Towards a Framework Agreement in the Context of New Bilateral Agreements

SCHWOK, René

Abstract

Assessment of framework agreement between Switzerland and the European Union.

Reference

EUI Working Papers

MWP 2009/10
MAX WEBER PROGRAMME

EUROPEAN INTEGRATION WITHOUT EU MEMBERSHIP: MODELS, EXPERIENCES, PERSPECTIVES

Francesco Maiani  Roman Petrov  Ekaterina Mouliarova (Editors)
# TABLE OF CONTENTS

**Foreword**  
Ramon Marimon  

**Introduction**  
Francesco Maiani, Roman Petrov and Ekaterina Mouliarova  

**I. The European Neighbourhood Policy and Ukraine’s European Ambitions**  
Marise Cremona: The European Neighbourhood Policy as a Framework for Modernization  
Bart Van Vooren: The Hybrid Legal Nature of the European Neighbourhood Policy  
Viktor Muraviov: The Impact of the EU Acquis and Values on the Internal Legal Order of Ukraine  
Roman Petrov: The New EU-Ukraine Enhanced Agreement *versus* the EU-Ukraine Partnership and Cooperation Agreement: Transitional Path or Final Destination?  

**II. The EU-Russia “Strategic Partnership”**  
Olga Potemkina and Nikolay Kaveshnikov: EU and Russia in Search of Strategic Partnership  
Aaron Matta: Updating the EU-Russia Legal Approximation Process: Problems and Dilemmas  
Paul Kalinichencko: Problems and Perspectives on Modernizing the Legal Background to the EU-Russia Strategic Partnership  

**III. The EEA Model and Norway’s Legal Traditions**  
Karin Bruzelius: The Impact of EU Values on Third Countries’ National Legal Orders: EU Law as a Point of Reference in the Norwegian Legal System  
Tor-Inge Harbo: The EEA and Norway: A Case of Constitutional Pluralism  

**IV. The Swiss “Bilateral Way” to Integration**  
Andrés Delgado Casteleiro: Relations Between the European Union and Switzerland: a Laboratory for EU External Relations?  
Francesco Maiani: Legal Europeanization as Legal Transformation: Some Insights from Swiss “Outer Europe”  
René Schwiker: Towards a Framework Agreement in the Context of New Bilateral Agreements between Switzerland and the European Union  

**Concluding Remarks**  
Marc Franco  

**Contributors**
Towards a Framework Agreement in the Context of New Bilateral Agreements between Switzerland and the European Union

René Schwok*

Introduction

Switzerland’s case is not only interesting for its own inhabitants. It is also interesting for EU experts. Switzerland has, in actual fact, obtained privileged treatment that most EU leaders, legal experts and political scientists held to be unrealistic, a kind of solution that would be even more flexible than the European Economic Area (EEA).1

Switzerland is sometimes even more integrated than some Member States. Since 1988, Switzerland has not adopted any new federal (national) legislation without checking a priori what the relevant EU law is in the same area. Switzerland has even adopted EU policies rejected by some EU States. A good example is seen in its participation in the Schengen area. The Confederation has dismantled its physical borders whereas the United Kingdom and Ireland, two Member States, have not adopted this important EU policy.

Switzerland intends to continue its bilateral approach, and strengthen it. This paper discusses first what could be the future bilateral agreements between Switzerland and the EU and second the issue of a customs union. Finally, I analyze in depth the question of a comprehensive framework agreement between Switzerland and the EU. The analysis constantly keeps in mind in what respect the Swiss case could be interesting for other European non EU States such as the European ENP countries.

Note that the issue of Switzerland’s membership is not discussed here. Elsewhere2 I claim that Bilateral Agreements I and II led to the paradoxical observation that the closer Switzerland gets to the EU, the more distant the prospects of joining the EU seem to become.4 The Europeanization brought about by the proliferation of bilateral agreements and the autonomous adoption of much EU legislation will not necessarily prompt Switzerland to join the EU because most Swiss do not believe that this satellitisation belies their independence. On the contrary, the principal lesson retained by a majority of Swiss citizens is that the country can continue to "get by" for a long time this way. Most people hold that it is not worth joining the EU if one can have most of the advantages of the EU without its disadvantages. The Bilateral Agreements II reinforced this analysis. Indeed, they granted Switzerland certain special conditions, which, in theory, should disappear in the event of accession. These concern, for example, banking secrecy in the agreement on the taxation of savings.

Additional ad hoc agreements. A breakdown of twenty pending issues

The Federal Council, political parties and the financial community wish, on the one hand, to conclude new agreements and on the other, to further build on current bilateral policy. The EU has declared its readiness to continue the course of bilateral agreements. The EU has begun to walk down a bilateral path with the Confederation and nothing indicates there will be a change of direction. It is, therefore, reasonable to expect that Switzerland will continue to adopt EU laws in the next few years. Any negative referendums could, it is true, weaken this approach. Despite these undeniable risks, the

* Jean Monnet Chair in European Politics, European Institute & Political Science Department, University of Geneva (Switzerland)


3 See list of the issues in the annex.

4 Most authors in a book edited by Clive Church in 2006 do not share my analysis. Most of them claim that the bilateral route is unsustainable and that Switzerland will naturally be forced to join the EU. See Clive Church (ed.), Switzerland and the European Union, London, Routledge, 2006.

5 See Francesco Maiani, "Legal Europeanization as Legal Transformation: some Insights from Swiss ‘Outer Europe’", in this collection.
EU has clearly opted to go down a bilateral path with Switzerland and there are no indications that it will call this policy into question.

Whether formally or informally, discussion has begun on more than twenty dossiers that might lead to agreements. All of these issues are, as always, the subject of heated debate. Some of them will even be submitted to a referendum. At first sight, the most emotional dossiers are free trade in agricultural products and liberalization of services.

There are twenty or so new agreements being considered with the EU. What follows is a non-exhaustive list drawn up on the basis of different reports by the Federal Council and the European Commission:

**Box 1 Future possible agreements**

1. Fully-fledged participation in Galileo (the European system similar to the American GPS)
2. Mutual recognition of Appellation of Controlled Origin
3. Participation in the European Aviation Safety Agency
4. Greater participation in Erasmus
5. Reciprocal opening of electricity markets
6. Facilitating rules of origin
7. "Cassis de Dijon"
8. Liberalization of services
9. Facilitation of indirect taxation (VAT, excise duties)
10. Customs union
11. Free trade of agricultural products
12. Disease prevention
13. Food security
14. Combating terrorism
15. Strengthening the Europol agreement
16. Participation in Eurojust (network of judicial authorities)
17. Judicial cooperation in civil matters and bankruptcies
18. Ongoing political dialogue
19. Aspects of foreign policy
20. Ad hoc cooperation with the European Defence Agency (armaments)
21. Institutionalising cooperation with European Security and Defence Policy structures

**Customs union**

There has been a great deal of debate about creating a customs union between Switzerland and the European Union. The question has been raised as to whether it would make a meaningful contribution to the Bilateral Agreements. In order to answer this question we will need to begin by clarifying the notion of what a customs union is. Two differing visions come into play here.

**A restrictive vision: a tariff union**

The first vision is a relatively restrictive one: that of a tariff union. In this case, a customs union only signifies the elimination of customs duties and other equivalent measures regarding trade in goods among the States of the European Union. This also includes taking up a common body of customs law in dealings with third countries.

A tariff union took effect within the EU on July 1, 1968. From that date on all customs duties and all restrictions among Member States were eliminated. Moreover, external tariffs were introduced applying to third country merchandise. During the course of the following decades veterinary and plant health legislation were added to the customs union.

An example of a restrictive customs union exists, between Turkey and the EU. In fact, the EU and Turkey reciprocally eliminated all customs duties, as well as all quantitative restrictions and
equivalent measures in the trade of industrial products. Since 2001 the Turkish customs code has been almost entirely aligned to Community *acquis*. Turkey has almost completed the harmonization of its legislation to the EU's common external tariff.

If Switzerland were to set up a tariff union with the EU it would merely have to take up the EU's external customs duty. A free-trade area, in fact, already existed between Switzerland and the EU.

This kind of agreement would have one main advantage: there would be no need to check the real origin of products exported from Switzerland to Community territory. The problem of rules of origin concerning the 1973 free-trade agreement would be resolved.

Trade would be facilitated, although to a limited extent. Border controls would remain since it is necessary to ensure that indirect taxation (VAT, excise duties) would be levied.

This option involves, however, a number of drawbacks. It implies that Switzerland would take up the EU's external customs rate, a rate that is higher than that of Switzerland. The average external tariff of the EU for industrial products is 4.1% whereas the Swiss rate is only 2.3%. Obviously, this is not a great difference, yet it could be greater for certain products.

Furthermore, Switzerland would take up the entire body of European customs laws and the corresponding European jurisprudence.

Additionally, the Swiss system of measurement is not the same as that of the EU. An *ad valorem* customs duty is levied, whereas in Switzerland it is based on weight. This is particularly significant in the case of precious stones. Switzerland takes weight more than value into account, making the customs duty lower than in the EU. Many enterprises were able to create market niches for themselves thanks to the difference in method.

Last of all, the Swiss Confederation would lose its capacity to negotiate international economic agreements if it set up a customs union with the EU. Along with its European Free Trade Association (EFTA) partners it has managed to create free-trade areas with countries that do not yet have agreements with the EU. This concerns, in particular, Canada, South Korea, Singapore, and perhaps one day Japan, and the United States.

*A more encompassing vision: eliminating border tax controls*

A more ambitious vision of customs union exists: that which includes eliminating tax controls at internal crossing points.

Within the EU excise duties and VAT among Member States would no longer, strictly speaking, be collected at the border. No documents or customs clearance would be required. There would be no customs checks on vehicles containing merchandise. However, these customs formalities would not actually disappear, they would be replaced by new control systems no longer requiring verification or documentation for merchandise crossing internal borders.

One precondition, however, must exist before controls on indirect taxation can be abolished. The VAT rates need to be harmonized. Switzerland would have to raise its normal VAT rate to at least 15% whereas it stands at 7.6% at the present time.

Despite the restrictions mentioned above, two academics from the Chur University of Applied Sciences, Ruedi Minsch and Peter Moser, believe that this kind of customs union would enable Switzerland to see a 0.85% annual rise in GDP (Minsch & Moser 2006). This assessment is truly spectacular!

The researchers estimated expenditure for European Union borders at 3.8 billion francs per year. Their study was commissioned by *Avenir Suisse*, a think-tank with close links to the Swiss economy, and included a poll conducted in 600 companies. The researchers factored in all the prickly issues for businesses; customs costs, VAT deductions, waiting time, certificates of origin, and product authorizations.

---

6 EFTA has established an extensive and usually ignored network of contractual free trade relations all over the world. See http://www.efta.int/content/efta-secretariat/free-trade/fta-countries.

The study concluded that border-related charges push up export costs by 1.9% and imports by approximately 2.3%.

The two authors believe that costs linked to border procedures might be higher. They had omitted to factor in the tendency of foreign enterprises to take advantage of the border in order to hike up duties simply because the purchasing power in Switzerland was high.

An ambitious customs union might, in this way, have reduced a number of technical difficulties, while allowing a wind of liberalism to sweep across the relatively stultified Swiss marketplace. Employers unions, however, fought against the proposal and it was therefore highly unlikely to be proposed by the Federal Council.

Towards a Framework Agreement?

The idea of a framework agreement covering all the agreements was launched in 2005. Swiss officials took the initiative. Initial reaction of the European Commission was not very positive. Over time, however, its attitude had become less negative, although still not enthusiastic.

Matthias Brinkmann, Head of Unit in the European Commission’s Directorate-General for External Relations, stated that the idea of signing a Framework Agreement could be of interest to the EU provided that it brought added value through a mechanism that would facilitate permanent political dialogue between the partners. The Commission, however, will wait to see the Swiss proposals before making its own suggestions.

Unfortunately, the Federal Council will not unveil its own views before a possible referendum in 2009 on the extension of the EU–Swiss bilateral agreements with Bulgaria and Romania. The Swiss government fears that by detailing its framework agreement it could give ammunition to the opponents of enlargement. Berne accepted the extension of free entry to both countries’ nationals when they joined the EU at the start of last year. But the isolationist Swiss Democrats and Lega dei Ticinese want to block the change and invoke images of Switzerland being swamped by an invading horde of undesirables, stirring up anti-Roma sentiment at the same time. Their rhetoric will probably degenerate into pure xenophobia.

In the opposing corner, a broad coalition favours upholding Switzerland’s international commitments and its tradition of openness. This camp includes parties from both the right and left of the political spectrum, plus industrialists and trades unionists, intellectuals and journalists. Their main argument will be to remind voters that, if they vote against the free movement of labour, the EU would be perfectly within its legal rights to rescind bilateral agreements with Switzerland. Then the country’s entire European policy would crumble.

Under these circumstances, no substantial document will be published until 2009. Legally speaking, the Federal Council can wait until December 2012 to answer a proposal by a Swiss Member of Parliament.

To overcome the lack of sources, I carried out interviews with Swiss and European officials in charge of the dossier. This already gives some idea of the positions of both partners, although it is unfortunately not enough.

Rationale for a framework agreement

The idea of a framework agreement came from the observation that all agreements between the EU and Switzerland were improvised in a very pragmatic way without any pre-established model and without any final direction. This distinguishes them from the EEA as well as from the numerous association and partnership agreements between the EU and third countries where a comprehensive framework provided the first step for the conduct and development of these relations.

The typical format of agreements between the EU and third countries consists of a

---

12 Accord-cadre entre la Suisse et l’UE, Postulat déposé par Philipp Stähelin, 05.10.2005.
http://www.parlament.ch/F/Suche/Pages/geschaefte.aspx?gesch_id=20053564
cooperation/association council at the foreign ministers/commissioner level, a cooperation or association committee at the level of senior officials supported by a set of sectoral sub-committees of experts and lower-level officials. A parliamentary committee consisting of representatives of third-country national parliaments and of the European Parliament accompanies this executive branch structure. In many cases, the official institutions are supplemented by institutions and/or mechanisms of dialogue between non-state actors (trade unions, industry federations, business, etc).

In the Swiss case there is however no such high level and comprehensive mechanism. Instead there are sporadic meetings between Swiss ministers and EU Commissioners, held particularly in time of crisis.

**Mixed committees**

Normally, agreements between the EU and Switzerland are administered by mixed committees which see to their proper functioning.\(^\text{12}\) They serve as platforms for mutual consultations, for information exchange, as well as for advice. In the mixed committees the two parties have the power of decision-making only if expressly stipulated in the agreements. However, they must reach a unanimous decision. In the performance of these functions the mixed committees meet at various levels, both at the level of experts and at the level of high-ranking officials.

For example, the mixed committees can approve modifications in appendices to the agreements in so far as these are of a technical nature (e.g. lists of laws or products). Changes in the provisions of the agreements themselves and in particular the introduction of new obligations on the parties must be approved via the appropriate domestic procedures of the EU and Switzerland.

The Bilateral Agreements are conceived as of static in nature (except for Schengen/Dublin and the Civil Aviation Agreement). The mixed committees for the Schengen/Dublin Association Agreement are of a special kind in that they perform two different tasks: on the one hand they oversee the proper functioning of the agreements, and on the other they are involved in further developing existing Schengen/Dublin legislation.

Since the agreements are based on the equivalence of the laws on both sides, it is in the interest of both parties to maintain this status when new legislation is adopted. Adaptations might be required, for example, for reasons relating to competition (from avoidance of barriers to market access) and the question of legal security. In cases where one of the parties plans to change certain legal requirements, information exchange and consultation are the agreed procedures.

**A framework agreement to streamline existing bilateral agreements**

Such a framework agreement could ensure that existing, as well as future bilateral agreements become part of a more coherent and effective mechanism. Its purpose would be to simplify administration of the many agreements linking Switzerland and the EU. Their implementation work would be subject to comprehensive coordination. Apart from the fact that a framework agreement could encourage synergies within mixed committees and facilitate coordination of work, it would also give a better overview, save time and improve efficiency.

Bilaterals I and II also increased the workload of all branches of the Swiss government. There are also difficulties keeping parliament actively involved. This raises important issues for the Swiss parliament which has relatively few resources available to it in its oversight of foreign affairs. A framework agreement could in this regard ease communication and transparency.

**Merging the various joint committees under one single umbrella**

One proposal to improve coordination would be to merge the various joint committees of the main sectoral agreements and the hundred secondary agreements under one umbrella, similar to the EEA Joint Committee and indeed to most other institutions involving senior officials in EU external relations agreements.

One concern expressed was the fear of creating a “big bazaar”, in which Swiss ministers and EU Commissioners would just record the results of the numerous committees. This higher level

\(^{12}\) Note that there are 2 mixed committees for agriculture but none for the agreement of the taxation of savings.
mechanism might then lose the cooperative spirit with which solutions are pursued in the joint committees.

Political dialogue

The notion of political dialogue covers two potentially different concepts. First, it means essentially a high level on-going policy dialogue on the general meaning of the bilateral agreements with a view towards signing new ones. As a matter of fact, Swiss-EU agreements do not include provisions for a multi-faceted and regularised political dialogue, as is typically the case in agreements between the EU and other non-member countries. As a consequence, Swiss concerns are less likely to be raised on the EU’s agenda or to receive a hearing than those of most other third States. Such a dialogue could also help to find acceptable overall solutions in the case of blocks put on different dossiers.

On the Swiss side, the fear, however, exists that this kind of coordination committee might tend to politicise the issues and provide links between non-related policy areas. On the EU side, the view is expressed that such dialogues play a limited role in shaping the overall relationship with third countries.

It is also interesting to observe experiences of political dialogue in the EEA and other associations. The initial idea was that the EEA Council would consist of what was the then 15 EU foreign ministers, the three EFTA/EEA representatives and the European Commissioner for External Relations. Over time, however, a practice developed whereby the EU side was represented not by the foreign ministers of the Member States and then the Commissioner, but by their deputies or senior officials. This model was increasingly seen as unsatisfactory. The size of the association councils was also found to be too cumbersome. The EU then decided to streamline its participation in all association councils and in the EEA. Instead, the EU is now represented by a ‘Troika’, consisting of the relevant European Commissioner, the foreign minister of the rotating EU Presidency and the High Representative for the Common Foreign and Security Policy (CFSP). While this facilitates the proceedings and improves possibilities for a real debate among the interlocutors, the absence of the Member States reduces the potential significance of the political dialogue.

Second, a political dialogue could mean that the EU and Switzerland would discuss international political issues such as defence, terrorism, immigration, and UN matters. Again, such political dialogue already exists between the EU and most non-EU European countries.

Participation in the shaping process

Swiss officials would be interested in obtaining the right to participate in all consultations pertaining to Community legislation that is of relevance to bilateral agreements with Switzerland. This is already the case for three agreements, but there are those in Berne who want to formalize the arrangement and include almost all existing agreements. The three agreements in which Switzerland participates in EU decision shaping are: air transport, the Schengen and the Dublin association agreements.

The Schengen association agreements provide a model differing from the standard EU cooperation and association agreements. The Schengen association agreement goes further than standard EU cooperation and association agreements in granting greater access to the decision-making process in EU institutions than any other EU third country agreement. Representatives of the associated states (Norway, Iceland, Switzerland) here participate with a say, but not a vote, in the EU Council of Ministers machinery (in the guise of the Schengen Mixed Committee) at the level of experts and junior and senior officials, as well as ministers.

The Schengen case is however very specific. This official participation of Norway, Iceland and Switzerland in the shaping process was only possible for two reasons: Schengen was first negotiated as an international law agreement and only later introduced as EC law; Norway and Iceland benefited from the exceptional circumstances of the already existing free movement of persons within the Nordic Union. This very special context will however not be repeated.
Towards a Framework Agreement between Switzerland and the EU

Therefore, a possible solution would be to imitate the agreement on air transport. In this area, Switzerland is not seated in the room during the decision-making procedure but is fully informed by EU officials of the latest proposals for new legislation.

It seems that Swiss authorities would be interested in getting such an “air transport” mechanism. The EU is however less interested in granting such a privileged situation to a third country. According to officials in the Commission, such a concession would be granted to Switzerland only if Switzerland was committed to adopting almost automatically the evolution of EC legislation.

Quasi automatic updating of existing agreements

According to the EC Commission, quasi-automatic updating of existing agreements to keep in line with the evolution of the relevant aquis would lead to greater simplicity and security than the present method which consists of renegotiating the slightest change in Community law.

Today, in the case of evolution of the relevant Community aquis nothing is clear about what Switzerland has to do (except again in the air transport agreement and in the Schengen/Dublin case). It is generally assumed that Switzerland will adapt autonomously over minor issues. The Joint Committee set up by each bilateral agreement may make technical changes to the annexes of the agreement but add no new obligations. If there is, however, a major change in EU legislation, another treaty would be expected.

The air transport agreement could also be a kind of model. There, the aquis is explicitly the legal basis of cooperation, and the EU institutions – the European Commission and the European Court of Justice – have competences in surveillance and arbitration in specified areas (in this case competition and state aid policies in the field of civil aviation).

In the case of the Schengen and Dublin association agreements, the situation is slightly different. New aquis requires approval from the Swiss Parliament, but in case of a refusal, the agreement could be terminated.

The air transport model could win support within the Swiss administration as it will facilitate smoother application of the bilateral agreements. This mechanism will, in all likelihood, be ferociously fought by the far right and eurosceptic supporters such as the Swiss People’s Party (SPP) and the Campaign for an Independent and Neutral Switzerland (CINS). These two groups will strongly oppose what they call a «colonial contract».

A “classical” association agreement

Some analysts argue that Switzerland should sign a comprehensive association agreement with the EU. This idea is not helpful. On the one hand, EU–Swiss bilateral agreements are already “association agreements” as they are based on Article 310 of the European Community, as is the case for most agreements between the EU and third countries. Article 310 does not describe, however, the content, the structure and the organs of this agreement.

On the other hand, both Swiss and EU officials are sceptical about the idea of a “classical” association agreement. They would prefer to take their distances from existing models, claiming that this association would entail more complexity and expenditure without improving the efficiency of the agreements. This would require renegotiation of the entire set of bilateral sectoral agreements; a prospect these officials are unlikely to support. Pragmatically, their main focus remains on improving content, they do not want to open a Pandora’s box. A “classical” association would make a tabula rasa of the past without providing any major improvement.

It appears that a possible future framework agreement between the EU and Switzerland would not entail spectacular revamping and would change nothing fundamental in the current situation. The fact remains, however, that when we take a closer look at the details, we note that the framework could contain a large number of minor innovations that merit further study, particularly for specialists of the external dimension of the EU, for instance, notions such as shaping process, joint committees, evolution of aquis etc.

Conclusion

A coming together of Switzerland’s legislation with the EU will continue in the coming years
as there is a common interest in reaching agreements. The EU is engaged in a bilateral path with the Confederation and nothing indicates a shift of direction, although there may be less tolerance and less flexibility with the 27 countries now involved.

It is however difficult to draw generalizations from the Swiss case because the bilateral agreements were negotiated in a different period and with a very unusual country. In other words, what was acceptable for the EU with 15 Member States in the late 1990s and early 2000s is necessarily different today. Moreover, Switzerland, a wealthy and well-connected enclave within the historical centre of the EU, enjoyed a different bargaining position compared with today’s non-EU countries which are geographically more remote, often lack political connections in the EU capitals and are relatively too poor to obtain as many concessions as the Swiss did from the European Union.

Finally, almost all relations of the EU with its neighbours (EEA, Stability and Association agreements with the Western Balkans, Europe agreements) were much more comprehensive than the agreements with Switzerland. The levels of their structures and organizations are more sophisticated than in the Swiss case. In this regard, the very specific experience of Switzerland is hardly exportable to other countries. At this stage, only Israel, with no comprehensive association agreement, seems to partly fit Switzerland’s case. This does not mean, however, that the Swiss case cannot serve as a model for other non-EU countries. Yet if it does, it would be more an interesting experiment than an actual model.

---


ANNEXES

I     The Seven Bilateral Agreements I

(1) Air Transport. Thanks to this agreement Swiss airlines are put on an equal footing with their European competitors. They may also hold a majority share in EU companies. This agreement nonetheless came too late to avert the Swissair bankruptcy.

(2) Public Procurement Markets. This concerns the reciprocal opening of Community public markets. The others had already been opened by agreements entered into with the World Trade Organisation (WTO).

(3) Participation in Community Research Programs. This was a confirmation that Switzerland’s participation had been in jeopardy. From January 1, 2004 Swiss researchers have additionally the same participation rights as their EU State member partners.

(4) Agriculture. This agreement reduced customs duties and quotas on certain agricultural products, with the exception of fresh meat, wheat and milk. It also did away with non-tariff trade barriers. As a result, prescriptions for veterinary medicine and plant protection are recognized as equivalent.

(5) Elimination of Technical Barriers to Trade. The agreement introduces mutual recognition of conformity assessments: evaluations, inspections, certificates and authorizations. This means less red tape at border crossings but not adoption of the « Cassis de Dijon » principle.

(6) Overland Transport. This allows free circulation of trucks above 28 tonnes. It brings with it a new tax system and led to the construction of two enormous crossborder railways: those of the Lötschberg and the Gothard Alpine crossing points.

(7) Free movement/establishment of persons. This represents the phased elimination of restrictions for EU citizens with a work permit or who are financially self-sufficient.

II    The Nine Bilateral Agreements II

(1) Taxation of savings. Switzerland imposed a withholding tax on all income from savings of persons with residency in the EU. Banking secrecy was maintained.

(2) The Fight against Fraud. Switzerland undertook to help the EU fight against fraud in customs duties and indirect taxes. It obtained further guarantees concerning its banking secrecy.

(3) Schengen/Dublin. Schengen: checks on persons at borders were abolished. Switzerland may still, however, maintain customs controls on merchandise. Dublin: the request for asylum in Switzerland was prohibited if the request had already been made in another European State.

(4) Processed Agricultural Products: reduced customs duties on processed agricultural products (i.e. chocolate, biscuits, soups, instant coffee).

(6) Pensions. Switzerland agreed to grant an income tax exemption for the pensions of retired EU officials living in Switzerland. Only fifty persons were affected.

(7) The Environment. Switzerland joined the European Environment Agency (EEA)

(8) MEDIA. Swiss participation in MEDIA, an EU program aiming to strengthen the European audiovisual industry

(9) Education, Occupational Training, Youth. Swiss participation in EU programs aiming to encourage cross-border mobility of students, trainees, and young people. (Socrates, Leonardo da Vinci et Jeunesse).

### III Concrete Accession Issues

<table>
<thead>
<tr>
<th>Telecommunications</th>
<th>Industrial Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Small and medium-sized enterprises</td>
<td>Genetic engineering</td>
</tr>
<tr>
<td>Vocational training and youth policy</td>
<td>Social policy</td>
</tr>
<tr>
<td>Veterinary and food policy</td>
<td>Equal opportunity</td>
</tr>
<tr>
<td>Consumer policy</td>
<td>Agricultural free-trade area</td>
</tr>
<tr>
<td>Health care</td>
<td>Common agricultural policy</td>
</tr>
<tr>
<td>Civil protection, sports</td>
<td>Consumer protection</td>
</tr>
<tr>
<td>Tourism</td>
<td>Forest economics</td>
</tr>
<tr>
<td>European citizenship</td>
<td>Competition law and merger control</td>
</tr>
<tr>
<td>Legal status of citizens</td>
<td>Economic and monetary union</td>
</tr>
<tr>
<td>State aid</td>
<td>Company law</td>
</tr>
<tr>
<td>Common security and foreign policy</td>
<td>Intellectual property</td>
</tr>
<tr>
<td>Common defence policy</td>
<td>Value added tax</td>
</tr>
<tr>
<td>Common trade policy</td>
<td>Special consumption tax</td>
</tr>
<tr>
<td>Corporate taxes</td>
<td>Withholding tax</td>
</tr>
<tr>
<td>Relations with third-party states</td>
<td>European neighbourhood policy</td>
</tr>
<tr>
<td>Tax on transactions on securities</td>
<td>Human rights policies</td>
</tr>
</tbody>
</table>

---

15 An unofficial list based on Federal Council and European Commission reports.
Towards a Framework Agreement between Switzerland and the EU

<table>
<thead>
<tr>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax allocations for cooperation in the critical areas of justice and internal affairs</td>
</tr>
<tr>
<td>Regional and structural policies for police cooperation</td>
</tr>
<tr>
<td>Energy policy</td>
</tr>
<tr>
<td>Judicial cooperation</td>
</tr>
</tbody>
</table>