

## 8 Switzerland's bilateral approach to European integration

### A model for Ukraine?

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#### **Introduction: the Swiss model**

In recent years, several authors have considered the potential of some of the integration schemes with the European Union (EU), especially the European Economic Area (EEA), to become a 'model' for the countries of the European Neighbourhood Policy (ENP).<sup>1</sup> Most of these analyses led to the conclusion that the EEA could not constitute a model for third countries, owing to its particular economic and political features (Gould 2004; Gstöhl 2012; Pelkmans and Böhler 2013). Unfortunately, with one exception (Tovias 2006), the academic literature has never really examined the integration approach that Switzerland developed with the EU as a possible model for others. This omission is regrettable, for Switzerland has pursued a unique integration path. As a matter of fact, it is the only state in western Europe, other than the very small states, that has never started membership negotiations with the EU and never joined multilateral integration schemes such as the EEA. Instead, the Swiss government developed a peculiar integration approach based on far-reaching bilateral and sector-based agreements with the EU, the so-called Bilateral Agreements. Through them, Switzerland secured a deep integration with the EU's internal market.

Meanwhile, several ENP countries in the southern Mediterranean and in eastern Europe have shown a strong interest in increasing their economic cooperation. Some ENP countries, such as Ukraine, even emerged as frontrunners in the attempt to achieve an ever closer relationship with the EU. Indeed, in 2014, Ukraine was able, after several dramatic episodes, to ratify an ambitious Association Agreement with the EU. This agreement includes a so-called Deep and Comprehensive Free Trade Area (DCFTA), which aims at providing a significant economic boost to EU–Ukraine relations.

This chapter explores to what extent the Swiss–EU Bilateral Agreements can be considered as a model for EU–Ukraine relations. The contribution will be divided into three parts. First, it introduces the material and institutional features of the EU–Swiss Bilateral Agreements. Second, it will proceed in the same way with Ukraine's DCFTA. Third, it will assess the relevance of the comparison between the Swiss integration 'blueprint' and that of Ukraine. The authors put forward two different hypotheses:

- 1 The EU wants to end the bilateralism and to incite Switzerland to join the EEA (therefore, the actual Switzerland–EU Bilateral Agreements cannot represent a model for ENP countries).
- 2 The DCFTA does not provide the same extent of access to the internal market and sovereignty guarantees for Ukraine, as the Bilateral Agreements do for Switzerland.

These hypotheses arise from two perspectives often expressed in the academic literature. The first one questions the possibility of Switzerland continuing on its ‘bilateral way’ and stresses the inconclusive character of the recent EU–Switzerland negotiations (Gstöhl 2007: 242–4). The second considers that Switzerland is, by all standards, already deeply integrated or even a ‘quasi-member’ of the EU and better preserves its sovereignty with the Bilateral Agreements as compared with other types of agreement (Tovias 2006: 212–14, 218–19).

### **The Swiss bilateral way: The integration process of a ‘reluctant European’**

#### ***The origins and development of the Swiss–EU Bilateral Agreements***

From almost any point of view – economic, political etc. – the Swiss Confederation is deeply integrated with the EU. However, owing to internal constraints, especially those related to the domestic functions of direct democracy, federalism and neutrality, Switzerland has not joined the EU (Gstöhl 2002: 34–41). Instead, it joined intergovernmental organizations such as the European Free Trade Association (EFTA), with other European countries who did not want to join the European Community (EC).

From the late 1950s to the early 1990s, Switzerland always preferred intermediary solutions, a ‘third path’ between full EC accession and marginalization. During this period, Switzerland was able to conclude a certain number of minor bilateral economic treaties with the EC. The only important one was the Free Trade Agreement (FTA) of 1972, leading notably to the removal of customs duties and quotas on industrial products (Schwok 2010: 105–6).

In 1984, the EFTA and EC countries started to intensify their cooperation. For the first time, these eighteen states used the expression ‘European Economic Space’ to designate their future relations. The completion of the internal market by the EC accelerated this *rapprochement* process, as it was clear that the marginalization of the EFTA countries was in no side’s interests. In 1989, Jacques Delors (1989), then president of the European Commission, proposed a new multilateral concept: the EEA. This treaty was to include the EFTA states in the internal market based on a two-pillar structure, where the EFTA countries would ‘speak with one voice’, and common decision-making bodies. Switzerland’s government reacted rather favourably to this proposal and therefore abandoned its ‘solo run’ policy. After difficult negotiations between EFTA and the EC member states, a consensus

was reached in 1991. Nevertheless, it did not include shared decision-making institutions between the parties (Nell 2012: 239–75).

This particular feature triggered strong political reactions in Switzerland, because it was widely regarded as an important loss of sovereignty. Just after the signing of the EEA Agreement on 2 May 1992, the Swiss authorities sent an application for EC membership. This decision cast further doubts on the relevance of the EEA in Switzerland. Meanwhile, many Swiss citizens were starting to perceive the EEA as a 'launching pad' towards full EC accession, a question that was still sensitive in Swiss public opinion. As a result, in a referendum held on 6 December 1992, the Swiss citizens rejected the EEA's ratification, at the same time freezing the EC accession process.

### ***Bilateral Agreements I***

In 1993, the Swiss Federal Council decided to re-engage in a sectoral bilateral approach and asked the EU to open talks on matters related to access to the internal market. Indeed, with three EFTA countries (Austria, Finland and Sweden) joining the EU in 1995, Switzerland's export-driven economy was potentially at a risk of being marginalized. The European Commission accepted the principle of new negotiations with Switzerland. However, it prevented the Swiss from taking advantage of the bilateral talks by engaging in a 'pick and choose' tactic and controlling the agenda (Dupont and Sciarini 2007).

The negotiations led to the signature of a first package of Swiss–EU Bilateral Agreements (hereafter, Bilateral Agreements I) on 21 June 1999. These agreements offered wide, unhindered access to the internal market for Switzerland (see Box 8.1). Also, although five of the agreements posed no difficulty, two of them – the free movement of persons and overland transport – were difficult to negotiate, because they were rather unpopular with Swiss citizens. In May 2000, however, the Bilateral Agreements I, as a whole, were submitted to a referendum and accepted by 67 per cent of Swiss voters. Consequently, all these agreements entered into force at the same time in June 2002 (Schwok 2010: 38–47).

### ***Bilateral Agreements II***

The EU and Switzerland engaged in a second round of talks between 2001 and 2004 in order to pursue their mutual market liberalization path. These negotiations led to the signing of a second series of nine Bilateral Agreements on 26 October 2004, each of which took effect on different dates (see Box 8.2). Six of these agreements posed no particular problems for either party, as they addressed relatively minor issues. The three others, however, affected sensitive political issues (Schengen/Dublin association and the fight against fraud and taxation of savings) and were the subject of heated domestic debates. Consequently, the Agreement on Schengen/Dublin was subject to a referendum in June 2005, but was accepted by 54.5 per cent of the Swiss electorate (Schwok 2009: 53–66).

**Box 8.1 The Bilateral Agreements I (signed in 1999)**

- 1 *Free movement of persons*: phased elimination of migration restrictions for EU citizens with a Swiss work permit or who are financially self-sufficient.
- 2 *Overland transport*: free circulation of trucks of 28 tons and more across Switzerland.
- 3 *Air transport*: mutual opening of the air transport market. Swiss airlines were put on an equal footing with their European competitors in the EU market. They were also allowed to hold a majority share in EU companies.
- 4 *Public procurement markets*: mutual opening of the market for public procurement, enlarging the already existing WTO agreements (municipal/regional public transport procurements, railway services, water distribution etc.).
- 5 *Participation in EU research programmes*: confirmation of Switzerland's participation in these programmes, which otherwise might have been jeopardized.
- 6 *Agriculture*: reduction in customs duties and quotas on certain agricultural products traded between the EU and Switzerland (most importantly, cheese).
- 7 *Elimination of technical barriers to trade*: introduction of mutual recognition of conformity assessments, that is, evaluation, inspections, certificates and authorizations. This did not include the adoption of the *Cassis de Dijon* principle.

*Source*: Schwok (2009: 38).

Overall, Switzerland and the EU now cooperate through a stunning number of around 120 bilateral agreements (Swiss Federal Department of Foreign Affairs 2015). This intense, bilateral network of sectoral agreements is quite original.

***Legal and institutional aspects of the bilateral approach***

The seven agreements of the Bilateral Agreements I package are, legally speaking, closely interlinked. If Switzerland denounces any one of them, the EU can put an end to all the others. This 'guillotine clause' has been imposed by the EU to prevent the Swiss from rejecting or denouncing any part of the Bilateral Agreements I during the ratification procedure or later. By contrast, the second package, Bilateral Agreements II, is not legally interlinked; the parties only attached a so-called 'mini guillotine clause' between the Schengen and Dublin Agreements.

### Box 8.2 The Bilateral Agreements II (signed in 2004)

- 1 *Taxation of savings*: Switzerland imposed a withholding tax on all income accruing from EU residents' savings located in Swiss banks. Banking secrecy was maintained.
- 2 *The fight against fraud*: The EU and Switzerland undertook steps to cooperate against fraud in customs duties and indirect taxes.
- 3 *Schengen/Dublin*: Schengen: checks on persons at borders were abolished. Switzerland and its EU neighbouring countries may still, however, maintain customs controls on merchandise. Dublin: seeking asylum in Switzerland if the request had already been made in another European state was prohibited.
- 4 *Processed agricultural products*: reduced customs duties on processed agricultural products traded between the EU and Switzerland.
- 5 *Statistics*: Switzerland joined Eurostat.
- 6 *Pensions*: income tax exemption for pensions of retired EU officials living in Switzerland.
- 7 *Environment*: Switzerland joined the European Environment Agency.
- 8 *MEDIA*: Swiss participation in MEDIA (EU programme supporting the European audio-visual industry).
- 9 *Education, occupational training*: Swiss participation in EU programmes aiming at encouraging cross-mobility of students, trainees and young people (Erasmus, Socrates, Leonardo da Vinci etc.).

Source: Schwok (2009: 53–4).

Hence, Switzerland could have rejected any one of them without the others being called into question (Vahl and Grolimund 2006: 54).

That being said, the institutional structure of the Bilateral Agreements I and II is relatively light. They did not create any new institutions, only joint or mixed committees to manage the agreements. These bodies are mainly composed of experts from both parties, take decisions by consensus and meet usually once a year (ibid.: 34–5).

Besides, most of the Bilateral Agreements are not governed by a Community or para-Community justice mechanism akin to the Court of Justice of the EU (CJEU) or the EFTA Court of Justice (the main exception being the Schengen/Dublin Agreements). Thus, Switzerland is not obliged to adopt the interpretation of these courts on issues related to the implementation of the Bilateral Agreements. Similarly, there is no monitoring procedure from supranational institutions, such as the European Commission or the EFTA Surveillance Authority (ESA). Each party is responsible for the implementation of the Bilateral Agreements on its respective territory (ibid.: 37–8).

This particular framework is reinforced by the fact that most of the Bilateral Agreements do not include any mandatory adoption of new, relevant *acquis*. In fact, these agreements are static, as they are not amended on a constant, 'quasi-automatic' basis depending on the evolution of the related *acquis* as in the EEA.<sup>2</sup> Instead, they allow for renegotiation on a case-by-case basis, depending on the political will of the parties (Kux and Sverdrup 2000: 254). In reality, however, Switzerland often aligns with the evolution of the relevant *acquis* by itself (Jenni 2014).

Besides Switzerland not being granted any 'decision-shaping' rights, Swiss experts are not authorized to participate in the EU pre-parliamentary stage or in comitology meetings on issues relevant to the Bilateral Agreements (with the exception of Schengen Council working groups). This means that the Swiss government has no influence on the evolution of EU law related to the Bilateral Agreements that it may decide to incorporate (Schwok 2009: 74–5).

Finally, it is worth noting that the parties did not create any specific legal mechanism for dispute settlement. Thus, in case of dispute, the relevant joint bodies shall discuss about the matter and try to find adequate solutions in conformity with the usual procedures of international law (Vahl and Grolimund 2006: 40–1).

### ***Brussels asks Berne to go 'beyond' the Bilateral Agreements***

Since 2005, Berne has expressed its interest in concluding new, significant treaties with the EU. Nevertheless, the EU has been reluctant to conclude any negotiations on issues related to internal market access, as long as there is no new institutional framework with Switzerland (Council of the European Union 2010, 2012). Reading between the lines, it was clear that the EU was pushing Switzerland in a direction closer to the EEA benchmark, that is, a system that would enable the direct adaptation of these agreements to the constantly evolving EU legislation, as well as a uniform legal interpretation. According to the EU, this new framework should ensure, not only the homogeneous but also the *simultaneous*, application and interpretation of the evolution of the relevant *acquis* (ibid.). Lastly, it emphasized the need to provide for an independent surveillance and judicial enforcement mechanism and for a dispute settlement mechanism similar to that in the EEA (ibid.). These positions were mainly based on EU concerns that an ever-more-integrated Switzerland might take advantage of this relatively 'loose' legal framework by not adopting certain evolving economic regulations and, therefore, gain a comparative advantage over EU economic operators (Philipps 2010).

In June 2012, the Swiss Federal Council made some proposals to tackle this institutional question and to ensure the 'homogeneity of the common rules created by the agreements between Switzerland and the EU' (Widmer-Schlumpf 2012):

- 1 'Dynamic' but not automatic adoption of new laws: When adjusting to the evolution of the relevant *acquis*, the provisions of the Swiss constitution, including the possibility to carry referendums, must be ensured at all times.

- 2 Swiss participation in 'decision-shaping': In the area covered by the agreements, the EU must offer participation in the early stage of the legislative process for Switzerland.
- 3 The question of surveillance: An independent Swiss surveillance authority shall be created to oversee the implementation of the Bilateral Agreements in Switzerland.
- 4 Contractual violations: In the event of a violation of the terms of the agreement, the Swiss surveillance authority shall open a court procedure. Subsequently, the highest Swiss and EU courts would establish an 'institutionalised dialogue' to ensure homogeneity in interpretation.
- 5 The Swiss–EU Joint Committee must remain the only mechanism for settlement of disputes. This task must not be transferred to the CJEU or any other supranational institution.
- 6 In case of a persistent dispute (for instance, if Switzerland decided not to adapt to one particular evolution of the relevant *acquis*), the agreement concerned must not be automatically terminated. Instead, there might be some rebalancing measures decided by the offended party. An arbitration court composed on parity by Swiss and EU citizens shall review the scope, duration and proportionality of those measures if asked by one of the parties.

The EU's reaction to the Swiss proposals was lukewarm. A confidential document of September 2012 clearly indicates the determination of the European External Action Service (EEAS) to refuse this offer. This document described the Swiss proposals as 'unbalanced' and 'not corresponding to the requirements expressed by the Council' (European External Action Service 2012). It considered the Swiss proposals as not offering the essential tools to achieve homogeneity: uniform interpretation and application. As pointed out at the beginning of this document, if the EU considered that Switzerland was acting in a way that was breaching the agreement, it would have to submit the issue to the Swiss authorities, that is, Switzerland's representatives within the Joint Committee (*ibid.*). If, despite the negotiations in this committee, the dispute could not be resolved, the only solution offered would be the possibility for the EU to take counter-measures. The arbitration scheme proposed would only decide on the proportionality of the counter-measures and nothing else. Thus, the divergence in legal regimes would persist, and the goal of re-establishing homogeneity would not be met. In addition, the document stressed that national surveillance authorities do not fulfil the independence standards compared with the Commission and the CJEU in relation to the EU member states or the ESA and the EFTA Court in relation to the EEA/EFTA countries (*ibid.*). Consequently, the European Commission officially rejected the Swiss proposals in December 2012 (Barroso 2012).

Meanwhile, some Swiss experts argued that Switzerland's bilateral experiment had reached its limits. They argued that the EU would never agree to give up its demands and asked the Swiss government to actively consider joining the EEA (see, for instance, Baudenbacher 2012).

***The EEAS and Switzerland reach an understanding***

In 2013, the Swiss and EU negotiators reached a compromise in an unpublished paper (O'Sullivan and Rossier 2013). According to both parties, this non-paper serves as a guideline for the negotiations between the EU and Switzerland to upgrade the Swiss bilateral approach (Burkhalter 2013). The following paragraphs summarize its main proposals:

Formally, any form of automatic adoption of EU law by Switzerland will be excluded. Instead, the adoption of new EU law shall be dynamic and subject to a decision by Switzerland. Swiss constitutional requirements, including those related to direct democracy, shall be fully respected.

The EU and Switzerland decided not to set up new institutions such as a special surveillance authority. The Swiss, therefore, continue to monitor for themselves the implementation of the Bilateral Agreements on their territory. Besides, Switzerland shall be granted the same right of 'decision-shaping' as the EEA EFTA countries for the matters covered by the Bilateral Agreements.

As for dispute settlement, the Joint Committee will search for compromises. In case of persistent disagreement, the interpretation of disputed EU laws could be submitted to the CJEU by any party. The judgement of the Court shall not formally end the process but serve as the basis of a discussion aiming at solving the dispute within the respective Joint Committee. If, despite the CJEU ruling and the following negotiations, there is still a stalemate, the offended party could take rebalancing measures, including the suspension or the termination of the affected agreement. Finally, nothing is mentioned about the monitoring of the proportionality of the potential rebalancing measures (O'Sullivan and Rossier 2013). This point was left to later negotiations.

In February 2014, the Swiss citizens accepted, in a referendum proposed by the Swiss People's Party, the introduction of quotas on immigration. The EEAS considered that the implementation of quotas affecting EU immigration to Switzerland would be a violation of the Bilateral Agreement on the free movement of persons. Also, it made clear that there would be no solution to the institutional dimension as long as Switzerland does not offer guarantees for securing the continuation of the free movement of persons (O'Sullivan 2014).

The next section will introduce the DCFTA that the EU has concluded with Ukraine as part the new Association Agreement signed in 2014.

***The Ukrainian DCFTA or the long integration process of a would-be European******The origins and development of EU-Ukrainian relations***

After Ukraine's independence from the Union of Soviet Socialist Republics (USSR), the country faced an important political choice: turn to the West and seek closer relations with the EU, or reintegrate into a common economic and political area with fellow former Soviet republics. Worried by Russia's assertive



policies and seeking European-based economic modernization, a majority of the Ukrainian political elite privileged the first option over the latter (Light *et al.* 2000: 82–3).

Consequently, the different Ukrainian governments often proclaimed their country's European identity and clearly expressed their intention to join the EU. In 1998, Ukrainian President Leonid Kuchma even signed a decree officially named the 'Strategy on Ukraine's integration with the EU' (Wolczuk 2007: 5–6). Nevertheless, according to numerous accounts, these governments did not understand the complexity of EU enlargement procedures and lacked sufficient political will to face the challenges of their European choice. Besides, Ukraine's executive and legislative levels did not coordinate efficiently their timid European policies. As a result, Ukraine failed to produce any effective EU-oriented reforms (*ibid.*; Valasek 2010: 5).

The EU has also been criticized for its constant 'lack of enthusiasm' in considering a potential Ukrainian application. Besides, economic problems, such as the Ukrainian inclination towards protectionism, and political problems, including the lack of EU assistance in the decommissioning of the Chernobyl power plant, slowed down the process of *rapprochement* between the two parties (Light *et al.* 2000: 85–6).

Nevertheless, Ukraine had started its European odyssey quite early compared with other former Soviet republics. Indeed, in 1994, Ukraine was the first member of the Commonwealth of Independent States to conclude a Partnership and Cooperation Agreement (PCA) with the EU. This agreement was implemented in 1998 and covered low-key cooperation elements such as political dialogue, trade facilitation (extension of the most-favoured nation provisions) and financial assistance. It did not mention an EU membership perspective, because Ukraine was still widely seen by its EU counterparts as being in a period of transition towards a market economy and, therefore, not in a position to adopt a more ambitious agenda (Wolczuk 2007: 6).

In 1999, at the Helsinki Summit, Ukraine was not mentioned as a country destined to join the EU, unlike most of its western and southern neighbours, including Turkey (European Council 1999). Instead, during the same Council, the EU developed a low-priority Common Strategy for Ukraine that set up numerous political and legal targets, such as 'bringing Ukraine in line with the legal framework of the Internal Market' and consolidation of democracy and the rule of law (*ibid.*). Also, depending on the country's progress towards the fulfilment of these goals, the EU mentioned the perspective of concluding an FTA with Ukraine (Zagorski 2002: 8–10).

Thanks to the creation of the ENP framework in 2003, this deadlocked situation changed. With the first eastern enlargement approaching, the EU showed the political will to avoid the creation of 'new dividing lines in Europe' and to bring stability to its soon-to-be neighbours (Casier 2012: 106–7). In this context, Brussels intended, through conditionality instruments, to shape and update the numerous agreements concluded with eastern and southern countries, both multilaterally and

bilaterally (with the latter dimension largely prevailing though). According to the European Commission (2004: 4), the main long-term objective of the ENP was to offer 'a stake in the Internal Market' to EU neighbours. Also, the purpose was to advance towards the EEA standard and to build a new, intense economic relationship based on 'everything but institutions' (Prodi 2002: 6). Regarding the question of EU accession, however, the ENP remained silent. Thus, it was difficult to interpret the *finalité politique* of this new regional policy: 'training centre' or alternative to EU membership?

As for Ukraine, the EU set clear internal reform objectives in the 2005 ENP-related Action Plan and conditioned them to the deepening of mutual cooperation (European Commission 2005). Despite this new, mutually agreed impetus, largely based on tools borrowed from previous EU enlargements such as conditionality, the Ukrainian domestic reforms made little progress, even after the 2004 pro-EU 'Orange Revolution'. One of the reasons might be that this Action Plan did not include binding legal mechanisms; another might be that Ukraine seems to have made any significant internal reform contingent on an EU green light on the question of membership eligibility (Kelley 2006: 32, 50–1).

In 2006, the European Commission nuanced its 2003 initiative and avoided mentioning the EEA as a potential source of inspiration for the ENP. Instead, it proposed a new, less-ambitious approach. The goal was to create a Neighbourhood Economic Community (NEC) and to conclude far-reaching FTAs with the ENP countries (DCFTAs), depending on their adoption of some parts of the EU *acquis* (Gstöhl 2012: 87). Later, the EU complemented this new approach with the Eastern Partnership initiative, which specifically targeted former USSR republics by giving them a 'strategic' importance but still no EU membership prospect (Council of the European Union 2009). However, the added value of this initiative has been widely questioned, especially in the case of Ukraine (Solonenko 2011: 125–6).

Based on the new NEC approach, the EU and Ukraine started negotiations for an Association Agreement, including a DCFTA, in order to replace the PCA. According to most accounts, the negotiations were long and difficult owing to the numerous differences of views regarding the scope of the agreement and the recurrent political instability in Ukraine (Valasek 2010: 5; Van der Loo 2013: 5). In the meantime, Ukraine joined the World Trade Organization (WTO), which was a prerequisite for concluding the DCFTA (Movchan and Shportyuk 2012: 19).

The DCFTA negotiations were successfully concluded in 2012. A few months later, Ukraine's President Victor Yanukovych gave the impression that he was ready to sign the Association Agreement at the Vilnius Summit in November 2013. However, at the last moment, partly under Russian pressure, he refused to do so. This triggered months of demonstrations by civilian movements, and a brutal crackdown by the Ukrainian authorities followed. Eventually, President Yanukovych had to abandon power, and a new pro-EU government took office. This new government agreed to sign and ratify the Association Agreement, including the DCFTA.

### ***The DCFTA: A giant leap for Ukraine's integration***

Compared with the PCA's substance, the DCFTA provides for a radical change, if not a giant leap, in EU–Ukraine economic relations. Thanks to its comprehensiveness, it goes way beyond the traditional trade liberalization foreseen by the vast majority of EU or other interstate FTAs (Dabrowski and Taran 2012).

First, the agreement eliminates around 99 per cent of duties in trade value. The agreed schedule for liberalization allows for the immediate elimination of current tariffs on most industrial products, with some exceptions in the automobile sector (European Union 2014). This will not cause a radical change in EU–Ukraine trade patterns, because tariffs for industrial products are, in most cases, very low (Åslund 2013: 4).

Regarding agricultural products, however, the EU and Ukraine agreed to eliminate tariffs for certain important products, such as wheat, maize and soya. On other products, they set tariff-free quotas (Hellyer and Pyatnitsky 2013: 11). In this particular area, free trade will certainly induce important economic effects, as agricultural tariffs were still relatively high. Also, Ukrainian agricultural goods represent around one-third of the country's total exports (Movchan and Shportyuk 2012: 10–13).

Box 8.3 offers a brief account of the other main issues addressed by the DCFTA.

### ***Legal and institutional aspects***

Although the DCFTA's menu of cooperation and liberalization might look impressive, one has to take into account that most market liberalizations will take many years and will be conditional on Ukraine's regulatory convergence or 'approximation' in several key sectors, such as competition. In several cases, Ukraine will have to engage in a serious transition effort, as its 'EU legislative footprint' is, according to many accounts, still very limited (Van der Loo 2013).

That being said, the DCFTA does not create any new common institutions, as in the EEA, but only three main association bodies: the Association Council (ministerial level), the supporting Association Committee (expert/diplomat level), which will meet at least once a year, and the Parliamentary Association Committee. These bodies will take decisions by consensus, meaning that the EU parties will be able to apply a strict form of market-access conditionality based on Ukrainian approximation progress and on EU 'on-the-spot missions'. Furthermore, the EU and Ukraine have decided to set up an annual summit that will provide overall guidance on the implementation of the agreement (Van der Loo *et al.* 2014: 11–13).

Moreover, the vast majority of the areas covered by the DCFTA are not governed by the CJEU (the main exceptions being services, competition and public procurement). Thus, Ukraine is not obliged to adopt the principle of conform interpretation of this Court, and no supranational organization is in charge of monitoring the implementation of the DCFTA in Ukraine. Only EU expert missions will periodically write reports on Ukraine's approximation effort (Van der Loo 2013).

**Box 8.3 Key elements of the EU–Ukraine DCFTA  
(signed in 2014)**

- 1 *Free trade in goods and national treatment.*
- 2 *Mutual control of trade remedies* (anti-subsidy and anti-dumping): agreement to implement WTO standards (increasing transparency for investigations based on new mechanisms for cooperation).
- 3 *Reduction of technical barriers to trade:* progressive reduction in technical regulations such as conformity assessment procedures and other comparable obstacles.
- 4 *Market access for animal and plant products* (sanitary and phytosanitary certifications).
- 5 *Simplification of customs requirements and formalities* (including a substantial cooperation in the matter of customs irregularities and fraud).
- 6 *Market access for services* (including financial, telecommunication/postal services and e-commerce).
- 7 *Ukraine's liberalization of capital flows to the EU.*
- 8 *Public procurement markets:* Ukrainian suppliers shall be granted full access to all EU procurement and vice versa (with some exceptions in the areas of air transport and mining).
- 9 *Market access for energy:* reinforcement of the already existing energy cooperation (in the Energy Community Treaty) with the setting of clear rules on pricing, transport and non-discriminatory access to the exploration and production of gas and oil.
- 10 *Protection of intellectual property:* covers issues such as property copyrights, patents and geographical indications. These provisions immediately apply with the entry into force of the agreement.
- 11 *Enforcement of competition rules:* addresses issues related to cartels, abuse of dominant position and mergers and provides for enforcement procedures at the entry into force of the agreement.

*Source:* European Union (2014). Note that some of these elements will only be implemented after long transition periods.

In addition, in most cases, the DCFTA does not include the mandatory adoption of new relevant *acquis* but only a progressive approximation (one exception being the chapter on services and establishment). Thus, the agreement will not be amended on a constant and 'quasi-automatic' basis as a function of the evolution of the relevant *acquis*. Therefore, Ukraine has not been granted any 'decision-shaping' rights on the norms with which it has to align (Van der Loo *et al.* 2014: 18–19).

Finally, the parties did create a specific legal mechanism of dispute settlement based on the WTO Dispute Settlement Understanding, although with faster procedures. Also, they set up an original mediation mechanism that does not address legal problems but tries to find quick and practical solutions to issues related to market access. Ukraine and the EU will jointly choose the mediator from an agreed list of experts (European Commission 2013a: 8).

### **How does the EU–Ukraine DCFTA compare with the Swiss Bilateral Agreements?**

Before comparing the EU–Ukraine DCFTA with the Swiss Bilateral Agreements, note that Georgia and Moldova have concluded similar Association Agreements with the EU. As a result, the conclusions of the following section largely apply to those other two DCFTAs as well.

#### ***Ukraine and Switzerland: different as night and day?***

Ukraine and Switzerland are very different countries. Switzerland is a small, industrially developed and democratically advanced society with a unique form of government and an efficient administration. Besides, Switzerland possesses a long tradition of liberal economic policies and openness to international trade. As a result, its economy attracted a significant amount of foreign direct investment and became a high achiever in innovation (Kriesi and Trechsel 2008). In contrast, Ukraine is a large, relatively underdeveloped economy that has suffered from chronic political instabilities and whose democratic credentials and institutional capacities are widely questioned. Besides, Ukraine has struggled to reform its economy, to attract significant foreign investment and even to comply with basic WTO standards (Dabrowski and Taran 2012: 3).

There are other notable differences between these countries. For instance, the economic flows between Switzerland and the EU are much more intense than those between the EU and Ukraine. Indeed, the Swiss–EU trade in goods is almost six times larger in terms of annual volume (European Commission 2013b, 2013c). Also, as discussed, Ukraine's legal 'EU-ization' process has been defined as 'shallow', 'adjectival' and, more recently, 'sporadic'. Political elites often claimed the intention to 'go European' but lacked the capacity, or the political will, to undertake the considerable obligations arising from this strategic choice (Wolczuk 2007: 21). Meanwhile, Switzerland's 'EU-ization' may be defined in the exact opposite way: profound, systematic but tacit, the Swiss elites and population having no appetite for EU membership. Last but not least, nobody questions Switzerland's European identity and eligibility for EU membership, whereas the picture is far less clear for Ukraine.

Despite these striking differences, the Swiss and Ukrainian relations with the EU also display some similarities. This is true whether one compares the DCFTA with the current Swiss Bilateral Agreements or with the proposed 'upgraded' ones, along the lines of the O'Sullivan–Rossier proposals. For the sake of conciseness,

Ukraine's DCFTA will be compared with the latter only (although Tables 8.4 and 8.5 provide broad information on both versions).

### ***DCFTA and Bilateral Agreements: comparison of content***

The DCFTA and the new proposed Swiss Bilateral Agreements with the EU possess several similarities, and they cannot be compared to 'traditional' FTAs. They both eliminate customs tariffs and quotas for almost all industrial products. Moreover, they both ban a long list of non-tariff barriers to trade. In several areas, such as conformity assessments, standards and technical regulations, obstacles to trade have already been or will be reduced. That being said, this liberalization process has its limits, as the mutual recognition of norms (*Cassis de Dijon* principle) is mentioned in neither the Ukrainian nor the Swiss agreements. Interestingly, Switzerland does, however, apply the principle on a partial and unilateral basis. Also, in several cases, the DCFTA stresses that the reduction of these trade obstacles will be gradual and dependent on Ukraine's approximation to the *acquis* (European Commission 2013a).

Both the Swiss Bilateral Agreements and the Ukrainian DCFTA protect intellectual property rights. They both include provisions on copyrights, patents and geographical indications. Furthermore, these two treaties also provide for the opening of public procurement (with the exception of defence procurement). Yet once again, the public procurement opening in Ukraine will take many years, as it is closely conditioned on an approximation to the *acquis*. Finally, both Ukraine and Switzerland implement the free movement of capital with the EU. That being said, Ukraine's DCFTA covers this issue extensively, whereas the Swiss Bilateral Agreements do not. Indeed, Switzerland and the EU had already unilaterally liberalized their respective capital flows towards third parties (*ibid.*).

Ukraine's DCFTA and the Swiss Bilateral Agreements also diverge in a number of areas. Surprisingly, the former appears to be more ambitious than the latter on a certain number of issues. First, neither the DCFTA nor the Swiss Bilateral Agreements include participation in the EU's Common Agricultural and Fisheries Policies. However, the DCFTA provides for important mutual concessions regarding agricultural products. Switzerland's FTA with the EU only deals with industrial free trade issues, although lower tariffs have been implemented for some processed agricultural food in the Bilateral Agreements I (Vahl and Grolimund 2006: 28).

Second, Ukraine and the EU will soon implement the free movement of services (including financial and postal services), whereas Switzerland and the EU have never concluded any comprehensive treaty on the matter. However, Switzerland's agreement on the free movement of persons includes cross-border dispositions regarding short-period services. Also, Switzerland and the EU concluded two agreements on transport services.

Third, the DCFTA widely addresses competition issues (cartels, abuse of dominant position, mergers) and will provide for effective enforcement procedures, whereas Switzerland and the EU only developed limited cooperation regarding

this matter. Finally, as for energy issues, it is important to mention that Switzerland does not have access to the EU's electricity market, unlike Ukraine. Indeed, Swiss–EU negotiations on the matter stalled many years ago.

On the other hand, the Swiss Bilateral Agreements also contain a number of elements that are not covered by the DCFTA. First and foremost, Switzerland and the EU implemented the free movement of persons. This pillar of the internal market is not covered by the DCFTA. Also, far-reaching agreements on road, rail, air and inland-waterways transport have been concluded between Switzerland and the EU. Ukraine's DCFTA only covers international maritime transport and states that market liberalization in other transport sectors will be addressed in future agreements.

In conclusion, in terms of substance, both the DCFTA and the Bilateral Agreements offer more integration possibilities than the EU's traditional FTAs. At the same time, they both fall short of full internal market access and cover less than the EEA Agreement (see Table 8.1).

### ***DCFTA and Bilateral Agreements: differences in legal aspects and institutions***

As in the previous section, there are similarities between the institutional structures of the Ukrainian DCFTA and the Swiss Bilateral Agreements. First, these agreements are purely bilateral and allow for a one-to-one negotiation with the EU. They did not create integrated or multilateral institutions. In other words, neither Ukraine nor Switzerland is obliged to coordinate their respective positions with other non-EU members. This constitutes a major difference with the EEA, where the EFTA states are legally obliged to 'speak with one voice' in their proceedings with the EU.

Second, the institutional structure of both the DCFTA and the Swiss Bilateral Agreements can be viewed as relatively 'light'. In both cases, joint (association) bodies will manage the respective agreements on the basis of unanimity. Also, Ukraine and Switzerland avoided the supervision of a supranational institution with respect to their legal obligations. However, their implementation efforts are to be checked by different types of expert. As a result, this institutional setting somehow preserves, at least formally, the countries' sovereignty.

Third, with the implementation of the upgraded Bilateral Agreements, however, Switzerland agrees to adapt quasi-automatically the evolution of the Bilateral Agreements to the relevant *acquis* (as well as the related interpretation by the CJEU). This move could certainly reduce Switzerland's formal sovereignty. It also stands in sharp contrast with the DCFTA, where Ukraine's legal commitment is generally limited to gradual and static legal approximation. Besides, the DCFTA does not always clearly define the scope of the relevant *acquis* with which Ukraine should align. Moreover, in most cases, the CJEU will not be competent to deliver an interpretation regarding issues related to this approximation, whether on the scope or on the implementation (Van der Loo 2013: 10).

Table 8.1 Comparison of the comprehensiveness of the Bilateral Agreements and the DCFTA (internal market access)

	European Economic Area	Swiss Bilateral Agreements (in force)	Swiss Bilateral Agreements Agreements (O'Sullivan-Rossier proposal)	EU-Ukraine DCFTA
<b>Four freedoms/internal market</b>				
Free movement of goods:				
- Industrial goods	Yes	Yes (1972 FTA)		Yes
- Agricultural products (unprocessed)	No	No		Yes
- Agreement on conformity assessment and acceptance of industrial products	Yes	Yes		Yes (depending on Ukraine's approximation)
- Mutual recognition ( <i>Cassis de Dijon</i> principle)	Yes	No		No
- Trade facilitation (simplification of border controls and formalities)	Yes	Yes		Yes
- Anti-fraud cooperation (customs irregularities and fraud)	Yes	Yes		Yes
- Access to public procurement markets (beyond WTO agreement)	Yes	Yes		Yes (depending on Ukraine's approximation)
Free movement of persons	Yes	Yes	Unchanged	No
Free movement of services:				
- Financial, telecommunication and postal services	Yes	No		Yes (depending on Ukraine's approximation)
- Air and land transport	Yes	Yes		No
Free movement of capital	Yes	Yes (already, before Bilateral Agreements)		Yes
<b>Customs union:</b>				
Common external tariff	No	No		No
Removal of border control on rules of origins	No	No		No
<b>Fiscal policies:</b>				
VAT harmonization (and removal of border control on indirect taxation)	No	No		No
Taxation of savings	Yes	Yes		No

Note: VAT = value added tax

Source: Authors' compilation.



Table 8.2 Comparison of the depth of the EEA, the Bilateral Agreements and the DCFTA (institutions and legal aspects)

	European Economic Area	Swiss Bilateral Agreements (in force)	Swiss Bilateral Agreements (O'Sullivan-Rossier proposals)	EU-Ukraine DCFTA
<b>Institutional link with the EU</b>				
Participation in common integrated institutions	Yes	No	No	No
Participation in 'decision-shaping'	Yes	No (except Schengen/Dublin)	Yes	No
<b>Acquis communautaire</b>				
Adoption of relevant <i>acquis</i> (at conclusion of agreement)	Full	Full	Full	Partial (approximation)
Adoption of evolution of relevant <i>acquis</i> (extent)	Full in principle	Partial <i>de facto</i>	Full in principle	Partial <i>de facto</i>
Adoption of evolution of relevant <i>acquis</i> (procedures)	Evolutionary nature, quasi-automatic	Static nature, on case-by-case basis, but quasi-automatic in air transport and Schengen/Dublin	Evolutionary nature, quasi-automatic ('dynamic')	Static nature, on case-by-case basis, but quasi-automatic in services and public procurement
Adoption of evolution of relevant <i>acquis</i> (possibility of opt-out)	Yes, but only on EEA/EFTA pillar basis	Yes, <i>de facto</i>	Not mentioned (to be negotiated)	Yes, <i>de facto</i>
<b>Surveillance and jurisdiction</b>				
Supervision by independent surveillance authority (ensuring that relevant <i>acquis</i> is correctly implemented)	Yes	No	No (Commission has 'right of enquiry', may refer to CJEU)	No (Commission monitors Ukraine's approximation through on-the-go missions)
Obligation to conform with CJEU's interpretation	Yes	No (except in air transport and Schengen/Dublin)	Yes	No (except in services and public procurement)
<b>Dispute settlement with EU</b>				
	Political (multilateral negotiations in EEA Joint Committee)	Political (bilateral negotiations in Joint Committees)	Political (as currently, but negotiations based on CJEU's interpretation)	Political (mainly based on standard WTO dispute settlement procedures)

Source: Authors' compilation.

Incidentally, one may wonder whether this relatively 'unconstrained' legal framework might not become a fertile ground for bilateral frictions in the long run, akin to the one described above. Arguably, this agreement also offers a number of guarantees for the EU. It sets a long transition period in many cases. Moreover, it leaves the door open for the EU to block parts of the gradual implementation process of the DCFTA, if it considers that Ukraine is not fulfilling its legal obligations. In the Swiss case, however, there are no conditionality provisions, with the exception of the 'guillotine clause'. Also, most of the Bilateral Agreements entirely entered into force after relatively short transition periods (Schwok 2009: 37–66).

Fourth, neither Ukraine nor Switzerland participates in the EU decision-making procedures. However, with Switzerland engaged in moving towards a dynamic framework, the EU has proposed to offer a 'decision-shaping' right to Swiss representatives (O'Sullivan and Rossier 2013). All these elements are summarized in Table 8.2.

## **Conclusion**

The starting point of this chapter was the question of to what extent the Swiss–EU Bilateral Agreements can be considered a model for EU–Ukraine relations. Thereafter, two hypotheses arguing against it were stipulated. The following comparison led to a falsification of the first hypothesis: there is no evidence that the EU wants to end bilateralism and to push Switzerland to join the EEA or any other multilateral scheme. On the contrary, the unpublished Rossier–O'Sullivan non-paper, as well as the EU negotiation mandate (Council of the European Union 2014), clearly shows that the EU is ready to continue a tailor-made approach towards Switzerland. Therefore, the continuation of Switzerland's bilateralism, which has been considered with scepticism by numerous analysts, remains on track. In this perspective, Switzerland's relations with the EU may represent, at least theoretically, a benchmark for the ENP countries.

Having said that, comparing Ukraine's and Switzerland's relations with the EU is a rather difficult exercise. These countries are both economically and politically very different. Also, their 'EU-izations' seem to display different patterns. However, as argued, their integration paths might be heading in the same direction: bilateralism with extended internal market access, even if Ukraine's capacity and political will to fulfil all its obligations under the DCFTA remain open to question.

Thus, the second hypothesis, about the DCFTA not providing the same access possibilities to the internal market and sovereignty guarantees as the Bilateral Agreements, has been, at least partially, falsified. Quite surprisingly, the DCFTA competes well with the upgraded Bilateral Agreements, both in terms of internal market access and formal sovereignty preservation. Indeed, this agreement does not embed Ukraine in tight evolutionary legal mechanisms. This applies as well to the mechanisms for dispute settlement. In the case of persistent EU–Ukraine disputes, an independent arbitration body, appointed on a parity basis by both parties, would take the final decision.

In the Swiss case, the CJEU, where no Swiss judges sit, would first give a legally binding interpretation. Last but not least, in the event of non-compliance by Switzerland, the EU would be allowed to take retaliatory measures leading to the termination of the affected bilateral agreement (O'Sullivan and Rossier 2013; Council of the European Union 2014). These elements are quite striking if one keeps in mind that Switzerland has often been labelled as a 'reluctant European', deeply concerned by sovereignty issues and in need of special integration solutions (Gstöhl 2002; Schwok 2009).

At the same time, the DCFTA offers a relatively good (though only gradual) access to EU markets, at least compared with the Bilateral Agreements. In fact, in certain areas such as services and competition, Ukraine might progressively become more integrated than Switzerland, the only, considerable, exception being the free movement of persons.

All these features tend to stress that there is a certain convergence between the two integration paths of Switzerland and Ukraine. However, it would be an exaggeration to coin Swiss bilateralism as a true 'model' for the EU–Ukraine DCFTA. Another conclusion arising here is that the 'integration gap' between Switzerland's Bilateral Agreements and the new ENP Association Agreements is seriously narrowing. As a result, the Swiss integration approach might end up losing many elements of its distinctive and exclusive nature. Interestingly, both the Swiss Bilateral Agreements and the EU–Ukraine's DCFTA seem to have been the result of a tailor-made perspective, although not for the same reasons. In the case of Switzerland, this special nature is largely the result of the EU's wish to accommodate Swiss political and economic particularities. Also, Switzerland is a central country in respect of many European economic flows. Therefore, ignoring it would entail certain costs for the EU (even though the cost of isolation would certainly be more important for Switzerland).

In Ukraine's case, however, the tailor-made nature seems to be more the result of the EU's actual strategy towards the ENP states: using differentiation and socialization tools, while avoiding offering an EU membership perspective. In other words, the ENP countries willing to engage in EU-driven reforms are granted ambitious DCFTAs that might look like good alternatives to full integration, while others are left with unambitious cooperation. Yet, these two very different EU strategies towards two dissimilar non-members seem to have produced almost the same results: ever-more similar bilateral agreements.

## Notes

- 1 See Chapter 2 by Gstöhl and Chapter 4 by Baur, in this volume.
- 2 See Chapter 3 by Frommelt, in this volume.

## References

- Åslund, A. (2013) 'Ukraine's choice: European Association Agreement or Eurasian Union', *Peterson Institute for International Economics* PB 13–22, September; online at: <http://bit.ly/18aixfm> (accessed October 2013).

- Barroso, J.-M. (2012) 'Lettre du Président de la Commission européenne à la Présidente de la Confédération', PRES (2012) 1548156, Brussels, 21 December.
- Baudenbacher, C. (2012) 'Die Schweiz sollte dem Europäische Wirtschaftsraum nähertreten', *Frankfurter Allgemeine Zeitung*, 31 October, 19.
- Burkhalter, D. (2013) *Medienkonferenz des Bundesrates vom 21.8.2013*, Berne, Federal Palace Media Centre, 21 August; online at: <http://bit.ly/1eoSRCc> (accessed September 2013).
- Casier, T. (2012) 'European Neighborhood Policy: Living up to regional ambitions?', in Bindi, B. and I. Angelescu (eds), *The foreign policy of the European Union: Assessing Europe's role in the world*, Washington, DC, The Brookings Institution, 99–117.
- Council of the European Union (2009) Joint Declaration of the Prague Eastern Partnership Summit, *A more ambitious partnership between the European Union and the partner countries*, 8435/09 (Press 08), Brussels, 7 May.
- Council of the European Union (2010) *Council conclusions on EU relations with EFTA countries*, 3060th General Affairs Council meeting, Brussels, 14 December.
- Council of the European Union (2012) *Council conclusions on EU relations with EFTA countries*, 3213th Transport, Telecommunications and Energy Council meeting, 20 December, Brussels.
- Council of the European Union (2014) 'Decision authorising the opening of negotiations on an agreement between the European Union and the Swiss Confederation on an institutional framework governing bilateral relations', confidential and not published, Brussels, 6 May.
- Dabrowski, M. and S. Taran (2012) 'Is free trade with the EU good for Ukraine?', *Case Network E-Briefs* 06/2012, Warsaw, CASE; online at: <http://bit.ly/18IS4nP> (accessed October 2013).
- Delors, J. (1989) 'Statement on the broad lines of Commission policy, Strasbourg, 17 January 1989', *Bulletin of the European Communities*, Supplement 1, 5–19.
- Dupont, C. and P. Sciarini (2007) 'Back to the future: The first round of bilateral negotiations with the EU', in Church, C. (ed.), *Switzerland and the European Union*, London, Routledge, 202–14.
- European Commission (2004) Communication from the Commission, *European Neighbourhood Policy – Strategy Paper*, COM(2004) 373, Brussels, 12 May.
- European Commission (2005) *EU–Ukraine Action Plan*, Brussels, February.
- European Commission (2013a) *EU Ukraine Deep and Comprehensive Free Trade Area*, Trade Document 150981, DG Trade, Brussels, April; online at: <http://bit.ly/16F2Lx4> (accessed October 2013).
- European Commission (2013b) *Ukraine. EU bilateral trade and trade with the world*, DG Trade G2, Brussels, 5 July; online at: <http://bit.ly/19V1iRp> (accessed October 2014).
- European Commission (2013c) *Switzerland. EU bilateral trade and trade with the world*, DG Trade G2, Brussels, 5 July; online at: <http://bit.ly/17JN5VN> (accessed October 2014).
- European Council (1999) 'Conclusion of the Presidency', Helsinki, 10–11 December.
- European External Action Service (2012) Letter of the President of the Swiss Confederation of 15 June 2012, 'Analysis of the Swiss proposals; Document to the attention of member states', confidential and not published, Brussels, 11 September.
- European Union (2014) 'Association Agreement between the European Union and its member states, of the one part, and Ukraine of the other part', *Official Journal of the European Union* L 161, Brussels, 29 May.
- Gould, T. (2004) 'The European Economic Area: A model for EU's Neighbourhood Policy?', *Perspectives on European Politics and Societies* 5(2), 171–202.

- Gstöhl, S. (2002) *Reluctant Europeans: Norway, Sweden, and Switzerland in the process of integration*, Boulder, CO: Lynne Rienner.
- Gstöhl, S. (2007) 'The EU's response to Switzerland: Still a special case', in Church, C. (ed.), *Switzerland and the European Union*, London, Routledge, 234–47.
- Gstöhl, S. (2012) 'What is at stake in the internal market? Towards a Neighbourhood Economic Community', in Lannon, E. (ed.), *The European Neighbourhood Policy's challenges / Les défis de la politique européenne de voisinage*, Brussels, P.I.E. Peter Lang, 85–108.
- Hellyer, M. and V. Pyatnitsky (2013) 'Selling to the EU under the DCFTA. Explaining the benefits of the Deep and Comprehensive Free Trade Agreement (DCFTA) between Ukraine and the EU', CTA Economic and Export Analysts; online at: <http://bit.ly/1dj5KuF> (accessed October 2013).
- Jenni, S. (2014) 'Europeanization of Swiss law-making: Empirics and rhetorics are drifting apart', *Swiss Political Science Review* 20(2), 208–15.
- Kelley, J. (2006) 'New wine in old wineskins: Promoting political reforms through the new European Neighbourhood Policy', *Journal of Common Market Studies* 44(1), 29–55.
- Kriesi, H.-P. and A. Trechsel (2008) *The politics of Switzerland: Continuity and change in a consensus democracy*, Cambridge, UK, Cambridge University Press.
- Kux, S. and U. Sverdrup (2000) 'Fuzzy borders and adaptive outsiders: Norway, Switzerland and the EU', *Journal of European Integration* 22(1), 237–70.
- Light, M., S. White and J. Löwenhardt (2000) 'A Wider Europe: The view from Moscow and Kyiv', *Chatham House, International Affairs* 76(1), 77–88.
- Movchan, V. and V. Shportyuk (2012) *EU–Ukraine DCFTA: The model for Eastern Partnership regional trade cooperation*, Case Network Studies and Analyses 445/2012, Warsaw, CASE/Centre for Social and Economic Research.
- Nell, Ph. (2012) *Suisse-Communauté européenne: au cœur des négociations sur l'Espace économique européen*, Lausanne, Switzerland, Fondation Jean Monnet pour l'Europe.
- O'Sullivan, D. (2014) 'Les négociations Suisses sont dans l'impasse', *Radio Télévision Suisse*, 29 October; online at: <http://bit.ly/10NUK7I> (accessed October 2014).
- O'Sullivan, D. and Y. Rossier (2013) 'Éléments de discussion sur les questions institutionnelles entre l'Union européenne et la Confédération helvétique', confidential and not published, Berne, 13 May.
- Pelkmańs, J. and Ph. Böhler (2013) *The EEA review and Liechtenstein's strategy*, Brussels, Centre for European Policy Studies, 13 March.
- Philipps, L. (2010) 'EU to Switzerland: Where are we going with this relationship?', *EUobserver*, 15 December; online at: <http://bit.ly/PzjdGB> (accessed October 2013).
- Prodi, R. (2002) *A Wider Europe – A proximity policy as the key to stability*, Sixth ECSCA-World Conference, Speech/02/619, Brussels, 5–6 December.
- Schwok, R. (2009) *Switzerland-European Union: An impossible membership?*, Brussels, P.I.E. Peter Lang.
- Schwok, R. (2010) 'Specificities of Switzerland's relations with EFTA', in Bryn, K. and G. Einarsson (eds), *EFTA 1960–2010, Elements of 50 years of European history*, Reykjavik, University of Iceland Press, 99–122.
- Solonenko, I. (2011) 'Added value? The Eastern Partnership and EU–Ukraine bilateral relations', *Internationale Politik und Gesellschaft* 3, Berlin, Friedrich Ebert Stiftung.
- Swiss Federal Department of Foreign Affairs (2015) 'Overview of the bilateral agreements'; online at: [www.eda.admin.ch/dea/en/home/bilaterale-abkommen/ueberblick.html](http://www.eda.admin.ch/dea/en/home/bilaterale-abkommen/ueberblick.html) (accessed May 2015).

- Tovias, A. (2006) 'Exploring the "pros" and "cons" of Switzerland's and Norway's model of relations with the EU: What can be learned from these two countries' experience by Israel?', *Cooperation and Conflict* 41(2), 203–22.
- Vahl, M. and N. Grolimund (eds) (2006) *Integration without membership: Switzerland's Bilateral Agreements with the European Union*, Brussels, Centre for European Policies Studies.
- Valasek, T. (2010) 'Ukraine turns away from democracy and the EU', *CER Policy Brief*, London, Centre for European Reform, October; online at: <http://bit.ly/1cgnaHh> (accessed October 2013).
- Van der Loo, G. (2013) *The Ukraine DCFTA*, Jean Monnet Conference, Kiev, 22 April.
- Van der Loo, G., P. Van Elsuwege and R. Petrov (2014) *The EU–Ukraine Association Agreement: Assessment of an innovative legal instrument*, Working Papers Law 2014/09, Florence, European University Institute.
- Widmer-Schlumpf, E. (2012) 'Principes applicables à la résolution des questions institutionnelles dans le cadre de l'accord électricité entre la Suisse et l'UE', *Courrier de la Présidente de la Confédération*, Berne, 15 June.
- Wolczuk, K. (2007) 'Adjectival Europeanisation? The impact of EU conditionality on Ukraine under the European Neighbourhood Policy', *ERI Working Paper Series* 18, Birmingham, UK, European Research Institute.
- Zagorski, A. (2002) 'EU policies towards Russia, Ukraine, Moldova and Belarus', *Occasional Paper Series* 35, Geneva, GCSP.

# **The European Neighbourhood Policy in a Comparative Perspective**

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