****

**Gaps and Recommendations concerning the Right to development identified by Alliance Sud for the attention of the UN Special Rapporteur for the Right to Development on the occasion of his Country Visit to Switzerland**

Berne, September 2019

**Development cooperation policy**

**ODA**

According to the Bertelsmann Foundation’s annual [Sustainable Development Report](https://www.bertelsmann-stiftung.de/de/publikationen/publikation/did/sustainable-development-report-2019/), Switzerland has the most negative spill-over effects of any country - meaning that its policies and practices jeopardize the achievement of SDGs in other countries, whether through unfair financial flows, tax havens, arms exports, or the consumption of products and services produced elsewhere under inhumane conditions.

While Swiss Development Cooperation generally has a good reputation, the Swiss Government does not live up to its commitment to provide 0.5% of GDP as official development assistance (ODA). Furthermore, the draft strategy for international cooperation 2021-2024 indicates a worrying reorientation of the aims of development cooperation from combatting poverty towards furthering Swiss interests (especially in the areas of migration policy and foreign trade policy). [The draft message](https://www.eda.admin.ch/deza/en/home/news/dossiers/alle-dossiers/iza-2021-2024.html) establishes that Switzerland should work more closely with the private sector in development cooperation, without establishing any clear criteria.

Important policy recommendations, which are also shared by the [OECD DAC Peer Review](https://www.oecd.org/switzerland/oecd-development-co-operation-peer-reviews-switzerland-2019-9789264312340-en.htm) are that Switzerland should increase its efforts towards coherent policies for Sustainable Development and that Switzerland should live up to its policy commitment to providing 0.5% of GDP as ODA, while progressively seeking to increase ODA to 0.7%, in line with the Addis Ababa Action Agenda and the 2030 Agenda.

Furthermore, from the point of view of Alliance Sud, it is crucial that the new strategy of Swiss Development Cooperation does not depart from the mandate of development cooperation, which is the reduction of poverty and the strengthening of civil society (see our position in this regard [here (only in French)](https://www.alliancesud.ch/fr/politique/politique-de-developpement/priorite-lagenda-2030)). Development cooperation should not be instrumentalized for other policy interests. With regards to the cooperation with the private sector, it is crucial that Switzerland establishes clear criteria for this engagement. SDC and SECO should only cooperate with companies that respect human rights and environmental safeguards in all their projects. Switzerland should also ensure, that the involved companies pay their fair share of Tax in the countries, in which they operate. The overarching aim of SDC’s and SECO’s engagement with the private sector should be to strengthen local small and medium-scale businesses in partner countries and to improve working conditions for all, including for people working in the informal sector.

**World Bank and African Development Bank Capital Increase**

Switzerland is also actively engaged in multilateral development institutions, including in international development banks. While much less is known publicly about Switzerland’s engagement in these institutions, it is of crucial importance, that the Swiss strategy in these institutions is also coherent with the overall aim of poverty reduction and strengthening civil society and their right to development in partner countries.

In particular, the World Bank and other development banks have increasingly come under criticism, amongst other due to their push for public-private partnerships and the privatisation of public services to the detriment of the poorest, as well as for investing in large-scale infrastructural projects, often aimed at facilitating fossil-based extractive projects, with adverse social and environmental implications. These projects are far too often accompanied by massive repression of the very human rights defenders who are seeking to counter these negative social and environmental impacts. It runs counter the right to development, whereby affected communities should have a say in what kind of development they want.

For Alliance Sud, it is thus important that Switzerland uses its voting rights in international financial institutions to ask for clear cost-benefit analyses of private sector solutions, including public private partnerships, as well as for even stronger environmental and social safeguards and climate pledges (all of which should apply not only to project lending, but also to financial intermediary lending or development policy loans and technical assistance). To this end, Alliance Sud, would urge Switzerland to put civil society engagement and the protection of human rights front and centre in their engagement with development banks. The upcoming capital increases of IBRD, IFC and the African Development Bank are perfect opportunities for Switzerland to strengthen its strategic engagement and to make its voice heard in order to strengthen not only Swiss policy coherence, but also strengthen policy coherence within the said institutions.

**Trade Policy**

**Human Rights Impact Assessments in Free Trade Agreements**

Despite numerous recommendations by UN treaty bodies and special rapporteurs, the Swiss government has refused to carry out human rights impact assessments of trade and investment agreements, arguing that these are too broad and that there is no robust methodology. However, Olivier De Schutter, former UN special rapporteur on the right to food, has proposed a methodology and a dozen of such studies have been carried out to date (without counting the sustainability impact assessments of the EU). Therefore Alliance Sud has mandated a blueprint HRIA of the free trade agreement between EFTA (the European Free Trade Area Switzerland is a member of) and Mercosur, whose negotiations have just been concluded. The HRIA seeks to identify the most sensitive human rights that may be impacted by such a free trade agreement, based on stakeholder consultations carried out particularly in the Mercosur countries. It is in the process of being finalized.

One of the main issues of Swiss trade agreements (we don’t know about the one with Mercosur since it is not public yet) is the strengthening of intellectual property provisions that go beyond the WTO TRIPS agreement and make the commercialisation of generic medicines in developing countries more expensive and difficult, thereby threatening the right to health. Another one is the strengthening of patent rights along the UPOV 91 agreement, which make it more difficult for farmers to reuse and exchange seeds. The strengthening of IPR provisions is in the interest of the Swiss agribusiness companies (like Syngenta) and the Swiss pharma, but certainly not in the one of poor people in developing countries.

The sustainable development chapter in Swiss free trade agreements is too weak, even in international comparison. It doesn’t comprise human rights in general, but only labour rights and it is the only chapter of the agreement that is not enforceable, meaning that if is violated there can be no sanctions. In the EU chapter there are no sanctions either, but at least civil society is involved in the monitoring of the chapter, whereas Swiss mixed committees are made up only of representatives of the two governments.

**Climate Policy**

The Swiss Federal Council to date has not presented any robust strategy, how Switzerland intends to mobilize new and additional funding as fair and adequate contribution to the 100 bn. USD/year of climate finance. To the contrary: According to the Federal Council, the current policy of redirecting ODA in the amount of 30-350m USD/a from the limited means of development & poverty reduction finance in LDCs towards climate action in MICs ought to be continued.

Swiss NGO have long been pointing out that (i) the fair share based on Switzerland’s responsibility & capacity would be 1 bn USD/year and that (ii) this amount could be generated on the basis of the polluter-pays principle through the planned flight ticket and CO2-tax without burdening ODA for development.

The Swiss Federal Council so far has rejected any policy measures towards decarbonizing the Swiss financial offshore-market. It is estimated, that assets and investments in/through the Swiss financial market cause greenhouse gas emissions exceeding a 20-fold magnitude as compared to Switzerland’s domestic greenhouse gas inventory.

Policy action is urgently need in view of SDG 13.2 – integrating climate change measures into Switzerland’s legislation – with regard to adequately regulating the financial sector with an aim to curb investments in the fossil industry.

Alliance Suds Position towards Climate Justice and Climate financing (in French):

<https://www.alliancesud.ch/fr/file/51347/download?token=3yFvZ1WF>

**Tax and Finance Policy**

International financial and fiscal policy in Switzerland continues to stand in blatant contradiction to the requirements of the right to development. Switzerland, whose financial centre still manages 25% of the world's offshore assets and is one of the most popular domiciles for multinational corporations, is jointly responsible for outflows of tax assets and criminal business practices in developing countries due to its low tax policy for multinational corporations, it’s still patchy anti-money laundering system and the still lack of transparency rules in the management of private foreign assets. These outflows, which amount to several hundred billion dollars a year in corporate tax avoidance alone, prevent developing countries from developing or maintaining public services that could guarantee the social, economic and cultural human rights of their populations - in areas such as education, health care or food security. During a [visit to Switzerland in 2018, the UN expert responsible, Juan-Pablo Bohoslavsky](http://www.ohchr.org/Documents/Issues/Development/IEDebt/A_HRC_37_54_Add3_EN.docx), drew the attention of the Human Rights Council to shortcomings in defending against unfair financial flows and problems in the area of international corporate taxation.

Recommendations:Firstly, Switzerland must fully implement the current recommendations of the Financial Action Task Force (FATF) on improving anti-money laundering measures. Furthermore, the transparency rules for banks in the management of assets of foreign origin must be significantly increased. For example, the distinction between tax evasion and tax fraud, which is still enshrined in law, should be abolished and the legal prosecution of whistle-blowers in the financial sector abandoned. Furthermore, Switzerland must ensure as far as possible that poor countries also benefit from account data on assets held in Swiss banks originating in these countries. Finally, Switzerland must establish a corporate tax policy that allows Switzerland to generate a substantial part of its tax base in a different way than by shifting profits that were not generated in Switzerland but, for example, in the raw material extraction countries of Sub-Saharan Africa. The current corporate tax reform which will be introduced on January first 2020 will not be a step forward. Old rules for dodging taxes introduced as incentives for multinational corporations to shift their profits to Switzerland during the decades will be replaced by new ones who are in line with the current standards of the OECD but will still serve the same purpose. Switzerland should therefore introduce new transparency rules which enable the public and the political sphere to get proper insight into the financial structures of Multinationals active in Switzerland, such as a public Country-by-Country-Reporting. Additionally, Switzerland should – in line with the current discussion on the international level of taxing the digital economy examine ways of taxing multinationals in such a way, that profits are split fairly along the whole value chain of a multinational enterprise and taxes are paid where value is created.

**Business and Development**

Since the adoption of the UN Guiding Principles on Business and Human rights (UNGP) in Geneva in June 2011, the Swiss government has refused to put forward legislation aiming at implementing mandatory Human Rights due diligence (HRDD) and ensuring access to justice for victims of violations of human rights by Swiss based enterprises, specifically abroad. In its National Action Plan (NAP), adopted in 2016 - currently under review- the Swiss government is only counting on voluntary measures to ensure respect of human rights by enterprises. This is why a coalition of NGO has launched the [Swiss Responsible Business Initiative (RBI)](https://corporatejustice.ch/) in October 2016 which aims at introducing into the Swiss Constitution provisions on mandatory human rights diligence and access to remedy for victims of HR violations by Swiss based enterprises, throughout their activities.

The Swiss government has rejected the RBI and refused to submit a "counter-proposal", i.e. a new legislation to introduce said requirements. Since two years, the Swiss Parliament is discussing such a counter-proposal. The current draft, submitted by the Commission on Legal Affairs of the Council of States, introduces mandatory HRDD and access to justice for victims of HR violations by Swiss based enterprises and their subsidiaries. Despite major concessions compared to the Swiss RBI, the committee of initiative would be ready to withdraw the RBI, should the proposal as its stands be approved by the Council of States and finally by the National Council.

Alliance Sud, as a member of the coalition of NGOs supporting the RBI, we would welcome the Council of States and the National Council to approve said counter-proposal in its current version. Should the current draft be rejected or "watered down", the Swiss RBI would be submitted to a popular vote in spring 2020.

The UN Special Rapporteur on Development could support the above mentioned developments at the Swiss Parliament and invite Switzerland to enact legislation to ensure that Swiss based multinational companies and their subsidiaries abroad respect human rights and protect the environment throughout their activities.