

## **Agreement on trade in agricultural products and Protocol establishing the Common Food Safety Area**

### **1. The situation today**

The Agreement on trade in agricultural products was signed in 1999 and entered into force in 2002 as part of a package of seven sectoral agreements with Switzerland<sup>1</sup>.

The Agreement has two pillars. The agricultural pillar covers aspects regarding trade in agricultural products, such as tariffs and quotas, the protection of denominations of wines and spirits and of geographic indications of other products, the recognition of conformity assessment of marketing standards for fresh fruits and vegetables, and the recognition of the equivalence of the EU's and Switzerland's rules on organic products<sup>2</sup>.

The sanitary and phytosanitary pillar covers a broad range of areas related to the food chain. It includes plant health, seeds, as well as animal feed, breeding, health and welfare. Over time, on this basis, the Union's and Switzerland's respective rules in these areas as well as those concerning food safety have become so similar and leading to the same result that EU and Swiss food, feed, plant and animal products can circulate throughout the combined territory of the Union and Switzerland under the same rules as the ones established for trade between Member States of the EU.

Although the Agreement has functioned broadly to both sides' satisfaction, its current legal setup and functioning have shortcomings. First, the dispute settlement mechanism of the agricultural pillar is outdated. Second, the coverage of the sanitary and phytosanitary pillar is incomplete. For instance, it does not cover aspects such as novel foods, food labelling, food contact material, nutritional claims or plant protection products. Third, the Agreement's rules and procedures that align the applicable Union and Swiss rules vary from one field of the sanitary and phytosanitary pillar to another. Moreover, they are not adapted to the continuous and fast paced evolution of the Union's rules relating to the food chain. Fourth, Switzerland currently does not have the right to take part in key components of the Union's integrated control system of the various areas related to the food chain such as the European Food Safety Authority and some key information systems such as the Rapid Alert System for Food and Feed.

The EU and Switzerland therefore decided to include the update of the Agreement on trade in agricultural products, as well as a new Protocol establishing a Common Food Safety Area, in the broad package negotiations held between March and December 2024.

### **2. The contents of the modernised agreement and the Protocol establishing the Common Food Safety Area**

During the negotiations, the Union and Switzerland agreed on a new structure for the Agreement, which takes better into account of the specificities of the agricultural and sanitary and phytosanitary pillars, while preserving the intrinsic link between them.

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<sup>1</sup> In addition to the Agreement on trade in agricultural products, the package of EU-Switzerland agreements which were signed in 1999 included the following: the Agreement on the free movement of persons, the Agreement on certain aspects of government procurement, the Agreement on the carriage of goods and passengers by rail and road, the Agreement on air transport, the Agreement on mutual recognition in relation to conformity assessment and the Agreement on scientific and technological cooperation.

<sup>2</sup> Based on Article 47 of Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ L 150, 14.6.2018, p. 1)

*Agricultural pillar:* With the update of the dispute settlement mechanism and the inclusion of third-party arbitration, the Union and Switzerland will bring the agricultural agreement in line with similar agreements that both the Union and Switzerland have concluded with other third countries. These specific dispute settlement solutions will only apply to the trade aspects under the agricultural pillar.

*Sanitary and phytosanitary pillar:* The sanitary and phytosanitary pillar of the Agreement will be replaced by a Common Food Safety Area. In doing so, the EU and Switzerland have agreed to replace the patchwork of rules and procedures that presently apply by a single rule book.

The Protocol on the Common Food Safety Area includes an institutional setup that is distinct from the one of the agricultural pillar of the Agreement and aims to ensure a level playing field, and a stable and predictable environment for citizens, consumers, farmers and businesses in the EU and in Switzerland. The setup involves the obligation to dynamically align to the relevant Union *acquis*. Union legal acts integrated into the Protocol will be applicable in the EU and in Switzerland. To ensure the immediate and simultaneous application of the Union *acquis*, Switzerland will temporarily apply all non-legislative legal acts, such as delegated and implementing acts of the European Commission, from the day they become applicable in the Union, until the Joint Committee decides to formally integrate those acts in the Protocol. In addition, the Union *acquis* will have to be uniformly interpreted and applied across the EU and Switzerland.

In a limited set of areas, the EU and Switzerland agreed that Switzerland can maintain standards that are different from those of the EU. This is in particular the case for genetically modified organisms and animal welfare. Both sides agreed that different Swiss standards should not adversely affect exports of the EU to Switzerland and that both sides should consult each other about important developments relating to these areas.

Switzerland will have the possibility to take part in the relevant decision-shaping processes in the EU. It will also gain access and contribute financially to the European Food Safety Authority, the Rapid Alert System for Food and Feed, the Animal Disease Information system, and the European Commission's platforms for notifications of interceptions of harmful organisms and for sanitary and phytosanitary certification.

The Protocol will allow for the resolution of disputes between the EU and Switzerland through an arbitral tribunal, with a role for the European Court of Justice if there is a question of Union law that needs to be resolved in order for the arbitral tribunal to deliver its decision. Moreover, the case-law of the European Court of Justice will apply to the Protocol regardless of whether it is handed down before or after the entry into force of the Protocol.

### **3. The benefits of the modernised agreement and the Protocol establishing the Common Food Safety Area**

The updated dispute settlement mechanism will provide an effective method for consultation, arbitration and, if needed, remedies. This will provide additional legal protection to the rights of EU and Swiss exporters of agricultural products.

The establishment of the Common Food Safety Area will provide greater legal clarity and predictability and increase the efficiency and effectiveness of the control system along the food chain. Animals, plants, food and feed will circulate between the EU and Switzerland according to the same rules as between the Member States of the EU. Consignments from third countries will be subject to the same sanitary and phytosanitary checks upon their arrival in Switzerland as in any Member State. This means that the same checks will be applied at airports and ports such as Geneva, Zurich, Dunkirk, and Schiphol for imported

food, feed, plants, and animals. Consumers in the EU and Switzerland will be reassured that the same set of high standards regarding food, feed and other products related to the food chain is simultaneously applied across both sides at any given moment in time. Food and feed producers and businesses in the EU and Switzerland will benefit from clearer and more transparent rules, which will make exchanges smoother and easier.