

EUROPEAN PARLIAMENT

2004



2009

Committee on Civil Liberties, Justice and Home Affairs

2004/0187(CNS)

18.1.2005

OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Budgetary Control

on the proposal for a Council decision on the conclusion of the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other part, to counter fraud and all other illegal activities affecting their financial interests
(COM(2004)0559 – C6-0176/2004 – 2004/0187(CNS))

Draftsman: Timothy Kirkhope

SHORT JUSTIFICATION

I. Background

Relations between Switzerland and the European Union (EU) are particularly close as demonstrated by the large number of agreements which are in place between them.¹

Following Switzerland's rejection of accession to the European Economic Area (EEA) Agreement in 1992, a series of bilateral agreements (the so called Bilateral Agreements I) were negotiated in order to minimise the negative consequences of that rejection. They covered free movement of persons, overland transport, air transport, agriculture, research, as well as technical barriers to trade and public procurement, and entered into force on 1 June 2002.

A second package of agreements (Bilateral Agreements II) have been negotiated since June 2002. This package contains nine different agreements which concern the taxation of savings; the co-operation in the fight against fraud; the association of Switzerland to the Schengen acquis; participation of Switzerland in the "Dublin" and "Eurodac" regulations; trade in processed agricultural products; Swiss participation in the European Environment Agency and European Environment Information & Observation Network (EIONET); statistical co-operation; the Swiss participation in the Media plus and Media training programs, and for the avoidance of double taxation for pensioners of Community institutions.

There were nine agreements signed on 26 October 2004. The Parliament is now being consulted on the conclusions.

II. The present agreement

The present agreement covers cooperation to counter fraud and other illegal activities affecting the financial interests of the partners of the agreement. Negotiations were started mainly on the initiative of the EU which had a series of concerns. Due to Switzerland's geographic location, in the middle of the EU landmass, Swiss entities - both personal and corporate - cannot avoid being involved in cases which involve EU member states like cigarette smuggling, VAT and customs fraud, or other types of white collar crime which are essentially cross-border by nature. These cases required cooperation and assistance which was difficult to obtain in the absence of a bilateral agreement. As a result, letters rogatory or other requests for evidence for example often took too much time to combat this type of crime effectively.

The agreement negotiated contains two main parts: first, provisions relating to administrative assistance for the protection of financial interests (Title II of the agreement) and secondly, provisions relating to mutual legal assistance in criminal matters for the protection of financial interests (Title III of the agreement). Within the scope of the agreement are tax (VAT and excise duties) and customs offences (including smuggling), corruption, bribery and money laundering of the proceeds of the activities covered by the agreement. Direct taxes are

¹ See http://www.europa.eu.int/comm/external_relations/switzerland/doc/bilat.htm

excluded from the scope of the agreement. In principle, the application of this agreement is not subject to the dual criminality rule, except for judicial cooperation by means of coercive measures (search and seizure).

III. Evaluation of the present agreement

The agreement will be helpful in the cooperative effort require to fight crime. It addresses a well defined set of concerns and provides clarification of the rules. The purpose of the agreement is limited to specific areas and it contains no unnecessarily burdensome requirements. The interests of both sides are well balanced.

The draftsman therefore recommends that the committee supports this agreement.

CONCLUSION

The Committee on Civil Liberties, Justice and Home Affairs hereby delivers to the Committee on Budgetary Control, the committee responsible, an opinion recommending that the European Parliament approves the conclusion by the Council of the Agreement between the European Community and its Member States, on the one hand, and the Swiss Confederation, on the other, to counter fraud and all other illegal activities affecting their joint and respective financial interests.

PROCEDURE

Title	Proposal for a Council decision on the conclusion of the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other part, to counter fraud and all other illegal activities affecting their financial interests
References	COM(2004)0559 – C6-0176/2004 – 2004/0187(CNS)
Committee responsible	CONT
Committee asked for its opinion Date announced in plenary	LIBE 25.11.2004
Enhanced cooperation	
Draftsman Date appointed	Timothy Kirkhope 24.11.2004
Discussed in committee	13.12.2004 18.1.2005
Date amendments adopted	18.1.2005
Result of final vote	for: 43 against: 0 abstentions: 0
Members present for the final vote	Roberta Angelilli, Edit Bauer, Johannes Blokland, Mario Borghezio, Jean-Louis Bourlanges, Mihael Brejc, Kathalijne Maria Buitenweg, Michael Cashman, Giusto Catania, Charlotte Cederschiöld, António Costa, Agustín Díaz de Mera García Consuegra, Rosa Díez González, Antoine Duquesne, Livia Járóka, Timothy Kirkhope, Ewa Klant, Wolfgang Kreissl-Dörfler, Barbara Kudrycka, Stavros Lambrinidis, Romano Maria La Russa, Sarah Ludford, Edith Mastenbroek, Athanasios Pafilis, Lapo Pistelli, Martine Roure, Amalia Sartori, Inger Segelström, Ioannis Varvitsiotis, Manfred Weber, Tatjana Ždanoka
Substitutes present for the final vote	Camiel Eurlings, Giovanni Claudio Fava, Ignasi Guardans Cambó, Jeanine Hennis-Plasschaert, Luis Francisco Herrero-Tejedor, Antonio Masip Hidalgo, Herbert Reul, Marie-Line Reynaud, Bogusław Sonik, Kyriacos Triantaphyllides, Johannes Voggenhuber
Substitutes under Rule 178(2) present for the final vote	Marta Vincenzi