

Position statement

Swiss-EU relations

Position of the cantons as at 24 March 2023

1. Background

1 Switzerland's cantonal governments last adopted a joint position on European policy on 25 June 2010¹. At that time, they asserted the following:

- As in the past, the top priority remains the preservation and efficient implementation of existing agreements with the EU.
- In view of its geographical position and economic ties, it is in both the political and the economic interests of Switzerland to further strengthen partnerships with the EU in certain areas that offer significant economic and political advantages for Switzerland.
- In the short and medium term, a framework agreement should secure the further deepening of relations with the EU.
- This further deepening of relations requires a series of domestic reforms to strengthen Switzerland's federalist and democratic system of government.

2 In its statement of 29 March 2019² on the proposal for an institutional agreement with the EU, the cantonal governments commented on the mechanisms that were to apply in the future to treaty relations between Switzerland and the EU, i.e. the dynamic adoption of legislation, dispute settlement, and supervision. In doing so they also stated their position on the possible adoption of EU regulations on state aid.

¹ https://kdk.ch/fileadmin/redaktion/themen/europapolitik/standortbestimmung/3_standortbestimmung_vom_25_juni_2010-2.pdf (German)

² https://kdk.ch/aktuell/stellungnahmen/details/institutionelles-abkommen-schweiz-eu?tx_news_pi1%5ByearFilter%5D%5Byear%5D=2019&cHash=0374d805cef8838bb5d2e71d841768b8 (German)

3 Negotiations with the EU on an institutional framework agreement having been unsuccessful, the cantonal governments believe it necessary to move forward the present phase of exploratory discussions with the European Union. The cantonal governments have therefore reviewed their position with regard to future relations with the EU. The outcome of this review is set out in the following new position.

2. General points

4 The cantonal governments have always worked towards secured and treaty-based relations with the EU, because they regard a stable, long-term relationship with Switzerland's direct neighbour and by far its most important trading partner as essential. They maintain this position. Given the gradual erosion of the bilateral agreements, the cantonal governments believe that Switzerland should proceed rapidly to clarify relations with the EU.

5 The cantonal governments also continue to believe that the present bilateral accords should be maintained. Where research partnerships are concerned, the cantons affirm that full association to the Horizon Europe research and innovation programme and to Erasmus+ is of great importance to Switzerland as a centre of research and education. At the same time, existing treaty relations should be strengthened in other areas. Here, the cantonal governments place particular emphasis on energy and health.

6 In the energy sector, given current developments the cantonal governments believe it important to ascertain whether or not the current negotiating mandate is still up to date.

3. Position on individual issues

3.1. Dynamic adoption of legislation

7 Discussions with the EU since the adoption of the 2010 position statement have shown clearly that the EU links the conclusion of new market access agreements to Switzerland's willingness to adopt future developments in EU law in the area concerned. In addition, the EU position with regard to existing market access agreements indicates that the dynamic adoption of EU law is unavoidable.

8 With this in mind, the cantonal governments are in principle willing to agree in the corresponding negotiations with the EU to the dynamic adoption of EU law, providing such transposition is not automatic, but instead follows the existing domestic approval procedures, i.e. subject to the consent of the Federal Council, the Federal Parliament, and the people. The dynamic adoption of legislation is limited to sectoral agreements, in accordance with the vertical approach.

3.2. Dispute settlement

9 The cantonal governments essentially support a contractually determined mechanism to settle disputes in connection with agreements with the EU.

10 Where such disputes concern the interpretation and application of EU law adopted by Switzerland, the cantonal governments can accept a solution in which the CJEU is tasked with ensuring the homogenous interpretation of the EU legislation in question.

3.3. Supervision

11 The cantonal governments continue to reject supranational supervision of the application the agreements with the EU. The two contracting parties are responsible for the correct application and implementation of the agreements on their own territories.

12 However, where certain technical issues are concerned the cantonal governments are open to the possibility of agreements transferring certain supervision and decision-making powers to a specific institution.

3.4. State aid

13 As set out in their position on the draft institutional agreement, the cantonal governments reaffirm their following principled stance on this issue:

14 The cantonal governments accept that, depending on how negotiations in the relevant areas progress, market access agreements with the EU offer no alternative but to adopt the EU's rules on state aid. That said, such rules will be adopted only for those areas that are the subject of an agreement that permits better access to the EU single market.

15 With regard to the supervision of these rules, the cantonal governments continue to support establishing an independent Swiss procedure which is both pragmatic and acceptable to the EU as equivalent, in addition to compliant with Switzerland's constitutional framework.

16 The cantonal governments would nonetheless regard the horizontal introduction of state aid provisions across all areas, including those for which there is no contractually secured market access, as unjustified.

17 The cantonal governments advocate an approach in which any regulations on state aid would not interfere significantly with cantonal powers, and that existing state aid would fall as far as possible under exceptional arrangements, or with appropriate transitional periods.

4. Concluding remarks

18 The present position statement serves the cantonal governments as a basis for assessing further developments in Swiss-EU relations. Further detail and depth will be added when the outcomes of the federal government's ongoing internal work and the results of exploratory talks with the EU are known. When addressing fundamental single market principles of crucial importance to the EU, flexible solutions should be sought within these principles.

19 Finally, the cantonal governments would call attention to the fact that the present position statement does not release the federal government from its obligation to conduct due consultations with the cantons about the scope and content of any new negotiating mandate.