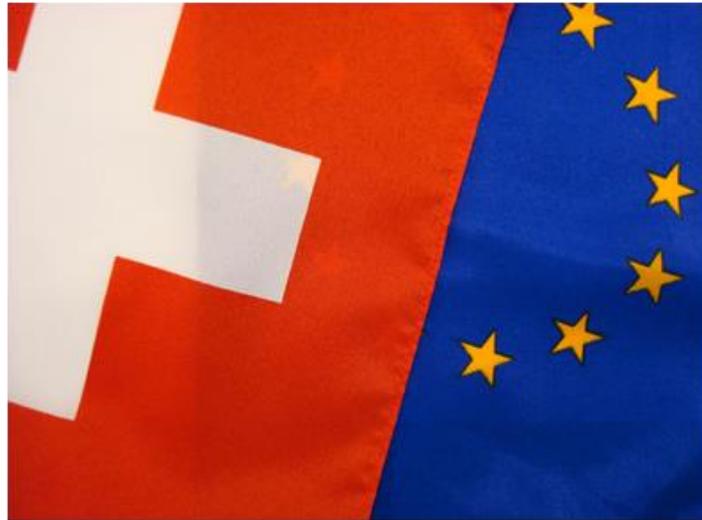


Brexit: What can the UK learn from Swiss-EU relations?



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Outline

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Conclusion

Introduction

During the **past 25 years**, Switzerland has gone through several complex situations with the EU:

- a) Rejection of the **European Economic Area**, 6.12.1992.
- b) First set of **bilateral agreements** into force in 2002.
- c) **Second set of bilateral agreements** into force as of 2005.
- d) **Blocking** by the EU of any further access to the EU Single Market without an institutional agreement with Switzerland, 2010.
- e) Risk of **losing partial access** to the EU Single Market following the adoption of a new constitutional article (2014) on immigration.

The Swiss experience may contribute to draw **first policy implications** for the UK on the **potential** of future relations with the EU.

1. Brexit: Options for future relations with the EU

- EEA membership
- Customs union UK-UE
- Free Trade with selective integration

EEA membership: implications

- Need to **join EFTA** or devise a **sui-generis** regime.
- Single market with **four freedoms** **UK red line**.
- **New legislation**: no decision-making. **Significant step back for UK**.
- If EU new legislation not taken over, risk of **suspension** of part of the agreement by the EU.
- **Surveillance** by external Authority.
- Jurisprudence of the **EU Court of Justice** for implementation of EU law. **UK red line**.
- **Financial contribution** for cohesion in the EU.
- Swiss position (2017): EEA is not an option. Swiss objectives **broadly met** with bilateral path (much lighter to manage than EEA).
- UK position: EEA is **not an option** to pursue.

Customs union: implications

- Take over **EU trade policy** including:
 - customs duty regime (6.4%; 14.4% (agr.); 4.4% (non-agr.)
 - trade defense measures : anti-dumping (96) and countervailing measures (12)
 - General System of Preferences for developing countries
 - Network of association and free-trade agreements
- WTO: **adopt EU positions** on all matters except budget committee
- Need to conclude **free trade agreements** with all the EU partners.
- No free trade agreements with **non-EU** partner countries.
- Swiss position: **not an option**; higher duties; loss of treaty-making power.
- UK position: **not an option**; loss of sovereignty on trade policy.

UK/EU: Free Trade with selective integration

- UK letter triggering art. 50 of the Lisbon Treaty: 29.03.17
 - UK wants «*a new, deep and special partnership*»
 - “*Bold and ambitious Free Trade Agreement ; **greater scope and ambition than any such agreement before** it so that it **covers sectors crucial** to our linked economies such as **financial services and network industries**.*”
 - *The United Kingdom does not seek membership of the **single market**: we understand and respect your position that the four freedoms of the single market are **indivisible** and there can be **no cherry picking**.*
 - *Regulatory frameworks and standards already match. Need to prioritise how to manage the **evolution** of our **regulatory framework**, maintain a fair and open trading environment, and how we **resolve disputes**.*
 - *Necessary to agree the terms of our **future partnership** alongside those of our **withdrawal** from the EU.”*

EU negotiation guidelines (April 29, 2017)

Phase 1: Withdrawal negotiations

- **EU citizens' rights:** permanent residence after **5-year continuous stay**
- **Financial** settlement
- **Transfer** of EU agencies from the UK to the EU
- **Procedures** pending before the ECJ, EU Commission and EU agencies
- **Border** with Ireland

Phase 2: Future relations

- Ambitious **free trade agreement**
- Participation in any part of the single market **excluded** (integrity, functioning)
- **Cooperation:** fight against terrorism, security, international crime, foreign policy

Challenges and issues: Free Trade with selective integration

Major challenges for the UK

- a) **Financial services:** EU passport
- b) **Civil aviation :** free access to EU27 and EEA
- c) **Car industry:** value chains with the EU
- d) **Technical standards:** mutual recognition of conformity assessments
- e) **Sanitary and phytosanitary measures:** equivalency of regimes
- f) **Nuclear energy:** establishment of an inspection regime similar to EU
- g) **Institutional regime:** implementation, surveillance, Court of Justice, dispute settlement.

Other issues

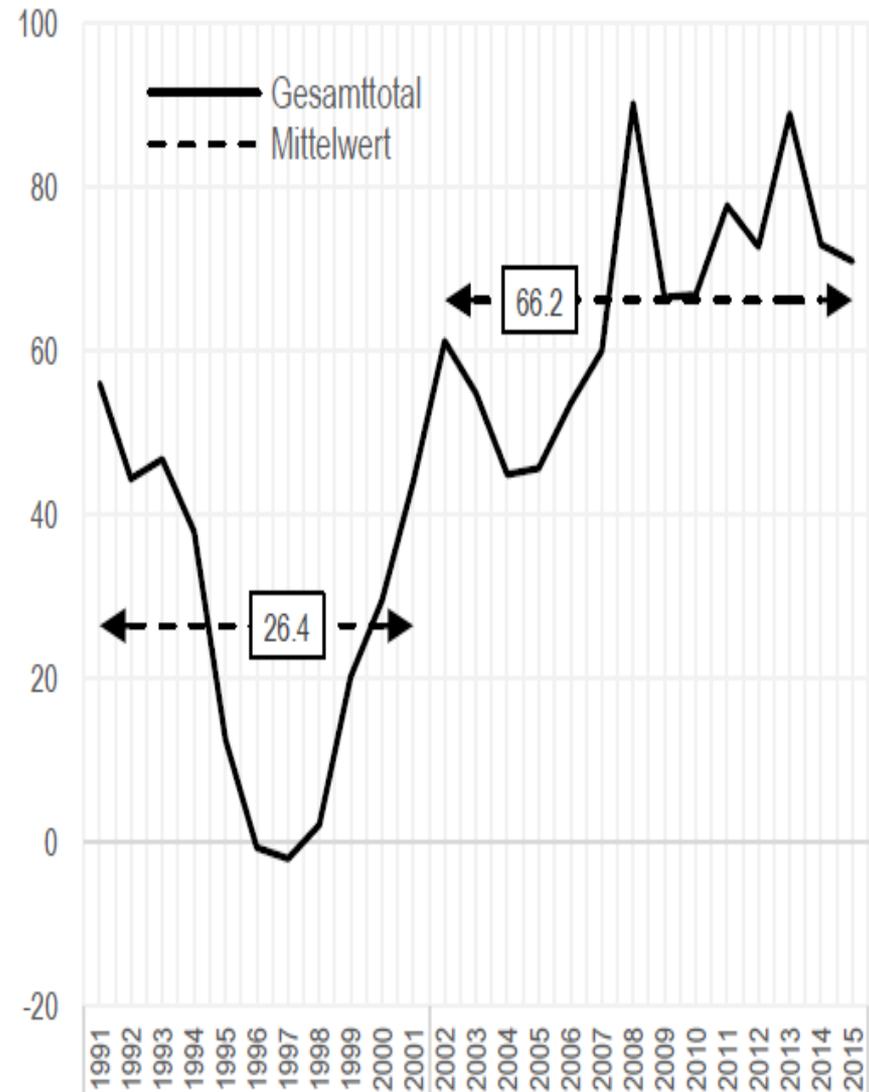
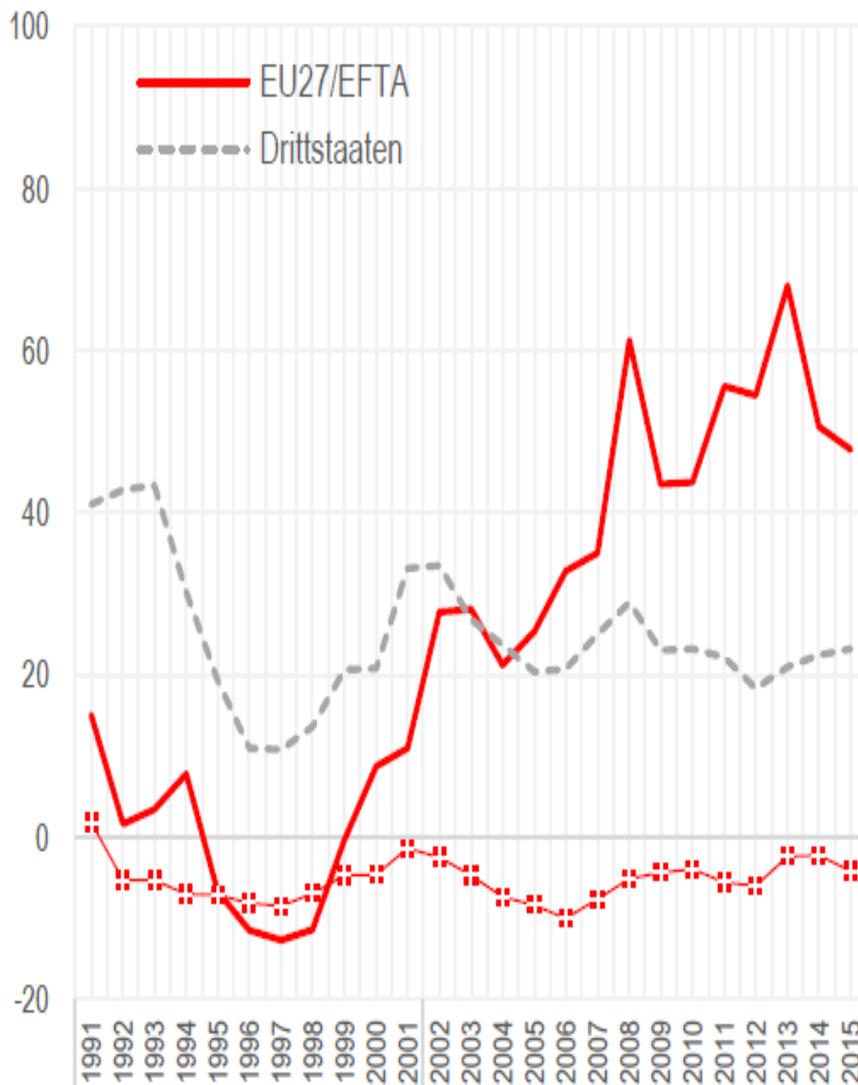
- a) **Withdrawal payment** (40 billion euros, EU; much less, UK)
- b) **Sequence:** Withdrawal and new partnership negotiations
- c) Regime for EU citizens in UK (**2.8 mill.**); UK citizens in EU (**1 mill.**)
- d) **Transitional regime:** from 2019 until entry into force of new agreement.

2. Swiss-EU and UK-EU Economic Relations 2016

	Switzerland	United Kindgdom
Population	8.4 million	65.6 million
Size	41,285 km ²	244,820 km ²
GDP	USD 660 bill.	USD 2.6 trillion
GDP per capita	USD 79'200	USD 44'000
Exports to EU (% total world)	CHF 113 bn (54%)	£ 236 bn (43%)
Imports from EU (% total world)	CHF 124.5 bn (72%)	£ 318 bn (54%)
Exports of agr. prod. to EU	59% of total	60-65%
Imports of agr. prod. from EU	76% of total	70%
Exports services to EU (2015)	Euros 63 bn	£ 225 bn (39%)
Imports services from EU (2015)	Euros 84 bn	£ 138 bn (49%)
Foreign Investments to EU (2015)	CHF 555 bn (49%)	£ 404 bn (40%)
Foreign Invest. from EU (2015)	CHF 650 bn (78%)	£ 496 bn (48%)
EU residents (% foreign pop.) (UK: 2015)	1.39 mill. (68%)	2.8 mill. (35%)
Nationals resident in the EU (UK: 2015) (% world)	464'000 (60%)	1 million (18%)

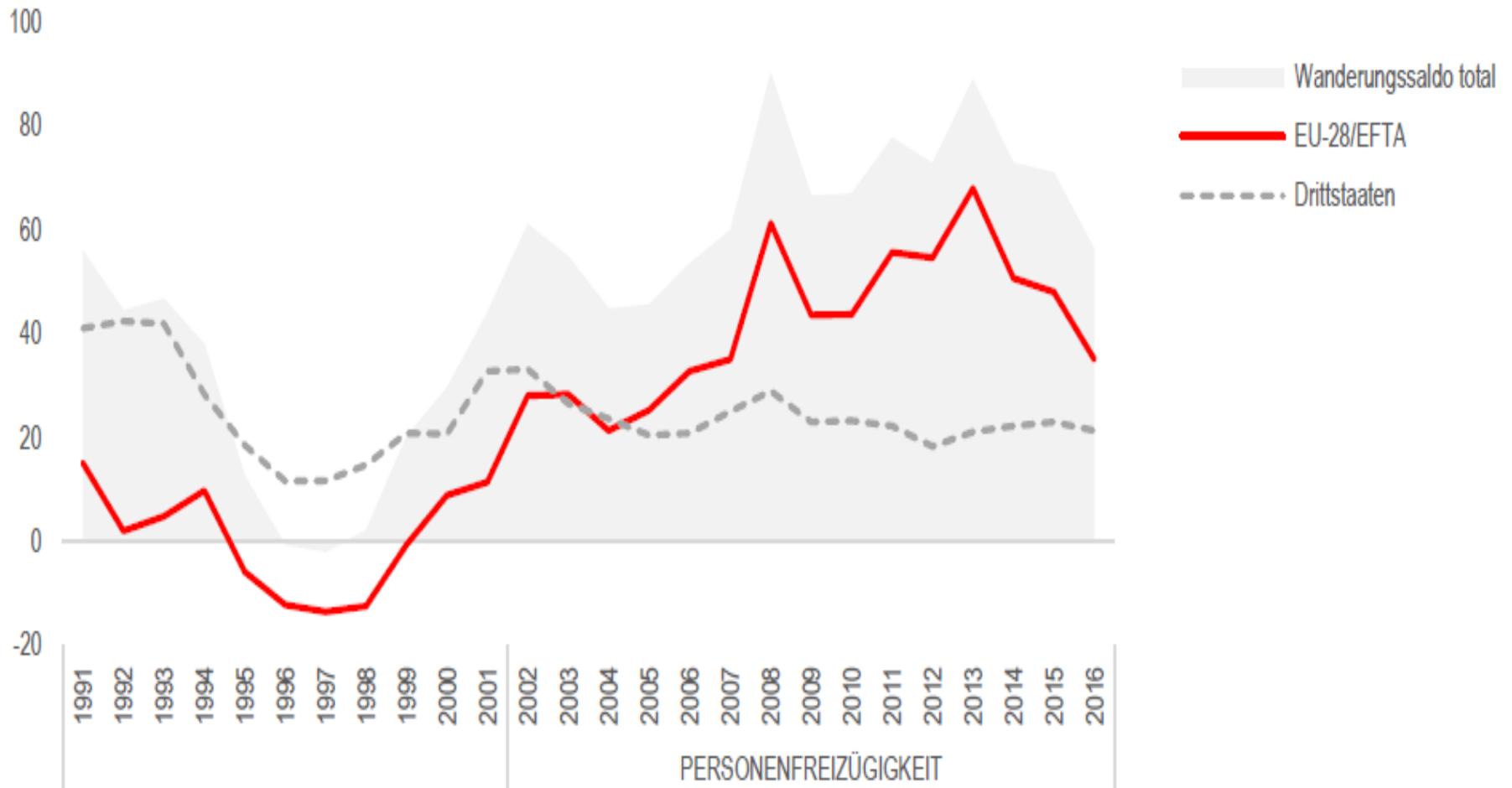
3. The Key Issue of Free Movement of Persons

Migratory Balance : UE27/EFTA and third countries 1991-2015 (in thousands)

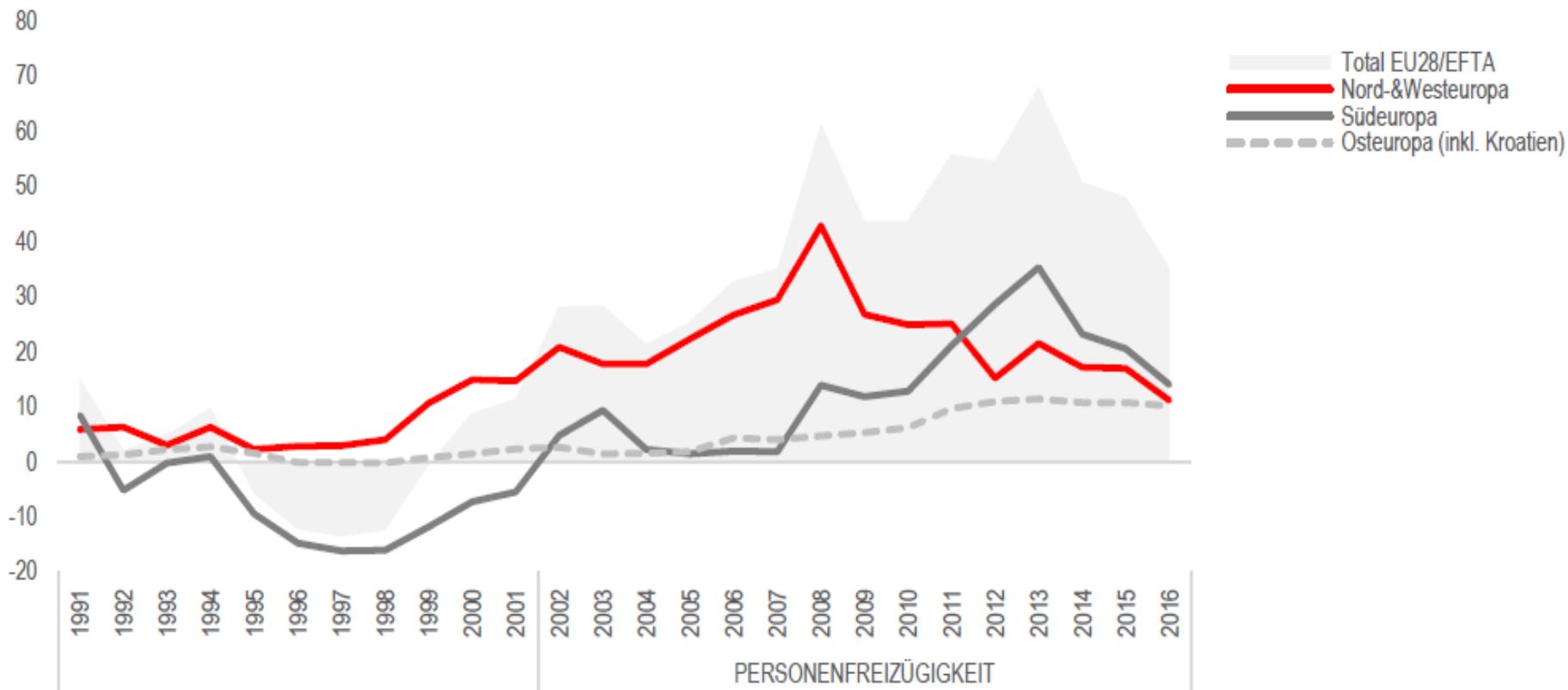


Migratory Balance : UE28/EFTA and third countries: 1991-2016

(in thousands)



Migratory balance by country of origin: 1991-2016



Europe du Nord et de l'Ouest : Allemagne, France, Autriche, Belgique, Pays-Bas, Luxembourg, Danemark, Suède, Finlande, Royaume-Uni, Irlande + AELE

Europe du Sud : Portugal, Italie, Espagne, Grèce, Malte, Chypre

Europe de l'Est: UE-8 et UE-2 + Croatie

Popular vote of February 9, 2014

- The Swiss population accepted a popular initiative modifying the Constitution with a new article **reintroducing** within 3 years **quotas on EU immigration** and the **national preference** for hiring workers.
- The new provisions of the Constitution temporarily **impeded** Switzerland to **sign** the new protocol 3 of the AFMP extending progressively free movement of persons to **Croatia**.
- The EU has linked the 7 Bilateral Agreements I of 1999 with a **guillotine clause** ; simultaneous entry into force and denunciation by the EU of the 7 agreements if Switzerland would not fulfill any more the obligations of one of them except research.
- **Strict refusal** of the EU to **renegotiate** the bilateral agreement on free movement of persons to introduce **quotas** and **national preference**.
- **Uncertainty** regarding how the EU would apply the guillotine clause.

EU Council of Ministers: 16.12.2014

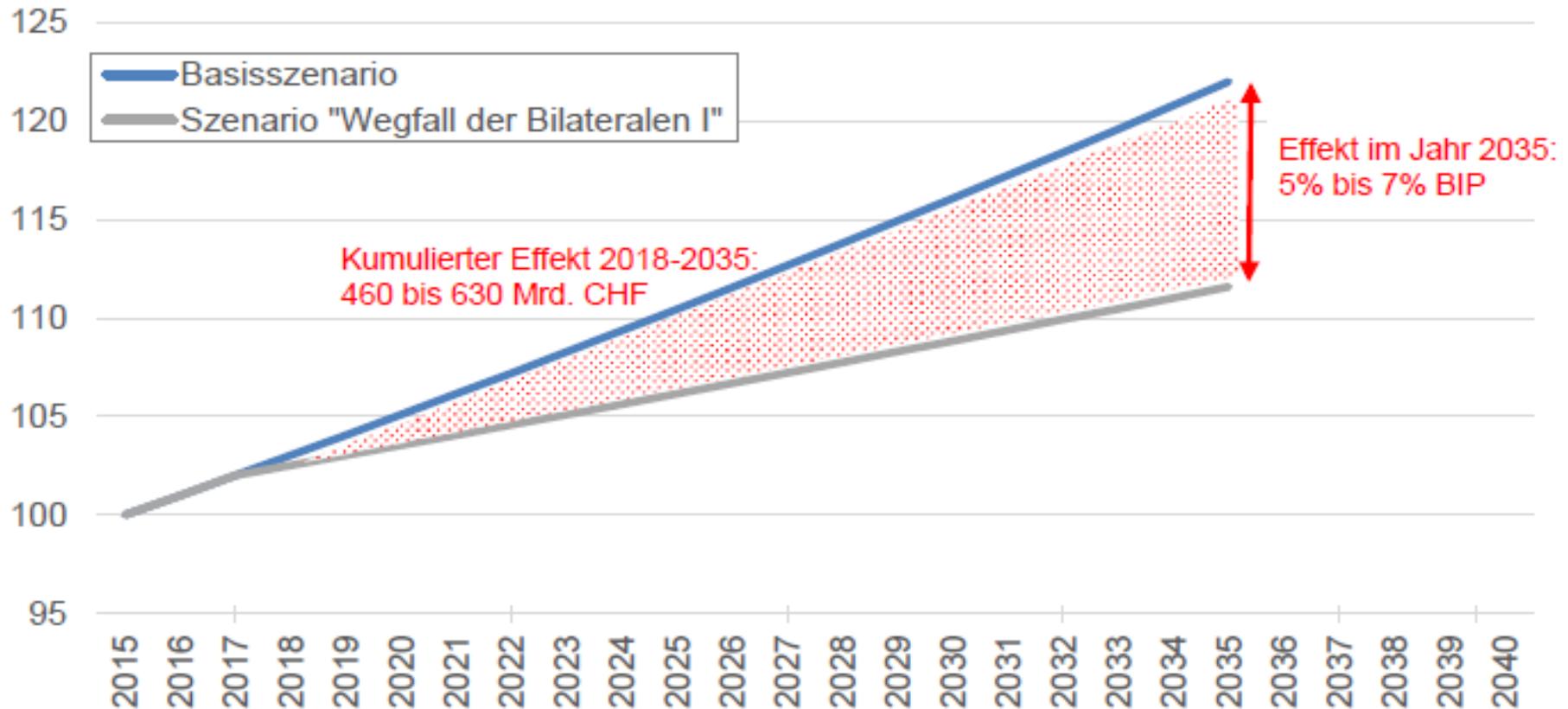
- Switzerland has not a bilateral relation with the EU but **takes part** at a **multilateral project** on the internal market and must insure its homogeneity and legal security.
- The Council has confirmed its **refusal** to **renegotiate** the agreement on the free movement of persons (AFMP). The Council considers that the free movement of persons is a **fundamental pillar** of EU policy and that the internal market and its four freedoms are **indivisible**.
- The EU could not any more consider to be bound by the AFMP and review Swiss participation at **Schengen, Dublin** and some of its programs.

European Parliament: adoption of a report EEA-Switzerland, 9.9.2015

- The European Parliament:
 - takes note of the **opening of negotiations**, in May 2014, on an institutional framework as preliminary **condition** to continue the bilateral path;
 - without this framework agreement, **no other agreement** on Swiss participation in the internal market may be concluded ;
 - takes note of the February 9, 2014 initiative «against mass immigration» and of the February 11, 2015 decisions of the Federal Council for the implementation of a project for a law and notes that these are **not compatible** with the obligations of the Agreement on the Free Movement of Persons (AFMP);
 - reminds that the free movement of persons has always been an **inseparable** part of the **bilateral approach**;
 - supports the **refusal** of the EU to **renegotiate** the AFMP (quotas and national preferences).

4. Overall impact for Switzerland of losing access to the EU Single Market

GDP growth: with and without Bilateral Agreements 2018-2035



Source: BAKBASEL, *Die mittel- und langfristigen Auswirkungen eines Wegfalls der Bilateralen I auf die Schweizerische Volkswirtschaft*, Basel, November 2015.

Bilateral Agreements I (1999)

1. Free movement of persons (FMP)
2. Technical barriers to trade
3. Government procurement
4. Road transport
5. Air transport
6. Agriculture
7. Research

Interest

Better reciprocal access to labor, goods and services markets



Bilateral Agreements II (2004)

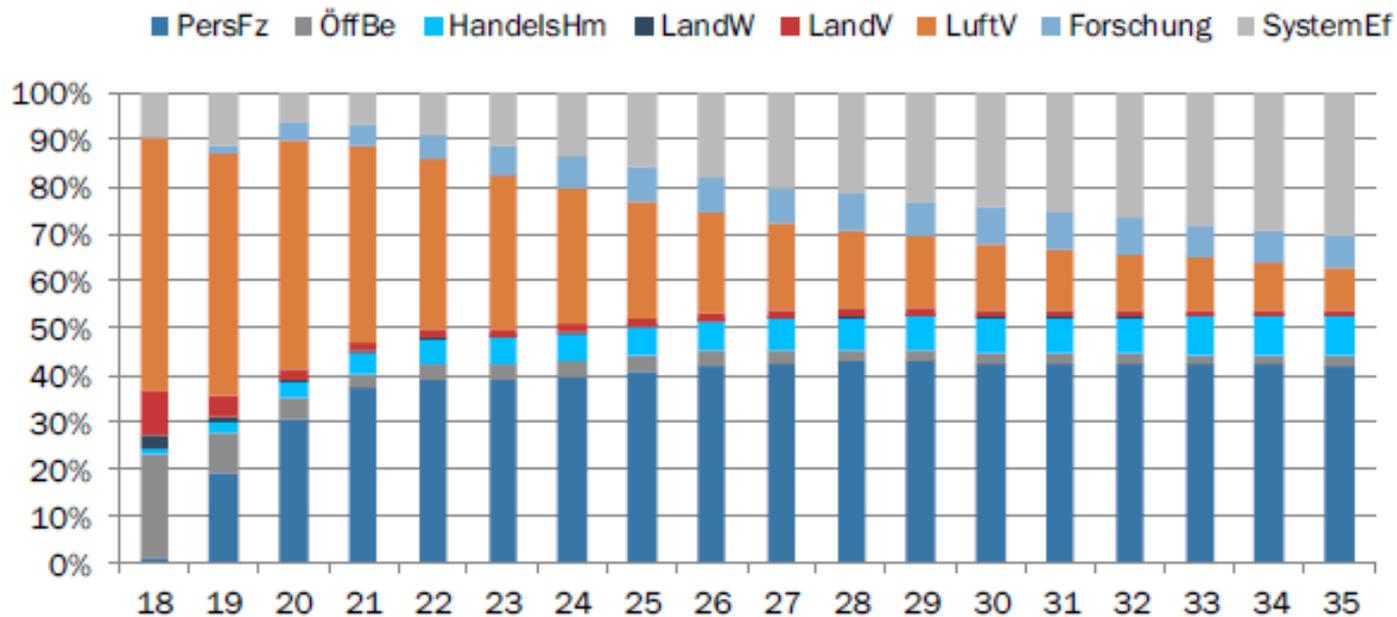
1. Schengen / Dublin
2. Taxation of savings
3. Fight against fraud
4. Processed agricultural products
5. Environnement
6. Statistics
7. MEDIA program
8. Education, formation, youth
9. Pensions

Interests

- Extended political cooperation
- Better economic framework conditions



Share of the specific Bilateral Agreements to the yearly GDP loss 2018-2035 (in percentage)



In %
Quelle: BAKBASEL

5. Impact of losing access to the single market in specific areas for CH and the UK

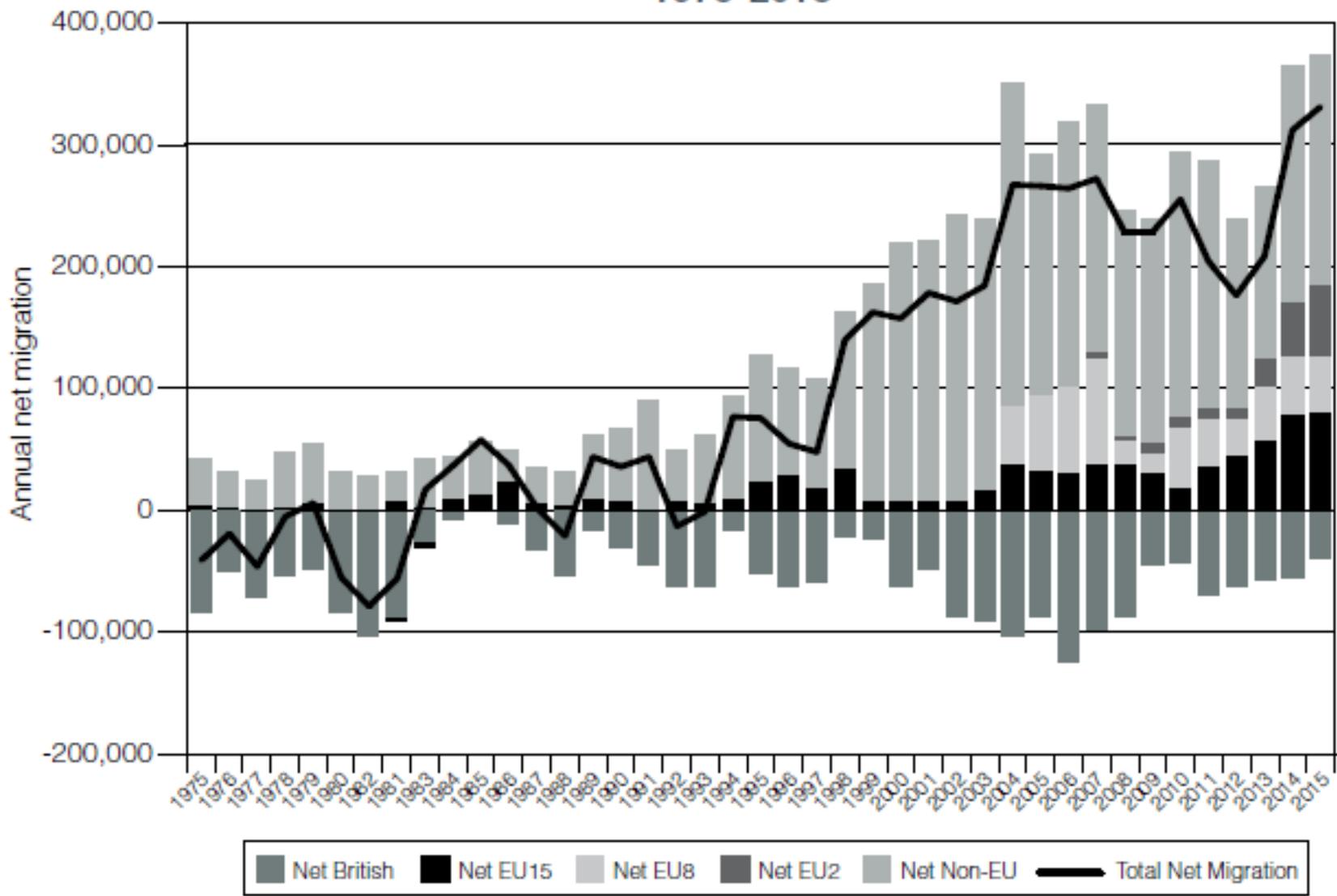
5.1 Switzerland: Free movement of persons

- Hypothesis: reduction of immigration by **25%** including cross-border workers; introduction of quotas.
- **Decline** of the **level of activity, skills** and labor supply.
- **Slower growth** of private consumption and construction.
- **Negative impact** on social insurances (demographics) and additional costs due to extinction of overall coordination of social insurances with the EU.
- **Administrative costs** (CHF 25.- to 419.- per quota).
- **Stricter conditions** for services providers (permit as of 8 days; quota as of 120 days).
- Impact on population: 2035 **-3.4%** or - 350'000 persons.
- Impact on GDP in 2035: BAK: **-3.1%**.

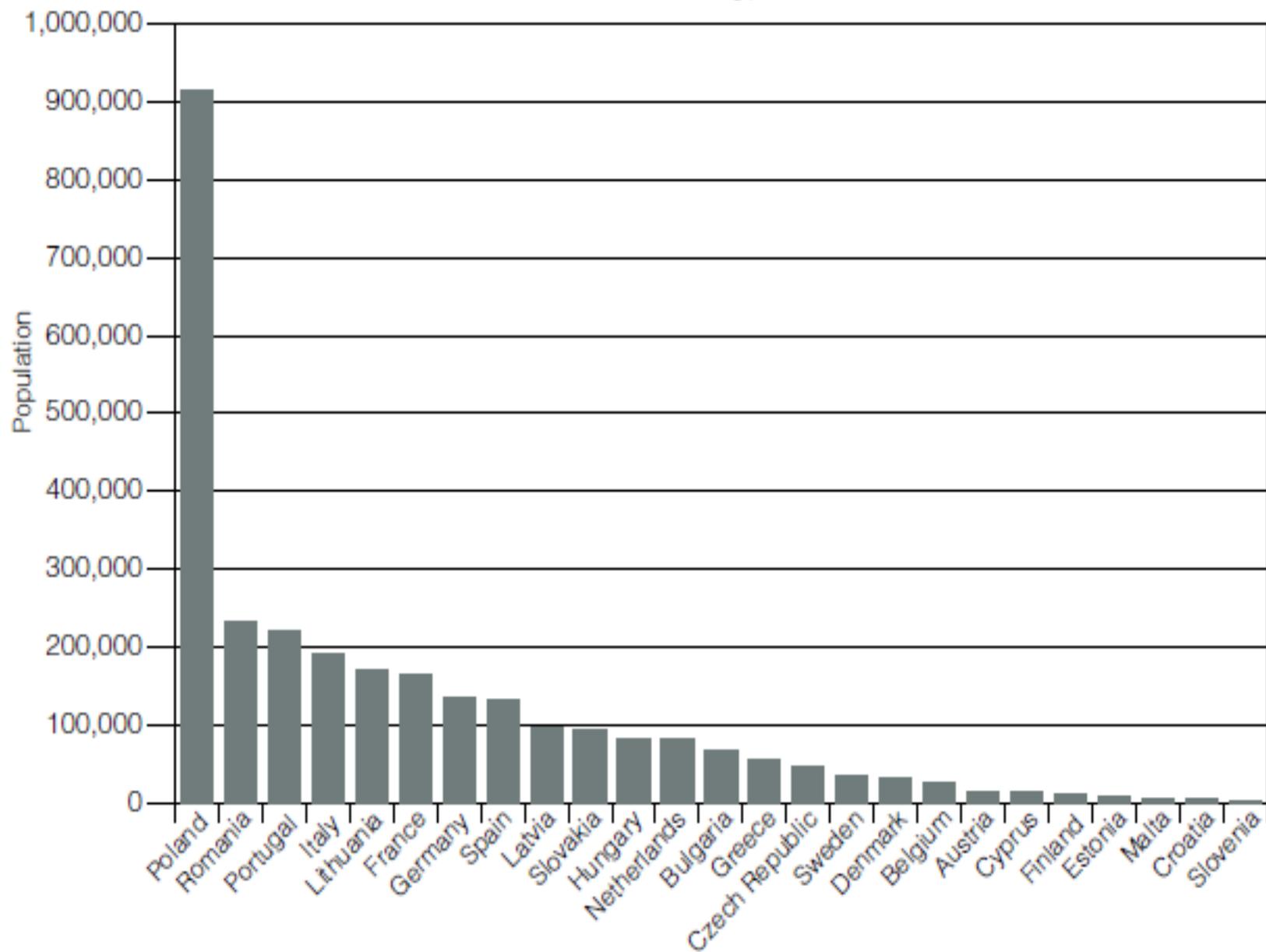
UK migration: the situation

- Out of a population of **64.9 million**, the UK has about **8 million** foreign residents living on its territory, **2.8 million** coming from the **EU**.
- Estimated **5.5 mill.** UK citizens live abroad; **one mill.** in the EU.
- Foreign population in the UK (**12.3 %**) is significantly less than in *Switzerland* (**24.6%**) as well as the share of EU citizens in the foreign population (35%/ **67%**).
- 2005 – 2015: migrants filled **2.2 million positions**; nearly **60%** originated from the EU.
- 2005 – 2015: immigrants contributed to **half of GDP growth** (1.4%).
- As in Switzerland, migrants mitigate the effects of a **low birth rate** and of an **ageing population**.

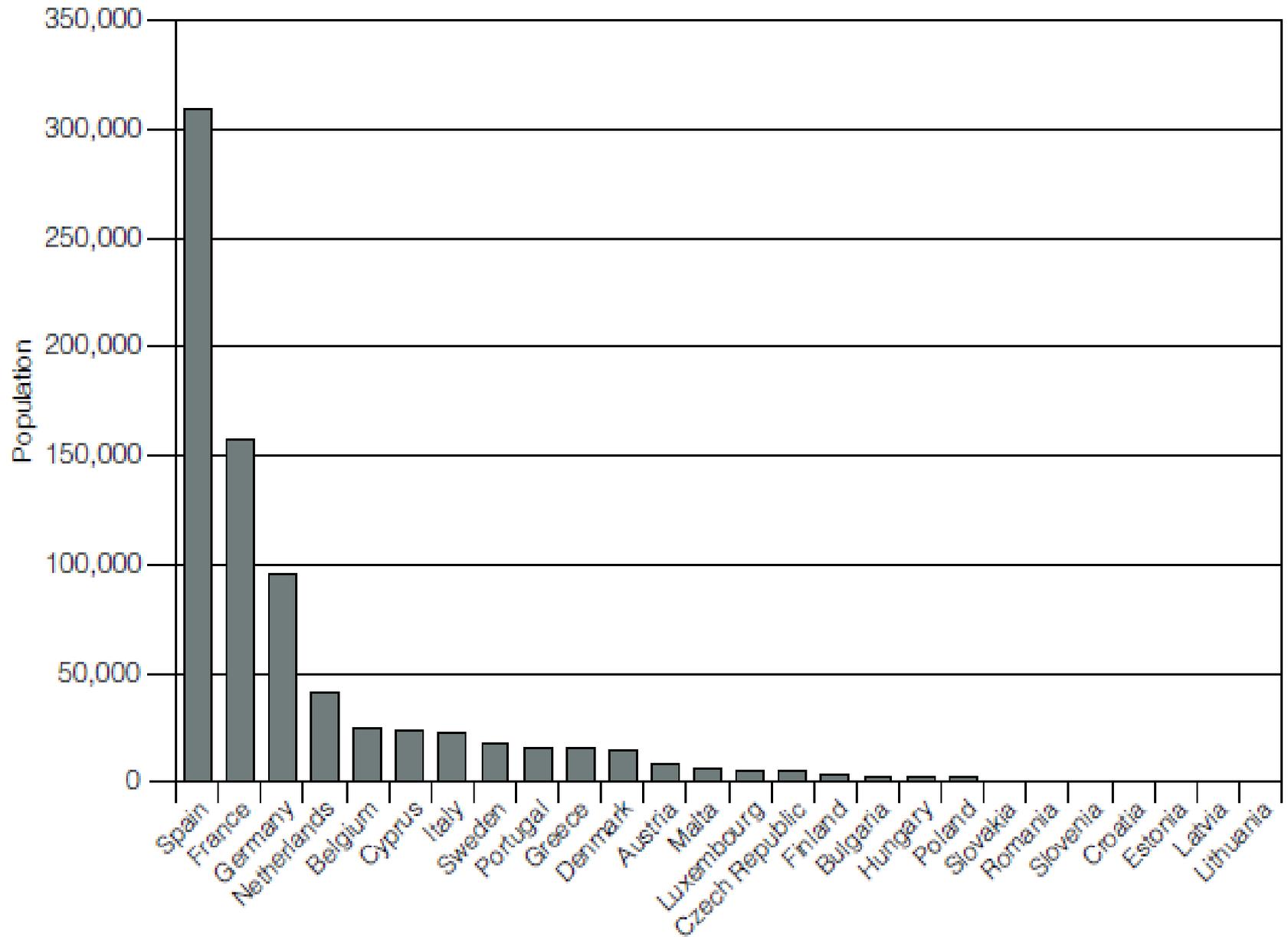
Net migration to the UK by nationality, 1975-2015



Population of EU citizens resident in the UK by nationality, 2015



Population of British citizens resident in the EU, 2011



Migration: Issues for negotiation

- Future regime for **EU citizens** in the UK.
- Future regime for **UK citizens** in the EU.
- Setting up a new regime for EU nationals and the benefits they receive will be **complex and** cover *inter alia* eligibility, workers' rights, welfare access, health provisions, pensions, non-EU partner, family reunion, deportation and location of courts for challenges.
- **UK control** of immigration from the EU and the rest of the world.
- EU interest: impact of **UK control** on the free movement of persons.

5.2 Technical barriers to trade Switzerland-EU

Agreement on mutual recognition of conformity assessments of technical standards

- *Checking of compliance with product regulations so that a product may be brought to the market.*
- *20 product categories; **autonomous harmonisation** by Switzerland*
- *25% of Swiss total exports; 30% of Swiss total imports.*

Economic impact for Switzerland of a suspension of the Agreement

- Higher **production costs** (0.5%-1%); higher prices for consumers.
- Effect on Swiss firms integration in **international value chains**.
- By **2035**, Swiss exports **4.3% lower**; labor market affects also negatively domestic demand.
- By 2035, **GDP lower** : BAK: **-0.7%**
- **Incentive** for harmonisation may decrease.

Technical barriers to trade

Brexit

- EU: **strategic vision** for standards, **mandates** to the European Standard Organizations.
- Harmonized standards: 11 areas, **31 product groups** (chemicals, constr., energy efficiency, electric and electronic engineering, ...)
- Non-harmonized areas: national technical regulations and principle of Cassis de Dijon apply.
- Brexit will lead the UK to **lose influence** over EU regulatory framework for standardization, EU legislation relying on standards, European Commission requests to standardization organizations.
- UK participates in several **standards organizations** (worldwide and European basis, CEN, CENELEC).
- To continue to shape European standards, the UK would need a **special status** from CEN and CENELEC and to adopt all European standards on a voluntary basis.
- An arrangement would lead to a **win-win** situation but could be **politically sensitive** both in the UK -taking over EU legislation- and in the EU -access to the **single market** without free movement of people.

5.3 Civil Aviation

*EU-Swiss Agr. on civil aviation: mutual access to aviation markets for airlines
No more discrimination against landing rights for Swiss airlines*

Economic impact for Switzerland of a suspension of the Agreement

- Status of a third country: **Attainability** declines by 2.2% by the 5th year.
- Loss of **competitiveness** reduces exports and investments; labor market has a negative effect on private consumption. First 5 years, real GDP: - 0.2% per year.

Analysis does not include :

- Negative effects for **tourism** - direct flights to and from Switzerland.
 - Turnover losses for **airlines** operating from CH, **airports** and **services firms**.
 - Loss of membership in **European Aviation Safety Agency**, investment and establishment in the EU become restricted.
 - **Competitive disadvantages** for Swiss manufacturers and **maintenance firms**. Certif. costs increase (exclusion of EASA); some reparations and maintenance cannot be done any more in CH.

Civil Aviation : Brexit

- UK airlines: important benefits from the single market. Past 20 years, significant expansion of **low-cost carriers** using the right to establishment anywhere to minimize costs and to operate with no limitations as to **pricing, frequency** and **capacity**.
- Implications of a bilateral air transport agreement similar to the Swiss-EU: take over **EU legislation** (35 pieces), remain under the **common regulator** EASA, foresee a **surveillance** regime for competition rules and **dispute settlement** by the ECJ.
- Spain may oppose any agreement applicable to the airport of **Gibraltar**; would indirectly mean the recognition of **UK legal right** to the territory.
- The UK might seek an “Open Skies” agreement with the EU which will be **more restrictive** than the present regime.
- Major **EU standards** still need to be met with *inter alia* air operator’s certificates, ground handling directives for airport operators, airline computerized reservation systems directives.

5.4 Agriculture: Switzerland-EU

Agreement on agriculture

- *Facilitates trade by reducing customs duties and non-tariff barriers*
- *EU: 60% CH exports; 74% CH imports, for agricultural products (2014)*
- *Cheese: CH exports to the EU, + 2.8%/year, 2004-2014*

Economic impact of a suspension of the Agreement

- **Higher customs duties and border controls** reintroduced for fruit, vegetables, plants, feedstuffs, bio products; more admin. procedures.
- Mutual recognition of **quality** and **production processes** eliminated: higher costs for consumers.
- **Veterinary controls**: costs, CHF 4 million/year.
- Some **geographical indications** not any more protected in the EU: «Bünderfleisch», «Tête de moine», ...
- Diminution of **export for cheese** (CHF 200 million; -40% of exports to the EU) and Swiss total exports (-0.2%) and imports (-0.2%);
- By 2035, **lower GDP**: BAK: -0.01%
- Significant impact on agriculture: value-added (-3%)

Agriculture : Brexit (1)

- EU: 60-65% of UK **exports** (11 bn £) and 70% of UK **imports** (28 bn £) of agr. products. **EU surplus** with UK: 17 bn £.
- UK present situation: common agricultural policy, agricultural products traded with the EU under the single market, preferential access to various markets through EU free trade agreements and EU schedule of commitments at the WTO.
- Consequences of Brexit: UK farmers` income will depend *inter alia* from the level of **subsidies** that the UK may maintain; presently they make up **55 percent** of farmers` income for a yearly total of 3.8 bn euro.
- Food safety, animal and plant health and the environment: **mutual recognition** and abolition of **veterinary border controls** would require adoption by the UK of future EU Directives and Regulation changes.
- Fisheries: EU fleets have been catching much more fish in UK waters (**683`000 tons**, 2015) than UK fishermen in EU waters (**111`000 tons**, 2015).

Agriculture: Brexit (2)

- WTO: key issues to negotiate will cover *inter alia* **domestic support, non-tariff barriers** and **market access**.
- If the UK takes over its proportion of the EU commitments, WTO members will **lose flexibility** for market allocation under tariff-rate quotas (TRQs: *low import tariff of a given quantity; then, higher tariff*)
- Presently, the UK absorbs a very **large share** of EU imports under TRQs for sheep and goat meat (53%), for poultry meat (33%) for butter (24%) and for cheese (16%) while the **UK share in EU GDP** is **17.5%** (2015).
- Complex **negotiations**: modifications by EU of its TRQs (EU imports) and of its partners (EU exports); introduction by UK of TRQs (imports; exports) with WTO partners.
- The **new relationship** with the EU and with **WTO members** and UK post-Brexit **agricultural policy** will determine the **impact** for the UK.

5.5 Research - Euratom: Brexit

- UK is a leader in **nuclear research** and hosts in Oxfordshire the biggest **fusion experiment**, a Joint European Project, and the largest **stockpile of civil plutonium** in the world; the latter, uranium enrichment activities and nuclear waste are overseen by **EU inspectors**.
- UK will have to **leave Euratom**, a separate Treaty for civil nuclear power generation and radioactive waste management governed by **EU institutions**.
- Energy **security**, scientific **research** and **medicine**, as well as safeguarding of stockpiles of plutonium, will be **at stake**.
- The UK will need to establish a **new regulatory regime** to uphold safety standards and to negotiate international agreements in order to maintain access to **nuclear technology** and to move materials (fuel for reactors, medical isotopes used in cancer radiotherapy), intellectual property and services.
- UK may have to negotiate a **transition period** with Euratom and remain temporarily under the **surveillance** of the EU and the **jurisdiction** of the ECJ.
- Very **complex tasks** requiring expertise that is very limited in the UK.

5.6 Financial services : Banking, Brexit

- In 2016, London held the **first** position among global financial centers around the world ahead of New York, Singapore, Hong Kong and Tokyo. Zurich ranked 9th as second European location.
- Leaving the single market without obtaining equivalence rights could put at risk **40 to 50%** of EU-related activity.
- This would entail about **18 bn** £ in revenue, **10.5 bn** £ in value-added, **3.5 bn** £ of tax revenues and about **30,000 jobs**.
- Banking: About **35%** of EU-related banking activity –issuing and trading debt and equity securities, foreign exchange trading and derivatives-, amounting to **17%** (1.8 trillion euros) of all **UK banking assets** and an estimate of **£ 5 bn** of revenues, could be at risk of relocation.
- Without regulatory equivalence, **passports rights** for UK funds sold in the EU, and vice versa for EU funds, would be lost and UK-based asset managers may have to establish subsidiaries across the EU. Impact on one third of this business (£ 2 to 3 bn).
- Euro clearing transactions: relocation possible in eurozone; **half of business** (£ 6 bn) may **get lost** to competitors.

Financial services : Insurance, Aux. Serv.

Brexit (2)

- Insurance and reinsurance: about **10%** of the sector's revenues (£ 4 bn) may be impacted by Brexit as they are obtained from **EU-related business**.
- As 75 % of these revenues come from **EU subsidiaries**, only £ 1 bn may get lost to competitors.
- It remains that a large number of insurers active in the insurance market use **EU passporting rights**.
- Interest to establish **subsidiaries** in countries with regulatory flexibility such as the Netherlands, Luxembourg, Ireland or Malta.
- Auxiliary services: auditing, accounting, legal services, management consultancy and other business services are important intermediate inputs for banking and insurance. Loss of revenues could range between £ 8 bn and £ 35 bn.

Financial services : Brexit (3)

- The UK will aim at “**the freest possible trade in financial services**” with a “**strong cooperative oversight arrangement**”.
- **Common set of rules** under a single authorization from a regulator should continue to permit 5,000 UK firms and 8,000 EU firms to do respectively UK-EU and EU-UK **cross-border activity** for financial services.
- According to EU’s present position this would imply a participation of the UK in the single market with **common rules** and **equivalent supervisory regimes** as well as **no control on EU immigration**.
- If the UK were to **lose** its passport rights to the single market, the **cost of capital** for EU households and corporations would **increase** between 6 and 12 bn euros/year.

6. Institutional framework: EU Council conclusions on Switzerland, 28.2.17

- “The Council takes note of the reconfirmation by Switzerland of its attachment to the **sectoral approach**.
- However, the Council recalls that a **precondition** for further developing the sectoral approach remains the establishment of a **common institutional framework** for existing and future agreements through which Switzerland participates in the EU's Single Market, in order to ensure **homogeneity** and **legal certainty** for citizens and businesses.
- The Council stresses the **common understanding** between the EU and Switzerland about the need to **finalize** the negotiations on the institutional framework agreement as soon as possible.
- Its conclusion will allow the EU-Swiss comprehensive partnership to develop to its **full potential**.”

Swiss-EU Institutional Agreement: Key Issues

- Institutional Agreement: applicable to all **present** and **future** agreements linked with the **internal market** to which Switzerland participates.
- Surveillance: each party assumes the surveillance of the implementation of the agreements on **its territory** and the parties exercise a joint surveillance in the Joint Committees.
- Interpretation of EU rules taken over in an agreement: questions could be submitted to the **European Court of Justice (ECJ)** or to Switzerland..
- Development of EU law referring to Switzerland/UE Agreements: **taken over** by Switzerland with appropriate **participation** of Swiss experts at the **elaboration level** (decision-shaping) of the new texts. Approval of the new texts according to Swiss internal procedures.
- If new text not taken over: compensatory measures or **suspension** of parts of agreements could intervene. *Negotiations not yet concluded.*
- Disputes: continue to be settled in the Joint Committees of the agreements; Switzerland could decide **not to take into account** of an interpretation of the ECJ with the following consequences: **compensatory measures** or **suspension** of one or more agreements. *Negotiations not yet concluded.*

Latest developments, 15.11.17

- UK: **rejection** of customs union or membership of single market.
- EU: single market arrangements or the evolution of EU regulatory frameworks could not be managed within the **EU body of law** as it stands.
- EU: UK would have to be satisfied with a **standard free trade agreement**.
- Possible **extension** of the two years allowed for talks (art. 50 Lisbon Treaty): **legal opinion** sought by Member States from European Commission.
- The EU ready to offer the UK the “**most ambitious**” partnership on trade possible but not going to **compromise** its standards on fair competition, tax, **labour law**, **environmental** and **food safety**.

Conclusion

- The Swiss experience clearly shows that access to the **single market** brings significant **dynamism** to the economy.
- The **costs** of losing that access are **not negligible**; they have led the Swiss Parliament to implement the new constitutional article on immigration in a way **compatible** with the AFMP.
- The Swiss experience suggests that an **EU à la carte** without free movement of persons with for instance passport rights for financial services or full access to EU airports for UK airlines, may prove very **difficult** to achieve.
- In addition, in case of a very deep partnership, the UK would face the challenge of an **institutional framework** referring to taking over EU rules, interpretation of rules, ECJ competence, surveillance and dispute settlement.

Thank you for your attention !

Philippe G. Nell, Brexit: What can the United Kingdom learn from Swiss-European relations? Global Europe, Basel Papers on Europe in a Global Perspective, Institute for European Global Studies, University of Basel, May 2017.

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