

PRAGER DREIFUSS

«MARKET ACCESS»

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***«Je t'aime - moi non plus»:
Swiss Access to the EU Single Market:
state of play and possible solutions
between economic needs and political
constraints***

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CONTENT

- I. RECENT HISTORY OF THE RELATIONSHIP CH – EU
- II. CURRENT ISSUES
- III. STATUS QUO
- IV. SOLUTIONS

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I. HISTORY

- *1972 FTA (EFTA 1960)*
- *1989 INSURANCE-AGREEMENT*
- *1990 GOODS TRANSPORT AGREEMENT*
- *MAY 1992 REQUEST FOR MEMBERSHIP IN EEC*
- *DECEMBER 1992: SWITZERLAND VOTES AGAINST EEA-MEMBERSHIP*

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I. HISTORY (continuation)

- 1999 BILATERAL AGREEMENTS I (incl. Guillottine clause)

(FDFA website):

- Free movement of persons
- Technical barriers to trade TBT
- Public procurement markets
- Agriculture
- Research
- Civil aviation
- Overland transport

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I. HISTORY (continuation)

- *2004 BILATERAL AGREEMENTS II*

(FDFA website):

- Schengen/Dublin
 - Developments
- Automatic exchange of information AEOI (former Taxation of savings agreement)
- Fight against fraud
- Processed agricultural products
- MEDIA (Creative Europe)
- Environment
- Statistics
- Pensions
- Education, vocational training, youth

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I. HISTORY (continuation)

- *BILATERAL AGREEMENTS SINCE 2004*

(FDFA website):

- [Europol](#)
- [Eurojust](#)
- [Cooperation with the European Defence Agency \(EDA\)](#)
- [Cooperation between competition authorities](#)
- [Satellite navigation \(Galileo and EGNOS\)](#)
- [European Asylum Support Office \(EASO\)](#)
- [Company taxation](#)

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II. CURRENT ISSUES

- *SINCE 2008 NEGOTIATIONS ON INSTITUTIONAL FRAMEWORK AGREEMENT*
 - 2013 RED LINES IN NEGOTIATION MANDATE OF 18 DECEMBER 2013
 - NO AUTOMATIC ADOPTION OF EU LAW
 - ADEQUATE INVOLVEMENT IN EU LEGISLATION PROCEDURE (AT LEAST AS IN EEA) WITH REGARD TO EU LAW APPLICABLE IN CH
 - NO FOREIGN JUDGES, MIXED COMMITTEE/ARBITRATION COURT IN CASE OF UNPROPORTIONALE COMPENSATION MEASURES
 - NO EU UNION CITIZENSHIP
 - FLANKING MEASURES RELATED TO FREE MOVEMENT OF PERSONS

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II. CURRENT ISSUES (continuation)

- *AMENDMENT OF THE CH NEGOTIATION MANDATE IN 2018*
 - STATE AIDS: 2 PILLAR SOLUTION AND NO BINDING SUBSTANTIVE RULES IN THE INSTITUTIONAL AGREEMENT
 - INDEPENDENT ARBITRATION COURT COMPETENT AFTER MIXED COMMITTEE FAILS
- *WITHOUT INSTITUTIONAL FRAMEWORK AGREEMENT NO FURTHER AGREEMENTS*
- *PENDING NEGOTIATIONS ON NEW BILATERAL AGREEMENTS*
 - Electricity
 - Agriculture, food safety, product safety and public health
 - Emissions trading
 - Institutional issues
 - Creative Europe
 - Police cooperation
 - Eurodac

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III. STATUS QUO

- *WE LIKE EACH OTHER ...*

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III. STATUS QUO (continuation)

- *BUT IT IS NOT REAL LOVE JUSTIFYING EVEN A PARTIAL MARRIAGE – RATHER A BUSINESS AFFAIR*
- *THE PARTNER OF THE EU IS NOT THE SWISS GOUVERNEMENT ALONE, IT IS THE SWISS POPULATION*
- *A KISS IS NOT SUFFICIENT*
- *RATHER CONCUBINAGE CONSIDERING*
 - SOVEREIGNTY AND DEMOCRATIC CODETERMINATION OF SWISS POPULATION (FEDERAL VOTATIONS)
 - NO POLITICAL INTEGRATION
 - INTEGRATION INSOFAR AS IT COPEs WITH DEMOCRATIC, SOCIO-ECONOMIC INTERESTS (INCL. EDUCATION, ENERGY, FINANCE, ENVIRONMENT, SECURITY, CULTURE ETC.)

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IV. SOLUTIONS

- *EU AND CH HAVE DIFFERENT POLITICAL/DEMOCRATIC APPROACH*
- *EEA*
 - NO AUTOMATIC ADOPTION OF EU LAW (+)
 - NO FOREIGN JUDGES (+)
 - ADEQUATE INVOLVEMENT IN LEGISLATION PROCEDURE WITH REGARD TO EU LAW APPLICABLE IN CH (+)
 - NO UNION CITIZENSHIP (-)
 - FLANKING MEASURES RELATED TO FREE MOVEMENT OF PERSONS (-)
(JUDGMENT OF EFTA COURT OF 10 MAY 2016 REGARDING PRIOR AUTHORISATION SCHEMES FOR UNDERTAKINGS WILLING TO ESTABLISH THEMSELVES/PROVIDE CROSS BORDER SERVICES IN FL)
 - STATE AIDS (-)

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IV. SOLUTIONS (continuation)

- EEA II?
 - CONSIDERATION OF DIRECT DEMOCRACY
 - PRIMARY FOCUS ON FIELDS MUTUALLY IMPROVING SOCIO-ECONOMIC SITUATION (INCL. ACCOMPANYING MEASURES, EDUCATION, SECURITY, CULTURE ETC.)
 - NO COMMON CITIZENSHIP
 - PARALLELS TO EFTA IN 1960 BUT UNDER THE CURRENT ECONOMIC AND POLITICAL CIRCUMSTANCES