Monograph

Switzerland in Europe
Policy options toward EU

Author(s):
Keiner, Marco

Publication Date:
2005

Permanent Link:
https://doi.org/10.3929/ethz-a-004995540

Rights / License:
In Copyright - Non-Commercial Use Permitted
MARCO KEINER
ETH ZÜRICH
JUNE 2005

SWITZERLAND IN EUROPE

POLICY OPTIONS TOWARD EU


## CONTENT

1) INTRODUCTION

2) DEVELOPMENT TRENDS OF THE EUROPEAN UNION AND SWITZERLAND
   2.1) Switzerland and Europe
   2.2) Assumptions on overall future development trends
   2.3) Economic and Population Trends in Switzerland

3) THE EUROPEAN POLICY OF THE SWISS FEDERAL COUNCIL

4) STAGES OF SWISS EUROPEAN POLICY
   4.1) First Stage: from the end of World War II to the foundation of EFTA
   4.2) Second Stage: from the free trade agreement to the Single European Act
   4.3) Third Stage: Switzerland seeks its place in the Europe of the 21st century
   4.4) EEA participation
   4.5) Switzerland remains outside

5) EU ACCESSION
   5.1) Identity, independence, federalism and people’s rights
   5.2) Prosperity
   5.3) Switzerland’s Position in the world
   5.4) Internal security
   5.5) Contribution of Switzerland to the economic and social cohesion of the enlarged EU
   5.6) Reasons for and against EU accession

6) BILATERAL AGREEMENTS I BETWEEN SWITZERLAND AND THE EUROPEAN UNION OF 1999
   6.1) Research
   6.2) Public procurement
   6.3) Technical barriers to trade
   6.4) Agriculture
   6.5) Civil aviation
   6.6) Overland transport
   6.7) Free movement of persons
   6.8) Legal and institutional framework

7) BILATERAL AGREEMENTS II SWITZERLAND – EU
   7.1) Parallelism of negotiations
   7.2) Political agreement
   7.3) Balanced overall result
   7.4) Next steps: Signature and approval
   7.5) Overview of Bilateral Agreements II Switzerland - EU
1) INTRODUCTION

In Europe and the World, Switzerland is associated with features like

- Direct democracy
- Fiscal paradise
- Neutrality
- Specific high quality products (watches, chocolate, cheese, and manufacturing)
- Transit corridor between Western Europe and Italy, and
- The divide between its Government (the Federal Council) and its population in regard of joining the European integration process

This text will highlight the political and economic relations between Switzerland and the European Union and show the process and the state of the mutual negotiations of coming together.

It is a compilation of the following official documents:


Swiss Integration Office DFA/DEA: Explanatory documents on Swiss European policy; http://www.europa.admin.ch/europapol/expl/e/index.htm

Swiss Integration Office DFA/DEA: Bilateral Agreements I; http://www.europa.admin.ch/ba/e/index.htm

Swiss Integration Office DFA/DEA: Bilateral Agreements II; http://www.europa.admin.ch/nbv/e/index.htm

2) DEVELOPMENT TRENDS OF THE EUROPEAN UNION AND SWITZERLAND

2.1) Switzerland and Europe

The process of European integration has entered a new important phase. Eight central and eastern European countries, together with Malta and Cyprus, have joined the EU in 2004. A further two countries from eastern Europe, Bulgaria and Rumania, and most probably Turkey as well, are set to become members at a later date. The European Single Market has become more clearly defined with the introduction of the common currency.

Overall, Europe is finding its way towards a state of political and economic order that will
bring it peace, stability and prosperity. Apart from the European Union (EU), NATO remains a stabilising power factor complemented by the mechanisms of the OSCE (Organisation for Security and Cooperation in Europe).

The EU is the most important partner of Switzerland - politically, culturally and economically. The EU and Switzerland are founded on common fundamental values such as democracy, regard for human rights and a constitutional state. The EU is by far the most important trading partner of Switzerland: three-fifths of Switzerland’s exports are sent to EU countries, while four-fifths of Switzerland’s imports come from there.

Switzerland also has close contractual ties with the European Union. 1972 saw the conclusion of the Free Trade Agreement (for industrial products), while seven bilateral agreements were signed in 1999 in the areas of free movement of persons, overland transport, air transport, agriculture, research, and technical barriers to trade and public procurement. These bilateral agreements came into force on 1 June 2002. Further negotiations in nine new areas (Bilaterals II) have been concluded on a political level on 19 May 2004.

2.2) Assumptions on overall future development trends

Over the last 15 to 20 years, the basic international conditions for the Swiss economy and society but also for federal policy have radically changed. Technological advances in transportation, in electronics and in their areas of application such as IT and telecommunications, in the development of transport infrastructure and the lowering of transportation costs, as well as the sustained trend towards liberalisation, increasing international competition through the reduction of trade and customs barriers, particularly also at regional level (EU, NAFTA, etc.) increasingly enable companies, institutions and individuals to extend their activities to the regional and global level. The end of the Cold War and the transformation of the former planned economy state block have had a legitimising, reinforcing and accelerating effect. These developments form the foundation for an exceedingly manifold and complex process, which for simplicity’s sake is referred to in this report as ‘globalisation’. Many developments evolving today will probably not fully unfold before the first or second decade of the 21st century, but are still fraught with considerable uncertainties and could cause far-reaching global structural changes (new technological system, further integration of the global economy through multi-national enterprises, shift in the balance of global economic power, accentuation of global environmental problems, etc.).

From Switzerland’s point of view, globalisation possibly finds its greatest expression in the momentum of European integration. The countries of Europe see European integration primarily as Europe’s answer to the increasingly global challenges. In the 1990s, the EU was enlarged to include Sweden, Finland and Austria and has been consolidated with the treaties of Maastricht, Amsterdam and Nice. The most evident changes in recent years have been Economic and Monetary Union with a common central bank and the highly symbolic single currency, as well as the efforts to establish a Common Foreign and Security Policy including a European Security and Defence Policy. The coming years will be characterised by the structural reform of the EU and the arrival of new Member States. The accession to the EU of eight Central and Eastern European states together with Malta and Cyprus is set to take place in 2004. Two further Eastern European countries (Bulgaria and Romania) and possibly Turkey should be able to join at a later date.

The consequences of globalisation and the progressive enlargement and consolidation of the
European integration process are already evident in Switzerland today and it can be assumed that they will continue to intensify. Considerations on Swiss trends and future challenges are, therefore, inseparably linked to assumptions regarding overall international conditions, while because of the emerging cooperative global integration movement at two levels (cooperation within and between global regions), a distinction is made between global and a European level for practical reasons.

Developments in the international environment over the coming ten years:

- Slightly accelerating economic growth at both the global and the European level, however, with the possibility of temporary setbacks; weaker growth in Asia as compared to the early 1990s; initially only a slight shift in balance of power within the global economy.
- Continuous reinforcement of global networks within or between various companies and research institutions through alliances, mergers etc; further increasing mobility of capital within the frame of liberalised and highly modern capital markets; sustained intensity of geographic competition in particular between OECD countries, but also with the emerging markets.
- Accelerating modernisation processes towards the information, knowledge and service society, especially in OECD countries.

The central foreign policy questions and problems that Switzerland will have to confront in the coming decade have to some extent been part of the fields of Swiss foreign policy activities for some years already. Swiss foreign policy is characterised by continuity and calculability. Switzerland will concern itself with most of the existing and future international challenges. It too will be required to reach political decisions and undertake social adjustments as a result. Switzerland has the strength and vitality to respond to these challenges independently. In so far as these challenges are of significance for foreign policy, it certainly cannot claim to have ready answers to every question. But one essential observation surely emerges: these global issues far exceed the capacity of an individual state to respond and find solutions. If Switzerland wishes to make any contribution to the realisation of global responses, it will only be able to do so in close collaboration with other states. The fact that these “other states” are, in Switzerland’s case, primarily the states of Europe is clear on the basis of common values, traditions, convictions and interests. Self-righteousness and absence can endanger the country's major interests.

2.3) Economic and Population Trends in Switzerland

In the even tougher international competition in terms of location and market share, Switzerland appears to be in a good position judging from cross-sectional data, but judging from longitudinal data (development trends of productivity, investments, income, taxes, etc.) its position is less favourable. Unrestricted access to the EU market is vital for Switzerland’s economic development.

As a result of the introduction as planned of Economic and Monetary Union in 1999 there was initially a sideways development in the exchange rate of the Swiss franc to the Euro. From mid-2000 there was an appreciation of the Swiss franc, which has continued and is set to put a strain on the Swiss export economy. However, Swiss exports obtained easier access to the European single market when the bilateral agreements came into force in June 2002, which provides some compensation.
The assumption is that a high level of private consumption and a growth in exports of 2.2% in the period up to 2015 will result in average economic growth of 1.5% per annum.

The traditional leading sectors of the Swiss economy (chemical industry, precision instruments and watches, banking and insurance) are expected to maintain their competitive edge. They are the linchpins of economic prosperity. Rationalisation and restructuring will continue in the wake of European Monetary Union and further service industries such as banks, insurance and management consultancies will be affected. Certain traditional industries such as mechanical engineering and metal processing could experience a renaissance. Others are on the threshold of technological innovations (IT, communications). In the future there is likely to be increased demand in the health sector. It is anticipated that jobs are more likely to be created in sectors catering to the domestic market, which are less exposed to the pressures of international competition. The tertiarisation of the economy will increase, not least on account of the fact that many new occupational images in the industrial sector are taking on the character of services as a result of the new ICT. It cannot be ruled out that Switzerland could degenerate into a dual economy with dynamic sectors characterised by high productivity and few available jobs and sectors with lower productivity, which can offer employment, to a certain extent on account of state funding mechanisms and regulations, but do so under unfavourable working conditions.

The construction industry can keep ticking over in the event that major government investments (Rail 2000, NRLA, national road construction) are realised and due to essential maintenance of existing buildings. There is no expectation of a boom as the weak development of demand in the construction of housing (population development is the main reason here) and overcapacities in the industrial-commercial sector are likely to continue to have a dampening effect.

International competition in the tourism sector between the different holiday destinations in response to the globalisation processes will remain and the changed security situation will have an influence on visitor figures. In the medium term further restructuring and adjustment processes in this sector can be expected.

As a result of the increasing number of gainfully employed persons and stable economic growth as well as the smooth operation of the labour market, unemployment will fluctuate around the 3% mark depending on the economic trend. Productivity will only be able to grow to about 1.5% per annum under the same competition conditions.

The clearly discernible trend since the 1990s towards flexibilisation of the labour market will continue. The number of invalidity cases and welfare claimants (welfare offices) offsets this.

**Location attractiveness of Switzerland:**
- Losing ground
- Unrestricted access to EU market is key

**Exchange Rate:**
- Franc goes from strength to strength
- Easier access to European domestic market

**Economic growth:**
- 1.5% pa on average up to 2015
Structural change:
- Existing market leaders remain linchpins of economic growth
- Increased pressure due to EMU
- Continuing tertiarisation of the economy
- Accentuation of dual economic structure?

Construction industry:
- Stabilisation in the event that major projects are realised

Tourism sector:
- Further restructuring

Labour market 1:
- Unemployment level to remain below 3% to 2007, then slight fall possible

Labour market 2:
- Flexibilisation to continue

3.) THE EUROPEAN POLICY OF THE SWISS FEDERAL COUNCIL


In its Foreign Policy Report of 15 November 2000 the Federal Council set out its long-term aim of taking Switzerland into the EU as well as the three preconditions for the commencement of entry negotiations:

Firstly: Switzerland first wishes to gather experience with the seven bilateral agreements from 1999. It wants to see how these agreements work out in practice.

Secondly: The effects of joining the EU on central areas of Swiss statehood must be thoroughly clarified and convincing answers found to any outstanding questions. The Federal Council will publish a report on the pros and cons of EU membership in the second half of this legislative period outlining the consequences for the country’s federalism, popular rights, neutrality, system of government organisation, finances, economic and monetary policy, agriculture, migration policy, not to mention its foreign and defence policy.

Thirdly: There needs to be broad domestic support for the aim of EU entry.

On 4 March 2001 the people and the cantons overwhelmingly rejected the popular initiative "Yes to Europe!". This initiative was intended to oblige the Federal Council to open immediate negotiations on entry to the EU. Voters heeded the Federal Council’s recommendation to
reject this popular initiative because the preconditions for the commencement of negotiations on entry to the EU had not yet been met.

The Federal Council reaffirmed the key elements of its European policy after the vote on 4 March 2001:

• in the short term, the implementation of the seven bilateral agreements, their extension to the ten new EU Member States and the conclusion of the second series of negotiations are the top priority.
• in the medium term, priority will be given to obtaining approval of the second series of agreements by the Federal Assembly and the Swiss people and their subsequent implementation.
• the longer-term aim of the Federal Council’s European policy is to take Switzerland into the European Union. The Federal Council is convinced that in the long-term Switzerland can better safeguard its interests within the EU than outside it. Today, many problems can no longer be resolved through the lone actions of individual states, but only in acting together at European level.

4) STAGES OF SWISS EUROPEAN POLICY

Switzerland has consistently adopted a European policy aimed at closer cooperation with the other nations of Western Europe. At each step it has been careful to ensure that this policy is firmly anchored in public law and intergovernmental agreements. It nonetheless followed the development of European integration in the supranational framework of the European Community (EC) with scepticism, preferring a European free trade area, as indeed did the United Kingdom. The European Community (EC), the objective of which was to reconcile the belligerents of the two world wars, in particular France and Germany, and to prevent any further outbreak of conflict between participating countries, was created without any thought being given to Swiss participation. And indeed Switzerland had never seriously considered joining, nor had its membership been sought by the EEC member nations. Quite the opposite in fact, since the demand for association which Switzerland eventually presented in 1962 was put in a bottom drawer due to the influence exerted by the French President Charles de Gaulle. Switzerland thus ran the risk of being cut off by customs barriers from its principal trading partner, Germany. This problem was not overcome until Switzerland signed a free trade agreement with the EC in 1972. Although the United Kingdom joined the Community in 1973, seven years of stagnation in the process of European integration made it possible for Switzerland to just coast along without feeling any real pressure to negotiate.

However the conclusion in 1985 of the Single European Act and the effective creation of the single market with the four freedoms (freedom of movement of persons, goods, services and capital) that resulted from this, forced Switzerland and the other countries of the European Free Trade Association (EFTA) to reconsider their position, eventually leading at the end of the 1980s to negotiations for the creation of a European Economic Area (EEA) based on the same four freedoms. Ultimately however the limited objectives which the EFTA states had set for themselves in these negotiations were overtaken by a number of major events that re-shaped the world: the fall of the Berlin Wall, the collapse of the Soviet Union, and the super-powers' renunciation of their Cold War commitments in Germany and Europe. It became clear to all the states of the "old continent" that henceforth they must themselves accept responsibility for peace and prosperity in Europe, for indeed there was no other choice. The vast majority
of EFTA countries (Austria, Finland, Sweden, Norway and Switzerland) consequently decided to apply for membership in the European Union. Switzerland suspended its application in 1992, after the Swiss electorate rejected the government's proposal to join the EEA.

In Switzerland's case relations with the EU were eventually to be given a new lease of life by the decision to seek sector-by-sector bilateral agreements. After lengthy negotiations, seven such agreements were signed with the EU in 1999. These were approved by a large majority of the electorate in the referendum of May 2000. The agreements came into force on 1 June 2002. Further bilateral negotiations between Switzerland and the European Union on ten new areas are also in course since June 2002.

4.1) First Stage: from the end of World War II to the foundation of EFTA

At the end of the Second World War, there was great need for political and economic unity in Europe. Switzerland however did not feel tempted to participate in the West European integration process, for her economy was flourishing and the policy of neutrality had proven its worth. Its leaders therefore decided against joining the European Council at the time of its creation in 1949 as the first step towards a federation of European states. It was not until the Treaty of Rome did found the European Economic Community in 1957 that her hesitation about joining the European Council was finally overcome. The Confederation became a member of the European Council in May 1963.

An event of singular importance to the Swiss economy occurred in 1960 with the creation of the European Free Trade Association, EFTA. When France opposed the idea of extending the six-member EEC, the United Kingdom, Denmark, Norway, Sweden, Austria, Portugal and Switzerland decided it was time to get together to defend their economic interests and create a free trade area of their own. Some of these nations, the UK and Denmark in particular, saw it as a transitional step. Switzerland on the other hand had its eye on a free trade agreement with the EEC. Thus it was that in the Sixties, Switzerland laid the foundations of a policy based on step-by-step pragmatism in the context of bilateral negotiations. The coordination instrument of this pragmatic policy would be the Integration Office DFA/DEA, created in 1961.

4.2) Second Stage: from the free trade agreement to the Single European Act

In 1972, Switzerland achieved one of her goals in the form of a free trade agreement (FTA) with the EEC. While ensuring that Switzerland would not be left entirely out of the EC integration process, this agreement did not require relinquishing any sovereignty, and also left it open for the Swiss to negotiate additional trade agreements. The only institution the partners had in common was the Joint Committee, which was not however endowed with any supranational powers. This arrangement allowed Switzerland to keep intact its neutrality, federalism and direct democracy. The FTA allowed plenty of scope for new agreements. Over the next 20 years, Switzerland took full advantage of this leeway, concluding well over 100 special bilateral treaties with the EC. Most of these involved trade in goods. The two sides did have talks on other key policy areas however, such as transport, the environment, research and development. And they reached several understandings in these areas too. The participation of Switzerland in the Community's efforts to co-ordinate standardisation is also worth mentioning in this context.
This sector-by-sector approach, at the level of bilateral negotiations, was seen as the most viable solution over the long term. It was thanks to the success of this approach, in the atmosphere of economic and political crisis that prevailed within the EEC at the beginning of the 80s, that there would be no need for serious discussion on the "Europe question" in Switzerland for many years to come. Despite intensification of the West European unification process, culminating in the Single European Act (SEA) of 1986, this state of affairs continued in Switzerland.

It was only with the Swiss people's decision not to become a member of the United Nations that same year that doubts began to set in, being first expressed in the French-speaking cantons of western Switzerland, fearful of the country's increasing isolation. But concern was also spreading in the rest of the country, which was as much worried by the prospect of economic discrimination as by political isolation. This resulted in a more active policy on Europe, and efforts to ensure the compatibility of all new Swiss legislation with the laws of the EC (the so-called Acquis Communautaire), which began in May 1988. In August of the same year, the Federal Council published its first major report on Europe, entitled "Switzerland's position on the European integration process". In this document, while advocating an integration policy based on sector-by-sector negotiations, the Federal Council recognised that times had changed, and admitted for the first time that full EC membership should not be categorically ruled out.

4.3) Third Stage: Switzerland seeks its place in the Europe of the 21st century

In January 1989, Jacques Delors who was still President of the European Commission, presented his EEA project to the European Parliament in Strasbourg. Switzerland's dream of a "golden mean" solution seemed to be coming true, for the EEA would require neither a common policy with regard to third countries, nor a common economic and monetary policy. Moreover, there would be little need to adapt Swiss legislation. Switzerland was also ready to accept the Single European Market part of EC law (Acquis Communautaire) as the sole basis for negotiations, on the condition that she be granted the right to participate in the legislative decision-making process. It was at this point, at the end of 1989, that the bargaining began, on the one hand between the EC and EFTA, but also between the different EFTA partners, which had been unable to agree on a unified negotiating position. It was not until October 1991, in Luxembourg, that the breakthrough came, which allowed Switzerland to share in the so-called four freedoms (the free movement of goods, persons, services and capital). Following the sweeping changes that had been wrought in the world's political map, EEA membership could no longer be said to really meet Switzerland's interests, except partially. For the situation of the countries of Eastern Europe had changed entirely, the Soviet Union had crumbled, and the superpowers no longer had the same engagements in Germany and Europe. In any case the EEA agreement did not allow Switzerland to participate in the decision-making process. After signing the EEA agreement in Porto on 2 May 1992, the Federal Council submitted its request for EU membership to Brussels on 26 May 1992. The Swiss government's "Eurolex" programme, aimed at bringing Swiss law into line with that of the EC, was unveiled on 1 June.

Less than two months later however (6 December 1992), the EEA option was rejected by 50.3% of the electorate, as well as by 14 cantons and four half-cantons. The government interpreted the result as a mandate to eliminate or at least to minimise the main disadvantages of Switzerland's continued non-participation in the EEA, by negotiating agreements with the EU, sector by sector. At the same time, the government decided that a revitalisation programme
was needed to improve Switzerland's attractiveness as an economic centre, to be achieved by the dismantling of various "barriers", and by liberalising the internal market and the cartels that exist in different sectors of the economy. The application to join the EU was frozen.

At the end of 1993, in its report on Swiss foreign policy in the '90s, the Federal Council confirmed Switzerland's commitment as a partner to Europe, and consequently the maintenance of full EU membership as the long-term objective of the country's integration policy. Next, the government focused its attention on the only objective capable of implementation in the short term – the sector-by-sector bilateral negotiations with the EU. These negotiations were begun in December 1994 and concluded in December 1998. Signed in Luxembourg on 21 June 1999, the agreements have entered into force on 1 June 2002.

With the publication of its 1999 Report on Integration the Swiss government gave parliament, in February of that year, a new summary of its view of relations between Switzerland and the EU. The Report on Integration is intended to serve as a solid basis for an objective and comprehensible discussion for everyone interested in the debate on European integration. It is on the strength of this debate that the Federal Council will eventually determine whether or not domestic conditions are suitable for the beginning of negotiations with the EU for Swiss membership.

The «Yes to Europe» popular initiative was rejected by a clear majority on 4 March 2001. 77% of the voters said no to this request for the Federal Council to open immediate negotiations on accession to the EU. Swiss citizens therefore endorsed the position of the Federal Council not to seek EU membership at this stage because the conditions necessary for such a step do not exist at present.

The Federal Council set out its European policy clearly in its foreign policy report of November 2000. Implementation of the seven bilateral agreements with the EU is the immediate priority. In the medium-term, Switzerland wishes to negotiate further bilateral agreements with the European Union in new areas. These negotiations are in course. EU accession continues to be the long-term objective. The Federal Council is convinced that Switzerland will be able to safeguard its interests more effectively as a member of the EU than if it stays outside. This is the only way in which it can have its stay and help to shape decisions, which have a direct bearing on Switzerland, too.

However, before negotiations on accession are opened, the Federal Council believes that three conditions must be satisfied: in the first instance, Switzerland wishes to acquire experience of the seven bilateral agreements. Secondly, the implications of EU accession for central areas of the Swiss constitution must be studied in detail and proposals made for the necessary reforms. Thirdly, broad domestic policy support for the goal of accession must be secured.

The history of the negotiations brought the following facts to light:

- One advantage of the sectoral route is that, in the choice of the subjects for negotiation, Switzerland has an equal say with the EU while the implementation and application of the conventions takes place autonomously in Switzerland and the direct costs remain low. This is because contributions to the budget of the European Union only have to be paid in certain specific instances (for example for research).

- The following arguments militate against the sectoral route as a long-term instrument
of Swiss integration policy:

• The EU shows great reluctance to choose further negotiating areas because of its own diverse internal interests. Negotiations can only be conducted on matters, which are of some interest to all fifteen Member States.

• The length and complexity of the negotiations are considerable because of the special circumstances prevailing in the EU. With fifteen Member States the EU has achieved a degree of complexity, which makes sectoral approaches difficult. Whenever one specific problem is examined (e.g. freedom of movement for persons), new imbalances of interests may arise between the EU Member States, which in turn have to be compensated by concessions in other areas (such as agriculture). The systematic absence of Switzerland from meetings between the fifteen EU States makes it difficult to effectively clear up real or imaginary misunderstandings as to Swiss positions in due time.

• There are also institutional barriers to the completion of further sectoral treaties: on central matters of mutual interest, a treaty solution could only be arrived at if Switzerland were to transfer sovereign rights to the EU and, in particular, acknowledge the supreme judicial authority of the EU Court of Justice and the legislative and political majority decisions of the Council of Ministers. These matters, which cannot be settled by sectoral treaties but only by EU accession, include e.g. the elimination of the customs union frontiers for the trade in goods, comprehensive cooperation on internal security on a basis of parity, institutional safeguards for monetary and exchange rate stability and membership of economic treaties between the EU and other regions of the world (NAFTA, Mercosur, Apec, Mediterranean region etc.).

• A negative counterweight to the acceptability of sectoral agreements in terms of sovereignty is the circumstance that an adjustment of the treaties to changing circumstances (for instance progress in technical criteria for products or in environmental protection legislation) may be a cumbersome process, especially if parliamentary approval of the treaty change is necessary in all fifteen EU States.

The Federal Council has made a thorough identification of the sectoral route in the past years and will continue on this road jointly with the European Union to the extent that this is possible and both parties have an interest in doing so (entry into force of the sectoral conventions; in addition, modernization of the rules on free trade in food industry products, membership of Europol, negotiations on a parallel agreement to the Dublin Convention on Initial Asylum Seekers, Swiss participation in EU programmes, e.g. in education, film, promotion, statistics and environmental monitoring). On the other hand, the Federal Council is well aware that the limits in terms of content and procedures for sectoral agreements between Switzerland and the European Union will soon have been reached

4.4) EEA participation

Swiss membership of EEA as compared to EU accession is facilitated by the limited implications in terms of formal constitutional policy and lower costs.

As compared to EU accession, the need for adaptation in agriculture would not exist; there
would be no need to change our financial regulations (no acceptance of the EU minimum value added tax), while adaptations to comply with the conditions of Economic and Monetary Union would also not be necessary.

In the event of an unsuccessful outcome to the ratification procedure for the sectoral conventions, the EEA would be of interest in terms of its content (the four freedoms); the solutions which remain to be negotiated in all areas, in particular in national transport and social insurance law would be much the same for Switzerland as the solutions arrived at in the sectoral conventions concluded at political level on 11 December 1998.

However, factors against participation in EEA, even as an intermediate step to EU accession, include institutional weaknesses and shortcomings in terms of content (no customs union or common foreign trade policy, no common agricultural policy, no full rights of co-decision), the obligation of the EFTA countries to speak with a single voice and the circumstance that the EEA increasingly fails to cover important areas which will play a vital role in the European future of Switzerland (monetary stability, policy on asylum seekers, internal security, external policy).

The opinion that is sometimes voiced to the effect that the relationship between Switzerland and the EU might be permanently governed by an association treaty going beyond the content of the EEA Convention and specifically tailored to suit Switzerland would presuppose a willingness of the EU to negotiate in that sense and fails to recognize the fact that only EU Member States can exercise rights of co-decision.

4.5) Switzerland remains outside

The continuation of the existing pragmatic policy of small steps with all its known advantages and drawbacks is less an integration policy option as far as the Federal Council is concerned, than the expression of a reality which remains valid until the policy change which the Council seeks finally comes about.

On the other hand, measures to shadow EU policies or the maintenance of an offshore position are not integration policy instruments, which the Federal Council is examining in more detail at this juncture. The declared systematic and unilateral shadowing of legal developments in the EU would be politically dubious and economically risky as Switzerland would constantly have to make unilateral contributions if it adopted this approach. The offshore policy would result in a fundamental change in the economic and social situation of the country from which a few people might profit greatly, but would cause the nation as a whole to lose its present character. Mixed forms of the policy of remaining in isolation would repeatedly come into conflict with the constitutional and economic policy deficits referred to earlier.

5) EU ACCESSION

5.1) Identity, independence, federalism and people’s rights

In the area of federalism, the cantons would have to cooperate in decision-making in all matters of relevance to them, which are discussed and decided in the EU. The Federal and
cantonal Authorities would conduct an in-depth dialogue on appropriate measures in the run-up to EU accession. The main emphasis would be on measures to strengthen information for the cantons, improve cantonal consultation in preparation for decisions and ensure suitable representation of the cantons in some EU bodies.

The regional policy of the Federal Council could be continued as at present and adjusted still more effectively than is the case today to Swiss needs through cooperation within the EU.

Accession of Switzerland to the European Union would be compatible with the Federal Constitution. Article 89 of the Federal Constitution, which requires a popular and cantonal majority for such a decision, was revised in 1977 precisely with a view to EU accession.

Clearly, the fifteen Member States of the EU have retained their sovereignty. As an EU Member, Switzerland would have an opportunity to influence and help to shape the rules, which are applied on an ever-growing part of our continent. Given the central geographical, demographic, political and economic values of Switzerland and the EU, for many years now, Switzerland has no longer been able to escape the growing influence of EU decisions. Accession would in fact strengthen Switzerland’s independence firstly by enabling the country to take part in decisions which concern it (it might adopt a joint approach with other Member States, depending on the circumstances and needs) and secondly because it could benefit from the substantial weight of the EU if efforts were made to exercise pressure on Switzerland.

If Switzerland became part of the EU, the Swiss people and possibly also the cantons could continue to exercise the people’s rights embodied in the Federal Constitution (referendum, initiative). As the Council of Ministers stressed in an answer to a parliamentary question on the compatibility of national referenda with the Community treaties, the organization of referenda is an exclusive preserve of the respective constitutional orders of the Member States. However, the outcome of a referendum must not be allowed to influence obligations arising under the treaties establishing the Communities. Studies by various Swiss universities have shown that, had Switzerland already been an EU Member since 1993, the number of concrete conflicts between Community law and referendum proposals at either Federal level or voting procedures at cantonal level would have been very small.

In 1991 – in the context of the EEA negotiations and also with a view to possible EU accession – the Federal Assembly adopted a statutory provision permitting the participation of Parliament in the area of external policy. On this basis, the Federal Council would, in the event of EU accession, systematically consult the Foreign Policy Committees before adopting its own position on acceptance of decisions of the Council of Ministers which would be directly applicable in Swiss law (regulations) or entail an amendment of Swiss legislation (directives). In this field too, it remains to be seen whether the existing procedures would be sufficient in the event of EU membership. At all events the Federal Council takes the view that accession would not weaken the role of Parliament or that of the cantons in our political system. The weight of the national parliaments of the EU Member States shows this to be possible.

As to the organization of justice, Switzerland would remain autonomous in the event of accession, save that its own procedural law would not be allowed to discriminate against Community law and threaten the legal validity of the latter.
In addition, Switzerland has always been well integrated into overall European cooperation in matters of civil and criminal law through the Hague Conference and the Council of Europe. As far as the Brussels Convention on the mutual recognition and enforcement of legal decisions of 1968 is concerned, the parallel Lugano Convention has so far guaranteed Switzerland’s integration into the legal area. If the cooperation can be continued in its existing form, there would therefore be no significant problems for Switzerland in these domains.

In the Federal Council’s view, internal constitutional policy measures would have to be considered in detail in the following areas in the event of EU accession:

- measures would have to be discussed with the cantons to enable them to play an appropriate part in the definition of the Swiss negotiating position at the time when accession negotiations begin. The extent to which the cantons could enforce their right of consultation in the negotiations, especially in cases where their own competencies are concerned, would also have to be determined.
- in the area of people’s rights, concrete proposals would have to be made in an explanatory statement on EU accession, defining the instruments by which the most evident cases of conflict could be resolved. It would also be necessary to examine how the involvement of the Federal Assembly in the definition of Switzerland’s negotiating positions on European policy could be ensured.
- the organization and working methods of the Federal Council and Federal Administration would have to be reviewed.

5.2) Prosperity

An attempt to assess the impact of EU accession on Swiss prosperity, shows – as is hardly surprising – that only the financial costs can be effectively calculated, while the impact on economic growth, prices, interest rates, wages, tax and rents can only be estimated. This is because economics are not an exact science and economic growth depends significantly on the parameter of private initiative by entrepreneurs, which cannot be measured, and on the development of the social environment (for instance the social partnership). The situation here resembles that prevailing in any economic risk analysis. The costs, which arise, are relatively easy to calculate, while the loss of profit caused by the slowness to take business opportunities can only be determined by comparative study and estimates. This conclusion, which the Federal Council already reached in the run-up to the EEA vote in 1992, means that the economic arguments for or against a change of the background conditions, i.e. in this case for or against EU accession, generally strengthen scepticism. The opponents of membership are able to set a relatively precise figure to the cost of the changes (e.g. an annual net payment to the EC budget of around 3 billion francs), while the advocates of liberal background conditions are only able to show trends, expectations and comparative values.

That being so, the following summary conclusions can be put forward:

- within the EU, and even within the same linguistic area, there are no significant population migrations;
- wage differences remain considerable and effective action to prevent abusive social dumping remains possible in the EU;
- thanks to EU accession, future economic growth would tend to be higher although
this growth would also depend significantly on other factors such as internal reforms;

- in the present state of our knowledge, it can be assumed that EU accession would exceed the benefits of an EEA solution, even if the net transfer to the EU in the event of accession must be taken into account in this comparison;
- the initial adaptation costs must therefore be seen against a more sustained and enhanced economic dynamic;
- the loss of monetary policy independence means that monetary policy can no longer build on a different economic development; other mechanisms of adaptation, such as flexible prices and wages, would also be needed;
- the adaptation requirements – adjustment to the real interest rates prevailing in Europe or agricultural measures – must not be underestimated;
- preparatory and accompanying steps must therefore be decided and transitional periods stipulated in the negotiations at domestic level;
- the inevitable conversion of State revenue and spending would of course also constitute a complex political venture.
- The proposals would obviously have to satisfy the following conditions:
  - annual net payments to the EU would be financed by additional revenue from the indispensable increase in the standard rate of VAT which would in turn bring higher state revenue
  - the attractiveness of Switzerland as a business location from the tax angle could only be safeguarded by extensive compensation of the higher rate of VAT in other areas, such as income tax and social security contributions
  - the conversion of the tax system would have to be economically acceptable and viable in terms of social compatibility.

In principle, it must be remembered that accession cannot be seen as the panacea for all our economic problems. But it would be equally misguided to suppose that strictly internal measures could offset the economic drawbacks of standing aside from integration policy. Economic dynamism is particularly likely if an outward-looking economic policy goes hand in hand with continued internal reform.

In the welfare sector, the Federal Council would make a further study of the following internal measures in event of accession:

- Action already existing in the draft stage to prevent social and wage dumping. These measures have been drawn up by a working group with the participation of the social partners and will shortly be laid open to consultation by the Federal Council to enable preparations for implementation of negotiated solutions to be put in hand in the framework of the sectoral conventions in Switzerland
- In the area of agricultural policy, the steps already taken by the Federal Council to improve competitiveness will be continued; measures must also be verified to compensate the inevitable structural adaptations
- The conversion of the Swiss tax system which will be rendered necessary by possible EU accession and the efforts to coordinate financial policy more effectively with a view to compliance with the Maastricht criteria at the different policy levels in Switzerland, including social insurance, would be a matter for consideration by the political system in Switzerland in the next few years. The Federal Council has in mind to
approach the question of compensation of additional revenue from the higher rate of VAT on the occasion of the renewal of the financial regulation, which expires in the year 2006. Decisive criteria for the measures to be chosen would be economic and social compatibility and the preservation of the financial autonomy of the Federal and cantonal authorities.

5.3) Switzerland’s Position in the world

There is no doubt that EU membership is legally compatible with the status of permanent neutrality. With the external and security policy of the EU in its present form, Switzerland could preserve its neutrality even as a EU Member.

The question as to the preservation of Swiss neutrality would only arise if the EU States were one day to create a common defence and security structure by a unanimous decision. As an EU Member, Switzerland would have to play an active part in the creation of such a system and would be fully involved in the decision-making process. If a European security architecture were to be created which would offer Swiss citizens at least as much security as armed neutrality, the latter might become meaningless.

In the security policy sphere, and regardless of possible EU accession, Switzerland will find it necessary to redefine some of the conditions underlying its existing policy. The Federal Council has therefore commissioned a security policy report for 1999. The reorientation of Swiss security policy will presumably entail reforms, which will improve the ability of Switzerland to shape the joint external and security policy of the EU.

From the external economic policy standpoint, Switzerland could continue to defend its economic interests even after EU accession and help to shape the external trade policy of an economic world power as a Member enjoying equal rights to all the others.

5.4) Internal security

If Switzerland does not wish to become a bolt hole for criminals who are wanted all over Europe or a hub and logistic base for international criminal organizations acting from Switzerland – in short an island of insecurity – it must seek still closer international cooperation to counter this threat. That is also in the interest of the EU. One step in this direction consists of bilateral police cooperation treaties already negotiated with neighbouring countries or under negotiation today. The same goal is pursued by the police liaison officers stationed at certain focal points of international crime. But these instruments on their own are inadequate compensation for the institutional deficit and reduced access to information.

Whether the EU Member States will be willing, after the entry into force of the Amsterdam Treaty, to open negotiations with Switzerland on internal security cannot be predicted at this juncture. Existing experience shows that such negotiations will be difficult, time-consuming and carry a price in terms of sovereignty. It seems likely therefore that EU accession would be the best means of fully making good Switzerland’s security deficit. This could be achieved by participation of Switzerland in the Schengen information system and cooperation at Federal level by appropriate central agencies in Europol.

On the subject of asylum seekers, non-accession would have the consequence that, because
of the increasingly close cooperation prevailing between the EU Member States, Switzerland might become a place of first refuge for second asylum seekers in Western Europe. That would lead to a massive increase in asylum requests and entail very high extra costs.

In the area of internal security and asylum, the Federal Council will be examining how, in the event of accession, the disappearance of Swiss border controls could be compensated by internal measures. Border controls might be replaced by controls in the area close to the frontier (secondary searches, as they are known). A Federal body might be set up for certain specific interventions while the staff and material resources of the cantonal police forces might be increased. An adaptation of that kind could be achieved without any fundamental change to the existing system.

5.5) Contribution of Switzerland to the economic and social cohesion of the enlarged EU

The enlargement of the European Union (EU) represents a major step towards securing peace, stability and prosperity in Europe, from which Switzerland will also profit. To support this process, which is also in Switzerland's interest, the Federal Council has decided to make a contribution to the economic and social cohesion of the enlarged EU. The Swiss contribution amounts to CHF 1 billion over a period of five years. With this cohesion contribution, Switzerland is continuing its tradition of solidarity with Eastern Europe and is contributing toward lessening the economic and social gap between the old and the new member states of the EU. Switzerland shall support specific projects in different areas. They will be chosen and carried out autonomously by Switzerland. The financing will not affect the budget.

5.6) Reasons for and against EU accession

The following compilation of advantages and drawbacks of Swiss accession to the European Union can only be a guide to help each Swiss citizen to weigh up the respective interests at his or her own individual level. Working with its own overview which focuses less on particular interests than on the overall well being of Switzerland itself, the Federal Council wishes to give guidance by highlighting the key issues in a flood of information.

The question of Swiss accession to the EU is essentially one of constitutional policy, which also has economic, population and peace policy aspects. For many European States, EU accession is the right strategy to secure lasting peace, economic prosperity and co-decision rights on matters of continental importance.

In our present state of knowledge, the costs of EU accession can be estimated at about 3.1 to 3.9 billion francs annually. This must be set against a loss of decision-making autonomy and freedom of action. Benefits of accession to Switzerland as an economic location (especially for the production of goods and tourist services) are probable in the long term, but cannot be proved at this juncture. Better education and job opportunities for our young people, researchers, cultural creators and job seekers also weigh favourably in the balance as do the mechanisms of solidarity between the Member States to resist attempts by non-European authorities to exert pressure on Switzerland. Another factor in favour of accession is that Switzerland would have to be an EU member to enjoy equal rights with the overwhelming majority of European States to seek solutions to problems and reach decisions which can best be resolved on the continental level (liberal and social internal market conditions, continental
freedom of movement for persons, business ventures and ideas, effective action against crime, fair distribution of burdens in the refugee sector, worldwide representation of European basic values). This benefit must be set against the drawback that the positions represented by Switzerland on these matters may be outvoted and that some of the institutional particularities of Switzerland which are so dear to Swiss citizens (people’s rights, Federal balance, tax system, numerically small government) may be affected or limited and have to be adapted to the changed circumstances.

A factor in favour of early EU membership is that some important questions for our country have not yet been settled in the EU (central matters of security, tax competition, social order and EU institutional framework). Switzerland could therefore provide inputs for future decisions. On the other hand, Switzerland would have to accept the fact that most matters of cross border economic law have already been settled in the EU and that law is made by majority voting in the remaining areas. Switzerland would of course take part in those votes. Another factor in favour of accession is that introduction of the single currency (the euro) after a transitional period, which would have to be negotiated will result in lower transaction costs and put an end to the risk of harmful speculation on the Swiss franc. On the other hand, in the first instance, some painful adaptation costs would have to be accepted, for instance in the form of higher interest and rental costs and also in the shape of wage and price reductions.

Accession would probably be conducive to a more equitable distribution of burdens in asylum policy and would also result in the disappearance of checks on persons and goods at the national border; problems of internal security would then have to be countered by effective European police cooperation (joint control of the EU’s external frontiers, Europol).

Access to the EU would be detrimental to the extent that Switzerland, like all the other EU States, would lose its right to conclude separate trade agreements with non-European countries. On the other hand, Switzerland would profit from the economic strength of the EU, which concludes such trade agreements on behalf of its Member States.

The citizens would enjoy greater legal protection as they could enforce the rights granted to them by European Community law in the ordinary courts. They would also have certain rights of appeal to the EU Court of Justice against some measures taken by European Community bodies.

Like some commercial activities and services, which have been protected so far against foreign competition, our agriculture would lose its protection in relation to the EU. The prices paid for products and services would fall. On the other hand, the means of production imported from other European countries would become cheaper and the market for Swiss high quality products would be greatly enlarged. The process of structural adaptation of Swiss agriculture will continue in any case, with or without EU accession. However, EU accession would require certain transitional periods because of the extensive adjustments necessary in agriculture. The conversion to 15% VAT would bring substantial extra revenue to the Federal Authorities (over 15 billion francs annually, disregarding the impact of any VAT increases in the context of the 11th AHV Review). Depending on the short-term economic situation, this might prove prejudicial to economic growth in Switzerland and would have to be compensated by a reduction of other State burdens on the population (such as direct taxation, social charges). The accompanying increase in the State share and the related restructuring of the Swiss tax system would lead to severe internal policy controversy.
EU accession would have no impact on the preservation of Swiss neutrality, as the examples of Finland and Austria prove. By staying neutral, Switzerland would undertake when it joins the Union to participate in the creation of a comprehensive continental security system and would ultimately gain a security margin from that system. However, it could preserve its position in situations with a critical bearing on neutrality by exercising the constructive right of abstention.

In weighing up the overall interests, the Federal Council identifies another important consideration: Swiss accession to the EU would promote national cohesion and the country’s influence beyond its borders, while the representation of State interests could be substantially improved by taking a seat on the many multilateral bodies of the European Union. The apparatus of the State and the density of regulation would hardly increase. On the contrary they would tend to diminish and the policy of openness to Europe which EU accession implies, would increase the pressure of competition and therefore promote the reforms and revitalization of national strength that are necessary internally.

6) BILATERAL AGREEMENTS I BETWEEN SWITZERLAND AND THE EUROPEAN UNION OF 1999

Agreed at the political level in December 1998 at a meeting in Vienna, the sector-specific bilateral agreements between Switzerland and the European Union cover seven areas: civil aviation, overland transport, the free movement of persons, research, public procurement markets, agriculture and the elimination of technical barriers to trade. The most distinctive feature of these agreements is the fact that they are thus limited to specific areas. It is for this reason that they are frequently referred to as "sector-specific" agreements.

The seven agreements were initialled in Berne on 26 February 1999 and signed in Luxembourg on 21 June 1999. In the following they had to be ratified by Switzerland and the EU, the agreement on free movement of persons additionally by every EU-member state. After the completion of this process of ratification the seven agreements have come into force on 1 June 2002. The agreements can be terminated at anytime.

6.1) Research

The research agreement allows Swiss research establishments to participate on an equal footing in all programmes and activities of the fifth Framework Research Programme (FRP) of the European Commission and the fifth Euratom framework programme. However, as the agreement will already expire on 31 December 2002, its financial provisions, which apply from 1 January of the year following the entry into force of the bilateral agreements, will not be able to take effect. This in turn means that the research agreement will not take full effect even after its entry into force in the first half of 2002. However, the agreement does provide for the possibility of renewal to allow full participation by Switzerland in the sixth EU framework programme (2003-2006). After its entry into force, renewal negotiations will therefore be opened between Switzerland and the EU.
6.2) **Public procurement**

The World Trade Organisation (WTO) agreement in the area of public procurement has been in force since January 1 1996. The federal government, the cantons and public law companies active in the water, transport and energy sectors must comply with WTO rules on tendering and the signing of contracts for goods, services and construction, if these go beyond certain thresholds. The WTO agreement served as the basis for the agreement on public procurement markets between Switzerland and the EU, which involves an even broader range of applications than in the case of the WTO text. The procurement of local authorities, the telecommunications and rail transport sectors and the procurements of private enterprises operating on the basis of concessions or an exclusive right are thereby liberalised if the agreed thresholds are exceeded.

6.3) **Technical barriers to trade**

The agreement calls for the mutual recognition of declarations of conformity (tests, certificates, product approvals etc.) for most industrial products. To the extent that Swiss legislation is recognised as being the equivalent of EU legislation, a single test of conformity will henceforth be sufficient for commercialisation of the products in question in the markets of both Switzerland and the EU. Duplicate testing to establish conformity to specific Swiss or EU requirements will no longer be necessary.

In cases where Swiss specifications differ from those of the EU, further testing will remain necessary, in the one case to demonstrate conformity with Swiss legal requirements and in the other conformity with EU laws. In both cases however Swiss certification bodies may now carry out the tests.

6.4) **Agriculture**

The agricultural agreement between Switzerland and the EU will make it much easier to conduct trade in agricultural produce by reducing or even eliminating non-tariff barriers, through mutual recognition of technical requirements in the veterinary field, in pesticides and similar products, in "bio" agriculture, in relation to quality standards for fruit and vegetables, and so on. The agreement calls for improved access to the agricultural markets of each party for products of particular interest. As negotiated, the agreement would open the EU market to some of the most competitive Swiss products including fruit and vegetables. For cheese, free trade will be introduced five years after the date of entry into force. This is in Switzerland’s interest because it exports more cheese than it imports. Switzerland has agreed to make concessions for fruit and vegetables during the period when there is no harvest (winter) and for items that are not produced in Switzerland, or at least not in appreciable quantities (e.g. olive oil). Fresh meat, wheat and milk on the other hand are not affected by the removal of customs duties.

The agreement necessitates a supplement to Swiss agricultural policy, which requires a stronger market-led strategy on the part of farmers. In an effort to make Swiss agriculture more competitive, the federal government has provided for certain companion measures, designed above all to "help farmers to help themselves" when it comes to bringing their produce to market.
6.5) Civil aviation

The agreement defines the terms by which Swiss airlines will be allowed access to the deregulated European civil aviation market on a reciprocal basis. The gradual acquisition of transport rights* and the prohibiting of discrimination will put Swiss airlines virtually on an equal footing with the companies of Europe, making it possible for them to become majority shareholders in other EU airlines.

6.6) Overland transport

The agreement in the area of overland transport calls on both parties to work for the creation of a co-ordinated policy in this field. Some aspects of this agreement involve improving conditions for mobility, environmental protection, comparability of general conditions, and the guarantee of the most direct transit routes possible.

The accord includes provisions for gradual opening by Switzerland and the European Union of their respective road and rail transport markets, for both persons and goods, on a reciprocal basis. It provides for a transitional period for road traffic, which ends in the year 2005, with a definite arrangement to be in place by 2008 at the latest.

The overland transport agreement is one of the main pillars of Switzerland's transport policy. It is the basis on which Switzerland plans to reorganise its railways, in co-ordination with Europe, developing new infrastructure (New Transalpine Railway, "NEAT" + traffic upstream and downstream) while introducing a new tax on heavy goods vehicles (HGVs) based on the kilometres travelled, while increasing transit taxes to levels considerably higher than those existing at present.

In an effort to implement the provisions of the constitutional article on the protection of the Alps, the Swiss government and parliament decided on a series of companion measures aimed at reducing the volume of goods traffic crossing the Alps by road to about 650,000 passages per annum. In effect this would amount to a 50 per cent reduction in HGV traffic compared to the situation today.

6.7) Free movement of persons

The agreement on freedom of movement between Switzerland and the EU provides for the progressive opening of the employment market. After seven years, Switzerland can decide whether it wishes to extend the agreement. This decision will be the subject of an optional referendum.

The agreement covers workers of all kinds, the self-employed and persons without gainful employment who have sufficient financial means of their own. On entry into force of the agreement on freedom of movement, persons in gainful employment and the self-employed only benefit directly from the rights granted if at that time they are already authorized to pursue an employment activity on the territory of the contracting parties. Persons who wish to take up employment on the territory of the other contracting party will only benefit from free-
dom of personal movement two years after the entry into force of the agreement. For employed persons from the EU the transition to free movement will take place in several stages extending over a period of 12 years.

The agreement on the freedom of movement is supplemented by mutual recognition of professional diplomas and coordination of social insurance. To prevent abuse of the freedom of movement of persons, the federal government and parliament have taken accompanying measures to protect Swiss employees against wage dumping.

The advantages include the opportunity of living and working freely anywhere in Europe, the know-how acquired as a result of participation in European research programmes, the improvement in relations between Switzerland and the European Union, and the guarantees given by the latter for Switzerland's environment policy, all of which are factors that are of inestimable value.

The economic advantages have been estimated as equal to about 2 per cent of the gross domestic product (GDP), i.e. about SFr8 billion. This includes the anticipated price reductions of benefit to consumers.

For example the Swiss sector that includes machine manufacturing, electrical and metallurgical products expects to increase its turnover by some SFr300 million each year thanks to the bilateral agreements. This figure has been calculated taking the following into account:

- The volume of additional orders from public procurement markets
- The ability to make unlimited use of the outcomes of European research programmes
- Greater flexibility in the utilisation of employees
- The growing competitiveness of Swiss products following the elimination of costly technical barriers to trade.

Once the seven-year transitional period comes to an end, the total cost will amount to SFr350-450 million each for the Swiss Confederation and for the social security service, i.e. about 0.2 per cent of GDP. These figures are maximum values based on pessimistic assumptions (high unemployment rate). In fact these costs will be considerably less if the economy grows at a good rate. Each percentage point of additional growth will bring an extra SFr400-500 million into the coffers of the Swiss Confederation. The gains would be even greater in the cantons, whose tax revenues are significantly higher.

### 6.8) Legal and institutional framework

The seven agreements are all inextricably linked together, with the exception of special provisions for the agreement on research. The agreements have been concluded and approved as a whole, to take effect simultaneously. The extinguishment of a single agreement would automatically render the others inapplicable.

The agreements can be separated into three categories: the five agreements that involve deregulation, one based on co-operation (in research) and a partial integration agreement (civil aviation). Another difference is that, unlike the six other accords the civil aviation agreement extends the so-called acquis communautaire (existing Community legislation) to Switzerland.
All the seven agreements will be supervised by joint committees, within which each of the two parties must make rulings on a unanimous basis. These joint committees only have decision-making powers in the cases stipulated in the agreements. Each party is responsible for the proper application of the agreements on its own territory. However, the European Commission and the European Court of Justice monitor compliance with the rules of competition in the area of civil aviation.

None of the seven agreements involves a transfer of legislative powers to a supranational body. The majority are based on the mutual recognition of each other’s legislation by the two contracting partners. It is in the interest of both parties to maintain this legislative equivalence. It is with this in mind that specific procedures have been laid down for the exchange of information and for consultations when one party intends to amend its regulations.

7) BILATERAL AGREEMENTS II SWITZERLAND – EU (AS OF FEBRUARY 2005)

The Bilateral Negotiations II are the continuation of the Bilateral Agreements I 1999 and thus constitute further progression along the bilateral path. This was pursued after rejection of Switzerland’s accession to the European Economic Area in 1992: It involves on the one hand the pragmatic settlement of outstanding specific interests and problems in the relationship between Switzerland and the EU through bilateral, sector-specific negotiations and agreements, and on the other hand involves improving on and structuring the existing treaty framework where this is in both sides’ interest.

After conclusion of the Bilateral Agreements I, the EU-Commission was essentially sceptical regarding new negotiations with Switzerland. The reason why, despite this scepticism, a second round of bilateral talks has come about, is because the EU itself discovered two fresh concerns: Firstly, Switzerland should be integrated into the system planned by the EU for cross-border taxation of savings. Secondly, Brussels wanted to increase cooperation with Switzerland with regard to the fight against fraud in the area of indirect taxes (especially against cigarette smuggling).

7.1) Parallelism of negotiations

Switzerland acceded to the requests made by the EU, but also set three conditions:

1. Negotiations should not only be conducted in the two dossiers required by the EU, but should also extend to cover additional areas of importance for Switzerland: These include Switzerland’s participation in Schengen/Dublin (cooperation in the fields of police and justice, asylum and migration) and the seven remaining dossiers (“leftovers”) from Bilateral Negotiations I. In a joint statement on the Bilateral Negotiations I, Switzerland and the EU had already come to an agreement on negotiations in the following areas: processed agricultural products, statistics, the environment, Media, education, pensions and services.

2. Negotiations proceeded in parallel in all dossiers and were concluded simultaneously. This parallelism of negotiations ensured that a balanced overall outcome was achieved that also took account of Swiss interests.
3. Switzerland’s interests as a financial centre, i.e. banking secrecy, must be protected at all times.

From June 2002 negotiations between Switzerland and the EU were conducted in parallel for ten dossiers: On the one hand, these concern economic interests (e.g. of the food industry, the financial centre or tourism). But they also extend to cover the cooperation between Switzerland and the EU in other crucial political areas: e.g. domestic security and asylum policy (Schengen/Dublin) or in areas such as the environment, statistics, culture and training.

With regard to the dossier concerning the liberalisation of services, Switzerland and the EU agreed in March 2003 that, in view of the large number of issues still outstanding and the complexity of the dossier, negotiations in this area will be continued separately and concluded at a later date.

In the summer of 2003, seven of the remaining nine dossiers of the Bilateral Negotiations II were essentially completed: taxation of savings as well as the six leftovers. An important step was taken in June 2003 with the political agreement with regard to the taxation of savings. The agreement is based on the principle that Switzerland imposes a withholding tax of up to 35% on behalf of the EU states and pays back three quarters of this to the EU states. This means that, on the one hand income from savings received by EU citizens can be taxed efficiently in Switzerland, whilst the Swiss legal system and banking secrecy remain protected.

Politically sensitive differences were still outstanding in the closing phase for the dossiers relating to the fight against fraud and Schengen/Dublin. These concerned the question of the exchange of information with regard to tax offences within the scope of judicial and administrative assistance.

### 7.2) Political agreement

On May 19th, at a summit meeting between Switzerland and the EU in Brussels, political agreement was also reached with regard to these final questions. Agreement on the final points consists of the following provisions:

- With regard to Schengen/Dublin, Switzerland receives the guarantee that, in the area of direct taxes, banking secrecy remains protected. In the event that a future Schengen provision revokes the principle of double liability with regard to direct tax offences thus giving rise to an obligation for legal assistance with regard to evasion offences, Switzerland receives, an opt out without the need to withdraw from the Schengen cooperation.

- In the area of fight against fraud, i.e. matters relating to indirect taxes (customs duty, VAT, excise duty, for example on tobacco and alcohol) Switzerland makes available the same legal instruments to the EU as those used in Swiss proceedings (national treatment); i.e. cooperation is extended to include all cases involving serious offences. Cooperation with regard to cases of money laundering is also extended. However the definition of money laundering according to the Swiss criminal code remains unchanged. There are no new reporting requirements for Swiss financial intermediaries.
7.3) Balanced overall result

The Swiss Federal Council considers this agreement to be well balanced, with Switzerland’s key requirements (conclusion of all dossiers including Schengen/Dublin, protection of banking secrecy) being fulfilled. Switzerland provides reciprocal cooperation with regard to cross-border taxation of savings by deducting a withholding tax on income from savings earned by EU citizens (taxation of savings). Swiss cooperation is also extended to cover all serious offences relating to indirect taxation (smuggling, customs fraud, VAT fraud) (fight against fraud).

The bilateral agreements provide Switzerland with the following benefits:

Firstly, the agreements cover significant economic interests:

- **Finance sector**: The interests of the Swiss finance sector are protected (taxation of savings, fight against fraud), and banking confidentiality in relation to direct taxation is preserved (Schengen/Dublin).
- **Food industry**: Reduced customs duties improve export opportunities for the food industry. This also benefits Swiss agriculture as a supplier (processed agricultural products).
- **Tourism**: The Schengen visa encourages tourism in Switzerland (Schengen/Dublin).
- **Tax benefits for holdings**: Swiss holdings operating throughout Europe pay less tax (taxation of savings).

Secondly, cooperation is extended to other important political areas:

- **Security policy**: Cross-border crime can only be fought effectively by means of international police and judicial cooperation. Schengen provides the tools for this purpose.
- **Asylum policy**: The Dublin cooperation offers measures against “asylum tourism” and thus relieves pressure on the national asylum system.
- **Environment**: The European Environmental Agency is an important means for international cooperation on protection of the environment. By being a member of the Environmental Agency, Switzerland can contribute towards this cooperation.
- **Statistics**: Broad-based statistical information is essential to support key political and economic decisions. The statistical agreement harmonises and optimises the exchange of comparable statistical data between Switzerland and the EU.
- **Culture**: Participation in the EU film promotion programmes (MEDIA) strengthens the role of film as an important part of Swiss cultural heritage.
- **Education**: Cooperation within EU training programmes provides access to a wide range of training for Swiss nationals, and increases the quality of training. This provides improved opportunities in the employment market.

7.4) Next steps: Signature and approval

There are nine negotiation results ensuing from the Bilateral Negotiations II. Eight of these are agreements (processed agricultural products, statistics, pensions, environment, media, Schengen/Dublin, fight against fraud, taxation of savings), which need to be approved by Parliament. Three of the agreements (MEDIA, Schengen/Dublin and taxation of savings) require
amendments to legislation in order to be implemented. The ninth negotiation result (Education/vocational training/youth) consists of a declaration of intent.

The Swiss Federal Council will submit the agreements as separate proposals to Parliament. However, the agreements shall be submitted to Parliament collectively. At the same time the Federal Council submits the application for an accelerated parliamentary approval process. The agreements should be discussed in both councils in the same session.

The Federal Council also submits seven of the Bilateral Agreements II (statistics, pensions, environment, media, Schengen/Dublin, fight against fraud, taxation of savings) to the optional referendum in accordance with Article 141 of the Federal Constitution. The Federal Council bases this recommendation to Parliament on the constitutional clarifications provided by the interdepartmental “approval process” work group led by the Federal Office of Justice. The agreement concerning processed agricultural products does not meet the requirements for the optional referendum, as it is merely an adaptation of the existing protocol 2 of the 1972 Free Trade Agreement.

None of the agreements meet the constitutional criteria for submission to the compulsory referendum (Article 140 of the Federal Constitution). This would require accession to a supranational community or organisation for collective security. Nor are these conditions fulfilled with regard to the Schengen/Dublin association agreement. Switzerland’s participation in Schengen does not amount to accession to a supranational community, but is instead a normal contract covering international cooperation. On the basis of the negotiation results achieved, it will only be possible for Switzerland to adopt any future Schengen law after conclusion of a new contract under international law. This requires each time a new Swiss approval process each time (Federal Council, Parliament, Referendum). Consequently no transfer of sovereignty to a supranational community takes place. Failure to adopt any new Schengen law would ultimately result in certain termination of the agreement.

On 25th June 2004 the agreements were initialled and then underwent consultation procedures. The results of this clearly showed that Bilaterals II were supported unanimously by industry, and by the majority of parties, organisations and federations. The cantons, too, were unanimous in their support. The agreements were strongly rejected only by the Swiss People’s Party (SVP). The Federal Democratic Union (EDU) and the Campaign for an Independent and Neutral Switzerland (AUNS) expressed opposition to Schengen/Dublin. Numerous shooting associations criticised the proposed changes in weapons laws, and the Federal Council has dealt with the main concerns by amending its proposed amendments to the Swiss Weapons Act.

The Federal Council issued the message on Bilaterals II on 1 October 2004, and the agreement was signed in Luxembourg on 26 October 2004. Parliament debated the message and the agreement during the winter session: All the agreements were accepted in the National Council with a clear majority, and in the Council of States, with the exception of Schengen/Dublin, the result was unanimous. The Schengen/Dublin association agreement met with somewhat more resistance. In the National Council, this agreement was accepted with 129 votes in favour and 60 votes against it and in the Council of States, with 36 votes in favour and 3 votes against it.

In line with the application of the Federal Council, the Federal Assembly will submit seven agreements (statistics, pensions, environment, media, Schengen/Dublin, fight against fraud,
taxation of savings) for the optional treaty referendum. None of the agreements shall be submitted for imputation of the compulsory referendum. The countdown for the referendum started with the publication of the Federal decrees on December 21, 2004, in the federal journal. The deadline for the referendum is March 31. The earliest possible date for a vote is June 5, 2005.

7.5) Overview of Bilateral Agreements II Switzerland - EU

• Cooperation in the fields of justice, police, asylum and migration (Schengen/Dublin)
• Taxation of savings
• Fight against fraud
• Processed agricultural products
• Environment
• Statistics
• MEDIA
• Education, occupational training, youth
• Pensions

7.5.1) Cooperation in the fields of police, justice, asylum and migration (Schengen/Dublin)

Criminals who are specifically choosing to operate across national borders commit an increasing number of crimes. This development presents new challenges for security measures tailored to individual countries, and calls for greater international cooperation. The individual countries also face a similar challenge in combating illegal immigration and coping with asylum migration.

The EU is Switzerland’s most important partner in these areas. For some time the EU has been promoting determined and well-targeted cooperation for security and migration. Central to this cooperation is the Schengen/Dublin security and asylum system, in which Norway and Iceland, non-Member States of the EU, have also been participating since 1999. With a bilateral agreement to Schengen/Dublin, Switzerland will have access to the instruments for cooperation on security and asylum within the EU.

• Schengen promotes free movement of person’s traffic by essentially removing controls on persons at the internal boarders of the EU. At the same time as reinforcing internal security, controls on external borders of the “Schengen area” are tightened and cross-border cooperation between police forces and judicial authorities within Schengen states is strengthened. Connection to the Schengen Information System (SIS), the pan-European electronic investigation database, is particularly important for Switzerland. This has proved to be an efficient means of fighting cross-border crime (such as illicit smuggling of migrants, and also the trafficking of persons, drugs and arms). The ability to exchange information rapidly by computer has increased the effectiveness of inspections and of international arrest warrants. Legal assistance is also regulated within the scope of Schengen cooperation. A special provision ensures that Swiss banking secrecy is protected with regard to direct taxes. Switzerland does not have formal co-decision rights in relation to future Schengen law, but it does have extensive possibilities to participate in the decision shaping process. However, new laws are not
adopted until they have been approved under the Swiss legislation process, consisting of the Federal Council, parliamentary approval and a referendum if necessary. Failure to adopt a legal act could ultimately result in termination of the agreement, so Swiss sovereignty is thus preserved.

- The Dublin cooperation lays the foundation for sharing the burden of managing asylum migration fairly, efficiently and equally. Only one EU state is ever responsible for conducting the procedures relating to an asylum case. The state responsible is determined by means of various criteria, this in turn ensures the right to an asylum hearing. The tendency towards countries trying to reduce the attraction they hold for asylum seekers in relation to other countries can be moderated. At the same time the burden is reduced from national asylum systems. Thanks to the electronic database, EURODAC, which stores and identifies the fingerprints of asylum seekers, repeated applications can be identified and the applicant can be repatriated to the state responsible for the asylum proceedings. Asylum proceedings due to “asylum shopping” are inefficient and cost-intensive. With Dublin, their number can be reduced. According to unofficial estimates, currently around every fifth application in Switzerland is a second application. By participating in Dublin, the burden on the Swiss asylum system would be significantly reduced. At the same time, a participation in Dublin would help to prevent a further tightening of Swiss asylum law. By not participating in Dublin, the reverse would be true. Switzerland would be the sole second port of call for asylum applications in western Europe and it would need to be prepared for an increase in asylum applications, and therefore in additional costs.

7.5.2) Taxation of savings

The Federal Council has always shared the viewpoint of the EU, that income from savings should be taxed appropriately. It stresses that it is not in Switzerland’s interest to attract businesses that are seeking to avoid the planned EU regulation for cross-border taxation of savings. For this reason, Switzerland has already declared that it will use its legal system to make its financial centre unattractive for these types of financial transactions. However, this is on condition that the EU introduces an efficient system for the taxation of all income from savings. Furthermore, this system should not just apply to Member States and their dependent or associated territories, but also to the relevant financial centres outside the EU.

Under the agreement negotiated with the EU, Switzerland undertakes to impose a withholding tax on all income from savings originating abroad, which will be effective for natural persons with tax residency in an EU Member State. This withholding tax increases progressively up to 35%. It can be replaced by a voluntary disclosure of the interest payment, on the express advice of the person receiving the interest, to the revenue authorities of the country of domicile for tax purposes. In addition, Switzerland undertakes to provide administrative assistance on request to the EU Member States in cases of tax fraud or similar serious offences.

There will be no automatic exchange of information between tax authorities. With the withholding tax model, Switzerland can be sure on the one hand that the EU directives for the taxation of savings cannot be avoided by using Switzerland. On the other hand, the Swiss legal system and banking secrecy remain protected.

The agreement also provides for the abolition of tax on payments of dividends, interest and
licence fees between affiliated companies.

7.5.3) Fight against fraud

The agreement on combating fraud aims for more intensive cooperation against smuggling and other types of offences, in the areas of indirect taxes (customs duty, value added tax, consumer tax), and subsidies as well as in public procurement. With this in mind, administrative and legal assistance will be organised more effectively and the exchange of information with administrative and legal authorities in the EU strengthened.

Stronger cooperation against criminal activity is as much a benefit for the EU as it is for Switzerland. The EU benefits by being able to conduct the fight against cigarette smuggling and other fraudulent activity more efficiently, thereby avoiding revenue losses. Switzerland benefits as its financial centre has no desire to be abused as a hub for fraudulent business activities.

7.5.4) Processed agricultural products

The agreement on processed agricultural products satisfies one of Switzerland’s main economic interests within the second series of bilateral negotiations: In future, companies within the Swiss food industry will be able to make duty-free exports of a wide range of products to the EU market. For Swiss agriculture, this improved competitiveness for the food processing industry opens up new opportunities. And prices for the consumer will tend to fall as a result of stronger competition.

Processed agricultural products (e.g. chocolate, biscuits, soups, sauces, pasta, instant coffee) occupy a unique place between industry and agriculture, in so far as they consist partly of agricultural raw material and partly of an industrially manufactured product. Customs duties have already been abolished on the manufactured part of the product. On the agricultural part, the “raw material handicap” can be compensated by means of a price compensation mechanism. That means that competitive disadvantages due to large differences in the price of raw materials can be compensated by customs duties and export subsidies at the level of the price differences.

The bilateral agreement on processed agricultural products results in the following improvements:

• Revision of the price compensation mechanism: As part of a simplified price compensation mechanism, the EU undertakes to completely abolish its customs duties on Swiss products and also to waive export subsidies. For its part, Switzerland will reduce its customs duties and export subsidies or, in certain cases, will likewise abolish them completely.

• Extension and revision of scope of application: The range of products covered by the agreement has been extended.

7.5.5) Environment

The European Environmental Agency (EEA; founded at the beginning of the 1990s) is responsible for gathering and analysing data on the state of the environment in European countries, as well as ensuring that this data is comparable. The EEA thus provides the scientific
basis for a sound EU environmental policy. In view of the cross-border nature of environmental risks, the EEA has become a key instrument for cooperation on environmental policy between the European states.

Closer cooperation in environmental matters through Switzerland’s membership of the European Environmental Agency is the subject of an environmental agreement between Switzerland and the EU. Switzerland can thus increase its commitment to environmental protection at a European level. Until now, Switzerland has only participated informally in EEA activities, on the basis of selective participation in projects. Membership of the EEA means Switzerland will actively participate in organising projects and research at a European level, gain full access to the EEA’s pan-European comparable environmental data and, for its part, will be able to submit comparable Swiss data as a basis for an effective environmental policy.

7.5.6) Statistics

As the world we live in becomes more and more complex, statistical data becomes an increasingly indispensable basis of information for well-founded decisions. Statistics play a major part in providing a source of factual, reliable and relevant information in politics and the economy, as well as in day-to-day life.

Eurostat, the Statistical Office of the European Union (EU) is responsible at a European level for gathering and publishing data supplied by the national statistical institutes. Eurostat is also responsible for the comparability and monitoring the comparability of national data on the basis of standard definitions and criteria for data collection.

The bilateral agreement on cooperation in the area of statistics regulates the progressive harmonisation of statistical data collection between Switzerland and the EU. Comparability of Swiss and European data in such important areas as trade relations, the employment market, social security, transport and the environment is thus guaranteed in the medium term. Switzerland also gains improved access to data published in the EU and gains prominence in Europe, in so far as greater quantities of Swiss data are published in statistics compiled by Eurostat.

7.5.7) MEDIA

One of the priorities within the EU audiovisual policy is the promotion of European films. The EU has set up the MEDIA promotion scheme to help European production overcome various difficulties in the face of non-European competition. The EU terminated Switzerland’s participation in this programme as third country after rejection of the EEA in 1992.

The aim of an agreement for Switzerland to participate in both MEDIA programmes currently running (MEDIA Plus and MEDIA Training programmes) highlights Swiss interest in the cooperation to promote European audiovisual productions. Participation gives Swiss television programmes and filmmakers equal rights of benefit from EU support measures.

The agreement grants full participation in the EU programmes – MEDIA Plus (promoting the creation and distribution of Community audiovisual works) and MEDIA Training programmes (training programmes for professionals in the EU audiovisual programme industry). Current Swiss legislation in the audiovisual field is already largely compatible with Europe,
which satisfies a key requirement for participation in the MEDIA programmes. An amendment to Swiss legislation is necessary only in the matter relating to quotas for European productions, fixed at 50%.

7.5.8) Education, occupational training, youth

The EU promotes the mobility of students, apprentices and young people within the framework of the Community programmes known as SOCRATES (general education), LEONARDO DA VINCI (occupational training) and YOUTH (extra-curricular work). These people can build their international experience at either an academic or a practical level through periods of residence abroad or cooperative projects under the education, vocational training and youth programmes. Not only does studying abroad enrich young people on a personal basis, it also improves their future prospects in the labour market.

Over thirty countries currently participate in these three EU programmes. At the moment Switzerland is only able to participate on a project basis, supported by federal funds. It would like to raise this status, with participation to be legally established and thus guaranteed, which would grant equal rights to Swiss people participating in projects relating to the three programmes with regard to project initiatives and input to projects.

Swiss participation in the current programmes (2000-2006) was not possible for the EU for legal reasons. For this reason the EU Council of Ministers and the European Commission have declared their intention to allow Switzerland to participate in the future generation of programmes (from 2007).

In the meantime the current project-based cooperation will be consolidated. Switzerland and the EU have agreed in the form of an exchange of letters that both partners will have a high-level meeting once a year to set about consolidating cooperation as well as preparing for talks on full participation.

7.5.9) Pensions

In the absence of an agreement between Switzerland and the EU on double taxation, pensions of retired EU officials living in Switzerland are taxed twice: The EU imposes a tax at source on pensions paid to retired officials and Switzerland subjects these people to income tax on the residual amount. Within the scope of the Bilateral Negotiations II, Switzerland waives this tax. However this tax exemption is only granted if the EU also effectively taxes income from pensions at source. This arrangement only affects around 50 pensioners.