

The new Swiss Climate and Innovation Act – a boost for renewables

The Swiss public has voted for climate change legislation that favours significant investment in renewable energies, energy efficiency and climate protection,¹ creating opportunities for investors from Switzerland and abroad.

1 A TUG-OF-WAR ACT

In a referendum on 18 June 2023, Swiss voters accepted the Climate and Innovation Act with a comfortable majority of 59 per cent – a result ending four years of debate over the country’s response to this critical issue.

Switzerland’s alpine location leaves it vulnerable to the impact of climate change, and statistics from the Federal Office of Meteorology and Climatology (MeteoSwiss) show that, over the past decade, its average temperature was 2.5°C warmer than the pre-industrial mean (the global figure is 1.2°C).²

In 2019, the Swiss Climate Protection Association (“Verein Klimaschutz Schweiz”) introduced the “Glacier Initiative”, advocating for an accelerated transition and banning oil and natural gas by 2050. The Swiss Federal Council and Parliament – deeming this overly restrictive – responded by developing a counterproposal known as the Climate and Innovation Act (the Act). This outlined a gradual reduction (rather than a complete ban) on the use of crude oil and natural gas, with the goal of achieving climate neutrality by 2050.

The draft Act had key stakeholders:

- The Association of Swiss Electricity Companies (VSE) hailed the law as “the next important milestone” in the decarbonisation of the economy and society.³

¹ Swiss Climate and Innovation Act (Bundesgesetz über die Ziele im Klimaschutz, die Innovation und die Stärkung der Energiesicherheit), available at: <<https://www.fedlex.admin.ch/eli/fga/2022/2403/de>>.

² See statistics of the Federal Office of Meteorology and Climatology MeteoSwiss, available at: <<https://www.meteoswiss.admin.ch/climate/climate-change.html>>.

³ VSE, «Der nächste wichtige Meilenstein», 17 May 2023, available at: <<https://www.strom.ch/de/nachrichten/der-naechste-wichtige-meilenstein>>.

- Economiesuisse (representing around 100,000 Swiss companies and 2 million employees) endorsed the Act by saying that it paved the way for a forward-looking climate policy.⁴
- Gazenergie (the association of gas producers) also expressed support, aligning itself with the Swiss Federal Council's objective of achieving a climate-neutral energy supply by 2050. It committed to focusing on transitioning from natural gas to renewable gas and hydrogen in the coming years.⁵

However, opponents of the Act argued that its implementation would place an increased burden on Switzerland's already-strained electricity supply, hence this year's referendum.

2 THE NEW FRAMEWORK FOR ENERGY TRANSITION

The Act has an ambitious objective: to eliminate, to the greatest extent possible, greenhouse gas emissions such as CO₂ within Switzerland by 2050. To accomplish this, **a total of 3.2 billion Swiss francs** will be allocated over a decade for support programs aimed at reducing CO₂ emissions and electricity consumption in the country.⁶

One area of focus is incentivising companies to invest in innovative technologies that reduce their CO₂ emissions. So, companies adopting carbon capture technologies at their production sites will receive financial assistance.⁷ An allocation of 200 million Swiss francs has been dedicated to supporting such investments for the six years following the Act's entry into force in January 2025.

⁴ Economiesuisse, *Gegenentwurf Gletscherinitiative: Ein guter Tag für unser Klima*, 15 June 2022, available at: <<https://www.economiesuisse.ch/de/artikel/gegenentwurf-gletscherinitiative-ein-guter-tag-fuer-unser-klima>>.

⁵ Gazenergie, *Vision: Klimaneutrale Gasversorgung bis 2050*, available at: <<https://gazenergie.ch/de/energiezukunft/energieprojekte/klimaneutrale-gasversorgung/>>.

⁶ Explanations of the Federal Council on the popular vote of 18 June 2023, available at: <https://www.admin.ch/gov/de/start/dokumentation/abstimmungen/20230618.html#spiegazio_ni_del_cons_content_gov_de_start_dokumentation_abstimmungen_20230618_jcr_content_par_tabs>.

⁷ This based on their roadmaps on how to reduce their emissions to zero by 2050.

Another support program targets heating systems. Houseowners who replace their oil, gas, or electric heating systems with heat pumps or wood heating will be eligible for financial support. An annual budget of 200 million Swiss francs has been allocated to this for a duration of ten years.

The Swiss financial sector is also expected to contribute to the energy transition, with measures to reduce the climate impact of national and international financial flows. To this end, the Federal Council may conclude agreements with the financial sector on the climate-friendly orientation of financial flows (such as flows into sustainable funds).

The Act acknowledges that achieving zero emissions in every sector of the economy may be a challenging task and it encompasses various strategies to limit and reduce energy consumption and CO₂ emissions. In sectors like agriculture and waste treatment that will, inevitably, continue to produce some emissions, measures such as carbon capture and storage technology will be used to offset these residual emissions.

Under the Act, the Swiss Government and cantons must implement measures to enhance the protection of communities and infrastructure from the consequences of climate change. This includes constructing buildings that safeguard against landslides or flooding and increasing green spaces to mitigate urban heatwaves. Measures to achieve these targets will be primarily defined in the CO₂ Act.⁸

3 ANALYSIS AND OUTLOOK

The Act establishes a clear objective of achieving climate neutrality by 2050, with incentives to facilitate investment in energy efficiency, renewable energies and climate protection. The CHF 3.2 billion funding is intended to boost this energy transition, with investments in renewable energy technologies.

The example of the photovoltaic market in Switzerland shows that there is still great potential for growth. The country's photovoltaics market has witnessed an annual growth rate of over 40 per cent each year since 2019,

⁸ Commission Report, Parliamentary Initiative on the Counter-Draft to the Glacier Initiative (BBl 2022 1540) of 25 April 2022, available at: <<https://www.fedlex.admin.ch/eli/fga/2022/1540/de>>.

but had still only installed capacities catering to around 7 per cent of the annual electricity demand by the end of 2022.⁹ Policymakers are working to remedy this, by creating incentive systems and reducing investment hurdles.

- In September 2022, the Federal Assembly amended the Energy Act of 2016 (EnG) as part of the “Urgent measures for the short-term provision of a secure electricity supply in winter”.¹⁰ Article 71a simplifies licensing requirements for large-scale photovoltaic projects and their promotion on a case-by-case basis, and establishes special one-off subsidies covering up to 60 per cent of the investment costs.¹¹
- An obligation may be introduced to instal solar panels on all new buildings.¹²
- Large-scale renewables projects are being planned along Swiss motorways, with the Federal Roads Office (Astra) inviting tenders for around 450 solar installation projects.¹³

The Act also paves the way for significant investments in other renewable energy sectors such as geothermal energy, wind power, biogas, hydrogen, carbon capture and storage, as well as technologies to enhance energy

⁹ Swissolar, Solar energy statistics 2021, commissioned by Swiss Federal Office of Energy, estimate for 2022, available at: <<https://www.bfe.admin.ch/bfe/de/home/versorgung/erneuerbare-energien/solarenergie.html>>.

¹⁰ Explanatory report on the Ordinance provisions on Article 71a Energy Law (EnG), available at: <<https://www.newsd.admin.ch/newsd/message/attachments/76200.pdf>>.

¹¹ Explanatory report on the Ordinance provisions on Article 71a Energy Law (EnG), available at: <<https://www.newsd.admin.ch/newsd/message/attachments/76200.pdf>> .

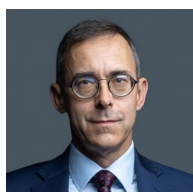
¹² See Swiss Television, National Council favours mandatory solar panels, but only for new buildings, available at: <<https://www.srf.ch/news/schweiz/gesetz-zur-stromproduktion-nationalrat-ist-fuer-solarpflicht-aber-nur-fuer-neubauten>>.

¹³ Press release of the Federal Office of Roads (Astra), available at: <<https://www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.msg-id-85599.html>> (last accessed 03.07.2023); see also Swiss Television, Green light for photovoltaic systems on highways, available at: <<https://www.srf.ch/news/schweiz/450-solaranlagen-projekte-gruenes-licht-fuer-fotovoltaikanlagen-auf-autobahnen>>.

efficiency (such as solutions for the heating and insulation of buildings).¹⁴ Procurement is subject to the GATT/WTO Government Procurement Agreement (GPA).¹⁵ Contracting authorities are therefore not authorised to award their contracts to local or national suppliers without considering offers from foreign bidders. Contracts with a volume of CHF 230,000 or more (services and supplies) or CHF 2,000,000 (buildings) are published on SIMAP, the electronic tender platform for federal cantonal, and municipal projects.¹⁶

The Act therefore promises attractive business opportunities in the renewable sectors, with unprecedented incentives. In the coming years, the objectives of the Act will be implemented through follow-up regulations. Investors should monitor the situation closely, so they are ready to submit bids once project tenders are announced. Meanwhile, we trust that the authorities and law makers will avoid situations that could give rise to claims under bi/multilateral investment protection treaties (as we have seen in countries such as Spain, Italy and Germany when policies or incentive schemes have subsequently been modified).

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¹⁴ Switzerland's Energy Strategy 2050, available at:
<<https://www.bfe.admin.ch/bfe/en/home/policy/energy-strategy-2050.html>>.

¹⁵ The text of the GATT/WTO Agreement on Government Procurement is available at:
<https://www.fedlex.admin.ch/eli/cc/1996/609_609_609/de>.

¹⁶ SIMAP, available at:
<<https://www.simap.ch/shabforms/COMMON/application/applicationGrid.jsp?template=2&view=1&page=/MULTILANGUAGE/simap/content/start.jsp>>; Regarding the legal requirements for procurement, see: <<https://www.eda.admin.ch/deza/en/home/partnerships-mandates/mandates-contributions/mandates/requirements/legal-requirements-procurement.html>>.