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EU-Swiss relations

Switzerland is a very close neighbour of the EU – geographically, politically, economically and culturally. It is the EU's **third largest economic partner** (trade in goods and services taken together), after the US and China, ahead of Russia and Japan. In turn, the EU is by far the most important trading partner for Switzerland, accounting for 78% of its imports and 57% of its exports in goods in 2011. In commercial services and foreign direct investments, the EU's share is equally dominant. This is to the mutual benefit, and Switzerland has a policy of promoting itself as a stepping stone to the EU, thanks to the significant degree of integration it has with the EU internal market.

Furthermore, over a million EU citizens live in Switzerland and another 230,000 cross the border daily for work. About 430,000 Swiss live in the EU.

The cornerstone of EU-Swiss relations is the **free trade agreement of 1972**. As a consequence of the rejection of EEA membership in 1992 by the Swiss people, Switzerland and the EU agreed on a package of seven **sectoral agreements** signed in 1999 (known in Switzerland as "**Bilaterals I**"). These include: free movement of persons, technical trade barriers, public procurement, agriculture and air and land transport (road and rail). In addition, a scientific research agreement fully associated Switzerland into the EU's framework research programmes.

A further set of sectoral agreements was signed in 2004 (known as "**Bilaterals II**") covering, inter alia, Switzerland's participation in Schengen and Dublin, and agreements on taxation of savings, processed agricultural products, statistics, combating fraud, participation in the EU Media Programme, the Environment Agency, and Swiss financial contributions to economic and social cohesion in the new EU Member States. In 2010 an agreement was signed on Swiss participation in EU education, professional training and youth programmes¹.

Current key issues

Swiss referendum on mass immigration, 9 February 2014

Free movement of persons is a central pillar of our relations with Switzerland, and part of our overall package of ties.

¹ See http://eeas.europa.eu/switzerland/index_en.htm for more details. To this day, the EU and Switzerland have concluded over 120 bilateral agreements. The highly complex relationship is managed by dozens of joint committees and subgroups.

The popular vote in Switzerland of 9 February 2014 in favour of an introduction of annual quantitative limits to "immigration" (this includes cross-border commuters, asylum seekers, job seekers from the EU and third countries) calls into question the EU-Swiss agreement on the free movement of persons, requesting that the Swiss Federal Council "renegotiate" this agreement with the EU. Implementing legislation for this initiative will now have to be enacted by the Federal Council within three years. The Federal Council has indicated that the first stage of the legislative process ("Vernehmlassung", comparable to a Green Paper) is to be expected this year.

Institutional and horizontal questions

The EU and Switzerland are bound by more than hundred bilateral agreements. The Council of the European Union has made the conclusion of any further agreements giving Switzerland access to the internal market – the world's largest – subject to the solution of longstanding institutional issues notably regarding better surveillance and dispute-settlement mechanisms. Negotiations on an institutional framework were scheduled to start following adoption of the mandate.

Pending negotiations currently ongoing concern the EU-Swiss electricity agreement, participation in the Horizon 2020 Framework Programme for Research and Erasmus+ (Education, Training, Youth and Sport) programme, with negotiations planned for participation in the Creative Europe (culture and audio-visual) programme.

While the EU Single Market law is clearly an evolving instrument, Switzerland considers that it has signed international agreements only as covered by the law existing at the time of signature. This leads to a reoccurring question of how to deal with post-agreement developments of the *acquis*, including interpretations by the Court of Justice of the European Union (ECJ). At the same time, insufficient surveillance and dispute settlement procedures exacerbated this issue. The ensuing incoherence of internal market rules creates discrimination issues for investors, businesses and citizens, a structural challenge that the EU seeks to remedy. In the Council Conclusions on relations with EFTA countries of December 2012, Member States reiterated the position already taken in 2008 and 2010 that the present system of "bilateral" agreements had "clearly reached its limits and needs to be reconsidered". The horizontal issues related to the dynamic adaptation of all agreements to the evolving *acquis*, the homogenous interpretation of the agreements, but equally the need for independent surveillance, judicial enforcement and dispute settlement need to be reflected in EU-Switzerland agreements.

A resolution of these horizontal issues is necessary before the EU is ready to conclude new agreements giving Switzerland access to further areas of the Single Market (e.g. on electricity). On the basis of a common non-paper of January 2013, both sides have prepared their negotiating directives for a new institutional framework that should address these issues, covering current and future agreements. The Swiss mandate was adopted in December 2013, while the EU mandate is still under discussion in Council.

Free movement of workers and right to supply services freely between the EU and Switzerland has existed since 2002, to clear mutual benefit². However, the extension of the agreement to Croatia is now being questioned with yesterday's acceptance of the mass immigration initiative.

In addition, problems persist with some flanking measures that Switzerland introduced unilaterally in 2006 to protect its labour market. The EU considers a number of restrictions imposed as manifestly incompatible with existing agreements. In 2012 and 2013, Switzerland also re-introduced quota on long-term permits for nationals specifically from eight new Member States (plus 15 Member States in 2013) via the activation of the so-called "safeguard clause". This has prompted strong criticism from the EU for their discriminatory effect and incompatibility with the EU-Swiss agreement.

Further problems may arise in the implementation of the initiative to "expel criminal foreigners", adopted by referendum in 2010 for the implementation of which a draft law will be discussed by Parliament shortly.

The agreement on **taxation of savings**, in force since 2005, introduced a withholding tax on the international savings income of EU residents for which a Swiss bank acts as paying agent. An EU mandate for negotiations on a revision of the current agreement was adopted in May 2013, the Swiss mandate in December 2013. Following the request of the December European Council to advance rapidly with the negotiations, these were launched in Bern on 17 January 2014.

Tax Transparency: Since 2005, there has been an EU-Swiss agreement on the **taxation of savings**, with a withholding tax on the savings income of EU residents for which a Swiss bank acts as paying agent. In May, the Commission was given the mandate to re-negotiate this agreement with Switzerland, with a view to broadening its scope and reflecting international developments in the field of tax transparency, including the global shift towards automatic exchange of information. These negotiations were launched in Bern on 17 January 2014, very soon after Switzerland received its own mandate to participate in these talks.

Fair tax competition and respect of state aid rules: The Commission has been in a dialogue with Switzerland to promote EU principles of tax good governance and address cases of harmful tax competition. The aim is to secure a Swiss commitment and timetable to phase out certain harmful regimes that do not comply with fair tax competition standards. Progress will be reported to Member States in June 2014.

As with other third countries, negotiations were concluded on a co-operation agreement in **competition law enforcement** (exchange of information), and are underway on the emission trading scheme (**ETS**). The EU and Switzerland recently concluded negotiations on Swiss participation in the **GALILEO** satellite navigation system. This agreement was signed in December 2013.

² It was extended to the new Member States by protocols signed in 2004 and 2008 respectively. For the EU-15 plus Cyprus and Malta, the transition period came to an end in 2007. For Member States that acceded to the EU in 2004, the transition period ended in 2011. Switzerland has in both cases the possibility to take safeguard measures until 2014. For Bulgaria and Romania the end dates are in 2016 and 2019, respectively.