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The implications of expansion to the East

On 1 May 2004, ten more states will be added to the European Union (EU). The seven sectoral agreements between Switzerland and the EU will be expanded to include the new members; the agreement on free movement of persons (AFM) will be extended with an additional protocol.

Specific economic and political criteria (the Copenhagen criteria) must be fulfilled in order to join the European Union. Each acceding country must demonstrate a functioning market economy and take on the obligations of membership by transposing into national legislation and effectively implementing the Community obligations and rights. Furthermore, the state institutions, the democratic system, the rule of law, and respect for human rights must demonstrate a certain stability.

According to a report by the EU Commission published in Brussels in November 2003, there is still some way to go before the new members complete their preparations for taking on EU law. Nevertheless, there is no question that the EU region will be expanded to 25 member states on 1 May 2004 with the addition of ten new countries: Estonia, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia, the Czech Republic, Hungary and Cyprus.

In the autumn of 2003 Norway, Iceland and Liechtenstein expressed their willingness to expand the European Economic Area (EEA) agreement to include the ten acceding countries.

As a result of the EU expansion, the seven bilateral agreements between Switzerland and the EU/EFTA states will be extended to include the new member countries.

The AFM, which has been in force since 1 June 2002, will be extended by means of an additional protocol to the existing agreement, while the other sectoral agreements concluded in 1999 will be automatically taken over. These include the agreement on overland transport (transit), air transport, public procurement, technical barriers to trade, and agriculture.

The Federal Council views the extension of the bilateral agreements as a positive step and an economic opportunity for Switzerland. Expansion will result in a 20 percent growth in the size of the EU market to approximately 450 million people, thereby opening up interesting prospects for Switzerland. Not only will the trading and investment area be expanded, but also the potential for procuring skilled and temporary labour. The expansion is primarily interesting for the agricultural, hospitality, tourism and medical supply sectors.

¹ The agreement on research governs Switzerland's participation in the six EU framework research programmes. The renewed research agreement has been initialled but is not yet in force. The original research agreement of 1999, which governed Switzerland's participation in the five framework programmes, came to an end on 31 December 2002.

tors. The EU is also expecting an economic upswing.

Gradual adjustment

Switzerland is aiming to regulate the expansion by reasonable provisional regulations, and wants to introduce free movement of persons with the new EU states in phases. The bases for negotiation are twofold: firstly, the regulations governing the existing agreement on free movement of persons (AFM) between Switzerland and the EU; and secondly, the transitional provisions which the present EU has negotiated with the ten applicant countries. Under the terms of the AFM, Swiss workers can be given priority over EU-workers for a period of two years (the so-called "inland priority", including control over salary and working conditions). These mea-

The new member countries

Estonia (pop. 1.3 million)
Latvia (pop. 2.3 million)
Lithuania (pop. 3.7 million)
Malta (pop. 390,000)
Poland (pop. 38.6 million)
Slovakia (pop. 5.4 million)
Slovenia (pop. 1.9 million)
Czech Republic (pop. 10.3 million)
Hungary (pop. 10 million)
Cyprus (pop. 728,000)

sures remain valid until 31 May 2004, and will be replaced by flanking measures as of 1 June 2004. The aim is to protect Swiss workers against social and salary dumping by cheap labour from abroad. This means that Swiss salary and working conditions will

apply for any gainful employment in Switzerland. The system of quantitative limits will remain in force until 31 May 2007. Until 2014 a safeguard clause will remain in force to enable the reintroduction of quantitative limits in the event of excessive immigration.

The next steps

- Conclusion of the negotiations begun in July 2003
- Implementation of the consultation procedure
- Federal Council's message to houses of parliament
- Decision of the houses of parliament on EU extension
- Possibility of a referendum against this federal decision: voters decide
- Earliest enactment: 2005

The additional protocol to the AFM is scheduled to come into force by 2005 at the earliest.

Applicable principles

Since the AFM came into force, Swiss employees as well as self-employed persons are free to move to an EU/EFTA state, and to take up residence and gainful employment there. For unemployed persons the validity of the AFM is limited to up to three months. Students, retired persons and other persons not in employment as well as members of their families are also guaranteed free movement, provided they are insured under a health insurance scheme and have sufficient finances to prevent them becoming a welfare burden on the host state. Just as Switzerland can give priority to Swiss nationals over foreign employees from EU/EFTA states for a transition period of two years, EU/EFTA countries can apply this restriction to Swiss employees up to 31 May 2004. Unconditional free movement of persons is already in force in some countries (see www.swiss-emigration.ch).

The signatory states are obliged to observe certain principles. Swiss employees who already held a residence and employment permit in an EU or EFTA country prior to the coming into force of the AFM are entitled to be treated on an equal footing with employees holding the host country's nationality, and these permits will be automatically extended. In addition, insurance contribution periods are mutually recognised, cash benefits exported (for example pensions, unemployment insurance benefits), and the principle of benefits in kind applies for health and accident insurance. The opening of the job market to include EU/EFTA countries results in coordination of these countries' national social security systems with Switzerland's.

Swiss pensioners living in an EU or EFTA country and drawing a Swiss pension are, in principle,

subject to Swiss health insurance although exceptions exist depending on their country of residence.

Under the terms of the AFM, Switzerland also agrees to the EU's system of recognition of diplomas. This applies only to regulated professions such as those where it is a statutory requirement to hold a diploma in order to pursue the profession in question in the host country. The Council of European Communities and the European Parliament have enacted a series of sectoral and general directives for the recognition of diplomas. Seven sectoral directives enable the automatic recognition of diplomas (for doctors, dentists, veterinarians, pharmacists, nurses, midwives and architects) in order to facilitate and promote mobility in the member states. The general directives apply to diplomas not governed by the sectoral directives. The equivalence of these diplomas is determined depending on the content and duration of the study period.

Implementation

EU agreements which are concluded exclusively within the sphere of responsibility of the Community organs are automatically extended to the new members. "Mixed" agreements (including the AFM) which are concluded between the EU and individual member states must be formally negotiated. If Switzerland rejected extension of

INTERNET

www.europa.admin.ch
(Free movement of persons, Swiss policy on Europe)
www.bbt.admin.ch
(Recognition of diplomas)
www.seco.admin.ch
(Flanking measures)
www.bsv.admin.ch/
www.seco.admin.ch
(Coordination of social security)
www.imes.admin.ch
(Emigration, residency)

the AFM to the new member states, it would have to accept the probability of the EU terminating the agreement. Due to the so-called "guillotine clause", this would result in the simultaneous annulment of all seven bilateral agreements.

In Switzerland, parliament decides on the extension of the agreement on free movement of persons (parliamentary decision subject to referendum). Since the agreement comes to an end in 2009, the Council of States and the National Council will then have to decide again whether this agreement is to be continued. This decision is also subject to an optional referendum.

Service for the Swiss Abroad/FDFA

Gabriela Brodbeck

Translated from German

New initiative launched

The following people's initiative has been launched and is open for signature:

"For the family – children secure the future!" (until 23 March 2005)
Committee: Eidgenössische Volksinitiative "Kindern sichern Zukunft!", Postfach 801, 3003 Berne 31

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Signature forms for pending initiatives can be downloaded from <http://www.admin.ch/ch/d/pore/vi/vis10.html>.

BDK