

Common Understanding

Based on their exploratory talks, the representatives of the Swiss Federal Council (hereinafter “Switzerland”) and of the European Commission (hereinafter “the European Commission”) share the view that a successful outcome of negotiations is within reach.

Switzerland and the EU are bound by close ties based on proximity, shared values and common European culture. The economies of Switzerland and EU are highly interlinked, in terms of trade and investments. The European Commission and Switzerland share the objective to consolidate and develop the EU and Switzerland’s comprehensive partnership to its full potential by placing their relations on a better footing, establishing legal certainty, ensuring a level playing field for their citizens and economic operators, establishing a uniformity of approach in the fields of the internal market in which Switzerland participates, while respecting the basic principles of their respective legal orders. The competence of the Swiss Federal Court and all other Swiss courts as well as of the Member States’ courts and the Court of Justice of the EU to interpret the agreements in individual cases is preserved. This should be achieved in the way set out in this document. This should ensure a new balance of rights and obligations for the EU and Switzerland.

To achieve this goal and thereby strengthen Europe’s competitiveness and position in the world the European Commission and Switzerland stand ready to work on a broad bilateral package as basis for the future EU-Switzerland relation.

The European Commission and Switzerland share the view that this approach should be based on the following:

1. **[BROAD PACKAGE AND COVERED AGREEMENTS]** The European Commission and Switzerland share the view that a broad package should be negotiated. Work on this package should be conducted in parallel. On the basis of the principles outlined in this document, the package should include:
 - institutional solutions to be embedded in each of the five existing¹ as well as in future agreements in the fields related to the internal market in which Switzerland participates;
 - agreements in the areas of electricity, food safety and health;
 - State aid rules to be embedded in the agreements on air transport, on land transport, and on electricity;
 - an agreement on Switzerland’s participation in Union programmes;
 - an agreement on Switzerland’s financial contribution;
 - a high-level dialogue.

¹ Agreement on Air Transport, Agreement on the Carriage of Goods and Passengers by Rail and Road (Agreement on Land Transport), Agreement on the Free Movement of Persons, Agreement on Mutual Recognition in Relation to Conformity Assessment, Agreement on Trade in Agricultural Products, all signed on 21 June 1999.

2. **[NEW AGREEMENT ON ELECTRICITY]** The European Commission and Switzerland share the view that Switzerland and the EU should resume negotiations on an electricity agreement. The draft agreement should serve as the basis for resumed negotiations. In order to foster trade in electricity for the mutual benefit, to increase social welfare, to ensure regional grid stability and security of supply, and to facilitate the transition to a net zero energy system in Europe by 2050, Switzerland should be part of the EU's internal electricity market. This should include the participation in the EU's trading platforms in all timeframes and in other bodies and processes relevant for regulatory coordination, security of supply and grid stability, as far as possible under the agreed governance framework. To the extent that they are compatible with EU law, it should be possible to adopt necessary, proportionate and non-distortive national measures to preserve security of supply at all times, including through national generation reserves. The electricity agreement should allow national consumer protection measures which provide for a right for households and enterprises below a certain consumption threshold to benefit from the services of a supplier of last resort ("universal service provider"). These measures should be in line with EU law. Regarding State aid, paragraph 17 should apply and the negotiations on State aid should aim at preserving security of supply in Switzerland and the EU at all times, and should consider the specificities of the power generation structure, such as the role of hydro reserve and reserve power plants in Switzerland.

3. **[NEW AGREEMENT ON FOOD SAFETY]** The European Commission and Switzerland aim to extend the scope of the Agreement on Trade in Agricultural Products to the entire food chain in order to create a common "EU-Switzerland food safety area". Through the extension, Switzerland should dynamically align its legislation while having the option to negotiate certain exceptions not leading to lower standards, in particular in the area of animal welfare and new technologies in food production. Existing exceptions should be maintained. This cooperation should strengthen consumer protection and improve market access through a comprehensive reduction of non-tariff trade barriers. The agreement should provide policy-shaping rights in the relevant areas and access notably to early warning systems. The extension should not aim at harmonizing agricultural policies.

4. **[NEW AGREEMENT ON HEALTH]** The European Commission and Switzerland recognise that a bilateral agreement on health should provide a clear and strong legal framework for cooperation in the area of health. This agreement should foster collaboration for the benefit of the health of our populations, in particular in the area of health security. Provided that paragraphs 8 to 12 apply by analogy, it should allow for the participation of Switzerland in all relevant EU mechanisms and networks, notably in the health security mechanisms, in the ECDC, and in the EU's multiannual health programme, in line with the rights and obligations contained in the relevant EU legal acts, including a financial contribution. The relevant EU legal acts should be the following:

- Regulation (EU) 2022/2371 of the European Parliament and of the Council of 23 November 2022 on serious cross-border threats to health and repealing Decision No 1082/2013/EU;
- Regulation (EC) No 851/2004 of the European Parliament and of the Council of 21 April 2004 establishing a European Centre for disease prevention and control as amended by EU Regulation 2022/2370;
- Regulation (EU) 2021/522 of the European Parliament and of the Council of 24 March 2021 establishing a Programme for the Union's action in the field of health ('EU4Health Programme') for the period 2021-2027, and repealing Regulation (EU) No 282/2014.

The European Commission and Switzerland are prepared to explore the possibility to broaden their cooperation to cover other aspects of EU health policy in the future.

5. **[UNION PROGRAMMES]** The European Commission and Switzerland share the objective to consolidate and deepen their long-standing and successful cooperation, notably in research and innovation, education, training, youth, sport and culture, as well as other areas of common interest, enabling Switzerland's more systematic participation in Union programmes in the future. Work with a view to setting up a legal framework that would allow for Switzerland's participation in the current generation of Union programmes (2021-2027), in particular the Research and Innovation programmes, Digital Europe and Erasmus+, should be immediately initiated as part of the broad package. In parallel, the negotiations on the implementation of the existing EU and Switzerland GNSS agreement (Galileo and Egnos) should be resumed and discussions on Switzerland's participation to the Copernicus component of the EU space programme initiated. In anticipation of association to Horizon Europe and the Euratom Research and Training Programme, the European Commission would be ready to apply a transitional arrangement to Swiss applicants on the understanding that the association process will be completed swiftly. Mindful of the importance of European Research Council calls opening in the course of 2024, the possibility should be open for Swiss entities to apply in these calls as potential beneficiaries under the transitional arrangement. This transitional arrangement should apply once both Switzerland and the EU have adopted negotiation mandates and the negotiation process on the broad package, including on Union programmes, has started. The transitional arrangement should be extended to calls opening from the work programmes 2025 only if the agreement negotiated on Union programmes has been initiated by then.
6. **[REGULATORY DIALOGUE ON FINANCIAL MARKETS]** The European Commission and Switzerland share the view that the EU and Switzerland should resume their regulatory dialogue on financial markets including on cross-border activities.
7. **[HIGH-LEVEL DIALOGUE]** The European Commission and Switzerland share the view that, once the broad package is in place, a high-level dialogue should be held regularly to

take stock of the overall state of the bilateral relationship, as covered by this document. In view of this high-level dialogue, a coordinated overview of relations between the EU and Switzerland and of the work of the sectoral committees should be undertaken regularly. A political dialogue with the EU (High Representative) on foreign and security policy matters will be dealt with separately.

8. **[UNIFORM INTERPRETATION AND APPLICATION]** The European Commission and Switzerland share the view that all bilateral agreements in the fields related to the internal market in which Switzerland participates and the EU legal acts to which reference is made in such agreements should be interpreted and applied uniformly in accordance with the principles of public international law. In particular, to the extent that their application involves concepts of Union law, the provisions of the agreements and EU legal acts referred to in this paragraph should be interpreted in accordance with the case-law of the Court of Justice of the EU prior and subsequent to the signature of these agreements.

9. **[DYNAMIC ALIGNMENT]** The European Commission and Switzerland share the view that the proper functioning of the existing and future bilateral agreements in the fields related to the internal market in which Switzerland participates should be guaranteed by an obligation of dynamic alignment provided the exceptions already existing are safeguarded and a solution is agreed on the exceptions, principles and safeguards. In the course of the negotiations, the European Commission and Switzerland should discuss, where necessary, acts adopted between the conclusion of the exploratory talks and the completion of the negotiations, unless the mechanisms on adaptation foreseen in the existing agreements in the fields related to the internal market in which Switzerland participates apply. Provisions or acts of EU law falling within the scope of an exception from the dynamic alignment obligation are not subject to that obligation. The safeguards should be taken into consideration in good faith in the context of resolving the disputes submitted to the sectoral committee. The European Commission and Switzerland should also be mindful of the principle of “equal pay for equal work in the same place” and Switzerland’s dual enforcement system. To ensure that it can put forward its views, Switzerland should be involved at an early stage, participating as widely as possible in the decision-shaping process of new EU legal acts in the fields covered by the bilateral agreements concerned. All relevant EU legal acts should be as quickly as possible after their adoption incorporated in all bilateral agreements in the fields related to the internal market in which Switzerland participates, giving due regard to Switzerland’s constitutional procedures (including referenda). Where the agreement concerned so provides, the equivalence of Switzerland and the EU’s legislation should be determined with a view to achieving the result to be attained by the EU legal acts referred to therein.

10. **[DISPUTE SETTLEMENT]** The European Commission and Switzerland share the view that, in the event of difficulty of interpretation or application of the bilateral agreements in

the fields related to the internal market in which Switzerland participates, the parties should consult each other in the respective sectoral committees to find a mutually acceptable solution. If a sectoral committee does not manage to find a solution to the abovementioned difficulty, the parties should have the possibility to ask an arbitral tribunal, where both parties are represented, to settle the dispute. Where the dispute raises a question concerning the interpretation or application of a provision referred to in paragraph 8 second sentence, and if the interpretation of that provision is relevant to the settlement of the dispute and necessary to enable the arbitral tribunal to decide on the matter, the arbitral tribunal should refer that question to the Court of Justice of the EU for a ruling that would be binding on the arbitral tribunal. Where the dispute raises a question concerning the interpretation or application of a provision that falls within the scope of an exception from the dynamic alignment obligation set out in paragraph 9 and where such dispute does not involve the interpretation or application of concepts of Union law, the arbitral tribunal should decide the dispute without referring to the Court of Justice of the EU.

11. **[IDENTICAL PROVISIONS AND FORWARD-LOOKING NATURE]** The European Commission and Switzerland share the view that the institutional solutions that would be agreed as a result of these new negotiations should be identical across all existing and future bilateral agreements in the fields related to the internal market in which Switzerland participates, subject to technically justified adaptations. These institutional solutions should not alter the scope, objectives or final provisions regarding termination of such agreements.

12. **[INTERCONNECTION BETWEEN AGREEMENTS]** The European Commission and Switzerland share the view that all existing and future agreements in the fields related to the internal market in which Switzerland participates between the EU and Switzerland should be considered as a coherent whole, which ensures a balance of rights and obligations between the EU and Switzerland.

In case an arbitral tribunal finds that a party has breached one of these agreements and if the other party considers that the breaching party has not complied with the arbitral tribunal's decision, this other party should have the possibility to take a range of proportionate compensatory measures in the agreement concerned or in any other agreement in the field related to the internal market in which Switzerland participates. The party affected by compensatory measures should have the possibility to submit to the arbitral tribunal the question of the proportionality of these measures.

13. **[FREE MOVEMENT OF PERSONS]** The European Commission and Switzerland share the view that in line with the principle in paragraph 9, the Agreement between Switzerland and the EU of 21 June 1999 on the Free Movement of Persons (FMOPA) should be adapted

to provide for the dynamic alignment by Switzerland on current² and future EU legal acts in the area of free movement of persons. Any adaptations to the FMOPA should not result in a reduction of the rights currently enjoyed by EU citizens and Swiss nationals under the FMOPA. Moreover, Switzerland and the EU confirm the common objective of preventing and acting against abuse of rights conferred by Directive 2004/38/EC of the European Parliament and of the Council, in accordance with Article 35 of that Directive, notably in relation to access to social assistance.

Taking into account the specific circumstances, certain sectoral adaptations to the alignment with Directive 2004/38/EC and Regulation (EU) 2019/1157 of the European Parliament and of the Council should, based on the principle of reciprocity and equal treatment of all EU citizens, apply as listed in the three exceptions below.

Exceptions

1) As far as restrictions on the right of entry and the right of residence on grounds of public policy or public security of each other's nationals are concerned, the European Commission and Switzerland share the view that Switzerland's and EU Member State's obligations under the FMOPA should be maintained. The following developments introduced by Chapter VI of Directive 2004/38/EC going beyond these obligations, namely enhanced protection against expulsion provided for in Article 28(2) and (3), as well as the case-law of the Court of Justice linked to these provisions, should not apply. In addition, as regards expulsions referred to in Article 33(2) of the Directive, Switzerland and the EU Member States may, instead of applying the procedures laid down in that provision, ensure that expulsions are carried out in line with the requirements of the FMOPA.

Switzerland unilaterally declares that, with this exception, Switzerland would, in the present state of affairs, be able to take over Directive 2004/38/EC without amending the Federal Constitution of the Swiss Confederation.

2) The European Commission and Switzerland share the view that Switzerland and the EU Member States may decide to grant the right of permanent residence pursuant to Article 16 of Directive 2004/38/EC, respectively, only to EU citizens and Swiss nationals having resided legally for a total of five years in the host State as workers or self-employed persons, including those that retain that status in accordance with the Directive, as well as the family members of such persons. Provided that they are part of a single period of legal residence in the host State, the periods to be taken into account should not be required to be continuous but may be interrupted by periods of legal residence as economically inactive persons. For the purpose of calculating the periods necessary for the acquisition of the right of permanent residence in accordance with the first sentence, Switzerland and the EU Member States may

² In respect of EURES, as the EU representative stated on 26 October 2023 at the 26th meeting of the Joint Committee of the EU-Switzerland FMOPA: "The Swiss dynamic alignment to the EURES acquis, with full implementation of Regulation (EU) 2016/589 of 13 April 2016, will not interfere with the legal obligation to implement Art. 121a of the Swiss Federal Constitution introduced in July 2018 for Swiss employers to register vacancies of specific professions with above-average level of unemployment with the regional employment centre (RAV) before the vacancies go public and are transmitted to the EURES Portal. Furthermore, in accordance with Art. 22(3)(i) Annex I FMOPA, Switzerland's dynamic alignment to the EURES acquis must not result in Switzerland no longer being able to apply its national legislation to private intermediaries."

decide not to take into account periods of 6 months or more during which the person is fully reliant on social assistance. Subject to safeguard 1, the rules on residence in Article 7 of Directive 2004/38/EC would remain applicable to persons who do not qualify for the right of permanent residence.

3) The European Commission and Switzerland share the view that Switzerland may decide to issue identity cards that do not comply with the requirements of Article 3(5) of Regulation (EU) 2019/1157. Any such identity cards could not be used by Swiss nationals to exercise free movement, and should be visually distinguishable from identity cards complying with the requirements of that Regulation.

Regulation (EU) 2019/1157, including the phasing-out periods provided therein, should apply as of one year after the entry into force of the adapted FMOPA. Identity card models currently used by Switzerland meet the minimum security standards set out in part 2 of ICAO document 9303 and include a functional machine-readable zone, but do not meet the requirements set out in Article 3 of Regulation (EU) 2019/1157. Where they have been issued prior to the entry into application of the Regulation for Switzerland, such identity cards could be used to exercise free movement up to eleven years after the entry into force of the adapted FMOPA.

Safeguards

1) The European Commission and Switzerland share the view that EU citizens and Swiss nationals should not become an unreasonable burden on the social assistance systems of, respectively, Switzerland and the EU Member States. For this reason, Switzerland and the EU Member States (i) may, during the first three months of residence, refuse access to social assistance to persons who are not workers, self-employed persons, or persons who retain worker or self-employed status and their family members without carrying out an individual assessment of the person's situation; (ii) may refuse to grant social assistance to economically inactive persons who do not comply with the requirement to possess sufficient resources for themselves and the members of their family; (iii) may, for first-time jobseekers and persons who do not retain worker or self-employed status, refuse to grant social assistance without carrying out an individual assessment of the person's situation.

In accordance with Article 14 and Article 15 of Directive 2004/38/EC, Switzerland and the EU Member States may expel persons who no longer satisfy the requirements for a right of residence, such as persons who no longer retain worker or self-employed status and do not enjoy residence rights based on other provisions of the Directive. To retain worker status, workers or self-employed persons, other than those who are temporarily unable to work as a result of an illness or accident, who have become involuntarily unemployed must register as jobseekers with the relevant employment offices and fulfil the requirements to continue to be registered as jobseekers with the public employment services, provided these requirements are not discriminatory. In this context, the host State may take into account, on a case-by-case basis and by applying the same standard to its own nationals, whether a jobseeker is genuinely cooperating in good faith with the relevant office with a view to re-entering the job market. The objective of this cooperation is for the jobseeker to find a job in a reasonable period of time.

This safeguard should be applied in accordance with the principle of proportionality.

2) The European Commission and Switzerland share the view that the dynamic alignment by Switzerland with EU legal acts in the area of free movement of persons should be without prejudice to the application of proportionate and non-discriminatory administrative obligations on employers to notify the authorities of the taking up of employment, such as the Swiss notification procedure for work-related short-term stays, intended to enable the relevant authorities to conduct efficient labour market controls.

Moreover, Switzerland unilaterally declares that, in the light of the solutions on the posting of workers described in this document, it will, if necessary, take measures to ensure that self-employed persons do not circumvent these rules.

Any such administrative obligations should not affect the person's right of residence, including for the purpose of acquiring permanent residence.

Any dispute on the interpretation or application of these issues should be settled in accordance with the principles outlined in this document.

14. **[POSTING OF WORKERS]** The European Commission and Switzerland share the common objective of granting their citizens as well as their economic operators fair conditions for the freedom to provide services for up to ninety working days per calendar year (which includes the posting of workers) while fully ensuring the rights of workers. The European Commission and Switzerland share the view that non-discriminatory and proportionate controls are necessary to ensure the freedom to provide services and the correct and effective application of the rules protecting workers by preventing abuse and circumvention.

The European Commission and Switzerland share the view that the following should apply:

- Considering their common objective of upholding the principle of "equal pay for equal work in the same place" and that Switzerland has been applying this principle since the entry into force of the FMOPA and has strengthened its implementation in recent years on the basis of an objective risk analysis and the proportionality of controls, Switzerland and the EU both can guarantee a proportionate and adequate level of protection. Their aim is to guarantee the freedom to provide services while ensuring the fair and effective enforcement of regulations, thereby preventing any instances of abuse or circumvention;
- Switzerland should transpose within 3 years into its national law Directive 96/71/EC concerning the posting of workers in the framework of the provision of services as revised by Directive (EU) 2018/957 and Directive 2014/67 on the enforcement of Directive 96/71/EC;
- Switzerland should be included within 3 years in the Internal Market Information system (IMI);
- The control systems put in place by Switzerland and the EU should be suitable, effective and non-discriminatory. The competent enforcement bodies under national law should

carry out effective controls on their territory in order to ensure compliance with the applicable rules and regulations;

- The responsibility for conducting effective controls to ensure compliance with the applicable provisions and rules lies with the designated authorities and other relevant monitoring and enforcement bodies under national law, which, as in the case of Switzerland, can include social partners, in accordance with Switzerland's dual enforcement system. This arrangement ensures that the control and sanction powers of these entities are upheld and respected. Controls should be carried out in a non-discriminatory and proportionate manner, taking into account that the FMOPA limits the freedom to provide services to ninety days per calendar year.

Exceptions

1) Switzerland should be able to apply a prior notification period for service providers that are self-employed or that post workers on its territory of a maximum of 4 working days necessary to carry out on-sight controls in specific sectors. The quantity and density (control objectives) of which, as well as the sectors and areas to be controlled, including in sectors and areas not covered by the prior notification period of a maximum of 4 working days, is defined autonomously by Switzerland on the basis of an objective risk analysis. The control objectives as well as sectors and areas should be determined on the basis of an autonomous and objective risk analysis, in a proportionate and non-discriminatory manner, taking into account that the FMOPA limits the freedom to provide services to ninety days per calendar year. The determination of the sectors should be reviewed and updated periodically.

2) In the case of service providers that have failed to meet their financial obligations towards enforcement bodies with regard to a previous provision of services, Switzerland should be able to require the deposit of a proportionate financial guarantee before they may provide services again in sectors determined on the basis of an autonomous and objective risk analysis. Switzerland should be able to impose proportionate sanctions up to the prohibition to provide services in case of non-payment of the financial guarantee up to the moment of the payment of the guarantee.

3) In order to combat the phenomenon of bogus self-employment through efficient and risk-based controls, Switzerland should be able to require self-employed service providers to provide documents allowing for effective controls within the framework of ex-post controls (at most: confirmation of registration, if applicable, proof of registration with the social security authorities as a self-employed person in the country of residence, proof of the contractual relationship).

The European Commission and Switzerland share the objective to maintain the level of protection of posted workers as agreed between Switzerland and the EU once Switzerland has taken over the Directives 2014/67 and 96/71/EC as amended by Directive 2018/957. Switzerland should not be bound by amendments to these instruments or by new EU legal instruments in the area of posting of workers where their effect is to meaningfully weaken or reduce the level of protection of posted workers with regard to the terms and conditions of employment, notably remuneration and allowances. Any change to the level of protection

of posted workers should be assessed in its globality, taking into account all relevant provisions as described above. The dispute resolution mechanism set out in this document should apply.

15. **[LONG-TERM RESIDENCE PERMITS]** The European Commission and Switzerland share the view that, without prejudice to the rules on permanent residence provided for in Directive 2004/38/EC, where Switzerland and the EU Member States grant each other's nationals long-term residence permits under national law, those national rules should be applied in a non-discriminatory manner, notably regarding the minimum duration of prior residence of five years required. They share the policy objective that those rules remain comparable in terms of other conditions and requirements, it being understood that the conditions and requirements lie within the competence of the respective parties. This should be without prejudice to provisions for third-country nationals contained in bilateral agreements already concluded between an EU Member State and Switzerland that are more favourable than those rules.

16. **[AGREEMENT ON LAND TRANSPORT]** Regarding in particular the Agreement on Land Transport, the scope of the agreement should not be altered. Regarding international passenger transport, which is included in the scope, Swiss purely domestic transport (i.e. national long-distance, regional and local transport), as well as the right to include non-discriminatory provisions in authorisations and concessions for transport undertakings on social standards such as local and sector-specific salary and working conditions should not be affected.

The exceptions that exclude the obligation of dynamic alignment to provisions or acts of EU law should include the following measures:

- Maximum permissible weight limits for articulated vehicles and road trains equivalent to those in force in the EU at the time the agreement was signed (Article 7 paragraph 3).
- Ban on transport between two points on the same territory in road transport (Articles 14 and 20).
- Ban on night driving and on Sundays for heavy goods vehicles (Article 15).
- Exclusion of increases in road capacity. The European Commission and Switzerland share the view that new infrastructure for road safety purposes, such as the drilling of a second road tunnel at Gotthard, should not be considered as an increase in road capacity. Limiting road capacity at the current level will not be considered as a unilateral quantitative restriction. (Article 32 – Non-introduction of unilateral quantitative restrictions).
- Swiss tax on HGV traffic linked to services (Articles 40 and 42).
- The possibility of obliging passenger transport companies to participate in public transport price integration, i.e. to offer a single transport contract to a passenger who

have to use the network of different public transport companies, provided that price-setting powers remain with the companies.

- The possibility of giving priority to passenger traffic according to the interval-service timetable applicable to rail services and postbus services throughout the territory of Switzerland. This criterion should be applied in a non-discriminatory manner for the allocation of train paths to companies submitting comparable applications in terms of service frequency.

17. **[STATE AID]** The European Commission and Switzerland aim to ensure a level playing field for competition between Swiss and EU undertakings. State aid rules, applicable to the EU Member States and Switzerland, should therefore be included in the following bilateral agreements in the fields related to the internal market in which Switzerland participates: air transport and land transport. Rules on existing state aid and further issues, such as the possibility to grant aid to make good the damage caused by natural disasters or exceptional occurrences, the setting up of a forum to discuss future developments that may affect important interests to either of the parties, and financial support by the EU that may affect competition and trade between Switzerland and the EU, should be discussed during the negotiations.

The review of any State aid should, within the scope described above, be based on substantive and procedural rules equivalent to the ones applied within the EU. For this purpose, Switzerland and the EU should establish or maintain their own supervision procedures (2-pillar approach). The mechanisms for the enforcement of State aid rules put in place by Switzerland should, in accordance with its constitutional order of competences, be equivalent to the ones applied within the EU. Accordingly, Switzerland should establish the domestic procedures to ensure transparency; ex ante control by an independent administrative authority that will challenge (with suspensive effect) before the competent court a state aid measure that is contrary to that authority's negative opinion; and recovery of incompatible State aid (plus interest). The courts should issue binding acts. Where the independent administrative authority cannot challenge a State aid measure itself before a court, but only its application in a specific case, judicial and administrative authorities should, pending the court proceedings, to the greatest extent possible, suspend the application of that State aid measure in similar cases. Once the court has found that State aid measure or its application to be contrary to the agreed State aid rules, these judicial or administrative authorities should refrain from applying it.

The above described rules and procedures, supplemented if necessary, should also apply to the future bilateral agreements in the fields related to the internal market, for example, on electricity.

18. **[CONTRIBUTION TO COHESION]** The European Commission and Switzerland share the view that the basis for Switzerland's regular, mutually agreed and fair financial contribution towards reducing economic and social disparities between their regions should

be established. This should be aimed at encouraging the continuous and balanced strengthening of economic and social relations between them while responding to important common challenges. This new legally binding mechanism should be ready for the next EU multiannual financial framework.

The Commission and Switzerland share the view that Switzerland's first contribution towards reducing economic and social disparities under the permanent mechanism should include an additional financial commitment covering the period between end 2024 and the entry into force of the permanent mechanism. This commitment should duly reflect Switzerland and the EU's level of partnership and cooperation in that period.

19. **[CONTRIBUTION TO FUTURE COSTS OF INFORMATION SYSTEMS]** The European Commission and Switzerland share the view that Switzerland should contribute to the relevant future costs of development, operation and maintenance of any EU information systems to which it has access.

20. **[MODUS VIVENDI]** The conclusion of the exploratory talks marks an important moment in EU-Swiss bilateral relations. The European Commission and Switzerland share the view that the scope of cooperation in the bilateral relationship should now increase.

The European Commission and Switzerland share the view that, for as long as there is progress in the negotiations, at least the following should apply:

- The work described in the second sentence of paragraph 5 concerning Union programmes should be initiated.
- In the field of electricity, both sides should commit to take all necessary steps to preserve operational security also in the absence of an electricity agreement. For this purpose, appropriate arrangements should be found between Swiss and EU grid operators and regulators at technical level, where appropriate with the support of ENTSO-E, notably in the field of capacity calculation and balancing cooperation, and ElCom should be able to take part for that purpose in relevant meetings of Regulators within ACER's framework, on an ad hoc basis. Switzerland should continue to be able to participate in the Electricity Coordination Group on an ad hoc basis where appropriate.
- In the field of health, both sides should continue taking all necessary and appropriate steps to preserve the health of citizens also in the absence of a health agreement. For this purpose, where appropriate, mutual arrangements should be found on an ad hoc basis between Switzerland and European Commission at technical level, in case of severe cross-border health threats.
- As regards the Agreement on Land Transport, the European Commission and Switzerland should work on the prolongation by one year of the transitory measures regarding the EU Agency for Railways. Extensions should be discussed on a yearly basis.

- The regulatory dialogue on financial markets should resume as described in paragraph 6.

The representatives of the Swiss Federal Council and of the European Commission share the view that formal negotiations on the broad package should be launched without delay with a view to completing negotiations in 2024. For this purpose, the European Commission will submit a recommendation to the Council to resume the negotiations with Switzerland on the basis of the above outlined parameters.

Representatives of the Swiss Federal Council and of the European Commission will meet regularly to inform each other on their respective internal processes.