

The bilateral path: Bilaterals I and II

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

After 1992 the Federal Council chose to secure market access through sectoral agreements. The first package, known as the Bilaterals I, was signed on 21 June 1999 and comprised seven agreements: the free movement of persons, technical barriers to trade, public procurement, agriculture, overland transport, air transport and research. Approved by the Swiss people on 21 May 2000 with about two-thirds of the votes, the agreements entered into force on 1 June 2002.¹ The Agreement on the Free Movement of Persons was phased in over several years and extended to the new member states in successive protocols, each of which was approved in a popular vote.

The second package, the Bilaterals II, was signed on 26 October 2004. It covered areas of cooperation beyond market access: association with Schengen and Dublin, the taxation of savings income, the fight against fraud, processed agricultural products, the environment, statistics, the MEDIA programme, the avoidance of double taxation of retired Union officials and education.² The savings tax agreement belongs to the history of Swiss banking secrecy. It introduced a withholding tax on interest paid to Union residents, with an option for voluntary disclosure, before being replaced in 2015 by an agreement on the automatic exchange of financial account information, whose consequences Part E, Chapter IV has described.³

The bilateral approach was never conceived as a final settlement. It was a pragmatic method of securing the most important economic interests without joining the institutions. Its strength lay in its selectivity, since each agreement could be negotiated and approved on its own terms, and in its democratic legitimacy, since the major steps were confirmed in popular votes. Its weakness lay in its static character and in the absence of a mechanism for settling disputes, which made the relationship dependent on the goodwill of both sides and on periodic political bargains.⁴

1 Notes

1. Sectoral Agreements of 21 June 1999 between Switzerland and the European Community (Bilaterals I), approved in the referendum of 21 May 2000 with about 67 per cent yes votes, in force since 1 June 2002; e.g. Agreement on the Free Movement of Persons (SR 0.142.112.681) and Agreement on Mutual Recognition in relation to Conformity Assessment (SR 0.946.526.81). To be verified. ↩
2. Bilateral Agreements II signed on 26 October 2004, including the Schengen Association Agreement (SR 0.362.31), the Dublin Association Agreement (SR 0.142.392.68) and the Agreement on the Taxation of Savings Income (later replaced by the AEOI agreement of 2015). To be verified. ↩
3. Amending Protocol of 27 May 2015 to the Agreement on the Taxation of Savings Income, transforming it into an agreement on the automatic exchange of financial account information (AEOI) with effect from 1 January 2017; see Part E, Chapter IV. Cross-reference; to be verified. ↩
4. On the strengths and weaknesses of the bilateral approach, see the Federal Council's report on the evaluation of Swiss European policy (Bericht zur Europapolitik, 2006) and later reports in response to parliamentary postulates. To be verified. ↩

For general information only. This article does not constitute legal or tax advice, does not replace advice on an individual case and creates no lawyer-client relationship. It reflects the legal position as of September 2026.

Online version: helveticaregister.com/basel-the-bilateral-path-bilaterals-i-and-ii