

# **Which future for Switzerland's bilateral strategy towards the European Union? A qualitative comparative analysis of agenda-setting**

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## **1. Introduction**

The relationships with the European Union have been at the top of the political agenda in Switzerland for more than twenty years. Despite a large literature on the subject, the Swiss-EU case still raises interesting questions, both theoretically and empirically. Theoretically, there has been so far little analysis on the agenda-setting phase. Indeed, on the one hand there are several studies on the phases that set the context of ensuing negotiations, phases during which states elaborate their policy line (e.g. Dupont et al. 1999; Dupont and Sciarini 2001) and also an abundant literature on the negotiation phase itself (e.g. Dupont et al. 2001; Afonso and Maggetti 2007). On the other hand, however, the phase that lies between elaboration and negotiation, i.e. the phase during which the negotiation partners agree on the topics on which they will negotiate, remains to a large extent "terra incognita". From an empirical perspective, no existing work has comprehensively considered the bilateral agreements signed between 1999 and 2010. Bilateral discussions and negotiations during that period constitute a perfect playing field for the study of agenda-setting. After the rejection of the EEA in a popular vote in 1992, Switzerland had to revise its integration strategy, and it opted for the so-called "bilateral way" with the EU. The bilateral strategy resulted in the conclusion of two series of agreements – and on a variety of topics – in 1998 and 2004 (Dupont and Sciarini 2007, Afonso and Maggetti 2007) with a third series being currently negotiated or in preparation. As a result of its bilateral strategy, Switzerland has over the last decade reached a level of integration that may be characterized as "customized quasi-membership" (Kriesi and Trechsel 2008: 189).

Reaching such a level of integration with the EU has not been an easy process, however. As the main demanding party, Switzerland has been highly dependent on EU's willingness to negotiate. It could exert a decisive influence on agenda-setting only in a limited number of cases; in other cases it is only after repeated attempts that it could include a given topic on the agenda. Furthermore, there are cases where Swiss proposals met fierce resistance from the EU

and were, therefore, rejected. In addition, according to a widespread view – including that of the Swiss Federal Council (2010) – the bilateral way has become increasingly difficult over time, and it may even turn into a dead end road in the near future.

Against this background, the purpose of the paper is to highlight the conditions that are prone to a successful agenda-setting between Switzerland and the EU, as well as the conditions that are conducive to a negative outcome, i.e. to no negotiations. We theoretically discuss and empirically test the impact of four possible conditions: whether Switzerland was a demanding party, whether the EU was a demanding party (or at least showed favorable predispositions to negotiate), whether there were previous agreements in the field or in a related field (i.e., whether a sort of "spill-over effect" or "path dependency" was likely at work), whether Switzerland was an especially attractive partner in the field, and whether there were favorable external conditions pushing for a negotiation. More specifically, we do not only look at the impact of each condition separately, but we analyze how they interact and jointly influence the outcome. This logic of interaction and of the resulting combinations of causes that lead to a successful (resp. to an unsuccessful) outcome is at the core of the "qualitative comparative analysis" (QCA). Methodologically, we therefore apply QCA to the whole list of bilateral agreements that were put forward by either or both negotiation partners between 1993 and 2010. There are 46 topics altogether, bearing in mind that some topics appeared in two (and one topic even in three) different rounds of negotiations. In addition, we shall carry out a QCA for each round of bilateral talks (the first, the second, and the ongoing talks) separately. This will enable us to put our study in a dynamic perspective, and to derive implications regarding the likely future of the bilateral way.

The paper is structured as follows. We develop our theoretical framework in the next section. We start with a (short) review of the literature on agenda-setting in international negotiations in general and in bilateral negotiations with the EU in particular, and then turn to the discussion of the conditions that are likely to play a role in agenda-setting. In the third section we discuss the calibration of both the outcome and the conditions. This sets the stage for the empirical tests that appear in section four. Section five concludes.

## **2. Theoretical framework**

### **2.1 Agenda-setting in bilateral negotiations with the EU: a literature review**

Agenda-setting is an extensively used concept in public policy (e.g., Kingdon 1995), comparative politics (Baumgartner and Jones 1993, Walgrave et al. 2008), communication sciences (McCombs and Shaw 1995, Iyengar and Simon 2000) and international relations.

Given the focus of the paper, we focus here on agenda-setting in international relations. With some exceptions (e.g. Stein 1989), existing studies have analyzed agenda-setting mostly from the perspective of domestic politics either at the national level or/and at the supranational level for the case of the EU. Regarding the latter, a key focus of agenda setting has been on the interplay between various bodies of the EU during the agenda-setting phase of external negotiations. In particular, several studies have considered the power struggle between the European Commission and the Council through the lenses of principal-agent theory (e.g. Elsig 2007; Frenhof Larsen 2007; Meunier 2000), but there have also been attempts to develop broader analytical framework (Princen and Rhinard 2006; Princen 2007). Studies on agenda-setting have rarely looked at a broader set of conditions, including ones coming from the other side(s) (for exceptions see Meunier 2000 and Dür 2010).

The lack of research on the agenda-setting phase holds even more with respect to Switzerland's bilateral negotiations with the EU. While there are several studies on the two rounds of bilateral talks between Switzerland and the EU, most of them have focused on the content of agreements (Afonso and Maggeti 2007, Bonte 2002, Dupont and Sciarini 2007, Felder and Kaddous 2001, Kaddous and Jametti Greiner 2006, Thürer et al. 2007). Studies looking at the bilateral negotiations from the perspective of international relations are scarce, and they have either addressed the elaboration phase, i.e. the phase during which the Swiss government develops its policy line and selects the specific integration option that it wishes to implement (e.g., Dupont & Sciarini 2001), or the negotiation process itself, i.e. the strategic interactions between Switzerland and the EU (e.g. Dupont et al. 2001). To our knowledge, none has analyzed the agenda-setting phase, which takes place between the elaboration and the negotiation phase.

The originality of a study on agenda-setting as applied to Switzerland-EU stems from the specific institutional context in which it takes place. The existing agenda-setting literature has focused either on negotiations in a dense institutional context (for example in the EU or in international organizations such as the WTO or the IMF), or on negotiations developing in an institutional vacuum (in the context of protracted conflicts see Stein 1989). In contrast, bilateral agreements between Switzerland and the EU have developed in a context that is characterized by a low, but significant, level of institutionalization. In this sense, the bilateral Switzerland-EU negotiations offer a promising – and largely unexplored – field for the study of agenda-setting. In addition, bilateralism between Switzerland and the EU has worked since more than fifteen years, and has resulted in a rich array of agreements. It therefore appears as a fertile ground for the study of agenda-setting.

## **2.2 Hypotheses**

Based on both theoretical arguments of the IR literature on agenda-setting and intuitive expectations derived from our knowledge of the bilateral negotiations between Switzerland and the EU, we formulate four different hypotheses regarding the conditions that are likely to lead to a negotiation. While the method that we shall use (QCA) analyzes the impact of combinations of conditions, and not at impact of a given, separate condition, most studies using QCA rely on bivariate hypotheses, i.e. on hypotheses regarding the effect of a specific condition. We join this standard conception and we formulate bivariate hypotheses, but we also sketch some possible interaction effects between our conditions.

### **H1: Previous agreement (spill-over effects and path dependency)**

According to our first hypothesis, previous agreements through spill-over effects or path dependency make it more likely that a related topic will be included in the negotiations. This hypothesis draws on the one hand from neo-functional work on the role of the process of international cooperation first developed to make sense of the creation of the EC (Haas 1964) and later applied to the widening of the scope of integration in Europe (see for instance Stone Sandholz and Zysman 1992, Sweet Stone and Sandholz 1998). It posits that positive benefits from existing agreements call for additional agreements that could strengthen and expand the current benefits. Second, this hypothesis also draws on the path-dependency literature, according to which once in force an institutional rule creates inertia and constraints, limits the actors' room for maneuver, and influence subsequent institutional changes (e.g. Pierson 1996). An additional, more pragmatic argument lies in the personal contacts and networks that negotiators may derive from earlier cooperation: Previous agreement presumably provide a favorable context to cooperate further, this all the more if these agreements are associated with common committees such as the "comité mixte" where both partners meet frequently. Empirically, there are several topics on which Switzerland and the EU had already negotiated before the start of the bilateral negotiations and, therefore, where possible spill-over effects or path dependency might be at work (e.g. the 1972 Free trade agreement, the framework agreement on research cooperation of 1986, the transit agreement of 1992, Agreements on COMETT & ERASMUS, etc.).

### **H2. Demanding party**

For an object to be put on the table, at least one party has to be interested in it. In addition, the question which actor makes a demand and which resources does this actor have is of course of utmost importance for agenda-setting. In the present context, there is a strong, structural asymmetry of resources between the two negotiation partners. And there is, therefore, a wide asymmetry in the dependency of one actor over the other: While in most cases the EU could easily do without Switzerland, the reverse does not hold. The EU is by far the main trading partner for Switzerland,<sup>1</sup> making Switzerland strongly dependent on its economic relationships with the EU. For this reason, Switzerland is more likely than the EU to bring forward demands for bilateral negotiations. To take this structural asymmetry into account, we formulate two separate hypotheses regarding the "demanding party", one for Switzerland, and one for the EU, and we use two different definitions of the "demanding party" condition. For Switzerland, we use a strict definition, i.e. we consider that there was a demand if Switzerland explicitly issued a formal negotiation proposal. For the EU, we relax the definition, and we consider that there was a demand if the EU either expressed a formal negotiation proposal, or demonstrated a strong interest in a demand raised by Switzerland. Hence our hypotheses 2a and 2b:

- A Swiss demand will lead to a positive outcome, i.e. for an inclusion into the agenda (H2a).
- An EU demand or at least a favorable EU predisposition will lead to a positive outcome (H2b).

At a first glance, these two hypotheses may seem trivial or even tautological, but they are not. First, H2a conjectures that a Swiss demand could be sufficient for an item to be included in the agenda of negotiations, whereas H2b conjectures that an EU demand, or at least acquiescence, is sufficient. However, empirical evidence may reveal that none of these two conditions are separately sufficient for a positive outcome, i.e. that a combination of both conditions is required. Second, empirical evidence may also reveal that either condition (or both) must be combined with additional conditions.<sup>2</sup>

### **H3: Strategic advantage**

Our third hypothesis builds upon the work on the dependence approach to bargaining power (Bacharach and Lawler 1981) and brings an issue-specific complement to the overall power

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<sup>1</sup> More than 60% of Swiss exports go to an EU member state and more than 70% of Swiss imports come from an EU member state

<sup>2</sup> In the most extreme case, one may even assume that additional conditions can lead to a negotiation even in the absence of a demand from Switzerland and the EU – for example in the case of highly constraining exogenous factors (see below).

asymmetry of H2a&b. While Switzerland is overall much weaker than the EU, and thus much more dependent on the EU than the other way round, there are topics where the asymmetry is less marked, and where Switzerland appears as an appealing partner for the EU. According to our third hypothesis, then, if Switzerland benefits from geostrategic power on a given issue, or if the EU cannot develop any serious alternative solution, then this will have a positive effect on the inclusion of this issue in the agenda.

#### **H4. Exogenous factors**

Finally, our fourth hypothesis broadens the causal map and situates agenda-setting between EU and Switzerland in a global, interdependent world. Constraints and opportunities for that world may influence bilateral discussions. More specifically, we assume that external events such as an economic crisis, a sudden rise of asylum seekers, or a parallel WTO negotiation on a given topic exert a pressure and lead to the inclusion of a related issue in the agenda. In other words, while H2a&b assume that two negotiation partners can control their bargaining agenda, hypothesis 4 offers a different view and suggest that exogenous factors may also play a role. They may contribute to agenda-setting either in interaction with partners' preferences, or even they may exert a separate effect, meaning that they may lead to agenda-setting even in the absence of willingness on both EU and Swiss sides. The latter scenario is all the more likely if the EU and Switzerland have no better outside alternative to respond to external changes than a bilateral agreement.

### **3. Method and data**

Our analysis includes 46 topics that either partner (or both) attempted to put on the negotiation agenda. Note, however, that some topics were addressed in more than one round of talks (and in one case, education, even in all three rounds). Thus, the "net" number of topics under study is in fact lower than the overall number of cases (40 instead of 46). To analyze these cases and identify the configurations of conditions that lead to agenda-setting we resort to a Qualitative Comparative Analysis (QCA, see Ragin 1987, Rihoux and Ragin 2008, Schneider and Wagemann 2007). QCA is especially well-fitted to study outcomes that are supposed to result from multiple conjunctural causation: According to QCA, an outcome does not necessarily result from a single condition, but possibly from a combination of conditions. In addition, an outcome does not and necessarily result from a single combination of conditions, but possibly from a variety of combinations of conditions. For the present purposes, we rely on crisp-set QCA, in which the different conditions and the outcome take

binary values. QCA being mainly a case-based method, the coding of these values, called "calibration", is derived from a thick description of the cases. To have a comprehensive view on the case and to maximize consistency, such a calibration should be based on a variety of sources (Goertz 2006, Schneider and Wagemann 2007). Accordingly, our calibration relies on a variety of official reports and statements, on a number of newspaper articles, as well as on secondary literature.

The outcome has been coded as the inclusion of a topic in the negotiations agenda, i.e. it takes the value of 1 if the topic was included in the negotiation, and 0 otherwise. We proceed sequentially, that is, we discuss separately the first round of bilateral agreement, the second, and the ongoing talks. We do so for mainly two reasons. First, and as already mentioned, some issues have appeared in two (or even three) rounds of negotiations. Second, looking at each phase separately might help in putting our analysis of agenda-setting conditions in a dynamic perspective (i.e. to evaluate how these conditions evolve over time). In addition to looking at the combinations that lead to a successful agenda-setting, and as recommended in any QCA we shall also look at the combinations that lead to a negative outcome, namely to a failure in agenda-setting.

Given that we include three waves of bilateral negotiations, and a fairly high number of issues, we refrain from presenting the calibration of the outcomes and of the conditions in the main text. We focus instead on a brief presentation of the cases that appeared in each set of talks and of the related outcome, and then turn to the truth table resulting from our coding. The full discussion of the calibration for both outcomes and conditions appears in the Appendix (1 to 3).

## **4. Results**

### **4.1 Bilateral 1**

Taking into account the demands made by Switzerland in early 1993 plus the demands made by the EU during the agenda-definition phase, i.e. before a mandate was established by the Council in November 1993, there are twenty cases that could have been included in the negotiations of the first round of bilateral agreements.<sup>3</sup> Ten among them were not put on the agenda at this point. Out of these, several were "left-over" to the second round of bilateral agreements. Three issues were either incorporated under other provisions (rules of origin and

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<sup>3</sup> According to earlier studies Switzerland came with a wishing list of 14 issues, and that the EU responded positively to five of them, and added two additional issues (e.g. Dupont et al. 2001). However, our detailed examination reveals that the number of issues put forward by Switzerland in fact amounted to 18.

textiles) or adapted autonomously by Switzerland (product liability). We are thus left us with nine topics on which there were negotiations, seven resulting from a Swiss demand (obstacles to trade, veterinary and phytosanitary rules, intellectual property, public procurement, air transport, overland transport, and research) and two from an EU demand (agriculture and free movement of persons).<sup>4</sup>

The QCA truth table summarizing the outcomes and conditions for the first round of bilateral agreements is presented in table 1.

*Table 1: Truth table for QCA Analysis (Bilateral 1)*

Cases	PA	PD <sub>CH</sub>	PD <sub>EU</sub>	SA	EF	O
1. Rules of origin	1	1	0	0	0	0
2. Processed agricultural goods	1	1	1	0	1	0
3. Textiles	1	1	0	0	0	0
4. Obstacles to trade	0	1	1	0	1	1
5. Veterinary and phytosanitary rules	0	1	1	0	1	1
6. Intellectual property	0	1	1	1	1	1
7. Product liability	0	1	0	0	0	0
8. Public procurement	0	1	1	1	1	1
9. Air-transport	1	1	0	0	1	1
10. Overland transport	1	1	1	1	0	1
11. Research	1	1	1	1	0	1
12. MEDIA	1	1	1	0	0	0
13. Statistics	0	1	1	0	0	0
14. Mutual recognition of diplomas	0	1	0	1	0	0
15. Education	1	1	0	0	0	0
16. Environment	0	1	1	1	0	0
17. Services	0	1	1	1	0	0
18. Asylum and Immigration issues	0	1	0	0	1	0
19. Free-movement of persons	0	0	1	1	0	1
20. Agriculture	0	0	1	1	1	1

<sup>4</sup> The negotiations did not lead to nine agreements but seven, due to "repackaging": veterinary and phytosanitary rules were negotiated together with agriculture, and intellectual property was partially covered by both the research and agriculture agreements.

Table 2: Analysis of necessary conditions for a positive outcome (Bilateral 1)

	Consistency	Coverage
Pa	0.33	0.40
pdCH	0.67	0.33
pdEU	0.83	0.55
Sa	0.67	0.67
Ef	0.67	0.67

The analysis of necessary conditions shows that during the bilateral 1 no condition was necessary for a positive outcome. Note, however, that pdEU, i.e. either an EU demand or a strong EU predisposition to negotiate, came close to a necessary condition.

Table 3: Crisp-set analysis for a positive outcome, intermediate solution (Quine-McCluskey algorithm, Bilateral 1)

	Raw coverage	Unique coverage	Consistency
ef*pdEU*pdch*~pa	0.33	0.33	1.0
ef*~pdEU*pdch*pa	0.17	0.17	1.0
sa*pdEU*~pdch	0.33	0.33	1.0
sa*pdEU*pa	0.17	0.17	1.0

While a Swiss demand was not a necessary condition during the first round of bilateral talks it nevertheless appears in two out of the four configurations that lead to a positive outcome. However, we see from these two first configurations that a Swiss demand must be coupled with additional conditions to result in agenda-setting. More specifically, the first solution shows that even if the EU responded positively to the Swiss demand, favorable external factors should additionally be at work to lead to agenda-setting. The second solution suggests that when Switzerland made a demand but met with EU resistance, it was nevertheless able to go through provided additional conditions were met, namely provided there were both previous agreements *and* positive external factors. From a Swiss perspective, the fact that there must be a number of additional positive conditions in addition to a Swiss demand to lead to agenda-setting (possibly including a positive EU stance) highlights Switzerland's limited ability to set the agenda, i.e. this highlights the difficulty of the bilateral way.

By contrast, an EU demand appears as a more powerful condition towards agenda-setting. This is at least what the last two solutions suggest. These solutions can be simplified as follows: sa\*pdEU\*(~pdCH + pa). When an issue was especially attractive to the EU, i.e. when the EU was pushing for a negotiation and Switzerland had something significant to

offer, the negotiation took place, and this even if Switzerland was opposed to a negotiation, *or* provided there existed a previous agreement in the field. These two configurations correspond to the two issues that were demanded by the EU, namely agriculture and the free movement of persons. For Switzerland, to make a concession on these two topics was in a sense the "price to pay" for being able to negotiate on other issues. Still, this result highlights the strongly differentiated influence that the two partners can exert on the definition of the agenda.

More generally, the varying success of the EU and Switzerland as a demanding party, together with the quasi necessary character of the pdEU condition suggests that the strong power asymmetry existing between Switzerland and the EU translates in a strong asymmetry in their ability to set the agenda.

*Table 4: Analysis of necessary conditions for a negative outcome (Bilateral 1)*

	Consistency	Coverage
~pa	0.63	0.56
pdCH	1.00	0.67
~pdEU	0.50	0.80
~sa	0.75	0.75
~ef	0.75	0.75

The condition pdCH turns out as a necessary condition for the no outcome, that is, for the failure to include a given proposal in the agenda of the first bilateral negotiations. This result may seem surprising. Remember, however, that most of the proposals regarding the first round of talks stemmed from Switzerland, including all the proposals that were eventually not negotiated. In that sense, this result reminds us about the varying importance granted to bilateral cooperation by the two partners, and it also highlights Switzerland's reduced ability to set the agenda of the first round of talks.

*Table 5: Crisp-set analysis for a negative outcome, intermediate solution (Quine-McCluskey algorithm, Bilateral 1)*

	Raw coverage	Unique coverage	Consistency
pdCH*~ef*~pa	0.50	0.33	1.0
pdCH*~ef*~sa	0.50	0.13	1.0
pdCH*~sa*~pdeu*~pa	0.25	0.13	1.0
pdCH*~sa*pdeu*pa	0.25	0.13	1.0

Given that pdCH is a necessary condition, it is of course included in all four solutions. Bearing this in mind, these four solutions can be simplified as follows:

1)  $pdCH * \sim ef * (\sim pa + \sim sa)$

2)  $pdCH * \sim sa * (\sim pdEU * \sim pa + pdEU * pa)$

Solution 1 shows that a Swiss demand, combined with no positive external factors *and* either no previous cooperation *or* no strategic advantage from the Swiss side, led to no outcome, and this irrespective of EU preference. In other words, solution 1 suggests that the three "additional" conditions (previous agreement, external factors, strategic advantage) played the expected role during the bilateral 1: Their absence had detrimental effects in terms of agenda-setting. According to solution 2, if Switzerland made a demand in a domain where it had nothing special to offer *and* the EU was opposed to a negotiation, then its demand failed. More surprisingly, the same holds even if the EU was willing to negotiate *and* there was a previous cooperation in the field.

One should of course take these results with a grain of salt, since they include several topics that Switzerland failed to put on the agenda during the bilateral 1, but that were then included in the second round of talks (the left-overs). This being said, our analysis departs from the conventional view that the failure of the Swiss demand during the bilateral 1 was mainly due to tactical reasons, namely to the EU's unwillingness to offer Switzerland a membership "*à la carte*" at a time when the other EFTA countries were negotiating accession. According to our result, the EU's attitude was not the crucial factor: In a number of issues the EU was in fact favorable to a negotiation, but there were other (or additional) adverse conditions that prevented agenda-setting.

In sum, both the results of the outcome and of the no outcome underline Switzerland's very weak ability to set the agenda, its strong dependence on the EU in that respect, as well as the importance of additional conditions – both for a successful and for an unsuccessful outcome.

## 4.2 Bilateral 2

The second round of bilateral agreements included five left-over topics: processed agricultural goods, MEDIA, statistics, environment, and services. In addition, negotiations took place on a new Swiss demand (asylum/immigration),<sup>5</sup> on two new EU demands (fraud and savings taxation), and on two new common demands (pensions and services). Finally, even if not officially negotiated the issue of financial compensation was also agreed upon together with

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<sup>5</sup> On the issue of services, negotiations started but were then suspended.

the bilateral agreements, and can thus be considered as part of the second round of talks. Overall then, there were ten topics on the negotiation agenda. By contrast, negotiations on education, another left-over from the first round, were again postponed.

*Table 6: Truth table for QCA Analysis (Bilateral 2)*

Cases	PA	PD <sub>CH</sub>	PD <sub>EU</sub>	SA	EF	O
1. Processed agricultural goods	1	1	1	0	1	1
2. MEDIA	1	1	1	0	0	1
3. Statistics	0	1	1	0	0	1
4. Education	1	1	0	0	0	0
5. Environment	1	1	1	1	0	1
6. Financial compensation	0	0	1	1	0	1
7. Services (incl. financial)	0	1	1	1	1	1
8. Asylum and Immigration issues	0	1	0	0	1	1
9. Fraud	1	0	1	1	1	1
10. Savings taxation	0	0	1	1	0	1
11. Pensions	1	1	1	0	0	1

*Table 7: Analysis of necessary conditions for a positive outcome (Bilateral 2)*

	Consistency	Coverage
pa	0.50	0.80
pd <sub>CH</sub>	0.75	0.86
pd <sub>EU</sub>	0.88	1.00
sa	0.50	1.00
ef	0.50	1.00

Like in the bilateral 1, the results of the analysis of necessary conditions for the second round of bilateral talks suggest that there was no truly necessary condition, but that an EU demand was nearly a necessary condition. That means that during the bilateral 2 there could hardly be any negotiation if the EU was not itself demanding it (or at least if it did not display a favorable predisposition to negotiate). In addition, a Swiss demand also came close to a necessary condition, or at least slightly closer than in the bilateral 1.

Table 8: Crisp-set analysis for a positive outcome, intermediate solution (Quine-McCluskey algorithm, Bilateral 2)

	Raw coverage	Unique coverage	Consistency
pdeu*pdch	0.63	0.25	1.00
sa*pdeu	0.50	0.25	1.00
ef*pdch	0.38	0.13	1.00

Unlike in the bilaterals 1, mutual interest from both Switzerland and the EU turns out to be a sufficient condition for a positive outcome – and a configuration that occurred quite frequently, as indicated by the "raw coverage". This solution applies among others to most of the left-overs of the first round. Like in the bilateral 1, however, issues that were particularly attractive to the EU, i.e. issues on which the EU was demanding *and* on which Switzerland had something significant to offer, were also put on the agenda. By contrast, but again like in the bilateral 1, a Swiss demand could result in a negotiation only if was associated with positive external factors.

In sum, like in the bilateral 1 the EU was able to go through and set the agenda on issues that in its view were especially important, and its ability was not contingent upon any additional conditions. In stark contrast to the EU, Switzerland could not set the agenda unless it could count on a favorable external context. This finding alerts us to another characteristic of the second (and also the first) round of talks that our QCA cannot take into account: The importance of a package deal already in the agenda-setting phase. The EU agreed to start negotiations due to two challenges it faced from Switzerland, and on which it was necessary to negotiate with Switzerland. These were smuggling and the automatic exchange of information on banking accounts: Given that it was impossible for the EU to advance on its plans without bringing Switzerland on board, it shifted its position and began negotiating a second round of bilateral agreements.

In the bilateral 2 the QCA of the no outcome does not sense, since there was only one issue that was not included in the agenda (education). In such a situation QCA obviously results in one single solution.<sup>6</sup>

#### 4.3 New agreements

Negotiations on several issues are currently taking place. However, negotiations are different from those of the previous two rounds of agreements, since topics are negotiated

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<sup>6</sup> This concerns the issue of education (see table 6), and the intermediate solution is "pdch\*~pdeu\*sp", i.e. a Swiss demand on an issue on which there had been an agreement with the EU in the past, but that was blocked by the EU's unwillingness to negotiate.

independently from one another, and may, therefore, lead to individual agreements and not to a package or a round of agreements. Altogether, the third series of talks covers fifteen topics.<sup>7</sup> In one case negotiations were already concluded (24 hours agreement), and in another case there was no negotiation, and Switzerland adapted unilaterally (Cassis de Dijon). Three further issues fall under a particular category, since they developed in parallel to the first two rounds of bilateral agreements: education, Eurojust, and Europol. On the issue of education, a left-over from the second round of bilateral talks, Switzerland and the EU reached an agreement in February 2010. In the case of Europol, a related issue to Schengen, a bilateral agreement was signed shortly before the second round of bilateral negotiations was completed. The Eurojust agreement is also linked to Schengen and was signed on November 2008. We list them all under the new agreements. Formally the issue of cantonal taxation is not being negotiated although a “dialog” exists. This is, however, a purely semantic subtlety: In response to an insistent EU demand Switzerland has eventually proposed to carry out domestic reforms in this matter, and to discuss it with the EU; a negotiation is therefore taking place. Finally, there are a number of further topics on which exploratory talks are being held and hence these have been included as well. Note, however, that these talks are on hold due to institutional problems. After the bilateral meeting between the EU (Council and Commission) in June, both sides decided to commission a group of experts to address and, possibly, resolve them. A first report of the experts group is expected by the end of 2011.

*Table 9: Truth table for QCA Analysis (new agreements)*

Cases	PA	PD <sub>CH</sub>	PD <sub>EU</sub>	SA	EF	O
1. 24 Hours agreement	1	1	1	0	0	1
2. Electricity	0	0	1	1	0	1
3. Satellite navigation (Galileo)	1	1	1	1	0	1
4. AOC Rules	1	1	1	0	0	1
5. Public health	0	1	1	0	1	1
6. Free trade in agriculture and food sectors	1	1	1	1	1	1
7. Education	1	1	1	0	0	1
8. Cassis de Dijon	0	1	0	0	0	0

<sup>7</sup> One must thus avoid any reference to a third "round" of talks, since this does not correspond to the official terminology.

9. Europol	0	1	1	0	1	1
10. Eurojust	1	1	1	0	1	1
11. Emissions trading	0	1	1	0	1	1
12. Cooperation with the European defence agency (EDA)	0	1	1	0	0	1
13. Peacekeeping operations	1	0	1	0	1	0
14. REACH (chemicals)	0	1	1	1	0	1
15. Cantonal taxation	0	0	1	1	1	1

*Table 10: Analysis of necessary conditions for a positive outcome (new agreements)*

	Consistency	Coverage
sp	0.44	0.80
pdCH	0.78	0.88
pdEU	1.00	0.90
sa	0.56	1.00
Ef	0.44	0.80

The analysis of necessary conditions shows that in the current round of bilateral talks an EU demand or a at least a favourable predisposition is a necessary condition for negotiations to begin. If we compare this result with the corresponding result of the first and second rounds, we see that the condition pdEU is increasingly necessary over time. This result helps to substantiate the widespread view that the bilateral way has become harder for Switzerland: According to our study, it has become harder in the sense that Switzerland increasingly depends on willingness of the EU to negotiate. In other words, this result suggests that it is still possible for Switzerland to agree with the EU on the agenda of the bilateral talks, but that the agenda-setting power has shifted to the EU side, and that a positive outcome is conditioned by the EU readiness to cooperate.

*Table 11: Crisp-set analysis for a positive outcome, intermediate solution (Quine-McCluskey algorithm, new agreements)*

	Raw coverage	Unique coverage	Consistency
pdeu*pdch	0.78	0.67	1.00
sa*pdeu*~pa	0.33	0.22	1.00

Like in the bilateral 2, cases where there is mutual interest to negotiate lead to negotiations, independently from the existence or absence of additional positive conditions. In addition, if the EU has a special interest to negotiate, i.e. it is a demanding party and Switzerland is a strategic partner in the field ( $pdEU=1$  and  $sa=1$ ), then there will be a negotiation, this even in the absence of previous agreements and irrespective of Switzerland's willingness to negotiate. This obviously underlines once more the asymmetry of the bilateral talks: While Switzerland will not be able to go through unless the EU has also an interest, the reverse does not hold, i.e. the EU can set the agenda on its own.

Like in the bilateral 2 the QCA of the no outcomes for the most recent talks is a bit tricky, since there are only two such no outcomes. One should therefore not over-interpret the results above.

*Table 12: Analysis of necessary conditions for a negative outcome (new agreements)*

	Consistency	Coverage
$\sim pa$	0.50	0.17
pdCH	0.50	0.33
$\sim pdEU$	0.50	1.00
$\sim sa$	1.00	0.29
$\sim ef$	0.50	0.17

Unlike in the bilateral 1 and 2, a Swiss demand is not a necessary condition for a no outcome. There is nevertheless a necessary condition, namely no strategic advantage.

*Table 13: Crisp-set analysis for a negative outcome, intermediate solution (Quine-McCluskey algorithm, new agreements)*

	Raw coverage	Unique coverage	Consistency
$\sim sa^* \sim pdch$	0.50	0.33	1.0
$\sim ef^* \sim sa^* \sim pdeu^* \sim pa$	0.50	0.13	1.0

The first solution corresponds to the issue of peace keeping cooperation, for which the outcome of the preparatory talks are still not known, whereas the second regards the Cassis de Dijon, on which Switzerland met with EU resistance and decided to adapt unilaterally.

## 5. Conclusion

In this paper we have looked at the combinations of conditions that lead to a positive outcome in the bilateral negotiations between Switzerland and the EU. By positive outcome,

we did not mean the successful outcome of the negotiation process, but the ability of both partners to agree on the agenda of negotiation: While the bulk of the literature has focused on the content of the agreements or on the bargaining process, we have deliberately devoted our attention to the initial phase of the process. Relying on earlier works we have formulated five hypotheses regarding the conditions that were supposed to play a role in agenda setting, and we have tested them resorting to crisp-set QCA.

Given both the fairly long time-span since the launching of the Swiss bilateral strategy (more than fifteen years) and the rich array of topics that were put forward by either partner (but not necessarily negotiated), bilateralism between Switzerland and the EU offers a fertile ground for the study of agenda-setting. Beyond its political importance in Switzerland, our study on agenda-setting should also speak to a wider audience: Because of the special institutional context in which bilateral agreements between Switzerland and the EU have developed (stable but low level of institutionalization), our results provide fresh insight into the EU's external policy, and this with a country (Switzerland) that remains a significant trading partner.

What does our study teach us with respect to the conditions that are conducive to agenda-setting, and what are the broader implications of our results regarding the likely future of Switzerland's bilateral strategy? In this conclusion we provide a tentative answer to these questions. To that end, we bring together our results regarding the three sets of negotiations, and this for both positive and negative outcomes, and we put them in a dynamic perspective. Overall, and seen from a Swiss perspective, our findings lead us to emphasize the increasing difficulties associated with the bilateral way.

First, a series of results demonstrate that over the years bilateralism between Switzerland and the EU has become increasingly conditional on the EU willingness/readiness/ability to negotiate. This clearly transpires from the condition  $pdEU$ , which was important from the outset of the bilateral talks, and has even become a truly necessary condition for agenda-setting during the most recent negotiations. Conversely, additional positive conditions in terms of spill-over effects or external factors played a role during the first round of talks, but much less so afterwards. On the one hand, this result may be considered as good news for the Swiss, as this suggests that agenda-setting is less dependent than before on additional favorable conditions. On the other hand, however, this result may also be seen as a bad news for Switzerland, since it means that the definition of the negotiation agenda is now entirely pre-conditioned on an EU demand (or at least on a well-disposed EU). This, together with the fact that the EU has recently proved increasingly reluctant and/or unable to negotiate with Switzerland, is a major source of concern for Switzerland. The EU's growing internal

heterogeneity in general, and the unwillingness of its new member-states to offer Switzerland a special partnership, in particular, presumably account for its (increasingly) limited flexibility. The constitutional changes brought about by the Lisbon Treaty, and more especially the growing co-decision rights granted to the European parliament on the EU's foreign policy, can but only reinforce the Swiss concern.

Second, the growing asymmetry of agenda-setting power between the EU and Switzerland does not only result from the growing power of the EU. It also results from the decreasing power of Switzerland to set the agenda: While during the first two rounds of talks a Swiss demand could under specific circumstances (i.e. combined with additional positive conditions with respect to spill-over effects and/or external factors) lead to a negotiation irrespective of the EU stance (if not despite of EU opposition as in the bilateral 1), such a configuration has disappeared in the most recent talks; only a shared interest from the EU side can put a topic on the agenda. By contrast, if the EU shows a strong interest in a negotiation, i.e. if it makes a demand and Switzerland is an attractive partner in the field, then it is able to go through irrespective of Switzerland's preference. This combination (EU demand\*Switzerland's strategic advantage) appears in all three rounds of negotiations, and it is systematically associated with a successful agenda-setting, including in cases where Switzerland was a priori opposed to a negotiation. In these cases, a positive EU attitude towards a given issue has not only become a necessary condition for agenda-setting, but it has also acquired the status of a sufficient condition. As we mentioned earlier, these issues typically served as a compensation for the inclusion on the agenda of other topics in which Switzerland had an interest. In other words, this sort of "package deal" was the price that Switzerland had to pay to convince the EU about the relevance of the bilateral negotiations. Identifying new topics that are particularly interesting for the EU (but potentially particularly painful for Switzerland, like in the case of cantonal taxation) thus appear as a pre-condition for the future of the bilateral strategy.

Third, while our study illuminates the growing difficulty of the bilateral way, it does not even tell the whole story: To set the agenda is one thing, reaching an agreement is another. Given that our study focuses on the initial phase of the negotiation process, we cannot be sure whether the new topics that are currently negotiated between Switzerland and the EU will result in a successful outcome, or not. The main problems that negotiators are facing are of institutional nature, and they are mainly due to the static character of the bilateral agreements, which is less and less in line with the dynamic character of the "acquis communautaire". In a nutshell, the EU has made the automatic incorporation of the *acquis communautaire* a pre-

condition to the establishment of new agreements. Switzerland for its part accepts the dynamic nature of the bilateral agreements, and has expressed its willingness to negotiate mechanisms that would guarantee this dynamism. However, it categorically refuses the idea of an automatic incorporation of the *acquis*.<sup>8</sup> In that sense, the growing limits of the bilateral way do not stem from the reduced likelihood that the two partners (and in particular the EU) agree on a negotiation agenda, but also (and perhaps even more) from the dramatic difficulty to solve the aforementioned institutional problems. As mentioned above, negotiations on the substantial issues (REACH, emission trading, agriculture, etc.) have been on hold since June 2010, and they will not resume unless an agreement is found to these "horizontal", institutional issues.

Finally analysis of the no outcomes, while not as informative as that of the yes outcomes, also reinforces the argument. It suggests that agenda setting tends to fail when the EU has no interest in a negotiation (and Switzerland has nothing special to offer), and/or when there is no positive spill-over and no positive external factors. However, as was already mentioned, one should not over-interpret the results regarding the no outcomes. First, there were few such no outcomes during the second and third set of negotiations. Even if statistical significance does not matter in QCA, we must nevertheless be cautious when interpreting configurations that relate to only two or three cases. Second, there were several no outcomes during the bilateral 1, but they were not true no outcomes, that is, they were no outcomes in the short-term, but not in a longer term: As we saw, several topics that were not put on the agenda during the bilateral 1 were then included in the second round of talks. This emphasizes a limitation of our study, which relies on crisp-set QCA, and is therefore based on a dichotomization of the outcome and of the conditions. While crisp-set QCA was very well-fitted for the dynamic perspective that we adopted in the present paper, an obvious extension of our study will be to switch to fuzzy set QCA (fsQCA) and to opt for an ordinal coding of the outcome (and possibly also of the conditions). By so doing, we will no longer be able to compare the results of the three sets of talks,<sup>9</sup> but we will come up with a finer-grained calibration. This should help us to test the robustness of the results presented in this paper and, hopefully, to refine them.

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<sup>8</sup> Additional institutional problems pertain to how to cope with the jurisprudence of the European Court of Justice, with competition law, and with the issue of monitoring.

<sup>9</sup> With fuzzy sets, there will be only one truth table, and left-overs will thus appear only once in this table, albeit with a finer-grained coding (e.g., 0.6).

## References

- Bacharach, Samuel B. and Edward J. Lawler (1981). *Bargaining, power, tactics, and outcomes*. San Francisco: Jossey-Bass.
- Baumgartner, Franck and Bryan D. Jones (1993). *Agendas and Instability in American Politics*. Chicago and London: The University of Chicago Press.
- Bonte, Christophe (2002). "La fiscalité de l'épargne dans l'UE: un droit de veto accordé à un pays tiers." *Revue du Marché commun et de l'Union européenne* (494): 35-41.
- Dupont, Cédric, Sciarini, Pascal and Derek Lutterbek (1999). "Catching the EC Train: Austria and Switzerland in Comparative Perspective." *European Journal of International Relations* 5(2): 189-224.
- Dupont, Cédric and Pascal Sciarini (2001). "Switzerland and the European integration process: Engagement without Marriage." *West European Politics* 24(2): 211-232.
- Dupont, Cédric and Pascal Sciarini (2007). "Back to the Future: The First Round of Bilateral Talks with the EU." In Church, Clive (ed.) *Switzerland and the European Union: A Close, Contradictory and Misunderstood Relationship*. London: Routledge, 202-214.
- Dupont, Cédric, Sciarini, Pascal et Caroline Egli (2001). "Entre cohérence et efficacité: les négociations bilatérales Suisse - Union européenne." *Revue suisse de science politique* 7(4): 5-37.
- Dür, Andreas 2010. *Protection for Exporters. Power and Discrimination in Transatlantic Trade Relations 1930-2010*. Ithaca, Cornell University Press.
- Elsig, Manfred (2007). "The EU's Choice of Regulatory Venues for Trade Negotiations: A Tale of Agency Power?" *Journal of Common Market Studies* 45(4): 927-948.
- Felder, Daniel & Kaddous, Christine (éd.) (2001), *Accords bilatéraux Suisse-UE (Commentaires), Dossier de droit européen n° 8*, Helbing & Lichtenhahn/Bruylant, Bâle, Genève, Munich, Bruxelles, 2001.
- Frennhof Larsen, Magdalena 2007. "Trade Negotiations between the EU and South Africa: A Three-Level Game." *Journal of Common Market Studies* 45(4): 857-881.
- Goertz, Gary (2006). *Social Science Concepts - A User's Guide*. Princeton/Woodstock: Princeton Univ. Press.
- Haas, Ernst (1964). *Beyond the Nation State*. Stanford: Stanford University Press.
- Iyengar, Shanto and Adam F. Simon (2000). "New Perspectives and Evidence on Political Communication and Campaign Effects." *Annual Review of Psychology* 51: 149-169.
- Kaddous, Christine & Jametti Greiner, Monique (éd.) (2006), *Accords bilatéraux II Suisse-UE et autres accords, Dossier de droit européen n° 16*, Helbing & Lichtenhahn/Bruylant/L.G.D.J., Bâle, Genève, Munich, Bruxelles, Paris, 2006.
- Kingdon, John W. (1995). *Agenda, Alternatives, and Public Policies*. New York: HarperCollins College Publishers (2nd edition).
- Kriesi, Hanspeter and Alexander H. Trechsel (2008). *The Politics of Switzerland: Continuity and Change in a Consensus Democracy*. Cambridge: Cambridge University Press.
- McCombs, Maxwell E. and Donald L. Shaw (1995). "The Agenda-Setting Function of Mass Media." In Boyd-Barett, Oliver and Chris Newbold (ed.) *Approaches to Media: A Reader*. London: Arnold, 153-163.
- Meunier, Sophie (2000). "What Single Voice? European Institutions and EU-U.S. Trade Negotiations." *International Organization* 54(1): 103-135.
- Pierson, Paul (1996). "The Path to European Integration: A Historical Institutional Analysis." *Comparative Political Studies* 29(2): 123-163.
- Princen, Sebastiaan (2007). "Agenda-setting in the European Union: a theoretical exploration and agenda for research." *Journal of European Public Policy* 14(1): 21-38.
- Princen, Sebastiaan and Mark Rhinard (2006). "Crashing and creeping: agenda-setting dynamics in the European Union." *Journal of European Public Policy* 13(7): 1119-1132.
- Ragin, Charles C. (1987). *The Comparative Method: Moving Beyond Qualitative and Quantitative Strategies*. Berkeley: University of California Press.
- Rihoux, Benoît and Charles C. Ragin (2008). *Configurational Comparative Methods: Qualitative Comparative Analysis (QCA) and Related Techniques*. Thousand Oaks/London: Sage.

- Sandholtz, Wayne and John Zysman (1989). "1992: Recasting the European Bargain." *World Politics* 41(1): 95-128.
- Schneider, Carsten and Claudius Wagemann (2007). *Qualitative Comparative Analysis (QCA) and Fuzzy Sets. Ein Lehrbuch für Anwender und solche, die es werden wollen*. Opladen/Farmington Hills: Verlag Barbara Budrich.
- Stone Sweet, Alec and Wayne Sandholtz (1998). "Integration, Supranational Governance, and the Institutionalization of the European Polity." In Sandholtz, Wayne and Alec Stone Sweet (ed.) *European Integration and supranational governance*. Oxford: Oxford University Press, 1-26.
- Thürer, Daniel, Weber, Rolf H, Portmann, Wolfgang & Kellerhals, Andreas (2007), *Bilaterale Verträge I & II Schweiz-EU : Handbuch*, Schulthess: Zürich, 2007.
- Walgrave, Stefan et al. (2008). "The Mass Media's Political Agenda-Setting Power: A longitudinal analysis of media, parliament and government in Belgium (1993 to 2000)." *Comparative Political Studies* 41(6): 814-836.

## Appendix 1: Calibration of the outcomes and conditions, bilateral 1

### *Outcome*

**Rules of origin:** With the entry into force of the EEA three different systems of rules of origin would coexist: EEA rules; Swiss-EC rules according to the 1972 FTA; and EFTA rules amongst EFTA members. The Council's Copenhagen Summit in June 1993 devised a strategy towards the enlargement to the Eastern European countries, and so the Council decided to pursue a Pan-European system of rules of origin. The issue was thus transferred to a multilateral arena. Given that Switzerland could not negotiate bilaterally, the outcome is coded as zero.

**Processed agricultural goods:** The EEA rules significantly simplified the complex rules established in the 1972 FTA. As a consequence Switzerland had a significant interest in adopting the EEA rules. The topic was, however, not negotiated during the first round of bilateral agreements, and left over for the second. It is therefore coded as zero.

**Textiles:** New EU regulations risked being very costly for the Swiss textile industry as they affected the export or import of goods with a view to their subsequent re-import (re-export) after processing, working or repair. This issue affected particularly the export of Swiss raw textiles towards Eastern Europe to be processed and the re-import of these goods. Compared to EU MS that had similar production chains Swiss producers would be disadvantaged.<sup>10</sup> Given that the Pan-European system or rules of origin included both Switzerland and the Eastern European states, with the implementation of this system the problem was solved. However, Switzerland aimed at a bilateral agreement, preferably one that would solve in the short-term an existential problem for the Swiss textile industry. Since the establishment of the pan-European system took longer and in the short term Swiss producers were affected (some even partially outsourcing their production to neighboring states such as Austria) the solution went against Swiss wishes. It was a multilateral agreement that only entered into force in 1999. Since this issue was solved outside the bilateral framework the outcome takes the value of zero.

**Obstacles to trade (TBT):** Since 1968 the EC aimed at harmonizing technical standards. This aim was reinforced with the publication of the Commission's white book in 1985 which—once approved by the Council—enlarged Art. 100 of the EC Treaty. Switzerland would as a result have access to the EU market under the rules agreed in 1972, while the EU MS faced a drastic reduction in TBTs. The main problem with the rules in the 1972 FTA was Article 20 that allowed for limits on the imports of products on the grounds of safety reasons. This could lead to the discrimination of Swiss products. Given that the bilateral agreement on obstacles to trade was included in the agenda (and negotiated) the outcome takes the value of one.

**Veterinary and phytosanitary rules:** The EU considered Swiss regulations to be insufficient if the agreement on agriculture were to enter into force. For this reason, Switzerland had to adopt some of the EU's regulations under the principle of harmonization.<sup>11</sup> Regarding veterinary rules the equivalence of rules was agreed; as to phytosanitary rules a step-wise process of harmonization was envisaged; in biological agriculture the equivalence of legislations was agreed; and in wine and spirits the mutual recognition of A.O.C. denominations foreseen.<sup>12</sup> Given that these topics were negotiated as part of the agreement on agriculture the outcome variable takes the value of one.

**Intellectual property:** Switzerland aimed at the mutual recognition of patents in line with what the ratification of the EEA agreement would have achieved, otherwise Swiss innovators would have in the future to register for patent protection in each one of the 12 MS.<sup>13</sup> Another element related to

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<sup>10</sup> Zimmermann, T 'Die Stellung der Schweiz im Europäischen Integrationsprozess' available at: [http://www.zimmermann-thomas.de/publikationen/PDFsemarbdaus\\_cheu.pdf](http://www.zimmermann-thomas.de/publikationen/PDFsemarbdaus_cheu.pdf)

<sup>11</sup> Thüerer/ Weber/ Portmann and Kellerhals (2007) *Bilaterale Verträge I & II Schweiz – EU: Handbuch*, (Zürich : Schulthess) p. 763

<sup>12</sup> WEKA aktuell Nr. 1/2000 p.41

<sup>13</sup> BAZ 28.7.1993 „Von Ursprungsregeln bis zur Zusammenarbeit in Statistik“

intellectual property was that of AOC principles. The questions related to patents were included as part of the research agreement. With it, Swiss innovations that took place under Swiss participation in an EU project had the same protection as those of any other MS.<sup>14</sup> The question of AOC rules was included as part of the agriculture agreement. Since both issues were included in the negotiation, the outcome takes the value of one.

**Product liability:** Significant economic risks for Swiss exporters existed as retailers were exposed to liability suits. This did not occur amongst the Member States. Switzerland had been preparing legislation which followed closely that of the EU with the aim to achieve a mutual waiver of importer's liability.<sup>15</sup> However, no negotiation took place and the solution to this problem was found through adopting autonomously EU legislation. The outcome is thus coded as zero.

**Public procurement:** The agreement was meant to widen the application of WTO-rules on public procurement (that only covered the national level in the sectors of water and energy supply; transportations and telecommunications).<sup>16</sup> Given that a bilateral agreement was negotiated, the outcome takes the value of one.

**Air transport:** The main idea of the agreement was to replace the 14 existing agreements (at the time there was no agreement with France) and to have a reciprocal access to the internal markets of the EU and Switzerland. Swissair was to suffer huge losses due to an EC regulation (entering into force on January 1<sup>st</sup> 1993) that liberalized the European airspace: The third package of measures dramatically increased the number of connections and significantly decreased prices as low cost carriers benefited from the new rules.<sup>17</sup> The Commission did not obtain a mandate to negotiate the same access as would have been given to Switzerland under the EEA.<sup>18</sup> However, since a bilateral agreement was negotiated the outcome takes the value of one.

**Overland transport:** The transit agreement provided that a bilateral agreement would be (re)negotiated on this issue should the EEA fail. A bilateral negotiation indeed took place the outcome is thus coded as one.

**Research:** Not being part of EU programmes meant that Swiss firms, universities, research institutes and individuals would only be able to participate in EU funded research programs after passing very high hurdles, if at all. The agreement would restore access to the EU research programmes that had been suspended after the failure to ratify the EEA. Since the agreement was negotiated bilaterally the outcome takes the value of one.

**MEDIA:** The failure of the EEA terminated the participation of Switzerland in the EU's MEDIA programme that covers the domains of film, radio and television productions. Switzerland sought to renew its participation. This issue was postponed to the second round of bilateral agreements. Therefore, the outcome takes the value of zero for the first round.

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<sup>14</sup> Thüerer/ Weber/ Portmann and Kellerhals (2007) *Bilaterale Verträge I & II Schweiz – EU: Handbuch*, (Zürich : Schulthess) p. 572

<sup>15</sup> NZZ 24.8.1993 "Langwieriger Weg zur bilateralen Verhandlungen in Brüssel: Sechzehn Schweizer Wünsche und noch keine Antwort der EG"

<sup>16</sup> WEKA aktuell Nr. 1/2000 p.64

<sup>17</sup> Thüerer/ Weber/ Portmann and Kellerhals (2007) *Bilaterale Verträge I & II Schweiz – EU: Handbuch*, (Zürich : Schulthess) p. 491-492.

<sup>18</sup> The eight liberty (domestic flights or *cabotage*) was deemed to be outside the negotiation mandate of the Commission. Negotiations were scheduled to begin five years after the agreement entered into force in 2002 (Switzerland demanded consequently in 2007 to begin negotiations on the right of *cabotage*. It re-affirmed its aims in 2008. The commission was in principle favourable but it began consultations with the MS and since then, things do not seem to have advanced).

See: « Accord aérien avec l'UE : la Suisse souhaite ouvrir des négociations sur le cabotage » available at: <http://www.news.admin.ch/message/index.html?lang=fr&msg-id=24470>

**Statistics:** The EU developed detailed Statistics that in comparison to the Swiss ones were much more extensive in their coverage. As a result Switzerland aimed at improving its own statistics through a closer cooperation with the EU. This issue was postponed to the second round of bilateral agreements. Therefore, the outcome takes the value of zero for the first round.

**Mutual recognition of diplomas:** the aim of an agreement was to facilitate both EU and Swiss nationals to work within the EU and Switzerland. However, it was not negotiated separately, but included in the much wider agreement on the free movement of persons. It is consequently coded as zero.

**Education:** In 1991 and 1992 the EU & Switzerland signed bilateral agreements on Swiss participation in the COMETT & ERASMUS programmes of the EU. The failure of the EEA impeded the participation of Switzerland in new EU programmes. With the EU's launching in 1995 of SOKRATES, LEONARDO DA VINCI and YOUTH the agreements were automatically terminated as both COMETT & ERASMUS ceased to exist (COMETT was integrated in LEONARDO DA VINCI and ERASMUS in SOKRATES).<sup>19</sup> An exchange of letters emphasising the will to deepen the existing "passive partnership" (stillen Partnerschaft) was made. In practice this means Swiss participation was negotiated *ad hoc* and each program coordinator or EU partner institution would agree about the possibility of Swiss participation in that particular program. Switzerland cannot initiate any project and needs to contribute financially to the particular project in which its participation has been allowed.<sup>20</sup> Since a bilateral agreement was not negotiated in the first round of bilaterals this variable takes the value of zero.

**Environment:** As of 1993 Switzerland had an ad hoc participation in various activities of the European Environmental Agency (EEA). Both parties wanted to formalise this participation. Since bilateral negotiations took part in the second round of bilateral agreements, the outcome takes the value of zero for the first round.

**Services:** Switzerland had expressed already during the first round of bilaterals its interest on negotiations in this topic. Negotiations, nevertheless, never started and hence for the bilateral one the outcome is coded as zero.

**Asylum and immigration issues:** The development of the Schengen and Dublin systems alongside an increase in the numbers of asylum seekers put pressure on Switzerland to reach an agreement with the EU. This issue was postponed to the second round of bilateral agreements. Therefore, the outcome takes the value of zero for the first round.

**Free movement of persons:** the aim was to allow for the free movement of persons amongst the EU and Switzerland as already occurred amongst the EU MS. The free movement of persons also covered two important aspects: the coordination of social security systems and the mutual recognition of diplomas. It was negotiated during the first round of bilateral agreements and is consequently coded as one.

**Agriculture:** The agreement widens market-access. It entails reciprocal tariff reductions in the areas of: cheese, fruits and vegetables, as well as meat and wine specialties. Given that the agreement seemed to be more beneficial to the EU, some concessions were made in the area of technical obstacles to trade: regarding veterinary rules the equivalence of rules was agreed, as to phytosanitary rules a step-wise process of harmonisation was envisaged, in biological agriculture the equivalence of legislations was agreed, and in Wine and Spirits the mutual recognition of A.O.C. denominations was

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<sup>19</sup> Thüerer/ Weber/ Portmann and Kellerhals (2007) *Bilaterale Verträge I & II Schweiz – EU: Handbuch*, (Zürich : Schulthess) p. 1229

<sup>20</sup> Thüerer/ Weber/ Portmann and Kellerhals (2007), p. 1230

agreed.<sup>21</sup> Given that the agreement was negotiated in the first round of bilateral agreements it is coded as one.

### ***Conditions***

#### ***Previous agreement***

**Rules of origin:** The third protocol in the 1972 FTA refers to the cumulating origin principle. Switzerland's aim was to update this principle to avoid discrimination of Swiss products. A previous agreement existed and hence it is coded as one.

**Processed agricultural goods:** The 1972 FTA included in its protocol 2 a provision to deal with this kind of products. The industrial component would be duty-free whereas the agricultural one would be subjected to duty on the basis of a complex evaluation of costs differentials and agricultural subsidies (i.e. this agreement did not include agriculture as such). A previous agreement existed and hence the condition is coded as one.

**Textiles:** The 1972 FTA's rules of origin provisions covered all industrial products, and hence also textiles. This was one of the few areas where significant divergences persisted amongst the EU and Switzerland. In numerous occasions in the 45 times the mixed committee of the FTA met, Switzerland expressed its disagreement with the way the EU's position towards rules of origin in the textile industry.<sup>22</sup> A previous agreement existed and hence it is coded as one.

**Obstacles to trade:** No previous agreement existed as the topic of non-tariff barriers (NTB's) was not yet part of the international agenda on 1972 when the FTA was signed. This was a crucial issue in the negotiations of the GATT Uruguay round that was completed in 1994. As no previous agreement existed it is coded as zero.

**Veterinary and phytosanitary rules:** there was a provision in the 1972 FTA that covered veterinary and phytosanitary rules. However, given that the FTA did not include agriculture, this provision could not play a significant role. As a consequence the variable takes the value of zero.

**Intellectual property:** No previous agreement existed. As a result the variable is coded as zero.

**Product liability:** No previous agreement existed. As a result the variable is coded as zero.

**Public procurement:** No previous agreement between the EU and Switzerland existed.

**Air Transport:** 14 bilateral agreements existed between Switzerland and most EU MS (France being one exception). Hence the condition is coded as one.

**Overland transport:** the 1992 transit agreement contemplated a re-negotiation in case the EEA would not enter into force which relates to the negotiations of the overland agreement. A formal commitment existed and the variable is hence coded as one.

**Research:** since 1986 an agreement between the Swiss confederation and the EU existed on research cooperation (SR 0.420.518). This allowed for Swiss participation in the EU research programs until the failure to take part in the EEA jeopardised this membership. The condition it is coded as one.

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<sup>21</sup> WEKA aktuell Nr. 1/2000 p.41

<sup>22</sup> Ochsner, A (2001) „Mitgestalten regionaler Wirtschaftsräume am Beispiel des Freihandelsabkommens Schweiz-EU“ *Die Volkswirtschaft*, 5-2001.

**Media:** Switzerland had been the first third-party state to be allowed participation in the EU's Media program through a private-law agreement<sup>23</sup> but as happened with the research agreement membership ended through the rejection of the EEA. The condition is coded as one.

**Statistics:** No previous agreement existed. As a result the variable is coded as zero.

**Mutual recognition of diplomas:** No previous agreement existed. As a result the variable is coded as zero.

**Education.** In 1991 and 1992 the EU & Switzerland signed bilateral agreements on Swiss participation in the COMETT & ERASMUS programmes of the EU. The failure of the EEA vote in 1992 prevented Switzerland from taking part to the new EU education programs. However, an exchange of letters emphasizing the will to deepen the existing "passive partnership" was made. The condition was thus present.

**Environment:** The European Environment Agency (EEA) aims at obtaining and analysing data from the different European countries. A crucial objective of the agency is to establish mutual and obligatory criteria to measure environment-related phenomena. Switzerland also funds the activities of the EEA by contributing yearly 2 Million CHF.<sup>24</sup> Given that this participation began in 1993 (parallel to the negotiations) the presence of spill-over effects cannot be affirmed. As a result the variable is coded as zero.

**Services:** No previous agreement existed. As a result the variable is coded as zero.

**Asylum and Immigration issues:** No previous agreement existed. As a result the variable is coded as zero.

**Free-movement of persons:** No previous agreement existed. As a result the variable is coded as zero.

**Agriculture:** No previous agreement existed. As a result the variable is coded as zero.

### *Demanding party*

**Rules of origin:** A Swiss demand. Even if several MS and the Commission were in favour,<sup>25</sup> the integration of Eastern Europe pushed the EU to prefer a multilateral framework.<sup>26</sup> As a consequence, the EU did not wish to pursue bilateral negotiations with Switzerland on this issue. It is coded as one for Switzerland and as zero for the EU.

**Processed agricultural goods:** Swiss demand. The EU showed a favourable disposition to negotiate on this topic from an early stage,<sup>27</sup> even if Switzerland is much more likely to benefit from the opening of this sector than the EU. The condition is coded as one for both Switzerland and the EU.

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<sup>23</sup> Thüerer/ Weber/ Portmann and Kellerhals (2007) *Bilaterale Verträge I & II Schweiz – EU: Handbuch*, (Zürich : Schulthess) p. 868

<sup>24</sup> Integration bureau (2009) *Die Bilateralen Abkommen Schweiz-Europäische Union*, p. 51

<sup>25</sup> The moment the EEA would enter into place there would be three different systems of rules of origin: a) EEA rules; b) Swiss-EC rules according to the 1972 FTA; and c) EFTA rules amongst EFTA members. It is in the interest of both parties to solve this complex situation even if it is a priority for Swiss negotiators.

<sup>26</sup> The crucial factor in this case was the integration of Eastern Europe and with it the negotiation of a pan-European system. The matter of rules of origin was solved outside the framework of the bilateral agreements. As of January 1997 a pan-European system was established which covered the EU, EFTA, the eastern European states, and later Turkey and Israel (Bonte, 1999: 23).

<sup>27</sup> NZZ 24.8.1993 "Langwieriger Weg zur bilateralen Verhandlungen in Brüssel: Sechzehn Schweizer Wünsche und noch keine Antwort der EG"

**Textiles:** Swiss demand with the Commission strongly in favour. Nevertheless, given that the EU decided to include this issue under the pan-European system (thus outside a bilateral framework) it is coded as zero for the EU. In the case of Switzerland it takes the value of one as it is the demanding party.

**Obstacles to trade (TBT):** Swiss demand. The Federal Council under its revitalisation programme pushed for a law to adapt the Swiss technical standards to those of the main economic partners in the EU. The EU was interested in Switzerland adopting European standards and hence favourable to an agreement in this area. Accordingly the position of the EU is coded as one and that of Switzerland as well.

**Veterinary and phytosanitary rules:** Swiss demand. The EU considered Swiss regulations to be insufficient. In order for the agreement on agriculture to take place, Switzerland had to adopt the EU's regulations.<sup>28</sup> Nevertheless, the EU had an interest in solving this technical problem which affected bilateral trade in agricultural products. As a consequence both EU and Swiss preferences are coded as one.

**Intellectual property:** Swiss demand. EU member states were favourable to the elements related to agriculture (e.g. Italy regarding the grappa denomination and France that of Champagne in both cases related to producers in the canton of Vaud).<sup>29</sup> The EU position is thus also coded as one.

**Product liability:** Swiss demand; even if Switzerland was preparing legislation which followed closely that of the EU, the aim was achieving a mutual waiver of importer's liability.<sup>30</sup> The EU showed little interest. The variable takes the value of one for Switzerland and zero for the EU.

**Public procurement:** Swiss demand. The MS were in favour as they were interested in the Swiss market in particular due to the prospect of interesting contracts (e.g. the multi-billion construction of NEAT). Consequently, this variable takes the value of one for both EU and Swiss cases.

**Air transport:** Swiss demand, facing fierce resistance from several MS (in particular France and Spain).<sup>31</sup> MS were against an agreement due to fears of competition and the aim to bring Swissair into an alliance with a European airline (notably the case of France). Consequently this condition takes the value of zero for the EU and of one for Switzerland.

**Overland transport:** Swiss demand and mixed support from the EU,<sup>32</sup> which intended as a general policy to avoid as much as possible limits to the north-south transit.<sup>33</sup> Both conditions thus are coded as one.

**Research:** Swiss demand: Not being part of EU programmes meant that Swiss firms would only be able to participate in EU funded research programs after passing very high hurdles, if at all.<sup>34</sup> Given the technical nature of the agreement, previous participation and Swiss financial contributions the overall position of the EU was favourable to this topic. This condition is coded as one for both Switzerland and the EU.

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<sup>28</sup> Thüerer/ Weber/ Portmann and Kellerhals (2007) *Bilaterale Verträge I & II Schweiz – EU: Handbuch*, (Zürich : Schulthess) p. 763

<sup>29</sup> Thüerer/ Weber/ Portmann and Kellerhals (2007), Pp. 769-774

<sup>30</sup> NZZ 24.8.1993 "Langwieriger Weg zur bilateralen Verhandlungen in Brüssel: Sechzehn Schweizer Wünsche und noch keine Antwort der EG"

<sup>31</sup> Schwok, R. and Levrat, N. (2001) 'Switzerland and the Seven Bilateral Agreements' *European Foreign Affairs Review*, Vol. 6, p: 341

<sup>32</sup> Schwok, R. and Levrat, N. (2001), p. 341. BAZ 28.7.1993 "Die Schweiz weisst bereits, was sie will – die EG noch nicht"

<sup>33</sup> Thüerer/ Weber/ Portmann and Kellerhals (2007) *Bilaterale Verträge I & II Schweiz – EU: Handbuch*, (Zürich : Schulthess) p. 19-20; 408

<sup>34</sup> BAZ 28.7.1993

**MEDIA:** a Swiss demand with strong support from the Commission and MS; in particular from MS sharing a language with Switzerland that are interested in co-productions (Belgium, Germany, France, Italy, Luxembourg and Austria). Accordingly, it is coded as one for both Switzerland and the EU.

**Statistics:** Swiss demand with a strong interest from the Commission as it brought Swiss statistics in line with those of EUROSTAT. It is coded as one for both Switzerland and the EU.

**Mutual recognition of diplomas:** Swiss demand. The EU was also interested in the issue, provided it was included a more far-reaching agreement on the free movement of persons, which was indeed the case. Accordingly, both Swiss and EU preferences are coded as one.

**Education:** Swiss demand: The Federal Council issued a mandate for negotiations to ensure participation in the next generation of programmes. However, the Commission expressed little interest, and the EU Council did not give any mandate to negotiate.<sup>35</sup> The condition takes the value of one for Switzerland and of zero for the EU.

**Environment:** Swiss demand. As of 1993 Switzerland had an ad hoc participation in various activities of the European Environmental Agency (EEA). Neither the Commission nor MS seem to have opposed this agreement. It is coded as one for both the EU and Switzerland.

**Services:** a Swiss demand.<sup>36</sup> The EU was favourable as it aimed to negotiate as part of the agreement sensitive issues such as those related to financial services and with it perhaps also the complex issue of banking secrecy. As a result it is coded as one both for the EU and Switzerland.

**Asylum and immigration issues:** Swiss demand. The EU was sceptical given that Switzerland asked for a derogation of the *acquis*.<sup>37</sup> Accordingly, the variable is coded as one for Switzerland and as zero for the EU.

**Free movement of persons:** EU demand. Spain (and other member states) pushed from early on for this topic to be included to compensate for Swiss demands. Switzerland was strongly against it due to the sensitivity of immigration issues in the Swiss electorate. As a result this variable takes the value of zero for Switzerland and of one for the EU.

**Agriculture:** EU demand, due to pressure from the EU agricultural lobbies.<sup>38</sup> Mediterranean MS, in particular Spain, exerted strong pressure on this issue. Switzerland could also benefit from lower prices and access to the EU market, but a far-reaching agreement would hurt the Swiss agricultural producers which are amongst the most protected in the world. The latter aimed at a very limited liberalisation, and hence the agreement from a Swiss perspective is coded as zero. In the EU case it is coded as one.

### *Strategic advantage*

**Rules of origin:** There are no geostrategic or economic considerations favourable to Switzerland. It is coded as zero.

**Processed agricultural goods:** In this area the European market is much more important for Switzerland than the Swiss one for the EU. Moreover, two thirds of Swiss agricultural exports are

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<sup>35</sup> Thüerer/ Weber/ Portmann and Kellerhals (2007), p. 35

<sup>36</sup> Thüerer/ Weber/ Portmann and Kellerhals (2007), Pp. 19-20; 408

<sup>37</sup> Message du Conseil Federal BII, p. 5619

<sup>38</sup> Thüerer/ Weber/ Portmann and Kellerhals (2007), p. 342

processed agricultural goods as opposed to only one third of those of the EU.<sup>39</sup> Therefore, Switzerland had a bigger interest than the EU in this agreement, and there are no geostrategic or economic considerations to mitigate this asymmetry. Consequently this variable takes the value of zero.

**Textiles:** As there are no geostrategic or economic considerations favourable to Switzerland in this issue it is coded as zero.

**Obstacles to trade (TBT):** There is no particular geostrategic consideration in this case, and Switzerland did not enjoy a particular advantage. The condition has been coded as zero.

**Veterinary and phytosanitary rules:** No economic or geostrategic advantages for Switzerland. It is as a result coded as zero.

**Intellectual property:** There is a certain strategic advantage for Switzerland as Swiss rules caused problems for several MS (e.g. Italy with Grappa and France with Champagne). As a result it is coded as one.

**Product liability:** There are no geostrategic or economic considerations favourable to Switzerland. It is coded as zero.

**Public procurement:** The construction of NEAT posed interesting economic prospects for EU MS. Even if there is no particular geostrategic importance the economic strength in this issue justifies coding this case as one.

**Air transport:** An agreement was necessary for Swissair's survival. A joint-venture with a European airline such as KLM or AUA was a potential alternative, but only as a second best. As there were no economic or geostrategic advantages for Switzerland the case has been coded as zero.

**Overland transport:** Switzerland's geographical position gave it leverage vis-à-vis the EU. For some MS (Italy, Austria, Germany) the economic costs of not achieving an agreement were high. Consequently the case is coded as one.

**Research:** As Switzerland had participated since the beginning in European research programs it had a relative economic (and expertise) weight. The significant number of multinational corporations and the important sums allocated to research and development in Switzerland (around 3 percent of GDP) makes it a very interesting partner for the EU and hence gives Switzerland a strategic advantage in this area. Consequently, this condition is coded as one.

**MEDIA:** There was an interest on the part of the EU partly due to the perceived high quality of Swiss productions and its multilingualism. Nevertheless, this sector is too small to give Switzerland a strategic advantage and hence the condition is coded as zero.

**Statistics:** Considering its geographic location, it made sense for Switzerland to adopt European standards. There were no particular advantages for Switzerland in this case. Consequently it is coded as zero.

**Mutual recognition of diplomas:** Given the important number of EU citizens working on the Swiss market, Switzerland enjoys a certain advantage in this area and as a consequence this condition is coded as one.

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<sup>39</sup> Roth, T (2004) L'accord sur les produits agricoles transformés: une nouvelle étape dans le libre-échange avec l'UE' *La vie économique*, November 2004, p. 11 available at : [http://www.seco.admin.ch/dokumentation/publikation/00007/00021/01614/index.html?lang=fr&download=NHZLpZeg7t,lnp6I0NTU042I2Z6ln1ae2IZn4Z2qZpnO2YUq2Z6gpJCDd3x4gGym162epYbg2c\\_JjKbNoKSn6A](http://www.seco.admin.ch/dokumentation/publikation/00007/00021/01614/index.html?lang=fr&download=NHZLpZeg7t,lnp6I0NTU042I2Z6ln1ae2IZn4Z2qZpnO2YUq2Z6gpJCDd3x4gGym162epYbg2c_JjKbNoKSn6A)

**Education:** While Switzerland has participated in the EU's education programme since the early 1990s, it cannot be considered as a strategic partner for the EU. The variable is coded as zero.

**Environment:** Switzerland has some of the most environmentally friendly policies in the continent and due to its geographical position is an interesting partner for the EU in the area of environmental protection. The variable takes the value of one.

**Services:** Strategic advantage given the relevance of the Swiss financial industry is high. It is coded as one.

**Asylum and immigration issues:** there is no alternative to an agreement with the EU. There is a certain geostrategic relevance for the EU given the location of Switzerland, but it is minor. It is coded as zero.

**Free movement of persons:** As the Swiss market is of a strong importance for the EU in this area, it is coded as one.

**Agriculture:** Swiss agricultural exports are mainly processed goods and hence Switzerland has less interest than the EU in negotiating in this area. Moreover, the high price level and high tariffs make the Swiss market very attractive for agricultural exporters in the EU. Hence, Switzerland can be considered to have an economic advantage. It is coded as one.

### *Exogenous factors*

**Rules of origin:** The EU aimed at integrating both Switzerland and the Eastern European states in a same framework. This was contrary to the aims of Switzerland which hoped for a quicker bilateral agreement. Given that these happenings affected negatively this topic (i.e. did not facilitated the inclusion in the bilateral agenda), the condition takes the value of zero.

**Processed agricultural goods:** With the conclusion of the Uruguay Round in the GATT (WTO), all border measures had to be made transparent as tariffs and reduced, as well as export support measures. This put pressure on achieving a solution with the EU as it is the main trading partner for Switzerland.<sup>40</sup> As a result this variable takes the value of one.

**Obstacles to trade (TBT):** The TBT agreement which was concluded as part of the Uruguay Round was a major step in avoiding trade discrimination on the basis of different technical regulations and Standards. The EU went further, establishing agreements with other third states such as Canada, New Zealand and the USA.<sup>41</sup> These bilateral agreements demonstrated it was possible to go beyond what had been achieved in the Uruguay round and hence reduce even more the potential for trade discrimination. Given that these factors had a positive effect in the agenda, the variable takes the value of one.

**Veterinary and Phytosanitary rules:** The Uruguay Round of the GATT (WTO) included covered this aspect through the Agreement on the Application of Sanitary and Phytosanitary Measures (or "SPS Agreement"). The SPS agreement entered into force with the establishment of the World Trade Organization on 1 January 1995. It was part of the Final Act of the Uruguay Round of Multilateral Trade Negotiations, signed in Marrakesh on 15 April 1994.<sup>42</sup> It is likely that this agreement helped in

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<sup>40</sup> Roth, T (2004) L'accord sur les produits agricoles transformés: une nouvelle étape dans le libre-échange avec l'UE' *La vie économique*, November 2004, p. 11 available at : [http://www.seco.admin.ch/dokumentation/publikation/00007/00021/01614/index.html?lang=fr&download=NHZLpZeg7t,lnp6IONTU042I2Z6ln1ae2IZn4Z2qZpnO2Yuq2Z6gpJCDd3x4gGym162epYbg2c\\_JjKbNoKSn6A](http://www.seco.admin.ch/dokumentation/publikation/00007/00021/01614/index.html?lang=fr&download=NHZLpZeg7t,lnp6IONTU042I2Z6ln1ae2IZn4Z2qZpnO2Yuq2Z6gpJCDd3x4gGym162epYbg2c_JjKbNoKSn6A)

<sup>41</sup> Schwok, R. and Levrat, N. (2001) 'Switzerland and the Seven Bilateral Agreements' *European Foreign Affairs Review*, Vol. 6, p: 344

<sup>42</sup> See: [http://www.wto.org/english/tratop\\_e/sps\\_e/spsund\\_e.htm](http://www.wto.org/english/tratop_e/sps_e/spsund_e.htm)

including the issue of veterinary and phytosanitary rules in the agenda of negotiation and as a result the variable is coded as one.

**Intellectual property:** “The Agreement on Trade-Related Aspects of Intellectual Property Rights of April 15, 1994 (TRIPS Agreement; RS 0.632.20) contains a special section dedicated to geographical indications (Part 2, Section 3). These developments are likely to have had a positive influence in the inclusion of the topic of intellectual property in the agenda of negotiations as both the EU and Switzerland sought to increase protection in this domain. It is as a consequence coded as one.

**Public procurement:** WTO negotiations opened the possibility for public procurement at the national level. However, they did not cover the local (e.g. cantonal) level. The WTO agreement was thus not an alternative, but presumably facilitated the inclusion of public procurement in the bilateral agenda of negotiations. It is as a result coded as one.

**Air transport:** The Swiss Open-Skies agreement with the US and the EC regulation on the liberalisation of the EU’s airspace meant a strong pressure to liberalise the sector was taking place. The condition is coded as one as a result.

**Asylum and immigration issues:** The war in former Yugoslavia and significant increases in the number of asylum-seekers put strong pressure on EU MS to coordinate their policy, and on Switzerland to reach an agreement with the EU on Schengen and Dublin. The variable is coded as one.

**Agriculture:** The conclusion of the Uruguay Round of the GATT (WTO) was not very satisfactory on the agricultural sector. Both parties considered that the Uruguay round did not provide an alternative for a liberalisation on areas where there is mutual interest. Even if in this area it was mainly the EU who had an interest in obtaining access to the closed Swiss market,<sup>43</sup> it is likely that the GATT negotiations by kick-starting multilateral negotiations on agriculture had a positive effect in the bilateral negotiations on this topic. The condition takes the value of one.

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<sup>43</sup> HandelsZeitung 22.09.1994, Interview with Commissioner Schidhuber on the liberalisation of the agricultural sector: ‘Bilaterale Verhandlungen mit der Schweiz, Abschluss bis Mitte 1995 möglich’.  
See also: HandelsZeitung 27.01.1994, Interview with Federal Councillor Jean-Pascal Delamuraz: ‘Revitalisierung und Verhandlungen mit der EU, Wir kommen nicht richtig vom Fleck’

## Appendix 2: Calibration of the outcomes and conditions, bilateral 2

### *Outcome*

**Processed agricultural goods:** left over. Switzerland aimed at adopting the EEA rules. The topic was negotiated bilaterally. It is as a consequence coded as one.

**MEDIA:** left over. As mentioned in the previous section, the EU had terminated Swiss participation on its MEDIA program (film, radio and television productions). Given that this issue was included in the second round of bilateral agreements its outcome takes the value of one.

**Statistics:** left-over. As mentioned, Switzerland aimed at improving its own statistics through a closer cooperation with the EU. Since this led to a bilateral agreement in the second round of bilaterals the outcome is coded as one.

**Education:** left over. While Switzerland continued to participate *ad hoc* in the EU's education programmes (see bilateral 1), it was not able to initiate any project and needed to contribute financially to the particular project in which its participation had been allowed.<sup>44</sup> The aim of Switzerland was to ensure full participation in the next generation of programmes.<sup>45</sup> However, for mostly technical reasons the topic was not negotiated in the second round of bilateral. The outcome is coded as zero.

**Environment:** left over. As of 1993 Switzerland had an ad hoc participation in various activities of the European Environmental Agency (EEA). Both parties wanted to formalise this participation. Since bilateral negotiations took part in the second round of bilateral agreements, the outcome takes the value of one.

**Services:** In the second round of bilateral, negotiations were started but due to several problems, in particular the incorporation of the *acquis* and the sensitive issue of financial services they were abandoned.

**Asylum and immigration issues:** left over. Switzerland aimed at having access to the EU's information database (SIS for Schengen Information Service) that would allow to share information on offences committed in the EU, as well as whether asylum seekers had already demanded asylum in another EU country. The topics of asylum and immigration were included in the second round of bilateral negotiations, and the outcome takes the value of one.

**Financial compensation (cohesion funds):** in the first round of bilateral agreements, following the wish-list expressed by Switzerland a financial compensation (as had been envisaged under the EEA agreement) was suggested by some MS. However, the Commission did not include this topic in its priorities. For the second round of agreements, as the negotiations with Switzerland advanced, the EU engaged in the process of enlarging towards Eastern and Southern Europe. This brought upon the Union a significant financial burden. Officially, the issue of financial compensation was not negotiated bilaterally. Nevertheless, with the completion of the second round of bilateral agreements Switzerland announced it would make a financial contribution to the integration of the new Member States of the order of about a billion CHF over ten years. As a consequence, the issue of financial compensation has been treated as part of the negotiations and is coded as one.

**Fraud:** the main emphasis of the agreement on fraud is the fight against smuggling. The most important reason behind the establishment of this agreement was the EU's aim to stop the cigarette traffic through Switzerland which was costing the EU substantial losses in terms of VAT (an important source of funding for the EU budget). The agreement also included measures against money

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<sup>44</sup> Thüerer/ Weber/ Portmann and Kellerhals (2007), p. 1230

<sup>45</sup> Thüerer/ Weber/ Portmann and Kellerhals (2007), p. 35

laundering which responded to pressures originating from a changing international environment after the terrorist attacks of 9/11. The agreement extends EU officials the same rights enjoyed by Swiss officials in the fight against smuggling (Inländerbehandlung). Cooperation in the fight against money laundering is also deepened with the agreement—even if investigations are to be carried out by Swiss officials.<sup>46</sup> The outcome takes the value of one as the issue was included in the agenda.

**Savings taxation:** the aim of the EU to establish the automatic exchange of information led to a paradoxical situation as Luxemburg, Austria and Belgium fearing an exodus of capital to Switzerland resisted the automatic exchange system unless Switzerland would be included as well. This de facto gave Switzerland a veto on the Commission's proposal and was a main reason behind the aim of the EU to negotiate a second round of bilateral agreements. Switzerland used this strategic advantage both to push for the second round of bilateral agreements (namely those 'left-overs' from the first round) and to include its own proposal based on the taxation on savings along the same lines of domestic legislation. Since the issue was included in the agenda, the outcome takes the value of one.

**Pensions:** the agreement on the free movement of persons included a component to avoid double-taxation. However, retired EU officials living in Switzerland were in a peculiar situation as they were included in a particular tax regime that was linked to the EU and not to the MS (the EU would tax them at source while they would have to further pay cantonal and communal taxes). Switzerland suggested the exemption of income tax on these retired officials and the issue was solved without any major complications through a bilateral agreement. The condition is consequently coded as one.

### *Conditions*

#### *Previous agreements*

**Processed agricultural goods:** The 1972 FTA included in its protocol 2 a provision to deal with this kind of products. The industrial component would be duty-free whereas the agricultural one would be subjected to duty on the basis of a complex evaluation of costs differentials and agricultural subsidies (i.e. this agreement did not include agriculture as such). A previous agreement existed and hence the condition is coded as one.

**Media:** Switzerland had been the first third-party state to be allowed participation in the EU's Media program through a private-law agreement<sup>47</sup> but as happened with the research agreement membership ended through the rejection of the EEA. The condition is coded as one.

**Statistics:** No previous agreement existed. As a result the variable is coded as zero.

**Education.** In 1991 and 1992 the EU & Switzerland signed bilateral agreements on Swiss participation in the COMETT & ERASMUS programmes of the EU. The failure of the EEA vote in 1992 prevented Switzerland from taking part to the new EU education programs. However, an exchange of letters emphasizing the will to deepen the existing "passive partnership" was made. The condition was thus present.

**Environment:** As of 1993 Switzerland had an ad hoc participation in various activities of the European Environmental Agency (EEA). Both parties wanted to formalise this participation. Consequently, spill-over effects can be identified and thus the condition is coded as one.

**Financial compensation:** No previous agreement existed. As a result the variable is coded as zero.

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<sup>46</sup> Thüerer/ Weber/ Portmann and Kellerhals (2007) *Bilaterale Verträge I & II Schweiz – EU: Handbuch*, (Zürich : Schulthess) p. 31

<sup>47</sup> Thüerer/ Weber/ Portmann and Kellerhals (2007) *Bilaterale Verträge I & II Schweiz – EU: Handbuch*, (Zürich : Schulthess) p. 868

**Services:** No previous agreement existed.<sup>48</sup> As a result the variable is coded as zero.

**Asylum and Immigration issues:** No previous agreement existed. As a result the variable is coded as zero.

**Fraud:** in 1997 the EU and Switzerland signed a protocol to the 1972 FTA that strengthened cooperation amongst customs officials with the aim to improve cooperation in the fight against smugglers. However, the EU considered this agreement did not go far enough and as a consequence demanded the negotiation of an agreement on fraud.<sup>49</sup> Given that spill-over effects can be identified by the existence of previous institutionalised cooperation in this area this condition takes the value of one.

**Savings taxation:** No previous agreement existed. The condition is coded as zero.

**Pensions:** Since the issue of double-taxation was part of the free movement of persons, the problem of the double-taxation of retired EU officials was discussed during the negotiations of the former.<sup>50</sup> It created an obligation to solve this problem and thence spill-over effects exist. As a consequence this variable is coded as one.

### *Demanding party*

**Processed agricultural goods:** Swiss demand. The EU showed a favourable disposition to negotiate on this topic from an early stage,<sup>51</sup> even if Switzerland is much more likely to benefit from the opening of this sector than the EU. The condition is coded as one for both Switzerland and the EU.

**MEDIA:** a Swiss demand with strong support from the Commission and MS; in particular from MS sharing a language with Switzerland that are interested in co-productions (Belgium, Germany, France, Italy, Luxembourg and Austria). Accordingly, it is coded as one for both Switzerland and the EU.

**Statistics:** Swiss demand with a strong interest from the Commission as it brought Swiss statistics in line with those of EUROSTAT. It is coded as one for both Switzerland and the EU.

**Education:** Swiss demand: The Federal Council issued a mandate for negotiations to ensure participation in the next generation of programmes. However, the Commission expressed little interest, and the EU Council did not give any mandate to negotiate.<sup>52</sup> The condition takes the value of one for Switzerland and of zero for the EU.

**Environment:** Swiss demand. As of 1993 Switzerland had an ad hoc participation in various activities of the European Environmental Agency (EEA). Neither the Commission nor MS seem to have opposed this agreement. It is coded as one for both the EU and Switzerland.

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<sup>48</sup> The agreement on the free-movement of persons included the liberalisation of border services of individuals (services transfrontaliers) for a maximum duration of ninety days per year. These were potential basis for an overarching agreement on services including banks, insurances, stocks, telecommunications, transports and professional services (Integration bureau (2001) *Nouvelles négociations bilatérales Suisse-UE : fact sheets*, p.8). However, the liberalisation of individual services did played a minor part in the mixed committee on the free movement of persons.

<sup>49</sup> Integration bureau (2009) *Die Bilateralen Abkommen Schweiz-Europäische Union*, p. 47

<sup>50</sup> Thürer/ Weber/ Portmann and Kellerhals (2007) *Bilaterale Verträge I & II Schweiz – EU: Handbuch*, (Zürich : Schulthess) p. 894-895

<sup>51</sup> NZZ 24.8.1993 “Langwieriger Weg zur bilateralen Verhandlungen in Brüssel: Sechzehn Schweizer Wünsche und noch keine Antwort der EG”

<sup>52</sup> Thürer/ Weber/ Portmann and Kellerhals (2007), p. 35

**Services:** a Swiss demand.<sup>53</sup> The EU was favorable as it aimed to negotiate as part of the agreement sensitive issues such as those related to financial services and with it perhaps also the complex issue of banking secrecy. As a result it is coded as one both for the EU and Switzerland.

**Asylum and immigration issues:** Swiss demand. The EU was sceptical given that Switzerland asked for a derogation of the *acquis*.<sup>54</sup> Accordingly, the variable is coded as one for Switzerland and as zero for the EU.

**Financial compensation (cohesion funds):** EU demand (strong lobbying from Spain representing the, at the time, poorer MS). As Switzerland would bear the financial costs, the Swiss position is coded as zero. The EU's is coded as one.

**Fraud:** an EU demand. Switzerland was somewhat favorable as the issue of smuggling was affecting its image, in particular due to a link with the financial sector (banking secrecy). However, since the EU aimed at achieving an overarching cooperation in all areas related to fraud, smuggling and other areas affecting indirect taxes, which would have included large tracts of EU legislation and jeopardised Swiss banking secrecy, Switzerland resisted strongly the approach suggested by the EU. Accordingly, this condition takes the value of one for the EU and of zero for Switzerland.

**Savings taxation:** the EU demanded the automatic exchange of information. Switzerland was opposed to it, but suggested instead a system of savings taxation in line with that which Switzerland applied domestically. Nevertheless, the Swiss proposal came as a reaction to the strong pressure exerted by the EU and consequently Swiss preferences were originally against any type of agreement in this area. Swiss preferences, consequently, are coded as zero. The EU on the other hand wanted to reach a solution to its internal impasse in the negotiations on the automatic exchange system (i.e. it needed to include Switzerland). As a result, the EU's preferences are coded as one.

**Pensions:** Both Switzerland and the EU had an interest in solving this technical issue that only affected a handful of retired EU officials living in Switzerland. The condition is accordingly coded as one for both Switzerland and the EU.

### *Strategic advantage*

**Processed agricultural goods:** In this area the European market is much more important for Switzerland than the Swiss one for the EU. Moreover, two thirds of Swiss agricultural exports are processed agricultural goods as opposed to only one third of those of the EU.<sup>55</sup> Therefore, Switzerland had a bigger interest than the EU in this agreement, and there are no geostrategic or economic considerations to mitigate this asymmetry. Consequently this variable takes the value of zero.

**MEDIA:** There was an interest on the part of the EU partly due to the perceived high quality of Swiss productions and its multilingualism. Nevertheless, this sector is too small to give Switzerland a strategic advantage and hence the condition is coded as zero.

**Statistics:** Considering its geographic location, it made sense for Switzerland to adopt European standards. There were no particular advantages for Switzerland in this case. Consequently it is coded as zero.

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<sup>53</sup> Thürier/ Weber/ Portmann and Kellerhals (2007), Pp. 19-20; 408

<sup>54</sup> Message du Conseil Federal BII, p. 5619

<sup>55</sup> Roth, T (2004) L'accord sur les produits agricoles transformés: une nouvelle étape dans le libre-échange avec l'UE' *La vie économique*, November 2004, p. 11. available at : [http://www.seco.admin.ch/dokumentation/publikation/00007/00021/01614/index.html?lang=fr&download=NHZLpZeg7t,lnp6I0NTU04212Z6ln1ae2IZn4Z2qZpnO2Yuq2Z6gpJCDd3x4gGym162epYbg2c\\_JjKbNoKSn6A](http://www.seco.admin.ch/dokumentation/publikation/00007/00021/01614/index.html?lang=fr&download=NHZLpZeg7t,lnp6I0NTU04212Z6ln1ae2IZn4Z2qZpnO2Yuq2Z6gpJCDd3x4gGym162epYbg2c_JjKbNoKSn6A)

**Education:** While Switzerland has participated in the EU's education programme since the early 1990s, it cannot be considered as a strategic partner for the EU. The variable is coded as zero.

**Environment:** Switzerland has some of the most environmentally friendly policies in the continent and due to its geographical position is an interesting partner for the EU in the area of environmental protection. The variable takes the value of one.

**Services:** Strategic advantage given the relevance of the Swiss financial industry is high. It is coded as one.

**Asylum and immigration issues:** there is no alternative to an agreement with the EU. There is a certain geostrategic relevance for the EU given the location of Switzerland, but it is minor. It is coded as zero.

**Financial compensation:** A concession from Switzerland for having access to the EU market. Since Switzerland would finance this contribution the variable is coded as one.

**Fraud:** Smuggling of cigarettes and other products posed a problem for the EU as it translated into the evasion of indirect taxes. As it is in Switzerland's power to change the situation, it enjoys of a strategic advantage and the variable is coded as one.

**Savings taxation:** as Switzerland could affect the negotiations within the EU as to the establishment of the automatic exchange of information, this is a clear case where Switzerland was in a powerful position. It had de facto a veto power on EU legislation. Consequently, it is coded as one.

**Pensions:** Since those who benefited from the agreement were former EU officials living in Switzerland, it could be argued that Switzerland enjoyed of a certain leeway on the issue. Due to its technical nature, nevertheless, this was a minor issue and hence it is hard to argue on any particular advantages. Accordingly it is coded as zero.

### *Exogenous factors*

**Processed agricultural goods:** With the conclusion of the Uruguay Round in the GATT (WTO), all border measures had to be made transparent as tariffs and reduced, as well as export support measures. This put pressure on achieving a solution with the EU as it is the main trading partner for Switzerland.<sup>56</sup> As a result this variable takes the value of one.

**Asylum and immigration issues:** The war in former Yugoslavia and significant increases in the number of asylum-seekers put strong pressure on EU MS to coordinate their policy, and on Switzerland to reach an agreement with the EU on Schengen and Dublin. The variable is coded as one.

**Services:** The attacks of 9/11 led to a tightening of banking oversight and improved efforts to combat money laundering all throughout the world. This put pressure on Swiss banking secrecy laws and consequently made the prospect of achieving an agreement which comprised financial services with the EU more attractive. As a result this variable is coded as one.

**Fraud:** 9/11 also affected the Swiss position towards smuggling as it became problematic for the Swiss international image to be labelled a promoter (through negligence) of illegal activities. As a result this variable takes the value of one.

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<sup>56</sup> Ibid.

### Appendix 3: Calibration of the outcomes and conditions, bilateral 3

#### *Outcome*

**24h Agreement:** The agreement on the transport of goods between the EU and Switzerland of 1990 regulated the oversight of goods crossing the border. The EU established new security measures applicable as of the first of July 2009 to third states. The new measures required a declaration on imports and exports to third countries prior to their import or export. The effects of this new regulation would have been significant for bilateral trade due to their economic costs and the hurdles this would have created. The so called “24 hours agreement” gives Switzerland the same treatment as that of the Member States and hence Switzerland will not be required to a prior declaration in the exchange of goods with the EU. At the same time Switzerland adopts reinforced security measures as are in place in the EU after the new regulations enter into force.<sup>57</sup> Since the issue was negotiated the outcome is coded as one.

**Electricity:** the aim is to establish common rules on the cross-border electricity market (access to networks, transit fees, security standards, green electricity). The main aim from a Swiss perspective is to maintain the strategic position of Switzerland as a hub for the European energy market whilst at the same time overcome the problems of diverging regulations amongst Switzerland and the EU’s acquis. A central problem is the adoption of the EU’s competition policy in this area which Switzerland resists.<sup>58</sup> Negotiations are currently taking place and accordingly this condition is coded as one.

**Galileo:** Switzerland as member of the European Space Agency (ESA) has taken part in the development of the Galileo project. The EU invited Switzerland to take part in the financing of the project and a full participation of Switzerland in the program is currently being negotiated.<sup>59</sup> Switzerland is ready to start negotiations; the Federal Council adopted a mandate to do so the 13<sup>th</sup> of March of 2009. The Commission is still waiting for a mandate to start negotiations. The mandate was likely to occur during the meeting of the EU’s transport ministers towards the end of June.<sup>60</sup> As a result the outcome is coded as one.

**AOC rules:** the Agriculture agreement included the protection of AOC’s for certain products such as wine and spirits. Switzerland aims at extending these for agricultural products. The Agriculture agreement also included a declaration of the two parties in which they expressed their interest in extending the AOC’s to agricultural products.<sup>61</sup> On December 2009 both parties reached a draft agreement on the issue that will protect 20 Swiss products and around 800 from the EU.<sup>62</sup> As a result the outcome is coded as one.

**Public health:** This topic is being negotiated together with the Free trade agreement on Agricultural products. Switzerland aims to be integrated in the EU’s multiple programs, agencies, and crisis prevention exercises in the area of public health. Switzerland is particularly interested in taking part in the European centre for disease prevention and control (ECDC), the European food safety authority (EFSA) and the program of community action in the field of public health. This would also translate into Swiss participation in the early warning system which oversees and regulates risks in this market (e.g. diseases, foodstuffs, or chemical products that could affect consumers).<sup>63</sup> Negotiations started on

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<sup>57</sup> Integration Bureau (2009) « Facilitation et sécurité douanières ». See also: <http://www.europa.admin.ch/themen/00500/00506/00695/index.html?lang=en>

<sup>58</sup> Economiesuisse (2007) „Beziehungen Schweiz-EU und künftige Herausforderungen“ Dossierpolitik Nummer 21, p. 8. See also : <http://www.europa.admin.ch/themen/00499/00503/00563/index.html?lang=en>

<sup>59</sup> Europabericht 2006 p.6835. See also : <http://www.europa.admin.ch/themen/00499/00503/00564/index.html?lang=en>.

<sup>60</sup> NZZ 21.06.10 „EU bereit für Galileo-Verhandlungen mit der Schweiz“

<sup>61</sup> Europabericht 2006 p.6835

<sup>62</sup> See: <http://www.news.admin.ch/message/index.html?lang=&msg-id=30794>

<sup>63</sup> Europabericht 2006 p.6835

November 2008 together with those on agriculture. Moreover, in February 2010 due to the H1N1 pandemic a first agreement was signed that improved cooperation amongst Switzerland and the European medical agency (EMA).<sup>64</sup> The outcome is as a result coded as one.

**FTA Agriculture:** Switzerland aims at the liberalisation of trade in the agricultural sector with the EU. The main aim is to deepen the partial liberalisation achieved through the agriculture agreement and the second protocol of the 1971 FTA.<sup>65</sup> Switzerland expects gains in GDP growth of 0.5% from the resulting reduction in prices. Such an agreement would not only eliminate tariff barriers but also the non-tariff barriers that still persist. The EU has shown interest in negotiating such an agreement and negotiations have started on November 2008 in this area together with those on public health, and product and food security. Since negotiations are taking place, the outcome is coded as one.

**Education:** A left-over of the first two rounds of bilateral talks. The EU integrated in 2007 its existing programs into two main ones: lifelong learning and youth in action.<sup>66</sup> Negotiations amongst the two parties on a bilateral agreement that would allow Swiss participation in this new generation of programmes started shortly after the launch of these new programmes. The outcome is thus coded as 1.<sup>67</sup>

**Cassis the Dijon:** Switzerland aimed at a mutual recognition of the Cassis de Dijon principle, according to which products that are allowed in one Member State are allowed in the whole of the EU. However, the EU did not show particular interest in including Switzerland due to political reasons. Switzerland has adapted autonomously the Cassis de Dijon principle with the aim of improving competition within Switzerland and thus reducing domestic prices as well as to motivate EU producers, to produce in Switzerland according to EU standards.<sup>68</sup> Given that Switzerland adapted autonomously to the EU's regulations, the outcome is coded as zero.

**Europol:** negotiations for the Europol agreement began in 2004. The agreement was signed on March 2006 and its area of application enlarged in 2008. It improves cooperation between police authorities in serious cases of international crime. The agreement facilitates in particular the secure and rapid exchange of strategic and operational information and the cooperation in the field of analysis. It enables Switzerland and Europol to share specialist knowledge, to participate in training activities, and to consult and to provide mutual support in cases of specific investigations. Switzerland has posted two liaison officers at Europol in The Hague to coordinate and facilitate this cooperation. The Federal Council has enlarged the scope of cooperation, which up to now has been a success, from currently eight to 25 areas of cross-border criminal activities.<sup>69</sup> Since an agreement was reached the outcome is coded as one.

**Eurojust:** the aim of Switzerland was to achieve cooperation with the European institutions engaged in the fight against international criminality. Negotiations started in April 2007 and were completed in

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<sup>64</sup> Communiqué de presse « Signature d'un accord relatif à l'échange d'informations dans le domaine des produits thérapeutiques avec l'UE » available at : <http://www.edi.admin.ch/aktuell/00705/00724/index.html?lang=fr&msg-id=31640>. See also: <http://www.bag.admin.ch/themen/internationales/07419/07460/07463/index.html?lang=en>

<sup>65</sup> Europabericht 2006 p.6835. See also <http://www.blw.admin.ch/themen/00005/00298/index.html?lang=en>.

<sup>66</sup> Lager, Gaétan (2009) „Indirekte Teilnahme der Schweiz an den EU-Bildungsprogrammen“ Staatssekretariat für Bildung und Forschung, p. 8

<sup>67</sup> The negotiations were concluded in February 2010, and the agreement is likely to enter into force in early 2011 (Communiqué de presse « Le conseiller fédéral Didier Burkhalter signe l'accord sur l'éducation entre la Suisse et l'UE » available at: <http://www.news.admin.ch/message/index.html?lang=fr&msg-id=31638>).

<sup>68</sup> Economiesuisse (2007) „Beziehungen Schweiz-EU und künftige Herausforderungen“ Dossierpolitik Nummer 21, p. 8

<sup>69</sup> <http://www.europa.admin.ch/themen/00500/00506/00783/index.html?lang=en>

March 2008.<sup>70</sup> The agreement is currently being ratified by the Swiss Parliament.<sup>71</sup> Since negotiations took place the outcome is coded as one.

**Emissions trading:** Unlike the EU, Switzerland did not introduce a cap-and-trade system but a CO<sub>2</sub>-Levy. The Swiss aim is to take part in the European emissions trade system, at least for major polluters. There is an aim on both parties to negotiate such an agreement; the sole impediments are technical.<sup>72</sup> Since the EU has positively responded to the Swiss interest in taking part of the ETS and that the Swiss government has already adopted a mandate to negotiate on this issue the outcome is coded as one.

**European Defence Agency (EDA):** The aim of Switzerland is to have access to the cooperation mechanisms that exist in the EU on the defence sector (i.e. information exchanges, and ad hoc cooperation in armaments procurement, and programs related to research and development and technology).<sup>73</sup> In June Switzerland deposed a demand for an administrative arrangement with the European Defence Agency. The steering board of the EDA is to examine the demand in mid-October 2010. Given that a mandate on the Swiss part already exists and that the EDA is examining the case negotiations are likely to occur shortly and hence the variable has been coded as one.

**Peace-keeping operations:** Switzerland has participated in a number of EU and NATO-led operations under the aegis of the Partnership for Peace (PfP) programme. These have mainly taken place in former Yugoslavia and have involved a limited number of Swiss soldiers. Nevertheless, Switzerland aims at deepening this cooperation.<sup>74</sup> Negotiations have not yet formally started and as a result the condition is coded as zero.

**REACH (chemicals):** Given the importance of the chemical industry for the Swiss economy, EU regulations that risk discriminating against Swiss products pushed Switzerland to seek for a bilateral agreement on this issue.<sup>75</sup> Since negotiations have not started on this issue the outcome is coded as zero.

**Cantonal Taxation:** A crucial interest of the EU on which Switzerland has adamantly resisted to negotiate upon: It considers the European Commission's claim that a number of cantonal measures regarding corporate taxation were in violation of the Swiss-EC free-trade agreement of 1972 as unfounded. It has nevertheless proposed domestic reforms to fulfill the EU's demands, and it has accepted to conduct a "dialogue" with Brussels on the question of corporate company taxation.<sup>76</sup> As a result it can be argued that negotiations are taking place and consequently the outcome is coded as one.

## *Conditions*

### *Previous agreement*

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<sup>70</sup> Economiesuisse (2007) „Beziehungen Schweiz-EU und künftige Herausforderungen“ Dossierpolitik Nummer 21, p. 8

<sup>71</sup> Bundesrat „Botschaft zur Genehmigung des Abkommens zwischen der Schweiz und Eurojust“ available at: <http://www.admin.ch/ch/d/ff/2010/23.pdf>. See also Available at: <http://www.europa.admin.ch/themen/00499/00503/00683/index.html?lang=en>.

<sup>72</sup> Economiesuisse (2007) „Beziehungen Schweiz-EU und künftige Herausforderungen“ Dossierpolitik Nummer 21, p. 8. See also: <http://www.europa.admin.ch/themen/00499/00503/00795/index.html?lang=en>

<sup>73</sup> Economiesuisse (2007) „Beziehungen Schweiz-EU und künftige Herausforderungen“ Dossierpolitik Nummer 21, p. 8. See also: Available at: <http://www.europa.admin.ch/themen/00499/00503/00795/00797/index.html?lang=en>.

<sup>74</sup> See <http://www.europa.admin.ch/themen/00499/00503/00798/index.html?lang=en>

<sup>75</sup> See <http://www.europa.admin.ch/themen/00499/00503/00954/index.html?lang=en>

<sup>76</sup> Available at: <http://www.europa.admin.ch/themen/00499/00503/00567/index.html?lang=en>

**24h Agreement:** The agreement rests on the basis of a previous customs agreement of 1990. The mechanisms of the agreement allowed for negotiations to take place in this area and consequently spill-over effects can be attributed. The variable is coded as one.

**Electricity:** the EU has only recently created community agencies in this area such as the Agency for the cooperation of energy regulators (ACER) or the ENTSO-E (European network of transmission system operators for electricity). For both Swiss regulators and transmission operators membership in these agencies is desired. Since no previous cooperation existed in this area there are no identifiable spill-over effects and as a result the variable is coded as zero.

**Galileo:** Since Switzerland is a member of the European Space Agency (ESA) it has taken part partially in the development of the Galileo project. Consequently, the condition is coded as one.

**AOC rules:** The Agriculture agreement negotiated in the first round of bilateral agreements included the protection of AOC's and consequently a forum existed in the mixed committee dealing with Agricultural products which could lead to functional spill-over. As a result this variable is coded as one.

**Public health:** Cooperation amongst Switzerland and the EU in this field has occurred on a case by case basis. Switzerland aims to be included in the European centre for disease prevention and control (ECDC) the European early warning response system (EWRS) and the EU health programme 2008-2013.<sup>77</sup> Since no previous participation in EU agencies existed this variable is coded as zero.

**FTA Agriculture:** The agreement on Agriculture provided a forum from which to widen the mutual duty free access of agricultural produce. The FTA is intended as a – wide-reaching – extension of the existing agreement that was negotiated during the first round of bilateral agreements. As a result, the variable is coded as one.

**Cassis de Dijon:** No forum which would allow for spill-over effects existed; as a result this variable is coded as zero.

**Europol:** the Schengen-Agreement was negotiated simultaneously as the Europol one and both improved cooperation in the judicial and police areas. Before that, however, there was no overarching agreement that would have allowed for spill-over effects to occur and hence the condition takes the value of zero.

**Eurojust:** Already during the negotiations on Schengen/Dublin and the Fraud agreement Switzerland expressed its wish to extend this type of cooperation to eurojust.<sup>78</sup> Moreover, a previous agreement existed with Europol (signed in 2006). All of these agreements have spurred cooperation amongst EU and Swiss authorities in the areas of police and judicial cooperation and hence can be considered to have provided with the type of functional spill-over considered. As a result this variable is coded as one.

**Emissions trading:** no previous agreement or forum that would allow for spill-over effects; as a result this variable is coded as zero.

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<sup>77</sup> Integrationsbüro Oktober 2009 „Verhandlungen über Landwirtschaft, Lebensmittelsicherheit, Produktsicherheit und öffentliche Gesundheit“

<sup>78</sup> Bundesrat vom 4. Dezember 2009 „Botschaft zur Genehmigung des Abkommens zwischen der Schweiz und Eurojust“ available at: <http://www.admin.ch/ch/d/ff/2010/23.pdf>

**European Defence Agency (EDA):** Switzerland has participated with other partners in selected areas covering defence. It follows its policy of security through cooperation.<sup>79</sup> However, the main cooperation amongst European states in the area of defence occurs through the European defence agency. Given that Switzerland has not participated in the activities of the EDA, no spill-over effects can be identified and as a result the condition is coded as zero.

**Peace-keeping operations:** Given that Switzerland has participated in several ESDP missions in for example Bosnia and Kosovo, there is a history of cooperation amongst the two parties. Moreover, cooperation with the EU and other NATO members has been institutionalised in the Partnership for Peace framework (PfP). Given that this cooperation is likely to have generated spill-over effects, the condition takes the value of one.

**REACH (chemicals):** The REACH directive entered into force only in June 2007 and the European Chemicals Agency (ECHA) was also founded on that year. There was no previous institutional cooperation between the two parties. Accordingly the condition is coded as zero.

**Cantonal Taxation:** the EU argues that the issue is covered under the rules of the 1972 FTA agreement which Switzerland does not accept. The issue responds to other dynamics and not to any functional spill-over. It is coded as a result as zero.

### *Demanding party*

**24h Agreement:** The agreement was a Swiss demand but given the hindrances that the new EU regulations would create to the significant bilateral trade the Commission was very favorable. It is a technical issue and hence one that did not pose any problems to be included in the agenda. Consequently, the condition takes the value of one for both the Switzerland and the EU.

**Electricity:** This was an EU demand as the 2007 blackout in Italy made the Commission rethink its energy policies. Given Switzerland's location it is important for the EU's strategy to include the country. On the Swiss side, there is also an interest as Switzerland is highly dependent on the European market. However, since the demand was made by the EU and not by Switzerland the condition is coded as one for the EU and as zero for Switzerland.

**Satellite navigation (Galileo):** this was also a demand made by Switzerland but one which given the financial contributions and previous participation the EU strongly supports. As a consequence the condition takes the value of one for both the EU and Switzerland.

**AOC rules:** Swiss demand with a strong interest from the EU. The agreement would protect around 20 Swiss denominations of origin for Switzerland and around 800 for the EU.<sup>80</sup> Both parties had a strong interest in extending an issue that had already been partially negotiated as part of the Agriculture agreement on the BI. As a result the condition takes the value of one for both the EU and Switzerland.

**Public health:** since Switzerland aimed at participating in the European Centre for Disease Prevention and Control (ECDC); the Early Warning and Response System (EWRS); the current Health Programme (HP 2008-2013); and the Executive Agency for Health and Consumers (EAHC) it was the demanding party. Given that these EU agencies are likely to benefit from Swiss financial contributions, cooperation and expertise, the EU has had a positive response. As a result the condition takes the value of one for both the EU and Switzerland.

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See:  
[http://www.europa.admin.ch/themen/00499/00503/00795/00797/index.html?lang=de&download=NHZLpZeg7t,lnp6I0NTU042I2Z6lnIacy4Zn4Z2qZpnO2Yuq2Z6gpJCDdYB2hGym162epYbg2c\\_JjKbNoKSn6A--](http://www.europa.admin.ch/themen/00499/00503/00795/00797/index.html?lang=de&download=NHZLpZeg7t,lnp6I0NTU042I2Z6lnIacy4Zn4Z2qZpnO2Yuq2Z6gpJCDdYB2hGym162epYbg2c_JjKbNoKSn6A--)

<sup>80</sup> Hotelrevue 17.12.2009 „Emmentaler: Sorte oder Käse aus dem Emmental?“ Available at: <http://www.htr.ch/htr-online/emmentaler-sorter-oder-kaese-aus-dem-emmental-17957.html>

**Free trade in agriculture:** since the first round of bilateral agreements the EU has aimed at accessing the Swiss market. Switzerland began exploring the possibilities and consequences of such an agreement on June 2006. In July 2007 the Federal Council suggested aiming at negotiations in this sector together with those on public health. The EU commission for its part completed its own review process on January 2008.<sup>81</sup> Given that this was a long standing demand of the EU, both pdEU and pdCH are coded as one.

**Cassis de Dijon:** a Swiss demand that was met with little interest from the Commission. As a result it is coded as one for Switzerland and zero for the EU.

**Europol:** a Swiss demand related to the negotiations on Schengen and Dublin and hence met with a positive response from the EU. The condition is coded as one for both the EU and Switzerland.

**Eurojust:** Swiss demand which the EU in favor as it was part of a process of extended cooperation in the fields of police and justice that had begun with the negotiations of the Schengen-Dublin agreement. The condition is coded as one for both the EU and Switzerland.

**Emissions trading:** Switzerland demanded to be included in the European emissions trade system. Since the EU aims at including as many parties as possible in its efforts to reduce emissions the Swiss demand was received positively. As a result the condition is coded as one for both the EU and Switzerland.

**Cooperation with the European defence agency (EDA):** a Swiss demand, Switzerland aims at the cost reduction and efficiency gains that cooperation with the EDA would bring. There seems to be some interest on the part of the EU. As a result the condition is coded as one for Switzerland and as one for the EU.

**Peacekeeping operations:** EU demand, Javier Solana invited Switzerland in October 2004 to establish a framework agreement on Swiss participation in ESDP operations which until then had only occurred on an ad hoc basis. The EU has established such an agreement with most other third states that participate in ESDP missions.<sup>82</sup> Switzerland responded positively. However, since this is an EU demand it takes the value of one for the EU and of zero for Switzerland.

**REACH (chemicals):** a Swiss demand due to the new regulations that have important effects on both Swiss importers and exporters. For importers, the new regulation is likely to take around 30% of the products now produced in the EU out of the market. For exporters, the new regulations mean that those products that do not comply with REACH will not be allowed in the single market.<sup>83</sup> Given that there is a significant bilateral trade in this sector, it is likely that the EU has an interest in including Switzerland in its regulatory framework and on the European Chemicals Agency. Given these reasons the condition takes the value of one for both the EU and Switzerland.

**Cantonal taxation:** an EU demand given what the EU considers being unfair competition. Switzerland is strongly against, mainly due to the reason that this issue touches upon cantonal policies

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<sup>81</sup> Integrationsbüro 2008 „Verhandlungen Schweiz-EU für ein Freihandelsabkommen im Agrar- und Lebensmittelbereich (FHAL); Verhandlungen Schweiz-EU für ein Abkommen im Bereich der öffentlichen Gesundheit (GesA). Ergebnisse der Exploration und Analyse März 2008“ Available at: [http://www.blw.admin.ch/themen/00005/00298/index.html?lang=de&download=NHZLpZeg7t,Inp6I0NTU042I2Z6ln1acy4Zn4Z2qZpnO2Yuq2Z6gpJCDeoB,hGym162epYbg2c\\_JjKbNoKS6A--](http://www.blw.admin.ch/themen/00005/00298/index.html?lang=de&download=NHZLpZeg7t,Inp6I0NTU042I2Z6ln1acy4Zn4Z2qZpnO2Yuq2Z6gpJCDeoB,hGym162epYbg2c_JjKbNoKS6A--)

<sup>82</sup> Integrationsbüro 2010: Friedensforderung. Available at: [http://www.europa.admin.ch/themen/00499/00503/00798/index.html?lang=de&download=NHZLpZeg7t,Inp6I0NTU042I2Z6ln1acy4Zn4Z2qZpnO2Yuq2Z6gpJCDdYB3fGym162epYbg2c\\_JjKbNoKS6A--](http://www.europa.admin.ch/themen/00499/00503/00798/index.html?lang=de&download=NHZLpZeg7t,Inp6I0NTU042I2Z6ln1acy4Zn4Z2qZpnO2Yuq2Z6gpJCDdYB3fGym162epYbg2c_JjKbNoKS6A--)

<sup>83</sup> Integration Bureau: February 2001 „REACH: Informationsblatt“ available at: [http://www.europa.admin.ch/themen/00499/00503/00954/index.html?lang=de&download=NHZLpZeg7t,Inp6I0NTU042I2Z6ln1acy4Zn4Z2qZpnO2Yuq2Z6gpJCDdYJ5fmym162epYbg2c\\_JjKbNoKS6A--](http://www.europa.admin.ch/themen/00499/00503/00954/index.html?lang=de&download=NHZLpZeg7t,Inp6I0NTU042I2Z6ln1acy4Zn4Z2qZpnO2Yuq2Z6gpJCDdYJ5fmym162epYbg2c_JjKbNoKS6A--)

and as a result on Swiss federalism. As a result this condition is coded as one for the EU and zero for Switzerland.

### *Strategic advantage*

**24h Agreement:** There were no strategic advantage for Switzerland and hence the condition takes the value of zero.

**Electricity:** Given Switzerland's geographic position and the aim of the EU to avoid a blackout as happened in Italy in 2003, Switzerland enjoys of a strategic position. As a result the outcome is coded as one.

**Satellite navigation (Galileo):** given that Switzerland has been a significant contributor, both financially and in terms of expertise it is an area where it enjoys of a strategic advantage vis-à-vis the EU. As a consequence the condition is coded as one.

**AOC rules:** Since Switzerland did not enjoy any particular advantages on this dossier the condition is coded as zero.

**Public health:** Even if Switzerland would contribute financially and in terms of expertise to the different EU agencies in this sector, the relevance of this cooperation is not such that Switzerland would have a strategic advantage. As a consequence this condition is coded as zero.

**Free trade in agriculture:** Given the high price level in Switzerland and the high tariffs that long have existed vis-à-vis EU agricultural exporters this is an interesting market for the EU. As a consequence, Switzerland can be considered to have a strategic advantage on this issue and the variable is coded as one.

**Education:** While Switzerland has participated in the EU's education programme since the early 1990s, it cannot be considered as a strategic partner for the EU. The variable is coded as zero.

**Cassis de Dijon:** Even if the mutual recognition of the cassis de Dijon principle would give EU products the same status, the size of the Swiss market is not such as to be a strong incentive for the EU to do so. As a result the condition takes the value of zero.

**Europol:** Switzerland had no particular advantage in this area. As a consequence the condition is coded as zero.

**Eurojust:** Switzerland had no particular advantage in this area. As a consequence the condition is coded as zero.

**Emissions trading:** Even if Switzerland has been committed to the reduction of emissions and that it has some of the most environmentally friendly policies within the European states, it did not introduce a cap and trade system but a CO2 Levy. Hence, it does not enjoy any particular advantages. The condition is coded accordingly as zero.

**Cooperation with the European defence agency (EDA):** Even when the Swiss armaments industry is competitive and innovative, its relative importance compared to that of the members of the EDA is not such as to give Switzerland a particular strategic advantage. As a result the condition takes the value of zero.

**Peacekeeping operations:** Considering that Swiss participation is not essential for any ESDP operation it is hard to argue that Switzerland enjoys of a strategic advantage in this area. Consequently the condition takes the value of zero.

**REACH (chemicals):** Given that the Swiss chemical industry is strongly related to that of other MS such as Germany, Switzerland enjoys a certain strategic advantage. As a result the condition is coded as one.

**Cantonal taxation:** As it is Switzerland who has to modify its legislation, it enjoys of a certain leeway. While the EU has exerted enormous pressure in this issue, it is in Switzerland's power to change the status quo. Hence the condition is coded as one.

### *Exogenous factors*

**Public Health:** The H1N1 crisis is likely to have contributed positively in the negotiations amongst the two parties on health. It led to an agreement amongst Switzerland and the European medical agency. As a result the condition is coded as one.

**Free trade agreement in the Agricultural sector:** The WTO Doha round of trade negotiations puts pressure on the Federal Council to liberalize agriculture. As the integration bureau argues: "In the framework of the WTO Doha Round, Switzerland would be forced to significantly lower its currently high level of protection in the agricultural sector – gaps in this protection have already appeared. The envisaged agreement is expected to secure jobs in agriculture and in the upstream and downstream sectors in the long term, by opening up new markets for the agro food industry and by increasing its competitiveness."<sup>84</sup> As a result the condition takes the value of one.

**Europol:** The risks related to international terrorism after the 9/11 attacks have pushed for police and judicial cooperation. Europol aims at preventing and combating terrorism, unlawful drug trafficking and other serious forms of organized crime. Given that these new threats impacted in the formation of Europol and the Swiss demand to participate in this agency the condition takes the value of one.

**Eurojust:** as with Europol, behind the creation of Eurojust was the recognition by the Council of the need to combat terrorism and serious crime at a supranational level.<sup>85</sup> External factors were also likely to play a role for the the inclusion of this topic in the agenda of negotiations and as a result this condition is coded as one.

**Emissions trading:** The growing awareness of the need to combat climate change and the ensuing rounds of climate change talks has pushed countries to reduce emissions and adopt stricter environmental regulations. Hence, international climate negotiations are likely to have had a positive effect in the start of bilateral negotiations in this area. As a result the condition is coded as one.

**Peacekeeping operations:** The past decade has seen a rise in the number of peacekeeping operations, whether EU, NATO or UN led. This follows from structural factors, notably the break-up of states such as Yugoslavia and instability in areas of the former Soviet Union. These factors have undoubtedly contributed to the proliferation of peacekeeping missions and to the aims both of Switzerland and the EU to participate in such operations. They were also likely to contribute to the inclusion in the agenda of negotiations of a peacekeeping agreement. The condition is accordingly coded as one.

**Cantonal taxation:** The fight against tax evasion launched by the G-20 and the OECD has put strong pressure to financial centres such as Switzerland to change its way of operation. This has weakened

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<sup>84</sup> Integration bureau, October 2009 "Negotiations on agriculture, food safety, product safety and public health" Available at: [http://www.bag.admin.ch/themen/internationales/07419/07460/07463/index.html?lang=en&download=NHZLpZeg7t,lnp6I0NTU04212Z6ln1ad1IZn4Z2qZpnO2YUq2Z6gpJCHfYB7e2ym162epYbg2c\\_JjKbNoKSn6A--](http://www.bag.admin.ch/themen/internationales/07419/07460/07463/index.html?lang=en&download=NHZLpZeg7t,lnp6I0NTU04212Z6ln1ad1IZn4Z2qZpnO2YUq2Z6gpJCHfYB7e2ym162epYbg2c_JjKbNoKSn6A--)

<sup>85</sup> See: Eurojust, the history of Eurojust, available at : <http://www.eurojust.europa.eu/about.htm>

the Swiss position on the issue of cantonal taxation and is likely to have helped in reaching an informal agreement through which Switzerland is in the process of modifying internal legislation to respond to the demands made by the EU. As a result the condition takes the value of one.