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The Sino-Swiss Free Trade Agreement: What Does the Future Hold?

中瑞自由贸易协定：将来会怎样？

While the Sino-Swiss FTA remains a milestone agreement, it is necessary to look at its scope to see how much will actually change - and when.

by **Anh Huynh and Clement Jaton, Eiger**

The People's Republic of China and Switzerland signed a comprehensive bilateral Free Trade Agreement ("FTA") on 6 July 2013. The FTA entered into force on 1 July 2014.

It is China's first such agreement with a continental European country. China is the world's third-largest economy after the US and the EU, as well as Switzerland's first economic partner in Asia and its third in the world. Machines and instruments, watches, and chemical and pharmaceutical products are the main products exported by Switzerland to China. In addition to this, Switzerland also exports many services to China, as seen in the strong position of Swiss banks, insurances, logistics companies and consultancy firms on the mainland.

The scope of the FTA is extensive. It sets a favourable framework for commercial trade between the two countries. Here, we have a look at the customs tariff reductions and some aspects of liberalisation of market access from the perspective of a Swiss enterprise.

Scope of the FTA

Tariff reductions. The FTA provides for a reduction or abolishment of import customs tariffs for Swiss and Chinese products originating in one country and to be imported into the other country. It covers the Swiss customs territory, including the Principality of Liechtenstein, and the Chinese customs territory, excluding Hong Kong and Macau (Article 2.1 FTA; Circular No. 323.0.2.2014 issued by the Swiss Federal Customs Administration ("FCA"), Section 2.1.1).

While the customs tariff reduction and abolition for Chinese products to be imported into Switzerland is effective without any transitional period as of 1 July 2014 (Circular No. 323.0.2.2014 issued by the FCA, Section 3), only very few Swiss products can now be imported tariff-free into China. For almost all other

虽然中瑞自由贸易协定具有里程碑的意义，我们仍需研究一下它涵盖的范围来分析它将在何时会带来哪些真正的变化。

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中华人民共和国与瑞士在2013年7月6日正式签署了全面的双边自由贸易协定(FTA)，2014年7月1日，协定正式实施。

这是中国与欧洲国家签署的首个自由贸易协定。中国是位居美国和欧盟之后的世界第三大经济体，也是瑞士最大的亚洲经济伙伴和第三大世界经济伙伴。瑞士主要向中国出口机械设备、手表、化学品和医药产品等。此外，瑞士还向中国输出多项服务，瑞士银行业、保险业、物流公司和咨询公司都在中国内地拥有十分重要的市场地位。

自由贸易协定的范围十分广泛，它设定了两国间商业贸易往来的优惠框架。本文从瑞士企业的角度出发，对协定中规定的关税减让和某些领域的市场准入自由化进行了分析。

自由贸易协定的范围

关税减让。 自由贸易协定对那些原产于一国的瑞士或中国商品进口到另一国的进口关税实施关税减让或豁免优惠。它涵盖包括列支敦士登公国在内的瑞士海关领土和除香港、澳门以外的中国海关领土（自由贸易协定第2.1款；瑞士联邦海关总署（FCA）发布的发行编号为323.0.2.2014的文件，第2.1.1部分）。

自2014年7月1日起，所有瑞士从中国进口的商品即刻享受关税减让或豁免，无过渡期（瑞士联邦海关总署发布的发行编号为323.0.2.2014的文件，第3部分），而中国从瑞士进口的商品中只有小部分即刻享受关税豁免。大多数其他瑞士商品将在未来5-15年的较长过渡期里逐步实现关税豁免（自由贸易协定，附件一第一部分中

Swiss products, customs tariffs will only be dismantled gradually during rather long transitional periods of five to fifteen years (FTA, Appendix 1 to Annex I Schedule of China). China has issued various provisions implementing the tariff reductions for the first year, as well as procedural rules regarding application for such preferential tariff treatment under the FTA (Notice on the 2014 contractual tariff rates under the FTA, together with table of 2014 contractual tariff rates, issued by the State Council Customs Tariff Commission (SCCTC), effective as of July 1, SCCTC [2014] No. 8).

Other national taxes remain. The FTA only deals with import customs tariffs but has no implications on other national taxes levied on Swiss goods imported to China, such as value-added tax (“VAT”) and consumption tax. China charges VAT for imported goods (17 per cent, respectively 13 per cent for some specific products). In addition, China levies a consumption tax on imports of various luxury and other goods ranging between 1 per cent and 45 per cent. Alcohol is taxed at 20 per cent, jewellery at 10 per cent, high-end watches at 20 per cent and cosmetics at 30 per cent.

In China, a tax reform focusing on six taxes -- VAT, consumption, resource, environment, property and income -- is under way.¹ Consumption tax may be subject to further changes in the near future. On one hand, it may be raised for high-end and luxury products. On the other hand, it may be favourably adjusted for clean energy and environmentally-friendly products such as green vehicles. The scope of the consumption tax may also be expanded to other products, such as private aircraft. At the twelfth reform forum of the China Society of Economic Reform held on 2 November 2014, Jia Kang, a director and research fellow of the Institute for Fiscal Science Research under the Ministry of Finance, said it may be expected that the government will release some information regarding the reform of consumption tax at the end of this year or the beginning of 2015. If consumption tax is raised or extended to other sectors and products not currently subject to taxation, the reduction or abolition of customs tariffs awarded under the FTA may be offset by these changes of the consumption tax.

Other trade barriers. Technical barriers other than customs tariffs might have an even greater impact on Swiss enterprises doing business in China. China has a number of national standard requirements for products to be admitted for importation and sale in the country. For instance, China requires manufacturers to obtain the China Compulsory Certification (“CCC”) mark before importing or selling products listed in the CCC catalogue in China. This system impacts many Swiss exporters across a wide range of manufacturing sectors. Products not complying with CCC requirements may be retained at the border and subjected to penalties. The application process for a CCC mark is burdensome, time-consuming and often lacks transparency, involving testing limited to accredited laboratories in China, submission of numerous technical documents, and factory inspections by Chinese officials in Switzerland. A side agreement to the FTA – the Agreement on cooperation in the area of certification and accreditation between the Swiss State Secretariat for Economic Affairs and the Chinese Certification and Accreditation Administration -- encourages

¹ “On June 30, the Politburo of the Communist Party of China approved a general plan to change the existing fiscal and tax system as part of the broad reform plan mapped out at the party’s Third Plenum in November.”

“For most Swiss products, Chinese customs tariffs will be dismantled gradually during long transitional periods

大多数瑞士商品将在较长的过渡期里逐步获得关税豁免”

方关税减让表)。中国公布了第一年实施关税减让的多项规定和自由贸易协定下申请优惠关税对待的程序规范（自7月1日生效的国务院关税税则委员会（SCCTC）关于实施《中瑞自由贸易协定》2014年协定税率的通知及2014年协定税率表（税委会[2014]8号））。

其他国内税不变。自由贸易协定仅涉及进口关税，而对进口到中国的瑞士商品征收的其他国内税如增值税（VAT）和消费税没有规定。中国对进口商品征收增值税（税率为17%，某些商品的税率为13%），此外，中国还对某些进口奢侈品和其他商品征收1%—45%的消费税。酒类的消费税为20%，珠宝为10%，高档手表为20%，化妆品为30%。

中国目前正针对六项税收进行改革，包括增值税、消费税、资源税、环境税、房产税和所得税。未来消费税政策会进一步调整，一方面可能会提高高档商品和奢侈品的税率，另一方面也可能会降低清洁能源和绿色汽车等环保商品的税率。消费税的范围也可能扩大至其他商品，如私人飞机等。在2014年11月2日召开的第十二届中国改革论坛中国经济体制改革研究会上，中国财政部财政科学研究所所长、研究员贾康表示，中国将在今年年底或2015年年初公布关于消费税改革的规定。如果消费税提高或扩大至目前不需承担消费税的其他领域或商品，那么这些消费税的调整将会抵消自由贸易协定带来的关税优惠。

其他贸易壁垒。关税之外的技术壁垒对在华经营的瑞士企业的影响可能更大。中国对那些进口到中国进行销售的商品有许多国家标准要求。例如，中国要求进口或在中国销售3C目录中商品的厂家必须拥有3C认证标志。这一体系对多个制造领域的瑞士出口商都有影响，无3C认证的商品会被扣押在边界并处以罚款。3C标志的申请程序十分繁琐，也颇耗精力，并且缺乏透明性。商品需要交由中国认可的实验室进行检测，厂家需要提交各种技术文件，瑞士工厂需接受中国官员的审查。自由贸易协定的附属协议——瑞士经济事务国务秘书处和中国国家认证认可监督管理局签署的认证认可合作协议——鼓励瑞士和

¹ “作为在去年11月召开中国共产党十八届三中全会的全面改革计划的一部分，今年6月30日，中共中央政治局审议通过了《深化财税体制改革总体方案》。”

cooperation between certification and inspection bodies in Switzerland and China. Such cooperation may include CCC follow-up inspections carried out by Swiss conformity assessment bodies in Switzerland, though as of today, no such Swiss bodies have requested an accreditation from Chinese authorities. Prior to the FTA, on-site inspections in Switzerland had to be exclusively conducted by Chinese bodies. This may lead to a gain of both time and confidentiality for Swiss enterprises.

Exchange of services

China has relatively strict provisions regarding foreign investment. Foreign investment must be made in accordance with the central policy of the Chinese government that is reflected in the Catalogue of Industries for Foreign Investment (“Catalogue”).

Under the FTA, China has committed to reduce the limitations on market access (including establishment of a commercial presence in China) and national treatment for, amongst others, the following sectors:

- Software implementation services
- R&D services on natural science and engineering (excluding prohibited foreign investment industries, according to the Catalogue)
- Real estate services
- Translation and interpretation services
- Commission agents’ services and wholesale trade services (excluding salt, tobacco)
- Retailing services (excluding tobacco)
- Certain environmental services (sewage, noise abatement, and sanitation services)
- Customs clearance services
- Sport and recreational services (excluding golf)
- Market research services
- Project management services other than for construction

To date, these liberalisations are not applicable in practice, as no implementing regulations have yet been issued (this has been verbally confirmed with the Commission of Commerce of Beijing and Shanghai).

Summary

Swiss enterprises need to be patient when it comes to making use of the benefits granted under the FTA. For most of the products, the customs tariffs will only be gradually reduced after relatively long transition periods. Other reductions of trade barriers such as the commitments of China regarding market access are in practice not yet applicable. Furthermore, it remains to be seen how the abstract commitments regarding facilitating certification systems and approval procedures and recognizing international standards will be implemented in practice. So far, except for the customs tariff reductions, changes for Swiss enterprises in China under the FTA have indeed been quite limited. A keen observation of future developments continues to be on the agenda of Swiss enterprises doing business in and with China. ○

“Only banking, insurance and construction enterprises are admitted to set up branch offices on the mainland

只有银行、保险和建设型企业可以在中国内地设立分支机构”

中国的认证认可机构间的合作。这种合作可能包括由瑞士本地的合格评定机构进行 3C 后续审查，不过，迄今为止还没有任何瑞士机构向中国当局申请认可。在自由贸易协定之前，到瑞士进行实地审查只能由中国机构进行。协议将有助于瑞士企业节省时间，并保护企业机密。

服务交流

在外商投资方面中国的规定较为严格。外商投资必须依照中国政府的中央政策——外商投资产业目录进行。

按照自由贸易协定的规定，中国承诺以下领域的国民待遇，并减少市场准入限制（包括在中国设立经营分支）：

- 软件实施服务
- 自然科学与工程研发服务（目录中禁止外商投资的行业除外）
- 房地产服务
- 翻译服务
- 佣金代理服务和批发贸易服务（食盐及烟草除外）
- 零售服务（烟草除外）
- 某些环保服务（污水、噪声控制及卫生服务）
- 清关服务
- 运动、娱乐服务（高尔夫除外）
- 市场调研服务
- 除建设项目以外的项目管理服务

迄今为止，这些市场准入自由化在实践中仍不可行，因为尚未出台相关的实施规范（北京市和上海市商务委员会已分别做过口头确认）。

小结

瑞士企业需耐心等待利用自由贸易协定规定优惠的时机，因为对于大多数商品来说，关税减免会在较长的过渡期内逐步实现。其他如市场准入等贸易壁垒的清除在实践中仍不可行。此外，中国对加快认证体系和审批程序以及认可国际标准等的承诺在实践中的实施情况仍有待观察。迄今为止，除了关税减让外，自由贸易协定为在华瑞士企业带来的变化确实十分有限。在华瑞士企业和与中国打交道的瑞士企业应持续关注未来的发展。○