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RECHT BERATUNG WEITERBILDUNG

Introduction to US business law Foreign Trade

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FS 2024

Repetition

Antitrust

- > origin, reasons
- > Main regulations
- > 3 elements of regulation
- > 2 Agencies
- > Enforcement (court)!
- > Tribble damage
- > Exeternal application
- > Waves of enforcement
- > EU leader!

US Trade Law (1)

- > The regulation of foreign trade is constitutionally vested in the US Congress.
- > International framework: US = Member of WTO
- > Biggest trading power in the world
- > Trade relations with almost all other nations (not North Korea, Iran, Cuba)
- > Import:
 - > (oil), machinery, cotton, toys, lubricants, steel, tea, sugar, coffee, etc
- > Export:
 - > food, wheat, corn, soybeans, aeroplanes, cars, computers, paper, machine tools, weapons, etc.
- > Negative trade balance (more import than export)

US Trade Law (2)

- > **Congressional authority over international trade**
- > The authority of Congress to regulate international trade is set out in the US Constitution (Article I, Section 8, Paragraph 1):
 - > «The Congress shall have power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and to promote the general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States»
- > Congressional authority over international trade includes the power to impose tariffs and to establish tariff rates; implementing trade agreements; providing remedies against unfairly traded imports; controlling the export of sensitive technology and extending tariff preferences to imports from developing countries
- > Over time, and under carefully prescribed circumstances, Congress has delegated some of its trade authority to the Executive branch. Congress, however, has, in some cases, kept tight reins on the use of this authority by requiring renewals or reports.

US Trade Law (3) – recent

- > In January 2026, U.S. President Donald Trump threatened to impose a 100 percent tariff on Canadian imports if Canada proceeded with a potential trade agreement involving the People’s Republic of China.
 - > In May 2026, tariffs on imported cars were increased from 15% to 25% under the Trump administration. The measure affected European exporters, particularly Germany, whose automotive industry plays a major role in its economy.
 - > On April 2, 2005 Trump announced a broad package of import duties—a date he called "**Liberation Day**".
 - > **Executive Order 14257**, *Regulating Imports With a Reciprocal Tariff to Rectify Trade Practices That Contribute to Large and Persistent Annual United States Goods Trade Deficits*. This order declared a national emergency over the United States' trade deficit and invoked the International Emergency Economic Powers Act (IEEPA) to authorize sweeping tariffs on foreign imports.
-
- > For Switzerland: plus 39%v tariffs!!

General facts CH –USA (1)

> Area

- > USA 9 834 000 sq. km
- > SWITZERLAND 41 285 sq. km
- > CHINA 9 597 000 sq. km

> Population

- > USA 331,9 million
 - > SWITZERLAND 8,7 million
 - > CHINA 1,412 billion
- > In 2021, Switzerland was the seventh largest foreign investor in the US, having invested a total of USD 315 billion. There has been an especially vigorous increase in trade between Switzerland and the US in recent years.
- > In 2022, Switzerland imported goods worth CHF 37.5 billion from the US and exported goods worth CHF 62.4 billion, making the US the leading export destination for goods from Switzerland.



General facts CH –USA (2)

- > Business relations between Switzerland and the United States have traditionally been strong and multifaceted, characterized by trade, investment, and cooperation in various sectors. Both countries are known for their highly developed economies and have a long history of economic ties.
- > **Trade:** Switzerland and the United States have a significant trade relationship. Switzerland exports a variety of products to the U.S., including pharmaceuticals, chemicals, machinery, and watches. The U.S. exports machinery, aircraft, medical devices, and other goods to Switzerland.
- > **Investment:** Swiss companies have made substantial investments in the United States, with a strong presence in various sectors such as finance, pharmaceuticals, and manufacturing. Additionally, U.S. companies have invested in Switzerland, particularly in the finance and healthcare industries.



General facts CH –USA (3)

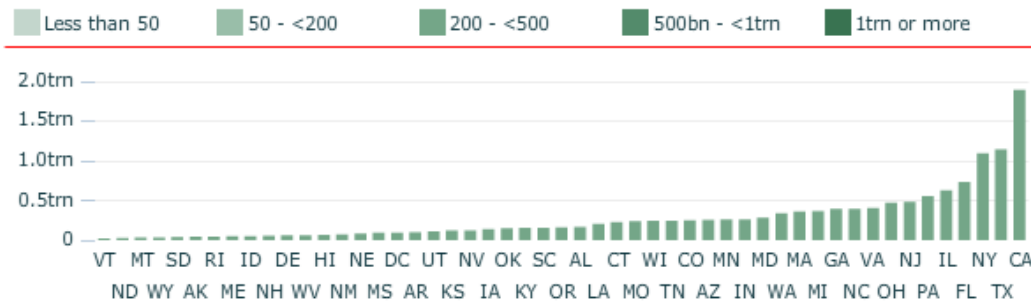
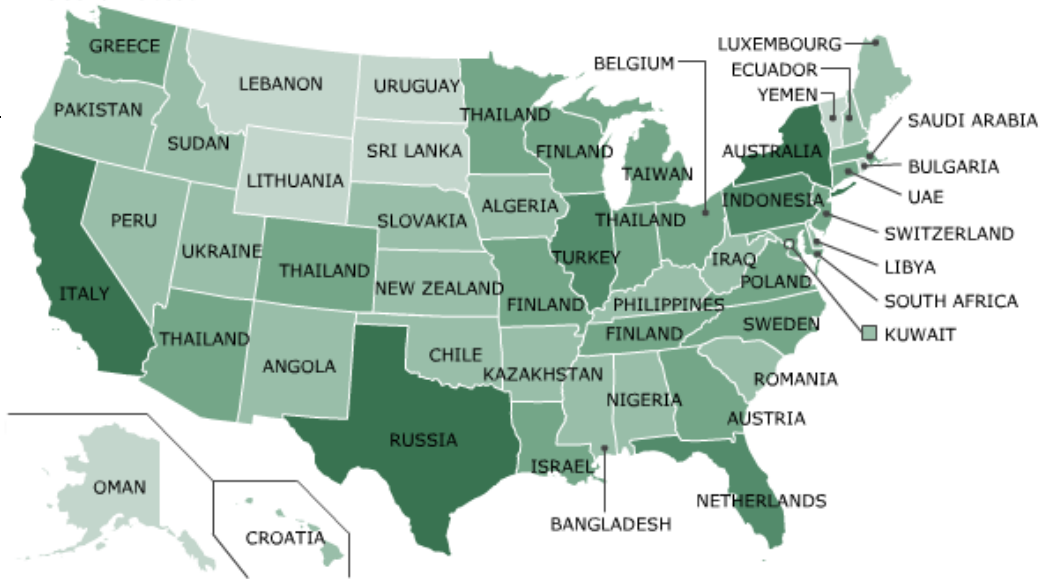
- > **Banking and Finance:** Switzerland is a renowned global financial center, and its banks have played a significant role in providing wealth management and financial services to U.S. clients. Swiss banks have also established operations in the United States. Furthermore, both countries have cooperated on matters related to financial regulations and tax compliance.
- > **Pharmaceutical and Healthcare:** Switzerland is a major player in the pharmaceutical and healthcare sectors, and it has substantial investments in the U.S. pharmaceutical industry. Collaboration in research and development, as well as the exchange of healthcare technologies, has been a notable aspect of their business relations.



General facts CH –USA (4)

- > **Technology and Innovation:** Both countries are leaders in technology and innovation. Swiss companies have invested in research and development in the United States, and there are cooperative agreements in areas such as clean energy, information technology, and advanced manufacturing.
- > **Free Trade:** Switzerland and the United States have maintained good trade relations, facilitated by a bilateral trade agreement. This agreement has promoted tariff reductions and increased market access for goods and services between the two countries.
- > **Tourism:** Switzerland has long been a popular destination for U.S. tourists. The tourism industry in Switzerland benefits from the large number of American visitors, and tourism promotion efforts have contributed to this trend.

GDP, \$bn
2009 or latest



Source: IMF, US Census Bureau (The Economist)

How easy it is to launch a business in the USA?

- > **Business Structure:** Choosing the right business structure (e.g., sole proprietorship, partnership, LLC, corporation) is important before launching.
- > **Business Plan:** Having a well-thought-out business plan is valuable, as it can guide your business and potentially help with securing financing. It is not always a legal requirement, but useful for entrepreneurs.
- > **Legal Requirements:** Usually it is necessary to obtain licenses and permits from authorities. This process can vary by state and locality.
- > **Tax ID and Permits:** It is typical to obtain an Employer Identification Number (EIN) from the authorities, which is often required for tax purposes and opening a business bank account.
- > **State:** Some states and cities may have more favorable business climates, while others may have higher taxes or stricter regulations.
- > **Business Name and Trademarks** must not be already in use.

USA traditionally investment friendly

How easy it is to launch a business in the USA?

- > Competitive market
- > Sophisticated clients
- > Personalization is a key
- > «The American Way» is the only way to succeed in America
- > Business and life is generally more entrepreneurial
- > Speed is higher than in Europe – Time is money
- > Everybody is open to change
- > Good social competence and humor are necessary
- > Americans accept risk in a positive manner
- > Americans are proud to be American
- > Be as American as possible, do not “Swissize” American

2. Swiss-US/Chinese bilateral economic relations

- > The U.S. and Switzerland have a **Trade and Investment Cooperation Agreement (TIFA)** in place. While they do not have a comprehensive free trade agreement, the TIFA serves as a platform for discussions and cooperation on trade-related issues, investment, and regulatory matters.
- > Many **large multinational corporations** from both the U.S. and Switzerland play significant roles in their respective economies, often with operations in both countries.
- > Both countries have **tax treaties** in place to prevent double taxation and promote cross-border trade and investment.

3. Swiss Direct Investments in the USA

- > Switzerland has made substantial direct investments in the United States, reflecting a strong economic relationship between the two countries. Swiss direct investments in the USA cover a broad range of industries, and Swiss companies have a significant presence in the U.S. market.
- > **Foreign Direct Investment (FDI) Volume:** Switzerland ranks as one of the largest sources of FDI in the United States. Swiss companies have made substantial investments in various sectors, including manufacturing, finance, pharmaceuticals, and technology.
- > **Swiss Multinational Corporations:** Several major Swiss multinational corporations have established a significant presence in the United States (Nestlé, Novartis, Roche, ABB).

3. Swiss Direct Investments in the USA

- > Swiss companies have also engaged in mergers and acquisitions in the United States, acquiring U.S. businesses in sectors that align with their strategic objectives.
- > Swiss FDI in the USA has contributed to job creation, as these companies employ a significant number of U.S. workers across different states.
- > While Swiss direct investments in the U.S. have generally been positive, they have occasionally faced regulatory and tax-related challenges. Nonetheless, the U.S. remains an attractive destination for Swiss investments, offering opportunities for growth and expansion.

4. Impact of Swiss Companies in the USA

- > Swiss companies have had a significant impact in the United States across various sectors, contributing to the U.S. economy, innovation, and job creation.
- > Swiss companies operating in the United States have created a substantial number of jobs. They employ American workers across a wide range of industries, including manufacturing, pharmaceuticals, technology, finance, and more. These employment opportunities have a positive impact on local economies.
- > Swiss financial institutions, including major banks, provide a wide range of financial services to U.S. clients. They engage in private banking, wealth management, and investment advisory services, catering to the financial needs of individuals and businesses.

4. Impact of Swiss Companies in the USA

- > Swiss companies have made investments in renewable energy and sustainability initiatives in the U.S. These investments promote the growth of clean energy and contribute to efforts to address environmental challenges.
- > Swiss companies have engaged in mergers and acquisitions of U.S. businesses, resulting in the expansion of their operations and portfolios. This has led to the growth of these Swiss companies and created synergies with U.S. firms.
- > Swiss companies often establish their operations in various U.S. states, which contributes to the development and growth of local and regional economies. They invest in infrastructure, research, and education.

Interlocking Swiss and US (1)

America is important for Switzerland:

- > USA is the 2nd most important export market (behind Germany); high positive trade balance and fast growth
- > USA is the most important foreign direct investor in Switzerland – by far!

Switzerland is important for the USA:

- > 6th largest foreign direct investor
- > Small, but fast growing export market
- > Important management platform for US multinationals

Interlocking Swiss and US (2)

- > Switzerland is important for the United States due to its longstanding political neutrality, which facilitates diplomacy and peace negotiations, as well as its role as a host country for major international organizations.
- > The two countries also share economic ties, with Switzerland serving as a financial hub and hosting American businesses. Moreover, Switzerland's humanitarian contributions, scientific collaborations, and cultural exchanges further solidify the importance of this relationship, making it a valuable partner for the United States in various aspects of international relations and global affairs.

6. Swiss Successes in the USA

thermo⁺plan



 VICTORINOX



Collano
Innovation in Adhesives



 SYNTHES®



SFS

6. Swiss Successes in the USA



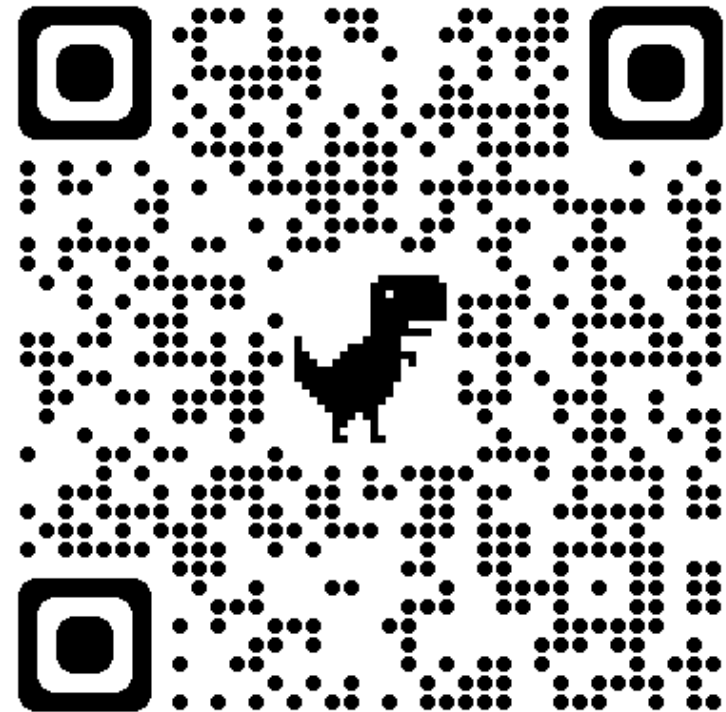
6. Swiss Successes in the USA



7. US Trade with Switzerland

- > Switzerland is a key export market for US –made goods
 - > 17th largest export market
- > Goods imported from CH
 - > Chemicals, Computer/Electronics, Machinery, Beverage, Tobacco, Metals
- > Services imported to US from CH
 - > Insurance, IP, transport, travel
- > US services exports: CH rank as seventh-largest worldwide
 - > (before D)
- > US services sales through US affiliates in CH rank as sixth-strongest worldwide
 - > Charges for use of IP, travel, transport, financial services

8. Weight in the US Economy (video)



Free Trade Agreement Switzerland & USA

- > The primary framework for trade relations between the United States and Switzerland was the Trade and Investment Cooperation Forum Agreement (TICFA), which was signed in 2013. This agreement aimed to strengthen bilateral trade and economic ties by addressing various trade-related issues.
- > TICFA often aims to reduce trade barriers and streamline customs procedures to make trade between the countries smoother and more efficient.
- > TICFA may include provisions to protect and promote foreign investment, providing a more secure environment for businesses to invest in each other's countries.
- > TICFA is a tool for strengthening economic relations and fostering cooperation between countries, but it does not create a comprehensive free trade area. Instead, it lays the groundwork for improved trade relations and paves the way for potential future negotiations on more extensive trade agreements.

The Inflation Reduction Act and U.S. Business Investment

- > In August 2022, the US Congress passed the USD 369 billion Inflation Reduction Act (the Act) with the aim to increase the speed of decarbonisation in the US among other things. Over the coming decade, the Act offers billions in tax breaks and subsidies for companies producing renewable energy and green hydrogen, and for consumers purchasing electric vehicles in the US.
- > The EU has criticised the Act for containing distortionary elements such as requirements for local US or North American contents and production. The concern is that production, investments, and scarce natural resources will flow to the US, and the EU will lose competitiveness in strategic sectors.
- > American policymakers are increasingly alarmed about Chinese companies benefiting from the IRA subsidies by manufacturing in the United States, arguing that American tax dollars should not reward America's foremost geopolitical challenger. However, restrictive trade policies will not help the United States outcompete China in renewable energy, which has thrived under anti-dumping and countervailing duties from the U.S. federal government for the past decade.



Role of data protection

> Data protection plays a significant role in the context of the European Union (EU) and the USA, particularly concerning the transfer of personal data between these two regions. **This role is largely shaped by the EU's General Data Protection Regulation (GDPR) and the USA's own data protection laws and regulations.**

> **Cross-Border Data Transfers:** The EU GDPR places strict limitations on the transfer of personal data to countries outside the European Economic Area (EEA) that do not ensure an adequate level of data protection. The question is if the USA is considered an adequate jurisdiction by the EU, which means that transferring personal data from the EU to the USA requires specific safeguards, such as Standard Contractual Clauses (SCCs), Binding Corporate Rules (BCRs), or other mechanisms to protect the data.

Recent developments

- > Liberation day legislation has no sufficient constitutional basis (USSC)
 - > All the US\$RRR additional tariffs are illegal and could be claimed back
 - > Additional tariffs are running out end of June 2026.
 - > Trump administration is looking for other legal basis
 - > Switzerland and the USA agreed to find a solution till end of March 2026 (billionaires meeting!)
 - > So far no agreement.
 - > CH and USA are presently exploring a new agreement with fix tariffs
 - > In March 2026 Trump administration start investigation against CH about Economic overcapacities?
 - > Potential basis for new additional tariffs
 - > Meanwhile trade between USA/CH nearly balanced!
 - > Where to go?
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Next week

- > How to become a lawyer in the USA
- > Regulation of the legal profession
- > Studying law in the USA
- > Law firms
- > Questions!
- > Brief repetition
- > Exam!