss brands will be very well positioned for the next phase of China's economic development, which will be characterized by a strong rise of the middle class and will increasingly rely on domestic consumption.

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<sup>182</sup> WTO, *China – Measures affecting the protection and the enforcement of intellectual property rights*, 2009. Available on line: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds362\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds362_e.htm), accessed 12/09/19.



Switzerland will also benefit from a better access to the Chinese services market and an enhanced protection of intellectual property for biotechnological medicines, test data, and geographical indications, three very important areas to the Swiss private sector.

China, for its part, has gained experience in negotiating a comprehensive FTA with a western industrial country and has obtained legal certainty for preferential access to the Swiss market. The FTA has also contributed to increase China's attractiveness to Swiss investors.

Chinese exporters could still significantly increase the effective use of the FTA, particularly for clothing and a range of other products. Swiss importers should also be interested in waiving more tariffs. So far, Chinese exporters have not tried to derive more benefits from the FTA than from the General System of Preferences (GSP); on the contrary, and surprisingly, average utilization rates under the FTA are lower than in previous years under the GSP. This implies that some of the growth has taken place outside the FTA, presumably due to the low level of Swiss tariffs, except for garments, and the comprehensive provisions of the FTA on customs rules and procedures. Nevertheless, China has far outpaced the overall growth of Swiss imports since the entry into force of the FTA.

Both partners have also significantly strengthened their investment position in each other's markets and their technological cooperation. This is very well illustrated with the selection in 2020 by Junshi Biosciences of the technology of the Swiss company Lonza to produce, for clinical trials, the first severe acute respiratory syndrome coronavirus 2 neutralizing antibody as a therapy to treat COVID-19.<sup>183</sup>

<sup>183</sup> Source: Media Release, Junshi Biosciences and Lonza Partner to Produce a Neutralizing Antibody Tackling COVID-19, Basel, 13/07/20. Available on line: <https://pharma.lonza.com/news/2020-07-13-00>, accessed 29/08/20.

The FTA between Switzerland and China clearly shows the advantages of cooperation over confrontation. Bilateral trade has grown significantly above average for both partners and the Swiss trade deficit in goods with China has been considerably reduced. The trade war between the United States and China, and the customs duties imposed on other countries, which together affected 16.8% of US imports as of January 7, 2020, have had and will have a considerable impact on US GDP, price levels and real household income<sup>184</sup>. For the United States and China, the cost of the trade conflict is high, unsustainable and against any economic logic. For this reason, they have concluded the first phase of an Economic and Trade Agreement. China's commitments under managed trade will lead to trade diversion and hardship for traditional suppliers, particularly agricultural exporters from developing countries. However, China's undertakings on rules in various areas will also benefit third countries. Switzerland will closely monitor aspects relating to the protection of intellectual property and the transfer of technology.

Prospects for the negotiation of the second phase of the US-China Economic and Trade Agreement, and for an end to the trade war, are not promising. Reforms of state-owned enterprises will be slow at best, and subsidies will remain supportive of a wide range of activities. China will maintain state capitalism and numerous industrial subsidy programs, resolutely pursue its Made in China 2025 strategy, increase its self-sufficiency and continue to expand its influence around the world, notably through the Belt and Road Initiative.

The contentious relationship between the United States and China is likely to be further exacerbated by additional US actions warning allies not to use the Chinese company Huawei in their next generation 5G wireless network and imposing supply restrictions on US and foreign producers of microprocessors using US

<sup>184</sup> Congressional budget office (CBO), *The Budget and Economic Outlook: 2020 to 2030*, U.S. Congress, January 2020. Available on line: <https://www.cbo.gov/publication/56073>, accessed 18/07/20.

technology, blocking two Chinese-owned technology firms<sup>185</sup> from operating in the United States for national security reasons and causing them to sell to US firms, revoking the special status of Hong Kong and treating it as mainland China for trade, export control and visa purposes, holding China responsible for its failure to control at an early stage the coronavirus pandemic, imposing sanctions condemning human rights violations against the ethnic minority population of Muslim Uyghurs in the Xinjiang Autonomous Region, and disapproving China's claims on the Paracel and Spratly Islands in the South China Sea.

These issues, as well as the race toward technological supremacy, are fundamental and will not be substantially affected if the Democratic Party regains the presidency of the United States in November 2020.

Efforts by the European Union and other economic powers as well as Switzerland to deal with very important political issues such as developments with Hong Kong and the Uyghurs, or to achieve fair economic conditions, will face the same hurdles as the United States. China will address its trade conflicts with the United States by increasing the diversification of its exports and further reducing their role in stimulating growth as it decreases the relative importance of investments and moves toward a more consumer-oriented economy. While the European Union will strive to foster dialogue and coexistence, China's rise to prominence will be unabated, as will its dominance in new areas of advanced technology.

Multilateralism will keep losing ground. The World Trade Organization faces major challenges in introducing reforms, curbing the rise of protectionism on the one hand, and further liberalizing

<sup>185</sup> The firms are TikTok – social media application for sharing short videos – and WeChat – messaging and electronic payment application –. The ban extends to their parent companies ByteDance and Tencent holdings, respectively.

trade on the other, given the diverging positions of its members, and the increasing polarization in a leaderless world dominated by antagonistic powers and large regional groups.

These developments are not favorable for relatively small economies such as Switzerland. As a non-member of the European Union, Switzerland will find it increasingly difficult to defend its interests as well as its core values, especially when they come into conflict with major partners, such as the United States on trade protectionism, or China on “one country, two systems” commitments with Hong Kong, on moving away from a policy of openness, and on respect for human rights. However, free trade agreements, such as the one with China, will remain very important in maintaining privileged political and economic relations with key players and keeping markets open.

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## Pictures

Johann N. Schneider-Ammann, Federal Councillor for Economic Affairs of Switzerland, and Gao Hucheng, Minister of Commerce of the People's Republic of China. Signing Ceremony of the Free Trade Agreement, Beijing, July 6, 2013.

Chen Deming, Minister of Commerce of the People's Republic of China, and Doris Leuthard, Federal Councillor for Economic Affairs of Switzerland. Signing Ceremony launching the Feasibility Study for the Free Trade Agreement on the margins of the 7th WTO Ministerial Meeting, Geneva, November 30, 2009.

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# Abbreviations

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AFTD	Average Final Tariff Dutiable
ASEAN	Association of Southeast Asian Nations
ABB	Asea Brown Boveri
Bn	Billion
CCC	Compulsory Certification Scheme
COVID-19	Coronavirus 2019
CPC	Central Product Classification
EFTA	European Free Trade Association
EU	European Union
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GCC	Gulf Cooperation Council
GDP	Gross Domestic Product
GSP	General System of Preferences
Ha	Hectare

HS	Harmonised System	SAMR	State Administration for Market Regulation
IEC	International Electrotechnical Commission	SFR	Swiss Franc
IMF	International Monetary Fund	SMEs	Small and Medium-Sized Enterprises
ISO	International Organization for Standardization	SACU	South African Customs Union
ITU	International Telecommunication Union	SNB	Swiss National Bank
GACC	General Administration of Customs China	SPS	Sanitary and Phytosanitary Measures
Mercosur	Southern Common Market in South America	TBT	Technical Barriers to Trade
MFN	Most-Favored-Nation	TL	Tariff Line
MOFCOM	Ministry of Commerce of the People's Republic of China	TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
MoU	Memorandum of Understanding	US	United States
NMPA	National Medical Product Agency	US\$	US Dollar
OECD	Organisation of Economic Co-operation and Development	WTO	World Trade Organisation
PBoC	People's Bank of China		
PNTR	Permanent Normal Trade Relations Legislation		
PRC	People's Republic of China		
RMB	Renminbi		
RCPRO	Regional Convention on Pan-Euro Mediterranean Preferential Rules of Origin		
RQFII	Qualified Foreign Institutional Investor		

# Annex Tables

**Annex Table 1. Swiss Franc / Renminbi Nominal and Real Exchange Rates Indices, 2000-2019**

Year	Real Exchange Rate Swiss Franc/Renminbi (indice)	Nominal Exchange Rate Swiss Franc/Renminbi (indice)
2000	100.00	100.00
2001	100.35	100.09
2002	110.36	108.57
2003	127.12	125.66
2004	133.56	135.99
2005	130.99	134.17
2006	126.08	129.88
2007	120.73	129.38
2008	118.17	130.98
2009	116.16	128.43
2010	117.04	132.58
2011	124.67	148.73
2012	111.43	137.39
2013	107.59	136.43
2014	105.94	136.94
2015	99.52	131.99
2016	101.21	137.51
2017	101.96	140.00
2018	99.31	137.90
2019	99.63	141.83
<b>2000-2019</b>	<b>-0.37</b>	<b>+41.83</b>

Source: Swiss National Bank, Bilateral exchange rates indices, annually. Elaboration by the author.

## China-Australia FTA

Annex Table 2. China: Tariff Dismantlement and Trade with Australia

Duty phase-out period	Number of tariff lines	Share of tariff lines in China's tariff schedule (percent)	Value of China's imports from Australia: 2012-2014 (US\$ millions) <sup>a</sup>	Share of imports in China's total imports from Australia: 2012-2014 (percent)
2015: MFN duty-free	692	8.4	61,958.7	71.4
2015	1710	20.8	12,163.3	14.0
2017	2	0.0	4,728.0	5.4
2019	5418	65.8	2,154.9	2.5
2020	2	0.0	6.4	0.0
2022	18	0.2	487.8	0.6
2023	60	0.7	338.9	0.4
2024	63	0.8	594.3	0.7
2026	5	0.1	115.2	0.1
2029	5	0.1	0.2	0.0
Remain Dutiable	263	3.2	4,275.3	4.9
<b>TOTAL</b>	<b>8238</b>	<b>100.0</b>	<b>86,823.0</b>	<b>100.0</b>

<sup>a</sup> Import coverage from HS chapter 1 to 97. Some of the import from Australia has been recorded outside chapters 1 to 97. In particular, under the tariff line 98010010, there is an import volume of 6,931.4 million (2012-2014 average), which is not included under the table above.

Note: Tariff lines subject to in-quota rates are excluded in the computation. For the calculation of averages, specific rates are excluded, and the *ad valorem* parts of alternate rates are included.

Based on the HS 2012 nomenclature.

Source: WTO, *Factual Presentation. Free Trade Agreement between Australia and China. (Goods and Services)*, Committee on Regional Trade Agreements, WT/REG369/1. Rev.1, 14/11/16.

Annex Table 3. Australia: Tariff Dismantlement and Trade with China

Duty phase-out period	Number of tariff lines	Share of tariff lines in Australia's tariff schedule (percent)	Value of Australia's imports from China: 2012-2014 (US\$ millions)	Share of imports in Australia's total imports from China: 2012-2014 (percent)
2015: MFN duty-free	2,943	47.6	16,919.5	37.3
2015	2,719	44.0	20,115.6	44.3
2017	427	6.9	7,543.5	16.6
2019	95	1.5	780.5	1.7
Remain Dutiable	-	-	-	-
<b>TOTAL</b>	<b>6,184</b>	<b>100.0</b>	<b>45,359.1</b>	<b>100.0</b>

Note: For the calculation of averages, specific rates are excluded, and the *ad valorem* parts of alternate rates are included.

Based on the HS 2012 nomenclature.

Source: WTO, *Factual Presentation. Free Trade Agreement between Australia and China. (Goods and Services)*, Committee on Regional Trade Agreements, WT/REG369/1. Rev.1, 14/11/16.

## China-New Zealand FTA

**Annex Table 4. China: Tariff Dismantlement and Trade with New Zealand**

Duty phase-out period	Number of tariff lines	Share of tariff lines in China's tariff schedule (percent)	Value of China's imports from New Zealand: 2005-2007 (US\$ millions)	Share of imports in China's total imports from New Zealand: 2005-2007 (percent)
2008: MFN duty-free	692	8.4	349.2	25.9
2008-2011	1,204	15.7	100.9	7.5
2012	5,100	66.7	414.7	30.8
2013-2015	437	5.7	1.2	0.1
2016	32	0.4	70.5	5.2
2017-2018	7	0.1	38.8	2.9
2019	4	0.1	210.5	15.6
Remain dutiable	223	2.9	161.9	12.0
<b>TOTAL</b>	<b>7,646</b>	<b>100.0</b>	<b>1,347.7</b>	<b>100.0</b>

Note: Based on the HS 2007 nomenclature.

Source: WTO, *Factual Presentation. Free Trade Agreement between New Zealand and China. (Goods and Services)*, Committee on Regional Trade Agreements, WT/REG266/1, 20/09/10.

**Annex Table 5. New Zealand: Tariff Dismantlement and Trade with China**

Duty phase-out period	Number of tariff lines	Share of tariff lines in New Zealand's tariff schedule (percent)	Value of New Zealand's imports from China: 2005-2007 (US\$ millions) <sup>a</sup>	Share of imports in New Zealand's total imports from China: 2005-2007 (percent)
2008: MFN duty-free	4,190	57.6	1,264.8	37.4
2008-2011	415	5.7	60.5	1.79
2012	1,967	27.1	1,237.0	36.58
2013	86	1.2	5.4	0.16
2014-2015	466	6.4	148.6	4.39
2016	146	2.0	665.5	19.68
<b>TOTAL</b>	<b>7,270</b>	<b>100.0</b>	<b>3,381.7</b>	<b>100.0</b>

<sup>a</sup> Only trade falling under HS Chapter 1-97 is included.

Note: Based on the HS 2007 nomenclature.

Source: WTO, *Factual Presentation. Free Trade Agreement between New Zealand and China. (Goods and Services)*, Committee on Regional Trade Agreements, WT/REG266/1, 20/09/10.

## China-Republic of Korea FTA

**Annex Table 6. China: Tariff Dismantlement and Trade with the Republic of Korea**

Duty phase-out period	Number of tariff lines	Share of tariff lines in China's tariff schedule (percent)	Value of China's imports from the Republic of Korea 2012-2014 (US\$ millions) <sup>a</sup>	Share of imports in China's total imports from the Republic of Korea (2012-2014) (percent)
2015: MFN duty-free	699	8.4	73,268.7	41.0
2015	967	11.7	8050.1	4.5
2019	1,692	20.4	5337.6	3.0
2023	5	0.1	0.0	0.0
2024	2,541	30.7	34,955.6	19.6
2028	2	0.0	0.0	0.0
2029	1,121	13.5	21,977.6	12.3
2034	479	5.8	9,736.8	5.4
Remain dutiable	779	9.4	25,385.9	14.2
<b>TOTAL</b>	<b>8,285</b>	<b>100.0</b>	<b>178,712.2</b>	<b>100.0</b>

<sup>a</sup> Import coverage is from HS chapters 1-97.

Based on the HS 2012 nomenclature.

Source: WTO, *Factual Presentation. Free Trade Agreement between the Republic of Korea and China. (Goods and Services)*. Committee on Regional Trade Agreements, WT/REG370/1, 03/03/17.

**Annex Table 7. Republic of Korea: Tariff Dismantlement and Trade with China**

Duty phase-out period	Number of tariff lines	Share of tariff lines in the Republic of Korea's tariff schedule (percent)	Value of the Republic of Korea's imports from China: 2012-2014 (US\$ millions) <sup>a</sup>	Share of imports in the Republic of Korea's total imports from China: 2012-2014 (percent)
2015: MFN duty-free	1,956	16.0	33,874.0	41.4
2015	4,084	33.4	8,311.9	10.1
2019	1,426	11.6	3,461.7	4.2
2024	2,186	17.9	17,791.1	21.7
2029	1,123	9.2	7,784.3	9.5
2033	1	0.0	14.9	0.0
2034	488	4.0	2,909.1	3.6
Remain dutiable	979	8.0	7,754.4	9.5
<b>TOTAL</b>	<b>12,243</b>	<b>100.0</b>	<b>81,901.5</b>	<b>100.0</b>

<sup>a</sup> Import coverage is from HS chapters 1-97.

Note: Tariff lines subject to in-quota rates are excluded in the computation; for the calculation of averages, specific rates are excluded, and the *ad valorem* parts of alternate rates are included.

16 tariff lines under the Excluded category reflect the MFN 2015 duties. This process is in accordance with the methodology applied by the WTO Secretariat across all FPs where it aims to assess the margins of preference in reference to the MFN duties as of entry into force.

Based on the HS 2012 nomenclature.

Source: WTO, *Factual Presentation. Free Trade Agreement between the Republic of Korea and China. (Goods and Services)*, Committee on Regional Trade Agreements, WT/REG370/1, 03/03/17.

## China-Singapore FTA

**Annex Table 8. China: Tariff Dismantlement and Trade with Singapore**

Duty phase-out period	Number of tariff lines	Share of tariff lines in China's tariff schedule (percent)	Value of China's imports from Singapore: 2006-2008 (US\$ millions)	Share of imports in China's total imports from Singapore: 2006-2008 (percent)
2009: MFN duty-free	656	8.3	8,492.8	46.3
<b>China-Singapore</b>				
2009	710	9	2,071.2	11.3
2010	2,029	25.8	2,980.4	16.3
<b>ASEAN-China</b>				
2009	3,987	50.7	4,234.7	23.1
2010	61	0.8	11.2	0.1
Remain dutiable	425	5.4	549.5	3
<b>TOTAL</b>	<b>7,868</b>	<b>100</b>	<b>18,339.9</b>	<b>100</b>

Note: Based on the HS 2007 nomenclature.

Source: WTO, *Factual Presentation. Free Trade Agreement between Singapore and China. (Goods and Services)*, Committee on Regional Trade Agreements, WT/REG262/1, 07/07/14.

**Annex Table 9. Singapore: Tariff Dismantlement and Trade with China**

Duty phase-out period	Number of tariff lines	Share of tariff lines in Singapore's tariff schedule (percent)	Value of Singapore's imports from China: 2006-2008 (US\$ millions)	Share of imports in Singapore's total imports from China: 2006-2008 (percent)
2009: MFN duty free	8,294	99.9	31,259.9	99.97
2009	6	0.1	8.7	0.03
<b>TOTAL</b>	<b>8,300</b>	<b>100.0</b>	<b>31,268.6</b>	<b>100.0</b>

Source: WTO, *Factual Presentation. Free Trade Agreement between Singapore and China. (Goods and Services)*, Committee on Regional Trade Agreements, WT/REG262/1, 07/07/14.

## China-Chile FTA

**Annex Table 10. China: Tariff Dismantlement and Trade with Chile**

Duty phase-out period	Number of tariff lines	Share of tariff lines in China's tariff schedule (percent)	Value of China's imports from Chile: 2003-2005 (US\$ millions)	Share of imports in China's total imports from Chile: 2003-2005 (percent)
2006: MFN duty free	647	8.5	1,378.0	38.9
2006	2,187	26.8	1,800.8	50.9
2007	1,960	25.8	0.4	0.0
2010	975	12.8	14.8	0.4
2015	1,622	21.3	313.4	8.9
Remain dutiable	214	2.8	30.5	0.9
<b>TOTAL</b>	<b>7,605</b>	<b>100.0</b>	<b>3,537.9</b>	<b>100.0</b>

Source: WTO, *Factual Presentation. Free Trade Agreement between Chile and China. (Goods and Services)*, Committee on Regional Trade Agreements, WT/REG230/1, 23/04/08.

**Annex Table 11. Chile: Tariff Dismantlement and Trade with China**

Duty phase-out period	Number of tariff lines	Share of tariff lines in Chile's tariff schedule (percent)	Value of Chile's imports from China: 2003-2005 (US\$ millions)	Share of imports in Chile's total imports from China 2003-2005 (percent)
2006: MFN duty free	35	0.4	-	-
2006	5,856	74.1	958.8	50.7
2010	1,048	13.3	382.7	20.2
2015	811	10.3	492.1	26.0
Remain dutiable	152	1.9	58.1	3.1
<b>TOTAL</b>	<b>7,902</b>	<b>100.0</b>	<b>1,891.8</b>	<b>100.0</b>

Source: WTO, *Factual Presentation. Free Trade Agreement between Chile and China. (Goods and Services)*, Committee on Regional Trade Agreements, WT/REG230/1, 23/04/08.



## China-Costa Rica FTA

**Annex Table 12. China: Tariff Dismantlement and Trade with Costa Rica**

Duty phase-out period	Number of tariff lines	Share of tariff lines in China's tariff schedule (percent)	Value of China's imports from Costa Rica: 2008-2010 (US\$ millions)	Share of imports in China's total imports from Costa Rica: 2008-2010 (percent)
2011: MFN duty-free	705	9.0	2,622.4	98.1
2011	4,463	56.7	17.3	0.6
2015	2,231	28.4	23.1	0.9
2020	139	1.8	9.9	0.4
2025	71	0.9	1.4	0.1
Remain dutiable	259	3.3	0.4	0.0
<b>TOTAL</b>	<b>7,868</b>	<b>100.0</b>	<b>2,674.6</b>	<b>100.0</b>

Note: Based on the HS 2007 nomenclature.

Source: WTO, *Factual Presentation. Free Trade Agreement between Costa Rica and China. (Goods and Services)*, Committee on Regional Trade Agreements, WT/REG310/1/Rev. 1, 18/04/13.

**Annex Table 13. Costa Rica: Tariff Dismantlement and Trade with China**

Duty phase-out period	Number of tariff lines	Share of tariff lines in Costa Rica's tariff schedule (percent)	Value of Costa Rica's imports from China: 2008-2010 (US\$ millions)	Share of imports in Costa Rica's total imports from China: 2008-2010 (percent)
2011: MFN duty-free	142	2.2	104	12.1
2011	3,989	60.8	377	43.7
2015	264	4.0	25	2.9
2020	1,411	21.5	202	23.4
2025	167	2.5	26	3.1
Remain dutiable	591	9.0	128	14.9
<b>TOTAL</b>	<b>6,564</b>	<b>100.0</b>	<b>863</b>	<b>100.0</b>

Note: Based on the HS 2007 nomenclature.

Source: WTO, *Factual Presentation. Free Trade Agreement between Costa Rica and China. (Goods and Services)*, Committee on Regional Trade Agreements, WT/REG310/1/Rev. 1, 18/04/13.

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Philippe G. Nell has led several trade negotiations at the bilateral, plurilateral and multilateral level for Switzerland, notably with China, the United States and the European Union. He is currently Honorary Ambassador of the Latin American Chamber of Commerce in Switzerland, University lecturer and member of the Board of several organizations.



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