

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 486 final

Brussels, 1 October 1993

COMMUNICATION FROM THE COMMISSION

Future relations with Switzerland

The Community and Switzerland: future relations

In a referendum held on 6 December 1992, the Swiss electorate rejected the EEA Agreement, causing substantial delay in its entry into force with respect to the other parties to the Agreement. The Swiss government has made it clear that although the options of EEA and, indeed, Community membership remain open, no action will be taken until the time is ripe. In the meantime, Switzerland has requested the opening of negotiations with a view to the conclusion of new bilateral agreements in a wide range of areas. At its meeting of 14 September 1993, the Commission formally agreed the general approach set out in this note.

It is proposed that negotiations be opened in a number of areas, with a view to the conclusion of new sectoral agreements between the Community and Switzerland on the basis of an overall balance of mutual advantage. It is further proposed that negotiations be opened first in the areas of air and road transport and of free movement of persons. At an appropriate time, a definition of priorities could take place, allowing negotiations in other areas (e.g. research and market access for agricultural goods), in accordance with the general principles outlined in this paper, and with the aim of advancing the Community's interests.

The Council is asked to endorse the approach which the Commission proposes to take with regard to future relations with Switzerland. The first concrete application of this approach will be in the context of negotiations in the areas of air and road transport, and of free movement of persons.

The Community and Switzerland: future relations

Context

1. On 2 May 1992, the European Community and its member States, and the member States of the European Free Trade Association, concluded an Agreement establishing a European Economic Area (EEA), designed to extend the benefits of the Single Market, including the freedom of movement of goods, services, capital and persons, to a total of nineteen countries, and to broaden and strengthen cooperation in other areas.
2. In parallel with the EEA Agreement, Switzerland established bilateral Agreements with the Community in the areas of trade in agricultural products and of transit facilities for transport of goods by road and rail. The latter Agreement, providing for the construction of two major rail tunnels through the Alps, was ratified by referendum on 27 September 1992.
3. In a further referendum held on 6 December 1992, however, the Swiss electorate rejected the EEA Agreement, causing substantial delay in its entry into force with respect to the other parties to the Agreement. In the case of Switzerland, the existing bilateral Free Trade Agreement, dating from 1972, will remain the primary institutional framework for cooperation. Switzerland, which applied for membership of the Community in May 1992, finds its road to closer European integration effectively blocked.
4. The Swiss government has made it clear that although the options of EEA and, indeed, Community membership remain open, no action will be taken until the time is ripe; most recent indications are that this will not be until 1995 at the earliest. In the meantime, Switzerland has requested the opening of negotiations with a view to the conclusion of new bilateral agreements in a wide range of areas. This interest was again expressed in the course of the visit to the Commission on 28 June of Swiss Foreign Minister Flavio Cotti, and of Economics Minister Jean-Pascal Delamuraz.

5. In addition to the 1972 Free Trade Agreement, Switzerland and the Community have, over the years, concluded a number of sectoral agreements, notably concerning non-life insurance and the products of the clock and watch industry; most, however, are of minor significance. A full list of existing agreements is attached in Annexe I.
6. Switzerland is now anxious to obtain access to the Single Market and to certain Community programmes, as envisaged under the EEA Agreement. Of greatest interest to the Swiss side are air and road transport and research; other areas include education, mutual recognition of diplomas, statistics, and cooperation in film and TV (MEDIA). Areas more directly related to trade, and to the operation of the existing Free Trade Agreement, include rules of origin; trade in processed agricultural products; technical barriers to trade (mutual recognition of tests and certificates); liberalisation of public procurement; product liability; animal and plant health; and intellectual property.
7. Since the meeting of the Joint Committee of the Free Trade Agreement on 5 February 1993, at which Switzerland first formally presented its requests, work has been underway within the Commission services, with the intention of achieving a broad overview of relations, present and future, establishing the Community's interests, and defining a balanced approach. At its meeting of 14 September 1993, the Commission formally agreed the general approach set out in this note.

General parameters

8. Switzerland is part of Europe. Although membership of either the EEA or the Community itself is clearly not possible in the short term, Community policy needs to retain a certain flexibility. The door should be left open for the future.
9. The economic relationship between Switzerland and the Community is mutually beneficial; it would be regrettable were it to deteriorate significantly as a result of the rejection of the EEA. Switzerland is among the Community's most important trading partners, being its second largest individual export market (after the US) and third largest source of imports (after the US and Japan).

10. It is in the interest of the Community to preserve this positive relationship. Swiss requests should, however, be considered on a strict basis of mutual advantage and without undermining the EEA. It would be inappropriate for Switzerland to obtain all the advantages of an Agreement which it has rejected, and whose entry into force has been so long delayed as a result.
11. It is clear that any strengthening of cooperation will need to be on the basis of an overall balance of mutual advantage. In some areas, the conclusion of a new agreement would be of value only to Switzerland; in others, of mutual benefit. The Community now has an opportunity to advance its own interests, either by obtaining satisfactory agreements in areas of mutual benefit, or by ensuring that a Swiss demand is counterbalanced by a Community demand of similar weight.
12. Given the nature of Swiss democracy, and the role of referenda under the Swiss Constitution, it would be appropriate explicitly to link agreements in different areas; otherwise elements of value to the Community could be rejected subsequently by referendum. The linkage mechanism would thus need to cover not only the ratification and entry into force of agreements, but also the period thereafter (cf. Annexe VI).
13. Any agreement would need to deal satisfactorily with the implementation of the Community acquis and the need for Switzerland to accept the discipline involved. Agreements could also be limited in duration, their renewal made dependant on a positive decision of the Council following a proposal by the Commission.

Proposed action

14. It is proposed that, on the basis of the considerations outlined above, negotiations be opened in a number of areas, to be defined in consultation with those members of the College directly concerned, with a view to the conclusion of new sectoral agreements between the Community and Switzerland on the basis of an overall balance of mutual advantage.

15. It is further proposed that negotiations be opened first in the areas of air and road transport (cf. Annexes II and III), and of free movement of persons (cf. Annexes IV and V). Both are essential building blocks in the construction of the new Europe, and of immediate concern to the citizen; both relate directly to the Four Freedoms on which the Single Market, and the philosophy of the Community, are based.
16. In the area of transport, the Ministers for Transport, meeting within the Council on 7 June 1993, noted the intention of the Commission to submit, in view of the Meeting of the Transport Council on 28 September, a Recommendation for a Decision authorising it to open negotiations with Switzerland in the areas of air and road transport, this Recommendation to be accompanied by a draft negotiating mandate and by an analysis of relevant aspects of relations in the area of Transport and in the broader context of relations between the Community and Switzerland.
17. The Transit Agreement resolves a number of concerns in the area of road and rail transport, but does not address all problems. Given the small size of the Swiss market generally and, in road transport, the continuation of existing restrictions on operations involving vehicles over 28 tonnes, it is clear that a new EC-Switzerland agreement, giving Swiss economic operators access to the huge Community air and road transport markets, is preponderantly in the interest of Switzerland. The conclusions of the June Transport Council, however, are clear.
18. The area of free movement of persons is clearly of considerable importance for the Community and its member States. A very significant number of Community citizens are already resident or working in Switzerland. The objective of a new bilateral Agreement between the Community and Switzerland shall be the full implementation of the Community acquis in this area, as envisaged in the EEA Agreement; this includes provisions for free movement of workers, the right of establishment, the mutual recognition of diplomas, the coordination of social security, and the right of residence for students, pensioners and other non-active persons.
19. The decision to propose the negotiation of a new agreement in this area is made on its own merits, with the intention of counter-balancing Swiss interest in an agreement on transport, according to the principle that imbalance of interest requires compensation.

20. At an appropriate time, a definition of priorities could take place, allowing negotiations in other areas (e.g. research and market access for agricultural goods), in accordance with the general principles outlined in this paper, and with the aim of advancing the Community's interests.

Conclusions

21. The Council is asked to endorse the approach which the Commission proposes to take with regard to future relations with Switzerland. The first concrete application of this approach will be in the context of negotiations in the areas of air and road transport, and of free movement of persons.

- Annex I: Existing Agreements between the Community and Switzerland
- Annex II: Transport
- Annex III: Background note, distributed to Ministers at the Transport Council of 7 June; extract from the conclusions of the Council.
- Annex IV: Free movement of persons
- Annex V: Statistics on Community citizens resident or employed in Switzerland, and on Swiss citizens resident within the Community.
- Annex VI: Outline approach to linkage of agreements in different sectors.

Existing Agreements between the Community and Switzerland

1. Agreement on the introduction of through international railway tariffs for the carriage of coal through Swiss territory	28.7.1956	1.6.1957	Unlimited
2. Agreement concerning certain cheeses	29.6.1967 (initialled)	1.7.1979	Unlimited
3. Agreement concerning products of the clock and watch industry between the European Economic Community and its Member States and the Swiss Confederation	30.6.1967	1.1.1969	Unlimited
4. Additional Agreement to the Agreement concerning products of the clock and watch industry	30.6.1967	1.1.1968	Unlimited
5. Agreement between the Member States of the ECSC and the Swiss Confederation Additional Agreement concerning the validity of the Agreement for the Principality of Liechtenstein	22.7.1972	1.1.1974	Unlimited
6. Agreement between the European Economic Community and the Swiss Confederation	22.7.1972	1.1.1973	Unlimited
7. Agreement on the application of the rules on Community Transit	23.11.1972	1.1.1974	Unlimited
8. Exchange of letters between the Commission and the Swiss Confederation concerning recognition by the Swiss authorities of the laissez-passer issued by the Communities to the members and servants of the institutions	5.12.1974	/	Unlimited
9. Agreement in the form of an exchange of letters between the Commission of the European Communities and Switzerland concerning cooperation on environmental matters	12.12.1975	12.12.1975	Unlimited
10. Cooperation agreement between the European Atomic Energy Community and the Swiss Confederation in the field of controlled thermonuclear fusion and plasma physics	7	30.5.1979	Unlimited
11. Additional Protocol to the Agreement between the European Economic Community and the Swiss Confederation consequent on the accession of the Hellenic Republic to the Community	17.7.1980 (Renewed 1.3.1983)	1.1.1981	Unlimited
12. Additional Protocol to the Agreement between the Member States of the ECSC and the Swiss Confederation consequent on the accession of the Hellenic Republic to the Community	6.11.1980 (Renewed 1.3.1983)	1.3.1983	Unlimited
13. Supplementary Protocol to the Additional Agreement concerning the validity for the Principality of Liechtenstein, of the Agreement between the Member States of the European Coal and Steel Community and the Swiss Confederation consequent on the accession of the Hellenic Republic to the Community	6.11.1980	/	Unlimited
14. Agreement EEC - Swiss Confederation on a concerted action project in the detection of the tendency to thromboelias	24.3.1982 renewed 21.3.19867	Inforced until 31.3.1984	?
15. Bilateral RAO Cooperation Agreement in the field of radioactive waste management between the International Cooperative for the Storage of Radioactive Waste (ICRS - Switzerland) and the European Atomic Energy Community	21.6.1984	?	for a period of 5 years renewable
16. Agreement EEC - Swiss Confederation on direct insurance other than life insurance	initialled 25.6.1982 signed October 1989	7	7
17. Agreement in the form of an exchange of letters EEC-Swiss Confederation founding direct cooperation between the authorities responsible for the prevention of fraud	15.10.1984	?	Unlimited

	<u>Date signed</u>	<u>Date entered into force</u>	<u>Duration</u>
18. Agreement in the form of an exchange of letters EEC-Swiss Confederation on trade arrangements for soups, sauces and condiments	18.11.1985	1.1.1986	Unlimited
19. Framework Agreement for scientific and technical cooperation	8.1.1985	17.7.1987	
20. Additional Protocol to the agreement between the EEC and the Swiss Confederation consequent on the accession of the Kingdom of Spain and the Portuguese Republic to the Community	14.7.1986	1.3.1986 (According to Article 18)	Unlimited
21. Agreement in the form of an exchange of letters concerning non-agricultural and processed agricultural products not covered by the Agreement between the EEC and the Swiss Confederation	14.7.1986	?	Unlimited
22. Agreement in the form of an exchange of letters between the EEC and the Swiss Confederation on agriculture and fisheries	14.7.1986	?	Unlimited
23. Agreement between the ECSC and the Swiss Confederation consequent on the accession of the Kingdom of Spain and the Portuguese Republic	14.7.1986		Unlimited
24. Cooperation Agreement between the EEC and Swiss Confederation on research and development development in the field of advanced materials (EURAM)	?		?
25. Supplementary Protocol to the Agreement between the EEC and the Swiss Confed concerning the elimination of existing and prevention of new quantitative restrictions affecting exports or measures having equivalent effect	12.7.1989	1.11.1990	Unlimited
25. Agreement between the EEC and the Swiss Confederation concerning direct insurance other than life insurance	10.10.1989	1.2.1990	?
27. Agreement between the EEC and the Swiss Confederation on trade electronic data interchange systems	7.12.1989	1.2.1990	?
28. Cooperation Agreement between the EEC and the Swiss Confederation in the field of medical & health Research	?	?	1.1.1983/31.12.1991
28. Cooperation Agreement between the EEC and the Swiss Confederation on a programme to stimulate the international cooperation and interchanges needed by European research scientists (Science)	?	?	
30. Cooperation Agreement between the EEC and the Swiss Confederation on an European Stimulation Plan for Economic Science (SPES)	?	?	1983/1992
31. Agreement between the EEC and the Swiss Confederation establishing cooperation in the field of training in the context of the implementation of Correll II (1990-94)	19.12.1989	1.1.1990	1990/1994
32. Agreement laying down a procedure for the exchange of information in the field of technical Regulations	24.9.1990	1.7.1990	2 years
33. R&D Cooperation Agreement in the field of radioactive waste management between the European Atomic Energy Community and the National Cooperative for the Storage of Radioactive Waste (Switzerland)	17.10.1990	17.10.1990	5 years
34. Cooperation Agreement between the EEC and the Swiss Confederation on a research development programme for the European Economic Community in the field of applied metrology and chemical analysis	8.5.1991	8.5.1991	1983/1992
35. Cooperation Agreement between the EEC and the Swiss Confederation on a research development programme in the field of applied metrology and chemical analysis	9.10.1991		5 years

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ANNEXE II

TRANSPORT

The Transit Agreement between the Community and Switzerland entered force on 22 January 1993. In the Agreement, reference is made to the need for liberalisation in the areas of air and road transport, as envisaged in the context of the EEA.

Following Switzerland's rejection of the EEA in December 1992, Swiss President and Minister for Transport Ogi wrote to Commissioner Matutes, in a letter dated 25 February 1993, requesting the opening of formal negotiations in the air transport sector.

In the road sector, the Swiss side considers that the EC is obliged to begin negotiations based on the text of Annexe 8 of the Transit Agreement.

On 7 June 1993, the Ministers for Transport, meeting within the Council, noted the intention of the Commission to submit, in view of the Meeting of the Transport Council on 28 September, a Recommendation for a Decision authorising it to open negotiations with Switzerland in the areas of air and road transport, this Recommendation to be accompanied by a draft negotiating mandate and by an analysis of relevant aspects of relations in the area of Transport and in the broader context of relations between the Community and Switzerland.

Draft negotiating directives on air and road transport will be presented to the Commission for its approval on 22 September.

A copy of a background note, distributed to Ministers at the Transport Council of 7 June, and an extract from the conclusions of the Council, are attached as Annexe III.

EUROPEAN COMMUNITIES
THE COUNCIL

ANNEX III

Brussels, 3 June 1993

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NOTE

from the General Secretariat

to Delegations

Subject: Relations with Switzerland in the field of transport

Delegations will find in the Annex a background note for the Commission's report that the Commission will present on the abovementioned subject at the session of the Council on 7 June 1993. "

" The General Secretariat of the Council received this note only in English

ANNEX III



COMMISSION OF THE EUROPEAN COMMUNITIES
DIRECTORATE-GENERAL FOR TRANSPORT

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Brussels, 1 June 1993

NOTE FOR THE ATTENTION OF MEMBERS OF THE COUNCIL

Subject: Transport relations with Switzerland
- point 6 of the Council Agenda

This note is intended to serve as background to the Commission's report on this issue at the Council's session on 7 June.

1. INTRODUCTION

The Transit Agreement between the Community and Switzerland entered into force on 22 January 1993. In the Agreement reference is made to the need for liberalisation in the areas of road and air transport, as envisaged in the context of the EEA.

In the case of road transport, Article 13 of the Agreement, together with an exchange of letters (Annex 8), provides that in the event of the EEA not coming into being, the Community and Switzerland should begin negotiations with a view to granting reciprocal access to transport markets in accordance with arrangements to be determined.

In the case of air transport, at the conclusion of the Agreement, the Community and Switzerland made a joint declaration in the agreed minutes, emphasising the importance of fruitful cooperation and liberalisation in this field, and expressing the view that a solution should be reached as quickly as possible on the basis of the Community acquis.

Following Switzerland's rejection of the EEA in December 1992, the Swiss President Mr OGI wrote to Commissioner MATUTES, in a letter dated 25 February 1993, requesting the opening of formal negotiations in the air transport sector.

In the road sector, the Swiss side would appear to consider that the EC is obliged to begin negotiations based on the text of Annex 8 of the Transit Agreement, referred to above.

2. EXPLORATORY CONVERSATIONS

Following the Swiss request, the Commission has undertaken a series of exploratory conversations with Switzerland, on 4 March (general), 22 April (road), 29 April (air) and 18 May (road). In addition, Commissioner MATUTES visited Switzerland on 29 March for discussions with Mr OGI in the latter's capacity as Swiss Transport Minister.

Member States have been informed of the details of these discussions through the Transport Working Group.

3. COMMISSION'S OVERALL IMPRESSION

A. General Issues

Switzerland is very anxious for negotiations, largely for internal policy reasons. These include firstly a desire to show that the EC has not turned its back on Switzerland following the rejection of the EEA. In the Swiss view, a decision to begin negotiations would also be helpful in the context of planning for the construction of the new trans-Alpine tunnels, where questions have been raised over costs.

Relations between the EC and Switzerland in the transport sector need to be set in the context of the wider bilateral relationship. It will be necessary to study these questions carefully, with a view to ensuring their correct articulation within the globality of bilateral relations; an explicit recognition of this fact would be useful.

Any negotiations would also need to address the issue of relations between Switzerland and its EFTA partners within the EEA.

B. Road Transport

Switzerland is ready to accept the Community acquis almost in its entirety. It seeks to benefit within the EC market from the provisions of Regulation 881/92, while maintaining the limit of 28 tonnes for access to its territory (other than the exceptions foreseen in the Transit Agreement).

So long as the 28 tonne limit applies to all bilateral traffic on Swiss territory, any agreement on road transport of goods will be inherently unbalanced in favour of Switzerland. While Switzerland seek to maintain the 28 tonne limit on both transit and bilateral traffic, they have shown some flexibility in being prepared to discuss the issue.

The Community may however have something to gain from an agreement liberalising passenger transport by road.

C. Air Transport

An Agreement with Switzerland would be possible on the basis of the 3rd package or something slightly less (application on cabotage at a second stage). Switzerland has shown some indications of flexibility regarding the institutional aspects of enforcement of competition rules.

The Commission would see possible benefits for the Community in such an agreement, providing: (i) a satisfactory institutional basis could be developed, (ii) there were appropriate consultation mechanisms regarding Switzerland's air relations with third countries and (iii) it would not prevent the Community developing a broader aviation area with other European countries.

D. Other Areas

The EC has little interest in expanding the discussions to cover other transport modes (inland waterways, rail).

Extract from the conclusions of the Transport Council, 7 June 1993; Council Secretariat doc. 7039/93.

RELATIONS AVEC LA SUISSE EN MATIERE DE TRANSPORTS

Le Conseil, après un échange de vues sur la base d'informations fournies par la Commission concernant les contacts exploratoires informels entrepris avec la Suisse en matière de transports, a pris note de l'intention de la Commission de lui soumettre, en vue de la session du Conseil "Transports" du mois de septembre prochain, une recommandation de décision en vue de l'autoriser à ouvrir des négociations avec la Suisse dans les domaines des transports routiers et aériens. Cette recommandation sera assortie d'un projet de mandat de négociation et accompagnée d'une analyse des aspects pertinents des relations entre la Communauté et la Suisse dans le domaine des transports et dans le contexte global des relations entre les deux parties.

ANNEX IV**FREE MOVEMENT OF PERSONS**

Switzerland's rejection of the EEA on 6 December 1992 meant that the reform of Swiss legislation on foreigners, as envisaged in the Agreement, will not now take place as planned. While the Swiss Government has committed itself to liberalising its legislation, with a view to greater "Euro-compatibility", steps taken to date are of minor significance.

Free movement of persons is clearly of considerable importance for the Community and its member States. Certain member States have informally made clear that their consent to agreements in other areas is conditional on a satisfactory result in the area of free movement of persons.

The objective of a new bilateral Agreement between the Community and Switzerland should be the full implementation of the Community acquis in this area, as envisaged in the EEA Agreement; this includes provisions for free movement of workers, the right of establishment, the mutual recognition of diplomas, the coordination of social security, and the right of residence for students, pensioners and other non-active persons.

Significant numbers of Community citizens (648,241 in December 1992) are already resident or employed in Switzerland. They include frontier workers (Type G work permit), recruited in border regions, who cross the border to work every day; seasonal workers (Type A work permit), mostly employed in construction, tourism and agriculture, who are allowed to work in Switzerland for a maximum of nine months per year, have no right to unemployment benefit at the end of that period, and may not bring their families with them; and residents, with two kinds of status; Type B, an annually renewable permit, and Type C, granted to holders of Type B permits after five years, and giving the status of permanent foreign resident.

Member States whose citizens work as frontier workers are primarily France, Germany and Italy; seasonal workers come primarily from Italy, Spain and Portugal.

Statistics on EC citizens resident or employed in Switzerland, and on Swiss citizens resident in the European Community, are attached in Annexe V.

ANNEX V

Community citizens working in SwitzerlandPopulation active de nationalité étrangère (fin décembre 1992)

	Total	B	C	A	G
EC	648241	70299	416733	7244	153695
B	3250	1082	2139	29	0
DK	1736	954	694	88	0
D	90630	15234	40481	799	34116
E	70641	5530	64669	300	142
F	112616	7542	24698	859	79517
GR	4777	564	4181	13	19
IRL	819	491	310	18	0
I	272220	10721	220752	682	40065
LUX	417	119	294	4	0
NL	7803	2808	4810	185	0
P	73618	21903	47444	4165	106
UK	9714	3351	6261	102	0

B: Annual permit

C: Unlimited permit

A: Seasonal workers

G: Frontier workers

NOTE: Figures for seasonal workers above are atypical.
 Statistics for April 1993 are given below.

B	118	IRL	33
DK	195	I	3937
D	1103	LUX	4
E	2896	NL	289
F	1600	P	18.882
GR	17	UK	208

Total: 29282

Swiss citizens resident in the Community (1 August 1993)

Total (incl. dual nationality)		Swiss nationality only
B	6278	2356
DK	2157	1040
D	62973	26288
E	15028	8874
F	133630	22487
GR	2018	727
IRL	772	320
I	35423	11542
LUX	728	441
NL	5677	1957
P	1861	930
UK	21953	6909
Total	288498	83871

Note: a significant number of Swiss citizens possess double citizenship, whether through marriage, naturalisation, or ancestry; thus, while having the right to vote in Switzerland, they may also consider themselves Community citizens.

Source in all cases: Swiss Government

ANNEX VI

Outline approach to linkage

Where a new Agreement A is of particular interest to the Community, and a new Agreement B is of particular interest to Switzerland, Agreement A shall include a clause along the following lines:

"This Agreement A shall enter into force on ... Should this Agreement A cease to be applied by either party, Agreement B, signed on ..., shall automatically cease to apply."

Agreement B, in turn, shall contain a clause along the following lines:

"This Agreement B shall enter into force on..., provided that Agreement A has entered into force by that date. Should Agreement A cease to be applied by either party, this Agreement B shall automatically cease to apply."

It should be understood that this formulation is not necessarily limited to two agreements; where appropriate, a number of agreements could be linked using the same mechanism.