

Orientation debate on the relations between the EU and Switzerland
Brussels, 22.10.2018

**Remarks by Ambassador Urs Bucher
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Introduction

Mr President, Dear Delegates,

Let me thank the Austrian presidency for inviting me to speak on the state of EU-Switzerland relations from a Swiss perspective. I am looking forward to an exchange of views with you.

Before coming to the main topic of my presentation – the many things we have achieved since our last orientation debate and current affairs that keep us busy these days, I shall first focus on structural characteristics that are the cornerstones of our relationship.

The track record of our relationship is one of intensifying relations between largely similar societies. The two packages of bilateral agreements are the workhorses of the relationship. They will turn 20, resp. 15-years old, next year. Both sides can be very satisfied with what they have achieved so far. The bilateral agreements are well used by EU and Swiss citizens, consumers, businesses, researchers.

I cannot tell you when we will come to terms on an institutional agreement. We are committed to finish technical talks and close gaps at a political level. My first message is that we need to care about the existing relationship, make sure the agreements continue to work smoothly and deliver opportunities to people in both markets.

We should not forget that our work here is also about the life the 1.4 million EU citizens living and working in my country; and about the 450'000 Swiss nationals living in the EU, which form our 7th biggest canton! Whatever we do has direct impact on these people's opportunities, jobs, and on Europe's competitiveness on world markets.

Then, we need to work on developing our relationship if the context allows. In the geopolitical environment we are now living in, Switzerland and the EU share a quality: being reasonable, considerate, steady partners. We strive for sustainable consensus and long term solutions benefiting from strong popular support. Both sides have benefitted from being reliable partners that do what they say, and say what they do. I trust you have this in mind when reflecting about our valuable long term partnership.

A valuable long term partnership

Let me continue on trade. As you know, Switzerland is the third export destination for EU goods after the US and China, absorbing 8% of EU exports (261 Bn EUR of goods). 2018 was a difficult year for world trade. It has reminded us how precious it is to be reliable, open trade partners that abide by the rules.

Trade in goods

The EU's biggest Free trade agreement (FTA) is the one with Switzerland. This agreement facilitates trade for 1 Bn CHF worth of exports every working day. The agreement is old, but it is well used. It is used asymmetrically to the benefit of EU firms. The EU has a structural trade surplus in goods with Switzerland, 40 Bn EUR last year.

In fact the EU hasn't signed any FTA that channels as much preferential EU exports as our good old 1972 Agreement. The FTA stands side-by-side with bilateral agreements on customs, on technical barriers to trade, public procurement and on sanitary and phytosanitary measures, which make it easier for firms to access markets. Did you know that 2.1 million people and 24'000 trucks cross the Swiss border every day? Switzerland has policies for dismantling customs-related trade hurdles and to apply Single market regulations, these policies extend to many areas which are currently not part of our agreements. This constant asymmetric integration is an early harvest for EU producers. Our economies are very integrated. Our agreements are part of the infrastructure upon which the continent's industry and competitiveness relies.

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By the way, the EU also extracts a trade surplus for agricultural products. Switzerland applies the EU's sanitary standards, and is a committed supporter of European concepts such as geographical indications.

One more figure about how our economies are intertwined. The total stock of EU direct investments in Switzerland was 977 Bn EUR in 2016, whilst Swiss assets in the EU tantamount to 767 Bn EUR.

I want to put aside any notion that there is asymmetry or cherry-picking in this relationship. Trade benefits both sides. We are not after trade surpluses. The existing agreements were carefully negotiated and form a package. They remain a framework for fruitful cooperation in the interest of our economies.

Trade in services

As we all know, we have no agreement on trade in services beyond the rights enshrined under the Agreement on Free movement of persons (FMPA), to which I will come later, and some sectors such as transport. So what about trade in services? Even without a specific agreement, Switzerland is the second customer for EU services, absorbing 14% of EU exports (more than China, Japan, Norway, Iceland, and India combined!).

The numbers prove that it is in fact relatively easy for services providers from the EU to do business in Switzerland. The level of trade barriers is usually at par with intra-EU trade. So we should put in perspective the complaints we hear about national regulations and the actual level of market access.

Schengen/Dublin

Our cooperation goes well beyond economic and technical issues to more fundamental, societal issues. We take an active part in the cooperation under Schengen and Dublin.

This year, as foreseen by the Schengen Evaluation Mechanism, Switzerland's implementation of the Schengen acquis is subject to a periodic evaluation by the Member states and the Commission. Early results are positive and good practices have been underlined. We look forward to follow-up on recommendations.

Our security cooperation extends beyond the Schengen-Dublin acquis, for instance to police cooperation. Two agreements are up for signature. In parallel, some developments require supplementary arrangements between the Schengen associated countries and the EU. The Swiss parliament needs to know the financial and societal consequences when being asked to approve them. The negotiation agendas need to take this legitimate need into account.

The last few years have been challenging for the Dublin system. Switzerland has complied with the system and contributed voluntarily to the resettlement and relocation schemes. My government looks at the current reforms with the same spirit of solidarity. Given the importance of a common approach among all Dublin States, it seems evident that they all can participate in the respective discussions.

Science/Research

I would also like to mention research as one of our elements of permanent cooperation. Switzerland has been part of European research programmes since the beginning. Switzerland contributes to 3.5% of the Horizon 2020 funding, and participates in 2.4% of the projects. Moreover, Switzerland so far co-funded nuclear research (Euratom; ITER).

Our research institutions have gradually become world-class institutions, they are well-funded and wide-open to EU scientists: around 45% of the academic staff in Swiss research institutions is from the EU. More than 60% of our ERC grant holders are from the EU. The only interruption to this fruitful cooperation was the exclusion of Switzerland decided by the Commission after the 2014 referendum. During that period, my government has put in place contingency funding. We trust our associate membership will be warranted for the next research programme - as it has always been and should be - we count on your support. Like in other areas, our input to science and research strengthens Europe in a fierce global competition.

I should like to finish this overview by saying that Switzerland shares foreign policy objectives of the EU, in particular a prime interest in security, stability, human rights and democracy in wider Europe. Switzerland has continued to second qualified staff to EU Missions upon request of the EU.

In the Western Balkans, Switzerland has invested more than 2.7 billion CHF since 1995, supporting the European perspective and integration of these countries.

Also, in coherence with our common interests and values, Switzerland continues to apply to the largest extent possible the sanctions regimes imposed by the EU. Since 2017 it has decided to take over all new sanctions, including those decided by the EU regarding the situation in Venezuela and, last week, Myanmar.

We also appreciate the coordination with the EU on freezing, confiscating and returning illicitly acquired assets. Switzerland's proactive policy in returning stolen assets has made it an international leader in this domain. Over the last 30 years Switzerland has returned more than any other international financial centre.

Finally, we are committed to the JCPOA and to preserving trade relations with Iran.

An assessment of the last few years beyond the institutional negotiations: a reliable partnership?

Let me address some of the issues that could be solved during the last 2 years. On numerous issues the EU had flagged, Switzerland proved a reliable and committed partner.

Movement of people

I will start with free movement of people, one of the most ambitious agreements we have ever signed.

During the last decade (2007-2017), 580'000 EU citizens have chosen to settle permanently in Switzerland. This is more than the population of our biggest city, Zürich, or of Bern, Basel and Lausanne combined. Switzerland had 10 EU newcomers per 1000 inhabitants per year (2016). Switzerland absorbs 10% of the EU/EEA total amount of FMP. EU citizen now represent 16% of the Swiss population. Net arrivals were up to 75'000 in 2008. The resilience of the Swiss labour market gave well paid jobs to EU citizens during the financial crisis.

Of course I want to mention the smooth landing achieved in implementing the 2014 referendum on migration, whereby the Swiss constitution requires to limit the arrival of new residents. It has first to be noted that during the 3 years that followed the referendum, we have diligently implemented the FMPA, despite various unilateral blockades imposed by the EU side. Considerable political capital has been spent on a regulation which preserves the FMPA. The regulation focuses on specific parts of the labour market and is non-discriminatory. It mandates employers to communicate job vacancies in categories with high unemployment (currently 19 job categories) so as to get information about the registered unemployed candidates.

In parallel, the annual net immigration from the EU has returned to 31'250 net arrivals in 2017, linked with positive trends in the labour markets of the EU.

The key to the acceptance of free movement is in the labour market, in ensuring the principle of equal pay for equal work in the same workplace, as well as fair social and employment conditions. Even within the Single market, costs of living vary hugely. It is certainly helpful that the EU managed to include this principle in its law: we enforce equal pay in the same place since 2002 in Switzerland.

In order to ensure fair wages to the Swiss and EU nationals working on its territory, Switzerland has developed the flanking measures, essentially a system of wage control based on minimum wages that involves social partners. The average rate of noncompliance found in checks against cantonal standards was 13-16% in 2016-2017. The measures are necessary and supported by a large majority of political parties and by all social partners. As they ensure equal pay for equal work at the same place, such measures are essential for the acceptance of free movement in a country with high costs of living. It is still unclear how EU law enforces this principle.

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Fiscal matters

Let me continue with our track record on fiscal issues, where we reached two additional milestones in September 2018. Switzerland is implementing consequently international tax standards. The agreement between Switzerland and EU on automatic exchange of information on bank accounts has been in force since 1.1.2017 and works well. The first automatic exchange of information foreseen in the agreement took place at the end of September with the EU member states.

This is a landmark achievement that fundamentally changed banking. It shows we have come a long way on tax transparency. We are committed to implement international standards in taxation.

Also, on 28.9.2018, the Swiss Parliament approved the corporate tax reform that will eliminate tax regimes which the OECD and the EU flagged as problematic. This project went through our institutions at great speed. The last step is a possible referendum request. With this timeline, Switzerland ensures compliance with our Joint Statement on company tax issues of 2014 and with the EU's criteria regarding the list of non-cooperative jurisdictions.

So here we are, committed to a level-playing field in fiscal matters. I hope every other country will do the same!

Environment, transport, electricity

The same can be said in the field of environmental policy. Speaking about like-mindedness here is an understatement. Last November, with the first Agreement on linking Emission-trading schemes the EU has signed with a third country, we demonstrated joint commitment to the Paris agreement.

Our transport policy goes in the same direction. We take our responsibility when it comes to facilitating transit throughout Europe, by investing in transit infrastructure.

The only significant new market access agreement on the agenda, the electricity agreement, is almost ready to be wrapped up. Linking up the electricity markets would boost competition in renewable energy, as Switzerland's electricity production is 65% renewable. Being at the centre of the European electricity network, my country can contribute to the stability of the grid, and I daresay, to completing an internal market in this field.

Financial equivalences, trade: maintaining a dependable partnership

Under the period you are reviewing, we have faced however a pattern I need to mention: the EU has made unpredictable linkages between unrelated files, jeopardising existing trade links.

The first case was the Mutual Recognition Agreement (products), where it took more than a year until the agreement was updated in July 2017.

Then, many of you remember the Commission decision of 21.12.2017 on equivalence of Switzerland's legal framework on stock exchanges. The decision will expire by the end of 2018 unless it is extended before this date, pending progress in the institutional framework negotiation. This was certainly not a highlight in the Switzerland-EU relationship.

The current situation causes uncertainty for Swiss and EU market participants. Without a renewal of the implementing decision, EU investment firms would be prohibited from trading Swiss shares in 2019 on Swiss stock exchanges, which offer the deepest pools of liquidity for these instruments. I don't need to recall that Switzerland fulfils the conditions for recognition of stock market equivalence as much as the other countries that have been granted indefinite recognition. We see this as a clear case of discrimination.

Given the integration of stock and financial markets in Europe, a swift unlimited renewal of the decision beyond 2018 in the coming weeks would benefit all stakeholders. There is not much time left and weakening the Swiss financial market would weaken the European financial market as a whole. Competitors outside Europe would benefit from it. By the way, the stock exchange is not the only equivalence pending in the area of financial markets. Like other non-EU countries, we expect the EU to move on with our other pending equivalence procedures.

Let me also mention the safeguards measures on steel, a reaction to the US trade policy. Applying such measures to a country that is sourcing 98% of its steel in the EU, that is the third customer of EU

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steelmakers, is questionable under our FTA and detrimental to the European industry. We have a dialogue with the European Commission on this issue, and expect steel trade to continue unrestricted.

To sum up, from a Swiss point of view, there were two parallel trends during the period under review. On the one hand, important steps further strengthened our relationship and my government made efforts to solve old disputes. On the other hand, the EU is seemingly creating new tensions to advance specific interests. Those tensions only strengthen Euroscepticism. The issue is whether we organise our bilateral relationship based on predictability, reliability and trust. This is what you have seen from Switzerland.

Swiss Contribution

Before turning to the institutional framework agreement, let me address the Swiss contribution to selected EU member states. The Swiss contribution is an act of European solidarity and has helped reduce inequalities within the EU. Projects are still going on in some member states (BG, RO, HR), with good results.

On 28 September 2018, the Federal Council submitted to Parliament a second contribution of more than 1.3 billion Swiss francs. A renewed effort is an investment in stability and security in Europe. It should contribute to reducing economic and social disparities as well as to improved management of migration.

The Swiss Parliament will now take the final decision on the approval of the contribution. The current state of play and expected developments of relations with the EU will be shaping the decision of the Parliament.

The institutional framework agreement

After this panorama of the main current issues of our relationship, let me turn to the negotiations towards an institutional framework for our market access agreements. For the Swiss government, the agreement would be a good instrument to manage relations more efficiently and to ensure homogeneity.

Negotiations have started in 2014. On our side, the negotiation mandate is focused on solving four institutional issues in the agreements on market access that rely on EU law. Considerable progress was achieved this year in the main areas of the future agreement, namely the update of agreements, their implementation, the interpretation of the law. Also, a good solution on the dispute settlement mechanism was found after the Federal council agreed to explore the avenue of an arbitration panel. A strong commitment and a good atmosphere could be found at the negotiating table.

There are still issues where there are deltas between our positions. On state aid, you know the constitutional and conceptual reasons that underpin the Swiss position.

Other differences concern mainly the agreement of free movement of persons. The Flanking measures to free movement of people turned out to be the hottest political issue of the last months. Ensuring the current level of wage protection remains key for the acceptance of free movement in my country. The Swiss position in this matter corresponds to the very principle of the EU's *revised Posting of Workers Directive*, "Equal pay for equal work at the same workplace." In order to ensure this principle, Switzerland has entrusted various actors with the implementation of these measures. Specific measures reflect the particularities of the Swiss labour market.

My country really is a special case:

- There are many posted workers, most sent on short notice and for short term engagements;
- In neighbouring regions, the 315'000 cross-border workers commuting to CH are a significant part of the labour market. More than ¼ of the 318'000 workplaces available in the canton of Geneva are occupied by cross-border workers. The same situation (27.5%) prevails for the 236'000 workplace available in canton Ticino, where the proportion is 50% higher than 10 years ago.
- The labour market is easily accessible due to its central location
- Salaries are high. But the cost of living is also high, in particular as regards accommodation, health insurance (average CHF 3400/person/year) and services (prices 59% higher than the EU average). Accordingly, the median hourly wage in Switzerland is almost double that of the Eurozone countries.

The issue is: how do you ensure equal pay for equal work in the same place, so that people can actually live from their salary. Without the support of the social partners, an agreement may not pass a

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referendum. We have little room of maneuver. The institutional agreement will have to take into consideration the particularities of the Swiss labour market.

It is paramount that the agreement can succeed in the ratification procedure which will most likely entail a referendum. The Swiss government supports an agreement if the specific Swiss interests are duly taken into account. A balance of interests has to be found. Tilting artificially the balance of interests will neither help finding a solution fit for long run, nor the ratification process.

In Switzerland we often say that when neither party is totally happy about an agreement, it is a good compromise.

Brexit

Before concluding, I would like to say a word on Brexit. The main consequence of Brexit on Switzerland is the risk of a big loss of market access as our bilateral agreements will not apply to the United Kingdom (UK) anymore. During the autumn, our joint committees will examine the practical consequences of Brexit on the Switzerland-EU agreements.

The Federal Council has set the goal to guarantee as much as possible the existing rights and obligations between Switzerland and UK for the period after Brexit („*Mind the Gap*“ Strategy). Switzerland and the UK are holding discussions on a possible legal framework that would apply once the bilateral agreements are no longer applicable to the UK.

Switzerland welcomes the proposal that agreements between the EU and third States remain applicable to the UK during the transition phase envisaged in the withdrawal agreement. Switzerland would explicitly consent to a notification by the EU to that effect, which should bind the EU, the UK and Switzerland.

Both the EU and Switzerland need to find a way to organise their relations to the UK once it is a third country. We have a common interest there. We need solutions for many of the issues we have ruled in our agreements.

Nevertheless, the situation of Switzerland is fundamentally different. For the market access covered in the bilateral agreements is much more limited than the market access the UK has enjoyed. Secondly, Switzerland made the choice to stick to free movement of people. Above all, a constant of the Swiss-EU relationship in the last 30 years is that we do small steps to improve cooperation. It is a slow process of getting closer, we only take commitments when we are sure it would work but commitment is solid. We are not drifting apart, quite the contrary.

Conclusion

I will sum up by saying that our relationship is a valuable long term partnership. In a short period, we have solved a lot of issues of prime interest to the EU and are now ready to bring our relationship to a new level. The situation is hence much better than two years ago. Switzerland, as the EU, is committed in all those area to a level playing field generating adhesion from economic actors and our populations as a whole.

Mr President, dear Colleagues,

Thank you for having me. I am happy to take questions and to have a dialogue with the Working party.