

Current Concerns

The international journal for independent thought, ethical standards, moral responsibility,
and for the promotion and respect of public international law, human rights and humanitarian law

English Edition of *Zeit-Fragen*

The bilateral way, an obsolete approach? – By no means!

by Hans-Jacob Heitz, lawyer,
mediator and retired judge at the Federal Administrative Court

“The mystery of joy is freedom,
the mystery of freedom is courage” *Perikles*

In view of the imminent negotiations between Switzerland and the EU we venture an answer to the question if the bilateral way will be blocked in the future and if Switzerland has any other option than bilateralism; my answer will be connected with creative and independent arguments for the continuation of the bilateral way.

Our *Federal Constitution FC* is pointing the way for Swiss politics including international agreements. According to the preamble, as well as FC article 2 (1) and article 54, (2), the following essentials are stipulated in view of the “common achievements”: “Liberty” – note that free is only he who makes use of his freedom –, “democracy” as well as “independence and security of our country”. Moreover,

assessment of conflicts arising from the violation of law in consequence of international agreements according to article 189 in analogy to international law, which would guarantee to take legal action as established in article 29a. All these constitutional guidelines clearly define the scope of international agreements which implies the question if Switzerland – subject to constitutional amendments – has any other options institutionally except bilateralism as it has been practiced so far. This question is to be tackled and answered in the following.

“Sovereignty” in the EU

As we have explained above, sovereignty in Switzerland is characterized by freedom, democracy and independence in

This ECJ Widmer-Schlumpf trusts on?

“As far as jurisdiction is concerned, we find a *European Court of Justice (ECJ)* as the supreme jurisdictional EU authority which is not a national court but a court embedded in the EU. This court is of course not committed to the basic rights, citizens’ and political rights nor to the institutional guarantees of the Swiss Federal Constitution.”

Hans-Jacob Heitz

the Constitution mentions another obligation, i.e. to take a stand for the peaceful and just international order (article 2, (4)). These fundamental values in turn are the basis for our armed neutrality as it is laid down in the articles 173 and 185, underlining the sovereignty of the Swiss Confederation and Switzerland as a voluntary nation. With respect to judiciary bodies, article 188 specifies the Federal Court as the supreme federal judicial authority, allowing to extend its competences to the

neutrality.

Based on the Maastricht Treaty (the Treaty on European Union) and the Treaty of Lisbon, the EU has adopted a kind of constitution. Being not a constitution in the legal sense, it is a set of treaties between the EU member states under international law, hence some kind of bilateralism as well. In substance, the will of the states and peoples towards a peace-

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Widmer-Schlumpf’s ingratiating with Barroso – a betrayal of democracy

by Dr iur Marianne Wüthrich

Switzerland is a free and sovereign state. In 1291 our ancestors established a confederacy; they got together on a cooperative basis as a protection and defence community of equal citizens and freed themselves from foreign bailiffs and judges. They defended and expanded this confederacy with all their might over the centuries, and even if this community of solidarity was exposed to many internal tensions and external attacks, the Confederates never lost sight of their common cause. With their unwavering desire to preserve their confederacy the Swiss could regain their independence, even after the terrible time of French occupation during the Helvetic Republic, and finally they established the Swiss Confederation in 1848 – then as unique as it is today. In the 20th century, our great-grandparents, grandparents and parents succeeded in preserving our country throughout the life-threatening years of privations during the two world wars, with tireless creativity and unwavering will to resist.

Our state model – a treasure

All these Swiss people before us passed on to us, the post-war generation, a precious heritage: a state model, a small-scale structure of 26 sovereign cantons, which could not be more diverse – urban, rural and mountain cantons, cantons with different languages and cultures – subdivided into about 3,000 autonomous communes, an economically prosperous country with a sorted budget on all three levels of government, owing to the direct democratic right of control and the many volunteers, who bear responsibilities in their local communities for only a few francs.

And alas, here comes a political caste, a fifth column, that has the gall to try and dismantle our free, sovereign and well-ordered Switzerland, and has been trying for the last 20 years; an “elite” that has had the nerve to feed our material and imma-

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"Widmer-Schlumpf's affair ..."

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terial legacy to a pack of greedy EU bureaucrats, who are trying to hide and steal away from the political and economic bankruptcy, instigated by themselves, by swallowing and financially sucking dry a country which has not at all been involved in their failure.

Not with us, the people of Switzerland! We know what is at stake! We will fight as our parents and grandparents did.

Shameful in attitude and content

On 15 June 2012, the former Swiss President *Widmer-Schlumpf* wrote a letter to the European Commission President Barroso, which the federal administration with good reason keep under lock and key for months – so shameful were attitude and content of the letter.

How dares the lady chum up to Barroso and his consortium by selling them our constitutional state in anticipatory obedience, without asking us? How dares this lady – who has come to her seat in the Federal Council by a genuine coup – “promise” the EU the adoption of the whole *Acquis* in its entirety, not only for the future but also for the past, knowing that she will not be able to keep such a promise. Because in Switzerland, the people still have the final say. How does she deal with one of the pillars of our national foundation (“no foreign judges”) when she announces to take over the “interpretation of the Court of the European Union”, and humbly asks if Switzerland may submit “legal papers or written statements” to the ECJ? The worst is yet to come: the “servant of the people” has offered the EU even more billions of our tax payments to pay into their cohesion funds – as if we – and not them – had made the mess of the lacking cohesion and the impending breakup of the EU.

The Federal Council has to represent the interests of Switzerland and its inhabitants. They only have “commitments” towards our country and our humanitarian tradition, whereas they have no obligations towards the EU and other major powers, except complying with the negotiated contracts. This obligation, however, must be mutual. If a contractor does not care about a contractual obligation, there is no reason why we should take the pains to throw ourselves into the lion’s mouth.

Again, not with us, the Swiss people!

We know what we have to defend! We resist as our parents and grandparents did. We demand our people’s rights. We are used to collecting signatures – we will provide the will of the sovereign! •

"The bilateral way, an ..."

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ful living together on the basis of common values and interests, emphasizing the acknowledgment of the principles of freedom, democracy and respect of the rule of law which would imply that the sovereign-

“[...] what we need today: to close our ranks nationally and to benefit from the position of the EU that has been weakened by the crisis.”

ty of the states is not challenged a priori. With the goal of a “European identity”, a union citizenship, a currency union as well as a common foreign policy, security and defense policies are promoted. Regarding these goals we may rightly conclude that the basic ideals of the Swiss Confederation and the EU are not so widely different. This common ground should actually be the ideal basis for a partnership which in turn could also in future be realized on the principle of bilateralism. Today, however, we get the impression that the EU, represented by its Commissioners, is moving more and more away from these basic ideals. This is the only way to explain at least to some extent the inexplicably aggressive and bossy style – when compared to the principle of sovereignty – of dealing with the independent state of Switzerland. As far as jurisdiction is concerned, we find a European Court of Justice (ECJ) as the supreme jurisdictional EU authority which is not a national court but a court embedded in the EU. This court is of course not committed to the basic rights, citizens’ and political rights nor to the institutional guarantees of the Swiss Federal Constitution.

The significance of bilateralism between the poles of the EU crisis

After the NO vote on the EEA, Switzerland was forced to come to terms with single agreements based on bilateralism. Today, Switzerland is connected with the EU by an ever finer network of bilateral agreements which form the basis for the cooperation between Switzerland and the EU. For some time now, however, this foundation has been challenged by EU representatives. The latest example for this is the statement of *Viviane Reding*, proxy of the president of the EU Commission, *José Manuel Barroso*, at the end of last year. Instead of continuing the established path, they want to impose on us an automatic assumption of EU laws and a supranational court of justice, that is,

foreign judges. In the Federal Council as well as in most of the parties represented in it we still find the explicit opinion that we should proceed along the bilateral way. In essence that is a good thing, too! But it seems obvious to me that due to the EU crisis, an actual struggle for power has broken out; just like *David* facing *Goliath* we should unemotionally maintain an overview and keep cool. Unfortunately our Swiss representatives, little inured to crises, tend to lose their nerves, trying to distinguish themselves with imprudent and, as a result, counterproductive statements. These signals shaped by internal differences are the opposite of what we need today: to close our ranks nationally and to benefit from the position of the EU that has been weakened by the crisis.

Switzerland's standard of performance:**We need to raise our self-esteem!**

It seems that the services that Switzerland provides to the EU are not only wrongly assessed but probably completely overlooked or rather ignored by the EU; the EU probably also misjudges the attractive opportunities that are open for Switzerland either accompanying those with the EU or as an alternative to the EU. Concerning the services rendered by us to the EU, only the following should be noted: the substantial cohesion payments which amount up to three-digit million per year or the Neat worth 20 billion, built solely on our own expense for the European transit traffic for which Switzerland – completely voluntarily as well – even funds the neighbors for their connecting routes. Furthermore did we expand the road transversal for the European North-South transit traffic and we are checking the possibility of a second Gotthard tube that will also not be for free. In view of all this it is far away from truth and thus a downright grotesque accusation, I should say, if the EU accuses us of cherry-picking.

Currently, among others, an energy agreement is being negotiated where the EU is sitting on its high horse, as well. It seems that the EU has completely overlooked that the European water reservoir is situated in Switzerland, which will become increasingly important in the context of the approved withdrawal from the nuclear energy program in the EU countries, e.g. for the most important economic partner Germany. Even the Neat as shortest Alpine transit-axis has an importance in terms of energy policy because energies can be saved by this environmentally friendly direct route. Nevertheless, we Swiss are accused repeatedly, that they were – in economic terms – particular-

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ly benefitting from the markets of the EU countries, especially Germany and our prosperity were based on this.

It is time that the EU appearing increasingly defiant towards Switzerland – not to say arrogant – would finally take a look in the mirror when dealing with Switzer-

"The Federal Council is invited to advance claims to the EU rather than bowing to it as a supplicant."

land and would return to pragmatism. The producing of threatening gestures is surely not expedient, and is unworthy of an international organization.

Instead, the EU and EU countries in pre-election periods such as Germany keep bashing on Switzerland, either with respect to the tax system or because of the approach regulations at Zurich airport; whereas Britain, the cradle of lived fairness, acts commendably. For purely opportunistic reasons, the German "Bundesrat" assembling the representatives of the "Länder", dominated by the SPD (Social Democratic Party of Germany), approves almost carelessly of renouncing quickly obtainable revenues thanks to the legal logic as well as to transparent principle of the withholding tax; it does not take much imagination to predict that the money will soon and sorely be missing in the German budget – Chancellor *Angela Merkel* has already warned of such a development in her New Year speech – for which in turn – for the purpose of diverting from their own wrongdoing – Switzerland would probably be blamed.

As for the Zurich airport, remember that the latter serves the German *Lufthansa* subsidiary *Swiss* (pm: the short-sighted sale of Swiss was simply a stupid thing) as a hub, which in turn lies in the direct transport policy interests of the EU, which it probably will not admit to. It is therefore tempting to think through – (only!) as a hypothesis – the scenario, how it would affect the EU in case Switzerland stopped the cohesion payments, cut the hydroelectric power, closed Zurich Airport for *Swiss* in favor of other airlines interested in Zurich as a hub (which would certainly exist!), provided a new tax for EU carriers to use the North-South road transit axis or completely deny it and subjected EU citizens with real estate in Switzerland to an extraordinary inheritance tax. This mind game does not mean a renaissance of the Reduit thinking, rather it's about developing a healthy self-confidence at last and

showing strength in the true sense of a dissuasion that is modern and has to be re-defined. Only he who dares thinking the impossible finds good, sustainable solutions. The successful model Switzerland deserves this and must not be forced to its knees by an exclusion policy of the EU which is marked by envy.

**Alternative solutions
as opportunities for Switzerland**

We shall always bear in mind that in today's globalized world, not only European markets and societies, but increasingly Eastern European or Caucasian states, partly due to their natural resources, are becoming important; and especially the Asian and South American states, i.e. the so-called BRICS countries, are gaining specific interest for the Swiss economy and society, and for Switzerland in general because of their emerging economies. We should not forget the already great importance of North American continent, the NAFTA (North American Free Trade Agreement), which will in any case remain stable. Switzerland and the Swiss federal authorities will be well advised to make bilateral agreements with those countries which can strengthen the negotiating position of Switzerland regarding the EU. In other words, the priorities are to re-define in detriment of the EU. The very realistic scenario shown here will not leave the EU and its states cold, which could renew their will to negotiate, otherwise the EU is going to undermine its own position. This is shown in unparalleled clarity by the current EU crisis. Switzerland has a unique central geographical position in Europe. The EU should not overlook that and ascribe geo-strategical importance to that fact. Figuratively said, Switzerland is at the heart of Europe for the Asian, American and other previously mentioned states or states composites, such as ASEAN, NAFTA, or Tiger-/dragon states. Switzerland can act as a kind of aircraft carrier with well-developed infrastructure in order to function as direct access to the EU and its markets. In other words, our Federal Council should finally develop different scenarios with diversified decisions in order to negotiate rapidly and in a quick-witted way. Such a scenario could be called "enhanced bilateralism" of the concerns of the EU for independent control of the bilateral agreements and of their proper compliance on the one hand and for better transparency in the acquisition of EU law, which in any event is happening already today covertly for the citizens. Whether we then call it "EEA light", "bilateral EEA" or otherwise is just of formal or insignificant importance. We could reflect about EFTA's close organ structures as a control, for which Switzerland has two natural allies among others,

Liechtenstein and Norway. As far as the need for monitoring is concerned, Switzerland has anyway to be considered a highly reliable partner, which should be taught to the EU once again. Using such behavior and tactics, there is also a chance to finally regain control, for which the circumstances can only be helpful that the EU is weakened by the current crisis. The Boy Scout motto "Be prepared" could be an appropriate motto in this case.

**Quintessence: bilateralism
has good prospects**

Meanwhile it is important to note that the "bilateralism" is by no means confined to the relationship between Switzerland and the EU or the 27 EU member states. On the contrary, bilateralism becomes increasingly important world-wide. Those commentators who call "bilaterally" or the word bilateralism a cliché and thereby declare bilateral agreements as dead fail to recognize the significance and the increasing importance of bilateralism in the global world. More grip and a sense of reality would be welcome, rather than drawing on more doom and gloom scenarios.

If the EU were to remember again and also align its behavior according to the fact that a solid partnership can only be based on mutual respect, this would serve both sides equally; only then the story of success can be continued, which is not to rule out that the same should be optimized. That way a European internal market logic corresponding to "enhanced bilateralism" or a "bilateral EEA" is very well conceivable and feasible, provided that the EU acts pragmatically and gives hand to a "bilateral framework" respecting the sovereignty of Switzerland.

The EU must finally realize that they are confronted with a sovereign state which is not a formal member of the EU and that they cannot simply impose their rules on it, which is even prohibited by international law. There is no doubt that the continuation of bilateralism between Switzerland and the EU makes sense, socially and economically. Moreover it makes sense for the EU as an active element to help them out of the current crisis that is not finished yet. The continuation of the EU's bilateralism with Switzerland must not rule out, for instance, that Switzerland arranges bilateral agreements confidentially and independently with other states, countries or markets. The faster Switzerland, for example, may successfully conclude the pending bilateral negotiations with China, the better will our negotiating position with the EU be. This momentum needs to be used actively, in order to strengthen and sharpen our self-confi-

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dence. With regard to the EU's behavior towards us, be reminded of the saying, that dogs that bark do not bite. Accordingly, the Federal Council is invited to advance claims to the EU rather than bowing to it as a supplicant. Recent pronouncements by the Federal Council *Didier Burkhalter* and *Ueli Maurer* encourage us. Building trust inwardly, encountering the outside with self-confidence and respect makes sense. Go on that way!

On the basis of these scenarios with new variants it seems important to me at any rate, to be proactive instead of reactive, often backward-looking. Switzerland, that is the Federal Council and the federal authorities, supported by the private sector with their umbrella organizations like *economiesuisse* and the cantons have to finally prepare sustainable strategies because only that way we will be able to persist towards the EU in future. The advice to engage in a competitive partnership guided by "freedom and responsibility", I consider worth heeding, and I wonder if it can be constructive to

form alliances with small EU states such as Luxembourg because two small important ones do not make a mighty one, especially since Switzerland's financial budget and Swiss economy may well and should compete on equal footing with larger EU countries. My answer to the original question, whether at all equivalent ways other than bilateralism are open to us is a clear *no*, constitutional amendments reserved. May we heed the following wisdom: "The secret of happiness is freedom, the secret of freedom is courage!" •

(Translation *Current Concerns*)

Clear counterclaims to the EU

No unilateral compliance at the expense of Switzerland

Statement of economiesuisse to the proposals of the EU Council of Ministers to the continuation of the bilateral way

The EU Council of Ministers submits largely onesided demands to Switzerland while hiding the benefits of the bilateral way for the EU's own economy. With regard to institutional matters, business taxation, taxation of interest and cohesion payments, the EU puts itself in the position of a supplicant. Given the already high, mutual level of integration the Swiss economy currently has no interest in deepening relations with the EU, which will go one-sidedly at the expense of Switzerland. Therefore, for further discussions Switzerland must introduce clear counterclaims to the EU. Moreover, the former obligations have to be observed.

On June 15, 2012 the Federal Council has submitted its principles for institutional solutions for the further development of the bilateral way to the EU. These are supported by *economiesuisse*. The EU Council of Ministers reacted critically to the proposals of Switzerland. It requires binding rules for the adoption and monitoring of the relevant EU legislation, as well as for the settlement of disputes. *economiesuisse* has taken note of this atti-

tude. However it emphatically stresses the following points:

economiesuisse requires a pragmatic solution to the institutional question of the electricity dossier

1. *economiesuisse* requires a pragmatic solution to the institutional question on the matter of electricity and is supported by the European business association *BUSINESSEUROPE*. It urged the EU in to a rapid procedure as early as in May 2012. Note how little the EU institutions take into account the real interests of their own private economy.

Over a hundred bilateral agreements have been well-proven in practice

2. The so far over a hundred bilateral agreements allow a largely unobstructed mutual market access and have been well-proven in practice. That treaty which in fact is a complex affair to be administratively managed has been extremely beneficial for the EU economy for years: For 40 billion euro annually Switzerland imported more goods and services than it exported there and employed about 2 million EU citizens

at home and abroad. This role of Switzerland as an engine of prosperity of the EU economy, and as the third most important trading partner underlines the mutual importance of the bilateral treaty. The image of Switzerland as «cherry picking» represented by certain EU circles must be rejected determinedly. It lacks any economic reflection of the bilateral relations.

The existing bilateral agreements are to be applied in future as well

3. The existing bilateral agreements are to be applied in future as well in accordance with the constitutional principle of "pacta sunt servanda". Emerging implementation issues need to be addressed in our mutual interest.

Switzerland must direct clear counterclaims to the address of the EU

4. From the perspective of *economiesuisse* Switzerland has to direct clear counterclaims to the EU. •

Source: www.economiesuisse.ch from 21.12.2012(Translation *Current Concerns*)

Switzerland is no “Ich-AG” (I Incorporated)

Eveline Widmer-Schlumpf belongs back to the rank

Letter of Widmer-Schlumpf to Barroso

His Excellency

Mr José Manuel Barroso

President of the European Commission
BRUSSELS

Mr President

I refer to our talks from the 20th of March 2012 in Brussels when we discussed the perspectives for the consolidation and advancement of the intensive and close relations which Switzerland maintains with the European Union. On that occasion we agreed in particular to support the next steps on technical as well as on political level together and based on the proposals of Switzerland for institutional solutions.

In accordance with the overall and co-ordinated approach decided by us, the Federal Council has fixed a set of principles regarding the institutional issues that arise within the scope of our relations. The Federal Council suggests to put these issues in concrete terms, at first within the scope of the current negotiations on market access. As you know, we consider the electricity-dossier as particularly suitable because the detailed negotiations have already been advanced and because such an agreement is in both parties' mutual interest.

I am pleased to be authorized to transmit to you the content of our proposals as an attachment. I would like to add that these proposals were an object of intense internal discussions within the scope of a consultation in the foreign-policy commissions of the Federal Parliament, the cantons as well as the top organisations of the social partners. With the elaboration of the proposals, the Federal Council strove to take the EU's concerns into account as far as possible, as they were expressed in particular in the conclusions of the [European] Council concerning the relation to Switzerland from 14 December 2010. The Federal Council states that at the end of the consultations a consensus existed in view of the central aim, i.e. to guarantee the uniformity of the common set of rules created by agreements between Switzerland and the EU.

The presented institutional proposals allow to ensure that the domestic market regulations will be implemented consist-

ently and preferably simultaneously within the scope of our agreements, taking into account the status of Switzerland as non-EU member state which is closely interconnected, however, financially and legally with the EU. Therefore, as a source of inspiration for the principles presented in the attachment served those solutions in particular which are accepted and implemented already by both contracting parties in certain newer agreements, as well as the institutional regulations of the multilateral agreement for the regulation of the European Economic Area (EEA).

Please allow me to refer to the high level of importance the Federal Council attached to the development of institutional proposals which consider the interests of both parties and are likely to consolidate the bilateral way which has been pursued since the failure of the Switzerland's participation in EEA and the following freezing of the accession request in 1992.

With the transmission of the attached proposals to you the Federal Council takes a proactive and substantial step which creates the necessary conditions for decisive progress during the negotiations which we are carrying on within the scope of the mutually agreed overall and co-ordinated approach. In particular, I am convinced that an open and constructive position towards these proposals will allow progress in the current and future negotiations about the market access. Also, I am pleased to be in the position to inform you that the Federal Council has passed a mandate's text for the dialogue with the EU about the corporation tax regime on 1 June 2012, so that negotiations in this field may start soon. Likewise I am pleased that several dossiers in which the EU have expressed their interest are an object of constructive negotiations – like the Swiss participation in *GNSS (Global Navigation Satellite System)* or in the *Euratom* framework programme in 2012/201. Finally, I would like to recall the fact that the Swiss government will decide within the scope of our overall and co-ordinated approach at a given time and in the light of our whole relations with the EU on a possible renewal of the Swiss contribution to the reduction of the economic and so-

cial inequalities within enlarged Europe. In their decision they will consider the experiences with the current enlargement contribution and the demands of the potential beneficiary countries. In this spirit of an open and constructive partnership I am pleased, within the scope of the political follow-up of this important process, which we agreed upon at our last meeting in Brussels to invite you to a working visit to Bern in the coming weeks.

*In the meantime, please accept,
Mr President, the assurances
of my highest consideration.
Eveline Widmer-Schlumpf
Bern, 15 June 2012*

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Barroso's reply to Widmer-Schlumpf

Her Excellency
Mrs Eveline Widmer-Schlumpf
 President of the Swiss Confederation
 Bern, Switzerland

Madam President

After extensive discussion within the Commission and discussions with the Council of the European Union and the European Parliament, I would like to inform you, with reference to my letter from 7 July, about the EU position on the institutional solution proposed in your letter from 15 June 2012. I hereby refer to the conclusions of the Council of the European Union from 20 December on the relations with the EFTA States.

The European Union recognises the efforts taken on by the Swiss government by putting forward the proposals. We especially appreciate that the EU and Switzerland are in agreement that the single market, in which Switzerland participates or would like to participate must apply the central principle of homogeneity. Your suggestions that relate primarily to future electricity agreements have been specifically tested on the feasibility of this principle for both businesses and citizens.

As you know, it is very important for the EU that institutional issues are primarily clarified in relation to existing and future treaties in terms of the single market through a horizontal framework agreement that ensures homogeneity and legal certainty for our relationship.

As stated in the conclusions of the Council, the European Union is of the opinion that this horizontal framework agreement provides for legally binding mechanisms for the adjustment of treaties to the developing single market legislation. I acknowledge that, according to your proposal, the agreements between the EU and Switzerland should not necessarily be adapted automatically, but dynamically and that it should allow exceptions. Such exceptions are problematic for the EU with regard to ensuring a homogeneous legislation, which in our opinion cannot be compensated by corresponding rebalancing measures.

I am glad that you say in your letter that you are willing to assume the obligation to follow the interpretation of the Court of the European Union in the agreements between the EU and Switzerland. However, your proposals also stipulate that only Swiss institutions should deal with possible violations of the treaty rules by the national authorities.

As you know, the smooth functioning of the single market is dependent on independent control mechanisms outside the states involved. Therefore it would be necessary for the EU that the agreement with Switzerland also provides international

monitoring mechanisms and judicial review, which would ensure a level of legal certainty and independence, which corresponds to the mechanisms established within the European Economic Area.

I want to emphasise that the European Union stands ready to deepen its important relations with Switzerland, also in terms of the single market and the principles set out above. I look forward in particular to continue the dialogue about how these principles could be included in our agreements with your country. To that end, a meeting between Secretary of State *Rossier* and our Foreign Service has already taken place. I am well aware of the challenges required by the adaptation of the bilateral agreements to the demands of a functioning market across several countries. Above all, I am convinced that a clarification of the institutional issues will strengthen and solidify our relationship and provide significant benefits for our economic actors and citizens.

I welcome the recent decision taken on the participation of Switzerland in the *Eurat-om Framework Programme 2012/2013*. Furthermore, I hope that the EU may soon conclude its internal procedures relating to the adoption and signing of a cooperation agreement on satellite navigation programmes, and invite you on your part to arrange for what is necessary to bring this agreement to an early conclusion. I also acknowledge the progress of the talks about the harmful tax

competition taking place under the auspices of the *Code of Conduct Group*. I hope that in this regard further progress can be achieved in the next six months.

As you know Croatia's accession to the European Union is scheduled for 1 July 2013. I'm already looking forward to the expansion of our agreements with regard to this new member of the European Union. In this context, the Commission would like to start negotiations on Switzerland's financial support for Croatia. I also wish to inform you that, in its conclusions, the Council called on the Commission to initiate exploratory talks for a further enlargement contribution by Switzerland, as the period for the financial support expired in June this year.

The EU attaches great importance to the continuation of this generous solidarity. It is in our opinion an essential part of our very intensive relations with Switzerland and its participation in the wider European market. The Commission is very interested in discussions on these two issues as soon as possible. I hope that these issues can also be addressed at the meeting between our representatives on 29th January.

On this occasion I wish you a Merry Christmas and a prosperous 2013.

Yours sincerely,
José Manuel Barroso
 Brussels, 21 December 2012

Source: www.europa.admin.ch

(Translation *Current Concerns*, French original)

Whom power goes to head ...

thk. On 21 December *Barroso*, President of the EU commission, answered in reply to the submissive letter of the former President of the Federal Council, *Eveline Widmer-Schlumpf*. This letter is not addressed at the Federal Council as a whole, but at its President alone, ignoring the fact that Switzerland's affairs are run by an administrative collective. The content of this letter is the consequence of *Widmer-Schlumpf's* letter to *Barroso* from 15 June 2012, which contains offers entirely lacking the spirit of democracy. In complete ignorance of Switzerland's real position and political reality, *Barroso* demands Switzerland's submission and compliance with EU legislation, otherwise all negotiations would come to a halt. He is speaking of homogeneity, by which he actually means political conformity and submission of all states under EU regulations, including the countries wishing to negotiate agreements. Talking repeatedly of a "domestic market" cannot conceal that he means in actual fact the EU market. The solution to the "institutional problem" means nothing else but the full incorporation of European law by Switzerland.

Never will Switzerland be prepared to succumb to this.

European law differs like water and fire from Switzerland's truly democratic system, in which no law can be altered, unless it receives the majority of the people's votes in a referendum, and – depending on the kind of law – also of the majority of the cantons – or, if the people give their consent, by tacit approval without a referendum. Just name another country where this would be possible.

The EU debt debacle needs to be cured by its members. Their economists doubtlessly know about the costs and procedures in case of a sovereign default. Surely there must be master plans how to "bring back to reality" debts of such scale as the EU's.

Let us remember the word of Federal Councillor *Oprecht* in 1940, who – in view of the impending danger from *Hitler's* Germany – put it frankly: We refuse to go on a pilgrimage. Those who do not respect the dignity and the rights of a country must step down – or go back to where they belong.

An independent, confident, neutral and open-minded Switzerland does not stand apart!

by Gotthard Frick

NATO Secretary General, *A.F. Rasmussen*, gave a speech at the University of Zurich (see “*Neue Zürcher Zeitung*” of 23 November 2012) in which he said that Switzerland must cooperate with NATO, so that it does not stand apart. This opinion must be rejected.

The world is going through a time of upheaval. A new world order is emerging. What it will look like is still open. Ideally, it will consist of some superpowers, which contribute to a global balance of power, as Europe has known for some centuries. The United States will remain one of the superpowers. Russia may join in again. It would be desirable that China would also belong to the illustrious circle. Before it must solve its huge internal problems, otherwise it will break apart. Existing or possibly emerging medium-sized powers as for example Japan, India, Brazil, Australia and South Africa will have sufficient importance to have a say in the circle. Whether Europe will become geopolitically an independent, serious power or whether most of its states continue circling as planets around the American sun has not yet been decided.

NATO and its undefined “values”

All these major and all the other medium-sized and smaller states that remain unmentioned are centers of power, parties that pursue their own interests on the world stage. NATO is the instrument of a great power among these parties. It has to enforce the interests of the United States and, as long as they are compatible with their claims, to ensure those of the West in general. As we have seen, war is one of its means of choice, and to justify war it uses the noble reasons Mr Rasmussen mentioned: to defend our security and values – freedom, democracy and respect for human rights – and to spread them continually, to protect Libyan civilians, to liberate Afghanistan, to reach out the hands to the liberated peoples of the Middle East, to support the peaceful development of

Kosovo, etc. According to Rasmussen, NATO must be prepared to commit themselves beyond the borders of the Western world.

The range of what these “values” is enormous. Depending on the interests of the United States and the West (bubbling oil wells in danger or creeping annexation of a country by its neighbors protracted over decades) arguments such as human rights, self-determination of the peoples, and protection of civilians and others are to justify interventions or else to look away.

It is obvious that this policy is in conflict with the interests of other players on the world stage. So, for example Russia said very clearly that it considers NATO’s security policy a threat and hence threatened with unilateral military action. And in the “*Global Times*”, a leading Chinese party newspaper, you could read in November 2011, that, although neither the United States nor China wanted to trigger war “if China’s core interests such as its sovereignty, national security and unity are intruded on, a military conflict will be unavoidable.” Therefore, China is rearming massively. Its defense spending exceeds those of the United States already in terms of purchasing power

Switzerland, the peace-loving, neutral, but militant country

Probably only a few Swiss are aware how positively most people in all parts of the world see our country. You see through the true motives of the states. They know that there is always tangible self-interest behind military interventions, and they therefore appreciate Switzerland as a peaceful, neutral country whose population is willing to defend its independence and values. When an about 55 years old Chinese architect asked the author of this article some time ago in the Beijing subway, where he came from, it blurted out of him after the answer: “Ah, the Swiss,

they are the most peace-loving people in the world, but every man, every woman is willing to defend his or her independence and freedom.” Almost every taxi driver turns his thumb upward when he hears that his passenger is Swiss. Many are aware that world peace would be secured if all countries followed our exemplary foreign policy: never take part in wars, but if you are attacked, fight resolutely.

What foreign policy should our country pursue in this phase of radical change?

We have a unique democratic system and a beautiful, well-functioning country. With a population half as big as that of Beijing, without any raw materials and an access to the sea, we are one of the leading economic powers. Switzerland may and should act as strictly neutral, confident (but not supercilious and arrogant) country on the international stage, independent, open and committed to peace.

As an owner of transalpine routes, we keep an element in hand that is of pan-European importance. With the Alps, we also have a bulwark easy to defend. Our mission is to preserve our country with a strong national defense and everything it stands for – its independence and territorial integrity including the central European north-south connections – also in the interest of the West and particularly of Europe.

This freedom from obligations to one of the parties gives us a very special status in the world. Switzerland can be active on the world stage where others are not admitted due to their obligations or because they would even provoke conflicts.

If one believes the statements of NATO Secretary General, he wants to persuade Switzerland to expand the dialogue and cooperation with NATO. We must not allow that! It corresponds neither to our understanding of the state, nor to Switzerland’s task in the world. •

(Translation *Current Concerns*)

Stress tests in nuclear power plants in the EU

Security between ambition and reality

by Dipl Ing H. W. Gabriel

bha. The destruction of three nuclear reactors in Fukushima has apparently forced those responsible for nuclear policy in Europe to issue reassuring news for the population. Among other things, the European Commission issued a report¹ which shows that nuclear power plants underwent a so-called "stress test". This report has been available since early October 2012. After reading the report, however, serious doubts remain whether the exposure of the population to nuclear accidents will really and definitely be eliminated in the future. The definition of what safety is – when it comes to large-scale technology – would have to be objectively and clearly specified and should leave no room for subjective interpretation. So far, the core meltdown was not taken into account as a potential accident. One assessed safety precautions as sufficient if a pipe burst in the nuclear power plant could be managed. That would be the worst case scenario – the maximum credible accident.

In contrast, the insurance industry bases its assessments on a core meltdown as the worst case scenario. Insurance companies refuse to insure such maximum possible accident consequences. The amount to be insured exceeds the financial possibilities of even very large insurance companies.

Of course, one of the main topics in regard to the safety issue is the radioactivity created and accumulated by the fission of uranium. The released amount of radioactivity is always the key question because of its damage potential to health and environment, be it in case of transports to Gorleben, of intermediate or final disposal, increasing rates of cancer and leukemia or contaminated fish and food. And here it is necessary to point to the "German Museum" in Munich, where an interesting clue can be found under the heading of uranium fission by Otto Hahn: In the context of the Uranium fission not sufficient attention had been paid since a hint directed at the fission of Lithium 1932 had not been followed up – the fission of lithium into helium happens in fact without the formation of radioactivity.

The question remains, why the EU does not follow up on an innovative nuclear energy policy.

1. Objectives and conduct of the stress tests

The stress test has been defined as a "targeted reassessment of the safety margins of NPPs (nuclear power plants) in the light of the lessons drawn from the events in Fukushima" (3/2011). It takes into account extreme natural events that can affect the safety functions of NPP.

A "hazard avoidance to a so far unparalleled extent" shall be achieved via the com-

prehensive risk and safety assessments of nuclear power.

A team of experts of the EU Commission and the member states investigated 132 active and decommissioned NPP at 58 sites in the EU. Switzerland, the Ukraine and Croatia observed the investigations.

On the 4.10.2012 the final report of the Commission COM (2012) 571 final was handed to the Council and the European Parliament as well as SWD (2012) 287 final including improvement recommendations.

2. What is "stress" and what is "testing"?

"Stress" is a term issued to describe a general response pattern of animals and humans to increased psychological burden by Selye 1936: surge of adrenaline, high blood pressure, stomach ulcers and heart attacks can be the result. Stress factors are considered to be therapeutically treatable in principle. Is the use of the term "stress" intended to suggest, that "increased physical loads from earthquakes can possibly be eliminated?" Shall the curability of a disease demonstrate the curability of three core meltdowns? Wouldn't it be more appropriate to use the more realistic, but not so positive term "crashtest"?

The "test" of a car in terms of reliability and safety requires "driving" by the tester. A visual assessment of the car, sitting into it or to obtaining the opinion of third parties is not a test.

The single-day visit of the NPP by inspectors can provide only little more knowledge than what is already known or is said about it.

Until today an independent commissioner for nuclear safety has not been placed yet in any NPP. The stress test of the EU must start therefore with the NPP's self-assessment by its operator.

3. Critical assessment of the results

A targeted review of the safety margins and a previously unparalleled hazard avoidance presupposes that one would have comprehensively reviewed the problems at the EU power plants that have been encountered in Fukushima:

- unclear definition of the impacts/loads that have to be considered,
- faulty technical layout of the reactors against core meltdown and failure of containment,
- insufficient back-up systems,
- human error,
- lack of effective contingency plans,
- poor communication in the national and international field.

The findings with regard to safety presented by the Commission have been known to experts for years, for the first time, however, they were summarized in writing EU-wide

and communicated to the Council, which is some progress, indeed.

Take, for instance, the not even one hour duration of the diesel generators for emergency cooling in some power plants: from the small volume of diesel tanks and diesel consumption also the authorities responsible for safety would have been able to calculate the duration as being too short.

But the still unclear definition of design base accidents is to be taken into account and their effect on the system is important.

The recommendations to take measures against earthquakes of 0.1 g (one-tenth the standard gravity), against the maximum flood in the last 10,000 years, the failure of the safety functions for one hour (without human intervention) are brave, but hardly to be met by many of the existing NPP.

The operating nuclear NPPs are largely designed according to the principle of the "maximum credible accident (MCA)". The assumptions have been negotiated so far without any legal basis, although the principle of protection of health and safety is concerned: A pipe burst without core meltdown and failure of containment was to be taken into account.

Since 1955 there have been about 10 accidents worldwide with destruction of the reactor core (approximately on average every six years a core destruction took place in one of the 400 NPPs). This likelihood defines the real risk of today's nuclear power plants.

Considerations to reduce the risk of core meltdowns are amazingly fully missing in the Commission's investigation. Measures to increase the technical safety margins remain unmentioned.

To raise the thoroughness of probabilistic methods they should at first be applied to operational issues among others with the nuclear insurance respectively with the confirmation to provide financial insurance and not in the curtailment of the fundamental rights of the citizens to protection of health and safety.

The question of whether nuclear power plants shall be protected against an airplane crash cannot be answered by pointing to a fruitless discussion in a seminar.

It will be interesting to look on the implementation of the recommended measures by the Commission

- Improvement of the safety culture and
- Ambitious revision of the EU-directives on nuclear safety. •

(Translation Current Concerns)

¹ Communication from the Commission to the Council and the European Parliament on the comprehensive risk and safety assessments ("stress tests") of nuclear power plants in the European Union and related activities, Brussels, 4.10.12, COM (2012) 571 final

Direct democracy in Switzerland – a model of peace in political, social and economic respect

On the new research volume by Dr Rene Roca: “Die schweizerische direkte Demokratie in Theorie und Praxis” (Swiss direct democracy in theory and practice)

by Tobias Salander, historian

Direct democracy in Switzerland – a model of success, especially in times of economic crisis. A look into the past is worthwhile since many citizens in European countries are also making efforts to obtain more participation, but must laboriously persist in wresting it from the self-appointed elites. How has this model developed in Switzerland, a structure from bottom up? And why is Switzerland also known as “Confederation”? What elements were playing together in its history so that very early the participation of citizens was a fact while other countries were still strongly monarchist and/or aristocratically structured? A look into the research at Swiss universities shows that we find surprisingly wide gaps in this respect. And that so far too little has been done to remedy the defects. The reasons are obvious: He who wants to incorporate a direct-democratic, bottom-up organized and peace-loving community into a top-down structured, centralistic monster like the EU, directed by financial oligarchs and lobbyists, needs to deprive the people of their dignity, their self-confidence and above all of their sense of history. If you manage to bring it about in one country that money for serious scientific research into its own history and its specific features is either not or merely reluctantly granted, an important part of this brainwashing program has been accomplished ... Furthermore, if you can then count on the compliant support of a local fifth column – as has been the case so far – it will make things even easier for the plutocrats!

It is therefore all the more encouraging, that below a researcher and his latest work may be presented that critically analyzes a liberal victorious history, developed after the victory in the “Sonderbundskrieg” and the liberal founding of a federal state in 1848, thus implicitly rejecting an ideology-led pro-EU history in the wake of the Bergier report, and coming to conclusions that are so important for the cohesion of Switzerland today. It is precisely the defeated Catholic conservatives to whom modern Switzerland owes old traditions and a personal concept of man (“personales Menschenbild”) oriented at the dignity of man which in the 19th century could be utilized for the development of direct democracy. On this ground, the instruments that are now characteristics



Lucerne – on the picture the famous Kappel Bridge – has already known for more than 170 years an early form of the later referendum, the “Gesetzesveto” (the right to veto laws) which was adopted by the people of Lucerne in 1841. Dr Roca writes thereto: “As a direct-democratic instrument, the right to veto laws constitutes an amalgamation with far-reaching consequences, of the co-operative municipal democracy of (farming) communities, resting on Christian natural law, with the idea of natural law as it was developed by the enlightenment, which invested the person with individual rights.” (p. 223) (picture mt)

of the special case Switzerland under the name of referendum and initiative could be wrested from the Liberals who were adverse to a genuine people’s sovereignty according to Rousseau. A research paper, which is encouraging and returns the dignity to all those participating in the model Switzerland, a paper that is suitable to establish a defensiveness against the constant attacks on our country from the side of the EU, particularly Germany, and which calls for further research.

In 2007 the historian Dr René Roca founded the “Forum zur Erforschung der direkten Demokratie” (Forum for the Study of Direct Democracy) and organized workshops on the subject every year. In collaboration with the *Center for Democracy Aarau* he organized the high-profile conference “Ways to direct democracy in Swiss cantons” in 2010 whose results were published in a conference volume. (See Roca, René; Auer, Andreas [ed], “Wege zur direkten Demokratie in den schweizerischen

Kantonen” [Ways towards direct democracy in Swiss cantons], Schriften zur Demokratieforschung, Volume 3, Zurich 2011.)

Dr Roca – who as a grammar school teacher and councillor of a rural commune in the Canton of Aargau combines both theory and practice of direct democracy in a unique manner – entitled his study “If the sovereignty of the people is really to become true ... Switzerland’s direct democracy in theory and practice – the case of the Canton of Lucerne”. Roca pursues the objective to explore the roots of direct democracy in their theoretical and historical dimensions and to illustrate the findings with the example of Lucerne. Moreover, the author proposes to comprehensively document direct democracy in Switzerland with other cantonal studies. The approach chosen by René Roca is the hermeneutic one, by which the historical lines of development are traced by analyzing and interpreting the sources as closely as possible; a well-proven scientific ap-

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proach that is hardly known to younger historians, since the so-called structuralism, de-constructivism, and other “isms” that are around dominate the university departments, which have never been able to refute the ideological shadow of modernist approaches and which will probably be subsumed under “embarrassment” and “academic prostitution”, if not “genuflection sickness” by later generations.

It is very revealing that Roca’s research volume has not yet been gladly accepted as habilitation paper by several universities in the country. However, since – after the big scandal in the financial sector – the days of the neoliberal model and the penetration of all life and academic fields by the financial oligarchy are numbered now, the full academic appreciation of this research on direct democracy will only be a matter of time. After all, a country that would not try to reappraise its historical roots would ultimately lose all self-respect and also fail to appreciate its role in the international community. This applies particularly to the model of direct democracy, which in its cooperative structure from bottom to top could be a model for many crisis-ridden countries, but not only for them. It could also be a model for designing a decent shaping of politics and economy which are oriented toward the *Bonum commune* (common good).

Against historiography guided by ideology

Since it is beyond the scope of a review to present in detail the author’s comments on “The way towards the people’s sovereignty and direct democracy based on natural law” (16th to 19th centuries) (Chapter 2), the “Prerequisites for the Lucerne democracy debate” (Chapter 3), “The veto debate in the canton of Lucerne” (Chapter 4), and finally “The veto practice”

(Chapter 5) I will refer to the all the more weighty “Theses on liberalism and Catholic conservatism” and the “Elements of a theory of direct democracy” from the closing words of Roca’s work in a reduced form owed to the circumstances.

In order to understand the following better, we will first have to present to those readers who have not been socialized in the dominant historical profession the embarrassing platitudes of a liberal-utilitarian as well as a socialist-materialist, i.e. ideologically biased historiography. On the one hand, Switzerland has been presented by liberal historiography from and after 1848 in the manner of a winner’s history as a model of progress owed only to liberalism. On the other hand, the losers of the Sonderbund War of 1847/48, i.e. the Catholic conservatives and rural populations, have been caricatured as backward, die-hard and addicted to the ancient régime. In a differentiated manner Roca shows in his work that this narrative, which is still shaping 21st century history textbooks, has nothing to do with the development of direct democracy. However, Roca refutes in a few sentences the idea of the other side – which is a sort of “leftist”-feathered, materialistic school of thought – that Switzerland should never have been allowed to be characterized as a special case, had always been as absolutist as the surrounding countries and only Napoleon had pushed us into modernity. The attentive reader may guess that this historical misrepresentation pursues only one goal: to serve totalitarian regimes like today’s EU, if not the US Empire and its financial elites, by cutting the Swiss off from their tradition and trying to depress their dignity. Neither the source material nor the underlying “Menschenbild” (concept of man) are true: Both the liberal as well as the other approach, Roca points out, deny man his true nature that makes him search fulfillment as a person and a social being oriented towards the *bonum commune*. Man as the “ensemble of social relations”, as *Karl Marx* put it, fails to explain his nature just as well as the utilitarian approach of many liberals does, since they believe in the idea of the *Homo oeconomicus* – hence an ideology that has been punished to be false by history since the *Lehman Brothers*.

The travails of liberalism with the people’s sovereignty

Both approaches in historical research fail to recognize that the establishment of the modern state in 1848 was able to build on the traditions of the various cooperatives that had provided the bottom up training in direct democracy and participation for centuries, which could then be used fruitfully in the 19th century. The ground was prepared, namely from below, through long training in ne-

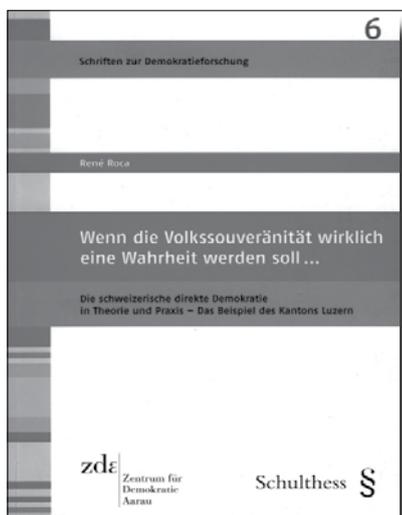
gotiating among equal cooperative members, who according to the principle of the three “selves” – i.e. self-management, self-determination and self-help – regulated their affairs in a dignified manner without outside interference.

It is not that Roca’s writing would reduce the achievements and democracy-promoting approaches of early socialists or early liberals, on the contrary: His “Theses on liberalism and Catholic conservatism” do appreciate the contribution of the Liberals for the development of democracy in Switzerland, when he writes that “for the Swiss body politic the Liberals won the equality of the cantons, individual rights, people’s sovereignty through the constituent power of the people, the representative principle and equal rights. In addition, they performed essential preparatory work for the elementary school [...]”. Negative factors are however the following, “Besides a tendency towards aristocratization liberal theory may inherently run the risk of negating modern natural law”. It thus lapses into legal positivism and favors the utilitarian principle, “that ultimately deprives it of the ethical basis and can lead to anti-democratic and racist theories [...]”. Contemporary neoliberal approaches make us realize that clearly” (p. 221), Roca points out with great clarity as well as a comprehensive overview, referring to a famous Swiss early Liberal, whose racist remarks do not have to be dealt with here. Moreover, a large majority of liberals constantly protested against more people’s rights as they feared a mob rule due to their improper view of man. These are voices that can be heard today in representative democracies, such as Germany, where the government does not trust the people and ignores the people’s 80% no-votes on the Afghanistan mission of the Armed Forces by arguing that it was necessary in some situations to show the people the right direction in certain situations. ...

Roca clearly explains that a certain “intellectual brashness” of the Liberals deepened the gap to the rural population in 19th century Switzerland.

Without the Catholic Conservatives no direct democracy in Switzerland

Using the example of Lucerne – a fact, as Roca postulates, that would probably also show in other cantons in Switzerland if they were studied – the author succeeds in showing the importance of Catholic conservatism for the development of direct democracy. In a summary covering more than a hundred pages and several centuries Roca masterfully straightens out the contexts – although historians guided by ideology may grudgingly admit that they



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have never heard of these facts. Intellectual honesty would be another virtue ...

Acknowledging the losers of the Sonderbund War Roca writes, "In this sense, Switzerland would not have become a federalist and direct-democratic state if the radical-liberal, anti-clerical and partly centralized elements would have prevailed without resistance". He then goes far afield and acknowledges the renewing power and openness of the Catholic Church, "It is because the Catholic Church studied the interrelation of Christian natural law and modern natural law – at least since the founding of the 'School of Salamanca' – and placed the personal view of man in the foreground, conservative Catholic circles succeeded – in the Canton of Lucerne these have been the rural Democrats since 1831 – in combining Christian social ethics with a modern direct-democratic constitution" in a beneficial manner (pp. 222). First of all the gentle reader – especially the guild-historically trained one who is probably prone to an additional anti-clerical reflex – must understand this synopsis, this overview by Roca. No one prior to Roca has addressed this topic so profoundly, and some of the above mentioned ones will probably have to take some time to accept this statement in all its implications, may they originate from liberal circles or any other Leftist ones. Especially leftist contemporaries, if they are really socially minded and have their heart in the right place, namely on the left, are likely to profit from going into further detail of Roca's profound explanations. They would then find in the above quoted Catholic social teaching mentioned by Roca an ideal ally against a dehumanizing, exploitative economic order that puts profit in the first place – which is also criticized by the broad-based coalition of the Federal people's initiative "For an economy for the benefit of all" (see also *Current Concerns* No. 3 of 14 January 2013). But modern liberals, who turn away in disgust at the excesses of Chicago neo-liberalism and return to a people-centered ordo-liberalism, correct their view of man and effectively concede sovereignty to the people, cannot really ignore this reality.

Let us add another of Roca's quotes. "Later those first political experiences culminated in theoretical treatises of Catholic social teaching, which were also expressed in the Second Vatican Council and have lasting effects until today." We would wish for the above mentioned people holding key positions in the media and the university departments to deal with the Papal encyclicals on social issues in detail

"In this sense, Switzerland would not have become a federalist and direct-democratic state if the radical-liberal, anti-clerical and partly centralized elements would have prevailed without resistance. It is because the Catholic Church studied the interrelation of Christian natural law and modern natural law – at least since the founding of the 'School of Salamanca' – and placed the personal view of man in the foreground, conservative Catholic circles succeeded – in the Canton of Lucerne these have been the rural Democrats since 1831 – in combining Christian social ethics with a modern direct-democratic constitution in a beneficial manner (Roca, pp. 222)

rather than joining the current "Vatican-bashing" which is obviously controlled by the imperial secret service!

Three elements of a theory of direct democracy

In addition to the principle of co-operation and people's sovereignty Roca finally refers to the above mentioned term "natural law" in the third chapter of his concluding section, the title of which is "Elements of a theory of direct democracy" – since it supports neither the neoliberal-utilitarian nor the socialist-materialistic ideologies, one might argue that established historians tend to be ignorant of the underlying concept, because they don't like it. Again Roca closes a circle containing so many issues which have never been shown in their interconnectedness before. For being so brilliantly phrased, some longer citations will be included here, although reading the previous 200 pages is obviously necessary to really appreciate their meaning in full sense.

First element: natural law

Roca emphasizes: "With its idea of man as a person, modern natural law is a *conditio sine qua non* for the establishment of any democratic structure, but especially direct-democratic ones. Founded in the 16th century, modern natural law has theological roots. The 'secularization' of natural law had been an enormously complex process, driven by both lawyers and theologians (dominicans and jesuits) who developed their theological tradition with spiritual freedom and creativity." Readers brought up in one of the many intellectual environments where the Jesuits are traditional targets of criticism should nevertheless think twice before shying away from the J-word here and venture to take a new look at history without prejudice; it is worthwhile. Roca continues: "The synopsis of Christian and modern natural law was founded on the personality principle, which most protagonists of the 18th century enlightenment adopted later. The idea of man as a person, resulting from the personality principle, became a crucial principle of a democratic social theory." (p. 223) Having succeeded in outlining these apparently contradictory historical lines of thought in just a few but rather dense

sentences, because of being able to show how things have developed and influenced each other, Roca proceeds to the interconnectedness of the ideas of co-operation and enlightenment in the following paragraph, and how this interconnectedness provided the foundation for the first direct-democratic instruments in the hands of the population, namely the "Gesetzesveto" (the right to veto laws), which had been laid down in the Constitution of Lucerne in 1841, and before that in St. Gall, Basel County and the Valais in the 1830s. This right turned out to be an important step towards the modern institution of the referendum – Roca writes: "As a direct-democratic instrument, the right to veto laws constitutes an amalgamation with far-reaching consequences, of the co-operative municipal democracy of (farming) communities, resting on Christian natural law, with the idea of natural law as it was developed by the enlightenment, which invested the person with individual rights."

Considering their "Menschenbild" it doesn't really come as a surprise that the Liberals in Lucerne had some problems with the right to veto in the beginning, however, it honors the early socialists honor that they supported it and Roca's analysis makes it easy to understand the circumstances – may today's late socialists or social democrats be inspired by this treasure in the delicate branches of their own roots ...

Second element: the principle of co-operation

As a second element of direct-democratic theory, Roca identifies the principle of co-operation. In clear distinction to the ideology-driven guild of historians who propagate *Napoleon* as the great innovator in order to discredit any genuine development of the Swiss Confederation – with the underlying infamous but rather transparent aim to smash Swiss pride and get Switzerland into the EU and/or NATO (earlier elaborated on, but this cannot be mentioned too often) – the author quotes *Adolf Gasser* among others, the great researcher on municipal autonomy. Gasser writes: "In contrast to the monarchical

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state systems such as England, France or the German Reich, the legitimacy of the state's power proceeded from the decentralized units rather than from the crown's sanctity. For Switzerland it is therefore correct to state that the foundation of the modern state and people's sovereignty of municipality and canton has developed upwards from below."

Roca stresses that without the co-operatives' integrating and unifying influence even in times of the ancien régime, when feudal rule was preeminent throughout Europe, Switzerland as a "Willensnation" (nation established by the will of the people) as we know it today could never have developed. Viewed with suspicion by the adherents of top-down-approaches even then and commented on accordingly, how much more should this concrete co-operative bottom-up construction, rooted in the municipalities, be today a thorn in the side of those who think of the citizens not as sovereign, but in utilitarian manner as yes-people in occasional elections and material of consumerism if not as cannon fodder. This has happened before in the resource-rich countries but may soon occur in the southern EU countries as well if the looting by the banks continues unhindered and the people will start reacting. Eurogendfor, the EU's and the financial oligarchs European Gendarmerie Force, is on standby.

Not only recently, but indeed since the 19th century has the social question in its connectedness with the degree of direct democracy been a burning issue, since municipal freedom has always been influenced by the dimension of community ethics, as Roca shows. Without developing and discussing virtues in the people's education system according to *Johann Heinrich Pestalozzi's* humanistic ideals this bottom-up construction which always keeps the *Bonum commune* (*common good*) in mind wouldn't have been possible then and neither would it today.

Third element: the peoples' sovereignty

The third element of Roca's theory of direct democracy is the sovereignty of the peoples. In order for it to be actually lived instead of leading a shadowy existence, Roca holds that it must be built upon the practice of autonomous co-operatively organized municipalities and be capable of employing the above-mentioned instruments of veto and referendum, later also the initiative, at cantonal as well as at federal level.

"With its idea of man as a person, modern natural law is a *conditio sine qua non* for the establishment of any democratic structure, but especially direct-democratic ones. Founded in the 16th century, modern natural law has theological roots. The 'secularization' of natural law had been an enormously complex process, driven by both lawyers and theologians (dominicans and jesuits) who developed their theological tradition with spiritual freedom and creativity. The synopsis of Christian and modern natural law was founded on the personality principle, which most protagonists of the 18th century enlightenment adopted later. The idea of man as a person, resulting from the personality principle, became a crucial principle of a democratic social theory." (Roca, p. 223)

Although it may have been progressive thinking in those early years for the old liberals to refer to peoples' sovereignty, this never went beyond the idea of reason as such being sovereign, rather than the people as the sum of citizens, and this reason was supposed to manifest itself in the peoples' representatives – the liberal representatives that is, at least elected by the people. Afterwards, after the act of election, sovereignty was supposed to somehow transmigrate to the representatives for the time of their mandate, in an almost metaphysical process, those liberal elites seemed to believe in despite their rationality and enlightenment. Only the radical fringe within the liberal movement had gone one step further in this regard by 1848, however the mistrust of the liberal majority against the people persisted and was voiced in remarks about the allegedly looming ochlocracy or mob rule. Quite different – and Roca stresses that – was the attitude of the conservative farming communities in Lucerne, the so-called countryside democrats, who belonged to the catholic segment of the population and therefore according to the liberal propaganda of those post-civil war days to the "reactionary die-hards". But it was especially this conservative-catholic group, as Roca explains, who made Rousseau's direct-democratic concept of "*volonté générale*" a political reality. For instance, they wrote in one of their newspapers: "In fact no people may be called sovereign unless they refuse to accept any foreign will superior to their own as a law maker." And further on: Peoples' sovereignty follows a "theory, which flows towards the social state emanating from the nature of man and which makes the good people their own masters". Statements, any citizen would spontaneously, – or rather resulting from the liberal victors' historiography – associate with the so-called "progressive" groups, if read without knowing the author. A circumstance at once illuminating how urgently we need the research project initiated by Roca for the preservation of Switzerland as a nation of consen-

sus, since without knowledge of our own past and appreciation of the efforts of all parties involved – in that case not only the liberals und early socialists, but also the catholic-conservatives and the francophone school of natural law – without such an extended knowledge we will not succeed in recognizing and appreciating the people in other parts of the country, people of different religious creeds, political convictions and languages, as integral parts of a whole: integral parts of a glorious experiment, that is, which hopefully all mankind might undertake eventually, the model of direct democracy.

Direct democracy: a model promoting peace also in other countries

May Roca's research be successful for the sake not only of a strengthened self-conception and self-confidence of the Swiss people, but also of an appropriate appreciation of Switzerland as a special case – in a double sense: in order to preserve this special case, also in socio-economic terms, as a peace model in Europe, but also as an inspiration for their neighbors in Europe and beyond. Nobody would be happier than the Swiss if Switzerland ceased to be a special case in that sense at some point in time, provided the other countries will take sovereignty back to the people, as well. This may take quite some time, as Roca shows at length in his book. Still it should be clear that one mustn't allow oneself to be discouraged by setbacks. Happiness and effectiveness of the people in our country demonstrate that it is worth it. Should citizens in surrounding countries be willing to confront their elites and fight for the same rights, Swiss citizens will be happy to lend a brotherly hand; for the establishment of a dictatorship like currently by the ESM- (European Stability Mechanism) – never ever! •

Roca, René. *Wenn die Volkssouveränität wirklich eine Wahrheit werden soll ... Die schweizerische direkte Demokratie in Theorie und Praxis – Das Beispiel des Kantons Luzern*. Schriften zur Demokratieforschung, Volume 6. Edited by the Zentrum für Demokratie Aarau. Zurich 2012. ISBN 978-3-7255-6694-5.

Adjustment or resistance?

“Switzerland has no cause to put up with US and EU blackmail any longer”

by Dieter Sprock

This year some important topics are subject to discussion in Switzerland and will come to the vote, including the question: “Where to with the EU?” and the vote on the “Army Abolition Initiative”. These votes will set a decisive course for the future. It is therefore all the more important that the discussion is oriented on the realities of the EU, especially of Germany, and on the general political situation – and not on propaganda.

The “EU as a peacemaker” is propaganda. The EU is not a peace project. The scandalous award of the Nobel Peace Prize will not make a difference.¹ Only a few days after the award ceremony Barroso, President of the EU Commission, praised the arms and munitions production as the largest factor of growth in the EU member states. They would set people’s technological creativity free and would be the sector for realizing the highest professional qualities and a stronghold for job security ...

EU countries – most notably Germany – have been involved in the destruction of Yugoslavia and have been operating for eleven years now in a senseless and murderous war in Afghanistan; they have participated as “coalition of the willing” in the USA’s illegal war of aggression against Iraq and are militarily involved in Libya and Syria, eager to be present at every crisis theatre in the world.

Neither a peacemaker within Europe

Neither does the EU create peace within Europe. Not forgotten are the proceedings against Austria that had chosen a government in free and democratic elections that was not to the Commission’s liking. In the few countries, where the population was allowed to vote on the Lisbon Treaty, people had to vote again and again until the consent was finally enforced. And now that the dishonest financial economy is collapsing and the consequences of the fraud eventually come to light, thumbscrews are put on those countries that are the most severely affected.

The EU, a satellite-project of the US, with NATO as its military arm

Neither has the EU been a peace project from its conception. After World War II the United States were eager to expand and consolidate their newly acquired influence in Europe. Europe was to serve the United States as a bridgehead for the USA’s struggle with the Soviet Union for global dominance and open up the European market for US goods and finance. With the NATO Europe’s military poten-

tial was developed and put into the service of American hegemony.

In his book “The Grand Chessboard. America’s strategy of domination” Zbigniew Brzezinski, National Security Advisor to US President Jimmy Carter and current adviser to the Obama administration, never gets tired of emphasizing the “function” of a unified supranational Europe as a “springboard” for the expansion of American power in the Eurasian continent.² The Old World is signaled as being of enormous geostrategic importance for the United States. The direct sphere of influence of the United States is automatically extended, he writes, with each expansion of the European scope. NATO links “Europe’s most productive and powerful countries to America, thus giving an important voice to the United States even in internal European affairs”. “The global network of specialized agencies, above all the international financial institutions, have also to be considered” as part of the American system. Global interests are officially represented by the International Monetary Fund (IMF) and the World Bank. In reality, however, they would, “be dominated by the US”, Brzezinski writes.³ Other international organizations, as the OECD and the WHO, who are also dominated by the US, should be added – the OECD, for the conformity of education policy bypassing the democratic structures of the countries⁴ and the WHO for the privatization of national health services and their opening up to globally operating investors.

Against this background, it is clear: the EU, with a Germany taking the lead “with the support of the US” (Brzezinski), is a project of American finance, a building block in a New World Order, planned by the US, far away from any idea of peace. Countries, not submitting to the global financial dictatorship, are subject to sanctions and war, as the examples of Yugoslavia, Afghanistan, Iraq, Libya and Syria show.

The Swiss people’s ultimate No to the EEA

The attacks against Switzerland began after the Swiss people’s No to the EEA. Since then one attack has followed the other: starting with the absurd claims of the United States on dormant assets in Swiss banks (the search for them has consumed more money than has been found), the unsubstantiated accusations of collaboration with Nazi Germany and a allegedly resulting responsibility for war crimes in Germany, the attacks against the Swiss bank-client confidentiality by Germany –

Peer Steinbrück! – accompanied by a real smear campaign against Switzerland in the German media, up to the latest allegations following the exposure of the world financial fraud that ultimately amounts to blaming the failure of the Anglo-American-dominated financial ideology on Switzerland.

After this barrage, supported and reinforced by the Swiss media, especially radio and television, the EU apparently believe they could play the highwayman in Switzerland. The debt of European countries (including Germany) has reached such proportions that only a fundamental restructuring comes into consideration. And an honest admission of bankruptcy!

Historical excursus

“Adjustment or Resistance“ is the title of a book by Alice Meyer. “Switzerland at the time of German National Socialism” is the subtitle. It was republished in 2010 with a preface by Marthe Gosteli.⁵ It is just today that the book gains great importance in the debate about the role of neutral Switzerland within the international power structure. It rests upon contemporary witnesses and a plethora of files and documents that were not included in the Bergier falsification of history.

With Hitler’s seizure of power, the situation for neutral Switzerland in Europe changed dramatically. Nazi Germany meant not only a military threat to Switzerland. “Since 1933 it has threatened them spiritually and politically by pestering them with the methods of ‘the extended/enhanced strategy’ [i.e. propaganda],” Alice Meyer writes. Until the collapse of France in 1940, it was all about being vigilant against the infiltration of National Socialist ideas and against subversive activities. “Since June 1940, when the existence of Switzerland seemed immediately threatened and the Nazis believed that Switzerland was ripe for adaptation to the ‘New Europe’, it had been necessary to raise and keep alive the absolute will to persevere and to resist” she continues.

Truckloads of propaganda came to Switzerland. Radio and the press, films, newsreels and the entire culture were in the service of Nazi propaganda. Under the “surface of correct diplomatic relations and soporific official insurance the Nazis treat Switzerland as an enemy, and they want to gain the most favorable starting position compared to that enemy.” Protestations of deep and lasting friendship as “one could no longer imagine Eu-

"Adjustment or resistance?"

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rope without Switzerland" or "no serious person in Germany thinks of touching the independence of other states," contrasted with statements that the time of the small states was over. "In future there will be no more neutrality. The neutral countries will be caught in the force fields of the large countries. They will be absorbed." (Hitler to *Rauschning*, 1933) The Swiss' will to freedom was denigrated as "rural eccentricity", "as greed and narrow-minded pursuit of freedom". At the same time Nazi propagandists were trained in Nazi training camps in Switzerland and "Gauleiter" were installed in Switzerland with the help of a "fifth column".

Rearmament in Germany hidden behind peace propaganda

With "peace propaganda and anti-Bolshevism" and by appeasing the world and Switzerland, Hitler tried to shield the huge economic and military rearmament of Germany to the outside. Alice Meyer writes, "After World War I, as in all Western democracies, the thought of collective security, embodied in the League of Nations, and later the great economic crisis paved the way for the neglect of the military." When the hope for collective security was shattered and the Swiss people realized that Germany was heading for war, it continued to put its full attention on the policy of armed neutrality. "In the course of eight years, the Swiss people approved of approximately one billion Swiss francs for defense spending. Within a few months, it subscribed the 1936-defense bonds by 100 billion at the low interest rate of three per cent." Having rejected the military defense since 1917, the Social Democratic Party pleaded for the military defense of the country in 1937. This political reconciliation paved the way for an important event within the social field. According to Alice Meyer, "In summer of 1937, the associations of employers and employees of the largest economic grouping in Switzerland, the *Metal and Watch Industry*, signed a contract on industrial peace, in which, amongst others, the employers renounced the lock-out and employees renounced the strike as weapon."

In the summer of 1940, after the breakdown of France, Switzerland was faced with the question of "adjustment or re-

sistance?" Of course, there were others then who stood up for adjustment. They believed that Germany would include Switzerland as equal partner in its "new Europe", if it were to "play small" and "lipread Germany's wishes". "They were not aware of the nature of National Socialism." Then there were those who wanted to join the "new Europe" out of conviction. They spoke of the "last chance" to get involved as co-creators and co-fighters". But most Swiss stood behind the military and political leaders in unison and supported the policy of unconditional resistance. Alice Meyer continues, "Those Swiss who, after the breakdown of France were in favour of continuing this policy, were not unwordly dreamers. They did not close the eyes when realizing that certain concessions in the economic field were an unavoidable and tragic necessity for us, if we wanted to go on existing. They also knew that when the foundations of our independence were at stake, there would be no room for elasticity".⁶

On the path to a multi-polar world

The world is changing. America is no longer "the sole world power", though, according to narrowed European perception it might still be.⁷ Meanwhile, different actors have entered the world stage, led by China, India, Russia, the ASEAN member states as well as a number of Latin American countries. They pursue a US-independent policy. America faces the difficult task of having to get in line as an equal amongst equals in the newly evolving multi-polar world. It has to utilize its tremendous potential for problem-solving at home. It is no longer capable of fighting wars in the entire world. It therefore demands NATO to represent American interests in the Middle East and Africa, while the US itself concentrate on the Pacific region. Europe is asked to intensify its participation in the costs of war and make more troops available.

The EU has followed the American way, thus facing economic and political bankruptcy. The European unemployment rate has never been as high as it is today since World War II. The Anglo-American ideology of the "free market", allegedly invisibly regulating everything for the common good, has failed. Prices of most essential commodities are not regulated through supply and demand, but by speculation. The peoples of the former Eastern

bloc countries and the Southern European countries as well who hoped for a better life in joining the EU realize the longer the more that they were cheated. The countries were literally bought up and are externally controlled today.

Switzerland – a cosmopolitan country which does not have to put up with any blackmail

There is no reason for Switzerland to put up with US or EU blackmail any longer. It is a cosmopolitan country, communicating with the entire world, culturally and in trade. Without an EU straight-jacket, this path has opened wider than ever before. With further approaching the EU and the adoption of further EU law, it would inevitably also be bound in EU-NATO war policy. In this, it would forfeit its sovereignty. It would have to envisage even higher financial demand and possibly also a higher demand for troops. Possible short-term trade advantages in the exporting industry and advantages for a few larger financial institutes do not rectify such risk. The ideological and material costs would have to be borne by the people and ultimately by the economy.

How about a united Europe without the EU, where countries may again pursue their own policy in peaceful competition? Trade agreements do not need to be put on political screws. Claiming, the European countries would be at war without the EU is an American invention. It serves the purpose of dominating Europe.

It is the United States that prevents the accounting for World War II by keeping their documents under lock and key. But why actually? •

¹ See *Current Concerns* No 45 of 29.10.2012, *The EU – a peacemaker in Alfred Nobel's understanding?* and No 51 of 10.12.2012, *The 2012 peace prize is unlawful and is cannot be paid to the EU.*

² Zbigniew Brzezinski, *The Grand Chessboard. America's strategy of domination.* Frankfurt 1999, ISBN 3-596-14358-6.

³ *ibid.*, p. 48f

⁴ See *Current Concerns* No 25 of 18.6.2012. *A kick against rubbish.*

⁵ Alice Meyer, *Adaptation or Resistance. Switzerland at the time of German National Socialism.* Frauenfeld 2010, ISBN 978-3-7193-1542-9.

⁶ *ibid.*, p. 134f

⁷ See *Current Concerns* No 53 of 31.12.2012. *Expanding the thinking and Post-US world, born in Phnom Penh.*

Mango-drying in Africa

What has been achieved and what is to come

“Ökozentrum Langenbruck” (Ecological Centre Langenbruck)

The Ökozentrum Langenbruck has developed fruit drying facilities for Africa, which are expected to work with as little energy and cost as possible. Project manager Akos Lukacs was able to visit Burkina Faso again this summer in order to continue optimizing the prototype of the fruit drying plant. Thus the project will retain the stability necessary for engaging in the field of development cooperation.

In mid-July Akos Lukacs, after an 8.5-hour-flight to Ouagadougou, continued his journey to Bobo Dioulasso, one of the most productive areas for growing mangoes in Burkina Faso, together with David Heubi, director of the company *gebana Afrique*. This fourth visit of the project manager from the Ecological Centre took place in the rainy season, which is also the harvest season for mangoes. While the first three visits aimed at the installation of the fruit dryer and the training of employees on site, the focus of last year's visit lay on streamlining the plant's energy efficiency and cost.

Robust, simple, cheap

The project is aimed at developing a robust fruit dryer superior to conventional systems in regard to energy efficiency and CO₂ emissions, which can be powered by renewable energy. It should be possible to build the facility on site at minimal cost and to maintain it easily. In addition, better results are achieved, both qualitatively and quantitatively. In the course of the conventional gas drying process about a third of the dry fruit is burnt and discoloured. The homogeneous temperature profile of the heat pump air dryer stops this waste completely. The effects of the project are manifold: Basically, it furthers Burkina Faso's economy, and also the farmer cooperatives' earnings are increased as well as secured in the long term. The project safeguards a sustainable dried fruit production based on renewable energy, while also increasing the quality of dried fruit, as *gebana Afrique*, the local distributor of the Ökozentrum was able to ascertain by means of a comprehensive product analysis.

Renewable electricity around the clock

The next step is now the reduction of CO₂ emissions and production costs by using decentralized, renewable energy sources. In this way the local mango producers' dependence on line current, which is, due to poor development, expensive and unreliable, can be reduced.



(picture Ökozentrum)

Currently, two approaches are pursued. Firstly, Bobo Dioulasso, with its average of eight hours sunshine a day is ideal for photovoltaics (PV). Secondly, biogas generators are a particularly interesting solution, as they allow the use of biogenic waste (peelings). A combination of both systems for a power supply around the clock is being looked into.

Biogas as an ideal solution

During harvest time, it is impossible to process all of the fruit. Up to 50 per cent is left to rot and so develops climate-damaging methane gas. Together with the large quantities of processing waste in the form of dried fruit this can be used to produce biogas by fermentation. This can then power a generator for electricity production. Ideally, the processing waste of cashew nut production, which accumulates at the same time, can also be used here.

Using such systems, mango producers can draw on reliable and clean energy from domestic sources, and they will put no further strain on a power grid already functioning at its limit. This would amount to a further essential step towards successful and independent operation accomplished by the producers themselves.

Experienced local partners

For the independence of producers, the technical knowledge to build condensation dryers along with the required tools, materials and infrastructure are as crucial as a reliable power production, the

quality of products and the sales market. During his visits, project manager Akos Lukacs was able to establish contact with various potential partners in Burkina Faso. The organization *Swisscontact*, for instance, which provides sustainable capacity building for small and medium enterprises, will be able to lend out the necessary infrastructure and tools to trained craftsmen. *Samconsult International* and *Isomet* could be partners in the field of renewable energy technology.

Ultimately, production, maintenance and operation of the drying systems are to operate completely independently of international support. An initial intensive support and training of local staff will be essential. Training will be concentrating on the three areas of assembly, operation and maintenance.

Extension to other countries

Parallel to the electrification of fruit drying facilities in Burkina Faso, the potential for drying plants working with heat pumps are to be tested in other countries. Promising first contacts have already been established in other African countries, in Asia and Latin America.

For the upcoming optimization of the fruit dryers, the on-site training and testing of photovoltaic and biogas systems for the electrification of the dryer we need more funding. Donate to this meaningful project, and be a part of this story, and of

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the large group of people contributing to its success.

(Translation *Current Concerns*)

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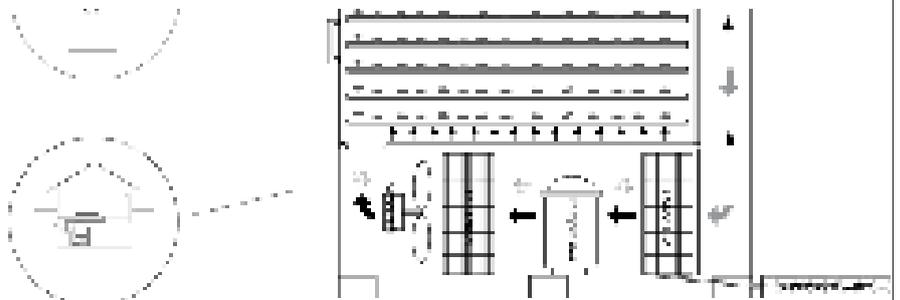
(picture Ökozentrum)

Technology adapted to the environment and the people

The fruit dryer is based on the principle of the condensation drying, whereby the air is dehumidified completely at first. During the subsequent drying process the "dried" air can now gently absorb the moisture from the goods to be dried. Dehumidification is done by using a simple heat pump, as can be found in any refrigerator, and which was further developed in close cooperation between the *Ecological Centre* and the *Buchs University of Applied Science and Technology (Switzerland)*. In order to dry the mango slices they are laid out on coarse nets in wooden frames – as experience showed that fine nets stick together quickly due to secreted fruit juice. So the fruit slices can be fanned from all sides and dry evenly. In the fruit dryer several wooden frames are arranged one above the other. A fan blows air through the fruits so that they emit their moisture. The moisturized air then passes along the cold lamellas of the first

heat exchanger. Here, the humidity is removed from the air by condensation. The dry air is heated in a second heat exchanger and is blown again into the drying room by the fan. Thus the closed cycle begins anew. This procedure allows an extremely gentle drying of fruits thanks to low temperatures. It results in the highest quality of dry fruits. The Ecological

Centre's technical development of the system allows the full production of a heat-pump dryer with locally available materials and material costs of about 2,000 francs. In this way the work of the Ecological Centre is specifically aimed at the independent production, maintenance and operation of the fruit dryer by the people of Burkina Faso, and at a mostly local added value.



Functional diagram of a fruit dryer