



Switzerland- European Union: *je t'aime moi non plus* (love you, love you not)

EUROPE IN
THE WORLD

POLICY BRIEF
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#switzerlandEU
#bilateralagreements

• Introduction

The relationship between Switzerland and the European Union (EU) is an “un-thought political issue”¹. With this in mind, the relations between the two parties have been for the last thirty years a series of twists and turns punctuated by phases of coming together and then distancing, almost comparable to Brexit. Yet, both Switzerland and the EU are committed to a political and institutional culture of compromise, so why so much blocking and hesitation?

On October 22nd 2023, the Swiss citizens renewed their representatives in the two chambers of parliament (National Council and Council of States)²: the subject of the relations with Brussels, with little good electoral potential for the parties, was absent from the campaign. At the same time, the EU will be going through its own elections in June 2024, with all the changes that this implies for the European legislative and executive bodies. Still, at a time when the debate on possible enlargements of the Union is becoming increasingly prominent, no mention is made of the Union’s most immediate neighbours (United Kingdom or Switzerland). Why such a polite indifference to these issues on both the Swiss and European sides?

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- 1 To adapt Jacques Delors’ well-known expression of the European Union as an “unidentified political object”
- 2 With a sharp rise for the SVP and a fall for the green parties, the scores in the Swiss elections demonstrate a degree of stability in the system. The debates surrounding Switzerland’s relationship with the EU will not be affected by the reshuffling of the chambers. On the other hand, the turnout was low (only one Swiss in two voted). [RTS Triumph of the SVP, decline of the Greens: discover the new political map of Switzerland](#), 23 October 2023

I • Switzerland-EU relations: a gradual process

In 1960, Switzerland was one of the founding members of the European Free Trade Association (EFTA), along with the United Kingdom, Denmark and Norway³. The aim of this grouping was to create a free trade area between countries that did not wish to join the newcomer European Economic Community (EEC). This did not prevent Switzerland from considering the economic opportunities of joining the common market. On July 22nd 1972, 72.5% of the Swiss citizens voted in favour of the free trade agreement with the EEC⁴. This agreement still forms the basis of economic relations between the two partners today⁵.

In January 1989, when Jacques Delors called for “a new, more institutionally structured form of association, with joint management and decision-making bodies⁶” between EFTA and the European Community, the Swiss Confederation entered into negotiations in the hope of achieving a relationship of equals. In May 1992, the Swiss government signed the agreement on the European Economic Area (EEA) and applied to join the European Community, in order to preserve its full sovereignty in the long term⁷. However, this application was frozen⁸ following the vote on Sunday December 6th 1992, in which the Swiss citizens rejected their country’s entry into the EEA by a narrow majority (50.3% no versus 49.7% yes), although the cantons also rejected it (14 cantons and 4 half-cantons voted no, compared with 6 cantons and

two half-cantons voting yes)⁹. Since then, membership of the European Union has become a taboo subject in Swiss political discussions. Following the setback of 1992, “a black Sunday” according to the federal councillor in charge, Jean-Pascal Delamuraz¹⁰, the Swiss government is exploring bilateral agreements to organise its relationship with the European Community¹¹. Following the failure of the vote on the EEA, Switzerland had experienced major economic crisis and instability, between 1992 and 1998. In this context, the choice of a closer relationship with the European market was crucial¹².

In a decade, Switzerland signed and consented by popular vote several packages of agreements known as Bilateral I and Bilateral II, covering the economic areas in which the two parties agree. In 1999, the Bilateral I agreements grouped together various subjects ranging from the free movement of persons, technical barriers to trade, public procurement, agriculture, land transport, air transport and research. In 2004, Switzerland signed a cooperation agreement with Europol, as well as the Bilateral II, covering the Schengen and Dublin agreements, taxation of savings, the fight against fraud, processed agricultural products, environment, statistics, MEDIA programme for movies and, finally, pension schemes. As a result, Switzerland and the EU now have almost 120 bilateral agreements¹³. In 2010, the Confederation established a positive assessment of the both Bilateral, estimating that since their entry into force they had enabled an increase of 1% in GDP, between

3 EFTA [The European Free Trade Association](#)

4 Swiss Confederation [Bilateral agreements before 1999](#)

5 Subsequently, a treaty on insurance was signed between the EEC and Switzerland in 1989, followed by a third on the transport of goods in 1990.

6 Virtual Centre for Knowledge about Europe (CVCE) [The European Economic Area \(EEA\)](#)

7 During the negotiations, the Swiss government realised that it could not obtain co-decision without being a full member. The first step was therefore to join the EEA. However, in parallel of the EEA campaign, the application to join the EC by the Swiss authorities confused the debate. The SVP caught the government off guard by brandishing Switzerland’s membership of the EC when the vote was on only the EEA.

8 It will be officially withdrawn in 2016 following a vote in the Swiss Parliament.

9 To ratify an international treaty under Swiss law, a [double majority of the people and the cantons](#) is required. In December 1992, the vote split Switzerland in two: all the French-speaking cantons and Basel-City and Basel-Country voted in favour, while the rest of the German-speaking cantons and Ticino (Italian-speaking) voted against.

10 RTS archives [Un dimanche noir](#), 6 December 1992

11 Switzerland’s immediate neighbours (Germany, Austria, Italy and France) are members of the EEC, and Liechtenstein is a member of the EEA. They are Switzerland’s main trading partners.

12 The economic crisis in Switzerland was only be overcome through the implementation of the Bilateral (access to the internal market for Swiss trade and the free movement of people).

13 For a full list of agreements, see Swiss Confederation, [The main agreements with the EC/EU since 1972](#).

4 and 5 billion Swiss francs¹⁴. In 2018, *economiesuisse*, the country's main business organisation, described the Bilateral Agreements as "a Swiss success story¹⁵".

Gradually, however, the advantages of access to the single market via bilateral agreements are beginning to reach their limits in certain specific areas that present technical obstacles. At the time of the negotiations in the 2000s, certain technologies did not exist in the medical, machinery or pharmaceutical industries. These are therefore not covered for access to the internal market. While Swiss companies have been able to find a way of getting their products approved (by having an office on European soil), this increases their costs and bureaucracy. In 2021, the liberal think-tank *Avenir Suisse* estimated the additional costs for businesses at CHF 1.3 billion a year¹⁶. Added to this are the missed market access opportunities for businesses, the real cost of which is difficult to quantify. At the same time, several episodes of political tension strained relations between Berne and Brussels. In 2014, following the Swiss citizens acceptance of a popular initiative by the far-right Swiss People's Party (SVP) called "against mass immigration" (in contradiction with the free movement of persons agreement), the Federal Council decided not to sign the protocol extending the agreement on free movement of persons to Croatia, the most recent EU member state. In retaliation, the European Union excludes Switzerland from the Erasmus programme¹⁷. In 2019, the European Commission did not renew Switzerland's stock exchange equivalence¹⁸. Indeed, financial and banking issues have always been a source of friction. As for a long time, Switzerland was on the European Union's grey list of tax havens¹⁹.

II • The institutional agreement: all for nothing

Nevertheless, despite the visible political tensions, the Swiss and European authorities continue their talks in the early 2010s. During the negotiations, the European Commission expressed its desire to modernize the relations. Switzerland put forward the idea of an institutional agreement that would supervise the existing agreements. These reflections came after an initial European assessment of the bilateral agreements, in which the Commission considered that Switzerland had too much flexibility in its interpretation of European law under these agreements, and that this could be undermine to the integrity of the internal market²⁰. Yet Switzerland, with the advantageous effects of the bilateral approach (market access without participation in the political project and very limited supra-nationalism), has a clear and official preference for consolidating them²¹. First ambiguity between the two parties.

The institutional agreement, or framework agreement, is therefore seen from the Swiss point of view as aiming to "consolidate the bilateral path [...] [establishing] a dynamic updating²²" of the bilateral agreements. The EU, for its part, refuses to conclude new agreements (and therefore market access) without resolving the institutional question, which includes the issue of adopting European law and a legal mechanism for settling disputes. However, it should be emphasised that the draft framework agreement concerns only five of the existing bilateral agreements: free movement of persons, land transport, air transport, technical barriers to trade and agriculture²³. Three issues are rapidly blocking Swiss positions:

¹⁴ RTS [Berne takes a positive view of the bilateral negotiations](#), 28 June 2010

¹⁵ Economiesuisse, [Accords bilatéraux Suisse-UE I et II : une success story helvétique](#), dossier politique 6 October 2008

¹⁶ Avenir Suisse, [The cost of eroding the bilateral agreements](#), 7 May 2021

¹⁷ Challenges [Switzerland will be deprived of Erasmus+ from the start of the 2014 academic year](#), 26 February 2014

¹⁸ Les Echos, [Stock exchange: the tone rises between Switzerland and the European Union](#), 25 June 2019

¹⁹ Switzerland will only exit in 2019 after signing several double taxation agreements with EU member states and automatic exchanges of data.

²⁰ Schwok, René. Institutional agreement: a look back at a failure. Lausanne, Jean Monnet Foundation for Europe, Collection débats et documents, number 25, May 2022, p. 11.

²¹ Website of the Swiss Confederation, [Switzerland-EU Institutional Agreement: the essentials in brief](#), December 2018

²² *Ibidem*

²³ This is a compromise reached by Switzerland during the negotiations. Initially, the EU wanted to cover more issues.

dispute settlement (interpretation of the law), accompanying measures (to fight social dumping) and the EU citizenship directive (access to social assistance).

In fact, the negotiations between the two parties, which took place between 2014 and 2018, were laborious. The debate in Switzerland focused on the issue of “foreign judges²⁴”, accepting that the Court of Justice of the European Union should be the final court of appeal in interpreting the law in cases of disagreement between Switzerland and the EU. However, in November 2017, European Commission President Jean-Claude Juncker proposed setting up an arbitration tribunal to settle disputes (one European judge, one Swiss judge and one neutral judge). For its part, the Federal Council promised a new “billion francs for cohesion”²⁵. On December 7th 2018, Switzerland and the EU reached an agreement and the text was published without any clear resolution of the issues of accompanying measures or the citizenship directive. Second ambiguity: a package that remained vague on two important points risked a predictable cross-rejection (by the SVP because of its systematic rejection of anything European and by the trade unions because of the vagueness of the agreement on worker protection).

In Berne, the results of the negotiations with the Commission were put into consultation with the social partners. The Swiss trade unions rejected the agreement in winter 2019 arguing that the accompanying measures and worker protection were non-negotiable. In so doing, it is breaking the transparent axis that has won almost all the European referendum, against the sovereignist camp embodied by the SVP. Yet, no vote on European issues could be won in Switzerland without the support of the trade unions. This predictable gridlock was not anticipated by discussions on the domestic front between the Swiss political actors (see table 2). In June 2019, the Federal Council announced that it wanted to clarify three points: state

aid, wage protection and the directive on European citizenship. These points are a precursor of the major difficulties ahead for the acceptance of this agreement on the Swiss side.

After two years of further clarifications, the Federal Council decided in May 2021 - to the astonishment of everyone in Switzerland, but also in Brussels and in the EU capitals - to reject the agreement, without even consulting the parliament. However, the final decision lies not with the government or the federal chambers, but with the citizens of Switzerland. If the debate with the social partners got off to such a bad start, it was because government were unable or unwilling to prepare the ground for a possible vote on the subject. It should be remembered that any decision on European issue in Switzerland always requires a referendum (see table 1). To ‘win’ a referendum on Europe, the government needs several key actors on its side to convince the population: the business community, the trade unions and the cantons on the one hand, and the political parties on the other (see table 2) - with the exception of the SVP, the far-right party that systematically rejects any connection with the EU.

During the negotiations on the free movement of persons, the Left and the trade unions obtained a number of compensatory measures to protect workers and wages, in particular the accompanying measures. These involve controls to fight social dumping²⁶. Given that this support is crucial to any vote, why did not the Swiss government take better account of the trade unions’ demands and negotiate internally to strengthen the accompanying measures²⁷? Although these measures were announced as a ‘red line’ by the Swiss government in its message for the negotiating mandate, a strategic *rapprochement* with the trade unions could have led to better preparation and understanding of the issues at stake on the domestic front. At the same time, why did they not work with the left-wing political parties and the liberal right

²⁴ The “foreign judges” argument, linked to national history and is highly emotive: the first pact between the Confederates, dating from 1291, rejects the use of foreign judges, and constitutes a founding myth.

²⁵ Switzerland’s contribution to the European budget. To find out more, see [Swiss Confederation Swiss contribution to certain EU Member States](#)

²⁶ UNIA, [Free movement of persons and accompanying measures](#)

²⁷ RTS, [The SP, RDP and CVP are considering suspending negotiations with the EU](#), 13 August 2018

to prepare for a vote on the agreement? On the European side, the European Commission has a rather rigid interpretation of the accompanying measures, seeing them as discriminatory against European workers. This position is bound to anger the Swiss trade unions and ultimately block any agreement.

Finally, on the subject of method, between 2013 and 2021, the date on which negotiations on the institutional agreement were opened and rejected by the Federal Council, Switzerland had five negotiators (as opposed to three European negotiators) and two different federal councillors - the ministers responsible²⁸. While it is normal for positions to change in eight years of discussions, the will to bring this complex dossier to a successful conclusion seems to be lost in this game of musical chairs that no political party really wants to lead on²⁹.

The explanations for this unilateral withdraw are laconic: “the conditions necessary for the conclusion of the agreement have therefore not been met³⁰”, states the Federal Council’s press release, while specifying that it remains open to new discussions. This blocking by Berne was not understood in Brussels. It would have been different if the rejection had come from one of the two chambers of parliament, or even in a referendum. This failure raises the question of Switzerland’s European policy, which seems to be deliberately going nowhere, and at best defending the status quo. European reactions of disappointment are numerous and understandable. This refusal blurred future relations, even if the goodwill of both parties is officially underlined. Consequently, in order to start on a better footing, it is necessary for the two partners to consider each other’s immediate challenges and learn the lessons from this blow.

III • Swiss-EU relations today? Urgently need to wait

In the wake of the deadlock over the institutional agreement, the recurring question arises: what relationship should Switzerland and the EU have? On both the Swiss and European sides, the issue remains unresolved for the time being: Switzerland wants to continue along the sectoral path, while the EU wants a dynamic relationship that protects the integrity of the single market and its legal standards³¹. So what is to be done? Is it really reasonable to have a Federal Council that continues to conduct exploratory discussions on the scope of a future negotiating mandate without asking itself the difficult but essential question: in the new geopolitical situation created by the war in Ukraine, what kind of relationship does Switzerland want to develop with its leading trading partner? As *foraus* (a Swiss foreign policy think-tank) remarked in February 2023: “the agony of the bilateral path, which will continue as long as the deadlock lasts, will cost Switzerland dearly³²”. And yet, the Swiss government is having difficulty structurally defining its European agenda and lacks political courage. The pioneering spirit of the 1990s, when discussions on the EEA were launched, is definitely over. The parties dare not assert themselves on this issue, given that the EU is such a risky and unpopular electoral subject. However, all the actors in Switzerland (governments, parties, social partners) should be asking themselves what their vision of relations with the European Union is, and what it is intended to achieve. A reading of recent election manifestos shows a chronic lack of capacity to think about how the country should project itself on the European question. This effort at reflection is a prerequisite for constructing a positive narrative about the Switzerland-EU relationship³³.

28 For the Swiss-EU chief negotiators: Yves Rossier (2013-2016), Jacques de Watteville (2016-2017), Pascale Baeriswyl (2017-2019), Roberto Balzaretti (2019-2020) and Livia Leu (2020-2023). As Swiss Foreign Minister: Didier Burkhalter (2012-2017) and Ignazio Cassis (since 2017).

29 The SVP is Switzerland’s largest party, with almost 30% of its members elected to the National Council, and its DNA is an anti-European vision. As a result, the other government parties (SP, FDP and Center) are keeping a low profile on this issue, partly for electoral reasons.

30 Confederation, press release, [No conclusion of the Switzerland-EU institutional agreement](#), 26 May 2021

31 Let’s recall the context of the Brexit negotiations: there was a certain desire on the part of the EU not to be too “generous” with Switzerland in the sectoral track so as not to create a precedent that could have been used by the British or other countries.

32 Farman, D., Knobel, I., & Vogel, F. (2023). For a Swiss-EU bilateral pact. European values, people and exchanges as a political foundation for the continuation of the bilateral path. Berne : foraus - Forum de politique étrangère, p. 4

33 Since the vote on the EEA in 1992, the narrative in the Swiss media has been mainly influenced by the SVP and, as a result, a negative view and rejection of any rapprochement with the EU have taken hold.

On the European side, we are witnessing a redefinition of relations with third countries, which began with the withdrawal of the United Kingdom. The potential future enlargement of the EU to include other countries is giving rise to a more global reflection on access to the internal market. More generally, the EU is taking a more geopolitical view, through its regulatory standards, its climate and energy objectives, and its digital agenda. Its relations with third countries are the subject of specific strategies, with the exception of Switzerland.

The timetable announced and the argument that it would be preferable to “complete the dossier” before the end of 2024³⁴ (the arrival of a new Commission after the European elections) had already been used by Jean-Claude Juncker in 2018³⁵ before the European renewal. As we have seen, this prospect is unrealistic in Switzerland, given the number of actors who need to be brought to the same table before a key vote.

Europe is still very much a part of Swiss people’s daily lives, even if it is a kind of un-thought – or repressed – part of the political debate, as if thinking about relations with our big neighbour implied an unbearable surrender of sovereignty. Yet economic dependence is a fact: the volume of trade in goods with the EU in 2022 amounted to CHF 298.77 billion, or 58.30% of Switzerland’s total volume of trade in goods³⁶. Similarly, in the first quarter of 2023, four out of five foreign workers, or 79.0% of the non-Swiss workforce, came from an EU, EFTA or the UK³⁷. In future negotiations, this reality will have to be taken into account above and beyond the political difficulties of the current relationship.

As far as the European Commission is concerned, it would be important for it to adopt a more structural strategy for dealing with Switzerland. This should go beyond respect for the legal and economic integrity of the internal market and take into account the

geostrategic aspect of a good relationship with one of its immediate neighbours, a long-standing partner in its industrial value chains and, above all, a country at the heart of the European Union’s geographical area.

The potential for new cooperation between Switzerland and the EU is multiple: Switzerland’s participation in the European Health Emergency Response and Preparedness Authority (HERA), the Carbon Border Adjustment Mechanism (CBAM), Horizon Europe (research and innovation), Creative Europe (culture and media), Erasmus+ (training)³⁸ and RescEU (civil protection)³⁹. In an increasingly uncertain global context, with a series of unprecedented crises (Covid-19, the war in Ukraine, inflation), it makes sense to assess the Swiss-EU relationship in its entirety (‘see the big picture’).

• Conclusion

It is striking to note the extent to which Switzerland and the EU are already working together on a number of key issues (climate, Schengen, transport, agriculture, banking), but without succeeding in reaching a lasting political agreement on the structural modalities of this cooperation. For the time being, the bilateral agreements continue to function and the volume of trade remains high, yet there is a wait-and-see attitude at political level. Both sides are reflecting on their sovereignty, but in parallel and in different ways. The Europeans hope to gain theirs by learning the lessons of the Covid-19 crisis, the war in Ukraine and Sino-American tensions; the Swiss by putting off the deadline for the *aggiornamento* of an illusory sovereignty in a world of growing interdependence, at the risk of threatening their prosperity and security? While the European Political Community (EPC) is an interesting format for discussion, it should not distract from the need to reflect on the bilateral relationship as a whole. Switzerland already incorporates a large proportion of European regulations

³⁴ Les Echos [Switzerland and the European Union on track to resume negotiations](#), 30 March 2023

³⁵ Reuters [EU’s Juncker urges Swiss to wrap up treaty talks](#), 14 September 2019

³⁶ Sum of imports and exports. Swiss Confederation, [Switzerland and the EU in figures, Statistics on trade, population and transport](#), August 2023.

³⁷ Federal Statistical Office, [Foreign labour force](#), 2023

³⁸ NB: Switzerland is still excluded from the Erasmus+ programme, having refused to pay to be reinstated.

³⁹ Farman, D., Knobel, I., & Vogel, F. (2023). Op cit, p. 32

into its law, and the cost of the grey area in which relations between the two partners are situated is high for a country that does not participate in the European decision-making process. For a country that likes to make decisions by referendum, this is curious. While a vote on a European issue is being prepared (by soliciting and accompanying the social partners), the long-term political vision is sadly lacking.

The recipe for a new mutual consideration and a dynamic relationship must revolve around a better understanding of the internal Swiss issues for Europeans, and for the Swiss, the courage and political will to have a clear

strategy and a positive narrative around this question.

While the British seem to be moving towards a more peaceful path with the EU, the relationship with Switzerland appears to be at an impasse. On the European side, the door to negotiations remains open, despite a certain lassitude. The continent faces a number of interdependent challenges: climate, health, security and energy. It would be highly opportune for the two parties if, one day soon, they were finally able to move closer together.

TABLE 1. Swiss votes on Europe since 1992, strong long-term support at the ballot box despite 2014:

6 December 1992: referendum on Switzerland's accession to the European Economic Area (EEA)*	Yes 49.7% No 50.3%
6 June 1997: "EU accession negotiations: let the people decide" initiative	Yes 25.9% No 74.1%
21 May 2000: referendum Bilateral Agreements I	Yes 67.2% No 32.8%
4 March 2001: "Yes to Europe" initiative**	Yes 23.2% No 76.8 %
5 June 2005: Schengen/Dublin Agreements referendum (Bilateral II)	Yes 54.6% No 45.4%
25 September 2005: Free movement referendum	Yes 56.0% No 44.0%
26 November 2006: referendum on Eastern European cooperation	Yes 53.4% No 46.6%
8 February 2009: referendum extending free movement to Bulgaria and Romania	Yes 59.61% No 40.39%
13 February 2011: "For protection from gun violence" initiative***	Yes 43.7% No 56.3%
9 February 2014: "Against mass immigration" initiative	Yes 50.3% No 49.7%
30 November 2014: "Stop overpopulation – Yes to the sustainable preservation of natural resources" initiative	Yes 25.9% No 74.1%
25 November 2018: "Swiss law instead of foreign judges (self-determination initiative)" initiative	Yes 33.75% No 66.25 %
27 September 2020: "For moderate immigration" initiative	Yes 38.3% No 61.7 %
15 May 2022: referendum Development of the Schengen acquis ***	Yes 71.48% No 28.52%

*Following this refusal, the Swiss government entered into negotiations with the EU, which would culminate in the Bilateral I agreements.

**Following this vote, Switzerland and the EU began the second round of negotiations leading to the Bilateral II.

***Voting on compliance with the Schengen Agreement

Glossary of colours

- Rejection of closer ties with Europe
- Agreement on closer ties with Europe

TABLE 2. Key players in the dossier:

Switzerland	European Union
To date, a vote in Switzerland on Europe cannot be won without the following players supporting the project.	The European Commission is the key player on the European side for negotiating directly with Switzerland, but the other European institutions are formally consulted.
The Federal Council: the government oversees the political and technical discussions with the European Union and sets out its goals and red lines in its negotiating mandate.	<p>The European Commission: Maroš Šefčovič is the Commissioner in charge of Swiss relations. With his experience of the Brexit negotiations, he is the point of reference during consultations.</p> <p>It is interesting to note that under the previous Commission (2014-2019), the Swiss dossier went directly to the President of the European Commission Jean-Claude Juncker.</p> <p>It should be noted that the European External Action Service (EEAS) has a Swiss desk, but its role is minor.</p>
The Cantons: the cantonal authorities are consulted as they will have to implement some of the policy decisions (asylum, employment, climate, etc.).	
The parties: they are the key players in votes and also have a major influence on their federal councillors in terms of the smooth running of issues.	
Trade unions: their support is essential if we are to win a vote on Europe, and it is vital that their demands are taken into account in the negotiation process.	
Business circles: their weight in the political debate on Europe is crucial in mobilising voters during a referendum.	

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