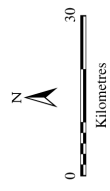


SWITZERLAND

Capital: Bern
 Population: 7.2 million (2002 est.)



Swiss Confederation

DANIEL THÜRER AND MALCOLM MACLAREN

Switzerland was long renowned for insisting on independence and neutrality in its foreign policy, being described as “an island in Europe.” The forces that have shaped geo-politics in the past decades have not, however, left Switzerland unaffected. The country is integrating itself ever more into the wider world. The approach taken by all orders of government to foreign relations has been increasingly active and open, moving away from isolationism and toward engagement. There is widespread official recognition that Switzerland will have to collaborate with other states and international actors in order to meet new policy challenges, from environmental threats to increasing migration.

As international collaboration increases, the domestic contestation of the conduct and content of foreign relations can be expected to increase as well. The forces of internationalization, multilateralism, and globalization¹ – and integration in Europe especially – pose challenges to the ability of the Swiss political system to meet the country’s different concerns. Foreign relations have become a topical and sensitive issue for each order of government – the confederation (the national government) and the cantons and municipalities (the constituent units) – as well as for the citizenry. Their conduct and content directly concern Switzerland’s self-perception as a member of the international community, as a democracy, and most important for our purposes here, as a federation.²

Foreign relations are in principle a national matter. Switzerland being Switzerland, however, powers in this policy area are also conferred on the cantons and municipalities as well as on “the people” (*das Volk*). A federal system, by allocating competences for the forming of opinion, decision making, and implementation among orders of government, is intended to meet the different political concerns in a country. Divided sovereignty in foreign relations has the potential, however, to become a source of tension in a federation and an obstacle to international cooperation. Switzerland has

avoided these fates so far. The confederation, cantons, and municipalities have been considerate of each others' competences and interests in their dealings and have worked together to coordinate policy design and delivery. Where necessary, new arrangements have been created and existing powers modified. The question going forward is whether the relevant authorities will continue to demonstrate the reciprocity that the Swiss federal system demands and make use of the flexibility that it offers, especially if the country joins the European Union (EU).

More generally, the conduct and content of foreign relations in Switzerland are also important issues for the citizenry. Citizens are in this regard little concerned with traditional concepts of federalism and more concerned with the real effectiveness and ongoing democratic basis of government policies. As Switzerland engages ever more with the wider world, the country's political system may have to be reformed so that foreign relations do not give rise to serious citizen dissatisfaction.

THE SITUATION OF SWITZERLAND AND A HISTORY OF ITS FOREIGN POLICY

To understand the conduct and content of foreign relations in Switzerland, it is necessary to understand the domestic context. The country is above all characterized by diversity. Switzerland is not a nation in the traditional, ethnic-based sense; it is a *Willensnation*, crafted by the desire of its inhabitants to live together peacefully in their diversity. This diversity motivated the choice of political system upon the founding of the federal state in 1848 and has subsequently defined the politics of Switzerland, described as one of "overcoming divisions, fragility and internal conflict."³ This desire and its institutional expressions must be renewed in keeping with changing circumstances to ensure the country's continuing success.

The nation's 26 cantons and 2,867 municipalities reflect a mosaic of languages (officially German, French, and Italian; semiofficially Romansh), religions (largely and evenly Roman Catholic and Protestant), and more broadly, cultures.⁴ These divides in the Swiss citizenry contribute to different political concerns among the constituent units. The cantons (and municipalities) are, moreover, the product of different historical processes. Some have enjoyed a degree of sovereignty since the Middle Ages, while others were dependent on powers inside or outside present-day Switzerland into the nineteenth century. Finally, the cantons vary greatly in terms of territory, population, and economy; for example, the smallest canton in terms of territory (Basel-City) is more populous and economically powerful than the largest (Grisons). Although these differences among constituent units can cross-cut and offset one another, they can also exacerbate one another. There are, for example, clear fault lines in attitudes regarding integration in Europe between the

smaller, rural, and conservative cantons (largely German-speaking) and the bigger, urban, and progressive cantons (especially French-speaking).

The country's geographical situation has also defined the conduct and content of foreign relations. In light of its relatively small area of 15.9 million square miles and population of 7.3 million people as well as its location in the centre of Europe, foreign policy has necessarily been made with Switzerland's larger neighbours in mind. This reality has had particular importance for constituent units that border Germany, France, Italy, and Austria due to natural social, economic, and environmental ties.

The diversity and location of Switzerland led in the past to foreign policymaking that emphasized the country's sovereignty. Extensive freedom in both external and internal decision making was considered necessary to maintain the country's identity. Although Switzerland was founded as a federal state, an extensive foreign policy competence was accorded to the confederation. The confederation was to shield the country from outside threats and entanglements through the army and diplomacy so that the country could attend domestically to its federal tradition. The cantons were to enjoy broad competences in many policy areas in recognition of their importance for Swiss citizens.

THE REGIONAL AND GLOBAL CONTEXT

Whereas the country's size and location traditionally led to an isolationist policy in matters of security and diplomacy, they have led in economic, cultural, and environmental policy areas to a more cooperative approach internationally. This duality in Swiss foreign policy is manifested in Swiss membership – or rather nonmembership – in various international inter-governmental organizations (IGOs).⁵

To elaborate, a fear of foreign threats from and of entanglements with other states led to a longstanding insistence on reciprocal noninterference in internal affairs. Potential centrifugal influences in the federation from culturally related neighbours were also to be minimized thereby.⁶ Independence and neutrality became so integral to the country's legal order, political system, and sense of self that this policy has proven difficult to redefine in recent decades. With the revision of the Federal Constitution in 1999, however, Swiss foreign policy moved decisively from an exclusive concern with safeguarding the country's independence and welfare to broader concerns with alleviating world poverty; promoting respect for human rights, democracy, and the peaceful coexistence of nations; and preserving natural resources.⁷ These broader concerns are considered to contribute to, not compromise, Swiss security.

Although Switzerland has sought to keep pace with the global geo-political changes following the Cold War and to play a role internationally, it has also sought to avoid being drawn into compromising military commitments. For

example, although Switzerland signed onto the North Atlantic Treaty Organization's Partnership for Peace in 1996 to promote peace and security, it will withdraw if Swiss neutrality is threatened. Subsequent government proposals to deploy fully armed Swiss peacekeepers on missions of the United Nations and the Organization for Security and Cooperation in Europe as well as to cooperate more closely in military training with other countries provoked heated debate domestically and were only narrowly approved in a popular referendum in 2001.

The historic insistence on independence and neutrality, which long kept Switzerland out of many IGOs, has obscured the high degree of integration (especially economic) that has actually occurred. In matters of "low" as opposed to "high" politics, realism regarding the situation of Switzerland has demanded engagement by all orders of government with the wider world. From a functional perspective, it is no accident that Switzerland is a major international partner and player in economic and financial policy.⁸ Switzerland has an inherent interest in promoting free trade, as it is located "at the crossroads of Europe" and is relatively poor in natural resources. This engagement contributed to an enviable per capita gross domestic product in 2007 of US\$39,800. Likewise, cross-border environmental cooperation is well developed; ecological and other concerns call for joint management of internationally shared rivers and lakes.

This dualist approach to foreign policy and to membership in IGOs is most obvious in Switzerland's integration in Europe and in attitudes toward joining the EU. Switzerland is surrounded by EU member states⁹ and is a close political, cultural, and economic¹⁰ partner of the EU. Nonetheless, Switzerland is not a member. Switzerland has dealt with the supranational organization bilaterally, concluding a series of carefully negotiated agreements on defined areas of common interest.¹¹ Switzerland is a member of the European Free Trade Agreement, but its voters rejected membership in the European Economic Area (EEA) in 1992, which would have enabled Switzerland to participate in the Internal Market. This restrained integration in Europe in the form of traditional treaties concerned with trade and not politics is believed to best protect the country's freedom to act.

Swiss citizens, who have the last word on decisions about joining important IGOs, continue to be wary about membership in IGOs and about integration in Europe in particular, many strongly preferring that the country guard its distinctiveness and independence. Swiss citizens may be outward-looking on an individual basis (e.g., trading globally, travelling widely, and learning foreign languages eagerly), but they have been inward-looking in referenda regarding international integration, repeatedly rejecting or approving by narrow margins foreign policy proposals of the confederation. There has been a shift in their attitudes in the past years toward more interest in and engagement with the wider world.¹² Nonetheless, popular perceptions of contemporary reality and the appropriate policy response

can still diverge sharply from official perceptions. As the capture of the largest share of the national vote in 2003 and 2007 by the isolationist Swiss People's Party (Schweizerische Volkspartei) demonstrated, the traditional governing parties have been unable to make the case for a fundamental re-orientation of foreign policy. There continues to be a widespread belief in Switzerland as a politically unique country (*Sonderfall*). Popular support in favour of international integration is accordingly not guaranteed but must be fought for by governments each time anew.

THE CONSTITUTIONAL SETTING

The changed circumstances in which foreign relations are conducted were partly responsible for the revision of the Federal Constitution in 1999. As noted, Switzerland was founded as a federal state, and cantonal autonomy remains the basis of the federation. Article 3 of the Constitution has not been changed in the course of 150 years and 150 other partial revisions. It reads: "The Cantons are sovereign insofar as their sovereignty is not limited by the Federal Constitution; they shall exercise all rights which are not transferred to the Confederation."

The Constitution accordingly sets out the competences of the different orders of government. As also noted, an extensive foreign policy competence was exceptionally accorded to the confederation. Distinctions between foreign and domestic policy have, however, proven hard to maintain in the face of prevailing geo-political forces; today, "[v]irtually all political problems have a foreign policy dimension, whether with regard to their content or to the decision-making process."¹³ From the 1980s at the latest, the danger that the cantons' competences would be hollowed out through the confederation's competence to conclude treaties concerning matters normally resting with the cantons became clear and pressing.¹⁴ For example, the cantons feared (and continue to fear) that their competences in taxation, public procurement, and business support would be circumscribed through the confederation's extensive foreign policy competence and the country's international economic integration.¹⁵ They accordingly began to exercise their rights in the federation more strongly, asserting that they have, and should have, powers and identities of their own. They demanded that their foreign policy role, particularly their participation in the foreign relations of the confederation, be systematized and strengthened. The cantons were closely involved in the revision of the Federal Constitution that ensued.

The new Constitution seeks to buttress the federal character of the country in the foreign policy area, as in others. The revision was concerned less with the allocation of competences in the federation and more with inter-governmental cooperation and the practical fulfilment of responsibilities.

In the first paragraph of the section concerning authority over relations with foreign countries, the new Constitution provides that foreign relations are a national matter (Art. 54, para. 1). Although this was effectively the case prior to the revision, the 1874 text did not contain such an explicit statement. There is no list of all matters belonging to “foreign relations” in the Constitution, but Article 54, paragraph 2, gives an indication of their breadth. One matter undoubtedly resting with the confederation is defence. As elaborated in Article 185, the Federal Council¹⁶ is entitled to take measures to secure the external security, independence, and neutrality of Switzerland, including mobilizing the armed forces. Military matters are effectively national; only traces of cantonal sovereignty in this regard remain. In contrast, the cantons are primarily responsible for applying national law and enforcing law and order, and each canton maintains a police force. This traditional division of responsibilities for security between orders of government seems increasingly anachronistic. Inner security must to an extent be considered a military task today. Swiss security is threatened not by other countries’ armed forces (particularly no longer by its neighbours) but by machinations of nonstate groups and asymmetric forms of fighting.

Despite the general rule that foreign relations are a national matter, the cantons’ concerns about and openness to foreign relations are acknowledged in the Constitution. Indeed, the cantons made their approval of Article 54, paragraph 1, contingent on provisions for a right of consideration and, where appropriate, of participation in the confederation’s conduct of foreign policy as well as for a certain leeway for their own foreign policy being included. The resultant power of the cantons regarding the conduct of foreign relations is among the most extensive of subnational units anywhere. Specifically,

- Article 54, paragraph 3, states that the confederation is, in its foreign relations, to take the competences of the cantons into consideration and to protect their interests. The principle of cooperative federalism and existing practice already foresaw the participation of the cantons in the *grosse Aussenpolitik* (the major foreign policy of the confederation). Nonetheless, the revised provision is a fundamental statement on the exercise of the confederation’s power that informs the other provisions in the section and marks a decisive shift from dual to cooperative federalism.
- Article 55 requires the participation of the cantons in foreign policy decisions of the confederation that affect them. This implicitly includes those regarding the EU. In this circumstance, the confederation must inform the cantons fully and in a timely fashion and must solicit their opinion. The cantons’ opinion is to be given particular weight when their competences are concerned; indeed, the cantons

are then entitled to participate in international negotiations in an appropriate manner (Art. 55, para. 3). This participation is not to inhibit the confederation's ability to conduct foreign policy.

- Article 56 allows the cantons to pursue their own relations abroad, a so-called *kleine Aussenpolitik*, or minor foreign policy. Cantons can deal directly with lower-ranking foreign authorities; in other cases, the relations of the cantons with foreign countries are to be¹⁷ intermediated by the confederation. Cantons can also conclude treaties in conformity with their internal competences. Any such treaty must not be contrary to the laws and interests of the confederation and to the laws of other cantons, and the signing canton must inform the confederation prior to the treaty's conclusion. Although the cantons were allowed to pursue a *kleine Aussenpolitik* prior to 1999, this power was circumscribed.

Given this allocation of competences and these provisions for cooperation, what procedures for decision making in foreign affairs and defence in national institutions are foreseen in the Constitution? Foreign relations are primarily the responsibility of the federal Department of Foreign Affairs (EDA),¹⁸ which is headed by the Swiss foreign minister. (Within the EDA, responsibility for coordinating the confederation's European policy rests with the Integration Office.) The Federal Council represents Switzerland abroad, including in the negotiation of treaties. It nominates and instructs the Swiss delegation, provides delegation members with signing authority, and is entitled to ratify the signed treaty (Art. 184).

The Federal Assembly for its part has the constitutional right only to accept or reject the treaty in question (Art. 166). The Federal Assembly and its foreign affairs committees are otherwise entitled to participate in Swiss foreign policymaking by virtue of rights to be informed and heard on the entire range of matters in this policy area. Due to the growing importance of foreign policy in government activities, the Federal Council has effectively gained power at the expense of the Federal Assembly. This power shift to the executive from the legislature appears to constitute a serious loss of democracy in the political system.

Be that as it may, these participatory rights of the Federal Assembly do not ensure constituent-government representation in foreign policymaking in national legislative institutions. Members of the Council of States, the second chamber of the Federal Assembly, are not under instruction from cantonal governments but are popularly elected. As a result, cantonal interests find expression at most in the Council of States generally. More significant is the right that cantons have to be consulted regarding important treaties, just as they do during the preparation of important legislation or other substantial projects (Art. 147). The cantons can make their position(s) in this framework clear.

A special feature of the Swiss political system as regards the conduct of foreign relations is that important decisions may be subject to a referendum. Proposals to join organizations for collective security or supranational communities are automatically subject to a referendum. Certain categories of treaties are subject to a referendum at the request of 50,000 eligible voters or eight cantons. The citizenry's and the cantons' role in the confederation's foreign policymaking is thereby strengthened, especially in the case of the mandatory referendum, as it requires a double majority of the people and the cantons for approval.

In the area of foreign policy, as in other policy areas, the confederation largely delegates the implementation of its laws (including treaties that it has concluded)¹⁹ to the cantons.²⁰ The cantons must undertake in due time the measures necessary to conform to international laws that concern them,²¹ as they must do regarding national legislation.

The confederation is generally obligated to respect cantonal autonomy and is in the present context obligated to leave the cantons with as much leeway as possible and to take into account differences among them (Arts 47 and 46 respectively). The key role of the cantons is made clear by the choice of the term implementation (*Umsetzung*) rather than execution (*Vollzug*) in the Constitution, which foresees a policy-formation task and not mere administration.

Whereas the cantons are subject to national lawmaking internationally, the confederation is practically dependent on the cantons domestically. Federal institutions do not generally have the means to implement foreign policy; they must rely on cantonal cooperation. Swiss federalism functions in this respect, as in others, primarily according to co-responsibility and dialogue. Constitutional principles such as *Bundestreue* (federal comity) affect in turn the constituent governments' propensity to implement treaties concluded by the confederation.

INTERGOVERNMENTAL RELATIONS IN FOREIGN AFFAIRS

The constitutional articles prescribing the conduct of foreign relations would be worth little more than the paper that they are written on without complementary legislation, arrangements, and capacities. These structures must in turn remain adaptable to changes wrought by prevailing geopolitical forces. Integration in Europe has in particular shaped relations between the confederation, the cantons, and the municipalities, leading to the modification of existing structures and to the creation of new ones.

Before these structures are examined, it must be emphasized that the success of Swiss federalism depends not only on such "tangibles" but also on "intangibles." To be efficient and effective, the constitutional and legal

provisions must be applied by each order of government in keeping with the principles of subsidiarity²² and cooperative federalism,²³ as well as with mutual consideration and support.²⁴ These principles constitute long-standing ideals of the political system, but they have grown in importance as cantonal autonomy has diminished. In short, without the *esprit fédérale* (i.e., the internalization of these principles by the different orders of government in their interactions), federalism cannot succeed in meeting the different concerns of the country.

Relations between the Confederation and the Cantons

The 1999 constitutional revision was accompanied by a legislative revision in this policy area, namely the Federal Law on the Participation of the Cantons in the Foreign Policy of the Confederation (BGMK). This law provides for intergovernmental cooperation in foreign relations, as codified in Article 55 of the new Constitution. It attempts to balance interest in an effective and efficient foreign policy with respect for cantonal opinions and for Swiss federalism more generally.

The second dimension of the foreign policy role of the cantons is complemented by another formal, but nonconstitutional, arrangement. Article 56's provisions regarding a *kleine Aussenpolitik* have been realized by international agreements that Switzerland, with the consent of the cantons, has signed obligating countries to facilitate cross-border collaboration between their constituent territorial bodies, including granting them the right to conclude agreements. The foundational international agreement in this respect is the Madrid Agreement.²⁵ In the Karlsruhe Agreement, Switzerland, Germany, France, and Luxembourg went further, recognizing territorial bodies' right to conclude agreements without additional authority or approval of other orders of government.²⁶

Various institutional mechanisms have been developed to ensure effective cooperation between the confederation and the cantons as a whole. These include the Confederation-Canton Contact Body, the Coordination Commission, and the Conference of Cantonal Governments (CdC). Their development has been spurred by the issue of Swiss integration in Europe.

As noted, the confederation is obligated to provide the cantons timely information about any foreign policy plans it has that are of significance for them. It sends the cantons a list of such plans every half-year, and the cantons are entitled to request particulars. The Federalist Dialogue – a regular meeting between a confederal delegation and cantonal representatives – also plays an important role in meeting the confederation's obligation to provide the cantons with information (and vice versa).

The confederation consults with the cantons prior to and during negotiations in IGOs or with other states when the cantons are affected or

sometimes on its own initiative. The way that the cantons participate in international negotiations is determined by the confederation in widest possible agreement with the cantons. When cantonal representation in a Swiss negotiations delegation is considered appropriate, the cantons propose and the confederation decides the staffing (Art. 5 BGMK). Direction of the delegation remains with the confederation, even if a cantonal representative is appointed its head.

The confederation and individual cantons can engage in foreign activities together – for example, when the activity in question affects only particular regions of the country. Since Swiss federalism is based on the equality of the cantons, however, the confederation cannot exclude other cantons in a comparable position that wish to join in.

Direct participation of the cantons in IGOs is little to nonexistent. Even in the EU, the possibilities for cantons to formally influence supranational decision making are limited. The cantons accordingly prefer membership to bilateralism as an approach to Switzerland's integration in Europe. Membership would, they believe, open channels of influence for them at the European level: the EU would be receptive to making provision for cantonal concerns, as it seeks to be closer to the citizens and to allow expression of national identities.

In short, the confederation and the cantons depend on one another for the coming into being, approval, and implementation of treaties with the EU or other countries. They must rely heavily on cooperative federalism working effectively. The reality of these intergovernmental relations is illustrated by the history of the aforementioned Bilateral Agreements. In the context of the Bilateral Agreements I, the confederation included cantonal representatives in the negotiations delegations from the outset. Moreover, the cantons were offered – and accepted – the possibility of accrediting a liaison officer in the Integration Office of the confederation. In the context of the Bilateral Agreements II, the cantons closely followed the negotiations in Berne and Brussels and engaged in consultations about them through the cdc. The cantons then came out strongly in favour of the agreements, helping the confederation to win parliamentary and public votes. Today, the confederation depends on the cantons for the practical (as well as legal) implementation of the Bilateral Agreements II, especially as regards police cooperation.

Relations between the Cantons

The cantons have responded to the foreign policy challenge in keeping with their interests and capabilities, individual and collective. Here, the great differences in situation and size between the cantons come into play.

Individually, the cantons show varying degrees of interest in foreign affairs, with many cantons long being little interested. Even today, the

importance that they as a whole accord foreign affairs is limited; only a few cantons have, for example, created a separate department of foreign affairs headed by a senior civil servant (e.g., Vaud and Jura).

However strong their interests may be, actual engagement of the cantons in foreign policy is conditioned by their resources and capacities. Cantonal collaboration with the confederation in the framework of Article 55 typically occurs through special coordination units found in the cantonal chancellery (*Staatskanzlei*). Herein lies potential for problems in intergovernmental relations. The provision for extensive cantonal participation in the confederation's foreign policy risks preventing the confederation from reacting quickly enough to developments internationally, especially if the responsible cantonal personnel are not "up to speed." The cantons must support the confederation through competent and informed personnel as well as through reliable structures for cooperation.

The cantons are constitutionally prohibited from entering joint agreements if these are contrary to the rights of other cantons (Art. 48, para. 3). Regardless, the tendency has been for the cantons to exercise their rights to participate in the foreign policy decisions of the confederation collectively due to their commonality of interests, the need for consensus, and the resultant gains in efficiency and expertise.

The cantons coordinate their transborder activities within Switzerland in various conferences. Foremost among these is the cdc. The cantons set up the cdc in 1993 to develop common positions and present them to the confederation, especially regarding European policy. They also wished then, as now, to be considered real partners, co-responsible for Swiss foreign policy. At first, there was general skepticism about the cdc's ability to develop common positions. Foreign policy matters, especially integration in Europe, can produce tensions between cantons due to the cantons' often fundamentally divergent individual interests.

During the negotiation of the Bilateral Agreements II, however, the cdc demonstrated an ability to react quickly and to speak with one voice. Since the CdC has become a successful lobbyist for the cantons and an important dialogue partner of the confederation, attention has shifted to the legitimacy of its role in the confederation's foreign policy. The goals, aims, and workings of the CdC have been defended by some as legally consistent with the constitutional mandate of the cantonal governments and as an efficient and effective institution of intercantonal collaboration. In contrast, the emergence of an institution that is based on a contractual agreement among cantonal governments, that operates largely among them to the exclusion of cantonal assemblies, and that is little known by the public as a pivotal player in a policy area already renowned for thin popular bases has been criticized by others as democratically un-supportable. This difference of opinion concerning the cdc's legitimacy

has taken concrete form in debates over making formal provision for the cdc in the federation and over including more than just the cantonal executives in its operation.

Relations between the Confederation, Cantons, and Municipalities

Two of every three Swiss live in an urban agglomeration, and six of the eight largest agglomerations border on foreign countries. The increased importance of the municipalities in the political life of Switzerland was formally acknowledged in the revision of the Constitution. The new Article 50 makes the tripartite federation explicit. Paragraph 1 guarantees municipal autonomy if a population centre is granted the status of a municipality by cantonal law. The confederation is obligated to take into consideration the effects of its activities on municipalities (para. 2) and in particular on cities and agglomerations (para. 3). This obligation encompasses the confederation's conduct of foreign relations.

The municipalities' transborder cooperation has contributed to the denser networks between Switzerland and other countries. Swiss cities and communes have pursued public transport, sewage, and similar projects with their neighbours on an administrative level and are positioning themselves internationally as places to live, work, and study. As with the cantons, the growing number and range of the municipalities' foreign activities are explained largely by functional concerns. The transborder nature of contemporary public issues favours transborder cooperation in their management, and global pressures demand that municipalities' interests be deliberately promoted abroad as well as at home.

This *ganz kleine Aussenpolitik* (very small foreign policy of the municipalities) is also significant for the federation, especially as regards European integration. Indeed, given the commonality of concerns and the requirement for close cooperation among orders of government, there is arguably now one foreign policy and no longer three. The municipalities must be careful not to exceed their authority. Just as they expect not to be unduly hindered by the confederation and cantons, they must heed the laws and interests of the federal and cantonal governments in their efforts at transborder cooperation.

CONSTITUENT GOVERNMENT DIPLOMACY

The cantonal governments have pursued their own foreign relations in diverse ways. Some cantonal governments appreciate the opportunities provided them by the Constitution and the confederation. These engage in cross-border "housekeeping" and pursue economic interests internationally rather than assert their cultural or political identity abroad.²⁷ The

cantons as a whole have not, however, made full use of their powers. The primary aim of the cantons as regards foreign policy seems to be to maintain their influence in domestic policy. For their part, citizens show limited interest and are little involved in their cantonal governments' foreign activities, viewing such efforts generally with skepticism.²⁸

Historical and Contemporary Context

As noted, the revision of the Constitution represented more a confirmation of existing practice and doctrine than a reallocation of competences in the area of foreign policy. The previous constitutional provision regarding transborder cooperation by the cantons had been circumscribed. (Such cooperation was to relate to a limited range of subject matters, and any treaties resulting from it required the confederation's approval.) In practice, however, the cantons already had various possibilities for transborder cooperation, the confederation had adhered to a generous policy in this regard, and the resultant cooperation had in some cases been many-sided and intense. Nonetheless, the cantonal desire for an explicit, wider-reaching foreign policy competence grew as cantonal autonomy diminished in other respects. This desire was fanned by the rejection of Swiss membership in the EEA in the 1992 referendum, which shifted the focus to developing other forms of transborder cooperation.

Since the 1999 revision, the confederation has continued to give the cantons leeway in their direct dealings with foreign authorities, recognizing that their concerns may be thereby better dealt with. The *kleine Aussenpolitik* is considered to produce policy that is more custom-tailored than that designed in Berne. Indeed, the confederation is active only in a few areas of regional, cross-border cooperation. The EDA tends to restrict itself to providing political assistance. It signs international treaties in the name of or together with the cantons, strives for optimal framework conditions (e.g., through the conclusion of the Karlsruhe Agreement), supports projects with bilateral and multilateral political instruments (e.g., the INTERREG-Framework Credit),²⁹ and meets with the foreign ministries of neighbouring countries to facilitate information flow and dispute resolution.

Having said that, there are clear bounds to how active a foreign policy role the confederation will allow the cantons. The confederation has made little use of the possibility of delegating to the cantons the authority to conclude treaties with foreign states or of mandating a cantonal representative to represent its interests at the European level when the discussions concern the cantons. Cantonal representatives are not located in Swiss diplomatic missions, and the missions do not have officers responsible for working with the country's constituent governments.

More significant, as the confederation is legally responsible internationally for the treaties of the cantons, it must oversee them. Cantonal treaties once had to be approved by the confederation. The cantons are now obligated merely to inform the confederation prior to their conclusion (Art. 56, para. 2). The Federal Council retains the right, however, to raise objections to cantonal treaties.³⁰ The protection of the interests of the confederation extends beyond a ban on treaties that are contrary to the Constitution or federal law to include the requirement for a “certain foreign policy appropriateness.” The treaties are not to stand in the way of the interests of Switzerland as a whole. They are to be limited to traditional functions, especially to matters of local concern, and are not to attempt a *grosse Aussenpolitik*.

The foreign activities that the cantons undertake individually can be competitive, in that some are zero-sum games (e.g., attracting particular foreign enterprises and individuals to their jurisdictions).³¹ Governments are also naturally concerned to outperform other cantons in any comparison lest their popularity suffer. Cantonal agreements may not, however, be contrary to the law of other cantons (Art. 56, para. 2).

In terms of the permissible content of cantonal foreign activities, the power to conduct foreign economic policy rests with the confederation. It is founded upon the confederation’s general competence to make treaties and to conduct foreign policy, and it includes competence for trade measures and economic sanctions. Concurrent cantonal powers exist only within precise limits, which comprise supporting humanitarian organizations and assisting developing countries. Participation of the cantons in the formulation of foreign economic policy, let alone formal participation in related IGOs, is not foreseen. Constituent governments (collectively or individually) must lobby the confederation to get their views heard on international commercial negotiations.³² Likewise, the legality of constituent-government efforts to project influence internationally on normative issues is highly doubtful. The aspirations expressed in the constitutions of various cantons to contribute to understanding and cooperation among peoples beyond their borders seem unobjectionable. When, however, such efforts *in concreto* infringe an exclusive competence of the confederation, they are forbidden, as the cantons are not to prejudice the relations of Switzerland with foreign states.³³

Domestic and International Manifestations

Some cantons, especially those bordering on foreign countries, highly value the ability to pursue cross-border cooperation projects actively, in a targeted manner, and with maximum flexibility. These cantons see the *kleine Aussenpolitik* as a means not merely to solve problems but to realize

common opportunities. Nonetheless, the cantons in general have far from exhausted the extensive possibilities provided them by the Constitution and the confederation of engaging in relations with international actors. The conclusion of treaties and other official business of the cantons with foreign jurisdictions takes place principally via the confederation. Given that smaller and weaker cantons are less able to pursue an active foreign policy, more telling is the priority that their representatives attach to this policy area. The cantons as a whole are not concerned with the "wide world." For example, executive speeches and proclamations dealing directly with international political issues tend to be exceptional. The cantons do participate in European institutions, especially in the Assembly of European Regions. Their foreign activities tend to focus, however, on regional and cross-border themes, as manifested in the typical allocation of competence for the conduct of such activities to the relevant domestic departments (e.g., justice and economic development) rather than to a separate department. Further, international agreements concluded by the cantons remain few in number in absolute terms; represent a very small share of cantonal laws; concern a limited range of matters, namely the living and working environment; and are concluded almost exclusively with neighbouring jurisdictions. Finally, although the cantons have the constitutional opportunity to pursue foreign contacts, including official visits and permanent representatives, their governments have made little to no use of this opportunity. Swiss cantons as such are, for example, not represented abroad.

Although the cantons have not made full use of their powers to pursue a *kleine Aussenpolitik*, their exercise of these powers does take many forms. Unfortunately, it is not possible here to list all regional and cross-border organizations in which constituent governments participate³⁴ or to detail all their foreign activities.³⁵ General remarks and some illustrations will be offered instead.

The agreements of the cantons take a variety of forms, extending well beyond the traditional international legal form of the treaty to include everything that is practically necessary for the fulfilment of responsibilities, for collaboration, and for partnership. (Indeed, the legal status of some constituent governments' agreements with foreign jurisdictions is unclear.) The agreements can prescribe the rights and duties of the relevant authorities or of private parties. As regards signatories, agreements may be reached between governments or administrations. The subject matter can be factual or organizational. Finally, the attributes themselves of individual agreements may change over time.

In addition to collaboration foreseen in individual agreements concluded by the cantons, considerable collaboration occurs within cross-border government commissions and cross-border agencies set up by the

confederation and foreign jurisdictions or by the cantons and foreign jurisdictions, respectively. To be more specific:

- Joint government commissions exchange information and make recommendations to their respective national authorities. Two categories of commission exist. Consultative commissions are based on international agreements and deal with regional topics and relations between neighbours in a border region. There are currently consultative commissions for the Geneva and the Upper Rhine regions. They have no decision-making powers. The confederation in the form of the EDA provides administrative services. Special commissions are based on bilateral treaties and deal with specific, clearly delineated tasks (such as cultural exchanges and public-transport fare partnerships). They meet as and when required. Around forty of these commissions exist today, and the EDA is a member of some.
- Within the cross-border agencies, the cantons pursue joint projects and conduct a regular dialogue with the territorial authorities of neighbouring states. Some agencies include parliamentary bodies. Their primary concerns are matters for which the cantons are wholly or partly responsible (e.g., transport, environmental protection, infrastructure, and disaster relief). The EDA is generally represented in these agencies as an observer or a permanent guest. Cross-border agencies have been created for the following regions: Upper Rhine, Lake Constance, Grisons, Ticino, Valais, Lake Geneva, and Jura. The International Lake Constance Conference is particularly noteworthy. This border region, which comprises constituent units of Switzerland, Germany, and Austria, as well as Liechtenstein, has long been engaged in a broad and deep integration, and the extent of integration today demonstrates the potential of the *kleine Aussenpolitik*.

The subject matter of constituent-government diplomacy differs according to the level at which the diplomacy occurs. At the European level, the cantons are part of wider efforts to develop a “Europe of the Regions,” a governance arrangement that speaks to Swiss concepts of citizen proximity, subsidiarity, and federalism. At the regional level, themes such as regional planning, education, environment, and tourism constitute the focus of representatives. At the cross-border level, matters include urban and rural development, infrastructure, resource use, and interpersonal contacts.³⁶

Some of these policy concerns are also cross-cutting (implicating different orders of government), such as cultural and economic promotion. Promotion of culture in Switzerland is entrusted largely to the cantons and municipalities. Article 69, paragraph 1, states that culture is a cantonal matter. The Constitution does, however, provide that the confederation

may support cultural activities of nationwide interest beyond cantonal borders (Art. 69, para. 2). The public actors in Swiss cultural diplomacy comprise Pro Helvetia (the Arts Council of Switzerland), which works directly with foreign partners; the EDA, which supports cultural activities through project funding as well as through its diplomatic missions and transport facilities; the constituent units themselves, which facilitate international partnerships; and related cantonal and municipal organizations like universities and museums, which engage in their own cooperation.³⁷ Although cultural promotion by the constituent units gives expression to local identity, these units are not seeking to achieve recognition abroad of distinct “national” identity.

As noted, the power to conduct foreign economic policy rests with the confederation. The constituent governments can nonetheless promote themselves by various means as a place to do business. Within the leeway granted them to implement the treaties of the confederation liberalizing trade (e.g., the Bilateral Agreements), they can more or less proactively remove border obstacles for their citizens and the local economy, thereby encouraging the free movement of goods, services, capital, and people. Further, they are entitled to enact laws and promulgate relations to attract investment, enterprises, and individuals from abroad as expressions of their longstanding authority over business support, taxation, and citizenship. Finally, the cantons can and do undertake these activities on their own as well as with national officials, the private sector, and nonprofit and civic organizations.

The approaches of Basel-City and Zurich to foreign activities are illustrative of those cantons pursuing an active foreign policy but not, as noted, of all cantons.

- The canton of Basel-City cooperates above all with its neighbours in various cross-border institutions. These institutions concern themselves with the local universities, regional planning, and transport, among other policy areas. They bring together a mix of parliamentarians, government leaders, municipal representatives, and administrators, with or without the participation of private parties. The cooperation that takes place varies from one institution to another, as does the geographical range of the institutions.
- The canton of Zurich is of particular interest in this context for its foreign commercial strategy. The canton’s cross-border cooperation is principally aimed at making the area more attractive for business and for realizing mutual projects with neighbouring regions. (Zurich cooperates closely with Baden-Württemberg, jointly organizing annual conferences for Swiss and German enterprises.) Cooperation with other regions is intended to broaden perspectives, build contacts, and open

doors for local business. (The canton is notably a member of the World Cities Alliance.) Finally, the canton cooperates with other cantons and local enterprises in the framework of the Greater Zurich Area AG, a public-private partnership that promotes the eponymous economic area abroad through offices in Germany, the United States, and Japan.

Public Participation and Public Attitudes

The foreign activities of cantons tend to be executive-driven. The participation of cantonal parliaments is limited, and these rarely discuss and pass resolutions on international political issues. Indeed, members of cantonal governments have been accused in this context of confusing themselves at times with the cantons as a whole.

The way that foreign policy is conducted in the constituent units (and, as noted, in the confederation) raises concerns about democracy in the political system. Not only has there been a power shift to the executive from the legislature, but there also seems to be a discrepancy between the actual international cooperation of Swiss governments at all levels and the official explanation of and the public participation in this cooperation. Government representatives have been unable to engage citizens consistently in foreign policy discussions and to convince them of the need to reorient the policy itself.

Citizens are much attached to their cantons, but they attach little importance to their cantons' foreign activities. When public debates on issues of international relations do take place within cantons, they relate to particular local concerns that have an international dimension. Cantons (and municipalities) have yet to arouse real interest among their citizens in their foreign activities. Indeed, they must fight against the considerable public perception that the additional effort and expense involved in transborder cooperation is a waste of their taxes. When developing cooperation structures, authorities are accordingly advised to prioritize projects that the public can appreciate and to maintain a sense of proportion and efficiency.

The changing circumstances in which foreign policy is conducted demand greater accountability on the part of the bodies responsible. The foreign activities of Swiss governments are increasingly numerous and have become increasingly important for the everyday life of citizens. Considerations of effectiveness also advise greater accountability. As the head of the department responsible for the foreign activities of Basel-City observed, "[t]rans-border cooperation may be so important and good, but that is of little use if it has a bad reputation in the media and the population."³⁸ Foreign policy should no longer be treated as special among government competences but should be opened up like domestic policy through mechanisms for public participation, transparency, and official justification.

The preceding has in fact been perceived by some constituent-unit authorities. They realize that the public must be convinced of the rationale for and the goals of transborder cooperation and that it must be integrated into and actively support related efforts. These authorities accordingly take pains to explain why the government is engaging in transborder cooperation and to include all parties affected, such as business and community organizations, in policymaking.

OUTLOOK

Swiss federalism attempts to strike a balance between self-rule and shared rule. The constitutional revision of 1999 sought to counter a centralization induced by Switzerland's increasingly active and open foreign policy that threatened to upset this balance. Above all, it provided the cantons with more opportunities to participate in the confederation's conduct of foreign relations. The tension in the early 1990s between the confederation and the cantons regarding foreign policy seems to have been resolved for the time being; intergovernmental relations are again working according to the principle of cooperative federalism. The conduct and content of foreign relations are today contentious issues more in civil society; many citizens feel they are not participating in and benefitting from the activities of all three orders of government as they should be. Swiss foreign policy must prove itself to be representative as well as coherent and effective.

To be more specific, foreign relations are a national matter in Switzerland. The confederation, particularly the Federal Council, has the responsibility for and leadership in their conduct. This mandate, however, is an "integrated" mandate. A role for the cantons is foreseen in revised constitutional provisions regarding relations with foreign countries. These provide for the confederation to respect cantonal competences and interests, for the participation of the cantons in foreign policy decisions of the confederation, and for relations between the cantons and foreign countries. The constitutional provisions supplement the instruments traditionally available to the cantons to influence domestic policymaking by the confederation.

The Federal Council has generally viewed self-rule and shared rule in foreign relations as advantageous for both the confederation and the cantons. A recent Swiss foreign minister described this divided sovereignty in the forming of opinion, decision making, and implementation as a win for all Swiss citizens and a loss for none.³⁹ For their part, the cantons believe that their participation in the confederation's foreign policy and their relations with foreign countries enhance democratic co-determination, the attachment of citizens to their local authority, and the legitimacy of foreign policy generally.

If, as argued, prevailing forces have led to a reform of Swiss foreign relations in general, the country's integration in Europe is doing so in particular. Switzerland's relationship with the EU has been and will for the foreseeable future remain the major concern of foreign policy. It could have dramatic effects on Swiss federalism. In light of the confederation's comprehensive treaty-making competence, the broad scope of matters concerned, and the EU's own legislative and quasi-legislative power, integration in Europe again raises the specter of centralization in the Swiss federation. (Specifically, the cantons fear they will not be able to control developments or to maintain their autonomy but will be reduced to the role of administrators, taking instructions from Berne and Brussels. They fear even more that cantonal competences may be transferred wholesale to the confederation and the EU.) Accordingly, representatives of the cantons argue that upon joining the EU, the institutional foundations of the Swiss political system will have to be reformed to compensate the cantons for lost policymaking leeway.

At all events, the success of Swiss federalism in coping with internationalization, multilateralism, and globalization will depend in part on how well the mechanisms for the conduct of foreign relations function. Federalism cannot be allowed to interfere with Swiss governments' ability to act internationally. In this policy area, as in others, tasks in the federation must be executed efficiently and policies developed that meet the needs of the citizenry. The relevant authorities are, at a minimum, called upon to show pragmatism in the conduct of foreign relations. This means being open to dealing with concerns in ways that may not strictly conform to existing laws but that are functionally effective. (The benefits of *sui generis* rules or gentlemen's agreements in intergovernmental arrangements have, for example, been demonstrated as regards constituent units' cross-border cooperation.) Foreign policy might then be made that is more appropriate to the matters concerned and more expressive of citizens' wishes.

Traditional concepts of federalism and the conventional way of conducting foreign relations in Switzerland are being challenged not only by the pressure of practical problems and the popular concern for their solution but also by a worrying power shift in government. As the country's international collaboration increases, so does the power of the executive and the administration at the expense of the legislature and by extension the *Volk*. Many Swiss accordingly feel that they are being deprived of their right to form an independent opinion in foreign policy by elites and impersonal forces. They express a widespread lack of trust in the country's foreign policy mechanisms. This power shift and the popular concern with it have to be addressed through a reform of prevalent concepts and institutions in order to ensure the democratic legitimacy of governance in this policy area.

NOTES

- 1 We mean by “internationalization” the new penetration of state borders and growing international interdependence; by “multilateralism,” the legalization and institutionalization of international politics; and by “globalization,” the increase in and intensification of borderless interactions (e.g., economic, social, and technological). Further, see Bernhard Ehrenzeller, Rudolf Hrbek, Giorgio Malinverni, and Daniel Thürer, “Federalism and Foreign Relations,” in Raoul Blindenbacher and Arnold Koller, eds, *Federalism in a Changing World*, 53–73 (Montreal and Kingston: McGill-Queen’s University Press, 2003), 57–60.
- 2 Generally on Swiss federalism, see Nicolas Schmitt, “Swiss Confederation,” in John Kincaid and G. Alan Tarr, eds, *Constitutional Origins, Structure, and Change in Federal Countries*, 347–80 (Montreal and Kingston: McGill-Queen’s University Press, 2005); Thomas Fleiner, “Swiss Confederation,” in Akhtar Majeed, Ronald L. Watts, and Douglas M. Brown, eds, *Distribution of Powers and Responsibilities in Federal Countries*, 265–94 (Montreal and Kingston: McGill-Queen’s University Press, 2006); Wolf Linder and Isabelle Steffen, “Swiss Confederation,” in Katy Le Roy and Cheryl Saunders, eds, *Legislative, Executive, and Judicial Governance in Federal Countries*, 289–315 (Montreal and Kingston: McGill-Queen’s University Press, 2006); and Gebhard Kirchgassner, “Swiss Confederation,” in Anwar Shah, ed., *The Practice of Fiscal Federalism: Comparative Perspectives*, 317–43 (Montreal and Kingston: McGill-Queen’s University Press, 2007).
- 3 Jürg Martin Gabriel, *The Price of Political Uniqueness: Swiss Foreign Policy in a Changing World*, Beiträge Nr 38, Center for International Studies, ETH Zürich (December 2002), 4.
- 4 According to the Federal Census of 2000, among the resident population of Switzerland, 63.7% speak German, 20.4% French, 6.5% Italian, 0.5% Romansh, and 8.9% other languages, while 41.8% are Roman Catholics, 35.3% Protestants, 7.5% hold other religious affiliations, and 15.4% have no religious affiliation.
- 5 For a list of Swiss IGO memberships, see <http://www.ch.ch/behoerden/00328/00337/index.html?lang=en> (accessed 14 December 2006).
- 6 It was often said that the best foreign policy was no foreign policy at all, the so-called *keine Aussenpolitik*.
- 7 As per Article 54, paragraph 2, of the Federal Constitution of Switzerland (hereafter “the Constitution”). All citations of legal provisions refer to the Constitution unless indicated otherwise. The Constitution was adopted by popular vote on 18 April 1999 and entered into force on 1 January 2000. For an English version with amendments to 2002, see <http://www.admin.ch/org/polit/00083/index.html?lang=en> (accessed 14 December 2006).
- 8 In this policy area, Switzerland is a member *inter alia* of the World Bank, the International Monetary Fund, and the Organization for Economic Cooperation and Development.
- 9 Except for Liechtenstein.

- 10 For example, more than two-thirds of Swiss exports are destined for the EU, and more than four-fifths of Swiss imports originate from the EU, Germany being the principal trading partner. Over 800,000 EU citizens live and work in Switzerland, and many more cross the borders of the country regularly.
- 11 In 1999 Switzerland and the EU concluded the Bilateral Agreements I, which primarily regard matters of market access, and in 2004 they concluded the Bilateral Agreements II, which primarily regard security and asylum policy, environment, statistics, and cultural affairs. The Swiss Federal Council confirmed this bilateral approach in its 2006 *Report on Europe*; see http://www.europa.admin.ch/europapopol/off/europa_2006/e/index.htm (accessed 14 December 2006). Nonetheless, the Swiss application to join the EU, filed in 1992, has not been formally withdrawn.
- 12 In 2002, for example, voters narrowly approved full membership in the United Nations, whereas in 1986 they had rejected it by a 3-to-1 margin. Similarly, since 2000 the Federal Council has enjoyed success in referenda broadening and deepening the bilateral relationship with the EU.
- 13 Ehrenzeller et al., “Federalism and Foreign Relations,” 61.
- 14 Specifically, the issue of cantonal participation in the foreign policy of the confederation came to the fore during the General Agreement on Tariffs and Trade (GATT)-Uruguay Round of negotiations and during the discussions regarding EEA membership.
- 15 Not to be overlooked is that by concluding treaties, and more specifically through membership in an IGO, countries in principle agree to an ongoing development of their (and their constituent units’) international obligations, most notably through the legislative and judicial organs provided therein. Swiss cooperation in the framework of the UN Human Rights Committee has, for example, had a centralizing effect on cantonal procedural and administrative law.
- 16 The government of the confederation is comprised of a legislature and an executive. The legislature (Federal Assembly) is popularly elected and consists of two equal chambers. The National Council is elected from twenty-six constituencies corresponding to the cantons. Seats are divided according to population shares, with each canton having at least one member, resulting in a total of 200 members. The Council of States is comprised of 2 members from each full canton and 1 member from each half-canton, which totals 46 members. For its part, the executive is the 7-member Federal Council, which is *sui generis* in its power and makeup. Although its members are individually elected by the Federal Assembly, the Federal Council cannot be dissolved by the Federal Assembly. Moreover, it operates on a collegial basis, with decisions on all important issues being made collectively and members taking turns in the *primus inter pares* role of president.
- 17 “Lower-ranking foreign authorities” are understood as offices of territorial bodies of a foreign country; direct dealings with the national government of a foreign country are forbidden.
- 18 Some relations are handled by other departments within the Federal Council (e.g., international environmental matters by the Department of the Environment,

Energy, Transport and Communications; and world cultural heritage matters by the Department of Home Affairs). This division of responsibilities poses a challenge for the coordination and coherence of Swiss foreign policy.

- 19 Self-executing treaty provisions gain binding force for the individual upon the treaty's publication in the systematic collection of federal laws. If the treaty provisions are not self-executing and concern a federal competence, the confederation decides which order of government is to implement them domestically. If they are not self-executing and concern a cantonal competence, implementation lies with the cantons.
- 20 The confederation is nonetheless responsible vis-à-vis other signatory countries for the fulfilment of treaty obligations.
- 21 As per Article 7 BGMK. The cantons are also responsible for implementing any treaties that they themselves conclude and are co-responsible for implementing any concluded by their municipalities.
- 22 This principle is implicit in Article 42, paragraph 2, which states that the confederation is to exercise only those "tasks that require uniform enforcement."
- 23 See Article 44, paragraph 1. "Cooperative federalism" refers to the collaboration between the confederation and the cantons and among the cantons themselves in the conduct of their affairs.
- 24 See Article 44, paragraph 2.
- 25 Formally, the European Framework Agreement on Transfrontier Co-operation between Territorial Bodies or Authorities of 21 May 1980; see <http://www.eda.admin.ch/eda/de/home/topics/intla/scoop/sclaw.html#0002> (in German, accessed 12 March 2007). Switzerland has also ratified the two optional protocols.
- 26 Formally, Agreement between Germany, France, Luxembourg, and Switzerland on Cross-Border Co-operation between Territorial Bodies and Local Public Authorities of 23 January 1996; see <http://www.eda.admin.ch/etc/medialib/downloads/edazen/topics/scoop/sclaw.Par.0001.File.tmp/KarlsruherAbkommen.pdf> (in German, accessed 12 March 2007).
- 27 Following the distinctions of John Kincaid, "Foreign Relations of Sub-National Units," in Raoul Blindenbacher and Arnold Koller, eds, *Federalism in a Changing World*, 74–96 (Montreal and Kingston: McGill-Queen's University Press, 2003), 81–3. To these may be added constituent units' development cooperation, such as technical assistance to foreign governments in democracy and rule-of-law projects.
- 28 The following section discusses ways that the cantonal governments have pursued their own foreign policy; it only touches upon the municipalities' efforts. Some findings regarding the cantons, however, hold true also for the municipalities. Typically, Swiss municipalities have not been proactive in foreign relations; to the extent that municipal civil servants have taken up contact with colleagues abroad, it has been in an uncoordinated fashion; and such activities are dismissed by many inhabitants as "bureaucrats' junkets." See Daniel Kübler and Nico van der Heiden, "Warum Städte aussenpolitisch tätig werden," *Neue Zürcher Zeitung*, 6 August 2007, 9.

- 29 Since 1991 the cantons have participated in the Integration of the Regions in the European Area program of the European Commission, and since 1995 their participation has been financed by the confederation. INTERREG supports cross-border cooperation in order to achieve a balanced development of the regions in Europe. Further, see http://www.interreg.ch/index_e.php?lang=e (accessed 26 August 2007).
- 30 In such a case (or when another canton does the same), the Federal Assembly is to decide on the impugned treaty's approval (Art. 172, para. 3). Since in Article 56, paragraph 1, treaties are considered cantonal law, they can also be subsequently abrogated by contrary treaties concluded by the confederation or by contrary national legislation passed in cognizance of the existing cantonal treaty.
- 31 International economic activities can also present opportunities for cantons to cooperate with other cantons or with the confederation in order to enhance the activities' effectiveness.
- 32 For example, various meetings regarding the ongoing negotiations on the World Trade Organization (WTO) and the General Agreement on Trade in Services (GATS) have been held within Switzerland. Participants included the confederation and CdC officials, who presented the cantons' common position on the confederation's offer in the negotiations. Decisions taken in the framework of the WTO can be of special concern for individual cantons as well as of general collective concern. Those cantons with, for example, an important agricultural sector lobby the confederation particularly hard to see that their interests are protected during any multilateral discussions about liberalizing agricultural trade.
- 33 Cantonal participation in the Organisation internationale de la Francophonie (OIF) exemplifies the limits placed on cantonal foreign policy. The organization was originally intended to encourage cultural and technical cooperation among its members but has become increasingly political in its activities. The confederation alone among Swiss governments is a full member of the OIF and represents the country at its various conferences. The confederation does, however, permit cantons to be associate members of the OIF's consultative institution, the Parliamentary Assembly. At present, Geneva, Valais, and Vaud are associate members.
- 34 For a list, see the EDA website: <http://www.eda.admin.ch/eda/en/home/topics/intla> (accessed 14 February 2007).
- 35 Figures on the costs of these efforts cannot be provided because the respective budget lines are lacking. In this respect, as in others, the distinction between external and internal policy has been blurred; many of these efforts are financed together with other expenditures.
- 36 Cantonal engagement in development cooperation is relatively rare and small in scale. For example, the canton of St Gall, in addition to pursuing a regional policy (vis-à-vis the Lake Constance and Alps regions), seeks to contribute to the establishment of stable structures in eastern Europe. It has concluded cooperation agreements with administrative authorities in Poland, Hungary, and the Czech Republic,

and in the framework of the EU-stability pact, it assists with a cooperation project with the Serbian education ministry.

- 37 These and other actors work together in Presence Switzerland, an organization that coordinates the presentation of the country around the world. Presence Switzerland is mandated to convey knowledge about Switzerland, to create understanding and empathy for Switzerland, and to highlight the diversity and attractiveness of Switzerland. Administrative responsibility for the organization lies with the secretary of state in the EDA, and the organization acts abroad primarily through Swiss missions.
- 38 Hans Martin Tschudi, "Chancen und Probleme regionaler Außenbeziehungen aus der Sicht der politischen Praxis," in Rudolf Hrbek, ed., *Aussenbeziehungen von Regionen in Europa und der Welt*, 45–50 (Baden-Baden: Nomos, 2003), 49, our translation.
- 39 Joseph Deiss, "Federalism in Swiss Foreign Policy," in Raoul Blindenbacher and Arnold Koller, eds, *Federalism in a Changing World*, 534–8 (Montreal and Kingston: McGill-Queen's University Press, 2003), 536.