

Master Thesis – Double Degree MSc in European Governance

# **Switzerland-EU Relations Revisited: An Analysis of Integrational Scenarios under Consideration of Political Feasibility**



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## **Abstract**

With the abandonment of negotiations on a framework agreement with the EU in May 2021, the Swiss Federal Council has put the relationship between Switzerland and the EU in question. Since then, numerous suggestions on how to arrange the relationship between the two partners have been brought up. The economic consequences of these policy options are usually well-researched, but much less so their political feasibility in the Swiss and the EU political arena. The paper at hand closes this research gap by assessing the political feasibility of scenarios for the prospective Switzerland-EU relationship with help of the veto player theory. By linking both political feasibility and economic aspects of nine empirically identifiable scenarios, the continuation of the Bilateral path in conjunction with vertical institutional integration turns out to be the most promising way to advance the Switzerland-EU relationship. My results highlight the relevance of political feasibility considerations in analysing policy problems. A mere economic analysis often misses the mark and fails to render a complete picture. If expanded with a political feasibility analysis, the expected value of a policy option becomes much clearer.

*Keywords: Switzerland, European Union, European Economic Area, European Integration, Bilateral agreements, political feasibility, scenario study, veto player theory*

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# I. Introduction

## I.1. Setting the Scene

Switzerland is a country that lies at the heart of Western Europe, surrounded by European economic and political heavyweights, such as Germany, France and Italy – yet it is not part of the European Union (EU). Instead, Switzerland has opted for a different integrational approach with the EU which dates back to 1992. In that year, the Swiss people rejected their country's accession to the European Economic Area (EEA), thereby forcing the Swiss government to start negotiations with the EU on the future arrangement of their common relations. These negotiations resulted in 1999 in the signing of a package of seven bilaterally concluded sectorial agreements, called the Bilaterals I. Later on, in 2004, negotiations about leftovers from the Bilaterals I negotiations led to a second package of nine Switzerland-EU agreements, termed Bilaterals II (Oesch, 2020a, pp. 19-22). Both bilateral packages have been accepted by the Swiss people by means of facultative referenda (Swissvotes, n.d.1).

However, despite constituting a sound legal basis, the Bilaterals I and II are arguably a “fair-weather construction”, that “lacks legal security, transparency, and efficiency” (Oesch, 2020b, p. 612). In particular, Switzerland is not obligated to dynamically transpose new (secondary) EU legal acts into its own *acquis* (Oesch, 2020a, p. 100), nor are there any arrangements between the two contracting parties on legal interpretation and surveillance of the agreements, or on dispute settlement (Federal Council, 2021a). Therefore, from 2008 the EU has started to insist on the creation of an institutional framework agreement (IFA), which would mitigate the aforementioned flaws of the Bilateral Agreements. Negotiations on the IFA between the EU and Switzerland started in 2014 and ceased in 2018 with the EU unilaterally declaring the IFA as complete (Oesch, 2020a). The Swiss Federal Council<sup>1</sup> then decided to send the IFA draft into a domestic consultation, by that triggering severe concerns on several provisions within the IFA among society and economy. Thereupon the Swiss government deemed the concerns unsurmountable and aborted negotiations on the IFA in May 2021 (Walter, 2021). Since then, relations between Switzerland and the EU have been in abeyance and the EU has started to suspend Switzerland from several joint projects and mutual agreements. Examples are the EU's downgrading of Switzerland to a non-associated third country in the Horizon Europe Programme (SERI, 2021), and the EU's refusal to update the Mutual Recognition Agreement<sup>2</sup> (MRA) (Swissmedic, 2021).

Moreover, EU Commissioner Maroš Šefčovič – who is responsible for the EU's relations with Switzerland within the Commission – has expressed the EU's displeasure regarding Switzerland's abandonment of IFA talks by announcing a gradual expiration of the existing bilateral agreements, if new negotiations would not be successful (Euractiv, 2021, para. 3). From a macroeconomic perspective, such development would be very unfortunate, since Switzerland benefits per capita more from the European Single Market (ESM) than all other EU27 and EEA countries

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<sup>1</sup> The terms ‘(Swiss) Federal Council’ and ‘Swiss government’ denominate the same body and are thus used synonymously.

<sup>2</sup> The MRA is part of the Bilaterals I and homogenises technical standards between Switzerland and the EU for the trade of certain product categories, by means of mutual recognition of conformity assessments (Oesch, 2020a, pp. 83-84).

(Mion & Ponattu, 2019). Considering that it is *inter alia* the Bilaterals I & II that enable Switzerland its sectorial integration into the ESM<sup>3</sup>, it is to suppose that their *erosion* (i.e. lacking legal updating of the Bilateral agreements up to their inapplicability due to their obsolescence) would constitute a harsh setback for Swiss economy and society.

Hence, it is surely no exaggeration to state that vital interests for Switzerland (and to a lesser extent for the EU) are at stake due to the current strained relation between the two entities, and that the further development of the Swiss economy to a substantial extent depends on the evolution of Switzerland's relationship with the EU. In this light it does not come as a surprise that many Swiss political actors, scholars and civil society organisations have come up with a plethora of proposals, approaches and ideas on how to shape the future Switzerland-EU relationship. These notions are sometimes very different from each other and range from a cessation of the current Bilateral relationship to an EEA or even an EU accession. Often, however, they distinguish themselves only in small, legal-institutional details. Yet, such technicalities can significantly shift the political feasibility of a certain proposal, may that be in the Swiss political arena or within the EU institutions – not to speak of the various economic consequences that the different proposals, approaches and ideas entail. Strikingly, whereas these economic consequences have been discussed and quantified many times, the political feasibility perspectives of scenarios on prospective Switzerland-EU relations have mostly been bluntly omitted. In my eyes, however, it makes more sense to look at political feasibility and economic aspects jointly.

To sum up, the precarious state that the so far fruitful relationship between the two trade (and political) partners is currently based on, poses a significant economic hazard for Switzerland and regularly triggers proposals, approaches and ideas in the Swiss political arena on how to shape this relationship. Accordingly, the questions of where the Switzerland-EU relationship is headed to, what kind of scenarios political actors, scholars and civil society recommend regarding this development, what the political feasibility of each of these scenarios is and what each scenario's economic consequences could be, are of relevance for society, politics and science.

## 1.2. Content Overview – The Four-Piece Structure

Now that the reader's focus has been sharpened, the chapter at hand will introduce the paper's four-piece structure and its content. This four-piece structure takes as its starting point the aforementioned strained relation between Switzerland and the EU after Switzerland has declared the IFA as not adoptable in May 2021 (Federal Council, 2021b). As described above, this 'end with a bang', but also the long-foregoing, looming stalemate have sparked numerous proposals, approaches and ideas on how to further develop this so crucial relationship for the Swiss economy. Therefore, the first part of the analysis will present these proposals, approaches and ideas, group them into clearly distinguishable scenarios<sup>4</sup> and arrange them in a manner that

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<sup>3</sup> To give some examples, sectoral agreements like the MRA and the Agreement on Air Transport (Bilaterals I) as well as the Agreement on Agriculturally Processed Products (Bilaterals II) all facilitate Switzerland's access to the ESM (Oesch, 2020a).

<sup>4</sup> Although the relevant terms will be conceptualised in-depth in chapters five and six, the term *scenarios* requires, for better understanding, already an introduction at this point. A *scenario* refers to the different (dis)integrational paths towards the EU that Switzerland may or may not take in the future. These

reduces their complexity. This process I call scenario development. The second part of the analysis aims at assessing the political feasibility of the scenarios – from both the Swiss and the EU political perspective – and at providing each scenario with a likeliness score, since this has often been lacking in hitherto performed studies and academic papers. For that assessment I rely on the veto player theory (Tsebelis, 1995; 2002; 2010). Once the political feasibility assessment for each scenario has been conducted, I proceed to the economic effects assessment – the third part of the analysis. This section serves to concisely quantify each scenario’s economic effects and consequences for Switzerland, based on desk research and existing quantitative studies. The fourth and last section of the analysis ties the results of both the feasibility assessment and the economic assessment together and formulates a recommended course of action (RCoA), based on an expected value analysis. The RCoA can be regarded as the gist of the paper at hand.

As for the content overview, the following second chapter will introduce the previously delineated topic more in detail to fill the reader in on the relevant background. The third chapter will provide a literature review on hitherto scenario studies in the field of Switzerland-EU relations and on these studies’ incorporation of feasibility aspects, but also with a perspective on more specific (dis-)advantageous economic aspects of the Bilateral Agreements. Moreover, the literature review will provide an overview on the concept of political feasibility in general, and on academic papers tying policy problems with political feasibility concerns. Eventually, the literature review serves to carve out the research gap. With that research gap in mind, the academic and societal relevance will be highlighted in the fourth chapter. Chapter five will – based on the research gap – derive the research question and its subquestions, but also conceptualise the relevant terms associated with those questions. In a sixth chapter, I intend to outline the methodology and important operationalisations and present the data used for the analysis.

Chapters seven to ten will form the core of this paper, namely the four-part analysis consisting of scenario development, political feasibility assessment, economic effects assessment and formulation of a RCoA, with the latter based on an expected value analysis. I have found that the numerous proposals, approaches and ideas on the further development of Switzerland-EU relations can be best compromised into three clearly distinguishable scenarios, albeit with several sub-scenarios within each scenario. The three scenarios follow an integrational logic, starting with the scenario *Less Europe*, followed by the scenario *Continuation of The Bilateral Path*, and concluding with the scenario *More Europe*, with the first and the last scenario delineating the fringes of the *more-less integration* dimension. As the politically most feasible scenario the *Continuation of The Bilateral Path* has been determined, however with a vertical integration of institutional elements<sup>5</sup> (to account for such possibility of differences within scenarios, *sub-scenarios* have been established). Also within the economic effects assessment, the continuation of the

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scenarios of future Swiss relations with the EU are all meant to be plausible and based on empirically identifiable trajectories, ergo on the proposals, approaches and ideas from politics, science and civil society. In the course of this paper I refer to these empirically identifiable trajectories also as being *empiricism-based*.

<sup>5</sup> *Institutional elements* refer to the institutional framework for the Bilateral acquis that has for the first time been contemplated by the Swiss Federal Council in 2006, terming it “an improvement of the institutional frame” in order to ensure a better “overall coordination” of the Bilateral relations with the EU (Federal Council, 2021a, p. 5). Later on, this idea became more concrete with the EU insisting on a so-called IFA with institutional elements, such as a dynamic adoption of EU law (see introduction).

Bilateral path with institutional elements integrated vertically exhibits the most positive expected economic effects out of all (sub-)scenarios. Accordingly, when both political feasibility and economic effects of each (sub-)scenario are conjoined, the continuation of the Bilateral path with a vertical integration of institutional elements turns out to have the highest expected value. Consequently, this sub-scenario is being chosen for the RCoA.

Apart from the advice itself, the analysis reveals two things: First, a mere ‘standalone’ economic analysis of the consequences of any future development of the Switzerland-EU relations or, arguably, of any policy problem is not *sufficient* to arrive at practicable suggestions<sup>6</sup>, nor is a comprehensive economic analysis of the consequences of any future development of the Switzerland-EU relations or, arguably, of any policy problem, *necessary* in order to formulate conclusions – *ex ante* feasibility considerations often reduce the spectrum of possibilities to a smaller range of viable options. From that angle, an interdisciplinary approach to policy analyses is indispensable. Second, and following up with the first statement, my study showcases the importance of multidisciplinary studies. The combination of the veto player theory together with economic studies and legal inputs has rendered a more complete picture of the holistic value of scenarios for future Switzerland-EU relations.

Consecutively to the analysis, the last chapter concludes and points out avenues for future research. In addition, a reference list and extended tables are provided in the appendix.

## 2. The Switzerland-EU Relations – A Reader’s Digest

A first milestone in Switzerland-EU relations is the Free Trade Agreement that was signed in 1972. The contracting parties – back then Switzerland and the EU’s legal predecessor, the European Economic Community (EEC) – agreed on a classical ‘static’ trade agreement which has as its main aim the gradual elimination of trade barriers, as well as the non-introduction of new import duties between Switzerland and EEC / EU countries. The FTA is based on the two pillar principle<sup>7</sup> and regulates in detail the following: It bans import and export duties or duties that have the same effect; it bans discriminating taxes, as well as quantitative restrictions or measures that aim to have the same effect, however, with the latter pair not having absolute validity. The agreement is applicable to industrial goods and agriculturally processed products. The non-implemented IFA also contained a joint statement, where both parties affirmed their intention to modernise the FTA (Oesch, 2020a, pp. 79-83). Already indicating a fractional integration into the ESM, some passages are “practically identical” (Oesch, 2020a, p. 82) with the Treaty on the Functioning of the European Union (TFEU).

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<sup>6</sup> Or, as Majone (1975, p. 272) remarks in a more general manner: “A practically relevant political science must be able to point out the political constraints which, together with many other types of limitations, restrict the freedom of choice of the policy maker.”

<sup>7</sup> The term *two pillar principle* refers to the legal mode of operation of the 1972-FTA as well as the Bilaterals I and II. The principle implies that, in both the FTA and the Bilaterals I and II, the two contracting parties are themselves responsible to safeguard the proper functioning (i.e., implementation, surveillance and judicial protection) of the agreements’ provisions on their respective sovereign territories. Put differently, there are no common Swiss-EU institutions for neither the FTA nor the Bilateral agreements, nor are there any supranational elements (contrary to the EEA-EU relationship) (Oesch, 2020a, p. 43).



Several smaller agreements post-FTA notwithstanding<sup>8</sup>, the arguably most path-defining moment in Switzerland-EU relations was the EEA referendum in 1992. The EEA was drafted 1992 in order to largely integrate the then seven European Free Trade Association (EFTA) member states into the ESM (European Parliament, 2021a). While Austria, Finland, Iceland, Liechtenstein, Norway and Sweden entered the EEA, the Swiss people (as well as a majority of cantons) opted to stay out by means of a mandatory referendum<sup>9</sup>, with only a very slight majority of 50.3 per cent no-votes (Swissvotes, n.d. 2). What was regarded as a harsh setback by pro-European forces in Switzerland (Fellmann 2017), eventually forced the Swiss government to start negotiations with the EU on the future arrangement of their common relations. These negotiations resulted in 1999 in the signing of a package of seven bilaterally concluded sectorial agreements, called the Bilaterals I. In 2004, negotiations about leftovers from the Bilaterals I negotiations led to a second package of nine Switzerland-EU agreements, termed Bilaterals II (Oesch, 2020a, pp. 19-22). Both bilateral packages are based on the two pillar principle (Oesch, 2020a, p. 19) and have been accepted by the Swiss people by means of facultative referenda (Swissvotes, n.d.1).

The Bilaterals I consist of the Agreement on the Free Movement of Persons (AFMP), the Agreement on Mutual Recognition in Relation to Conformity Assessment (Mutual Recognition Agreement, MRA), the Government Procurement Agreement, the Agreement on Trade in Agricultural Products, the Agreement on Air Transport, the Agreement on Carriage of Goods and Passengers by Rail and Road (Ground Transportation Agreement) and the Agreement on Research and Technological Cooperation, enabling Switzerland access to the EU Research Framework Programmes. The Bilaterals II comprise the Schengen Association Agreement, the Dublin Association Agreement<sup>10</sup>, the Interest Taxation Agreement, the Antifraud Agreement, the Agreement on Agriculturally Processed Products, the Environmental Cooperation Agreement, the MEDIA Participation Agreement, the Agreement on Statistical Cooperation and the Agreement on Prevention of Double Taxation (Oesch 2020a, pp. 21-23). All seven agreements within the Bilaterals I are interconnected by a so-called *guillotine clause*: As soon as one of the contracting parties

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<sup>8</sup> Examples for post-FTA agreements (after 1972, but before the signing of the Bilaterals I in 1999) are the 1989 Insurance Agreement and an agreement on alleviation of controls and formalities in freight traffic from 1991, which got replaced by the Customs Agreement in 2011 (Oesch, 2020a, p. 19).

<sup>9</sup> Apart from the popular initiative, Switzerland knows two more direct democracy instruments on federal level. The *mandatory referendum* stipulates that, based on the Swiss Federal Constitution, a referendum that requires the majority of peoples' votes and cantons automatically gets triggered in the following cases: Amendments of the Federal Constitution, emergency federal acts and accessions to supranational communities. The *facultative referendum* (also *optional referendum*) implicates that a referendum that requires the majority of peoples' votes gets triggered if at least 50,000 Swiss voters request the referendum. It (inter alia) applies to cases of federal acts that do not amend the Constitution and to international treaties which provide for accession to an international organisation, "or [international treaties] whose implementation requires the enactment of federal legislation" (Swiss Parliament, n.d.1).

<sup>10</sup> The Schengen and Dublin Association Agreements (which are, not least due to their bundling in the *little guillotine* and their similar nature, perceived as 'belonging together' by the Swiss people) can be considered the most important agreements within the Bilaterals II package and regulate the following: *Dublin* denominates a cooperation that determines the responsibilities for the assessment of an asylum application between the signatory countries, and that prevents double asylum procedures. *Schengen* rules that border checks on the borders of Switzerland and all other Schengen signatory countries are to be abolished (FDJP, 2011). The agreement also includes further measures for Europe's internal and external safety; In regard to Switzerland this means *inter alia* that the country supports the European border and coast guard agency FRONTEX with financial and personnel resources (Oesch, 2020a, pp. 151-154).

abrogates a single agreement within the bundle, then the remaining six agreements of the Bilaterals I expire automatically within six months. Such clause has been pushed by the EU to prevent ‘cherry picking’ from the Swiss side by means of referenda. The same construct, albeit on a smaller scale, exists for the Bilateral agreements II, where the fate of the Schengen and Dublin Association Agreements is interconnected by the *little guillotine* (Oesch, 2020a, pp. 21-23). Of particular interest for this paper are the AFMP and the MRA, hence their function will be explained more in detail in the following passages. The justification for this paper’s focus on AFMP and MRA will follow in chapters three and five.

The AFMP corresponds in large parts to one of the four freedoms of the EU – the free movement of persons – and expands this principle to Switzerland. In short, the AFMP’s main aim for nationals of the EU, the EEA (i.e. Norway, Iceland and Liechtenstein) and of Switzerland is to:

*“...accord a right of entry, residence, access to work as employed persons, establishment on a self-employed basis and the right to stay in the territory of the Contracting Parties, [...] to facilitate the provision of services in the territory of the Contracting Parties, and in particular to liberalise the provision of services of brief duration, [...] to accord a right of entry into, and residence in, the territory of the Contracting Parties to persons without an economic activity in the host country [...]” and “to accord the same living, employment and working conditions as those accorded to nationals.”*  
(AFMP, Article 1)

I abstain from explicating the AFMP as well as the MRA in full detail<sup>11</sup>. However, regarding the AFMP it is important to know that crucial provisions of the AFMP are to a great extent replicating EU law, and that the Swiss political system as a rule transposes relevant EU legal acts into the AFMP to keep it on par with Union law. An important exception is the Citizens’ Rights Directive 2004/38 (CRD), that has so far not been incorporated into the AFMP, mainly due to the opposition of Switzerland (Oesch, 2020a, pp. 92-93). Fundamental for the understanding of the agreement is also the fact that the AFMP has not only facilitated regulations for entry *and* residence for EU / EEA citizens wishing to live in Switzerland and vice versa (see AFMP, Articles 1, 3, 4 and 6), but also regulations for entry and access to economic activity for cross-border workers (CBWs)<sup>12</sup>. Just as EU and EEA citizens working in Switzerland, EU and EEA CBWs now face less restrictions when entering and seeking work in Switzerland<sup>13</sup> (Salvi, 2014).

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<sup>11</sup> A very helpful and extensive legal overview on the Bilaterals I and II and on their single agreements (in German) can be found in the book “Schweiz – Europäische Union: Grundlagen, Bilaterale Abkommen, autonomer Nachvollzug” (2020a) by Oesch (see also reference list), which I cite frequently in the paper at hand. In respect of only the AFMP and the MRA, as well as for their concrete provisions and attachments, I recommend the respective webpages of the State Secretariat for Economic Affairs SECO ([MRA](#), in English) and of the State Secretariat for Migration SEM ([AFMP](#), mostly in English). Alternatively, all single Bilateral agreements between Switzerland and the EU are also to be found on the EU’s legal database [EUR-Lex](#) and its Swiss counterpart [Fedlex](#).

<sup>12</sup> EU/EFTA cross-border workers (in the official wording of the SEM “EU/EFTA cross-border commuters”) “are nationals of EU/EFTA member states who reside in an EU/EFTA member state and work in Switzerland [...]. Cross-border commuters must return to their main place of residence abroad as a rule every day, or at least once a week” (SEM, 2022).

<sup>13</sup> Examples for pre-AFMP restrictions for EU/EEA CBWs that have since then been gradually abolished are the obligation to commute *daily* between workplace and residence in order to be seen as a CBW, until 2002, and the priority requirement for Swiss nationals, until 2004 (Salvi, 2014).

The second relevant Bilateral agreement, the MRA, provides “for the mutual recognition of the results of conformity assessment procedures required for access to the respective markets of [Switzerland and the EU]” (MRA, preamble). Therefore, if a recognition of conformity of Swiss technical specifications and standards for certain product categories is given, then both the EU and Switzerland mutually recognise reports, certificates and authorisations (regarding these products and product categories) issued by the conformity assessment bodies of the contracting parties. (Oesch, 2020a, pp. 83-84). In other words, the MRA reduces bureaucratic hurdles and administrative costs for EU / EEA and Swiss exporters and importers. Its technical nature may, however, conceal the agreement’s importance: On a value basis, the MRA covers two thirds of the trade of industrial products between Switzerland and the EU (SECO, 2021a). Among those 20 product categories that are affected by MRA provisions are such with a traditionally great importance for the Swiss economy, such as machinery and medicinal products (MRA, annex I). Lastly, just as the AFMP, the MRA needs to be updated regularly in order to integrate new relevant EU legal acts (i.e. regarding product standards) into the agreement. This procedure is usually a matter of routine<sup>14</sup>, but in the light of the stagnating IFA negotiations the EU has recently announced to refuse integration of new EU legal acts into the MRA’s provisions or has already implemented such steps<sup>15</sup> (Oesch, 2020a, p. 85; Swissmedic, 2021).

Despite the importance of the Bilateral agreements I and II as the main pillars of Switzerland-EU cooperation, there have been several relevant post-Bilateral agreements, developments and updates of the single Bilateral agreements themselves (due to their *static* nature) that all contribute to the ‘juridification’ of the relations between the two partners. Examples of relevant post-Bilateral agreements and developments are a memorandum of understanding from 2006, where Switzerland commits itself to the gradual payment of ca. 1.3 bn Swiss Francs for projects in Central and Eastern European EU countries (a *cohesion contribution*), the Customs Agreement from 2009, and several agreements on Swiss participation in EU agencies (e.g., in Europol since 2006, and in the Research Framework Programme Horizon 2020 from 2015 until 2021) (Oesch, 2020a, pp. 24-25). Examples for recent successful updates of single Bilateral agreements – quite in contrast to the rejected updates mentioned in footnote 15 – are incorporations of EU legal acts or cooperation renewals in the Agreement on Air Transportation, in the Ground Transportation Agreement and in politically less controversial sections of the AFMP (Gafafer, 2022a).

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<sup>14</sup> Such ‘matters of routine’ within the single sixteen main agreements of the Bilaterals I and II are as a rule conducted by so-called *joint committees*. In brief, joint committees are responsible for the administration and proper functioning of the single agreements within the Bilaterals, and for diplomatic dispute settlements therein. They consist of a Swiss and an EU delegation, they convene as required but at least one a year, and they usually take decisions unanimously (Oesch, 2020a, pp. 53-54). As for the AFMP, the respective joint committee has the competence to amend the annexes II and III single-handedly (AFMP, Article 18). Also in the MRA the respective joint committee has the competence to amend the agreement’s annexes, but only upon a proposal of a contracting party (MRA, Article 10(5)). Amendments of the agreements themselves (and not of their annexes) are in most cases subject to a higher legal and procedural threshold (Oesch, 2020a, pp. 54-59).

<sup>15</sup> The Medical Devices Regulation 2017/745 applies fully in the EU since May 2021 – yet it has so far not been updated into the MRA (Swissmedic, 2021), which obstructs barrier-free market access and already creates administrative hurdles and additional expenses in export and import of medical technology products in Switzerland (SQS, 2021). Similar consequences are soon expected in respect of the non-integration into the MRA of the revised Machinery Directive 2006/42 and the In-Vitro Diagnostics Regulation 2017/746 (Meier, 2021; Swissinfo, 2022).

The Bilateral Agreements as a whole are arguably of major economic importance for Switzerland. The Federal Department of Foreign Affairs FDFA (2017) deems the EU and its Member States to be “by far” (p. 5) Switzerland’s most important political and economic partners and stresses the “undisputed” positive economic effects of the Bilaterals I and II (p. 9). Such statements are reflected in numbers, statistics and studies: 67 % of Swiss imports are coming from the EU and 50 % of Swiss exports leave for EU countries. On the other hand, Switzerland is also relevant for the EU’s economy, by being the EU’s fourth-most important trade partner for goods (after the USA, China and the UK), and the third-most important trade partner for services, with an export share of 11 % (Swiss Mission to the EU, 2022). According to the research institute BAK Basel Economics (2015), a cessation of the Bilaterals I would entail a calculated welfare loss of 7.1 % until 2035. The research institute Ecoplan quantifies this loss – following the same parameters – to 4.9 % (2015). As mentioned above, Mion and Ponattu (2019) have calculated that Switzerland benefits *per capita* more from the ESM than all other EU and EEA countries. Table I below demonstrates their findings and puts the importance of the Bilaterals I & II for Switzerland in relation to the importance of the ESM for other participating EU countries.

<b>Economic Effects of the Single European Market on Country Level</b>		
<b>Country</b>	<b>Change in income (%)</b>	<b>Change in per capita income (€)</b>
Czech Republic	3.985	666
Denmark	3.463	1,682
Estonia	2.775	446
France	3.113	1,074
Germany	2.741	1,046
Iceland (EEA)	2.073	1,131
Ireland	3.235	1,894
Italy	2.755	763
Luxembourg	4.334	2,834
Netherlands	3.675	1,516
Norway (EEA)	2.746	1,753
Poland	3.404	382
Spain	2.446	589
Sweden	2.800	1,302
<b>Switzerland</b>	<b>4.016</b>	<b>2,914</b>
United Kingdom	2.119	776

Table 1: Economic Effects of the Single European Market on country level, with an illustrative selection of country data for comparative purposes. Adapted from “Ökonomische Effekte des EU-Binnenmarktes in Europas Ländern und Regionen: Zusammenfassung der Studie”, by G. Mion, and D. Ponattu, 2019, *Bertelsmann Stiftung*, p. 5. [https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/EZ\\_Zusammenfassung\\_Binnenmarkt.pdf](https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/EZ_Zusammenfassung_Binnenmarkt.pdf). Copyright 2019 by Bertelsmann Stiftung.

To sum up, the Bilateral Agreements I and II integrate Switzerland partially into the ESM through far-reaching sectoral agreements. This integration into the world’s largest internal market (European Commission, 2019) has also brought about substantial economic advantages for Switzerland. However, the Bilateral substance remains static. As mentioned earlier, the agree-

ments can be considered a “fair-weather construction”, that “lacks legal security, transparency, and efficiency” (Oesch, 2020b. p. 612). For this reason, an institutional framework for the Bilateral acquis has been contemplated by the Swiss Federal Council already in 2006, terming it “an improvement of the institutional frame” in order to ensure a better “overall coordination” of the Bilateral relations with the EU. Unsurprisingly, also the EU welcomed the notion of an institutional framework. In its conclusions in December 2008, the Council of the EU (hereinafter *Council*) highlighted the necessity of an institutional mechanism for a proper coordination of the Bilaterals with the ever-developing EU acquis (Federal Council, 2021a, p. 5).

In view of exploratory talks on the possibility of a framework agreement, the Federal Council evolved its basic principles in regard of institutional provisions and formulated them in 2010 as follows: 1.) It promoted a legal development that includes a *dynamic*, albeit not an *automatic* adoption of relevant EU law which respects the Swiss sovereignty principle<sup>16</sup>, 2.) regarding the interpretation of Bilateral law the Federal Council did not rule out new mechanisms, as long as they would enhance coherence of interpretation, 3.) as to surveillance it supported the creation of an independent national or multilateral body (which would *not* equal to a renunciation of the two pillar principle), and 4.) as regards dispute settlement the Federal Council advocated for an arbitral tribunal or a similar common institution (Federal Council, 2021a, pp. 6-7). Commonalities with the EU’s conceptions of a framework agreement notwithstanding, there were considerable differences between the two partners. They concerned compensation measures in the case of Switzerland’s non-adoption of certain EU legal acts, the type of surveillance body, the instance responsible for the interpretation of Bilateral law and the kind of dispute settlement institutions (for all cases, Switzerland initially preferred national or multilateral institutions, whereas the EU preferred supranational institutions, hence, in most instances the European Court of Justice), and several rather explicit points, like the question of the adoption of the CRD into the AFMP (Federal Council, 2021a, pp. 7-12).

With a significant array of commonalities, but also with essential differences between each other, Switzerland and the EU entered official negotiations on an Institutional Framework Agreement (IFA); negotiations which would last from 2014 until 2018. They can be grouped into three negotiating rounds and were informed by rigid bargaining on both sides, by the looming Brexit, but also by some progress. Nevertheless, the last round revealed a hardening of persisting differences on quintessential points (such as the adoption of the CRD and Switzerland’s far-reaching accompanying measures in wage protection), which made the EU utter its impatience and eventually unilaterally declare the IFA as complete and negotiations as concluded in November 2018 (Federal Council, 2021a; Oesch, 2020a, pp. 63-64). However, in light of the open

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<sup>16</sup> The sovereignty principle can, together with the principles of federalism, neutrality and direct democracy (on the latter three, see also Dardanelli (2005, p. 8)), be regarded as one of the fundamental national institutions of Switzerland. In respect of sovereignty, Cottier (2019) explicates that the Swiss understanding of sovereignty is primarily nationally oriented and puts political self-determination as well as direct democracy at its centre. Eventually this has an impact on the Swiss understanding of the Bilateral relations, insofar as it influences Switzerland’s quest to govern the Bilateral agreements first and foremost from a trade-political viewpoint (Cottier, 2019). Tomczyk (2013, p. 122) conceives the same matter in an accurate manner: “[Swiss] Policy towards the European Union is therefore pragmatic and only to a minor extent dictated by ideological considerations such as the desire for integration or creation of a common Europe. If the strategy guarantees economic growth, and at the same time does not impose a number of commitments that are difficult to accept, it is regarded as appropriate”.

issues that were crucial for Switzerland and – as they were governed in the IFA draft<sup>17</sup> – politically not acceptable, the Federal Council refrained from signing the draft. Instead, the government sent the IFA into a broad domestic consultation including economic and civil society stakeholders, political parties, social partners and the parliament, by that triggering severe concerns on several of the IFA’s provisions among these actors (Federal Council, 2021a, p. 17; Walter, 2021).

These concerns can be summarised in three points: First, concerning Swiss wage protection, stakeholders from the political left – mainly political parties and trade unions – criticised that, with the IFA, the Swiss level of wage protection could not be maintained. Therefore, the actors demanded an assurance from the EU side that would grant Switzerland the possibility to expand its accompanying measures<sup>18</sup> irrespective of EU legal developments, or, alternatively, to exclude the accompanying measures from dynamic adoption of EU law and European Court of Justice (CJEU) jurisprudence. Second, various stakeholders from the political centre (the former Christian-Democratic People’s Party CVP) and the political right (the Swiss People’s Party, SVP) refused an integration of the CRD into the AFMP either completely or partially. In brief, they refused to the least the adoption of CRD provisions that do not fall within the scope of the AFMP (Federal Council, 2019, p. 17). Few weighty actors also feared a substantial increase of social welfare expenditures, should the CRD be adopted by Switzerland (Farman, 2021). Lastly, regarding state aid provisions in the IFA draft, numerous actors voiced that the federal level and the cantons shall have equal rights in terms of surveillance of state aid rules, and that IFA state aid provisions must not have an effect beyond the Bilateral agreements that are covered by the IFA (thereby particularly referring to the 1972-FTA) (Federal Council, 2019).

One last aspect, that has not been framed as a main concern by the Federal Council (2019) in its conclusions after the consultation, deserves attention, nonetheless. It is about the institutional dispute settlement mechanism (IDS) that was provided for in the IFA draft. In short<sup>19</sup>, this dispute settlement mechanism stipulates that a (legal) dispute within a single Bilateral agreement or within the IFA shall be forwarded to an equally staffed (i.e. as many EU deputies as Swiss deputies) arbitral tribunal, should the joint committee (see footnote 14) not be able to resolve the matter within three months. Furthermore, if the dispute at hand contains legal terms that concern Union law, then the CJEU inevitably has to be invoked for an interpretation of the relevant terms – similar to the CJEU’s preliminary ruling procedure. Eventually, the CJEU’s interpretation is binding for the arbitral tribunal. Also, it stands to reason that Bilateral law (which to a large extent represents an expansion of Union law to the Swiss legal ambit) contains numerous legal

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<sup>17</sup> For a brief summary of the IFA draft and its main provisions please see the explanatory box 1 *The Institutional Framework Agreement in a Nutshell* in appendix A.

<sup>18</sup> The term *accompanying measures* refers to policies that were enacted in 2004 in the face of the coming into effect of the AFMP two years earlier, which indirectly also entailed a liberalisation of the Swiss labour market and – at least in theory – had the potential to pressurise Swiss wages and employment conditions due to influx of EU / EEA workers into Switzerland. Therefore, the goal of the accompanying measures is to protect gainful workers in Switzerland from abusive violation (in this case *undershooting*) of Swiss wage and employment conditions. An example of a respective policy is the legal obligation for EU / EEA employers, who send off their workers their workers into Switzerland, to meet the minimal Swiss wage and employment standards, and to announce their operation eight days in advance (the latter is to be seen as a *notification requirement*) (SECO, 2021b).

<sup>19</sup> For a schematic display of the IDS mechanism designated for in the IFA draft, please see the explanatory box 2 *The IFA’s institutional dispute settlement mechanism* in appendix A.

terms that have its origin in Union law (Oesch, 2020a, pp. 68-70). This aspect – the involvement of the CJEU in Bilateral legal questions – has provoked critical responses by several Swiss political actors, mainly from the political right centred around the SVP, which has traditionally been emphasising the inviolability of Swiss sovereignty and independence. Concretely, in regard of the potential CJEU involvement, the SVP had suspected that with such a mechanism, the Swiss people would have to bow to the judgements of “foreign judges” (Schwok, 2014; Fischer, 2021).

This is relevant, because it brings into focus a heated debate that has long accompanied the IFA negotiations in particular and the Switzerland-EU Bilateral relations more in general. The “anti-European basic attitude” (Longchamp, 2021) within the SVP and further right-wing conservative circles, embodied in the aforementioned notion of “foreign judges”, has gained momentum with the SVP’s leadership in the anti-EEA opposition campaign in the 1992 referendum (Schwok & Levrat, 2001) – which it eventually won – and found further expression in several popular initiatives which broached the issue of the Switzerland-EU relations<sup>20</sup>. Importantly, these initiatives often threatened the continuance of single Bilateral agreements (usually the AFMP), and thus, due to the *guillotine clause*, the continuance of the Bilaterals I as a whole. This area of conflict – one might also say *trade-off* – between a nationally conceived sovereignty principle and a growing pull of supranational integrational forces has to be kept at the back of one’s mind when dealing with the intricate Switzerland-EU relationship. What is more, the popular initiatives mentioned in footnote 20, but also the direct democracy instrument in a broader sense, matter to the extent that negotiators both on the Swiss and the EU side are aware that any result of the negotiations does not only have to be backed by a majority in the Swiss parliament and relevant EU institutions, but also before the Swiss people. It stands to reason that this direct democracy factor is an almost unique component in the EU external relations. In conclusion, this institutional constraint influences the negotiating process gravely and reveals another area of conflict, namely between direct democracy and Swiss EU integration (Oesch, 2020a, p. 37).

However, coming back to the consultation’s results, it was clear in 2019 that the Federal Council could not accept the IFA draft in consideration of the reported concerns. Thus, in late 2020 the Federal Council resumed the IFA negotiations that had come to a standstill in November 2018: It denied a *complete* integration of the CRD into the AFMP by highlighting seven CRD elements that shall be excluded from the AFMP, it demanded a protection of the current level of accompanying measures, irrespective of EU legal development and CJEU jurisprudence, and it stipulated that state aid provisions within the IFA shall not have an effect beyond the Bilateral agreements that are covered by the IFA, particularly not onto the 1972-FTA. In parallel to these

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<sup>20</sup> Examples for such popular initiatives launched by the SVP and dealing with EU (i.e. bilateral) issues are the popular initiative “Against mass immigration” also known as mass immigration initiative (2014), the popular initiative “Swiss law instead of foreign judges”, also known as self-determination initiative (2018) and the popular initiative “For a modest immigration”, also known as limitation initiative (2020). The goal of the first initiative was to enable Switzerland to steer immigration unilaterally by means of annual maximum numbers and contingents, the second initiative had as its aim to introduce a legally enshrined primacy of Swiss constitutional law before international (public) law, such as e.g. the European Convention of Human Rights, whereas the last initiative tried to terminate the AFMP (and consequently the whole Bilaterals I package) in order for Switzerland to be able to steer immigration unilaterally (Federal Chancellery, 2022). The latter was perceived to be necessary by the SVP, since in the party’s eyes, the mass immigration initiative was implemented insufficiently by the parliament and the Federal Council (Amstutz, 2020; more on this matter also in Oesch, 2020a, pp. 36-39).

developments on the Swiss side, the EU – slowly losing patience – raised its political pressure on Switzerland by repeating that, without an IFA, existing market access agreements<sup>21</sup> would not be updated and negotiations on new Bilateral agreements (e.g., in the areas of electricity and food safety) would not be started (Federal Council, 2021a). These announcements were followed by actions, such as the previously mentioned refusal to update the MRA (see footnote 15), the EU's downgrading of Switzerland to a non-associated third country in Horizon Europe (SERI, 2021), or the non-recognition of conformity of the Swiss stock exchange regulation with EU law.

Focusing again on the reopened IFA negotiations in late 2020, it became apparent that an agreement might not be achieved in these talks. Whereas the open issue regarding state aid could be concluded satisfactory for both partners, the critical aspects of the CRD and the protection of the accompanying measures could not be resolved, with both the EU and Switzerland insisting on their positions. In light of this gridlock, the Federal Council declared the IFA to be non-adoptable on the 26 May 2021 and decided to not sign the agreement. Still, it reinforced its interest to continue the proven Bilateral approach, also in absence of the IFA (Federal Council, 2021b).

After a long phase of relative communicational silence between Switzerland and the EU, the Federal Council presented its planned approach on how to carry on its Bilateral relations with the EU in late February 2022 in a press conference: First, the Federal Council intends to integrate institutional elements, such as a dynamic adoption of EU laws or an IDS, *vertically* instead of *horizontally*<sup>22</sup>. The horizontal approach, which was provided for in the IFA draft from 2018, is no option anymore for the Federal Council. Second, the government aspires a full re-association in the areas of research and education, and new Bilateral agreements in the fields of electricity and food safety. Third, a perpetuation of the cohesion contribution – originally launched in 2006 as a gradual payment to be disbursed within ten years – should be considered in order to maintain the good relations. Fourth, the Federal Council plans to conduct an *ex-ante* consultation with actors from civil society (not *ex-post*, as it has been done in previous negotiations) and to discuss options for action regarding a reduction of differences in regulations (i.e., Swiss relative to EU regulations) with the social partners and the cantons. Fifth, in parallel to the *ex-ante* consultations the FDFA state secretary shall initiate exploratory talks with the EU on the presented parameters (Tages-Anzeiger, 2022a). It was on the 31 March 2022 when state secretary Livia Leu introduced Switzerland's newest approach to the EU Commission (Tages-Anzeiger, 2022b).

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<sup>21</sup> The term *market access agreements* refers to the five existing agreements within the Bilaterals I that specifically enable Switzerland to gain access to the ESM (the AFMP, the MRA, the Agreement on Air Transport, the Ground Transportation Agreement and the Agreement on Trade in Agricultural Products) as well as potential future market access agreements, such as an electricity market agreement. It is the current five market access agreements together with future market access agreements for which the provisions in the 2018 IFA draft would be applicable (IFA, Article 2).

<sup>22</sup> A *horizontal* integration implies that all designated institutional elements would be bundled into a single treaty that has legal applicability for a negotiated amount of Bilateral treaties (i.e. for the five existing market access agreements and subsequent Bilateral agreements), just as it was the case for the IFA. On the contrary, a *vertical* or *sectorial* integration means that institutional elements would be incorporated into each single Bilateral (main) agreement or into each single market access agreement without the presence of a horizontal 'umbrella agreement'. This second approach is currently being pursued by the Federal Government, as it stated in February 2022 (Tages-Anzeiger, 2022a).



### 3. Literature Review

In the present literature review I will first present hitherto scenario studies in the field of Switzerland-EU relations and focus on these studies' incorporation of feasibility aspects, before I will switch over to studies that emphasise more specific (dis-)advantageous economic aspects of the Bilateral Agreements, namely the AFMP and the MRA. Then I will provide an overview on the concept of political feasibility in general, and on academic papers tying this concept with approaches on how to analyse it. The literature review serves to carve out the research gap. Therefore, it is not meant to be exhaustive, but rather it is to be conceived as an overview of the most relevant papers and insights that have been gained on my topic so far, in a way that the research gap is clearly discernible. Also, further relevant literature that helps to conduct my political feasibility and economic effects assessments (i.e. desk research) will be introduced ad-hoc and not in this chapter. Moreover, literature that I base my methodology on will follow in chapter six.

#### 3.1.1. The Switzerland-EU Relations – Scenario Studies, Economic Effects and Incorporation of Feasibility Aspects

This chapter will show that there are scenario studies on the development of Switzerland-EU relations *in general*, scenario studies on single Bilateral agreements, scenario studies that set out an array of probable scenarios, and numerous scenario studies that zoom in on only one scenario (usually a Swiss EU or EEA accession, or a cessation of the Bilaterals). What *many* of them have in common is that they focus on economic effects of their showcased scenarios; what *all* of them have in common is that they lack a *systematic*<sup>23</sup> and thorough political feasibility assessment. For the purpose of this chapter, scenarios can in a narrow sense be defined as “descriptive narratives of plausible alternative projections of a specific part of the future, [...] methodically researched and developed in sets of three, four, or more [and] a combination of estimations of what might happen, [but not] forecasts of what will happen” (Fahey & Randall, 1998, pp. 6-7), or they can be defined in a broader sense as every projection of the future that conceives a clearly defined development, irrespective of its plausibility and methodological derivation.

Scenario studies and academic papers that focus on two or more probable scenarios of the future development of Switzerland-EU relations have been executed by Hauser & Bradke (1992), van Nieuwkoop & Müller (1999a; 1999b), Grether & Müller (2001) and Hauser & Roitinger (2001). All these studies analyse the scenario of a Swiss EU accession, which is probably due to the fact that twenty and more years ago such scenario seemed politically more realistic and was echoed by the Federal Council and major political parties. Furthermore, the studies either focus on the scenarios of a Swiss unilateral solo effort without Bilateralism ( van Nieuwkoop & Müller, 1999a; 1999b), on the scenario of an EEA accession (Hauser & Bradke, 1992; Hauser & Roitinger, 2001), on the scenario ‘Bilateral path’ (Grether & Müller, 2001; Hauser & Roitinger, 2001), or in some cases on a combination of the above. What all these studies have in common is that they apply

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<sup>23</sup> As a systematic (and thorough) political feasibility assessment I define an assessment that conducts a political feasibility ‘test’ with all scenarios that are presented in the corresponding study or paper, an assessment that conducts this test in a structured manner to not omit relevant variables (i.e. by help of a guiding theory), and an assessment that, at least in the case of Switzerland-EU relations, focuses on both sides that are necessary to make a scenario happen (i.e. both the Swiss and the EU political systems).

economic effect assessments of the scenarios, such as, e.g., an assessment of the expected welfare gains of an EU accession of Switzerland compared to the expected welfare gains of the continuation of the Bilateral path (e.g., Grether & Müller, 2001). However, none of these studies pays attention to political feasibility aspects of their scenarios (i.e., whether the scenarios were actually realistic at all in the political circumstances at the time).

Scenario studies and academic papers that delve in-depth into one single scenario – one might term it a hypothetical counterfactual – have been conducted, too. Studies which analyse the effects of a cessation of the Bilaterals I (or their gradual erosion<sup>24</sup>) on the Swiss economy or on single regions within Switzerland stem from the economic research institutes BAK Basel Economics (2015; 2020; 2021) and Ecoplan (2015). A study that contrasts the effects of a scenario where Switzerland-EU relations fall back to the 1972-FTA, albeit significantly modernised, with the effects of the chosen Bilateral path, has been set up by the Federal Council (2015). Eventually, the academic papers by Spirig & Weder (2004) and Spirig (2005) contemplate the scenario of a Swiss EU accession. In this regard, Spirig (2005) deserves particular attention, because he does not simply list the costs and benefits of such scenario, but much more the author plots them against certain temporally ‘dynamic aspects’, in dependence of which these costs and benefits could be higher or lower. This unique approach notwithstanding, all these studies put an emphasis on economic and, partly, legal and institutional effect assessments of their scenarios, similar to the studies mentioned in the previous paragraph. Yet, they all lack a systematic and thorough feasibility assessment<sup>25</sup>.

A further type of studies and academic papers examines scenarios for single aspects or agreements within the field of future Switzerland-EU relations. Examples are Thaler (2020) who formulates two scenarios on the emergence of an energy agreement between Switzerland and the EU, and Carrera et. al. (2015) who set up scenarios, respectively (in their wording), options for the future evolution of the AFMP. Both studies consider aspects of political feasibility of their scenarios (in the case of Thaler (2020) an assessment of the likeliness of both scenarios, in the case of Carrera et. al. (2015) punctual assessments of the feasibility of their suggested options). However, their feasibility assessments remain very brief, and can, just as in the previous cases, not be considered systematic and thorough.

One last group of papers and studies stands out for their consideration of political feasibility and likeliness aspects. Schwok & Levrat (2001) show tentative aspects of a very ‘point-of-time-related’ feasibility analysis on the scenario of a Swiss EU accession. Tomczyk (2013) investigates probable future scenarios for the Swiss policy towards the EU. “Based on an analysis of current conditions and experiences, as well as on an evaluation of the current political strategy of the government” (p. 122), he identifies three scenarios: A continuation of the Bilateral approach, an EU accession, and the conclusion of a framework agreement. The author abstains from merely

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<sup>24</sup> Concretely, the study by BAK Basel Economics (2021) investigates the possible consequences of a non-realisation of the IFA and the ensuing erosion of the Bilaterals I on the Upper Rhine region. In this context the erosion of the Bilaterals I is to be understood as a lack of (legal) updating of the associated seven Bilateral agreements up to their inapplicability due to their obsolescence. To be sure, the latter represents a hypothetical worst case scenario.

<sup>25</sup> The report by the Federal Council (2015) incorporates a very brief political feasibility assessment (focusing on the EU side) of the scenario of a modernised and *comprehensive* 1972-FTA. Yet, this does not come close to a systematic and thorough feasibility assessment as intended in the paper at hand.

economic considerations; instead he includes likeliness assessments of his scenarios (mainly from the Swiss side) and bases his conclusions on them. Lastly, Schwok (2014) does not conceptualise scenarios *per se*, but he clearly assesses the feasibility (mainly on the Swiss side) of solutions to EU-political problems that Switzerland had been facing in 2014. He also includes an in-depth feasibility assessment on the Swiss political side of a Bilaterals III solution, i.e. whether a third package of Bilateral agreements would stand a chance in the Swiss political landscape. Although all three studies go further in terms of feasibility aspects than the previously presented ones, they do still not conduct a *systematic*, theory-based feasibility assessment that examines the political circumstances on both the EU and Swiss side, nor do they put the feasibility analyses at the core of their papers. Most importantly, however, these papers are relatively outdated; political circumstances have in the meantime changed and require a novel assessment of the political feasibility of probable scenarios.

Before I will conclude this section, I believe that it is worthwhile to briefly review studies and papers that focus on probable scenarios of the future development of UK-EU relations after Brexit. Arguably, the 2016 Brexit referendum has produced a context of even higher uncertainty and an even stronger disruption of events than the Federal Council's decision to abort IFA talks in 2021, which could in turn could have increased the incentive for scenario studies and feasibility assessments. Indeed, Barrett et al. (2015), Ebell & Warren (2016) and Bergin et al. (2017) all have conducted scenario studies on the future UK-EU relations (i.e. on *how* Brexit might happen), but they focus on expected economic effects of their scenarios and analyse feasibility aspects only marginally, if at all. Daugeliene & Puskunigis (2018) go a step further by identifying two realistic Brexit scenarios, based on a rather brief feasibility analysis, and by making use of statements of high-level EU officials and former PM Theresa May. Ultimately, Isoda (2018) puts a remarkable focus on scenario development and its underlying methodology, yet the feasibility analysis of his three Brexit scenarios remains brief and hypothetical – the analysis limits itself to “If X happens, then scenario Y is the most likely” statements. Hence, it becomes apparent that also in the case of future UK-EU relations feasibility analyses of scenarios remain an exception, and again, they do not come across as systematic and thorough. It is not that a systematic feasibility analysis in any these Brexit studies would mitigate the academic relevance of my research focus (since I intend to investigate only the Switzerland-EU nexus), but the lack thereof makes a feasibility analysis within EU external relations *in general* all the more valuable.

In conclusion, it has become obvious over the last pages that scenario studies on the future development of Switzerland-EU relations largely emphasise economic aspects and only exhibit rudiments of feasibility and likeliness considerations of their scenarios, or simple standalone feasibility assessments, if anything. This is why a systematic, structured, theory-based and thorough feasibility assessment constitutes a **research gap** in the realm of Switzerland-EU scenario studies. The importance of this aspect is underlined by Webber (1986), who states that “[i]n a democratic policy process, the political feasibility of a proposed policy alternative is paramount” (p. 545). Also, many of these studies are quantitative studies, focusing only on *one single* counterfactual ‘what if’ scenario that is often not consequently and consistently based on empirically identifiable trajectories. Therefore, the lack of theory- and empiricism-based scenario development can be seized as another **research gap**, albeit not such an obvious one. Lastly, for an overview and summary of all mentioned scenario studies and their feasibility aspects, see table 2.

<b>Author(s), Year</b>	<b>Topic and number of scenarios (n = number of scenarios)</b>	<b>Political Feasibility Assessment of the Scenarios</b>
Hauser & Bradke, 1992	Economic Effects of EU accession, EEA accession of CH, and of CH-unilateralism (3)	Rudimentary
Van Nieuwkoop & Müller, 1999a	Economic Effects of Bilateralism and of EU accession of CH (2)	None
Van Nieuwkoop & Müller, 1999b	Economic effects of a Swiss EU accession compared to Bilateralism (2)	None
Grether & Müller, 2001	Economic costs and benefits of a Swiss EU accession compared to Bilateralism (2)	None
Hauser & Roitinger, 2001	Economic & legal comparison of Swiss EEA accession and Bilateralism (2)	None
BAK Basel Eco., 2015	The economic effects of a cessation of the Bilaterals I on the Swiss economy (1)	None
BAK Basel Eco. 2020	The economic effects of a cessation of the Bilaterals I on Eastern Switzerland (1)	None
BAK Basel Eco., 2021	The economic consequences of an IFA failure on the Upper Rhine region (1)	None
Ecoplan, 2015	The economic effects of a cessation of the Bilaterals I on the Swiss economy (1)	None
Federal Council, 2015	Economic & legal comparison of a comprehensive FTA with the Bilaterals (1)	Very brief, focus on EU side
Spirig & Weder, 2004	A Swiss EU accession under uncertain development of costs and benefits (1)	Rudimentary
Spirig, 2005	Costs and benefits of a Swiss EU accession under temporally dynamic aspects (1)	Rudimentary
Thaler, 2020	Scenarios on energy agreement CH-EU (2)	Rather brief, not systematic
Carrera et al., 2015	Scenarios on development of the AFMP (3)	Punctual, not systematic
Schwok & Levrat, 2001	Chances for Swiss EU accession after conclusion of the Bilaterals I (1)	Relatively extensive, but focus only on the Swiss side, not systematic
Tomczyk, 2013	Probable future scenarios for Swiss policy towards the EU (3)	Rather brief and punctual, focus on the Swiss side, not systematic
Schwok, 2014	Strategies / solutions to EU-political problems of CH & feasibility of Bilaterals III (1)	Relatively extensive and structured, but focus on Swiss side, not systematic
Barret et al., 2015	[Brexit] Economic effects of future UK-EU scenarios on Ireland (8)	None
Ebell & Warren, 2016	[Brexit] Long-Term impacts of future UK-EU scenarios on UK economy (3)	None
Bergin et al., 2017	[Brexit] Economic effects of future UK-EU scenarios on Ireland (3)	Rudimentary
Daugeliene & Puskunigis, 2018	[Brexit] Identification of the most likely Brexit strategies (2)	Somehow structured, but rather brief, not systematic
Isoda, 2018	[Brexit] Scenario building and scenarios for UK-EU relationship after Brexit (3)	Scenario building itself systematic. Feasibility assessment structured and theory-based, but rather brief and only hypothetical, not systematic

Table 2: Own illustration. Illustrative summary of the literature review from chapter 3.1.1.

### 3.1.2. An Evaluation of The Presented Scenario Studies

These research gaps in academic literature notwithstanding, a few words of caution shall be applied. First, some of these studies omit feasibility assessments and focus merely on single counterfactual ‘what if’ scenarios mainly because their realisation has been commissioned by a public body that itself has specified *ex ante* parameters on the study design (e.g., van Nieuwkoop & Müller, 1999b; BAK Basel Economics, 2015; Ecoplan, 2015<sup>26</sup>). Second, some authors – at least implicitly – suggest that they do not conduct feasibility assessments for their scenarios because they have only developed scenarios that are plausible and at least to some extent feasible in their political circumstances (e.g., Tomczyk, 2013; Isoda, 2018; Daugeliene & Puskunigis, 2018). One might call this an *ex ante* feasibility analysis *before* the scenarios have been developed. Third, several scholars may have not conducted a feasibility assessment for the reason that the investigated scenario(s) have been highly topical at that time and broadly discussed in politics and society, thereby making a feasibility assessment of the scenarios superfluous in their eyes (e.g., Hauser & Bradke, 1992; Grether & Müller, 2001). Fourth, for many of these studies’ authors it could have simply not been the purpose to analyse whether their scenarios are (un)likely; much more they might have just wanted to elaborate economic effects assessments<sup>27</sup> that would themselves serve as a basis for discussion for politicians and voters. If seen from this perspective, politicians and voters themselves determine, or create, the feasibility of that scenario, by opting or not opting for it. For all these reasons, the presented studies and papers cannot be discredited as a whole, just because they lack feasibility assessments or scenario development.

Furthermore, the bulk of the papers that focus on (mostly) economic effects of, e.g., an EEA accession, an EU accession or an FTA scenario, provide helpful estimates, hence these studies will play a vital role in the economic assessments of this paper. Nevertheless, if one is interested in aspects of political feasibility, or in the question of whether the presented scenario has an actual chance to be realised in a given political setting, then these studies do not give a systematically elaborated answer. Thus, the goal of this paper cannot be to add another economic analysis to the literature of future Switzerland-EU relations, but much more to develop scenarios based on *empirically identifiable trajectories* (see chapter five), to display them in a complexity-reducing manner, the enrich them with a feasibility assessment and a likeliness score, and only *then* to revert to the previously presented studies for my economic effects assessment. Eventually, the RCoA serves to bundle my results and to render them more ‘serviceable’ for the reader.

### 3.2. The Bilaterals (AFMP & MRA) – Their Economic Effects

Within the Bilaterals I and II the AFMP and the MRA are arguably the most important single agreements (FDFA, 2017; BAK Basel Economics, 2105), and they are also of particular relevance for this paper. Accordingly, a concise literature review on their economic impact on Switzerland follows.

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<sup>26</sup> For all three studies, the principal has been the Swiss State Secretariat for Economic Affairs SECO.

<sup>27</sup> In relation to this aspect, the famous economist Milton Friedman has expressed that “[t]he role of the economist in discussion of public policy seems to me to be to prescribe what should be done in the light of what can be done, politics aside, and not to predict what is ‘politically feasible’ and then to recommend it” (1953, p. 264).

In regard of the AFMP, Beerli et. al. (2021) found out that migration of CBWs (for the definition see footnote 12) into Switzerland within the AFMP provisions has positive wage effects on highly educated natives, and further positive effects on growth and productivity in incumbent firms close to the border. These insights are very much in line with Ruffner & Siegenthaler (2017). Similarly, Cristelli & Lissoni (2020) detect positive effects stemming from the AFMP on the patent intensity in Switzerland and on productivity of Swiss inventors. Also Naguib (2019) finds a positive impact of the AFMP on wages of young, highly educated native workers. Basten & Siegenthaler (2019) show that immigration within the AFMP reduces unemployment of Swiss residents and that adverse effects on their wages are limited. Lastly, Ruffner & Siegenthaler (2017), Weber et. al. (2017) and Wegmüller (2016) conclude that immigration into Switzerland within the AFMP has been largely complementary and has thus not substituted native or local workers from the labour market. Based on such (and other) studies, the SECO (2021c) sums up that recent immigration into the Swiss labour market has mostly been complementary. Not least, also the aforementioned studies by BAK Basel Economics (2015) and Ecoplan (2015) ascribe to the AFMP essential overall-macroeconomic effects whose absence would have significant negative economic consequences for Switzerland. The overwhelming majority of literature on the AFMP thus suggests that its economic impact on Switzerland has been in most instances positive. Findings of negative AFMP effects remain an exception.

As for those negative economic impacts of the AFMP on Switzerland, Naguib (2019) finds that – despite positive impacts on young, highly educated natives – wage impacts on less-educated and older workers have been moderately negative. Favre et al. (2013) conclude that there has been a significant crowding-out effect for high-skilled natives due to the AFMP. A study by the British research institute Europe Economics (2020) quantifies a significant negative impact of the AFMP on Swiss GDP per capita. However, it remains to be said that this last study has been commissioned by politicians of the Eurosceptical SVP and has been criticised by economists for its methodology (Schöchli, 2020).

Turning to the MRA, it becomes apparent that this agreement has received much less scholarly attention than the AFMP, arguably due to its less politicised and more technical nature. Nonetheless, a few studies assessing the MRA's economic impact on Switzerland (particularly on the Swiss export industry) have been conducted. First of all, the MRA represents a reduction of technical trade barriers between Switzerland and the EU for certain product categories, through a harmonisation of technical standards and regulations. Hence, Chen & Mattoo (2008) have found that such harmonisation in general increases the trade volume in the affected region. Specifically for the Swiss case, Loridan (2008) has found that the trade of products that fall in the ambit of the MRA has grown more than the trade of other products, *inter alia* due to reduced (administrative) costs. Hälgl (2015) also suggests a positive impact of the MRA on the Switzerland-EU trade volume, and in particular on Swiss EU exports, again due to decreased fixed and variable costs. In a more recent study, Schwarzer (2017) finds that the MRA has promoted a diversification of Swiss export opportunities in favour of products that are affected by the MRA, owing to facilitated market access for Swiss firms, and – once again – owing to a reduction of (fixed) costs. Moreover, and similarly to their insights on the AFMP, BAK Basel Economics (2015) and Ecoplan (2015) resonate the findings on the MRA's cost reducing effects and conversely suggest negative cost and competition impacts especially on Swiss exporters, should the MRA

cease to apply<sup>28</sup>. Remarkably, the findings of these studies now seem to be mirrored in reality; the held-off integration of the EU's Medical Devices Regulation (MDR) into the MRA and the ensuing obstruction of the barrier-free market access for medical technology products has already created higher costs for firms in the respective industry (SQS, 2021) (see also footnote 15).

### 3.3. On Political Feasibility

Since chapter 3.1.1. has revealed a systematic, structured, theory-based and thorough feasibility assessment as a research gap of hitherto scenario studies in the realm of Switzerland-EU relations, a concise literature review on the *concept of political feasibility* itself and on *different approaches for feasibility analyses* shall follow. The present chapter is to be understood in conjunction with chapter 6, where I will explain the methodological details of my approach on how to operationalise, determine and finally assess the political feasibility of the scenarios in my study. For now, a brief description of the design of my political feasibility assessment shall suffice, in order for the reader to understand that it is based on and related to concepts of political feasibility within scholarly literature, even if the approach has distinctive elements. Therefore, what is a *systematic, structured, theory-based* and *thorough* feasibility assessment?

A political feasibility assessment is 1) *structured* and *theory-based* when it is conducted by help of a guiding theory that serves as a 'roadmap' and by this does not omit relevant variables, it is 2) *thorough* when it focuses on all involved political, economic and social actors that have an influence on a given scenario's feasibility and when it conducts the assessment with all the scenarios that are presented in the corresponding study or paper. It is 3) *systematic* when it fulfils all of the above. If translated to the context of the future development of Switzerland-EU relations, this implies that a political feasibility assessment of the corresponding scenarios be conducted 1) by help of an appropriate theory that does not omit relevant variables (for this I chose the veto player theory by Tsebelis (1995; 2002; 2010)), 2) with a focus on both the Swiss and the EU political system as well as on relevant stakeholders on both sides, 2) with all scenarios presented in the paper at hand, and 3) that is therefore systematic. The subsequent notions of political feasibility and of approaches on how to assess this concept show that this design indeed is sufficiently echoed in scholarly literature – even if it may appear as *sui generis* at first instance.

In one of the few articles on the concept of political feasibility, Gilabert & Lawford-Smith (2012) first admit that there is no systematic and consistent elucidation of *political feasibility* in scholarly literature (p. 810), before they present their own definition of the concept, based on hitherto academic attempts to grasp it. They define political feasibility as:

*It is feasible for X to  $\varphi$  to bring about O in Z. (p. 812)*

Thereby is X a political agent, an institution, an individual or a group thereof,  $\varphi$  refers to a set of actions, O is a set of outcomes and Z signifies a specific context. If applied to my research focus, I can define the concept of political feasibility within the context of the future development of Switzerland-EU relations as:

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<sup>28</sup> In light of these unanimously positive listed effects of the MRA on Switzerland and its export economy, the reader might ask why negative economic impacts of the MRA have not been presented. This is simply because scholarly literature does not suggest any significant results of manifest negative MRA impacts on Switzerland or its exporting economy.

*It is feasible for both Switzerland and the EU to negotiate and adopt legislation to bring about a certain outcome (e.g., an agreement or its removal) within the context of their bilateral relations.*

To my judgement, this conception of political feasibility within my context (my 'X'), accommodates the parameters specified by Gilabert & Lawford-Smith (2012); accordingly my context-specific conception proves of value also on a more abstract definitional level. Furthermore, the authors also stipulate that political feasibility can be assessed, or tested, based on this conception. They offer two tests derived from two functions that feasibility can assume, whereof I only consider the second test with a comparative role as relevant for my purposes:

*Test 2/Scalar: It is more feasible for X to bring about  $O_1$  than for Y to bring about  $O_2$  when it is more probable, given soft constraints, for X to bring about  $O_1$  given that he or she tries, than it is for Y to bring about  $O_2$  given that he or she tries.*<sup>29</sup> (p. 815)

If applied to my research focus, I can define my political feasibility assessment (equivalent to *test 2/Scalar*) in a simplified wording as follows:

*It is more feasible for CH-EU to bring about scenario<sub>1</sub> than for them to bring about scenario<sub>2</sub>, when it is more probable, given soft constraints, for CH-EU to actually implement scenario<sub>1</sub>, given they try, than it is for them to actually implement scenario<sub>2</sub>, given they try.*

Also this context-specific formulation appears to make sense taking into account the parameters specified by the authors. Therefore again, my conception of a feasibility assessment stands the test on this abstract level. Moreover, its practical usefulness becomes more accentuated, if I consider the fact that the paper at hand assesses the feasibility of more than one scenario, which in turn amounts to a comparative assessment, which is precisely what Gilabert & Lawford-Smith's second test (*scalar*) is meant to be applied to.

Having successfully embedded my context-specific notions of *political feasibility* and *political feasibility assessment* in theory, I will now gauge whether my intended approach to a political feasibility assessment (i.e. structured, theory-based and thorough, therefore systematic) is related to suggestions in scholarly literature. In this respect, Majone (1975) argues that a policy analyst "should always be prepared to translate a judgment of political feasibility or infeasibility in terms of the specific political constraints operating in the problem under consideration" (p. 259). The author distinguishes between political, distributional and institutional constraints. As Majone admits himself (pp. 265-266), political and distributional constraints may at times be difficult to tell apart from each other, thus I will proceed from here by distinguishing between political and institutional constraints only. Political constraints refer to political resources, such as the (in)capacity to convince a parliamentary majority, general power relations in a political body, political preferences of agents, or simply their political skills. Institutional constraints refer to political institutions and decision making rules, such as majority requirements, parliamentary chambers or direct democratic instruments (Majone, 1975). These conceptions match remarkably well to the veto player theory. *Political* constraints can logically-consistent be interpreted as partisan veto players and their constraining veto power, whereas *institutional* constraints can likewise be seen as institutional veto players and their constraining veto power. Therefore, I can

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<sup>29</sup> Gilabert & Lawford-Smith (2012, p. 824) state that X and Y can be the same agent. I adopt this possibility for my definition and extend it slightly insofar that CH-EU depict a tandem of the same agents.



apply Majone's approach for a political feasibility assessment to my assessment approach under use of the veto player theory, which is arguably more appropriate for the assessment of scenarios in my context. In other words, my political feasibility assessment can indeed translate a judgment of feasibility into the specific political and institutional constraints in my considered problem, and I can gauge the constraints systematically under application of the veto player theory.

For comparative purposes, I will also consider Webber's (1986) approach to a political feasibility assessment. The author, who holds that a "systematic analysis of political feasibility should be part of political scientists' disciplinary qualifications to make policy recommendations"<sup>30</sup> (p. 547), suggests to assess political feasibility as an element of policy analysis by using the six stages of the policy cycle<sup>31</sup> as a theoretical basis: At each stage of the policy cycle, political constraints affecting political feasibility shall be identified. Depending on the stage, these factors can be windows of opportunity, (lack of) political, public support or ideological consistency. These factors are in turn influenced by *political activities, events and actors* (Webber, 1986, p. 550). It is now the task of the political feasibility analyst to "anticipate these activities, events, and actors and estimate their propensity and ability to affect the political acceptability of a policy proposal" (p. 550). Whereas I deem the different types of *factors* and *political activities, events and actors* to be helpful for my political feasibility assessment, I will not apply the exact same framework as presented by Webber (1986).

Why do I thus take inspiration from both Majone's (1975) and Webber's (1986) approaches, but still create my own *sui generis* approach out of it, when there would be blueprints in literature? First, there seems to be no consensus in scholarly literature on the one appropriate and 'best' approach to assess political feasibility that would compel me to use it; hence a *sui generis* assessment cannot be disqualified on these grounds. Second, the above presented – and arguably most elaborate – approaches on assessing political feasibility in literature are either placed in a US-American polity setting<sup>32</sup> or very generally formulated, so that they could roughly apply to any policy setting. I suppose, however, that e.g., Webber's (1986) approach would not be suitable to the Swiss-EU political setting with its very distinct policy problems<sup>33</sup>, and with its peculiar feasibility-affecting actors and factors, like the interplay of two political arenas, or the constraining nature of direct democracy. All these unique and at times inherently complex matters require me to come up with a *sui generis* approach (albeit inspired by Majone and Webber), based on the veto player theory which I deem to be the most suitable for my context.

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<sup>30</sup> This quote mirrors in various ways the intentions of the paper at hand: Just as I do, Webber stresses the importance of a *systematic* political feasibility assessment (even if mine and Webber's understanding of *systematic* may not be exactly the same) and he postulates such systematic political feasibility assessment as a presupposition for policy recommendations. The latter corresponds to my intended RCoA.

<sup>31</sup> The policy cycle is a commonly used framework for delineating the policy process (Webber, 1986, p. 545). Its six stages are according to Vig & Kraft (1984): 1) Agenda-setting, 2) policy formulation, 3) policy legitimation, 4) policy implementation, 5) policy evaluation and 6) policy revision or termination.

<sup>32</sup> To me, the veto player theory as in Tsebelis (1995; 2002; 2010) is much better adaptable to the Swiss-EU political setting – or any other democratic political setting – since veto players exist in every democracy and can be identified unambiguously.

<sup>33</sup> In regard to different political settings, i.e. different from the US-American setting that Webber presumably envisaged for his approach, he states himself: "Because of the idiosyncratic nature of policy problems and policy arenas, outlining a general framework is a difficult task." (1986, p. 552).

## 4. Academic and Societal Relevance

In this chapter I will summarise the academic relevance of the paper at hand in brief and add a few arguments for its societal relevance. First, as derived from the literature review in the previous chapter (chapter 3.1.1.), academic relevance is given due to the fact that hitherto scenarios studies in the field of Switzerland-EU relations omit a systematic, structured, theory-based and thorough feasibility assessment in their scenarios. This represents a research gap that I try to fill in this paper. Second, academic relevance is furthermore given because hitherto scenario studies in the realm of Switzerland-EU relations often lack a theory- and, especially, an empiricism-based scenario development<sup>34</sup> that therefore does not rest upon empirically identifiable trajectories (for the latter term, see footnote 4 and chapter 6). This constitutes a second, albeit less pronounced, research gap. Third, I have mentioned in the previous chapters that the developed and clearly distinguishable scenarios will eventually be displayed in an overview and arranged in a manner that reduces their complexity. This exercise is not just a simple breakdown of my findings, but exhibits an inherent value in itself, to the extent that the reader can recognise that all the various proposals often distinguish themselves only in small, legal-institutional details and are therefore thematically connected with each other. This aspect further adds to the academic value of the paper. Finally, most studies and papers presented in the literature review are by now outdated, as political circumstances have changed. Thus, these studies do not factor the new thematical ‘baseline’ (that has manifested itself after the Federal Council’s decision to abort IFA talks) into their scenarios and, if applicable in a few cases, into their scenarios’ feasibility assessments. Novel political conditions therefore necessitate a novel analysis in terms of scenario development and feasibility assessment, which in turn enhances the academic relevance of the paper at hand.

As I turn now briefly to the societal relevance of the paper, one aspect stands out: The future development of Switzerland-EU relations is actively discussed in media and party politics and is, arguably, also highly salient among voters. All major Swiss political parties, as well as other political interest groups, scholars and think tanks have already come up with various proposals on how to shape the country’s relations with the EU in the next years (Gafafer & Schäfer, 2022). Moreover, The 2021 Swiss ‘Worry Barometer’ by Credit Suisse and the survey institute GFS Bern ranks EU, Bilateral and IFA-related issues fourth in its ‘top ten worries’ of the Swiss population (p. 6). Therefore, due to my research focus’ high topicality in politics and among the public, societal relevance of my paper is given to a significant extent. Additionally, all above aspects that contribute to academic relevance can also be framed as aspects of societal relevance, in particular the systematic and thorough feasibility assessment. In consideration of the latter, Webber (1986, pp. 547-548) formulated that “political feasibility analysis could improve [the] policy-maker’s decision by providing a less passionate, more independent assessment of political consequences and would supplement the analysis completed by policy-makers”. The political feasibility as it is conducted in this paper, can thus support a policy-maker’s decision-making and by this obtain further societal relevance. The same accounts for the RCoA, probably even to a larger extent, as this outcome also takes account of economic effects of each scenario.

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<sup>34</sup> An exception in this regard is the scenario study on future UK-EU relations by Isoda (2018). He incorporates a theory-based scenario development in his study.

As to the feasibility-RCoA nexus, and to the justification of feasibility contemplations on the whole, the following cannot be disregarded: A scenario that is rather unlikely to occur, due to the interests of either Switzerland or the EU, or single actors, would eventually also not be suggested as a RCoA, even if its economic effects would be very beneficial for Switzerland. If seen from this perspective, feasibility assessments bear inherent relevance (academic as well as societal), because of their clarity-enhancing effect; they separate the viable options from what is merely utopian, and therefore they save time for both the researcher and the policy-maker.

## 5. The Research Questions and Their Conceptualisation

The chapter at hand will bundle the insights from the literature review and will, based on the research gap, derive the research question and its subquestions and present them here. Furthermore, relevant terms that are associated with those questions will be conceptualised at this point. The conceptualisation ('What does this term mean?') stands in contrast with the operationalisation of relevant terms ('How can this term, or phenomenon, be measured or quantified?'). The latter step will be conducted in the upcoming chapter.

The main research question (RQ) goes as follows:

***RQ:** Which (sub-)scenario(s) of future Switzerland-EU relations will be recommended for a future course of action on Switzerland-EU relations, based on its/their political feasibility and its/their expected effects on the economy of Switzerland?*

This main RQ represents the ultimate academic purpose of the paper at hand. It does not foreclose the possibility to eventually choose more than one than one scenario as a RCoA, since there may ultimately not be the one 'best' option for future Switzerland-EU relations, but rather a set of equally politically feasible and simultaneously economically beneficial scenarios. The following subquestions (SQs) 1 and 2 are – like all the SQs in this chapter – mainly of a guiding nature and do thus not require any verification. The subquestions 1 and 2 refer to part one of the four-piece structure of my analysis (see chapter 1.2.), the **scenario development**. They go as follows:

***SQ1:** What are the  $n$  different (sub-)scenarios of future Switzerland-EU relations, based on empirically identifiable trajectories, and therefore on proposals, approaches and ideas from politics, civil society, and science?*

***SQ2:** How can these  $n$  (sub-)scenarios be best grouped and arranged in a logical, structured manner that reduces their complexity?*

SQ1 answers the core component of scenario development, namely, to simply display the several (practically) possible scenarios and their sub-scenarios<sup>35</sup>, and not yet to put them in any relation with each other. One first aspect, **scenarios**, has already been conceptualised solely for the purpose of the literature review, both by means of a narrow and a broader definition. As for the narrow definition, Fahey & Randall (1998) determine scenarios as "descriptive narratives of plausible alternative projections of a specific part of the future, [...] methodically researched and developed in sets of three, four, or more [and] a combination of estimations of what might happen, [but not] forecasts of what will happen" (pp. 6-7). In a broader sense, to eventually capture

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<sup>35</sup> The term *sub-scenarios* will be explained in the following chapter.

all scenarios from the outlined academic literature, I have conceptualised scenarios as every projection of the future that conceives a clearly defined development, irrespective of its plausibility and methodological derivation (see chapter 3.1.1.). However, for the purpose of this paper, a more context-specific conceptualisation is required: A **scenario** refers to a specific empirically suggestible (dis)integrational path towards or away from the EU that Switzerland, in respect of its relations with the EU, may or may not take in the future.

These scenarios are all meant to be plausible and based on **empirically identifiable trajectories (EIT)**. In other words, they are not necessarily based on theory, but based on empiricism (see second research gap) and developed accordingly. EITs can be best conceptualised by their building blocks, the **proposals, approaches and ideas from politics, civil society and science**. An EIT is to be seen as ‘empirically identifiable’ and a scenario as plausible, when e.g. several political parties, scholars and civil society groups explicitly or implicitly recommend it as a viable way to develop future Swiss relations with the EU. The scenario is then not a simple ‘what if’ counterfactual, but a realistically possible trajectory of events that *may* actually happen because actors from politics, civil society and / or science utter respective notions. This implies that a theoretically conceivable development of Switzerland-EU relations that has neither been suggested by parties, nor by civil society and science, or anyone else, can per definition not be an EIT for further Switzerland-EU relations, and therefore not become a scenario.

SQ<sub>2</sub> is not related to scenario development *per se*, but rather to the third aspect of academic relevance mentioned in the previous chapter. SQ<sub>2</sub> intends to prevent a simple breakdown, or listing, of the (sub-)scenarios, but to put them into a relation with each other, while still preserving the reader’s capability to differentiate them from each other (so that he can see that the scenarios are thematically connected with each other, but still distinguish themselves clearly in legal-institutional details and in terms of their level of European integration). This is achieved by first **grouping them** (to show their distinction) and then **arranging them in a logical structured manner** (to show their relatedness)<sup>36</sup>. Both steps then contribute to complexity reduction. One may also call the underlying purpose of SQ<sub>2</sub> an ‘idea review’ of the at times proliferating creativity of Swiss politicians, scholars and civil society, parallel to a literature review.

Having presented SQ<sub>1</sub>, SQ<sub>2</sub> and the associated terms, I go on to SQ<sub>3</sub> which refers to part two of the four-piece structure of my analysis, the **political feasibility assessment**. Its corresponding research question can be formulated in a simple manner:

**SQ<sub>3</sub>:** *What is the political feasibility of (sub-)scenario n, assessed systematically (i.e., by means of a thorough and structured political feasibility assessment on the basis of the veto player theory) and expressed in a likeliness score?*

Most terms of SQ<sub>3</sub> have already been conceptualised previously in this chapter or in chapter 3.3 (such as the systematic feasibility assessment). SQ<sub>3</sub> leaves the eventual number of (sub-)scenarios open and implicitly predicates that a political feasibility assessment has to be conducted with each of the n (sub-)scenarios, and in consideration of both the Swiss and the EU political arenas, as well as in consideration of relevant economic and civil society stakeholders on both sides. The last term in SQ<sub>3</sub>, the **likeliness score**, represents the outcome, or the expression, of the

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<sup>36</sup> The execution of these steps includes not the scenarios alone, but also their sub-scenarios.

operationalisation of *political feasibility* and will thus be explicated in the following chapter. To make things clear, however, SQ<sub>3</sub> needs to be supplemented with the following SQ<sub>4</sub>:

**SQ<sub>4</sub>:** *Which of the n (sub-)scenarios scores best in terms of political feasibility?*

This subquestion mainly serves to tie up loose ends of the political feasibility assessment and to underline the comparative character of the assessment<sup>37</sup>: Ultimately, it is not just the goal to determine each (sub-)scenario's political feasibility by means of a likeliness score, but much more to compare the likeliness scores in order to make a statement about which of the (sub-)scenarios is politically the most feasible. Nonetheless, the *politically* most feasible scenario must not be the *economically* most beneficial one for Switzerland. To investigate these economic effects of each scenario and to assess which scenario yields the most beneficial economic effects, SQ<sub>5</sub> and SQ<sub>6</sub> have been deployed. They relate to the third part of the four-piece structure of my analysis – **the economic effects assessment** – and go as follows:

**SQ<sub>5</sub>:** *What are the economic effects of (sub-)scenario n, assessed in general and in specific (i.e., through 1.) desk research of existing studies and 2.) an assessment of the effects of (non)modification of AFMP and MRA) and expressed in an economic benefit score?*

**SQ<sub>6</sub>:** *Which of the n (sub-)scenarios is the most beneficial for Switzerland in terms of expected effects on the economy?*

In principle, SQ<sub>5</sub> and SQ<sub>6</sub> represent the economic counterparts to SQ<sub>3</sub> and SQ<sub>4</sub>. SQ<sub>3</sub> asks for each scenario's political feasibility, whereas SQ<sub>4</sub> asks which scenario is *the most* politically feasible. Likewise, SQ<sub>5</sub> asks for each scenario's economic effects, while SQ<sub>6</sub> asks which scenario's economic effects are *the most* economically beneficial. Nonetheless, in terms of academic weight and originality, one has to keep in mind that the economic effect assessment is done 'for good measure'; it is thus not the core of the paper, but a complement to the political feasibility assessment. As mentioned in the introduction, it makes more sense to look at political feasibility and economic aspects jointly when examining scenarios. Yet, research on expected economic effects of scenarios on future Switzerland-EU relations has already been done sufficiently and another quantification of economic effects of these paper's scenarios would not yield substantial novel insights. Moreover, such exercise would go beyond the scope of this paper. It makes thus most sense to revert to already computed scenario studies on economic effects<sup>38</sup>, and to use them for my economic effects assessment. This assessment consists of two components:

First, as in SQ<sub>5</sub>, the economic effects of each scenario shall be **assessed in general**. This means that I will make use of already computed scenario studies on economic effects that quantify what the economic effects of scenario X might be for the economy of Switzerland (e.g., Grether & Müller, 2001, Ecoplan, 2015). Based on these studies' results, I will gauge the expected economic effects of my n (sub-)scenarios on the Swiss economy. Second, as in SQ<sub>6</sub> too, the economic effects of each scenario shall be **assessed in specific**. This implies that I will make use of already computed scenario studies that focus on effects that scenario X might have on the Swiss economy through retention, remodelling, erosion, or further development (in short: **(non)modi-**

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<sup>37</sup> For the comparative character of the political feasibility assessment, see also test 2/scalar by Gilbert & Lawford-Smith (2012), as it has been integrated into the context of my research focus, in chapter 3.3.

<sup>38</sup> For these already computed studies, see chapters 3.1.1 and 3.2.

*fication*) of the MRA and the AFMP (e.g., Beerli et al., 2021). In other words, I will gauge the expected economic effects of my n (sub-)scenarios on the Swiss economy by focusing on the ‘effect channels’ MRA and AFMP. These two steps allow me to still make use of helpful research that has already been conducted, and to – retrospectively – add the missing political feasibility assessments to the valuable economic effects-focused scenario studies. More on these two components and on the economic benefit score will follow in the next chapter. Lastly, SQ6 concludes the comparative character of the paper at hand, by comparing the economic benefit scores with each other, in order to discern which of the (sub-)scenarios is economically the most beneficial.

For the last part of the four-piece structure of my analysis – the RCoA – I will fall back to the initial RQ. This question asks which scenario(s) will be recommended for a future course of action, based on both the scenarios’ political feasibility and their expected economic effects. This requires me to link the outcome of SQ4 and SQ6 together and to combine their scores by using an expected value analysis. The resulting recommended course of action can be of use of the Swiss government, for the parliament, for parties, interest and lobbying groups and for civil society. To conclude this chapter, a graphical summary of the central four-piece structure of my analysis – with the RQ and the SQs included – follows in figure 1.

### The Four-Piece Structure of The Analysis

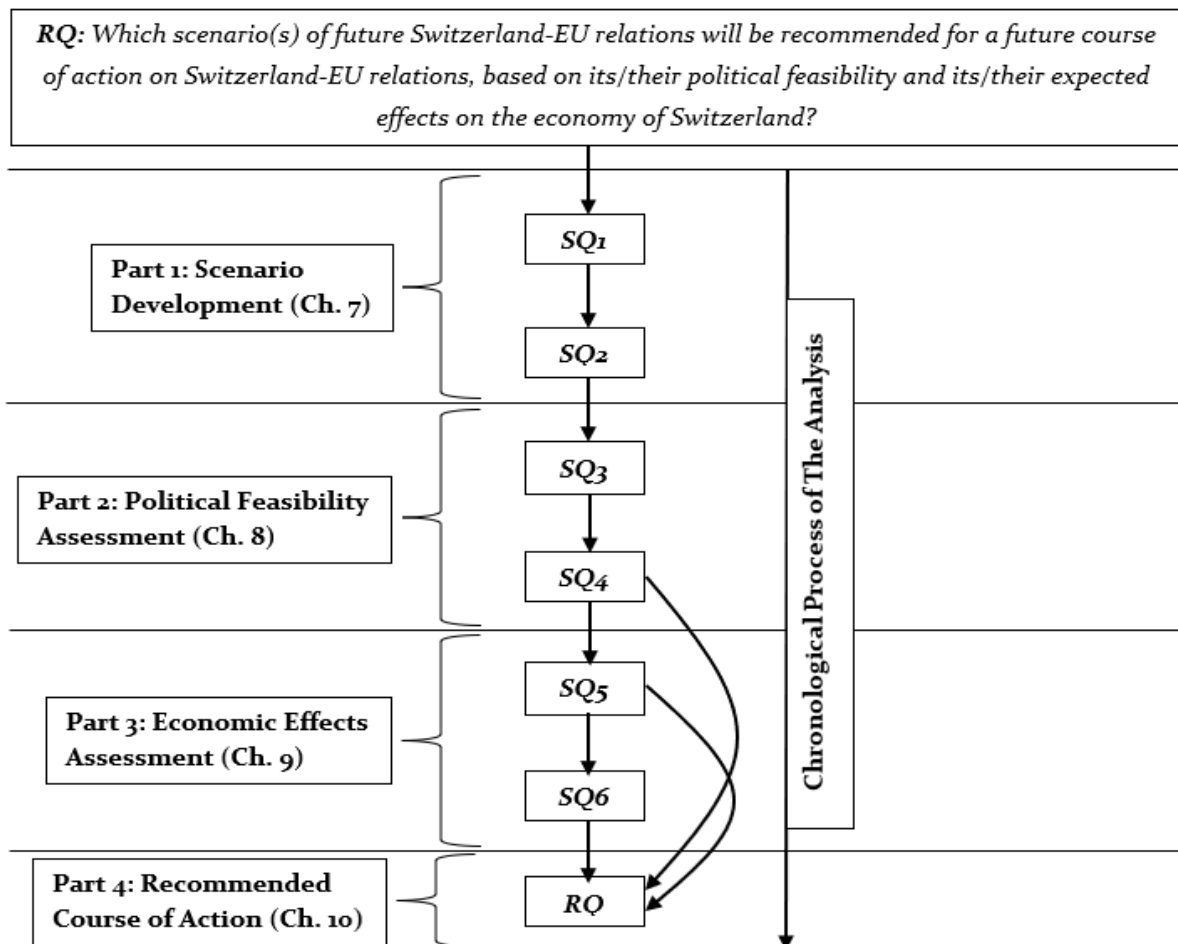


Figure 1: Own Illustration. Graphical Summary of Chapter 5, including incorporation of the research question and its subquestions in the analysis’ four-piece structure.

## 6. Methodology, Operationalisations and Data Used

This chapter presents the methodological approaches of my analysis, operationalises important concepts and gives insights on the data used for the analysis. Just as in the previous chapter, I will align my explications with the paper's four-piece structure.

### 6.1. Methodology of The Scenario Development

In chapter five I have mentioned that scenarios can be developed **based on theory**, but also **based on empiricism** (i.e., EITs). Isoda (2018) shows a remarkable account on how to develop scenarios based on a theoretical guide for scenario building. For the development of his three Brexit-scenarios, he adheres to the five building blocks of well-founded scenarios. Those are 1) *identification of the driving forces*, 2) *specification of predetermined elements*, 3) *resolution of critical uncertainties*, 4) *composition of clear scenario plotlines*, and 5) *stipulation of early indicators for each scenario* (see Fahey & Randall, 1998, pp. 10-12; Marsh, 1998 pp. 33-34; Weber, 1997, pp. 171-174; Bernstein et al., 2007, pp. 238-242). However, considering my academic purposes and my specific Switzerland-EU context, I assume that these building blocks fall short of my goal. The latter is to display all practically possible scenarios and their sub-scenarios as (implicitly or explicitly) suggested by political actors, scholars, and civil society. In addition, Isoda (2018) conducts something approximately akin to an *ex ante* political feasibility analysis by applying the five building blocks; taking the same approach would obstruct me from performing an *ex post* feasibility analysis that bases on (sub-)scenarios which actors have actually suggested in practice. For these reasons I revert to empiricism-based scenario development, namely to the previously mentioned (see chapter 5) **empirically identifiable trajectories (EITs)**, which are in turn composed of proposals, approaches and ideas from actors from politics, civil society and science that suggest a certain scenario or sub-scenario. These terms have already been conceptualised in the previous chapter; therefore I will now proceed with their methodological operationalisation and the data used for the scenario development.

Proposals, approaches and ideas from politics, civil society and science (i.e., the building blocks of EITs) shall be revealed by means of an extensive literature review and through desk research. Sources can range from scholarly literature, expert opinions and surveys, over party manifestos, party programmes, politicians' statements and parliamentary postulates to media statements, press releases, newspaper articles and interviews, as well as online blogs of civil society organisations or social partners. This list is not exhaustive, further sources may be added after being checked for their trustworthiness and reliability<sup>39</sup>. Once a sufficient amount and quality of sufficiently *similar* proposals, approaches and ideas gives rise to a clearly identifiable EIT, a corresponding scenario can be created and – if applicable – supplemented with sub-scenarios. The latter will be generated in cases where certain proposals, approaches and ideas *within* a scenario differ from each other slightly, but not enough to create a distinct scenario. In conclusion, the eventual number of scenarios corresponds to the number of EITs that are sufficiently *different* from each other. For a graphical summary of this approach, please see Figure 2.

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<sup>39</sup> For a complete overview of sources that have been used to identify EITs and, consequentially, to develop scenarios and to conduct the political feasibility assessment, please see the literature review.

## Methodology Scenario Development – A Summary

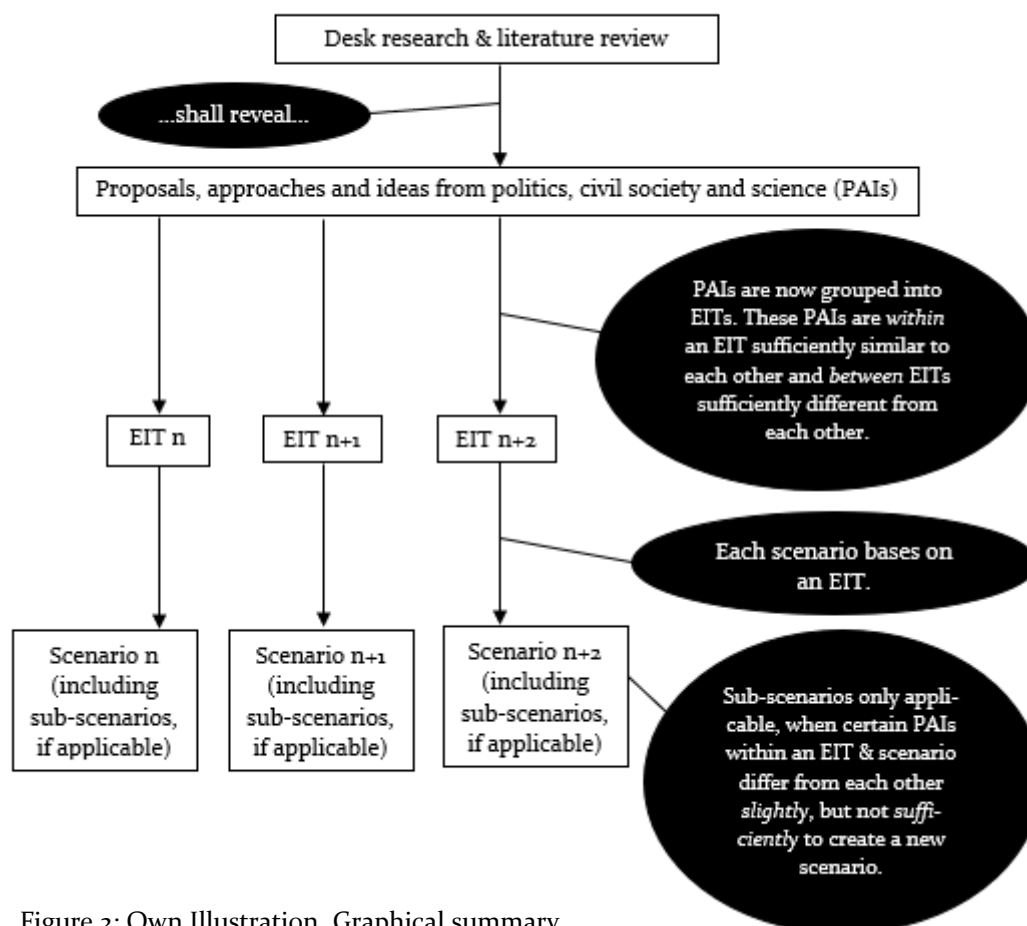


Figure 2: Own Illustration. Graphical summary of my scenario development methodology.

Once the scenarios are developed, they need to be grouped and arranged in a logical, structured manner, as delineated in SQ2. Its conceptualisation and underlying purpose have already been alluded to in the previous chapter, hence I will now operationalise the **logical, structured overview** (or, say, arrangement). A vital device for logical structuring of the scenarios is their classification along a certain continuous dimension<sup>40</sup>. This dimension can be any characteristic that *all* scenarios possess, albeit in different magnitude, i.e. a characteristic that helps the reader to differentiate the scenarios from each other, and to put them into a relation along that characteristic. The dimension that I see the most fit for the scenarios is the **integrational** dimension. It refers to the scenarios' degree of integration into the EU<sup>41</sup>. I will use it first to depict the scenarios logically and structured along a single dimension. This resultant illustration I call **Scenario Tree**. In a second step, I will make use of two integrational dimensions, the 'degree of economic integration' and the 'degree of institutional integration'. This second resultant illustration I denominate **Integrational Matrix**, because a two-dimensional classification of

<sup>40</sup> The term *dimension* is in this context to be understood as a 'degree range of value X', whereby each (sub-)scenario n can be classified by determining the (sub-)scenario's specific value of X. The best means to display the (sub-)scenarios along such dimension(s) would then be one or several axes.

<sup>41</sup> As this formulation may come across rather imprecise, one may define the degree of integration as *the degree of integration into the EU that the outcomes of a given (sub-)scenario n imply*.



scenarios inevitably results in their placement in a matrix. With both approaches I can ensure that a logical and structured overview is preserved. The scenario development and the presentation of Scenario Tree and Integrational Matrix will follow in the analysis. However, it shall be stated that for the remainder of the paper, the main focus will be on the Scenario Tree.

## 6.2. Methodology of The Political Feasibility Assessment

As a reminder, the political feasibility assessment, which constitutes the core of this paper, is supposed to be structured, theory-based and thorough, therefore systematic. A political feasibility assessment is structured and theory-based when conducted by help of a guiding theory, it is thorough when it examines all political, economic and social actors that may affect the scenario's feasibility, and it is systematic when it fulfils all of the above. Hence, to understand the detailed functionality of my political feasibility assessment, a short summary of the relevant<sup>42</sup> aspects of my guiding theory, the veto player theory, is required.

### 6.2.1. The Veto Player Theory

The notion of a veto player, or similar, has for the first time been brought up in the early 1990s (Immergut, 1992; Huber et al., 1993), but has only come into vogue with the contributions of Tsebelis (1995; 2002; 2010), who introduced the term 'veto player'. It is his notion that I will focus on in this paper, and thereof again mainly on his initial input from 1995. A veto player (VP) is defined by Tsebelis as "an individual or collective actor whose agreement is required for a policy decision" (1995, p. 293). He discerns between institutional and partisan VPs. It is at this point, where the parallels between the VP theory and Majone's (1975) approach on political feasibility analysis become apparent: *Partisan* VPs and their constraining veto power can logically-consistent be interpreted as political constraints, whereas *institutional* VPs and their constraining veto power can likewise be seen as institutional constraints (see also chapter 3.3.). Following Tsebelis (1995), an institutional VP is a VP that is specified by the constitution, such as a president with veto power or a parliamentary chamber. On the other hand, partisan VPs are the parties which are members of a government coalition (Tsebelis, 1995). The latter definition poses a problem for my case because the classical 'government-opposition' scheme in multi-parliamentary democracies, that Tsebelis bases his definition of partisan VPs on, does not exist in Switzerland. Much more, the Swiss government can be regarded as a largely oversized majority government<sup>43</sup>, that is not mirrored by a stable government-opposition pattern in the two parliamentary chambers. Instead, for adopting most political acts, flexible coalitions have to be built iteratively and ad-hoc<sup>44</sup>. Due to this Swiss idiosyncrasy I have to adapt the definition of partisan VPs and

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<sup>42</sup> I will only use aspects of the veto player theory that are relevant *for* and applicable *to* my specific problem, and not the theory as a whole.

<sup>43</sup> Currently, the Swiss government (the Federal Council) consists of two members of the Swiss People's Party (SVP), two members of the Social Democratic Party (SP), two members of the Free Democratic Party (FDP) and one member of the Centre Party. Together they encompass 149 of the 200 (75 %) mandates in the lower chamber, the National Council, and 40 of the 46 mandates (87 %) in the upper chamber, the Council of States (FSO Federal Statistical Office, 2019).

<sup>44</sup> Flexible and iterative coalition building notwithstanding, it goes without saying that, in both parliamentary chambers, issues like social policies divide the parties along typical economic left-right

will thus define them as every party in each of the two parliamentary chambers whose agreement is needed to form a majority for adopting a given legal act<sup>45</sup>.

Central to Tsebelis' work is the finding that "political stability of a political system depends on three characteristics of its veto players: their number, their congruence (the difference in their political positions) and their cohesion (the similarity of policy positions of the constituent units of each veto player)" (Tsebelis, 1995, p. 301). While I will not deploy the **number**, **congruence** and **cohesion** of VPs as independent variables to assess the stability of a polity directly, I will use these VP features to assess the political feasibility of my scenarios. Tsebelis provides a set of rules on how to identify those features, that I will apply too, *if applicable*. Starting with the identification of the number of VPs, Tsebelis (2010, p. 8) states that "one has to identify institutional VPs and then open each of them". Translated to the Swiss system and my specific context, this seems to be a doable exercise. Regarding the congruence of the VPs – ergo their differences in policy preferences – one first needs to identify the number of dimensions of the policy in the present space (i.e. the political dimensions of the issue at stake). Then, one has to determine the ideological positions of the VPs. As a rule of thumb, Tsebelis (1995, p. 311) suggests to count partisan actors as distinct, "while institutional actors may be absorbed (that is, eliminated from counting because of [their] congruence)". Finally, to identify the VPs' cohesion a researcher needs to consider the number of distinct individuals comprising the VP (a higher number would result in lower congruence), the electoral system, and the institutional structure of the political system (Tsebelis, 1995). Unlike the straightforward rules for counting the number of VPs, I deem the rules for determining congruence and cohesion of a VP to be rather constraining, and in the case of cohesion also somewhat vague, therefore I will use these notions merely as general inputs on what affects the ability or probability of a VP to effectively make use of its veto power, but I will not apply Tsebelis' rules strictly and instead revert to my own rules of application and adapt them to my setting. Details on that will follow below.

There are certain further elements of the VP theory that I cannot apply to my specific case. On one hand, as in the case of congruence and cohesion rules, I do not think that they would enrich my feasibility assessment in a gainful manner. On the other hand, I would violate some assumptions of the VP theory by applying them. This applies to the absorption rule (and consequently to the congruence and cohesion rules too), since it rests on the assumption that VPs exercise their veto power only based on their *policy preferences*, and not on the basis of, e.g. tactical considerations or electoral goals (Tsebelis, 2010). Yet, I deem the latter to be essential in determining a VPs' behaviour and thus in determining political feasibility, therefore I have to include these factors. In conclusion, by doing so I violate the 'policy preferences only' assumption, which in turn prevents me from applying the absorption rule, the congruence rules and the cohesion rules in a methodologically 'correct' manner. A similar limitation is the case for the application

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dimensions (with the Centre, the FDP and the SVP on one side and with the SP and the Greens (not part of the government) on the other). A similar pattern can be recognised in foreign policy, where the at times isolationist SVP is often opposed to proponents of a more open foreign policy (SP, FDP). Therefore, although the Swiss government coalition does not translate its majority relations into the parliament – which then leads to the formation of ad-hoc majorities –, certain majority-minority patterns are still intuitively expectable, depending on the political issue discussed.

<sup>45</sup> For the ordinary as well as for the urgent legislative procedure the consent of a majority in both parliamentary chambers is required (Federal Assembly, n.d.).

of another element of the VP theory, the identification of the number of dimensions. I abstain from making use of this element, first, because applying it would again violate the ‘policy preferences only’ rule, and second, because the matter at hand (future development of EU-Switzerland relations) would simply be too complex and multidimensional to be displayed usefully.

As mentioned previously, I have also created some distinct, own rules of application of the VP theory, not only by relinquishing some elements of the theory, but also by adding some elements and definitions, so that they fit to my specific context. A first modification has already been brought up earlier, by introducing my own definition of partisan VPs<sup>46</sup>. A second modification refers to the types of VPs. Tsebelis (1995, 2002) operates in his theory and empirical studies only with institutional and partisan VPs, but he hints that there are various additional categories of VPs in different political systems. As examples he mentions interest groups, social partners, central banks, courts and referenda, *if* they can be ordered by the people (Tsebelis, 1995, pp. 306-307). For the Swiss case, I would define referenda and popular initiatives as institutional VPs – since they can be specified in the Federal Constitution (Articles 138-142) – and merge them into one VP called ‘the electorate’. Furthermore, in Switzerland, the social partners, interest groups and associations are powerful VPs that are neither institutional nor partisan, therefore at least one additional category of VPs. For reasons of simplicity, I summarise all VPs in the Swiss political system that are neither partisan nor institutional, but that may still have the ability to veto a given policy proposal or (sub-)scenario, in a residual category called ‘latent VPs’<sup>47</sup>. The same terminology I apply to the EU system: partisan and institutional VPs, as well as latent VPs for all remaining actors that may in some way have an influence on the political feasibility of a (sub-)scenario. Such extension of the VP theory is also suggested by Tsebelis (1995, p. 308), who advises to identify *all* the relevant VPs in case studies – which mine surely is. A third modification has already been put forward, too, relating to the only implicit and general application of the notions of VPs’ congruence and cohesion; a line of action which I perceive to be more tailor-made to my approach and which does not violate Tsebelis’ assumptions.

To conclude this subchapter, I am very well aware that I amend some of Tsebelis’ definitions (partisan veto players), that I extend his theoretical framework (e.g., latent veto players) to render it suitable for the Swiss context, that I apply it to a peculiar problem with different dependent variables than originally intended, and that I engage in methodological cherry-picking by waiving various fields of application of the theory. Yet my aim is not to test political stability or government duration (as a dependent variable in Tsebelis’ work), but to apply the basic idea of veto players to a rather different problem. And it is precisely these elements which I pick up from the theory that I deem useful for my political feasibility assessment. In a next step I try to systematically convert these elements into my feasibility assessment.

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<sup>46</sup> Implicitly, Tsebelis (2010, p. 7) justifies my approach of deploying a distinct definition of partisan VPs for the Swiss case by remarking that if “parties can form multiple coalitions, then there are a number of coalitions that can form to replace the status quo, and the prediction cannot be very accurate”. It is for this reason (multiple possible coalitions), explicated above, that I use a different definition.

<sup>47</sup> I have termed this residual category ‘latent VPs’ simply because, from an original perspective of Tsebelis, they can be seen as latent because they are not clearly discernible at first sight, and their existence at all depends on the political system under study. Also, their veto power may only be triggered under certain conditions.

## 6.2.2. The Structure of My Political Feasibility Assessment with VPs Integrated

In a nutshell, the relevant elements of the VP theory for the section at hand are institutional, partisan and latent VPs as well as their characteristics, those being the number of VPs, the associated rules for their identification, and – only if applicable, as a more implicit, more general notion and under non-consideration of the rules for their identification – each VPs' congruence and cohesion. Accordingly, I proceed as follows in the political feasibility assessment: For each sub-scenario *n*...

- 1) ...I identify first the number of relevant institutional VPs, then partisan VPs, and lastly, if applicable<sup>A</sup>, latent VPs in the Swiss political system,
- 2) If applicable<sup>B</sup>, I assess<sup>C</sup> the ability or probability of each VP in the Swiss political system to effectively make use of its veto power under consideration of the VP's congruence (i.e. the distance of its political position<sup>D</sup> towards scenario *n* compared to other VPs) and cohesion (i.e. the similarity of political positions towards scenario *n* of the constituent units of the VP).

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- 3) If...
  - a. ...steps 1) and 2) indicate that too many VPs are able and likely to effectively make use of their veto power (due to their lack of congruence and / or due to their (lack of) cohesion) and thereby obstruct the political adoption of sub-scenario *n*, political feasibility of sub-scenario *n* within the Swiss political system approximates zero. Since the (aggregated) agreement of both the Swiss and the EU political system are necessary for a scenario to be feasible at all, I skip steps 4), 5) and 6) in this case and go directly to step 7).
  - b. ....steps 1) and 2) would not indicate a constellation as described in step 3.a, I will proceed with step 4).

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- 4) I repeat step 1) for the EU political system,
- 5) I repeat step 2) for the EU political system,
- 6) I check for interdependences between the two political systems (i.e. whether a given VPs' veto power in the Swiss system may be dependent on another VP's veto power in the EU system): If they are existent, I will have to partially revise steps 1) and 4), and steps 2) and 5).
- 7) I come to a conclusion regarding political feasibility of sub-scenario *n*, based on steps 1) and 2) if 3.a is the case, or based on steps 1), 2), 4), 5) and 6), if 3.b. is the case.
- 8) I compare the conclusion from step 7) with conclusions of other sub-scenarios' assessments.
- 9) I assign a **likeliness score** to my sub-scenario based on steps 7) and 8).

**Remarks:** A) 'If applicable' indicates that not in every sub-scenario, latent VPs may exist. B) 'If applicable' indicates that not for every VP the ability or probability to effectively make use of its veto power can be assessed, due to lack of reliable data or sources. C) The assessment of veto power, congruence and cohesion can be conducted by, e.g., analysing the VPs statements regarding scenario *n*, by analysing the VPs behaviour in the past, by analysing its basic values, or by making use of any other reliable and trustworthy source or data that can be considered helpful. D) The 'political position' of a VP is to be distinguished from a VPs 'policy preference'. Whereas the latter term is used by Tsebelis and excludes, e.g., tactical considerations or electoral goals, the term 'political position' is meant to encompass both policy preferences and such factors that were purposefully omitted by Tsebelis.

The likeliness score, which translates my political feasibility assessment into a tangible rating of political feasibility (i.e. which represents the final outcome of the operationalisation of political feasibility) will be expressed by means of an odd and bipolar Likert scale. It follows the logic of an ordinal scale, hence a clear hierarchy, but no quantification (yet). The increments of the likeliness score are as follows:

*“According to my political feasibility assessment, it is...*

***almost impossible | very unlikely | rather unlikely | difficult to say (it can fall on both sides) | rather likely | very likely | almost guaranteed***

*...that the assessed sub-scenario n will be implemented in the Swiss and EU political arena, relative to the political feasibility of other sub-scenarios that have been assessed in this paper.”<sup>48</sup>*

It remains to be said that the presented likeliness score does not render an absolute judgement on the political feasibility of sub-scenario n, but a judgement of political feasibility *relative* to the political feasibility of other sub-scenarios.

After I have conducted the presented 9-step political feasibility assessment for each sub-scenario and thereupon assigned a likeliness score to each sub-scenario, I will briefly showcase a different approach on assessing political feasibility. A different approach in this regard can corroborate – or challenge – my results on political feasibility of the sub-scenarios. For this, I point to the ***Integrational Matrix*** that I have introduced in chapter 6.1. This matrix cannot merely arrange and display the scenarios in a logical, structured manner; as I will show, one can also test, or better, *theoretically predict* the political feasibility of a given scenario by means of the integrational matrix. Therefore, a political feasibility assessment with help of the matrix should express an alternative approach to gauging political feasibility. Having said that, it will only be the outcomes of the systematic feasibility assessment (based on the VP theory) that will find its way into the RCoA, not the matrix.

### **6.3. Methodology of The Economic Effects Assessment**

I have laid out in chapter five that the economic effects assessment, the third part of the analysis, consists of two components: A *general* assessment of each scenario’s expected economic effects, and a *specific* assessment of each scenario’s economic effects with the help of the effect channels of the two key agreements of the Bilaterals, the AFMP and the MRA. The economic effects assessment is primarily an extension of the political feasibility assessment; its purpose is quasi to *retrospectively* connect the economic effects-focused scenario studies (see chapters 3.1.1. and 3.2) with the systematic political feasibility assessment that they have been lacking so far. Therefore, the economic effects assessment has no added value in itself, it only obtains its academic value if read in conjunction with the political feasibility assessment. That is to say, the economic effects assessment does not require sophisticated operationalisation, thorough desk research is sufficient. In light of this simplification, the economic effects assessment *in general* does not have to be operationalised any further. Nevertheless, a short example shall smooth out any

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<sup>48</sup> To not cause any confusion, it shall be stated that for this paper, and particularly for the likeliness score, the following applies: *Something is likely because it is politically feasible*. Ergo, something is almost impossible, because it is politically almost completely unfeasible, something is very unlikely because it is politically very unfeasible, something is rather unlikely because it is politically rather unfeasible, etc.

ambiguity: Suppose that scenario X implies that Switzerland will accede to the EU. To roughly assess the economic impacts of such a step on the country, I would estimate the ‘positivity’ of the economic effects that van Nieuwkoop & Müller (1999a) and Grether & Müller (2001) have calculated for precisely this scenario<sup>49</sup> and apply them to my case. This already gives me a (perhaps sufficiently) rough indication on the economic effects of scenario X. However, in order to be able to determine the effects more in detail, I will have to zoom in on the economic effects that scenario X, the EU accession in my example, exerts on single agreements. This is what the second component, the assessment of expected economic effects *in specific*, is there for.

The focus on AFMP and MRA has already been justified in chapters three and five. Accordingly, I expect that each sub-scenario has, by means of its political, economic and legal consequences, an impact on the AFMP and the MRA. These effects are embodied in either a retention, remodelling, erosion, or a further development of the agreements. Ultimately, because of their economic weight, any modification of one of the two agreements I expect to be immediately felt in the Swiss economy in the form of effects. This is why I frame the AFMP and the MRA as ‘effect channels’ that transmit any political, economic and legal input from a given sub-scenario to the Swiss economy and convert it into economic effects. From a methodological viewpoint, one might also term the modification of AFMP and MRA a mediator variable and depict the effect chain as displayed in Figure 3:

**Effect Chain – Component 2, Economic Effects Assessment**

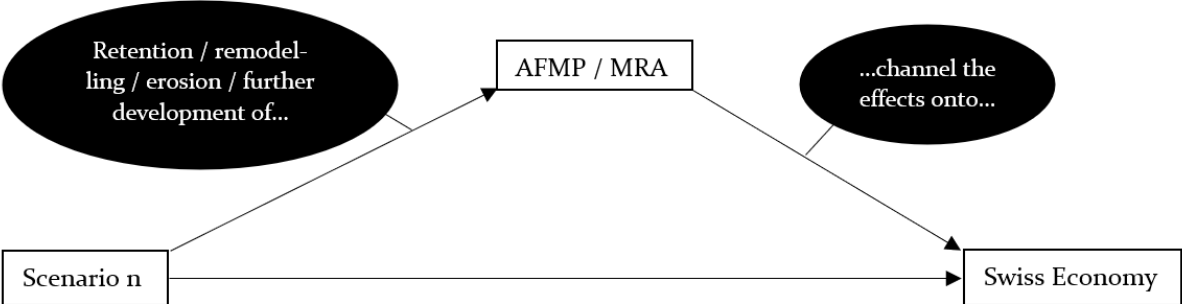


Figure 3: Own Illustration. Graphical illustration of the above mentioned effect chain.

Alternatively, this effect chain of the second component can also be displayed via a matrix, which helps me to run an example on how I plan to conduct the specific assessment per sub-scenario:

	<b>Sub-scenario n:</b>	<b>Sub-scenario n+1:</b>	<b>Sub-scenario n+2:</b>
<b>AFMP</b>	effects on the Swiss economy (cluster 1)	effects on the Swiss economy (cluster 3)	effects on the Swiss economy (cluster 5)
<b>MRA</b>	effects on the Swiss economy (cluster 2)	effects on the Swiss economy (cluster 4)	effects on the Swiss economy (cluster 6)

<sup>49</sup> Whether these effects are quantified in GDP per capita growth / reduction, in export growth / reduction or with another economic indicator, is of secondary relevance. The crucial point is that I am able to derive a statement on whether the corresponding effect is beneficial or detrimental for the Swiss economy.

The matrix can be understood as an alternative depiction of Figure 3. It is of inherent value because it reveals what I call ‘effect clusters’. These effect clusters disentangle the effect chain of Figure 3 and show that the economic effects on the Swiss economy may vary and depend on the specific sub-scenario and the Bilateral agreement that is modified. In other words, a modification of the AFMP through (political, economic and legal consequences of) sub-scenario *n* might result in different effects on the Swiss economy than a modification of the MRA through sub-scenario *n*+1. I particularly expect that a modification of the AFMP could affect different stakeholders more heavily than a modification of the MRA, and vice versa. Thus, the matrix display above eventually renders six effect clusters, with two clusters for each sub-scenario<sup>50</sup>. The clusters will now be applied with an example.

Again, suppose scenario X implies that Switzerland will accede to the EU. Regarding modification-wise impacts of such scenario on the AFMP, it is to suppose that the agreement would be supplemented with the CRD. As the CRD is, presumably<sup>51</sup>, only a minor addition, it is to suppose that the positive effect on the Swiss economy that existing studies (e.g., Beerli et al., 2021; Wegmüller, 2016) suggest, would at least be maintained. Regarding the impacts of scenario X on the MRA, I assume that Switzerland’s technical specifications for export products would overall be recognised as conform to EU standards (i.e., as all standards will be the same if Switzerland would become an EU country), thus we have a far-reaching *further development* of the MRA. In that case, existing studies (e.g., Loridan, 2008; Hälg, 2015) suggest that transaction costs would be further reduced, which would in turn result in an increased positive impact on the Swiss economy, due to scenario X. In conclusion, the political, economic and legal consequences of scenario X have, through the effect channels AFMP and MRA, a moderately to strong positive economic effect on Switzerland.

In a penultimate step, I will combine the results from the general and the specific assessment and arrive at a conclusion. An *economic benefit score* shall translate the conclusions from the two components of my economic effects assessment into a tangible rating of economic optimality. Just as the likeliness score, it will be expressed by means of an odd and bipolar Likert scale. Again, it follows the logical of an ordinal scale, which assigns a clear hierarchy to the various values, but no quantification (yet). The increments of the economic benefit score are as follows:

“According to my economic effects assessment, the effects of scenario *n* on the Swiss economy are **Gravely disadvantageous | very disadvantageous | rather disadvantageous | difficult to say (it can fall on both sides) | rather advantageous | very advantageous | overwhelmingly advantageous**<sup>52</sup>

...based on the results and suggestions of existing studies, and compared to the status quo of the Swiss economy.

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<sup>50</sup> The depiction of *three* different sub-scenarios in the matrix serves only for illustrative purposes and represents a theoretical simplification.

<sup>51</sup> The presumed minor isolated effect of the addition of the CRD to the AFMP is done for illustrative purposes only, and may differ from the effect that I will determine in my eventual assessment.

<sup>52</sup> Since a perfect antonym for *beneficial* does not exist, the terms *advantageous / disadvantageous* are being used as a substitute. It is, however, only used for the economic benefit score and posits that the words *beneficial* and *advantageous* are perfect synonyms.

The above sentence points out that the economic benefit score – just as the likeliness score – does not allow for an *absolute* judgement on the economic benefits of sub-scenario n, but has to put into a relation. The respective baseline in this respect is the status quo of the Swiss economy, hence the effects that the AFMP and the MRA are currently exerting onto Switzerland. Thus, scenario X would then be rather advantageous *relative* to the status quo of the Swiss economy.

#### 6.4. Methodology of The Recommended Course of Action

The RCoA can be regarded as the essence of the paper at hand, yet it is the shortest part of the analysis, and simply ties together the preceding three parts of the four-piece analysis. It will do this by help of an *expected value analysis*. Although the expected value is a concept used in finance, I consider it to be suitable for my aim. The expected value (EV) “indicates the anticipated value of an investment in the future. By determining the probabilities of possible scenarios, one can determine the EV of the scenarios. The concept is frequently used with [...] scenario analysis” (Corporate Finance Institute, n.d.). Accordingly, the EV analysis is appropriate for combining the political feasibility (i.e., likeliness) of a sub-scenario with its economic benefits (i.e., the value of the *political* investment). I plan to combine the likeliness score of each sub-scenario with its economic benefit score in order to arrive at a sub-scenario’s EV, via the following formula:

$$EV_{Sn} = L_{Sn} * V_{Sn}$$

$L_{Sn}$  stands for the likeliness score that was assigned to sub-scenario n,  $V_{Sn}$  stands for value of sub-scenario n, ergo the economic benefit score of sub-scenario n.  $EV_{Sn}$  will ultimately determine the sub-scenario’s overall value, and whether it will be recommended as a future course of action. However, since both likeliness score and economic benefit score are operationalised through a Likert scale, I need to transform them into interval scales to be able to express them in numbers, and to use the scores for the EV analysis. The values of the likeliness score I quantify as follows:

- almost impossible = 0.125***
- very unlikely = 0.25***
- rather unlikely = 0.375***
- difficult to say (it can fall on both sides) = 0.5***
- rather likely = 0.625***
- very likely = 0.75***
- almost guaranteed = 0.875***

Furthermore, the values of the economic benefit score I quantify as follows:

- gravely disadvantageous = 1***
- very disadvantageous = 2***
- rather disadvantageous = 3***
- difficult to say (it can fall on both sides) = 4***
- rather advantageous = 5***
- very advantageous = 6***
- overwhelmingly advantageous = 7***



Two remarks remain. First, the interval scaled likeliness score can only assume a value  $< 1$ , or strictly speaking,  $< 0.875$ . The reason behind this is that, on the one hand, there can logically not be a future scenario (or any event that has a certain probability assigned) that is *bound to happen* with a probability  $\geq 1$ . On the other hand, I want to allocate a larger weight to the political feasibility of a sub-scenario. Therefore, a low likeliness score of a given sub-scenario will inevitably drag its EV down, irrespective of its economic benefit score. To give an example, a sub-scenario that is rather likely to happen, with economic benefits that are neither beneficial nor disadvantageous (i.e., it preserves roughly the status quo) has a higher EV ( $0.625 * 4 = 2.5$ ) than a sub-scenario which would be economically very advantageous, but rather unlikely to happen ( $0.375 * 6 = 2.25$ ). This relation has to be read in conjunction with chapter four, where I state that a scenario that is rather unlikely to occur, should also not be suggested as a RCoA, even if its economic effects would be very beneficial for Switzerland. To sum up, the interval scale of the likeliness score highlights the importance of political feasibility considerations. As for the second remark, the discrete nature of my interval scale allows for the possibility that more than one sub-scenario will be presented as a RCoA, provided it is more than one sub-scenario that achieves the highest EV. Thus, in the end there could be not just ‘the one best option’, but a set of equally politically feasible and simultaneously economically beneficial sub-scenarios.

## 7. Scenario Development

This first element of my four-piece analysis refers to the second research gap I have carved out in chapters three and four – the lack of theory- and empiricism-based scenario development, whereby this chapter intends to fill the void of *empiricism*-based scenario development (sub-chapters 7.1.1. – 7.1.3.), and not the lack (in scholarly literature) of theory-based scenario development. I shall start with the presentation of the three scenarios, which are based on empirically identifiable trajectories (EITs) (whereas the EITs are based on the proposals, approaches and ideas from Swiss politics, civil society and science), before I will proceed with a logically structured overview of the scenarios, by means of the *Scenario Tree* and the *Integrational Matrix*. Subchapters 7.1.1. – 7.1.3. will therefore answer SQ<sub>1</sub>, while subchapters 7.2.1 – 7.2.2. will answer SQ<sub>2</sub>. In other words, subchapters 7.1.1. – 7.1.3 will simply present the scenarios, whilst subchapters 7.2.1. – 7.2.2. will augment them with a relational perspective.

### 7.1. The Three Scenarios and Their Sub-Scenarios

Proposals, approaches and ideas from Swiss politics, civil society and science indicate three EITs which in turn suggest the three different scenarios for future Switzerland-EU relations (see Figure 2), with each scenario taking the status quo<sup>53</sup> as a baseline. Furthermore, sub-scenarios for each scenario have become apparent and effectively determine the complexity of each scenario to a substantial extent; they will be explicated in the following sections too.

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<sup>53</sup> The status quo is generally defined as the current legal and economic relationship between Switzerland and the EU with the Bilaterals I & II as well as subsequent important Bilateral agreements (e.g. the Customs Agreement) as their main legal basis. In specific, however, it is when Switzerland aborted further negotiations on the IFA in May 2021, where each scenario implicitly ties in with.

### 7.1.1. Scenario 1 – Less Europe

The first scenario implies that Switzerland takes a disintegrational step away from the EU, both in terms of economic and political integration. In ‘**Less Europe**’, Switzerland would abandon the Bilateral path either partially or completely and instead opt for a relationship with the EU based on free trade. *The least partial* abandonment of the Bilaterals equals to the replacement of only the five market access agreements (see footnote 21) with a free trade agreement (FTA), whereas *the most complete* abandonment of the Bilaterals means a replacement of the whole Bilateral framework with an FTA. Also shades in-between are possible, such as a legally supposable termination of the Bilaterals I due to the guillotine clause (see chapter 2), combined with a retention of the second Bilateral package and subsequent Bilateral agreements. Yet on this specificity, the collated proposals, approaches and ideas from politics, civil society and science – that all suggest the scenario ‘Less Europe’ – are either rather imprecise or fairly heterogeneous<sup>54</sup>. I will therefore have to establish assumptions that roughly accommodate the intended key messages of the various suggestions. More importantly, the heterogeneity of the approaches, proposals and ideas gives rise for sub-scenarios. Their common denominator is the previously described disintegrational step of Switzerland towards free trade, that is best summarised as ‘Less Europe’. Nonetheless, the question remains whether one wants ‘much less Europe’ or just ‘a bit less Europe’. It is at this point where the proposals, approaches and ideas vary greatly.

In the first sub-scenario 1.1, which I term the ‘**72-FTA Fallback**’, one would opt for ‘much less Europe’. This means that Switzerland would – through a proposal of the Federal Council, an ensuing enactment of the proposal through both parliamentary chambers, and most probably rubber-stamped by the electorate through a facultative referendum – terminate both the Bilaterals I & II (Grünenfelder & Schellenbauer, 2018). Hereupon, Switzerland would fall back to the only agreement with the EU that enables market access to the ESM – the FTA from 1972 (see chapter 2). Importantly, in this sub-scenario the 72-FTA would then be adopted *unaltered* as the main relational basis for Switzerland-EU relations. On the one hand, with only this agreement, Switzerland would still be able to benefit from preferential trade conditions for industrial goods and agriculturally processed products (e.g., through the elimination of tariff barriers). On the other hand, the country would be cut off from further market access to the ESM that would require legal harmonisation between Switzerland and the EU, such as the free movement of persons or mutual recognition of conformity of technical standards. In other words, for sub-scenario 1.1 I have to deploy the assumption that the free trade basis would replace a far-reaching abandonment of the Bilaterals, namely both the Bilaterals I & II packages – with only the 72-FTA and ‘standalone’ Bilateral agreements persisting (e.g., the 2011 Customs Agreement). Not only does this conform with the key messages of some of the respective proposals, approaches and ideas (e.g. Grünenfelder & Schellenbauer, 2018), also it accentuates the guiding theme ‘Much less Europe’. Notable proposals, approaches and ideas which have manifested the EIT for this sub-scenario are the following two: Grünenfelder & Schellenbauer descriptively analyse this scenario in a white paper together with other future perspectives for Switzerland (2018), whereas

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<sup>54</sup> To give an example of their heterogeneity, an approach described in Grünenfelder & Schellenbauer (2018) would retain even some market access agreements, while EU-No (2018) implicitly suggests that the Bilateral framework altogether should be terminated. Furthermore, the Report by the Federal Council (2015) considers several options on the extent of abandonment of the Bilateral agreements.

the eurosceptic Committee ‘No to a creeping EU accession’ (also known as ‘EU-No’) actively – albeit implicitly – promotes such scenario in an argumentation paper (2018).

In case of the second and the third sub-scenario within scenario 1, one would opt for ‘a bit less Europe’. The disintegrational thrust would still be pursued, but accompanied by compensation measures which should mitigate the fallback to a free trade basis and the successive economic shock. This in turn unseals two (empirically identifiable) options on how to design these compensation measures. The first one is to *not* leave the 72-FTA as the main relational basis for Switzerland-EU relations unaltered, but to upgrade it to a comprehensive free trade agreement. The sub-scenario 1.2 ‘**Comprehensive FTA**’ is named accordingly. Therein, the Federal Council would file a proposal on the termination of the Bilaterals I or a single agreement therein, which would then be enacted by both parliamentary chambers, before it would eventually most likely be approved by the electorate by means of a facultative referendum<sup>55</sup> (Grünenfelder & Schellenbauer, 2018). Having gone through this legislative process, the Federal Council would then define a negotiating mandate on the modernisation of the 72-FTA – to render it ‘comprehensive’ – and enter negotiations with the Commission, before both Switzerland and the EU would conclude them successfully and adopt the comprehensive FTA in their respective political systems by means of their respective legislative procedures (in the Swiss case it is likely that, apart from both parliamentary chambers, the electorate will have to vote on it again through a facultative referendum). Thus, for sub-scenario 1.2 I assume that the comprehensive FTA would only replace the Bilaterals I (following the logic of the guillotine clause), while the Bilaterals II and further Bilateral agreements would be retained.

Among the proposals, approaches and ideas from politics, civil society and science, that all imply sub-scenario 1.2, there is approximate consensus regarding its arrangement. Cottier et al. (2021) and Federal Council in its response (2015) to a parliamentary postulate (postulate Keller-Sutter [13.4022], 2013) define a comprehensive FTA as incorporating all measures from the 72-FTA on industrial goods and agriculturally processed products, and *above that* with a further reduction of tariffs and quantitative restrictions in the agricultural sector. Cottier et al. (2021) moreover envisage the probability of liberalisations in the financial sector and in services. Similarly, Grünenfelder et al. (2019) and the eurosceptic SVP (namely the national councillors *Aeschi*, in an interview (Schäfer, 2020), and *Matter* (2017)) refer to the CETA between Canada and the EU in their contemplations about a comprehensive FTA for Switzerland<sup>56</sup>. Another eurosceptic actor that has – beneath its previously mentioned proposal for a 72-FTA fallback – positively promoted a comprehensive FTA solution, is the EU-No Committee (2019). Furthermore, Grünenfelder & Schellenbauer (2018) descriptively analyse this option in their white paper. Unlike others, they

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<sup>55</sup> Due to the guillotine clause, the consequences of either the termination of the Bilaterals I as a whole or the termination of only a single Agreement within the Bilaterals I (by any of the two contracting parties) would have the same consequences – namely an automatic termination of all seven agreements of the Bilaterals I within six months (AFMP, Article 25).

<sup>56</sup> The motives of their comprehensive FTA contemplations are nonetheless very different. Grünenfelder et al. (2019) analytically describe this sub-scenario as a ‘plan C’, in case the 2018-IFA draft (which in itself is a plan B, while the refused EEA accession 1992 was plan A) could not be realised. This approach stands opposed to the SVP and its above mentioned parliamentarians (2020, 2017). The SVP is the only major political party who has until recently openly advocated for the sub-scenario of a comprehensive FTA. Yet, according to Gafafer & Schäfer (2022) this plan is not in vogue anymore within the SVP since 2021.

go a step further in their conception of a comprehensive FTA and delineate it as partly equivalent to the Bilaterals in its substance. However, Cottier et al. (2021), the Federal Council (2015) and Grünenfelder & Schellenbauer (2018) unanimously conclude that a comprehensive FTA would still not entail provisions on free movement of persons or on mutual recognition of conformity assessments, mainly because FTAs do *per definitionem* not allow for legal harmonisation.

A second option on how to shape compensation measures gives way for a third and last sub-scenario within scenario 1 ‘Less Europe’, which is termed ‘72-FTA with flight forward strategy’. It follows the same initial logic and therefore the same assumptions as sub-scenario 1.2, which is the unilateral termination of the Bilaterals I by the Federal Council, the parliament and the electorate, and the ensuing retention of the remaining Bilateral acquis. However, unlike in sub-scenario 1.2, the 72-FTA would stay unaltered and not become extended to a comprehensive FTA. As an alternative compensation measure, Grünenfelder et al. (2019) suggest market liberal reforms (e.g. through liberalisation of the agricultural sector and a business tax cut), an expansion of the international FTA framework with third countries, further privatisations of public enterprises and a unilateral Swiss opening towards foreign investors – all this in order to absorb the economic shock. Such approach is idiosyncratic and has not been promoted or described by other (relevant) actors from politics, civil society and science. Accordingly, sub-scenario 1.3 represents a unique path to opt for ‘a bit less Europe’ through implementing market liberal reforms. Yet, due to precisely these actions, it is still distinguishable from sub-scenario 1.1 which would not imply any countermeasures on top of the 72-FTA, and from sub-scenario 1.2, which would provide a comprehensive FTA as a compensation measure.

### 7.1.2. Scenario 2 – Continuation of The Bilateral Path

The second scenario has as its basic trajectory the continuation of the Bilateral relationship that has found its breakthrough with the conclusion of the Bilaterals I (signed 1999) and the Bilaterals II (signed 2004), and that has since then been advanced in legal and economic terms (e.g., through further adoption of EU laws into the single Bilateral agreements and through the conclusion of ‘post-Bilateral’ agreements, see also chapter 2). Continuing this path thus means to maintain the essence of a close and ever denser relationship that is built on contractual understandings between two trade and political partners, that necessitates legal harmonisation conceded by one of the partners (contrary to scenario 1), but that does not imply the *complete* inclusion of the contractually agreed provisions under either common supranational institutions or institutions of the contractual partner<sup>57</sup> (which would then be the case for scenario 3). To sum up, scenario 2 distinguishes itself from scenario 1 through a closer and denser contractual relationship and through legal harmonisation, and from scenario 3 through the missing *complete* integration into common supranational European institutions or into institutions of the partner. As for the political process, scenario 2 extrapolates the events of the recent past and ties in with

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<sup>57</sup> The fourth aspect *inter alia* refers to the two pillar principle (see footnote 7). However, the two pillar principle represents an extreme case of the lacking *complete* inclusion of provisions under common institutions or institutions of the contractual partner, to the extent that the two pillar principle allows for *no* supranational institutions or institutions of the contractual partner *at all* (Oesch, 2020a). For scenario 2, I would depart from that rigid form and allow for a *partial* integration into common supranational institutions or institutions of the contractual partner (as it would be the case in the IFA with the CJEU incorporation), but still not for a complete one as it would be the case with an EU / EEA accession.

the exploratory talks that the FDFA has started with the EU Commission in spring 2022 (Tages-Anzeiger, 2022b; Hess & Bühler, 2022). In these talks, the EU and Switzerland would mark out the framework for a continuation of the Bilateral path. The question is now whether this framework – and thus the Bilateral path as a whole – should comprise institutional elements<sup>58</sup> or not.

The proposals, approaches and ideas of proponents of a continuation of the Bilateral path *without* such institutional elements form an EIT for a first sub-scenario within scenario 2. I call it the ‘**Against long odds strategy**’. This name foreshadows aspects of its political feasibility and will thus be explicated at a later point. The common denominator of the supporters of sub-scenario 2.1 is their general support for the Bilateral agreements combined with their unanimous rejection of institutional elements therein. As for their particulars, the respective proposals, approaches and ideas are remarkably similar, but not identical: The SVP – in parallel with its fractional support for a comprehensive FTA – endorses an ‘amicable’ Bilateral relationship on the basis of common interests in its party manifesto (2019) in conjunction with an explicit rejection of institutional elements, in particular the dynamic adoption of EU law and the institutional dispute settlement (IDS) with CJEU jurisprudence. Also single Bilateral arrangements are criticised in the manifesto (e.g. the AFMP), but without negating the continuation of the Bilateral path altogether. The notion of a perpetuated Bilateral relationship with the EU based on common interests, yet without institutional elements, is also explicitly highlighted by SVP doyen and leadership figure Christoph Blocher (2021). A practically identical stance is being taken by the euro-sceptic political organisation ‘Campaign for an Independent and Neutral Switzerland’ (also known in its German abbreviation ‘AUNS’). Both on their web-page (n. d.) and in their bulletin (2016) they support the Bilateral path – with the exception of the AFMP and few other agreements – and clearly refuse any institutional ties with the EU. As a last contributor to this sub-scenario, the politically heterogeneous alliance ‘Kompass/Europa’ (2021) assumes a more benevolent tone towards Switzerland-EU relations. The organisation distinctly supports the advancement of the Bilateral including the AFMP, and it promotes additional Bilateral agreements, but it repeatedly rejects institutional elements therein and especially the IFA, which was supposed to regulate these elements. Therefore, Kompass/Europa can, with its clear support for the continuation of the Bilateral path and its even clearer rejection of institutional aspects, be seen as the most typical representative of sub-scenario 2.1.

If we now return to the main juncture within scenario 2 – the continuation of the Bilateral path with or without the incorporation of institutional elements – it becomes evident that the only other possibility is to pursue the continuation of the Bilateral path *with* institutional elements included. This branch exhibits the largest accumulation of proposals, approaches and ideas for future Switzerland-EU relations that have been contemplated by actors from politics, civil society and science. Hence, no other possibility for Switzerland’s future ties with the EU has triggered more reactions than the continuation of the Bilateral path with institutional elements.

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<sup>58</sup> The term *institutional elements* is of paramount importance for scenario 2. I have already explained in the introduction, in chapter 2 and in the explanatory boxes 1 and 2 what institutional elements and a corresponding framework are. Nevertheless, let me remind the reader that the pivotal institutional elements in the Switzerland-EU discussions are the **dynamic adoption of EU law**, an **institutional dispute settlement mechanism**, and a **homogeneous legal interpretation of the agreements** (as well as, to a lesser extent, **aspects of surveillance of the agreements**) (Oesch, 2020a; Tobler & Beglinger, 2020; Federal Council, 2021a). Mainly the first two are intensely discussed in the Swiss political arena.

This is unsurprising, since such approach has been the major issue at stake in EU-Switzerland negotiations since 2014 – with no end in sight yet. It thus makes sense that the proposals and approaches within this probable direction are also the most heterogeneous, and give rise to three sub-scenarios. These sub-scenarios diverge from each other and become empirically identifiable by asking the ‘how-question’: Provided one wants to continue the Bilateral path, and provided one wants to include institutional elements therein<sup>59</sup>, then *how* should they be included?

One possibility is to integrate institutional elements *horizontally*<sup>60</sup>. The corresponding sub-scenario 2.2 I term accordingly ‘**Horizontal integration of institutional elements**’. It leads us directly to the aborted IFA draft, which represents the blueprint for a horizontal integration of institutional elements into the relevant agreements of the Bilateral framework. Despite the preliminary Swiss abandonment of this approach in May 2021, several agents have acted on the idea and suggested it as an approach or proposal on the further development for Switzerland-EU relations – either before or after its provisional abandonment. The political process in this regard would be straightforward; Switzerland and the EU would either immediately or after a ‘negotiation break’ resume negotiations on an IFA and eventually conclude it as an agreement that integrates intended institutional elements horizontally. After this, the agreement would have to be signed and approved in both the Swiss and the EU political systems (with the Swiss people probably having a say in it through a referendum), before it would be enacted sometime later.

Relevant actors from politics and science which suggest a respective sub-scenario are the following: First, the Centre party (formerly known as Christian-Democratic People’s Party CVP) promotes the Bilateral path and its further development in a position paper (n. d.), including a treaty correspondent to the IFA with a horizontal integration of institutional elements. However, the Centre also demands opt-outs within such horizontal agreement, such as a refusal of the CRD and opt-outs in the domain of the accompanying measures (see footnote 18). A partial opt-out from the CRD by means of a safeguard clause has also been brought forward by the Centre’s Federal Councillor Viola Amherd (Schäfer & Gafafer, 2021). Until early 2022, the Centre has maintained this ‘yes, but’ stance with a focus on *horizontal* integration, before it has slightly altered its position, which will be discussed in another sub-scenario of scenario 2. A scholarly proposal that is very similar to the Centre’s approach *back then* has been introduced by Ambühl & Scherer (2019). The authors support the Bilaterals and their further development through a horizontal integration of institutional elements, but they also state that such agreement should exhibit certain opt-outs, e.g., in the area of the CRD / AFMP, the accompanying measures or partly regarding the dynamic adoption of laws and the IDS. All this should, according to the authors, be achieved through a renegotiation of the IFA.

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<sup>59</sup> In the following sub-scenarios I limit myself to the inclusion of institutional elements within the five market access agreements and within future Bilateral agreements that would be concluded between Switzerland and the EU. This coverage range was intended in the IFA as well (see also footnote 21). The incorporation of institutional elements into other Bilateral agreements (i.e. not concerning market access) has either never been under consideration in Switzerland-EU negotiations or has already been provided for in the initial design of some agreements. An example for the latter is the integration of a mechanism that provides for dynamic adoption of EU laws within the Schengen agreement (Oesch, 2020a).

<sup>60</sup> For an in-depth definition of the distinction between a *horizontal* integration (all institutional elements bundled into a single umbrella agreement) and a *vertical*, respectively sectorial, integration (institutional elements incorporated into each single market access agreement), see footnote 22.

Another political actor that is in favour of sub-scenario 2.2 is the Green Liberal Party (GLP). They advocate the further development of the Bilateral path, as well as the horizontal integration of institutional elements in it – an approach which they have framed ‘IFA 2.0’ – in a recent press release (2022). The same stance can be discerned in their foreign policy position paper (2017). Ultimately, they also support the horizontal integration of institutional elements in a further EU-specific position paper (2018), with no requested opt-outs from any IFA-elements recognisable, but with a distinct acceptance of ‘everything institutional’. Therefore, the GLP can be seen as the most typical representative within sub-scenario 2.2, although – as will be discussed later – the party has also come up with a proposal that leads to a different scenario altogether.

Lastly, sub-scenario 2.2 has also been promoted by the Social Democratic Party (SP), but with a certain deferral time. According to a party document (2021), a stabilisation agreement between Switzerland and the EU should be enacted first and rapidly – including a perpetuation of the cohesion contribution (see chapter 2) and a contractually guaranteed participation in joint programmes (e.g., Horizon Europe) –, before an ‘economic and cooperation partnership’ shall be concluded within five years. The latter *inter alia* includes an IFA-like agreement with horizontal integration of institutional elements, although named differently. This position has been confirmed by the SP in its recent ‘Europe paper’ (2022), where it reframed the economic and cooperation partnership as an ‘association agreement’, yet again comprising an IFA-like agreement that incorporates institutional elements horizontally<sup>61</sup>. Nonetheless, this approach is betokened by the SP as being only the ‘second-best solution’; hence the party’s further proposals have to be presented later as belonging to different sub-scenarios. The SP’s basic concept of pursuing the Bilateral path with a horizontal integration, but with some deferral time in-between via a stabilisation agreement, corresponds largely to Ambühl & Scherer’s (2021a) idea of an ‘interim agreement’: It is similar to the SP’s stabilisation agreement and *implicitly* also intends to prepare for the continuation of the Bilateral path with a horizontal integration of institutional elements. After all, proposals, approaches and ideas of political and academic agents within sub-scenario 2.2 are very similar to each other, but they exhibit slight differences (e.g. regarding the request of limited opt-outs). These differences, as minor as they may be, might eventually play a major role in the political feasibility assessment and have to be taken into account accordingly.

The second possibility is to integrate institutional elements *vertically*. Sub-scenario 2.3 is therefore termed ‘**Vertical integration of institutional elements**’ and follows the same political procedure as sub-scenario 2.2, with the single difference that the resumed negotiations would not be centred around an IFA-like horizontal structure. Instead, Swiss and EU negotiators would conclude a package of (revised) agreements where institutional elements<sup>62</sup> are integrated sectorially into each single market access agreement. Following the Swiss-side abortion of negotiations on a horizontal IFA in 2021, proponents of the vertical approach have increased in salience.

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<sup>61</sup> The SP’s association agreement would not only include an IFA-like institutional treaty, but it would also entail an enhancement of the negotiation mass, which would allow for new Bilateral agreements and the modernisation of existing agreements (SP, 2022). However, whether these aspects would be included in separate treaties or within the designated IFA-like agreement, is not clearly stated.

<sup>62</sup> To be sure, the institutional elements to be incorporated would be the same in both a horizontal and a vertical approach (dynamic adoption of EU laws, an IDS, a homogeneous legal interpretation of the Bilaterals, and institutional rules on surveillance) and would affect in both cases the same bundle of agreements (existing market access agreement and subsequent Bilateral agreements).

A vanguard in this regard is the scholarly contribution by Ambühl & Scherer (2021b) which is similar to their above presented approach from 2019, with the difference that they have ‘verticalised’ the approach and expanded it, now calling it ‘Bilaterals III’: Their contribution includes a vertical integration of institutional elements into each single agreement, together with limited opt-outs regarding the CRD, the accompanying measures and state aid measures, an IDS without involvement of the CJEU<sup>63</sup>, and an expansion of the negotiation mass, in order to have more margin for a reconciliation of interests (i.e., more scope for concessions that can thus be valorised elsewhere in the Bilaterals III package).

Remarkably analogous to this scholarly idea and thus probably influenced by it is the proposal of the Free Democratic Party (FDP): After having foreshadowed contours of its ideas in a position paper (2021), the party confirms its inclination towards a vertical design in its recent Europe paper (2022a). The FDP first distinctly refuses both an EU or EEA accession and a 72-FTA fallback, and clearly supports the Bilateral path with institutional elements included. These elements should be comprised sectorially into each single agreement, but always following the same ‘basic pattern’<sup>64</sup>. The sectorial institutional arrangement would then enable the possibility for Switzerland to bargain clear-cut opt-outs and safeguard clauses (e.g., in the CRD) and *only in the concerned single agreements* where such opt-outs are necessary. Ultimately, the FDP suggests an expansion of the negotiation mass (by initiating negotiations on new Bilateral agreements in electricity, in health and in financial services), with the same reasoning as Ambühl & Scherer (2021b) – more margin for creative solutions. It is therefore not surprising that the party names its approach also ‘Bilaterals III’. Furthermore, after having promoted a horizontal integration of institutional elements, but with opt-outs (see sub-scenario 2.2.), the Centre since 2022 prefers a solution that can be allocated to sub-scenario 2.3: In a Europe paper published in early 2022, the party first voices its refusal to both an EU accession and a 72-FTA fallback, before it reinforces its approval for the Bilateral path with institutional elements therein, but this time integrated sectorially (i.e., vertically). Moreover, the party retains its opt-out demands regarding both the CRD and the accompanying measures, and it confirms its acceptance for higher and perpetuated cohesion contributions. The same has also been suggested by Ambühl & Scherer (2021b). Altogether, the Centre’s proposal (2022a) is similar to the ones by Ambühl & Scherer (2021b) and the FDP (2022a), but less distinct and detailed.

Apart from the above presented partisan and scholarly actors, it is also the Federal Council that has come up with a vertical approach in February 2022. The government’s intended plan (which I have presented in-depth in chapter 2) represents an amalgamation of the previous approaches,

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<sup>63</sup> Their proposed solution for an institutional dispute settlement envisages that a legal-political dispute would first be dealt with diplomatically in the agreement’s joint committee (see footnote 14). If no solution can be found, the claimant party is entitled to remit compensation measures, whose proportionality can be reviewed by a balanced arbitral tribunal. This tribunal would in turn only be allowed to interpret the present case, but not the relevant EU law at hand (Ambühl & Scherer, 2021b, p. 11). Thereby, the CJEU would not be involved, yet its unique competence to interpret EU law would not be curtailed.

<sup>64</sup> The FDP especially highlights the inclusion of the dynamic adoption of EU laws and the IDS as being relevant for the ‘basic pattern’ (i.e. that these elements should *per default* be arranged following the same basic module in each market access agreement, with minor specifications only). This point deserves attention since it has not explicitly been mentioned by Ambühl & Scherer (2021b). As regards the design of the IDS within the ‘basic pattern’, the FDP proposes the same construct as suggested by Ambühl & Scherer (2021b).



ideas and proposals presented in sub-scenario 2.3: First, the Federal Council wants to integrate institutional elements vertically, second, it aims at an enhanced negotiation mass (i.e. agreements in electricity and food safety), third, it also considers a perpetuation of cohesion contributions. Besides these clear resemblances to other actors' notions, the Swiss Government and the FDFA remain rather vague about their negotiation strategy (Tages-Anzeiger, 2022a).

A last mentionable actor that has actively and explicitly put forth the concept of a vertical integration of institutional elements into the Bilateral path is Economiesuisse, the umbrella organisation of Swiss corporations. Economiesuisse supports the continuation of the Bilateral path in a dossier (2022) and suggests a sectorial integration of institutional elements into the single market access agreements. The association also broadly supports the dynamic adoption of EU laws (without any opt-outs discernible) and an IDS. To conclude, scenario 2.3 is suggested by a heterogeneous group of actors from politics, civil society and science, whereas their approaches differ slightly from each other, which again might play a role regarding their political feasibility.

In addition to the above presented actors who distinctly advocate a continuation of the Bilateral path with either a horizontal or vertical integration of institutional elements, there is an array of actors who support the continuation of the Bilateral path with institutional elements therein *in general*, but without a clearly expressed preference for a vertical or a horizontal approach. Rather, these actors are indifferent<sup>65</sup> on the 'legal architecture' of an institutionalised Bilateral framework, and they often focus on other technicalities of the institutional elements. These technicalities mainly intend to accommodate domestic and EU objections to certain minutiae of the institutional arrangements. Sometimes, however, actors primarily from civil society simply formulate their support for an institutionalised Bilateral path, without adding further inputs at all. Hence, this gives rise to a last sub-scenario 2.4 within scenario 2 – I term it '**General institutional support / with specifications**'. Sub-scenario 2.4 is thus a residual scenario that can, due to its heterogeneity, not as such be assessed regarding its political feasibility<sup>66</sup>. In brief, all EITs that cannot be allocated to sub-scenario 2.2 or 2.3, are to be found in sub-scenario 2.4.

A first group of actors who support the continuation of an *institutionalised* Bilateral path without a clear preference for either a vertical or horizontal integration of institutional elements are the legal scholars Tobler (2020), Breitenmoser (2019) and Cottier (2020). Besides the scholars' support for the Bilateral path with institutional elements therein, the commonality of their proposals lies in their focus on legal instruments that should accommodate domestic concerns against institutional aspects and thus increase the political feasibility of the institutionalised Bilateral path on the Swiss side. Tobler (2020) and Cottier (2020) have independently from each other developed proposals for joint statements that should be attached to the negotiated agreement(s) in order to substantiate their legal interpretation. These joint Swiss-EU statements have

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<sup>65</sup> The fact that several actors are indifferent regarding a horizontal or a vertical approach is unsurprising, as one solution or the other does expectedly not result in great differences in terms of substance and content. Nonetheless, probable substantial differences and thus advantages of a vertical approach are the opportunity to renounce an additional guillotine clause (Ambühl & Scherer, 2021b) or to infix opt-outs more purposefully and effectively.

<sup>66</sup> Despite this limitation, sub-scenario 2.4 has still an important function: Its different approaches, proposals and ideas can be harnessed to add to the political feasibility of sub-scenarios 2.2. and 2.3. This is mainly because these specifications regarding single institutional elements can be easily integrated into the two more homogeneous sub-scenarios 2.2 and 2.3, *without* diluting their cohesion and narrative.

the purpose of dispelling any unintended consequences (i.e., unwanted by various Swiss stakeholders) in the areas of state aid, accompanying measures and the CRD, thereby rendering any concluded institutional agreement more ‘digestible’ by simply adding a legally codified joint declaration<sup>67</sup>. Tobler’s (2020) justification for such approach is that joint statements would be more acceptable from the EU side than opt-outs in sensitive areas. Breitenmoser (2019) treads the same path by recommending an exchange of letters between the Federal Council and the Commission, which would be published in the official journals of both the EU and Switzerland, and therefore be binding under international law. This exchange of letters would relate to the interpretation of legal provisions relating to the accompanying measures, the CRD and state aid measures and again try to increase the domestic political feasibility of an institutionalised Bilateral path<sup>68</sup>. Ultimately, Grünenfelder et al. (2019) have brought forward the recommendation of a unilaterally placed ‘side letter’ (from the Swiss side), which can be understood as a statement in the same vein and targeting the same issues as Tobler (2020) and Cottier (2020), with the difference that such statement would not have to be signed by the EU<sup>69</sup>.

Aside from any kind of legal addenda, a further legal specification has been mentioned several times, especially by the former president of the EFTA court, Carl Baudenbacher (Baudenbacher, 2021; Gafafer, 2021; 2022b): This notion would leave the Bilateral path with institutional elements (either as an IFA or vertically) largely untouched and focus mainly on a single institutional aspect, namely the IDS. Instead of a solution involving an arbitral tribunal and the CJEU, Baudenbacher advocates an affiliation of Switzerland to EEA institutions (primarily the EFTA court and the EFTA surveillance authority ESA). In such a scenario, disputes regarding Bilateral law (between two parties) that origin in Switzerland or cases that were filed by the ESA would be sent to the EFTA court, where Switzerland would be represented with a judge on its own. As for disputes regarding Bilateral law between Switzerland and the EU, the CJEU would still be the responsible court, but it could only be factually involved if both parties agree to do so (Tobler & Beglinger, 2020; Gafafer, 2022b). That way, domestic concerns about ‘foreign judges’ (see chapter 2) and frequent CJEU involvement could be defused<sup>70</sup>. Interestingly, such approach has already been suggested by the EU for the IDS within the IFA in 2013, but it has been refused by Switzerland at that time (Federal Council, 2021a; Gafafer, 2021; 2022b).

Lastly, there are numerous actors from civil society who support (or at least descriptively analyse from a *supportive* point of view) the continuation of the Bilateral path with institutional elements included, but without further specifications or other inputs on the part of those actors.

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<sup>67</sup> Tobler’s (2020) and Cottier’s (2020) proposals for a joint statements were originally meant to be attached to a horizontal IFA, yet such legal attachments could as well be annexed to a vertical arrangement of institutional elements (i.e., as attachment to a single agreement, such as the AFMP).

<sup>68</sup> Just as Tobler (2020) and Cottier (2020) also Breitenmoser (2019) envisaged the exchange of letters to be conducted in parallel with or after the conclusion of the horizontal IFA draft. However, such solution can easily be incorporated into or attached to the single agreement that it refers to (see footnote above).

<sup>69</sup> Like the contributions by Tobler (2020), Cottier (2020) and Breitenmoser (2019), also the side letter by Grünenfelder et al. (2019) was originally meant to be attached to a horizontal IFA, but can – as described in the two preceding footnotes – be simply integrated into the corresponding single Bilateral agreement in the case of a *vertical* integration of institutional elements.

<sup>70</sup> Also, the principle of autonomy of EU law, and the CJEU as the institution that exclusively interprets the substance and meaning of EU law, would be formally preserved with such approach.

Mentionable supportive actors are the ‘European Movement Switzerland’ (Europäische Bewegung Schweiz, EBS), its youth organisation ‘Young European Swiss’ (yes), the foreign policy think tank ‘Foraus’ (Farman et al., 2020), the liberal civil society movement ‘Operation Libero’, the Green Party and the major trade unions, which all in principle support the continuation of the Bilateral path, institutional elements included. Yet, in the case of the trade unions and the Green Party it has to be added, that their support for institutional elements is contingent upon the possibility to expand wage protection and the accompanying measures *irrespective of* EU legal developments and potentially unwelcome CJEU jurisprudence (see also chapter 2).

### 7.1.3. Scenario 3 – More Europe

The third and last scenario is in many ways an antipode of scenario 1 – also in terms of its EIT. In ‘**More Europe**’, Switzerland would take a further leap towards European integration, both in terms of economic and political integration. As an important distinguishing feature from scenario 2, scenario 3 entails a *complete* integration into common supranational European institutions or into institutions of the current contractual partner (hence the EU or the EEA). Therefore, Switzerland would abandon the Bilateral path, or, depending on the viewpoint, take the Bilateral relationship to the logical next level. The EIT suggesting this third scenario contains proposals, approaches and ideas that differ from each other sufficiently to discern two sub-scenarios. These sub-scenarios can be divided along the following question: If one wants more Europe, shall it be ‘much more Europe’ or only ‘a bit more Europe’?

A first sub-scenario within scenario 3 contains all proposals, approaches and ideas that suggest an accession of Switzerland to the EEA. Accordingly, sub-scenario 3.1 is named ‘**EEA Accession**’. As for this sub-scenario’s political process, Switzerland would have to replicate its constitutional procedure from 1992. First, the Federal Council would, following an application to the EEA Council and successfully concluded negotiations with the EEA (and presumably also with the EU member states) thereafter (EEA Agreement, Article 128), file a proposal for an EEA accession to both parliamentary chambers. After both chambers’ consent via simple majority, the proposal would have to be accepted by a majority of the Swiss people and cantons in a mandatory referendum (Federal Constitution, Article 140(1)). In addition, according to Article 128 of the EEA Agreement, the accession agreement “shall be submitted for ratification or approval by all Contracting Parties in accordance with their own procedures”. This includes all current EEA and EU member states. Once this has happened successfully in all political systems, Switzerland would become a fourth EEA member<sup>71</sup>, besides Norway, Iceland and Liechtenstein. Proposals, approaches and ideas from actors that promote such sub-scenario will be presented now.

Together with its unconditional support for an ‘IFA 2.0’, the GLP also supports a Swiss EEA accession. In its press release (2022) where the party propagated a continuation of the Bilateral path with institutional elements included, it also suggested an EEA accession as a solution that is equivalent to the IFA in order to safeguard Swiss political interests. Furthermore, the GLP confirms its support for an EEA accession on its website (n.d.). This pro-EEA stance matches with a

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<sup>71</sup> The EEA membership shall not be confused with an EFTA membership. Switzerland has been EFTA founding member since 1960, but has rejected an EEA accession in 1992. However, Switzerland has an observer status in the EEA and is therefore able to track the development of EEA law (FDFA, 2022).

parliamentary postulate (postulate Fischer [21.3678]) that has been submitted to the Federal Council by a GLP parliamentarian in March 2022. The goal of this postulate is to instruct the Federal Council to analyse the option of a Swiss EEA accession (Bieri, 2022). Another relevant political player that supports a Swiss EEA accession is the SP. As mentioned earlier, in its Europe paper (2022) the SP promotes a continuation of the institutionalised Bilateral path. In the same paper, however, the party advocates an EEA accession as an option that should be preferred to an eroding Bilateral path, as the advantages of participation in the internal market would outweigh the disadvantages of an EEA accession (SP, 2022). The SP thus approves an EEA accession *per se*<sup>72</sup>, but – as I will show later – still deems another option to be the optimal scenario.

As a player with similar ideological convictions, Travail.Suisse, the second biggest umbrella organisation of trade unions in Switzerland, also supports an EEA accession and thus sub-scenario 3.1. In a congress paper (2019), Travail.Suisse shows a benevolent attitude towards the EEA: If an EEA accession enables a retention of the accompanying measures, then such step should be considered. The trade union mentions to this effect better conditions in terms of social security and workers' rights that would be transposed into Swiss law through an EEA accession (e.g., parental leave and an accession to the European Labour Authority) (Travail.Suisse, 2019). Two civil society organisations which support an EEA accession – more explicitly and less conditionally than the SP and Travail.Suisse – are EBS and its youth organisation 'yes'. Particularly 'yes' supports an EEA accession in general, due to increased legal certainty, better decision shaping rights, and the presence of a Swiss judge at the EFTA court in the case of an accession (2019a). Yet, both organisations eventually prefer another option as a 'silver bullet', as I will show in sub-scenario 3.2. Lastly, the contribution by Baudenbacher (see sub-scenario 2.4) can also be imagined in a complete manner – i.e., as a Swiss EEA accession, where not only one (the IDS), but all institutional elements would be governed under EEA rules. Baudenbacher himself supports an EEA accession (Gafafer, 2021). Also Tobler & Beglinger (2020) evaluate the arrangement of institutional aspects in the EEA positively, as such would diminish the problem of a 'foreign court'.

It is altogether demonstrative that several organisations which support an EEA accession, mainly do this because they seem to see it as a 'fall-back option' and as a resort in case their preferred option should not be sufficiently politically feasible (SP, EBS, yes). Eventually, the ultimate target of these organisations is an EU accession, hence they opt for 'much more Europe'. This inevitably discloses a last sub-scenario 3.2., which is called '**EU accession**'. The political process to arrive at such is as follows: On the Swiss political side the procedure would be equal to scenario 3.1, including a mandatory referendum (Federal Constitution, Article 140(1)), and, most likely, extensive bargaining with the EU. On the EU side, it would be as follows, once Switzerland has submitted a membership application to the Council of the EU: First<sup>73</sup>, the Council decides

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<sup>72</sup> Although not explicitly mentioned in its Europe paper (2022), I assume that the SP promotes an EEA accession also due to more far-reaching workers' rights and social security laws in the internal market (whose relevant *acquis* would have to be adopted by Switzerland *in globo* in case of an EEA accession, including internal market-related social policy laws (EFTA, n.d.1)) compared to the Bilateral status quo.

<sup>73</sup> Technically, before the Council decides to start negotiations with Switzerland, the Commission issues a non-binding opinion on every country that applies for EU membership. However, since this opinion aims at assessing the country's preparedness for accession, *inter alia* by means of the Copenhagen Criteria (European Union, n.d.; Sedelmeier, 2010), I assume that such step would be a mere formality for a

unanimously to start accession negotiations with Switzerland. Then, accession negotiations are conducted through opening, discussing and closing of policy-themed negotiation chapters; whereby their opening and closing requires unanimous Council decisions. Once all chapters have been closed and an agreement has been reached with Switzerland, an accession treaty will be concluded. This in turn requires unanimity in the Council and a consent from the majority of the European Parliament, before the accession treaty needs to be signed and ratified by all incumbent member states and Switzerland, following their respective constitutional requirements (Sedelmeier, 2010; TEU, Article 49). Only then Switzerland would become an EU member.

As indicated before, there are several actors from politics and civil society that either normatively promote such sub-scenario or descriptively analyse it. The most prominent political actor in this regard is the SP. Besides being positively disposed towards both the continuation of an institutionalised Bilateral path and a Swiss EEA accession, the SP finally perceives a Swiss EU accession to be the best option for Switzerland. While an integrational thrust towards ‘more Europe’ is principally preferred by the party, an EU accession is evaluated as the being the most promising way to act so, because the advantages of such step would clearly outweigh its disadvantages, even more distinctly than an EEA accession would do (SP, 2022). Furthermore and with similar reasoning, also EBS and ‘yes’ promote scenario 3.2. The two organisations formulate an EU accession as the ultimate goal, and they highlight the importance of increased sovereignty (decision-making rights as an EU member) in their position papers (EBS, 2016; 2018; yes, 2019b). Moreover, Grünenfelder & Schellenbauer (2018) qualitatively analyse a hypothetical Swiss EU accession from a descriptive point of view, with its probable positive and negative consequences.

Now that all three scenarios and the nine sub-scenarios have been presented, the next step is to put them into a relational perspective by means of a logically structured overview. In the following subchapter, I suggest two variants.

## 7.2. Arrangement of The Scenarios in An Overview

The following two sections will answer SQ<sub>2</sub> and relate to the third aspect of academic relevance mentioned in chapter 4. Thus, these sections do not strictly refer to scenario development *pe se*, but to a reduction of complexity of the scenario development, by means of a logical, structured overview. A feature that arises from the complexity reduction is the possibility to showcase that the scenarios and sub-scenarios are clearly connected with each other, but also that they distinguish themselves clearly in legal-institutional details and more generally in their degree of integration into the European economic and institutional landscape. It is this **integrational dimension** that I see the most fit to display the (sub-)scenarios in a logical, structured manner. A first probability is to arrange the scenarios by using only one integrational dimension, namely the degree of integration into the EU that the outcomes of a given scenario imply<sup>74</sup>. The depiction

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politically stable and economically advanced country like Switzerland (a single critical point in this case might be the adherence to the aims of a monetary union). Accordingly, also further pre-accession stages, like an association agreement as it has been set up for the 2004 enlargement round (Sedelmeier, 2010), would be superfluous for Switzerland – not least because the country is already largely adapting relevant parts of its laws to the EU *acquis* through the Bilateral agreements and other types of cooperation.

<sup>74</sup> This definition incorporates integration in a holistic manner, thus encompassing legal, institutional and economic integration. For the integrational matrix, this amalgamation will be broken down.

of the scenarios and sub-scenarios along one single *continuous* integrational dimension is termed ‘scenario tree’ (see Figure 4).

### 7.2.1. Scenario Tree

The present scenario tree (see Figure 4) should be read in the following way: The arrow on the bottom represents the degree of integration into the EU that the outcomes of the scenarios and sub-scenarios imply, with an increasing degree of integration from left to right. The oval-shaped area left to the centre of the arrow *roughly* represents the Swiss status quo. Then, starting on the very left, scenario 1 ‘Less Europe’ is a scenario that entails a departure from the status quo to the extent that Switzerland takes a disintegrational step away from the EU. Accordingly, sub-scenario 1.1 is the biggest disintegrational step, followed by sub-scenario 1.3 and sub-scenario 1.2. The latter – a comprehensive FTA – can, depending on the content of the FTA and its substantial similarity with Bilateral agreements, be understood as the ‘smallest’ disintegrational step within scenario 1. More to the right, scenario 2 exhibits a significant bandwidth. Sub-scenario 2.1 is both the sub-scenario with the lowest integrational degree within scenario 2 and the one that is the closest to the Swiss status quo. As for sub-scenarios 2.2 and 2.3, differences in terms of the integrational degree are hardly determinable and essentially depend on the legal and institutional specificities within sub-scenarios 2.2 and 2.3 or on specificities that are mentioned as belonging to sub-scenario 2.4. If anything, sub-scenario 2.3 would integrate Switzerland more into the EU (mainly economically), because it allows for further market access agreements (‘Bilaterals III’). Ultimately, scenario 3 represents the greatest integrational leap, whereas sub-scenario 3.1 goes less far in economic and particularly political integration than sub-scenario 3.2. the latter constitutes the highest possible integrational degree that has been considered in the paper at hand.

### 7.2.2. Integrational Matrix

The second variant on how to arrange the (sub-)scenarios in a logical, structured manner is via an integrational matrix (see Figure 5). To arrive at such, I break the integrational dimension down in order to have two dimensions<sup>75</sup>: a first dimension that signifies the degree of *economic* integration into the EU, and a second dimension signifies the degree of *institutional* integration. With two dimensions, one inevitably arrives at a matrix. By help of this matrix, I will now show-case how the scenarios can be arranged alternatively. Furthermore, this overview will in the next chapter be applied as an alternative approach to assess (or say, *theoretically predict*) the political feasibility of my (sub-)scenarios *only* with the help of the theoretical implications that the integrational matrix renders, derived from two assumptions on Swiss and EU preferences. An alternative, theory-based approach – as opposed to a *systematic* political feasibility assessment – will help to further underpin my results on political feasibility or challenge them.

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<sup>75</sup> By breaking down the single integrational dimension as I have applied it for the scenario tree (see Figure 4), I arrive at three different dimensions of integration: Economic integration (e.g., further market access), institutional integration (e.g., institutional elements as discussed in this paper, or integration into institutions of the contractual partner) and legal integration (any single legal element concluded between the contractual partners). Since legal integration can be found *within* both economic and institutional integration, legal integration as a hypothetical third dimension gets ‘absorbed’ by the two other dimensions, which is why I confine myself to economic and institutional integration.

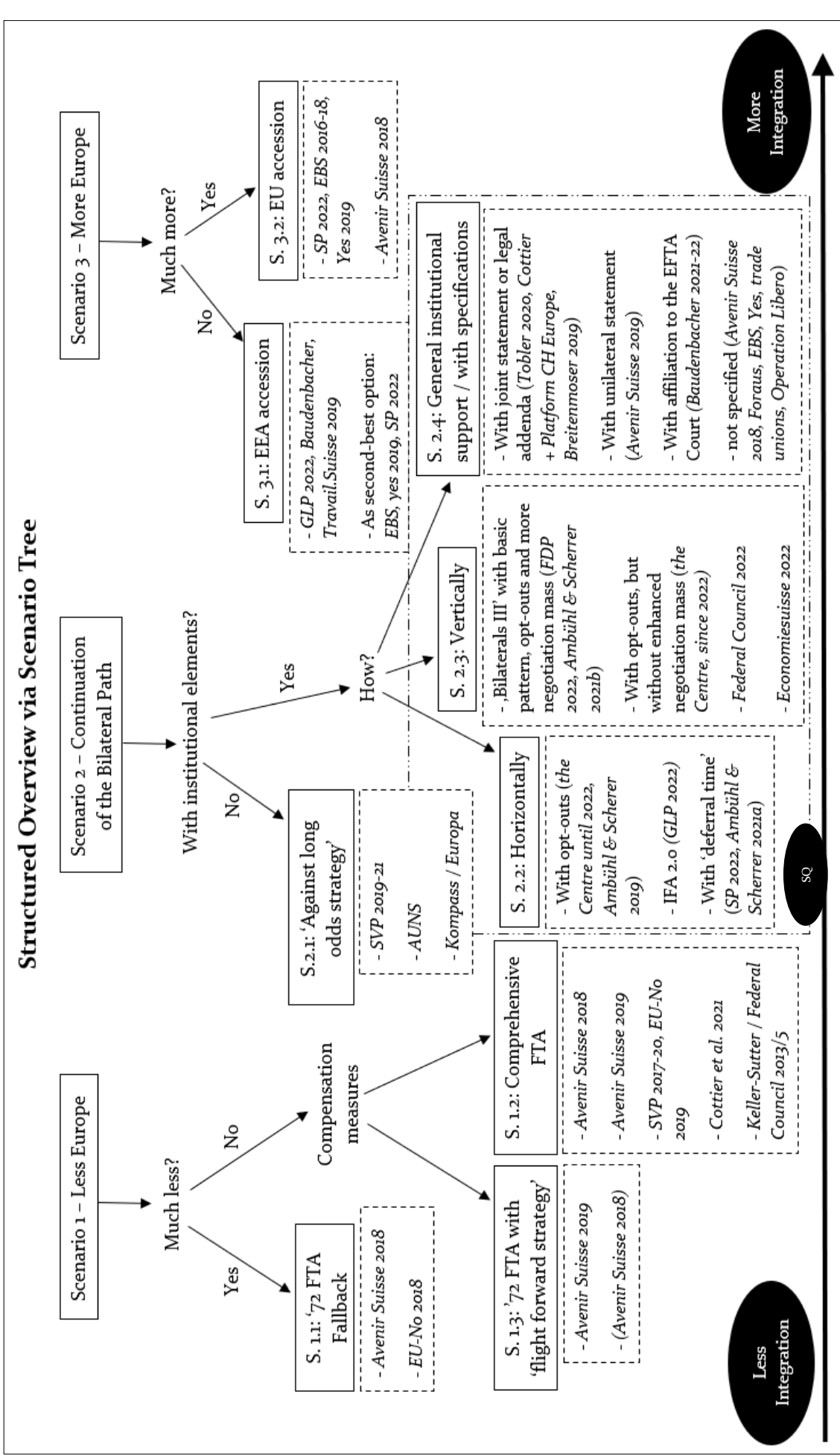


Figure 4: Own Illustration. Very importantly, the Figure itself and the statements in the pertaining chapter 7.2.1 cannot be understood in an exact quantitative manner. A scenario X that is twice as distant from the SQ relative to scenario Y does not by default imply that scenario X leads to twice as much integration into the EU, compared to scenario Y. Rather, the arrangement of the scenarios in the overview is to be understood as a qualitative estimate, where the position of the scenarios is decisive, and not their precise distance from each other. An exception in this regard are scenarios 2.2 - 2.4. Due to constraints in space, they had to be arranged beneath each other, which does yet not indicate that scenario 2.2 leads to more integration than scenario 2.3. If anything, the opposite it the case (with a 'Bilaterals III' approach), but not to be taken for granted.

As regards the arrangement of the (sub-)scenarios, one has to read the integrational matrix as follows: The X-axis indicates the degree of institutional integration, whereas the Y-axis indicates the degree of economic integration. The matrix's centre denominates the Swiss status quo (i.e. the current Bilateral framework that is slowly eroding), with a given reference value of both economic and institutional integration. The diagonal line from the bottom left to the top right corner covers every point within the matrix where the degree of economic integration equals the degree of institutional integration. Starting with scenario 1<sup>76</sup>, its sub-scenarios all result in a decrease of both economic and institutional integration relative to the status quo. The strongest decrease in both integrational dimensions is embodied by sub-scenario 1.1, while sub-scenarios 1.2 and 1.3 both represent a smaller disintegrational step. For all three scenarios I have assumed that the decrease in institutional integration *roughly* equals the decrease in economic integration. In respect of scenario 2, this assumption of equal decrease or increase does not apply for scenario 2.1. A continuation of the Bilateral path would at best result in an increase of economic integration (provided that additional market access agreements with the EU can be concluded), but without institutional elements, institutional integration would remain on the level of the status quo. If institutional elements are included – either vertically or horizontally – the degree of economic integration would approximately correspond to sub-scenario 2.1 (again, supposing that additional market access agreements can be established), however, the level of institutional integration would logically rise, compared to both sub-scenario 2.1 and the status quo<sup>77</sup>. Such constellation thus applies to sub-scenarios 2.2 and 2.3. In the last scenario, the pertaining sub-scenario 3.1 would result in a significant increase in economic integration and in a somewhat lesser increase in institutional integration. This is due to the EEA's nature that enables far-reaching integration into the EU's Single Market, but only a limited involvement in EU institutions. Lastly, sub-scenario 3.2 – an EU accession –, would only add moderate additional economic integration relative to sub-scenario 3.1 (e.g., the Customs Union), but a sharp final increase in institutional integration (such as Switzerland's full inclusion in numerous EU institutions)<sup>78</sup>.

If I intend to make use of the integrational matrix as an alternative approach for assessing political feasibility, the following assumptions<sup>79</sup> have to be set up to harness the matrix's theoretical implications: First, I assume that the EU prefers every position that is *roughly* on the diagonal line in relations with its economic and political partners – following the maxim that any increase in granted ESM access would have to be accompanied by institutional duties, and that no

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<sup>76</sup> In order to further reduce the complexity and to increase the explanatory power of the integrational matrix, I only display the sub-scenarios therein, and not the pertaining scenarios 1-3.

<sup>77</sup> Any additional market access agreement results in an increase in economic integration, while any additional institutional element or any additional involved supranational institution results in an increase in institutional integration. Yet, economic and institutional integration do not exclude each other, both can happen simultaneously (e.g., with a market access agreement that includes institutional elements).

<sup>78</sup> Eventually, these assessments regarding the placement of sub-scenarios 3.1 and 3.2 in the matrix are to be read with reservations. For an ultimate determination of their positions, an in-depth analysis of the economic- and institutional-integrational differences between the EEA and the EU would have to be conducted. Such endeavour would go beyond the scope of this master thesis. It is *inter alia* for this reason that the integrational matrix will not be the main focus within the systematic political feasibility assessment, but only serve as a reflective alternative approach.

<sup>79</sup> Regarding these assumptions the same caveats apply as mentioned in the preceding footnote. Only thorough desk research and theoretical underpinning of my two assumptions would qualify them, the theoretical implications and the pertaining matrix for a full-fledged application in a feasibility analysis.



country can simply benefit from the ESM without being accordingly institutionally integrated into EU institutions. Second, I assume that Switzerland prefers any option (in its relations with the EU) that is *above* the red marked section of the diagonal line. This reflects the Swiss attitude that access to the ESM is welcomed, but simultaneous institutional integration is often rejected, with the justification that such steps would diminish Swiss sovereignty and (legal) self-determination<sup>80</sup>. In other words, I assume that Switzerland prefers any scenario that results in a larger increase in economic integration than in institutional integration, relative to the status quo, or, any scenario that implies expected economic gains that are higher than the expected sovereignty losses. The theoretical implications arising from both assumptions combined are thus: The margin of political feasibility (constituted by the preferences of both Switzerland and the EU) for any scenario is to be found in the area that is demarcated by the red section of the diagonal line and a ‘tolerance range’ right above this section (symbolised by the grey-shaded shape in Figure 5). For a scenario of future Switzerland-EU relations to be politically feasible, the scenario needs to be located within this area grey-shaded area. This holds true for sub-scenarios 2.2, 2.3, 3.1, 3.2 and partly for sub-scenario 2.1. For now, I will abstain from further derivations and return to this *alternative* political feasibility assessment in chapter 8.

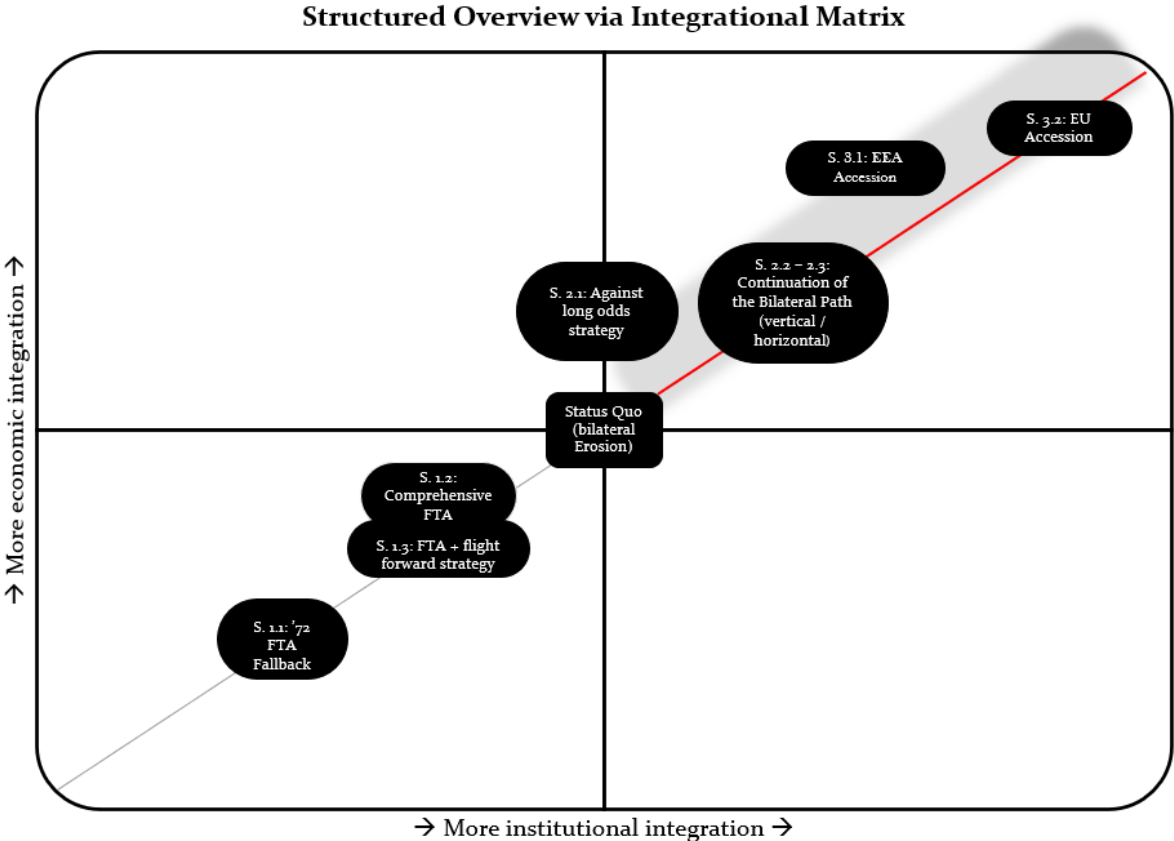


Figure 5: Own Illustration. The same caveat as in Figure 4 applies: The relative position of the sub-scenarios is decisive, and not their precise distance from each other.

<sup>80</sup> To give an example for such attitude, respectively preference: In its party manifesto (2019) and also in statements by Christoph Blocher (2021), the SVP agrees to further economic integration, and at the same time clearly rejects any institutional integration. Moreover, also the ‘Bilaterals III’ approach (FDP, 2022a; Ambühl & Scherer, 2021b) can be interpreted as actively seeking increased economic integration, but only reluctantly conceding added institutional elements (alluding to the mentioned opt-outs in, e.g., the IDS without CJEU involvement).

### 7.2.3. Comparison of Scenario Tree and Integrational Matrix

The scenario tree exhibits more information than the integrational matrix, particularly relating to the approaches, proposals and ideas on future Switzerland-EU relations and regarding scenario development, whereas the integrational matrix allows for more substantial theoretical deductions, including a theory-based – although not necessarily *structured* and *thorough* – political feasibility assessment. Therefore, since a systematic, structured, theory-based and thorough political feasibility assessment has already been developed with the VP theory as a basis (see chapter 6), I will focus on this originally presented approach and only use the feasibility assessment via the integrational matrix as reflective alternative approach.

## 8. Political Feasibility Assessment

The second element of my four-piece analysis can be regarded as its core. It relates to the first aspect of academic relevance (see chapter 4) and to the main research gap derived from academic literature: The lack of a structured, theory-based, thorough and therefore *systematic* political feasibility assessment. Chapter 8 hence answers SQ<sub>3</sub> and SQ<sub>4</sub>. I will now apply such systematic political feasibility assessment on the basis of the VP theory<sup>81</sup> and the **nine steps ensuing from my application of the VP theory**, that I have summed up in chapter 6.2.2. (including the likeliness score), starting with scenario 1, respectively its corresponding sub-scenarios, then doing the same for scenarios 2 and 3. Later I will comparatively conclude my preliminary results on political feasibility, thereby specifically targeting SQ<sub>4</sub>. Ultimately, I will briefly assess the political feasibility of each sub-scenario by means of an alternative theory-based political feasibility assessment that arises from the theoretical implications of the integrational matrix.

### 8.1. Political Feasibility Assessment – Scenario 1

The three sub-scenarios within scenario 1 do not all require a separate political feasibility assessment. I will assess sub-scenario 1.1 independently, before I will evaluate sub-scenarios 1.2 and 1.3 in conjunction (each three with the nine step scheme on p. 36). The reasons I will explain below.

#### 8.1.1. Political Feasibility Assessment – Sub-Scenario 1.1

1) For sub-scenario 1.1., the '72-FTA Fallback, I count the following VPs on the Swiss side: As for institutional VPs, I identify both parliamentary chambers – the National Council and the Council of States –, the Swiss electorate (see chapter 6.2.1.), and, in the case of a popular initiative or a mandatory referendum, also all cantons<sup>82</sup>, since these VPs are all stipulated in the Swiss Federal

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<sup>81</sup> As a brief reminder, I have adapted the VP theory slightly for my purposes: First, I have adapted the definition of partisan VPs to the Swiss context ('every party in each of the two parliamentary chambers whose agreement is needed to form a majority for adopting a given legal act'). Second, I have added a third type of VP beneath partisan and institutional VPs (latent VPs). Third, regarding a VPs cohesion and congruence, I will apply Tsebelis' rules only implicitly and abstain from adhering to them strictly.

<sup>82</sup> In the case of a mandatory referendum and a popular initiative, not only the majority of the people, but also the majority of all cantons is required (23 cantons, 20 cantons with 1 vote, and 6 half-cantons with 0.5 votes, thereby 12 cantonal votes for a majority). This does not apply to facultative referenda.

Constitution<sup>83</sup>. According to Tsebelis' instructions (2010, p. 8) and my definition of partisan VPs, I open each institutional VP and find the following partisan VPs, which are primarily the parties in the two parliamentary chambers: The SVP, the SP, the FDP, the Centre, the Greens and the GLP<sup>84</sup>. Within the Swiss electorate, no partisan VP can be found. In respect of latent VPs, in this case Economiesuisse, the Swiss Employers' Association and further organisations that advocate for an open economy and EU market access have to be taken into consideration. Also, various actors from civil society (EBS, Operation Libero, etc.) I perceive as latent VPs which might in turn influence the veto power of the Swiss electorate as an institutional VP.

2) As for each mentioned VPs veto power, the following can be summarised, based on each VP's congruence (i.e. the distance of its political position towards scenario n compared to other VPs) and cohesion (i.e. the similarity of political positions of the constituent units of the VP towards scenario n), starting with the partisan VPs: The FDP, the Centre, the SP and the GLP all distinctly refuse a fallback to the FTA from 1972 in their 'Europe papers' and position papers (see chapter 7). Together these parties make up for 57.5 % of seats in the National Council and 71 % of seats in the Council of States. The only party that has in the recent past openly supported a '72-FTA fallback is the SVP, which accounts for 27.5 % of seats in the National Council and 15 % of seats in the Council of States. A pattern thus becomes visible in sub-scenario 1.1, which amounts to a bipolar congruential situation, where most parties apart from the SVP exhibit a similar position, while the SVP can be found on the other side of the spectrum with its idiosyncratic preferences.

In terms of cohesion, one might simply assume that party discipline (i.e. cohesion) is high because the parties' manifestos, Europe papers and position papers in the cases of SP, FDP, Centre and GLP speak a clear language and that, as a logical next step, any proposal pursuing sub-scenario 1.1 would be vetoed in the two parliamentary chambers with 57.5 %, respectively 71 % of no-votes. To be on the safe side, however, I take into account the empirical party discipline of the aforementioned parties. Schwarzer (2007) has calculated party discipline for SVP, SP, FDP and the Centre, based on the Agreement Index (AI) by Hix et al. (2005), with his data covering 7,997 federal votes in both parliamentary chambers from 1996 until 2005. Therein, Schwarzer (2007) has also quantified the party discipline within the issue of European politics. By taking

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<sup>83</sup> Importantly, I do not count the Federal Council (i.e., the Swiss government) as an institutional VP. Although the Federal Council has the right to initiate legislation, it cannot be regarded as a VP, since – on federal level – also both parliamentary chambers and each canton have the right to initiate legislation (Federal Constitution, Articles 120, 160 and 181). The Federal Council can therefore be circumvented in the legislative process, which neutralises its veto power. Zenker (2015) comes to a similar conclusion and notes as the three most important VPs in Switzerland both parliamentary chambers and the people.

<sup>84</sup> Both Swiss parliamentary chambers are subdivided into parliamentary factions, and not into parties. However, several factions consist of one party only, and all factions for which this is not the case, consist of one large formateur party and of maximally three additional seats belonging to ideologically affiliated minor parties. To display this issue, the party division (counted as seats per party) within each faction in the two parliamentary chambers *together* is as follows: SVP faction → 59 SVP, three others. SP faction → 48 SP, zero others. Centre faction → 41 Centre, three others. FDP faction → 41 FDP, zero others. Green faction → 33 Greens, two others. GLP faction → 16 GLP, zero others (Swiss Parliament, n.d.2). In conclusion, affiliated parties within factions are of marginal size, and usually, but not *always*, vote in the same way as their 'big brother' within the faction (Schwarz 2007) (and even if there would be perfect party discipline within each faction, electoral outcomes would only differ minimally (Schwarz, 2007)). For these reasons, I treat factions *regarding their party composition* (but not regarding other factors that may affect cohesion) as cohesive units and consequently refer to them as parties, even if I mean the faction.

these numbers as a basis, and therefore, by quantifying cohesion as the degree of party discipline on European issues, I arrive at the following conclusion<sup>85</sup>: In the National Council, where the vetoing against sub-scenario 1.1 is less pronounced, I still arrive at a majority of 56 % against a '72-FTA fallback (SP, FDP, CVP and GLP<sup>86</sup> votes with their respective AI values incorporated, with SVP renegades<sup>87</sup> included), relative to a minority of 29 % in favour of a '72-FTA fallback (SVP votes with their respective AI values, with renegades of the other parties included). The same relation is even more pronounced if I take the division of party seats in the Council of States as a basis: 70 % against and 19 % in favour of sub-scenario 1.1 (renegades included), when I incorporate cohesion estimates from the AI values (Schwarzer, 2007). Furthermore, if I consider that any FTA-related scenario probably receives only fractional support *even within the SVP* (Gafafer & Schäfer, 2022; see also footnote 56), and that the continuation of the Bilaterals is explicitly welcomed by party doyens (Blocher, 2021), I have to assume that in reality the approval ratings for sub-scenario 1.1 would be significantly lower than 29 %, respectively 19 %. In other words, cohesion within the SVP is in reality probably lower than AI values suggest.

**3.a)** To sum up, if I take the number of institutional, partisan and latent VPs as a basis, and if I assess the congruence (bipolar pattern) and the cohesion (only marginal changes compared to an assessment without AI-cohesion quantification) of partisan VPs only, then the two parliamentary chambers become nearly unsurmountable institutional VPs with considerable veto power. With only the SVP (or more likely, segments of the party) as an advocate for sub-scenario 1.1, and all other major parties with the exception of the Greens<sup>88</sup> clearly against it, the likeliness for sub-scenario 1.1 **approximates zero**. This arises from the very high probability that both parliamentary chambers will form a strong institutional and several strong partisan VPs against such sub-scenario, thereby making it practically impossible for the SVP to put its bill through. According to the scheme of my political feasibility assessment (see chapter 6.2.2), this situation enables me to apply step 3.a), and therefore to skip steps 4) – 6) and to go directly to step 7). Also an analysis of the veto power of further institutional or latent VPs becomes redundant in the present situation, as an (almost) certain veto from one parliamentary chamber is a sufficient condition to obstruct the adoption of sub-scenario 1.1.

**7 & 8)** Based on steps 1) and 2), the political feasibility of sub-scenario 1.1 approximates zero. Lacking congruence of partisan VPs in both parliamentary chambers together with sufficiently strong cohesion within SP, FDP, Centre and GLP as well as lacking cohesion within the SVP make the implementation of sub-scenario 1.1 within the Swiss political arena *almost impossible*.

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<sup>85</sup> For all calculations relating to the AI value used in chapter 8, see Appendix C.

<sup>86</sup> For the GLP, no AI value could be calculated by Schwarzer (2007), since the party was not yet in parliament from 1996-2005. Therefore I have used the arithmetic average of SVP, SP, FDP and Centre AI values as a proxy for cohesion within the GLP. The same applies to sub-scenarios 1.2 and 1.3.

<sup>87</sup> As renegades I define party dissidents that do not vote according to the party majority and thereby diminish the party's internal cohesion and its AI value.

<sup>88</sup> Supposedly, the Green Party would also vote against sub-scenario 1.1 and thereby make the picture even clearer and render the parliamentary chambers even stronger VPs. This can be deduced from their support for the continuation of the Bilateral path with institutional elements included (scenario 2.4), which in principle excludes support for scenario 1 or any sub-scenario therein. However, since the Greens have not explicitly expressed their rejection against an FTA-related scenario in an official document (unlike SP, FDP, Centre and GLP), I have decided to exclude the party from steps 1 and 2 of my political feasibility assessment in scenario 1. Yet, the situation still allows for reliable conclusions.

This supersedes a political feasibility assessment of this sub-scenario in the EU political arena. Also compared to other sub-scenarios, sub-scenario 1.1 is the least feasible one, together with the other two sub-scenarios from scenario 1, as I will show later.

9) The only logical likeliness score for sub-scenario 1.1 arising from steps 1), 2), 7) and 8) is as follows: According to my political feasibility assessment, it is **almost impossible** that the assessed sub-scenario 1.1 will be implemented in the Swiss and EU political arena, relative to the political feasibility of other sub-scenarios that have been assessed in this paper.

### **8.1.2. Political Feasibility Assessment – Sub-Scenarios 1.2 and 1.3**

Generally, the parties that explicitly refuse a 1972 FTA fallback (SP, FDP, Centre, GLP), do not specify whether they only refuse an unaltered 1972 FTA or also any other type of FTA-based relationship with the EU, whether that may be a comprehensive FTA or the 1972-FTA with market liberal countermeasures (one exception notwithstanding). One way to proceed is therefore to entirely adopt the assumptions from points 1 and 2 of sub-scenario 1.1 (number, congruence and cohesion of VPs) for both sub-scenarios 1.2 and 1.3. Since only very scarce factual information that would suggest significant differences in policy preference distributions (i.e., in congruence and cohesion) is present, such step is academically justifiable. However, based on the nature and content of the two other sub-scenarios within scenario 1, some assumptions that were set up for sub-scenario 1.1 can be slightly altered and adapted to the novel contexts, whereas most assumptions will still be retained. Moreover, nature and context of sub-scenarios 1.2 and 1.3 is to a large extent shared and thus similar, which enables me to analyse them together (i.e., they are not sufficiently different from each other in the policy preference changes that they might effectuate relative to sub-scenario 1.1).

The second sub-scenario that is to be assessed on its political feasibility is the ‘Comprehensive FTA’. It provides that the FTA from 1972 gets modernised after Switzerland terminates the Bilaterals I package. The modernisation includes – according to the different approaches, proposals and ideas on sub-scenario 1.2 - further reductions of tariffs and quantitative restrictions in the agricultural sector, liberalisations in the financial sector and in services, but still no provisions on free movement of persons or on mutual recognition of conformity assessments. The last sub-scenario within scenario 1 is the ‘FTA with flight forward strategy’. This sub-scenario includes a unilateral termination of the Bilaterals I package and a retention of the FTA from 1972, combined with compensation measures to absorb the economic shock. These are a liberalisation of the agricultural sector, a business tax cut, an expansion of the FTA framework with third countries, further privatisations of public enterprises and a unilateral Swiss opening towards foreign investors. It stands to reason that the substantial policy area expansions (from sub-scenario 1.2) and the market liberal countermeasures (from sub-scenario 1.3) have the potential to shift political preferences compared to sub-scenario 1.1 and thus require an adjustment of the partisan VPs’ cohesion. However, as for the number of VPs and their congruence, I largely adopt the assumptions from sub-scenario 1.1, with only minor changes:

1) The partisan and institutional VPs on the Swiss side remain the same as in sub-scenario 1.1. Yet, in respect of latent VPs, the major trade unions and the Swiss Farmers’ Union have to be added (as they might oppose privatisations, respectively agricultural liberalisations and further

reductions of tariffs and quantitative restrictions in the agricultural sector), whereas *Economiesuisse* might not be such a pronounced latent VP anymore (e.g. due to the business tax cut). At this point it becomes visible that sub-scenarios 1.2 and 1.3 are remarkably similar not just in their nature and substance, but also in the shift in political preferences that they provoke, relative to sub-scenario 1.1. Both scenarios exhibit a general market liberal thrust (without additional compensating welfare state safeguards), and both aim at a liberalisation of the agricultural sector, either generally or through specific measures.

2) Thus, in the second step most assumptions from sub-scenario 1.1 can be retained, but the nature of both the flight forward strategy and the comprehensive FTA with their market liberal imprints allow for slight adjustments in cohesion of partisan VPs. I thus begin again with an assessment of partisan VPs, and I leave my assumptions as regards those VPs' general congruence unaltered (i.e., I retain the bipolar pattern). If I take into account the cohesion of the partisan VPs, adjustments can be deployed for the following reasons: First, agricultural liberalisations and reductions of trade barriers in the agricultural sector are likely to increase agricultural competition and to decrease the profit margin for Swiss farmers. Therefore farmers' representatives in both parliamentary chambers would most probably oppose both sub-scenarios 1.2 and 1.3. Since farmers are disproportionately highly represented in the SVP, I lower the SVP's AI value in the European politics issue (Schwarz, 2007) down from 0.874 to 0.5, to accommodate for the presumed lower support for both sub-scenarios within the SVP. Second, market liberal reforms (whether that may entail liberalisations in the agricultural or the financial sector, or business tax cuts) are likely to be supported by the libertarian wing of the FDP. Hence, I lower the FDP's AI value in the European politics issue (Schwarz, 2007) down from 0.833 to 0.5, to accommodate for the presumed lower rejection for scenarios 1.2 and 1.3 within the FDP. Third, any kind of market liberal reform, but particularly business tax cuts and privatisations are likely to be rejected by the SP. Moreover, the SP is the only major partisan VP that does not in a rough manner reject an FTA-based relationship with the EU in general, but that specifically refuses a modernised / comprehensive FTA in its Europe Paper (SP, 2022). This explicit rejection of sub-scenario 1.2 together with the SP's high expected cohesion against economic liberalisation measures (as in sub-scenario 1.3) require me to increase the SP's AI value in the European politics issue (Schwarz, 2007) up from 0.945 to 1, to accommodate for the presumed *even* higher rejection of sub-scenarios 1.2 and 1.3<sup>89</sup>. These slight changes in AI values are supposed to reflect the shift in preferences that both sub-scenarios might simultaneously trigger: Cohesion in the SVP *for* and

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<sup>89</sup> I have set up these assessments in the following manner: First, according to a list of Swiss parliamentarians issued by the Swiss Farmers' Union (SFU, 2019), I deem 19 members of the two parliamentary chambers to be particularly closely affiliated to farming, due to them being farmers themselves or presiding over an agricultural association. Out of these parliamentarians, roughly 70 % are SVP members, which in theory drastically decreases the SVP's cohesion in favour of sub-scenarios 1.2 and 1.3. Second, Mühlethaler & Grädel (2001) theoretically stipulate the possibility of a libertarian wing within the FDP. According to the Swiss voting advice application 'Smartvote' (2022) – and depending on what one defines as 'libertarianism' –, roughly 20 to 40 % of FDP parliamentarians locate themselves in the right-wing-liberal corner and thus as libertarian (as opposed to a social-liberal group and a few centrists within the FDP). The adjusted AI value accommodates for this estimated share of libertarians within the party. Third, according to Smartvote (2022), the general cohesion among SP parliamentarians is very high; they form a relatively homogeneous cluster, and distinctive wings (apart from 3-4 social-liberal outliers) are not recognisable. It is therefore theoretically justifiable that a radical market liberal reform would provoke an outstandingly cohesive voting response from the SP.

in the FDP *against* sub-scenarios 1.2 & 1.3 is now decreased, while cohesion within the SP *against* these sub-scenarios is now increased. Such adjustments are simplified approximations to reality stemming from ideological preferences, but not empiricism-based adjustments.

Further adjustments that would ‘emancipate’ sub-scenarios 1.2 and 1.3 from sub-scenario 1.1 cannot be applied, due to lack of information about preferences. I assume, however, that cohesion within the Centre and GLP would not change when the FTA fallback would be tempered by the agreement’s modernisation or alternatively absorbed through market liberal reforms.

The results with the adjusted AI values show an increased opposition *against* sub-scenarios 1.2 and 1.3 in the National Council compared to sub-scenario 1.1 (up to 59 % from 56 %, renegades from the SVP included), but also decreased support both sub-scenarios relative to sub-scenario 1.1 (down to 26 % from 29 %, renegades from the other parties included). The Council of States shows a less clear picture than in sub-scenario 1.1, with 69 % *against* sub-scenarios 1.2 and 1.3, and 22.5 % in favour (again, renegades are included). Still, this slight reduction in opposition votes does not change the outcome that more than a two-third majority in the Upper Chamber opposes sub-scenarios 1.2 and 1.3. Moreover, just as in sub-scenario 1.1, approval ratings are likely to be overestimated and therefore lower than 26 % and 22.5 %, respectively. This is due to the reported disunity on FTA-related scenarios within the SVP (Gafafer & Schäfer, 2022; Blocher, 2021), which in reality *might* abate the SVP’s AI value to much less than 0.5.

**3.a)** In conclusion, if I assume for sub-scenarios 1.2 and 1.3 the same bipolar congruential pattern as in sub-scenario 1.1, with partisan VPs maintaining their basic stance (SP, FDP, Centre and GLP *against*, SVP in favour), but I adjust for slight changes in political preferences that the market liberal countermeasures theoretically effectuate. As a result, cohesion decreases within SVP and FDP and increases within the SP, but the relations in respect of parliamentary opposition and approval for sub-scenarios 1.2 and 1.3 remain similar compared to sub-scenario 1.1. The marginally shifted approval ratings (relative to sub-scenario 1.1 *lower* in the National Council and *higher* in the Council of States) mainly stem from the more distinct features of a flight forward strategy and a comprehensive FTA, which in turn allow for more precise assumptions on cohesion. Most importantly, both parliamentary chambers would refuse both sub-scenarios with a clear majority, which again suggests a high probability that both parliamentary chambers will form a strong institutional and several strong partisan VPs *against* sub-scenarios 1.2 and 1.3, albeit differently constituted than in sub-scenario 1.1. Hence, the likeliness of these two sub-scenarios **approximates zero**, which enables me to go directly to step 7). Just as in the previous cases, an analysis of the veto power of further institutional or latent VPs becomes superfluous, as a veto from one parliamentary chamber is sufficient to obstruct the adoption of sub-scenarios 1.2 and 1.3.

**7 & 8)** Based on steps 1) and 2), the political feasibility of sub-scenario 1.2 approximates zero. Lacking congruence of partisan VPs in the National Council and the Council of States together with sufficiently strong cohesion within SP, Centre and GLP as well as lacking cohesion within the SVP make the implementation of sub-scenario 1.2 within the Swiss political arena *almost impossible*. This supersedes a political feasibility assessment of this sub-scenario in the EU political arena. Together with sub-scenario 1.1, the present sub-scenario 1.2 is the least feasible one. The same statements apply to sub-scenario 1.3.

9) The logical likeliness scores for sub-scenarios 1.2 and 1.3 arising from steps 1), 2), 7) and 8) are as follows: According to my political feasibility assessment, it is **almost impossible** that the assessed sub-scenarios 1.2 and 1.3 will be implemented in the Swiss and EU political arena, relative to the political feasibility of other sub-scenarios that have been assessed in this paper<sup>90</sup>.

## 8.2. Political Feasibility Assessment – Scenario 2

Sub-scenarios 2.1, 2.2 and 2.3 do all require a separate feasibility assessment. Sub-scenario 2.4 cannot be tested on its political feasibility due to its residual function. However, as described in footnote 66, institutional inputs from that sub-scenario can be applied to adjust the political feasibility of sub-scenarios 2.2 and 2.3. Just as before, the nine-step-scheme will be applied.

### 8.2.1. Political Feasibility Assessment – Sub-Scenario 2.1

1) For sub-scenario 2.1, the ‘Against long odds strategy’, I identify the following VPs on the Swiss side: First, the institutional and partisan VPs remain the same as in sub-scenarios 1.1, 1.2 and 1.3. Latent VPs largely remain the same too – particularly Economiesuisse and the Swiss Employers’ Association might, however, this time be more pronounced latent VPs, because an intended continuation of the Bilateral path without institutional elements included might lead to its erosion, often induced by EU measures (see chapter 1.1, and footnote 24). This erosion is in turn felt by exporting enterprises (Hug Alonso et. al., 2022), which are *inter alia* represented by economic associations. Pro-European civil society actors (e.g. EBS, Operation Libero, P-S-E) might be similarly keen VPs as in the previous sub-scenarios, as they might refuse an *eroding* Bilateral path without institutional elements in the same manner as no Bilaterals at all. Lastly, contrary to sub-scenarios 1.2 and 1.3, the Swiss Farmer’s Union cannot be seen as a latent VP anymore, as this sub-scenario does presumably not affect the status quo of farmers greatly.

2) Starting with assessing the veto power of partisan VPs, the bipolar congruential pattern from the previous three assessed sub-scenarios – as a basis for analysing cohesion in this pattern – can be largely maintained and complemented with the Greens. SP, FDP, the Centre, GLP and the Greens are supposed to reject the continuation of the Bilateral path without institutional elements, with only the SVP remaining as a supporter of this sub-scenario. The justification for using the same pattern again is reflected in the parties’ statements: In its Europe paper (2022), the SP explicitly refuses an eroding Bilateral path that does not contain institutional elements<sup>91</sup>. The same applies to the GLP, which invariably approves ‘everything institutional’ and deems institutional elements to be indispensable to the evolvement of Switzerland-EU relations (e.g., in its position paper from 2018). Also the Centre and the FDP describe the inclusion of institutional elements principally as inevitable, opt-outs notwithstanding (Centre, 2022a; FDP, 2022a).

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<sup>90</sup> The shifted approval ratings on the two parliamentary chambers cannot be overinterpreted, as they stem from the additional context only. Realistically, I assume that all three sub-scenarios are similarly impossible to be adopted.

<sup>91</sup> The party’s reasoning as of why the continuation of the Bilateral path *without* institutional elements would lead to its erosion is that, without dynamic adoption of EU laws, Switzerland would gradually lose its access to the ESM – hence the Bilateral agreements would lose their legal validity and they start to erode (SP, 2022). This observation and its perceived harmfulness is generally shared by FDP, Centre and GLP, but not by the SVP.



Whereas the Greens have not explicitly expressed their rejection against an FTA-related scenario in an official document, the party deems institutional elements as crucial to develop the Bilateral path further (2022). Therefore the party can now be included in the bipolar congruential pattern, as the Greens' stance inevitably amounts to a distinct rejection of sub-scenario 2.1. Ultimately, the SVP as well as affiliated organisations (e.g., AUNS) support the continuation of the Bilateral path, but vocally reject institutional elements (e.g., in the SVP party manifesto (2019)).

While the congruential pattern can thus largely be retained, empirical observations and theoretical assumptions on party preferences again give rise to an adjustment of the parties' cohesion in parliamentary votes on European issues – the latter expressed in their AI value (Schwarz, 2007). First, regarding the GLP's AI value I have in the cohesion assessments of the previous sub-scenarios used a proxy (see footnote 86) which I suppose to be too low (i.e. under-estimating the GLP's cohesion on sub-scenario 2.1), given its unconditional support for institutional elements. I thus raise the GLP's AI value from 0.884 (proxy value) to 0.95, to account for its supposed clear rejection of a continuation of the Bilateral path without institutional elements. Second, several FDP National and State Councillors can be found among the members of the alliance 'Kompass / Europa', which promotes sub-scenario 2.1. This stands in contrast to the FDP's supposed rejection of sub-scenario 2.1 and hints at a low cohesion level, which forces me to decrease the party's AI value from 0.833 to 0.5<sup>92</sup>. Third, also a few members of the Centre can be found among Kompass / Europa members (therein National Councillors, too), albeit less than in the case of the FDP. This requires me to slightly decrease the Centre's AI value (Schwarz, 2007) from 0.855 to 0.8, in order to statistically reflect the supposed marginal decrease in cohesion within the Centre. Fourth, the SP's and SVP's AI values I leave unchanged<sup>93</sup> – in the case of the latter, I expect no opposition against sub-scenario 2.1 from the 'farmers' wing', since the sub-scenario does not envisage agricultural deregulations.

By taking the bipolar congruential pattern as a basis, and by incorporating the cohesion adjustments described above, the veto power of the partisan VPs translates into the following relations in parliament: In the National Council a majority of 67.5 % rejects sub-scenario 2.1, while a minority of 31.5 % supports said sub-scenario. In the Council of States, a majority of 75 % rejects the continuation of the Bilateral path without institutional elements, as opposed to a minority of 24.5 % which is in favour of such development<sup>94</sup>. However, to render the results comparable to sub-scenarios 1.1, 1.2 and 1.3, cohesion estimates on the Greens have to be excluded. Now the

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<sup>92</sup> A further justification for a low cohesion level within the FDP may be found in the sub-scenario's substance: A continuation of the Bilateral path, including additional market access agreements, but without institutional elements included, amounts to an approval of economic integration in conjunction with a rejection of institutional integration. Such attitude can be interpreted as libertarian. According to Smartvote (2022), a share of 20-40 % of federal FDP parliamentarians can be estimated as belonging to the party's libertarian wing, who might thus vote against the party's official position on sub-scenario 2.1. The AI value is therefore adjusted to account for the estimated share of libertarians within the party.

<sup>93</sup> For the Greens, no AI value has been calculated by Schwarzer (2007). Therefore I have used the arithmetic average of SVP, SP, FDP and Centre AI values as a proxy for cohesion within the Greens.

<sup>94</sup> The percentages in for both parliamentary chambers do not add up to 100 %, but to 99 % and 99.5 %, respectively. This is fuzziness is caused by rounding of numbers and is of no consequence, as the calculations themselves base on estimates, and because the relations (e.g., three quarters in the Council of States as opposed to one quarter) are clear enough to not be diminished in their explanatory power by the rounding errors.

results show a majority of 53.5 % against sub-scenario 2.1 in the National Council, and a respective majority of 65 % against the sub-scenario in the Council of States (minority percentages remain unchanged). The support for sub-scenario 2.1 is higher than the support for any sub-scenario within scenario 1, which is due to the SVP's higher cohesion in the present sub-scenario. Yet it is by far not sufficient for the SVP to realise its goal.

**3.a)** Provided that SP, GLP and the Greens are distinctly against sub-scenario 2.1, that FDP and the Centre are also against it, but with lower cohesion, and that only the SVP supports sub-scenario 2.1, then the results suggest that the political feasibility of this sub-scenario approximates zero within the Swiss political system. An overwhelming majority of 75 % (or 65 %, without the Greens) against the 'long odds strategy' in the Council of States can be considered sufficient to obstruct the adoption of this sub-scenario. Although the chances of adoption and thus the political feasibility are *marginally* higher than in the case of the previous three sub-scenarios (due to the SVP being more cohesive), the opposition still constitutes a strong institutional and several sufficiently strong partisan VPs that can block sub-scenario 2.1 without difficulty. An analysis of other institutional, partisan or latent VPs' veto power can therefore be omitted, as well as an analysis of the sub-scenario's political feasibility within the EU arena, which allows me to skip steps 4), 5) and 6) and to go directly to step 7).

However, a glimpse at the political feasibility of sub-scenario 2.1 within the EU is still useful, and clarifies why the name 'against long odds strategy' has been chosen. Effectively, the EU has repeated numerous times that no new market access agreements can be concluded without an institutional framework (Oesch, 2020a, p. 25)<sup>95</sup>. Therefore, even if sub-scenario 2.1 would stand a chance in the Swiss political arena (which is highly unlikely), the endeavour of further developing the Bilateral path without institutional elements included would meet its definite Waterloo at latest in the EU political arena, when negotiations on sub-scenario 2.1 would be initiated.

**7 & 8)** Based on steps 1) and 2), the political feasibility of sub-scenario 2.1 approximates zero. Unconditional support from one party alone is not enough to pass the bill, as long as the other partisan VPs in parliament are at least *reasonably* cohesive in their voting behaviour and congruent in their policy preferences. This makes the implementation of sub-scenario 2.1 within the Swiss political arena *very unlikely*. Compared to sub-scenarios 1.1 – 1.3, the present sub-scenario is somewhat more feasible, given the unequivocal support from the SVP<sup>96</sup>.

**9)** The likeliness score for sub-scenario 2.1 arising from steps 1), 2), 7) and 8) is as follows: According to my political feasibility assessment, it is **very unlikely** that the assessed sub-scenario

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<sup>95</sup> To corroborate this statement, I add three explicit instances where EU institutions have insisted on institutional elements as a condition for further market access agreements: First, in its conclusions on EU-Switzerland relations the Council of the EU (2019, para. 9) has described an institutional frame as a prerequisite for additional market access agreements. Second, in late 2021, Commissioner Maroš Šefčovič has reinforced this stance (Euractiv, 2021). Third, in an interview (Gafafer, 2022c) Petros Mavromichalis, EU Ambassador to Switzerland and Liechtenstein, repeats the same narrative explicitly.

<sup>96</sup> This unequivocal support from the side of the SVP (which in turn leads to higher approval ratings in the parliament for sub-scenario 2.1) is the reason for which scenario 2.1 is *very unlikely*, as opposed to being *almost impossible* (the latter being the case for sub-scenarios 1.1 – 1.3, where SVP support is at best equivocal). In other words, the increased approval for sub-scenario 2.1 can be translated into a marginally higher likeliness score, in order to statistically express the marginally higher political feasibility.

2.1 will be implemented in the Swiss and EU political arena, relative to the political feasibility of other sub-scenarios that have been assessed in this paper.

### 8.2.2. Political Feasibility Assessment – Sub-Scenario 2.2

1) For sub-scenario 2.2, the ‘Horizontal integration of institutional elements’, the institutional and partisan VPs on the Swiss side remain the same as in the previous scenarios. However, the Swiss electorate might in this sub-scenario play a more significant role. As for latent VPs, trade unions (and as their partisan offshoot, trade union representatives in both parliamentary chambers) are paramount, as I will show below. Also, eurosceptic political and civil society organisations (AUNS, EU-No, Kompass / Europa, etc.) might appear as latent VPs. Ultimately, the Swiss Farmers’ Union can in this sub-scenario not be discerned as a vocal latent VP.

2) I again start with assessing the veto power of partisan VPs in the Swiss parliament. Other than in all previous sub-scenarios, the bipolar congruential pattern (all parties except the SVP against the sub-scenario) is not distinguishable anymore. This time the pattern amounts to three groups in parliament, with majority consisting of SVP, Centre and FDP refusing the present sub-scenario, a minority comprising the Greens and the GLP supporting it, while the SP’s basic stance is hardly assessable. More precisely, with its political position the GLP is the closest to sub-scenario 2.2, the SVP is the furthest, and all other parties are in-between. However, this congruence pattern can largely be regarded as futile, due to low cohesion in most parties, and because several parties’ approval to sub-scenario 2.2 is contingent upon the incorporation of opt-outs and further specificities in the eventual horizontal or vertical agreement (see chapter 7.1.2.). In order to be able to assess cohesion of partisan VPs, the likeliness that the most salient opt-outs<sup>97</sup> can be bargained and achieved or otherwise resolved (so that the concerns that form the basis for these opt-out demands are satisfied), had to be analysed *before* my assumptions on their likeliness were integrated into cohesion assessments. The analysis of opt-outs and further specificities and on their likeliness to be accommodated applies to sub-scenario 2.2 and 2.3 both. The eventual conclusion on each opt-out area forms an additional factor in affecting a party’s cohesion. The analysis on opt-outs and their likeliness can be found in **appendix B**.

With this analysis on opt-outs and further specificities in mind, I analyse the partisan VPs’ cohesion by means of the parties’ AI value in European politics’ votes (Schwarz, 2007). GLP and SVP are the only parties with a high expected cohesion on sub-scenario 2.2. The GLP agrees to ‘everything institutional’, whether that may be vertically or horizontally arranged<sup>98</sup>. Also, no objections or requested demands on opt-outs in the above discussed areas have been voiced in

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<sup>97</sup> These opt-outs and specificities have been introduced in chapters 2 and 7. The most salient ones (i.e., the ones that have been mentioned the most often by political parties in their official documents and by various political and civil society stakeholders in response to the Federal Council’s domestic consultation on the IFA draft in 2018-19) are to be found in the area of the accompanying measures and wage protection, in the area of the CRD and its supposed integration into the AFMP by means of dynamic adoption, in the area of state aid provisions, and in the area of the IDS, particularly regarding the involvement of the CJEU in the IDS through compulsory interpretation of EU law.

<sup>98</sup> Principally the GLP supports a horizontal ‘IFA 2.0’ (2022). However, due to its unconditional support for a continuation of the Bilateral path with institutional elements in general, it is to assume that the GLP would also support the same elements incorporated vertically and supplemented with further market access agreements, hence the ‘Bilaterals III’ from sub-scenario 2.3.

official documents (GLP, 2018; 2019; 2022), neither are there any mentionable trade unionists in the party that could lower cohesion. Thus, nothing hints at any opposition against sub-scenario 2.2 within the GLP, which is why I assign the party an AI value of 1, with absolute cohesion. The SVP I assume to reject sub-scenario 2.2 with the cohesion level assigned by Schwarzzer (AI value of 0.874). The justification for such is the party's clear refusal of institutional elements, particularly regarding dynamic adoption of EU law and the IDS (SVP, 2019; Blocher, 2021). However, renegades that dissent from the party majority cannot be completely ruled out<sup>99</sup>, therefore I fully adopt Schwarzzer's suggested AI value for the SVP, in order to accommodate for unexpected dissidents within the party. In conclusion, GLP and SVP are the two parties with the highest cohesion values due to them being the only full-blown 'pro-European', respectively 'anti-European' parties in parliament.

As for the SP, one may expect that the party generally supports sub-scenario 2.2, since the party has suggested an approach that leads to such sub-scenario in its roadmap document (2021) and because the SP has 'in principle' wished for the conclusion of a horizontal IFA in a public statement (2019) and supported the continuation of the institutionalised Bilateral path in a recent Europe paper (2022). However, the SP's support for the present sub-scenario depends on (at least) two factors: First, the extent to which the party is willing to accept a second-best solution compared to an EEA and to an EU accession may be decisive. Second, even more relevant is the extent to which accompanying measures and wage protection provisions are safeguarded in a horizontal institutional agreement. The first aspect is briefly assessed; most likely the SP is willing to accept a second-best solution that does not accurately resemble its notions, because it frames the institutionalised Bilateral path as a necessary intermediate step on Switzerland's way into the EU (SP, 2022) and would therefore support sub-scenario 2.2.

In respect of the second aspect, the matter is more complex and significantly dilutes cohesion within the SP. According to an official statement (2019), the party only supports European integration under the condition that the accompanying measures and wage protection provisions are maintained and not excluded from enlargement in the future. Accordingly, a factor that might affect the SP's cohesion, is the number of trade union representatives in the SP who would actively object an insufficient solution in the realm of accompanying measures and wage protection provisions, and the number of SP parliamentarians who give precedence to European integration. On the one hand, Renz (2019) estimates 10-15 National Councillors that can be regarded as trade unionists, thereof at least half in the SP. On the other hand, several SP politicians have recently criticised the rigid stance of trade unionists and segments of the SP (Neuhaus, 2022; Nussbaumer, 2018). These differences in preferences might significantly weaken internal cohesion within the SP, to the extent that cohesion can be only approximately assessed and furthermore vastly depends on the eventual arrangement of accompanying measures within the institutional solution. To the least, this latter point is rather likely to be concluded satisfactory for various (but not all) trade unionists within the SP (see appendix B), which may induce them to agree to sub-scenario 2.2. I thus suppose that the SP in general supports this sub-scenario with a slight majority and very low cohesion (AI value 0.2), due to its internal division.

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<sup>99</sup> Probable renegades might come from the party's moderate wing. Political self-determination of Swiss national parliamentarians on Smartvote (2022) suggests the existence of a smaller moderate-centrist wing within the SVP.

In the case of the Greens, their fundamental support for an institutionalised Bilateral path has been clearly expressed in official documents (Greens, 2019a; 2022). However, on its webpage (n.d.) and in a public statement (2019b), the party insists on adherence to Swiss accompanying measures and wage protection laws in any agreement that aims at further development of the Bilateral framework. Accordingly, the Greens have criticised gaps regarding wage protection in the IFA (2019), albeit more mildly than the SP. Moreover, there are several trade union representatives within the party (Renz, 2019). The situation is thus similar as within the SP – general approval to sub-scenario 2.2, but concerns regarding wage protection. However, the Green’s support and cohesion regarding sub-scenario 2.2 is presumably higher than within the SP: First, likely satisfactory conclusion of opt-outs may convince some trade unionists within the party to step over. Second, the party does not explicitly frame sub-scenario 2.2 as an intermediate solution but as the preferred way to go. Third, critique on the 2018-IFA draft has been formulated more mildly. Fourth, the party might be pressured by its voter basis to accept sub-scenario 2.2, since a majority of its voters support such development (GFS Bern, 2022), which is not the case for SP voters. I therefore arrive at an AI value of 0.5 for the Green party, which translates into support for the present sub-scenario, but with moderate cohesion.

Supposedly, the Centre would not support sub-scenario 2.2 anymore (which is why I categorise the party accordingly in the congruence pattern), as the party has changed its stance from supporting a *horizontal* to supporting a *vertical* integration of institutional elements. I suppose that behind such step *inter alia* tactical considerations and electoral goals can be detected, as the party may not want to flog a dead horse that has been waived in 2021<sup>100</sup>. Nevertheless, some Centre parliamentarians might yet support a horizontal integration of institutional elements, since the party as a whole has done so in the past. The extent of support of these renegades in turn I assume to depend on the substance of the opt-outs that the EU is willing to concede in the areas of primary importance for the Centre: the CRD and the accompanying measures. In both cases, the party suggests safeguard clauses, which might, following my analysis (see appendix B), indeed be accepted by the EU side, provided the clauses are specific and temporary. I thus conclude that the Centre in general refuses sub-scenario 2.2, but that several dissenting parliamentarians still agree to the sub-scenario, provided safeguard clauses or a different type of solution can be found for the party’s objections. This amounts to a low cohesion estimate for the party with an AI value of 0.4 (i.e. 30 % of Centre parliamentarians supporting the sub-scenario).

The situation in the FDP is similar as in the Centre. The party does presumably not support sub-scenario 2.2, as it is to date a main advocate for a vertical integration of institutional elements (FDP, 2022a). Changing its opinion in this issue might thus degrade the FDP’s credibility. Furthermore, the present sub-scenario would not allow for recognisable possibilities to expand the negotiation mass, as wished for by the party (FDP, 2022a). On the other hand, renegades might still be found in the FDP for two reasons: First, several parliamentarians may not want to appear as naysayers in the light of the opportunity to stabilise the institutionalised Bilateral path which is principally promoted by the FDP. Second, the appearance of renegades might be a logical consequence of the rather infrequent occurrence of disciplinary measures within the FDP (Bailer &

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<sup>100</sup> A similar reasoning has been suggested by Farman (2022): The more differences a vertical integration of institutional elements would eventually exhibit compared to the failed horizontal IFA, the easier it would be to defend it politically (i.e., domestically).

Bütikofer, 2015). Eventually, the renegades' support for sub-scenario 2.2 depends on whether the party's primary opt-out demands regarding institutional elements are satisfied. As regards the CRD, the FDP recommends a well-defined safeguard clause (FDP, 2022a), which is likely to be achieved. For the IDS the party recommends a solution as in Ambühl & Scherer (2021b), which is rather unlikely to be attained. With a setting comparable to the Centre and without further indications that would suggest otherwise, I assume that the FDP rejects sub-scenario 2.2, however with a low cohesion estimate due to renegades, which results in an AI value of 0.4.

By taking the threefold congruential pattern as a basis, and by incorporating the cohesion estimates as defined above, the veto power of the partisan VPs translates into the following relations in parliament: In the National Council, a majority of 58,5 % of parliamentarians (SVP, FDP, Centre and renegades of other parties) rejects sub-scenario 2.2, while a minority of 41.5 % (GLP, Greens, SP and renegades of other parties) approves it. In the Council of States, a minority of 36,5 % in favour of sub-scenario 2.2 stands opposed to a rejecting majority of 63.5 %. In none of the previous sub-scenarios approval has been as high as in sub-scenario 2.2; yet the deniers still form a majority. But since the relations are tighter than previously, I will consider the electorate as an institutional VP, in order to arrive at a more sophisticated political feasibility assessment.

I assume that support from the electorate as an institutional VP for sub-scenario 2.2 would not be as high as their support for sub-scenario 2.3. This is simply because a 'recycled' horizontal IFA that has over nearly a decade been discussed controversially and received a negative connotation due to its abandonment through the Federal Council and due to several parties' critical evaluation of the negotiation result in the domestic consultation in 2019, would probably not appear as a promising scenario to the people. To underpin this assumption, according to a representative survey (GFS Bern, 2022), only a minority of 38 % of Swiss voters would clearly or rather support the further development of the Bilaterals, if this entails dynamic adoption of EU law (which corresponds roughly to sub-scenarios 2.2). However, when voters were asked more explicitly about the IFA by the same institute (GFS Bern) in 2021<sup>101</sup>, 64 % of respondents replied that they would be clearly or rather in favour of it in a referendum. Coming back to GFS Bern's more recent survey (2022), the Swiss electorate seems to be more positively disposed towards compromises from the Swiss side than Swiss parties, who often insist on opt-outs and other exceptions: 80 % of respondents think that Switzerland should be willing for compromise regarding dynamic adoption of EU law. 67 % thought that Switzerland should be ready to accept CJEU involvement in the IDS, while 55 % were willing to make compromises in the area of state aid provisions. Furthermore, 53 % of respondents thought that Switzerland should be willing to make compromises regarding wage protection. Only in the remit of the CRD / AFMP, a majority of 81 % of Swiss voters conceived that compromises towards the EU should not be made. In conclusion, although sub-scenario 2.3 is probably likely to be more accepted by the electorate than sub-scenario 2.2 thanks to its lack of negative prehistory, sub-scenario 2.2 – a revamped IFA – is far from being unpopular among the electorate. Even if public opinion may change quickly (indicated by footnote 101), results of the two surveys (GFS Bern, 2021; 2022) imply that the electorate as an institutional VP is rather in favour of sub-scenario 2.2 than against it.

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<sup>101</sup> This survey was conducted in March and April 2021, therefore shortly before the Federal Council aborted negotiations on the IFA. If the same question would be asked to respondents today, approval ratings might therefore be 5-10 % lower, but presumably still above 50 %.

**3.b)** With a majority of votes in both parliamentary chambers against sub-scenario 2.2 and with the electorate rather in favour of it, there are two institutional VPs against this sub-scenario (with partisan VPs therein) and one in favour<sup>102</sup>. Taking into consideration that already one ‘no’ from one single chamber is sufficient to obstruct the adoption of the sub-scenario, but also that the electorate’s opinion (reflected in surveys) may affect policy preferences of partisan VPs and accordingly the veto power of an institutional VP, political feasibility of sub-scenario 2.2 can easily fall on both sides: Towards a no from both parliamentary chambers, or towards a yes from all three institutional VPs. For sure, this sub-scenario’s political feasibility within the Swiss arena is far from approximating zero, which requires me to assess political feasibility on the EU side.

4) The identification of institutional VPs on the EU side is less clear than on the Swiss side, since an institutional framework agreement as envisaged in sub-scenario 2.2 has to my knowledge no precedent and does thus not clearly stipulate legal procedures and involvement of VPs. Nevertheless, the legal procedure that was used to approve the Bilaterals I can be harnessed as a template. Based on Article 310 in conjunction with Article 300 of the EEC Treaty (today Article 217 in conjunction with Article 218 TFEU), the Bilaterals I framework required approval by both the European Parliament (EP) and the Council of the EU<sup>103</sup> (Council) (Oesch, 2020a). It goes therefore that the institutional VPs on the EU side are the EP and the Council. According to the Consent Procedure that is provided for according to Article 218 TFEU, the EP has to approve sub-scenario 2.2 with absolute majority, whereas the Council has to approve with a qualified majority, unless “the agreement covers a field for which unanimity is required for the adoption of a Union act” (Article 218(8) TFEU). In such cases unanimity in the Council is required. This would in turn compel me to count each EU member state as a single institutional VP. However, it is relatively unclear whether agreements as designated in sub-scenarios 2.2 and 2.3 actually cover fields that fall into the Council’s ‘unanimity scope’<sup>104</sup>. I therefore abstain from analysing this situation more in detail and define as the only institutional VPs the EP with absolute majority vote and the Council with qualified majority vote, but I still consider stances of single EU member states or member state groups if such are discernible and applicable.

Partisan VPs on the EU side would according to Tsebelis (i.e., his instruction to open each institutional VP (2010, p. 8)) be the political groups in the EP, such as the European People’s Party or Renew Europe. However, I proceed under the assumption that their political preferences on a very specific topic like Switzerland-EU relations<sup>105</sup> and the legal-institutional arrangement of a respective agreement are hardly detectable in an academically justifiable manner, and that these

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<sup>102</sup> In this assessment, latent VPs are already included by means of their offshoots in parliament (e.g., through trade unions representatives in SP and the Greens).

<sup>103</sup> Oesch (2020a) does not specify further whether unanimity or a qualified majority was required in the Council.

<sup>104</sup> EU policy fields that require unanimity in the Council for the adoption of an EU legal act that *might* also be applicable to an ‘IFA 2.o’ or to ‘Bilaterals III’ are, e.g., the granting of new rights to EU citizens (Council, 2020) or the policy area of social protection and social rights (EUR-Lex, n.d.). But whether the connection between the Switzerland-EU agreement and the respective EU policy field is sufficient to invoke unanimity voting on the respective agreement, goes beyond my legal knowledge and the scope of this paper. I will thus assume that in principle qualified majority is required in sub-scenarios 2.2 and 2.3.

<sup>105</sup> In desk research, no *significant* source or indication on EU political groups’ opinions regarding this topic has been found.

political preferences are less relevant than the stances of member states in the Council. Hence, I do not treat them as relevant VPs, neither in sub-scenario 2.2 nor 2.3. Lastly, the most important latent VPs are the (chief) negotiators within the Commission – since they directly bargain about an agreement in the frontline – and the Commission itself, as it submits recommendations to the Council on the opening of negotiations. The Council also acts as a latent VP, since it nominates the negotiators and adopts negotiating directives (Article 218 TFEU).

5) Having defined the VPs in the EU political arena, I go now over to assess their ability and probability to make use of their veto power. Other than in the Swiss arena, distinguishing clearly between a VPs congruence (relative to other VPs) and cohesion (relative to a VPs constituent units) is not always possible, due to lack of information on a VP's and its constituent units' political positions and preferences. I will therefore – if not otherwise possible – assess the VP's veto power and its ability and probability to actually make use of its veto power based on its political stance *in general*. Also, I will analyse these factors not according to VP type (partisan, institutional, latent), but according to organisational entity, thus starting with the Council and its constituent member states, then going over to the EP, and ending with the Commission.

If I focus on the member states within the council under the assumption of qualified majority voting (i.e., 55 % of EU countries and 65% of the EU population have to agree on a proposal or, in this case, an agreement), I assume that the EU countries with which Switzerland trades the most, are the ones with the most benevolent stance towards a rapid agreement between Switzerland and the EU via the continuation of an institutionalised Bilateral path – even if the agreement includes opt-outs or other types of bespoke solutions and safeguard clauses. The most important trade EU trade partners for Switzerland are (by decreasing order) Germany, France, Italy, the Netherlands, Austria, Spain and Ireland in terms of exports into these countries, and Germany, France, Italy, Austria, Ireland, Spain, the Netherlands and Poland in terms of imports from those countries (SECO, 2019a)<sup>106</sup>. It stands out that these countries are all old member states from the West, apart from Poland as a Central and Eastern European (CEE) member state, therefore I use 'old member state' as a proxy for support within the Council for sub-scenario 2.2. To some extent, this assumption is backed by supportive statements of leading politicians of Switzerland's main trade partners, such as the Austrian Chancellor Nehammer (Federal Chancellery of Austria, 2022) and the Minister-President of Baden-Württemberg, Winfried Kretschmann (FAZ, 2022)<sup>107</sup>. On the other hand, the trade pattern – if taken as an indicator for support or lack thereof – would in turn suggest that new member states would vote against sub-scenario 2.2, and that 'new member state'<sup>108</sup> could be used as a proxy for rejection within the Council against sub-scenario 2.2. To support this assumption, as the SP (2022) notes, Switzerland does with CEE member states not maintain relations as close as with old member states, both eco-

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<sup>106</sup> The exports and imports include both trade in goods and services, and the order is constituted by the export share, respectively the import share, of Switzerland in 2018 (SECO, 2019a).

<sup>107</sup> Whereas the Austrian Chancellor Nehammer showed understanding for Switzerland's abandonment of IFA negotiations in 2018 and stressed the importance of taking into consideration the peculiarities of EU neighbours (thereby alluding to Switzerland) (Federal Chancellery of Austria, 2022), Baden-Württemberg's Minister-President Kretschmann intends to act as a bridge builder between Switzerland and the EU in order to facilitate closer relations between the two partners (FAZ, 2022).

<sup>108</sup> As 'old member states' I define every current EU member state that has acceded the EU before 2004. As 'new member states' I define every current EU member state that has acceded the EU after 2004.



nomically (SECO, 2019a) and politically. Explaining the necessity for an agreement that exhibits opt-outs would therefore be more difficult. Moreover, in their accession procedures, the CEE states were barely granted any opt-outs or exceptions (Sedelmeier, 2010; SP, 2022), thus their understanding for Swiss special requests in an agreement ('IFA 2.0' or 'Bilaterals III') would most likely be lower than in the old member states. I therefore conclude that available information suggests a (simplified) bipolar congruential pattern in the Council, with the old member states supporting sub-scenario 2.2, and the new member states refusing it within the procedure stipulated in Article 218 TFEU.

If I simulate a Council voting via qualified majority with the above deducted bipolar congruential pattern (old members in favour of sub-scenario 2.2, new members against), then I arrive at the following result: 52 % of member states are in favour of an agreement that integrates institutional elements horizontally, and 77 % of the EU population<sup>109</sup> are in favour. The vote thereby fulfils the population requirement ( $\geq 65$  %), but is one member state shy of the country requirement ( $\geq 55$  % of countries, i.e. 15 out of 27). While the population requirement implies a reliable majority, the country requirement might by the factor that defines the probability and ability of the Council to make use of its veto power. On one hand, the Federal Council's announcement to consider the perpetuation of cohesion contributions (Tages-Anzeiger, 2022a) might convince some CEE member states to approve sub-scenario 2.2, provided Switzerland indeed perpetuates the contributions as part of the deal. On the other hand, a single old member state who does not agree to an opt-out solution – e.g., France with its traditional pro-integrational mindset, particularly under Macron – could further decrease the number of agreeing countries, and – in the case of France – also increase the share of the disagreeing population to more than 35 % (precisely 38 %). To put it briefly, the Council as an institutional and as a latent VP, has a veto power that neither adds nor subtracts further political feasibility – in order to significantly increase or decrease political feasibility, majority-minority relations in the Council would have to be more distinct. With the pattern introduced above, the majority can fall on either side.

The EP as an institutional VP does not allow for many empirically-based conclusions on its ability or probability to make use of its veto power. However, a deliberative debate in the EP from June 2021 on EU-Swiss relations after Switzerland's termination of IFA negotiations hints at a general stance within the EP: Out of 16 speakers in the debate, all except three members of the European Parliament (MEPs) showed themselves positively disposed towards the conclusion of an institutional agreement between Switzerland and the EU; the three remaining MEPs were either from the right-wing populist 'Identity and Democracy' group and supported an SVP narrative, or criticised Switzerland's AFMP policy towards Croatia. Furthermore, six MEPs showed themselves distinctly willing for compromises (e.g., opt-outs and exceptions) towards Switzerland, and two MEPs were not ready for compromises *at all*. In addition, four MEPs voiced their understanding for Switzerland's decision to abort negotiations (European Parliament, 2021b).

An unambiguous pattern or cleavage that would suggest a division of pro- or anti-Switzerland stances along political groups (e.g., left-right) or regions (e.g., East-West, or North-South) is not deducible from these 16 speakers. To be sure, most speakers that were willing for compromises

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<sup>109</sup> The share of the agreeing EU population in the Council has been calculated based on Eurostat data of EU member state population shares in the beginning of 2020 (Eurostat, 2020).

came from the old Western member states, but among those who were not disposed towards compromises, only one came from a CEE country. The only distinct feature is that an *absolute* majority supports the conclusion of an agreement (whether they prefer a horizontal or a vertical integration of institutional elements within this agreement has not been voiced by anyone), and that a *relative* majority<sup>110</sup> is willing for compromises. All in all, this debate thus *tentatively* suggests that, if anything, an absolute majority of the EP might be willing to make marginal concessions to Switzerland and to support an 'IFA 2.0'. Judging from that conclusion and the debate, I deem the EP rather to be an enabling VP who does not make use of its veto power, and who therefore – at least within its remit – increases political feasibility and makes an implementation of sub-scenario 2.2 within the EU political arena more likely.

The Commission as a latent VP can exert its veto power mainly through its negotiators 'on the frontline' of the bargaining process and through recommendations to the Council on the opening of negotiations. Since the talks between Swiss and EU negotiators constitute a black box and negotiations protocols are, if at all, only made public once negotiations are concluded, I cannot assess the stance of single negotiators on the EU side and their disposition towards Switzerland. Instead, I have to assess the Commission's stance towards sub-scenario 2.2 – a horizontal integration of institutional elements – in general, and abstain from detailed assumptions.

An institutional framework for the Bilateral agreements (or at least for the market access agreements therein) has been demanded by the Council already since 2008, but first without privileging a horizontal or a vertical arrangement (see Chapter 2). In fact, the suggestion of a horizontal approach has been first introduced by the Swiss Federal Council in 2011, very much aware of the risks that such step would entail, and thereby deliberately choosing this solution above a vertical approach (Federal Council, 2021a). The Commission for its part adopted this approach and insisted on a horizontal framework agreement as an indispensable precondition for settlement on remaining open questions (i.e., regarding institutional arrangements preferred by Switzerland and further market access agreements) in late 2012. This approach has then become the basis for negotiations until 2021. It seems like the Commission still approves a horizontal integration of institutional elements as of today: In an interview (Steinvorth & Schmutz, 2022), Věra Jourová, Commissioner for values and transparency, stated that the Commission's standpoint so far has been that "we wanted a horizontal frame, and no vertical solutions. I assume that it will stay that way". Moreover, Commissioner Maroš Šefčovič, who is also the EU's chief negotiator in Switzerland-EU affairs, has put that Brussels' position has not changed since Switzerland's abandonment of the IFA, and that the EU would still insist on a systematic solution of the institutional questions throughout all existing and future agreements (Bühler & Hess, 2022).

The Commission as a latent VP does thus not significantly shift political feasibility. On one hand, the Commission supports – or even insists on – a horizontal approach that corresponds to sub-

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<sup>110</sup> The terms *absolute* majority and *relative* majority are to be understood as follows: Whereas all MEPs that have spoken on the debate have voiced their preference on whether to conclude an institutional agreement or not, an absolute majority of them (13 out of 16) has shown themselves positively disposed towards the conclusion of an agreement. As regards a stance towards compromises, I can only speak of a relative majority, since not all MEPs have mentioned this aspect at all. Out of the nine MEPs who have brought up compromises, six assumed a benevolent stance, and three were either distinctly or rather negatively disposed towards compromises, therefore I have to speak of a relative majority.

scenario 2.2<sup>m</sup>. On the other hand, whether the Commission would also agree to Switzerland's demanded opt-outs is hardly assessable, due to the negotiations being a black box. My analysis on the likeliness that the Commission grants opt-outs to Switzerland (or other solutions that satisfy both partners) would suggest that the Commission is willing to step up to Switzerland (e.g., in the realm of the CRD), yet these settlements are even more likely in sub-scenario 2.3 than in the present sub-scenario (see appendix B). Therefore, if anything, the implementation of sub-scenario 2.2 is becoming *very slightly* more likely through the Commission as a latent VP.

6) Significant interdependencies between the two political systems (i.e. whether a given VP's veto power in the Swiss system may be dependent on another VP's veto power in the EU system) have not been found. Insofar as they are present regarding the granting of opt-outs to Switzerland (e.g., the EU not making use of its veto power in those areas, but instead making compromises, might decrease the probability of the SP or the FDP to make use of their veto power), they have already been incorporated at their best, given the dialogic complexity of the matter.

7 & 8) In the Swiss political system, two institutional VPs (with all partisan VPs therein, as well as latent VPs) are against sub-scenario 2.2, while one institutional VP is in favour. However, as the electorate as an institutional VP may influence partisan VPs and therefore both parliamentary chambers, political feasibility in the Swiss arena can easily fall on any side (i.e. both closer towards feasibility and infeasibility). In the EU political system, a majority for sub-scenario 2.2 is as likely as a majority against it. The Commission is due to its black box feature only scarcely analysable, but is, if anything, slightly more likely to render the implementation of sub-scenario 2.2 more feasible; the same applies to the EP. Yet over both systems, opponent-proponent patterns for the sub-scenario are highly volatile – and so is political feasibility for sub-scenario 2.2.

9) The likeliness score for sub-scenario 2.2 is as follows: According to my political feasibility assessment, it is **difficult to say** (i.e. it can fall on both sides, *rather likely* or *rather unlikely*) whether the assessed sub-scenario 2.2 will be implemented in the Swiss and EU political arena, relative to the political feasibility of other sub-scenarios that have been assessed in this paper.

### 8.2.3. Political Feasibility Assessment – Sub-Scenario 2.3

Sub-scenario 2.3 mainly distinguishes itself from sub-scenario 2.2 through the *vertical* integration of institutional elements, through its expanded negotiation mass (i.e., incorporation not only of institutional aspects in the negotiations, but also the intended conclusion of further market access agreements, such as in electricity and food safety), and through its topicality, which is largely owed to the Federal Council, that has picked up this scenario in its novel approach on an agreement for the still unresolved institutional questions. As I will show later, this change in strategy could be of major importance for the sub-scenario's political feasibility.

1) In sub-scenario 2.3, the institutional, partisan and latent VPs on the Swiss side remain the same as in the previous sub-scenario, because the political processes to implement the sub-scenario do not change. However, as I just have foreshadowed, the Federal Council's role not as a

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<sup>m</sup> However, as I will show in the next sub-scenario, the Commission's preference for the long-preferred horizontal integration of institutional elements seems not to be carved in stone and is at least to some extent contingent upon Switzerland's preferences and proposals.

VP<sup>112</sup> but as an *agenda-setter*, is crystallising more in this sub-scenario than in any other. The Federal Council may be circumvented in the legislative process (and the National Council has indeed tried to do so (Swiss Parliament, 2022<sup>113</sup>)), but the ‘announcement effect’ of the Federal Council’s agenda presented in February (Tages-Anzeiger, 2022a) can influence the political preferences of partisan VPs in the Swiss system and of institutional and latent VPs in the EU system.

2) Although the vertical arrangement as a main distinction point from the previous sub-scenario may appear as a merely ‘cosmetic’ amendment, in sub-scenario 2.3 I suppose the congruential pattern to be differently structured than in sub-scenario 2.2: Centre, FDP and GLP as a group approve sub-scenario 2.3, SVP and SP reject it – albeit out of different reasons –, while the Greens are difficult to categorise. Yet, once again the congruence pattern cannot simply be adopted to calculate the ability and probability of the parliamentary chambers to make use of their veto power (i.e. to reject the implementation of sub-scenario 2.3), since lacking cohesion and internal divisions on a vertical integration could be very pronounced, particularly among SP and Greens. Also, their approval is dependent on the granting of opt-outs in the discussed policy areas. I will thus go on to assess each party’s presumed cohesion based on their AI values in votes on European issues (Schwarz, 2007), with my assumptions on the likeliness of opt-outs and other specificities integrated into the cohesion assessments (see appendix B). This is the easiest for the SVP: There is no reason to suppose that the SVP’s AI value has changed with a vertical integration of institutional elements, because the party rejects institutional values principally ((SVP, 2019; Blocher, 2021)). I thus retain an AI value of 0.874, unexpected renegades included.

For the GLP, at first sight the matter is identically simple, owing to the party’s distinct approval to ‘everything institutional’ and its lacking opt-out demands (GLP, 2018; 2019; 2022). These indications would intuitively suggest that the GLP approves sub-scenario 2.3 in the same manner as sub-scenario 2.2. This stands in contrast to statements of GLP president Jürg Grossen after the Federal Council’s announcement of its vertical approach. He questioned its political feasibility in light of the EU’s *presumed* insistence on a horizontal approach (SDA, 2022). Furthermore, a majority of the GLP supported a recent parliamentary motion that would have compelled the parliament to adjust its intended vertical approach (Swiss Parliament, 2022). While these aspects surely lower the GLP’s approval to sub-scenario 2.3, they should not be overestimated. The substance of Grossen’s critique is mainly based on the EU’s stance towards a vertical approach and therefore dependent on the EU (i.e., prone to change as soon as the EU would shift its attitude towards a vertical arrangement). As I will show, several EU representatives have reacted positively to a vertical approach. I will therefore lower the GLP’s AI value only marginally (-0.4), to account for both a general approval to institutional integration and for limited scepticism on the prospects of a vertical approach. Hence, I assume that the party supports a vertical integration of institutional elements, but with moderate cohesion and an AI value of 0.6.

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<sup>112</sup> As mentioned in footnote 83, the Federal Council can *per definitionem* not be an institutional VP.

<sup>113</sup> A motion brought forward by SP and Green politicians in June 2022 would have compelled the Federal Council to adjust its intended plan, and to focus in the short run on a reassociation of Switzerland to the Horizon Europe programme in exchange with a commitment to a significantly increased cohesion contribution towards EU member states (Swiss parliament, 2022). While the motion was approved in the National Council by just one vote, it is to suppose that it will eventually be declined in the Council of States, due to different party seat shares that suggest different majority-minority relations.

In the case of the SP, I expect more opposition. First, I assume that also in a vertical approach, support of the SP depends on whether the party is willing to accept a second-best solution that does not correspond to its suggestions in official documents (2021; 2022) and is nowhere horizontal, and on the number of trade unionists within the party that can be convinced to agree to the present sub-scenario. With sub-scenario 2.3 and its expanded negotiation mass, compromises from the EU in the area of the accompanying measures become slightly more likely. At best, this induces a few more trade unionists to agree to sub-scenario 2.3, hence I *preliminarily* rise the SP's AI value to 0.3 (from 0.2 in the previous sub-scenario) and retain the assumption that the SP in principle supports the continuation of an institutionalised Bilateral path.

This assumption can though easily be invalidated if I incorporate specificities that the SP has mentioned particularly in reference to a *vertical* integration of institutional elements. Right after the Federal Council has presented its approach, the SP called the vertical integration of institutional elements unrealistic and criticised the lack of incentives for the EU that the plan provides and its inadequate schedule (Tages-Anzeiger, 2022a). Furthermore, in the submission of the previously mentioned parliamentary motion, the SP was a leading party (together with the Greens) and supported its adoption *unanimously* (Swiss Parliament, 2022). Both aspects hint at a more distinct disapproval of a vertical approach than it is the case in segments of the GLP, therefore I have to convert the SP's basic approval for sub-scenario 2.3 into a basic disapproval, albeit with low cohesion (AI value 0.3). In simplified terms, a higher probability for opt-outs in sub-scenario 2.3 increases approval (and thus cohesion) within the SP mildly (AI value +0.1), but the party's distinctly expressed negative stance towards sub-scenario 2.3 in turn decreases approval and turns it into slight disapproval (AI value -0.6) with low cohesion. With these cohesion estimates, 65 % of the SP reject sub-scenario 2.3 and 35 % approve it. This way, I still take into account various SP supporters of an institutionalised path who might not want to appear as naysayers to an institutional 'window of opportunity' (Neuhaus, 2022; Nussbaumer, 2018).

For estimating cohesion within the Green party, I proceed in the same way as with the SP. First, I adopt assumptions that I have set up for sub-scenario 2.2: Because of its generally expressed support for the institutionalised Bilateral path (2019a; 2022), its rather mild critique of the IFA draft (2019b) and its pro-institutional voter basis I suppose general support for sub-scenario 2.3 too among the Greens, however, with high internal disagreement and therefore low cohesion, due to the party's adherence to accompanying measures, which is backed by several trade unionists within the party. By incorporating again a higher likeliness of compromises from the EU in the area of the accompanying measures that comes with sub-scenario 2.3, I arrive at an AI value of 0.6 (+0.1 relative to the Greens' AI value in sub-scenario 2.2).

This assumption I have to (partly) overturn and adapt it to empirically detectable indications regarding the Green's stance towards a vertical approach. On one hand, together with the SP the Greens have launched the above mentioned parliamentary Motion (which evaluates the Federal Council's vertical approach critically) and supported it unanimously (Swiss Parliament, 2022). Yet, unlike the SP the Greens remained less critical in response to the Federal Council's plans. The described it as being much too vague, but refrained from explicit criticism of the vertical integration of institutional elements (Greens, 2022). Their disapproval of the vertical approach is therefore more pronounced than in the case of the GLP, but less than in the case of the SP. In conclusion, I suppose considerably lower approval (which is still *net* approval) for sub-scenario

2.3 among the Greens, that comes along with very low cohesion and an AI value of 0.1 (i.e. -0.5 compared to my assumptions in the previous paragraph). With such distribution, supporters for and opponents against sub-scenario 2.3 are almost on par with each other within the Greens.

Altogether, I have – relative to sub-scenario 2.2 (GLP), respectively, relative to the first assessment within sub-scenario 2.3 (SP, Greens) – decreased the AI value, and therefore approval and cohesion for sub-scenario 2.3 by **0.4** within the GLP, by **0.5** within the Greens, and by **0.6** within the SP. These subtractions signify a ‘vertical approach effect’, albeit in different magnitudes. That is to say, each party from the centre-left to the left that would have previously supported sub-scenario 2.2, has now become more critical towards sub-scenario 2.3, based on their preferences expressed in official documents, statements of party leaders and behaviour in parliamentary votes. This has been the most explicit for the SP, which has distinctly criticised the vertical approach of the Federal Council, followed by the somewhat milder critique of the Green party, while the GLP has only questioned the political feasibility of the approach.

Assessing cohesion in sub-scenario 2.3 and assigning AI values is much easier for Centre and FDP, for three reasons: First, both parties explicitly suggest a vertical approach in their Europe papers and exhibit further parallels to each other’s proposals and the Federal Council’s vertical ‘Bilaterals III’ approach<sup>14</sup> (Centre, 2022a; FDP, 2022a). Second, in a press release (FDP, 2022b) in response to the Federal Council’s vertical plans in early 2022, the FDP showed itself delighted that the Federal Council has not only adopted the vertical approach, but also the notion of an expanded negotiation mass. Nonetheless, the party reinforced the importance of safeguard clauses in “areas of vital interest”. Similarly, the Centre welcomed the Federal Council’s vertical approach in a tweet (Centre, 2022b), but repeatedly demanded opt-outs regarding the CRD and the accompanying measures. Third, precisely these opt-outs and exceptions are more likely to be granted (or satisfactory solutions found otherwise) through a vertical integration of institutional elements. The expanded negotiation mass permits that Swiss concessions in negotiations on new agreements can be valorised in the institutional provisions, whereas perpetuated cohesion contributions *might* induce the EU to concede further. The EU already seems to be willing to make concessions in respect of the CRD (Hess & Bühler, 2022; Rauchenstein, 2022). However, my assumptions on the likeliness of these opt-outs (see appendix B) come with an ‘uncertainty margin’ and may eventually not persuade all parliamentarians. To account for these renegades, but also for the general support for sub-scenario 2.3 in both Centre and FDP, I revert to Schwarz’s (2007) original AI values in party’s votes on European issues: 0.855 for the Centre and 0.833 for the FDP, thereby representing their support for sub-scenario 2.3 with high cohesion.

By taking the threefold congruential pattern as a basis, and by incorporating the cohesion estimates as deduced above, the veto power of the partisan VPs translates into the following relations in parliament: In the National Council, supporters and opponents of sub-scenario 2.3 are on par with each other. The supporters prevail marginally by 0.8 %, yet such difference cannot

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<sup>14</sup> To give a few examples, the FDP’s recommendation of an expanded negotiation mass and its proposal for a ‘basic pattern’ along which each institutional element should be incorporated separately, but identically into the market access agreements, are both reflected in the plans of the Federal Council and the FDFA (Tages-Anzeiger, 2022a; Hess, 2022a). Furthermore, the Centre’s preparedness to increase cohesion contributions (in expectation of concessions from the side of the EU) is also found in the Federal Council’s contemplations.

be taken at face value in light of the uncertainty margin of my assumptions. In the Council of States, relations are much clearer; a majority of 65 % that supports sub-scenario 2.3 stands opposed to a minority of 35 % which rejects it. Sub-scenario 2.3 is therefore the first sub-scenario in which its simulated implementation would reach the absolute majority threshold in one of the two chambers. This inevitably requires me to assess the veto power of the third institutional VP in the Swiss political arena, the electorate.

Surveys on public opinion *specifically* asking about a vertical approach in Switzerland-EU negotiations (and about the differences in public approval between *horizontal* vs. *vertical* integration) are not yet available. Nonetheless, as I have foreshadowed in chapter 8.2.2., two assumptions can be deduced based on the electorate's opinion on the IFA (GFS Bern, 2021; 2022): First, a clear majority of the respondents of one study (GFS Bern, 2021) would approve the 2018-IFA in a referendum (64 %). However, the new vertical 'Bilaterals III' approach has neither been controversially discussed in the Swiss public (so far) nor permanently criticised, therefore sub-scenario 2.3 might benefit from a 'rookie bonus'. Hence, I assume that public approval for sub-scenario 2.3, and therefore for a vertical integration of institutional elements in an agreement would be at least as high as for the IFA. This is not least because, apart from the vertical arrangement, a 'Bilaterals III' approach barely exhibits significant differences compared to the 2018-IFA, and if so, then it would rather increase than decrease public approval<sup>115</sup>. Second, the nature of institutional elements has not changed substantially compared to sub-scenario 2.2. Accordingly, I assume that a majority of the Swiss public would also be willing to make compromises in the areas of dynamic adoption of EU law, CJEU jurisprudence, state aid provisions and wage protection (GFS, 2022) if these elements were not arranged *horizontally*, but *vertically* into each single agreement. To conclude, nothing hints at lower public acceptance of sub-scenario 2.3 relative to its horizontal twin. Quite the contrary might be the case: Even though public opinion is susceptible to changes over time, my assumptions suggest that the electorate as an institutional VP is rather in favour of sub-scenario 2.3, and will thus likely not make use of its disabling veto power.

**3.b)** To sum up the political feasibility assessment on the Swiss side, it appears that the Federal Council does justice to its role as an agenda-setter. Introducing the vertical integration of institutional elements in the shape of a 'Bilaterals III' package might have been a 'game changer', although evaluated critically by several commentators<sup>116</sup>. I do not share this opinion; the vertical approach has managed to shift majority relations in both parliamentary chambers distinctly and therefore decreases their veto power (or, say, the probability that they make use of their veto power). The vertical approach as envisaged in sub-scenario 2.3 expands the negotiation mass and provides for a perpetuation of cohesion contributions, thereby opening new possibilities for opt-outs or compromises, and it gives the impression of a clean slate for the electorate. Due to these advantages, sub-scenario 2.3 as a whole is *rather likely* to be implemented in the Swiss

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<sup>115</sup> In this regard, I refer to the expanded negotiation mass, i.e. namely the prospect of two additional market access agreements in electricity and food safety (Hess, 2022a). If anything, an expanded negotiation mass with a prospect on further market access agreements might rather increase than decrease public approval, because the Swiss electorate already evaluates access to the EU export market as the one single top argument that speaks in favour of the Bilateral Agreements (GFS Bern, 2022).

<sup>116</sup> These critical commentators were GLP president Jürg Grossen and the SP in general, as well as the Greens in their press release (2022). However, also non-political actors like the media showed itself at times sceptical towards the vertical approach (Hess & Bühler, 2022).

political arena: Two institutional VPs, the electorate and the Council of States, are clearly in favour of it, one institutional VP – the National Council – is rather<sup>117</sup> in favour. It goes without saying that political feasibility is far from approximating zero in the case of sub-scenario 2.3, I accordingly need to incorporate an assessment from the EU side too.

4) Due to lack of precedent and based on articles 217 and 218 TFEU I again assume that the institutional VPs on the EU side are the EP with absolute majority vote and the Council with qualified majority vote (as it is still not reasonably possible to assess whether sub-scenario 2.3 covers fields that fall into the Council's unanimity scope), however, if applicable I take into account stances of single member states or groups thereof. Furthermore, for reasons mentioned previously, I do not treat partisan VPs within the EP as relevant VPs. Just as in sub-scenario 2.2, latent VPs in the present sub-scenario are (chief) negotiators within the Commission and the Commission itself, as it submits recommendations to the Council on the opening of negotiations (Article 218 TFEU). Lastly, the Council also acts as a latent VP again, since it nominates the negotiators and adopts negotiating directives (Article 218 TFEU).

5) Step five requires me to assess the veto power of the VPs identified in step four. For limitations already alluded to in chapter 8.2.2, I will – if not otherwise possible – assess a VPs' veto power and its ability and probability to actually make use of its veto power based on its political stance *in general*, and not by splitting veto power up into congruence and cohesion and analysing them separately. Also, I will analyse these factors not according to VP type (partisan, institutional, latent), but according to organisational entity, thus starting with the Council and its member states, then going over to the EP, and terminating with the Commission.

As for the Council, I again proceed under the assumptions that qualified majority voting is required (55 % of states and 65 % of the EU population have to agree to sub-scenario 2.3), that old member states would accept sub-scenario 2.3 whereas new member states would reject it (due to economic and trade connections respectively lack thereof, and because of different levels of understanding for opt-outs), and that this division in turn forms the bipolar congruential pattern in the Council, amounting to the following relations: 52 % of member states and 77 % of the EU population would agree. Again, the majority could fall on any side, taking into account the uncertainty of my dichotomous assumption (old vs. new member states) and the close majority-minority relations. However, what could tip the scales this time is the Federal Council's announcement to take into account a perpetuation of cohesion contributions – this has not been part of the negotiation package on the IFA, but now, with the Swiss Government's suggested course of action in sub-scenario 2.3 (Tages-Anzeiger, 2022a), it is. The likeliness that there are certain CEE member states who would agree to sub-scenario 2.3 in exchange for more cohesion means, is higher than in sub-scenario 2.2 (i.e. *log-rolling*<sup>118</sup>). In short, the Council as an institutional and as a latent VP, has a veto power that, if anything, minimally adds some political

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<sup>117</sup> As stated before, a lead of 0.8 % for supporters cannot be taken at face value due to an uncertainty margin that I attest my assumptions. But if anything, the National Council is rather in favour of sub-scenario 2.3, not least owing to electoral pressure.

<sup>118</sup> The term logrolling is here not to be understood as classical 'vote trading' within an institution (see, e.g. Miller, 1977), but as a 'tit for tat' procedure, where Switzerland's concessions regarding cohesion contributions mainly to CEE countries might persuade these states to vote for a sub-scenario 2.3 where these concessions are included.



feasibility. But in order to significantly increase political feasibility, majority-minority relations in the Council would have to be more distinct. Even with opportunities for logrolling, the majority can fall on either side.

Regarding the EP as an institutional VP my conclusions on sub-scenario 2.2 also apply to sub-scenario 2.3: As I infer from a deliberative speech in the EP in June 2021, an *absolute* majority of speakers supports the conclusion of an institutional agreement with Switzerland (whether they prefer a horizontal or a vertical approach has not been voiced by anyone) and a *relative* majority is willing for compromises. What is particularly important as regards sub-scenario 2.3 – there is no evidence to suggest that the EP, respectively its speakers in that round, prefer a horizontal approach and reject a vertical approach. The EP seems thus again to be an enabling VP that will presumably not make use of its veto power, and who increases political feasibility and makes the implementation of sub-scenario 2.3 more likely within the EU political arena<sup>119</sup>.

I have illustrated previously that the EU Commission has reckoned with a horizontal approach as a ‘default output’ of negotiations with Switzerland starting from 2012, and that several Commission members (Jourová, Šefčovič) still assume that this is the one and only way to go. However, the Commission’s preference for a horizontal integration of institutional elements and the primacy of sub-scenario 2.2 seem not to be carved in stone for two reasons: First, it was the Swiss negotiating team that set the stage for a horizontal approach in 2011, and the EU followed suit. Before that, no negotiating partner has insisted on any specific (vertical / horizontal) model. Reversing its own decision should therefore be possible for the Federal Council.

Second, the above mentioned statements notwithstanding, various EU representatives have commented positively on a vertical integration of institutional elements<sup>120</sup>: In a letter<sup>121</sup> dating from May 2022 to Swiss chief negotiator Livia Leu, the Commission stated that “the provisions agreed upon should be identical across agreements, subject to only to technical adjustments as necessary”<sup>122</sup> (Hess, 2022b), and did nowhere in the letter outrightly decline a vertical approach, but much more leave the possibility for such deliberately open<sup>123</sup> (Hess, 2022b). In another insight on sub-scenario 2.3, EU ambassador to Switzerland Petros Mavromichalis said that regulating institutional questions in each market access agreements sectorially instead of horizontally would be more complicated. However, “the EU is not ideological. For us the final result counts” (Gafafer, 2022c). Also, the ambassador uttered that “you may call the restart Bilaterals III, IV or V, «horizontal» or «sectorial», but the problems finally have to be solved” (Gafafer,

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<sup>119</sup> Another indicator that suggests the EP’s role as an enabling VP (i.e., as a VP that will not make use of its ability to block the implementation of sub-scenario 2.3) is a letter, sent by the EP to both the Federal Council and the Commission, that has been signed by the five biggest political groups in the EP. In the letter, the EP urged Switzerland and the Commission to forge ahead in their talks on their mutually beneficial relationship and suggested regular meetings with Swiss parliamentarians (Israel, 2022a).

<sup>120</sup> Not all the EU representatives mentioned here are Commission members. Yet, their statements are insightful on the general disposition within the EU towards a vertical approach. Also, someone who is leading the EP’s delegation to Switzerland might have significant influence on the Commission’s stance.

<sup>121</sup> The intention of this letter was to have the Federal Council clarify its position and political plans that it has presented in February 2022 (Tages-Anzeiger, 2022a), so that the Commission could submit an informed recommendation on the resuming of negotiations towards both Council and EP (Hess, 2022b).

<sup>122</sup> These remarks are very similar in wording and substance to the FDP’s suggestions (FDP, 2022).

<sup>123</sup> This interpretation is also supported by Farman (2022).

2022c). In short, Mavromichalis implicitly agrees to a vertical approach, as long as institutional elements demanded by the EU are included – which would be the case in sub-scenario 2.3, given the opt-outs that both Mavromichalis in the interview and the Commission in the aforementioned letter (Gafafer, 2022c; Hess, 2022b) demanded to be justified, proportionate and limited in scope and time, can be implemented (see appendix B). A last positive comment on sub-scenario 2.3 with its vertical arrangement comes from Andreas Schwab, chairman of the EP’s delegation to Switzerland. He summarised that constructive proposals for a vertical adjustment of the important questions throughout all agreements would be met with great interest in Brussels (Tages-Anzeiger, 2022a). These three and other statements<sup>124</sup> suggest that whether institutional elements are integrated horizontally or vertically is of secondary importance for the EU, as long as they are ultimately arranged unitarily. Above that, my analysis on the likeliness of opt-outs from the Commission towards Switzerland suggests that the Commission would respond to opt-outs particularly in sub-scenario 2.3, where the negotiation mass is larger and where cohesion contributions are promised to several EU countries (see appendix B).

Altogether, the findings require me to retain the assessment that I have already concluded for the EU in sub-scenario 2.2 – the Commission does as a latent VP not significantly shift political feasibility for the present sub-scenario 2.3. However, due to positive feedback from the EU political arena on the vertical approach and due to its ‘opt-outs-enhancing’ features, I deem sub-scenario 2.3 to become *marginally* more likely through the Commission as an enabling VP.

6) Significant interdependencies between the two political systems have not been found. Insofar as they are present regarding the granting of opt-outs to Switzerland and regarding the sub-scenario’s inherent interdependence-causing features (e.g. the expanded negotiation mass), they have already been incorporated at their best, given the dialogic complexity of the matter.

7 & 8) In the Swiss political arena two institutional VPs are clearly in favour of sub-scenario 2.3, whereas one institutional VP is fluctuating between approval / refusal of sub-scenario 2.3, but if anything, the National Council is rather in favour of it. This is not least because a positive stance of the electorate towards sub-scenario 2.3 may affect political preferences of partisan VPs. In conclusion, it is *rather likely* that sub-scenario 2.3 will indeed be adopted in the Swiss political system. As for the EU political arena, majorities can fall on either side within the Council, but the Commission and the EP do not appear to be VPs with inevitably obstructive veto power – rather the opposite is likely. The EU side does thus not differ significantly from sub-scenario 2.2 with the political stances of its relevant VPs, and does in turn neither add nor subtract political feasibility substantially. To sum up, the vertical approach of sub-scenario 2.3 increases political feasibility on the Swiss side (by bringing FDP and Centre on board, as well as presumably parts of GLP, Greens and SP), but does not decrease political feasibility on the EU side (which is what can be deduced from the limited data available), despite a realignment of the institutional structure. Compared to all other sub-scenarios, sub-scenario 2.3 seems thus to be the most likely one, even with an uncertainty margin regarding my assumptions factored in.

9) The likeliness score for sub-scenario 2.3 is as follows: According to my political feasibility assessment, it is **rather likely** that the assessed sub-scenario 2.3 will be implemented in the

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<sup>124</sup> An example is Commissioner Nicolas Schmit, who has highlighted the importance of a unitary arrangement of institutional elements, without denying the vertical approach (Israel, 2022b).

Swiss and EU political arena, relative to the political feasibility of other sub-scenarios that have been assessed in this paper.

### **8.3. Political Feasibility Assessment – Scenario 3**

Sub-scenarios 3.1 and 3.2 require to be assessed separately on their political feasibility. Just as in the previous assessments, the nine-step-scheme will be applied consistently.

#### **8.3.1. Political Feasibility Assessment – Sub-Scenario 3.1**

1.) The partisan and institutional VPs for sub-scenario 3.1 – the EEA accession – remain the same as in the previous scenarios, with the difference that in this sub-scenario (and also in the case of an EU accession) the cantons might play a more important role as institutional VPs: According to Article 140(1) of the Federal Constitution, any accession to a supranational community needs to be approved not only by both parliamentary chambers, but through a mandatory referendum<sup>125</sup> also by the people *and* the cantons. Therefore, in both sub-scenarios 3.1 and 3.2, the cantons have to be factored in as institutional VPs, which was not the case for all sub-scenarios within scenarios 1 and 2<sup>126</sup>. As for latent VPs, eurosceptic political and civil society organisations (AUNS, EU-No, Kompass / Europa, etc.) and the Swiss Farmers' Union<sup>127</sup> need to be mentioned. Regarding the social partners, I assume that both the Swiss Employers' Union and the trade unions would not appear as vocal latent VPs: On the one hand, an EEA accession would provide for significantly extended access to the ESM (supported by exporting firms), on the other hand the EEA would allow for more worker's rights (Travail.Suisse, 2019), therefore providing incentives for both employers' and employees' organisations to appreciate an EEA accession.

2.) Like in the previous scenarios, I start with assessing the veto powers of the partisan VPs in the two Swiss parliamentary chambers by focusing on their congruence and cohesion towards an EEA accession. In this respect, there is not as much evidence from official documents, votes and party members' statements available as for the sub-scenarios within scenario 2 (presumably due to the sub-scenario being less salient in the Swiss political arena since its refusal in 1992), therefore I have to rely on less information to draw my assumptions. Nonetheless, a bipolar congruential pattern as in sub-scenarios 1.1 – 1.3 and 2.1 can be discerned: SVP, Centre and FDP are distinctly or rather against sub-scenario 3.1, GLP, SP and Greens are distinctly or rather in favour of sub-scenario 3.1. In this pattern, GLP and SVP form the opposite extremes in terms of

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<sup>125</sup> Only the accession to a supranational community (e.g. EEA, EU) requires a mandatory referendum, whereas an accession to an international organisation (e.g., the UNO or the OECD) can – but does not have to – be made contingent upon approval in a facultative referendum.

<sup>126</sup> This is because none of the sub-scenarios within scenario 1 and 2 entailed as a consequence the accession to a supranational community that would in turn have triggered a mandatory referendum. At best, some of the outcomes would have triggered a facultative referendum due to their high politicisation.

<sup>127</sup> Apart from trade in agriculturally processed products, which is also liberalised in the 1972-FTA between the EU and Switzerland, the EEA Agreement does not provide for a liberalisation in trade of most agricultural products. Therefore, an EEA accession would not result in an immediate and substantial deterioration of the status quo of Swiss farmers. However, Article 19 of the EEA agreement explicitly envisages a progressive liberalisation of trade in agricultural products that has led to bilateral trade liberalisations between the EU and Norway, respectively Iceland (European Commission, n.d.). This is why I suppose that the Swiss Farmer's Union would appear as a latent VP against sub-scenario 3.1.

the distance of their political positions towards the sub-scenario, all other partisan VPs are in-between these two with their political positions, but clearly allocable to one side. This is also due to the relatively high cohesion values of most partisan VPs, which I will illustrate now.

For the SVP, the matter is clear: In its party manifesto, the SVP claims that Switzerland is to date successful and wealthy *due to* its EEA-No in 1992, and that both this key event and its alleged consequences are the SVP's merit (SVP, 2019). Indeed, its successful campaign against the EEA in 1992 has accelerated the SVP's rise in Swiss politics, and still many voters associate the SVP with its opposition against European Integration (Kriesi et al., 2005). Others see the 1992 EEA vote even as the 'hour of birth' of the SVP's populist tendencies (Hildebrand, 2017). Accordingly, there is no reason to assume that the SVP would undermine its own *raison d'être* by supporting an EEA accession. I therefore proceed with supposing that the SVP opposes sub-scenario 3.1 unequivocally, i.e. with very high cohesion and an AI value (Schwarz, 2007) of 1<sup>128</sup>. On the other end of the congruential spectrum (i.e. with almost no ideological deviation from sub-scenario 3.1), the GLP can be found. The party explicitly demands an EEA accession in a press release (2022), and politicians of the party have actively advanced this idea in parliament. An example is the parliamentary postulate by GLP National Councillor Roland Fischer (postulate Fischer [21.3678]) from 2022 (Swiss Parliament, n.d.3), that has been signed by all but one GLP parliamentarians<sup>129</sup> and eventually been approved by all present GLP parliamentarians. Together with the party's strongly pro-European narrative (e.g., the 2017 position paper) I conclude that the GLP unanimously supports sub-scenario 3.1, i.e. with very high cohesion and an AI value of 1.

The SP's supposed stance is similar to the GLP, but not identical. According to the SP's Europe paper (2022), the party holds a hierarchical order of preferences towards European Integration, where a continuation of the Bilateral path with institutional elements is seen as a necessary and appropriate intermediate step. Eventually, however, the party prefers the EEA over the institutionalised Bilateral path and an EU accession over the EEA (SP, 2021; 2022). In 2021, Roger Nordmann, chairman of the SP faction in the parliament, has summarised this attitude by stating that an EU accession would be preferred by the SP owing to fully-developed co-decision rights, but in light of domestic preferences an EEA accession would have to be considered as an intermediate step (Bühler et al., 2021)<sup>130</sup>. Ultimately, also trade unionists, which are strongly represented in the SP (Renz, 2019) have not openly opposed sub-scenario 3.1. To the contrary, Travail.Suisse has mentioned the advantages of an EEA accession, particularly in terms of worker's rights, several times (2019; 2021). However, renegades within the SP that deviate from the party's principally strong supportive stance towards an EEA accession cannot be completely ruled out, may that be because trade unionists cannot be ultimately convinced or because the party frames the EEA as an intermediate step, and not as the ultimate goal of Switzerland's relations with the EU. Therefore, I revert to Schwarz's (2007) originally calculated AI value for the SP in European issue votes (0.945), which nonetheless suggests strong support and very high cohesion in favour of sub-scenario 3.1 among the SP.

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<sup>128</sup> Renegades that dissent from the SVP's general stance are not to be expected in an issue where its rejection is of defining importance for the party's success and (self-narrated) history.

<sup>129</sup> Out of 21 signatories of the postulate, 15 were GLP parliamentarians (Swiss Parliament, n.d.3).

<sup>130</sup> For more considerations suggesting the SP's positive stance towards sub-scenario 3.1, see footnote 72.

In the case of the Greens, evidential documents in which the party takes up a clear stance on sub-scenario 3.1 are hardly available. However, indirect evidence hints at the Green party's attitude towards the EEA. A first one stems from the Green's resistance against the EEA accession in 1992. In reference to this event, former Greens-president Regula Rytz formulated that the EEA-No has triggered a repositioning among the party that eventually has resulted in the Greens becoming a pro-European party that stands "in a totally different place than we did 1992" (von Matt, 2021), thereby suggesting a benevolent attitude towards the EEA today. Such pro-European attitude is also reflected in many of the party's official documents (Greens, 2019a; 2022; n.d.). Furthermore, the Greens voting behaviour as regards the postulate Fischer (see above) hints at distinct, but not unlimited support for sub-scenario 3.1, with 26 affirmations and three abstentions. Lastly, with the same argument as in the SP's case, green trade unionists might be persuaded to vote in favour of sub-scenario 3.1. In conclusion, I assume that the Greens would position themselves favourably towards sub-scenario 3.1, but in absence of clearer indications I have to resort to Schwarz's AI value proxy of 0.884 (arithmetic average of SVP, SP, Centre and FDP in European issues votes) to estimate the party's cohesion.

For both Centre and FDP, the picture seems to be clearer, because both parties have rejected an EEA accession in their recent Europe papers (Centre, 2022a; FDP, 2022a). At first sight, these clear positions stand in contrast to the voting behaviour of both parties in the postulate Fischer: A majority within the FDP (67 %) and 50 % of Centre parliamentarians approved the postulate. However, the presidents of the parties' parliamentary factions explain the approval of FDP, respectively Centre parliamentarians, with a principal connivance to discuss such matters (Von Matt, 2022). Hence I assume that voting behaviour of FDP and Centre regarding this postulate shall not be overestimated and misinterpreted as an approval for sub-scenario 3.1. Furthermore, the FDP has already in 2018 rejected the presence of a supranational surveillance body on Swiss territory. However, the ESA would be exactly such institution, which in theory corroborates my assumption on the FDP's refusal of sub-scenario 3.1. Nonetheless, for lack of better evidence and to account for the uncertainty that the parties' voting behaviour in parliament suggests, I have to reckon with renegades. Therefore I proceed with assuming that both the Centre and the FDP reject sub-scenario 3.1, but with only moderate cohesion (AI value 0.7 in both cases).

If I take the bipolar congruential pattern as a foundation and incorporate the cohesion estimates, then the veto power of the partisan VPs translates into the following relations in parliament: A slight majority in the National Council (SVP, FDP, Centre) rejects sub-scenario 3.1, with 54.5 % against it and 45.5 % in favour. These relations are more pronounced in the Council of States, where a majority of 64.5 % rejects sub-scenario 3.1 and a minority of 35.5 % approves it. Approval ratings do in this sub-scenario not compare to sub-scenario 2.3, but are very similar to sub-scenario 2.2. They suggest that the implementation of sub-scenario 3.1 is rather unlikely, and that opposition against the present sub-scenario is high, but not necessarily insuperable. Therefore I analyse the electorate as a third institutional VP that might tip the scales.

Representative surveys on the opinion of the Swiss electorate towards an EEA accession diverge significantly. In a survey by GFS Bern (2022), 56 % of respondents replied that they would approve a Swiss EEA accession in a referendum. Since 2020, the respective approval rate has always been above 50 % (GFS Bern, 2022). However, according to another survey (LeeWas, 2021), only 12 % of the Swiss electorate would approve a Swiss accession to the EEA after the Federal Council

has abandoned negotiations on the IFA. The vast differences in approval between the two surveys are hardly explainable and do thus not allow for reliable conclusions<sup>131</sup>. An influence from public opinion on the political positions of partisan VPs cannot be suggested with such large margins in (the measurement of) public opinion. Therefore, I retain my preliminary conclusion stemming from the analysis of the parliament's veto power, namely that the implementation of sub-scenario 3.1 is rather unlikely to be achieved in the Swiss political system.

A possibility to still draw a conclusion from the veto power of the electorate (i.e., to assess its ability or probability to make use of it) is to analyse the veto power of the cantons. Since the electorate's veto power is contingent upon the veto power of the cantons in a mandatory referendum (Federal Constitution, Article 140(1)), a clear indication that a majority of the cantons would refuse an EEA accession would be sufficient to conclude that the electorate's veto power is redundant. I.e., a majority of opposing cantons (against sub-scenario 3.1) can circumvent the electorate's veto power. A relevant feature regarding the majority of cantons is, that through this condition, scarcely populated rural cantons and their population receive a disproportionately high weight in mandatory referenda, relative to populous urban cantons (Blatter, 2015). If I now add the assumption that these rural cantons often exhibit a conservative voting behaviour (Vatter & Sager, 1996) which also reflects itself in eurosceptic voting patterns, then the rural cantons can turn a 'break-even result' or an affirmative result in the in the electoral votes around and thereby obstruct the acceptance of a mandatory referendum<sup>132</sup>. Assuming that acceptance for an EEA accession among the electorate is 56 % (GFS Bern, 2022), then the disproportional weight of conservative and eurosceptic rural cantons is very likely to overturn the majority in votes. However, if I act on the assumption that acceptance among the electorate is 12 % (LeeWas, 2021), then the cantons' veto power does not even need to be considered. In conclusion, due to the strong veto power of the cantons and their 'conservatism-Euroscepticism bias', they appear as a rather obstructing veto player, they circumvent the veto power of the electorate and they render the implementation of sub-scenario 3.1 as a whole rather unlikely, in conjunction with the opposition of both parliamentary chambers against sub-scenario 3.1.

**3.b)** The two parliamentary chambers as institutional VPs are more likely to obstruct than to facilitate the adoption of sub-scenario 3.1, although majority-minority relations in the National Council are not very distinct. However, if I add the obstructive veto power of the cantons – and omit the electorate as an institutional VP due to lack of unambiguous data – then the picture becomes clearer: Implementation of sub-scenario 3.1 is rather unlikely in the Swiss political arena. However, as it still does not approximate zero, I have to briefly consider political feasibility of a Swiss EEA accession on the side of the EU.

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<sup>131</sup> A probable explanation for the differences in public opinion is the difference in time between the two surveys and the differences in the evaluation of the option 'EEA accession' between the different time periods in which the surveys were conducted. An example that could cause a shift in evaluation of the EEA accession is the Federal Council's abandonment of IFA negotiations. There is a possibility that respondents would evaluate the EEA accession as a more favourable alternative *after* the Federal Council has aborted negotiations, i.e., that such option would then appear as a 'rediscovered opportunity'. However, since *both* surveys have been conducted after this event, such explanation can be discarded.

<sup>132</sup> Precisely this scenario happened in the EEA referendum in 1992: Whereas 'only' 50,3 % of Swiss voters rejected the EEA accession ('break-even result'), 70 % of cantons rejected it (16 out of 23) (Federal Chancellery, 2022). The same scenario is conceivable in a repeated referendum on an EEA accession.

4) For sub-scenario 3.1, the definition of relevant institutional VPs on the EU side is a complex matter. First, an application for accession to the EEA would have to be submitted to the EEA Council and thereafter be concluded through negotiations with the EEA (and probably the EU member states) as well as with the EU (EEA Agreement, Article 128). Therefore, the EEA Council has to be regarded at least as a latent VP, and the EEA and EU member states and the EU as institutional VPs. However, as those (hypothetical) negotiations and their substance have hardly been discussed in academia and politics, and because they constitute a black box in light of so many VPs, I refrain from analysing them in-depth. Second, according to Article 128 of the EEA Agreement, the accession agreement between Switzerland and the EEA “shall be submitted for ratification or approval by all Contracting Parties in accordance with their own procedures. I would therefore have to include 31 more VPs<sup>133</sup> on the international level (i.e., the EU, its 27 member states plus the three EEA countries) as well as countless institutional and partisan VPs on the domestic level (i.e., within those 31 VPs)<sup>134</sup>. For lack of reliable data, I will thus focus on the most evident VPs only. Hence, I will also turn away from analysing VPs on the EU side according to their congruence and cohesion and instead mainly focus on what is conceivable.

5) There are three evident instances where VPs on the EU side might have a relevant and conceivable probability to make use of their veto power. A first instance relates to the EU, its member states and the EEA member states *in general* during negotiations on the terms and conditions of Switzerland’s EEA accession. Aspects that have been critically reviewed by various Swiss stakeholders, like wage protection, dispute settlement, the adoption of the CRD and state aid provisions, might play a role again there. As mentioned earlier (see chapter 7.1.2.), dispute settlement might even be regulated more favourably for Switzerland in the EEA than in an institutional agreement (due to the absence of ‘foreign judges’ and the absence of factual CJEU involvement (Tobler & Beglinger, 2020, p. 13)). The same applies to the safeguarding of Swiss wage protection (due to better worker’s rights). However, the CRD<sup>135</sup> as well as state aid provisions<sup>136</sup> have been entirely adopted by EEA countries (Tobler & Beglinger, 2020). If Switzerland would insist on opt-outs in these areas, like it has done in IFA negotiations, it is very unlikely that the EU and its member states, but particularly the EEA member states would grant Switzerland any exceptions that would in turn *not* apply to Norway, Iceland and Liechtenstein. From that viewpoint, political feasibility for the implementation of sub-scenario 3.1 on the EU side may not necessarily be lower than in sub-scenarios 2.2 and 2.3, but certainly not higher either – the same disputed issues would come up again, and the EEA countries might act as VPs with an obstructing veto power.

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<sup>133</sup> I arrive at these 31 additional VPs, because the EEA agreement defines as ‘Contracting Parties’ the EU, its member states, plus the three EEA member states (EEA Agreement, preamble).

<sup>134</sup> The passage “in accordance with their own procedures” implies that within 30 member states of the EU, respectively the EEA, parliamentary chambers and parties therein, or presidents with veto power would have to be considered as institutional / partisan VPs. Also, *within the EU*, certain EU institutions, like the Council, may also have to be counted as institutional VPs on domestic level.

<sup>135</sup> The CRD has been entirely adopted by the EEA in 2007, but with several reservations as regards substance, that may arise from the legal circumstance that the term ‘Union Citizenship’ does not have an equivalence in EEA member states and in the EEA Agreement. It is to date not clear what exactly these reservations entail and what not, since relevant CJEU or EFTA Court jurisprudence (that could clarify matters) does not exist (Tobler & Beglinger, 2020, p. 25-26).

<sup>136</sup> EU competition law as a whole is entirely integrated into EEA law (Tobler & Beglinger, 2020, p. 34).

A second evident instance relates to one EEA country in particular – Norway. According to Baudenbacher (Gafafer, 2022b), Norway has considerable soft power as the EEA’s biggest member. Baudenbacher (Gafafer, 2022b) argues that Switzerland’s EEA accession might disturb this equilibrium, whereupon Norway could block Switzerland’s accession to the EEA (i.e., Norway would in such case make use of its veto power as an institutional VP). If one compares Switzerland’s population and economic weight relative to Norway, such scenario cannot be dismissed<sup>137</sup>. Yet, Baudenbacher and other observers assume that Norway would not make use of its veto power *if* both Switzerland and the EU would insist Switzerland’s EEA accession (Gafafer, 2022b). It is therefore unclear whether Norway has actual veto power. In any case, such prospect – as hypothetical as it may be – does not enhance the political feasibility of sub-scenario 3.1.

A last evident instance relates to the EU’s veto power as an institutional VP in negotiations, in particular in respect of agricultural liberalisations. The latter are not strictly provided for in the EEA Agreement, but Article 18 in conjunction with Article 19 in the EEA Agreement can be interpreted as explicitly envisaging a progressive liberalisation of trade in agricultural products between EEA and EU countries. This has already led to Bilateral agricultural agreements between the EU and Norway, respectively Iceland (European Commission, n.d.) (see footnote 127). The same might be wished for by the EU if Switzerland plans to join the EEA, not least due to Switzerland’s exceptionally high level of agricultural protectionism<sup>138</sup>. Therefore, if the EU would make use of its veto power by insisting that Swiss agricultural liberalisations have to be agreed on or at least envisaged in order for Switzerland’s EEA accession to be concluded at all (i.e., in order for the EU to not make use of its obstructive veto power), then this could trigger the veto power of the Swiss Farmers’ Union<sup>139</sup>. The probable conflict between the EU pressing for trade liberalisations and the Swiss Farmer’s Union wanting to prevent it, could represent another ‘stumbling block’, caused by the veto power of both the Swiss Farmers’ Union and the EU in their respective arenas. The ensuing stalemate in EEA negotiations might in turn decrease the likelihood that sub-scenario 3.1 will be adopted at all.

**6)** Apart from the EU’s probable influence on the veto power of the Swiss Farmers’ Union as a latent VP (respectively, its probability to make use of it), further significant interdependencies between the two political systems have not been found.

**7 & 8)** In the Swiss political arena, three institutional VPs – both parliamentary chambers and the cantons as a ‘bundle’ of institutional VPs – are rather against sub-scenario 3.1 and accordingly make the implementation of sub-scenario 3.1 within the Swiss political system altogether rather unlikely. The electorate as a fourth institutional VP cannot be evaluated, but it gets absorbed by the obstructive veto power of the cantons anyway. In the EU and EEA political arenas, three

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<sup>137</sup> In 2020, Switzerland had a population of 8.86 mil., whereas Norway had a population of 5.38 mil. in the same year (World Bank, 2022a). As a proxy for economic weight, Switzerland had a GDP of 752 bn. US\$ In 2020, while Norway had a GDP of 362 bn. US\$ In the same year (World Bank, 2022b).

<sup>138</sup> According to the OECD, Switzerland’s level of agricultural protectionism was in 2020 higher than in the EU and any EEA country. The OECD measures the level of a country’s agricultural protectionism in total support for the farming sector in per cent of the GDP. In this respect, Switzerland’s agricultural support amounts to 1.05 % of its GDP, whereas the same relations amount to 0.66 % for the EU and 0.79 % for Norway (OECD, 2020).

<sup>139</sup> The Swiss Farmers’ Union is of course not a VP on the EU side, but a latent VP on the Swiss side. However, it makes most sense to mention the Swiss Farmer’s Union at this point.



instances may provide pitfalls which could render the sub-scenario's adoption more cumbersome and less likely. These instances are related to the EU, its member states and the EEA member states as institutional VPs in general, to Norway as an institutional VP in specific, and to the EU as an institutional VP that may affect the Swiss Farmers' Union's veto power on the Swiss side. For sure, these instances do not bolster up political feasibility of sub-scenario 3.1 – which forces me to retain my original assessment of 'rather unlikely'. Compared to other sub-scenarios, political feasibility of sub-scenario 3.1 is therefore in middle.

9) The likeliness score for sub-scenario 3.1 is thus as follows: According to my political feasibility assessment, it is **rather unlikely** that the assessed sub-scenario 3.1 will be implemented in the Swiss and EU political arena, relative to the political feasibility of other sub-scenarios that have been assessed in this paper.

### **8.3.2. Political Feasibility Assessment – Sub-Scenario 3.2**

1) In sub-scenario 3.2, institutional and partisan VPs remain the same as in the previous sub-scenario. Also an EU accession would have to be approved by the majority of Swiss people and cantons in a mandatory referendum, following Article 140(1) of the Federal Constitution. Regarding latent VPs, organisations whose end in itself is to maintain Swiss formal independence (AUNS, EU-No, Kompass / Europa, etc.) can still be counted as latent VPs. However, as the EU's Common Agricultural Policy provides numerous financial incentives for farmers<sup>140</sup> on the one hand, and commitment to environmental goals on the other hand, the Swiss Farmers' Union cannot be framed as a latent VP anymore. Hence, I do not count it as a latent VP against sub-scenario 3.2. Further evident latent VPs with significant veto power have not been found, but may nevertheless appear if a Swiss EU accession should begin to crystallise.

2) Most parties have a very clear political position towards an EU accession, since this topic has been omnipresent in Swiss politics as an 'elephant in the room'. As a result, the basic congruential pattern persists, with the exception of one party that cannot clearly be allocated to one group: While SP and Greens promote sub-scenario 3.2, and while SVP, FDP and Centre are against it, the stance of the GLP, and therefore the party's congruence in respect of sub-scenario 3.2, is hardly assessable. This can mainly be traced back to the party's practically non-existent internal cohesion regarding an EU accession. Accordingly, I proceed by assessing cohesion of partisan VPs within the Swiss parliament.

No party rejects an EU accession as distinctly as the SVP. In its party manifesto, the SVP rejects an "EU integration policy that has an EU accession as its final aim" (SVP, 2019). Similarly explicit phrases can be found on the SVP's website, where the party intends to assertively combat "any further affiliation to the EU" (SVP, 2020). Moreover, eurosceptic institutions like AUNS or EU-No are closely connected to the SVP and have several national and cantonal SVP parliamentarians in their steering committees. If preventing an EEA accession is the SVP's *raison d'être*, then combating an EU accession is even more so. I thus assume that the SVP rejects sub-scenario 3.2 unanimously, with high cohesion and an AI value of 1.

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<sup>140</sup> Among the financial incentives that the CAP provides are direct payments (per hectare) to farmers, as well as direct payments for small farmers and farmers whose land has natural constraints. The latter two may particularly be beneficial for farmers in Swiss rural regions (Baldwin & Wyplosz, 2019).

In the GLP's case, the matter is less straightforward than in sub-scenario 3.1. In several official documents (GLP, 2018; 2019; 2022) the GLP pleads for European Integration in general, or for an EEA accession in specific. The GLP's support for an EU accession is in light of these cues a logical inference. However, in response to the SP's clear support for an EU accession in its Europe paper (2022), GLP president Jürg Grossen has betokened the SP's plans as utopian and stated that for the GLP, an EU accession would currently not be the issue, even if the party is open for this discussion (Paone, 2022). Moreover, in a political talk show in May 2021, Grossen stated that the IFA would be a more appropriate solution for Switzerland than an EU accession (SRF, 2021). This stands in contrast to GLP National Councillor Roland Fischer who is vice president of the pro-EU movement EBS. He denominated an EU accession as the best solution for Switzerland in the long term (SDA, 2021). Furthermore, on its webpage and in official documents the GLP issues clear statements in favour of the Bilaterals, the IFA and the EEA, but remains silent on an EU accession. It is also unclear whether certain GLP leaders reject an EU accession out of conviction or merely owing to the perceived lack of political feasibility of such approach. In view of such ambiguity, I proceed by attesting the GLP disunity regarding its stance towards scenario 3.2, which results in neither approval nor rejection (i.e., half of the party in favour of sub-scenario 3.2, and half of the party against) and in an AI value of 0, representing no cohesion at all.

The SP can be considered as the current vanguard of the idea of a Swiss EU accession. In its Europe paper (2022), the party's European policy committee has shown its true colours and promoted an EU accession as the ultimate goal of Swiss relations with the EU, but underlined that such accession needs to be well-negotiated in the areas of *inter alia* wage protection and Swiss wage levels. Whether that is realistic shall not be evaluated at this point<sup>141</sup>, but it may well be that with such insertion, the party can bring its trade unionist wing on board. This assumption is borne out by the fact that Pierre-Yves Maillard, president of the Swiss Trade Union Federation, is among the authors of the SP's Europe paper (2022). However, support from the SP as a whole – and therefore the SP's cohesion on sub-scenario 3.2 – is not certain. First, should Switzerland enter accession negotiations with the EU, and should Swiss wage protection measures not be safeguarded sufficiently in the negotiations' final result, then some trade unionists within the SP will inevitably vote against an EU accession. Second, the SP's social-liberal wing criticised several aspects of the party's Europe paper (Neuhaus, 2022), hence I expect renegades against sub-scenario 3.2 from this corner too. Third, the Europe paper and its distinct commitment to the EU still have to be rubber-stamped in a party congress in October 2022 (Loser, 2022). Further internal resistance against sub-scenario 3.2 might also be voiced there<sup>142</sup>. In conclusion, to account for assumed general support from the SP, but also in order to accommodate potential trade unionist and social-liberal resistance, I suppose that the SP supports sub-scenario 3.2, albeit with moderate cohesion (AI value 0.7).

Among the Greens, a comparable situation to the SP is conceivable, but with much less distinct testimonies of opinion regarding an EU accession. In fact, the most recent public document in which the party showed a clear stance is a working paper from 2006. In this paper, the Greens

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<sup>141</sup> The amended posted workers directive 2018/957 and recent CJEU jurisprudence (Pärli, 2022) suggest that the EU has become more sympathetic to national attempts for domestic wage level protection.

<sup>142</sup> However, the latter factor shall also not be overestimated: On a party conference in August 2021, the SP collectively confirmed a Swiss EU accession as an objective (SP, 2022).

explicitly supported an EU accession, albeit with conditionalities (retention of direct democracy and neutrality, retention of Swiss ecological safeguard measures). In newer documents, like in the Green party manifesto from 2019(a) or on their webpage (n.d.), an EU accession remains unmentioned. Von Matt (2021) presumes that the 2006 working paper is still valid in principle. Yet, Greens-president Balthasar Glättli assumes that political feasibility of an EU accession is relatively low (von Matt, 2021). Further clear indications on the Greens' stance towards sub-scenario 3.2. could not be found. If I consider the Greens' principally positive stance towards European Integration (2019a, 2022) and towards an EU accession (2006) on the one hand, and Glättli's reservations towards such sub-scenario on the other (2021), then the question remains what the stance of the Greens would be if the parliament would actually vote on an EU accession – particularly if I assume that Glättli's reservations are contingent upon the sub-scenario's feasibility. I suppose that the Greens would not miss out on such a 'window of opportunity' and therefore I assign the party general support for sub-scenario 3.2. However, to factor in the relatively high share of trade unionists within the party (Renz, 2019) and probable doubts on the EU's 'environmental compatibility'<sup>143</sup>, I presume moderate cohesion within the party (AI value 0.8).

In the cases of Centre and FDP, stances are very distinct. Both parties clearly reject an EU accession in their 2022-Europe papers. Reliable statements from official party documents, from single parliamentarians or from other office-holders of either party that contradict with this position have not been found<sup>144</sup>. Hence, to express the explicit political stances of both parties, but to still account for unexpected renegades, I suggest clear rejection against sub-scenario 3.2 for both Centre and FDP, and I revert to the cohesion estimates in European policy votes that were originally calculated by Schwarzer (2007) (AI value 0.855 for the Centre, AI value 0.833 for the FDP).

By taking the above derived parameters on congruence and cohesion of partisan VPs as a basis for estimating their respective veto power, then I arrive at the following relations in parliament: In the National Council, a majority of 63.5 % of parliamentarians refuses sub-scenario 3.2, and a minority of 36.5 % supports it. In the Council of states, an even larger rejecting majority (71 %) stands opposed to a supporting minority of 29 %. As a result, both parliamentary chambers appear as institutional VPs with a very high probability to make use of their obstructive veto power. Majority-minority relations are comparable to the ones in sub-scenario 2.1, therefore I assume *on a preliminary basis* that the chances that sub-scenario 3.2 will be implemented in the Swiss political arena are very low (i.e., it is *very unlikely* that sub-scenario 3.2 will be implemented). However, a clear indication on the electorate's opinion and on its probability to make use of its veto power can render the adoption of sub-scenario 3.2 in the Swiss political arena suddenly more likely or obstruct its prospective adoption completely – again under the assumption that parties may be influenced by public opinion.

Surveys that analyse Swiss public opinion (i.e., the opinion of the electorate) on an EU accession all paint an unambiguous picture. In a first survey by GFS Bern (2022), only 17 % of respondents

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<sup>143</sup> Precisely such doubts have already formed the basis for several of the Greens' conditionalities and opt-out demands in case of an EU accession in the party's working paper (2006).

<sup>144</sup> Rare exceptions are older statements. For example, in 1999 former FDP State Councillor Erika Forster declared the Swiss EU accession as a foreign policy goal (Swiss Parliament, 2003). However, such statements I consider as outdated, not least due to the changing circumstances of Swiss foreign policy. Using such statements as an argument would not justify their original meaning and drag them out of context.

would support an EU accession in a referendum. More strikingly, in all nine editions of this survey series support for an EU accession has never risen above 19 % (GFS Bern, 2022). In an earlier survey by GFS Bern (2020), the so-called Europe Barometer, only 7 % of respondents chose an EU accession as their prioritised form of Switzerland-EU cooperation. Furthermore, according to a survey conducted by LeeWas (2021), only 6 % of the Swiss electorate would like to join the EU after the IFA has failed. If approval rates are examined according to party affiliation, it is outstanding that even among SP (14 %) and Greens voters (13 %) a minority prefers an EU accession to other options (LeeWas, 2021). Ultimately, a survey by Marketagent.com indicates that 64 % of Swiss voters reject an EU accession, whereas 16 % approve it (Swissinfo, 2021). Thus, public opinion is very distinct for sub-scenario 3.2 and makes the implementation of sub-scenario 3.2 in the Swiss political system almost impossible. The Swiss electorate appears as a powerful VP that cannot be circumvented. Also, there is no possibility that the electorate's (current) opinion shifts partisan VPs into a more favourable position towards the present sub-scenario; if anything, the public opinion may be used by FDP, Centre and SVP to corroborate their stances. Moreover, it is to suppose that the cantons would due to their conservatism-Euro-scepticism bias (Vatter & Sager, 1996) further strengthen the electorate's tendency.

**3.a)** A majority of partisan VPs and three institutional VPs form a block of VPs against sub-scenario 3.2, the EU accession. Especially the electorate is very likely to make use of its obstructive veto power, reinforced by different surveys and by the potential obstructive veto power of the cantons as an institutional VP bundle. To sum up, the results suggest that the political feasibility of sub-scenario 3.2 approximates zero within the Swiss political system. An analysis of Swiss latent VPs as well as an analysis of the sub-scenario's political feasibility within the EU political arena can therefore be omitted, which allows me to skip steps 4), 5) and 6) and to go directly to steps 7) and 8).

**7 & 8)** Based on steps 1) and 2), the political feasibility of sub-scenario 3.2 approximates zero; its implementation is blocked by a majority of centrist to right wing parties, by lacking cohesion among the supporters of the sub-scenario and by the electorate. An explicit commitment to the EU by Switzerland's second-largest party (SP) is not enough to enlarge the EU by one more member state. Relative to other sub-scenarios, an EU accession is similarly feasible as a fallback to a loose FTA-based relationship, but much less feasible than a continuation of an institutionalised Bilateral path. What may appear as a harsh blow to Europhiles, is mainly a reflection of limited possibilities in the current Swiss political landscape.

**9)** The likeliness score for sub-scenario 3.2 is as follows: According to my political feasibility assessment, it is **almost impossible** that the assessed sub-scenario 3.2 will be implemented in the Swiss and EU political arena, relative to the political feasibility of other sub-scenarios that have been assessed in this paper.

#### **8.4. Conclusion of Results on Political Feasibility**

Now that I have concluded the actual systematic, theory-based political feasibility assessment (targeting SQ 3), I will briefly put my results in a comparative perspective, in order to answer SQ 4 ('Which sub-scenario scores the best in political feasibility?') and in order to summarise my results on each sub-scenario concisely in an overview.

Figure 6 shows each sub-scenario’s political feasibility by means of its likeliness score. The values of the likeliness score are transformed into an interval scale, in which 1 = almost impossible, 2 = very unlikely, 3 = rather unlikely, 4 = difficult to say (it can fall on both sides), 5 = rather likely, 6 = very likely, and 7 = almost guaranteed. Sub-scenario 2.3 – a continuation of the Bilateral path with a vertical integration of institutional elements – scores the best in terms of political feasibility. The further sub-scenarios are by decreasing order of their assessed political feasibility sub-scenario 2.2 (a horizontal integration of institutional elements), sub-scenario 3.1 (an EEA accession), sub-scenario 2.1 (the ‘against long odds strategy’), and then in common sub-scenarios 1.1, 1.2, 1.3 and 3.2 (the ’72 FTA Fallback, the Comprehensive FTA, the ’72 FTA with ‘flight forward strategy’ and the EU accession). The latter are all almost impossible to be implemented, due to the constraining veto power of institutional and partisan VPs in the Swiss political arena.

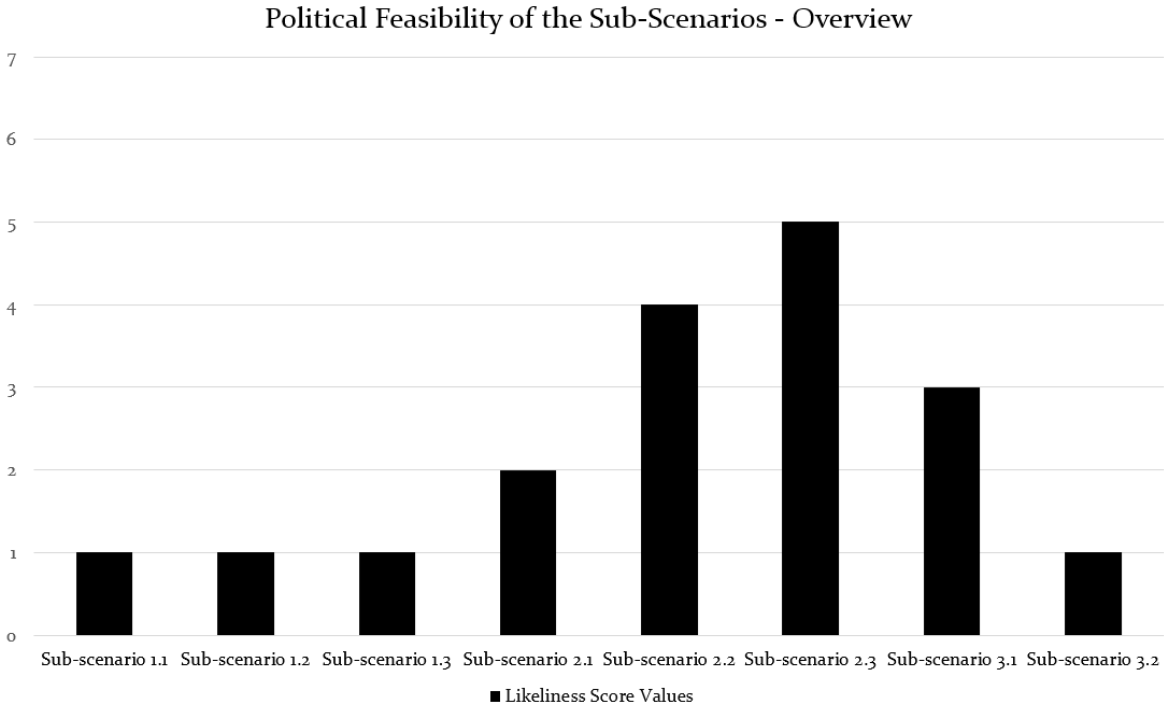


Figure 6: Own Illustration. The X-axis shows the sub-scenarios along the integrational dimension, while the Y-axis indicates each sub-scenarios likeliness score, expressed numerically.

The feasibility of the sub-scenarios follows a U-curve along the integrational dimension, indicating that sub-scenarios which either result in a substantial integrational or disintegrational step face political feasibility constraints. This feasibility-dampening effect in the more ‘extreme’ sub-scenarios originates in all cases in the Swiss political arena, which suggests that Swiss parties and the electorate are to some extent prone to path dependency, however, with a slight pro-integrational inclination, as indicated by sub-scenario 3.1, the EEA accession.

Figure 7 shows the approval rates for each sub-scenario in the National Council and the Council of States, where the U-curve from Figure 6 is to a certain degree reflected and hints at the extensive veto power of the two parliamentary chambers. It appears like the Swiss parliament has thus a defining and almost steering function in determining a sub-scenario’s political feasibility. Somewhat an exception to this is sub-scenario 3.2, where the electorate as an institutional VP manages to significantly obstruct political feasibility more than the parliament is able to do.

# Approval Rates in Parliament, per Sub-Scenario and Chamber

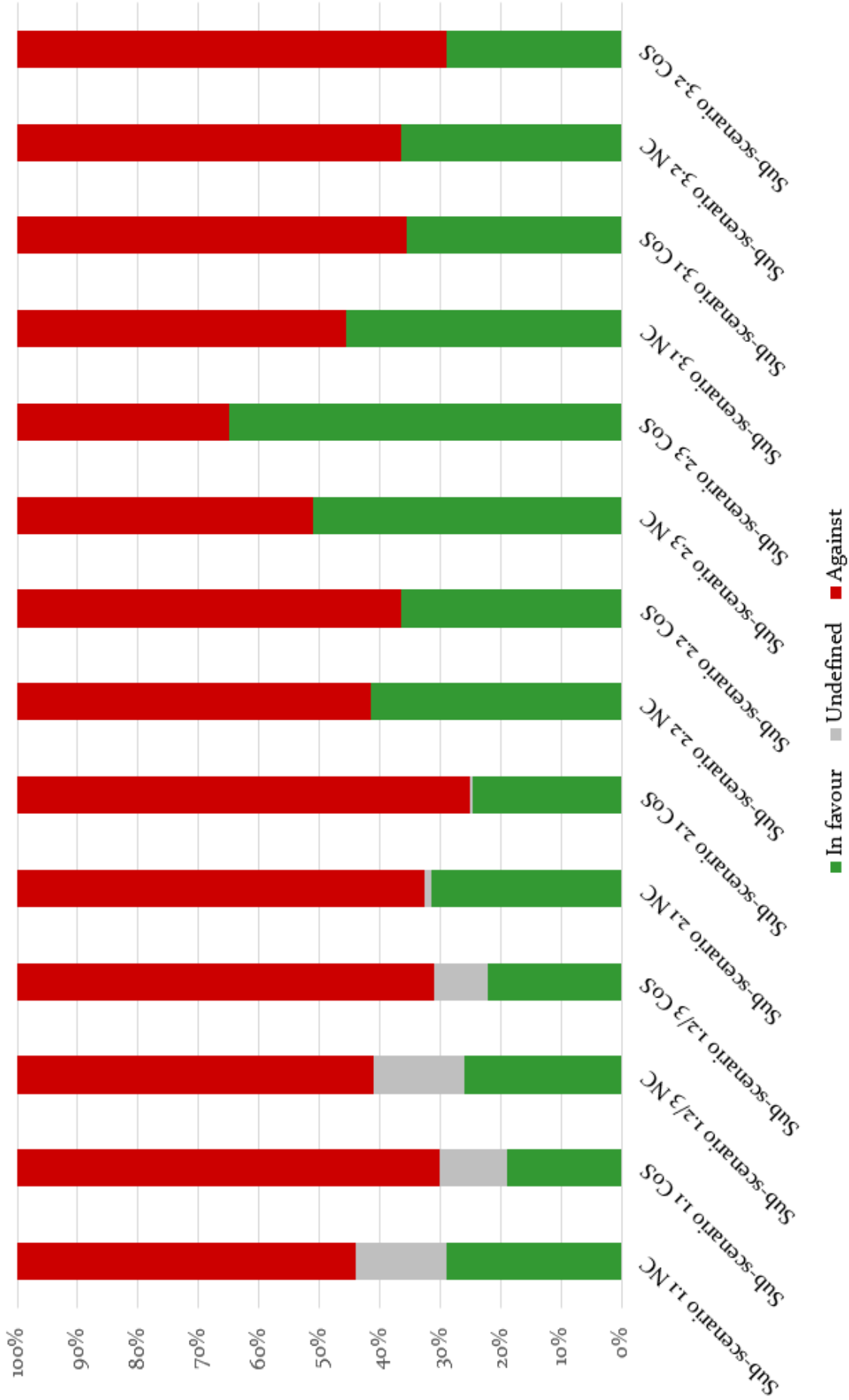


Figure 7: Own illustration. NC = National Council, CoS = Council of States. The grey shaded undefined segments indicate the absence of an assessment of the Green party's political position and veto power as a partisan VP (sub-scenarios 1.1, 1.2, 1.3) or simply rounding errors (sub-scenario 2.1).

## 8.5. Alternative Political Feasibility Assessment via The Integrational Matrix

The integrational matrix (see Figure 5) allows, as mentioned in chapter 7.2.3, for a theory-based, but not necessarily structured and thorough political feasibility assessment of my sub-scenarios. More precisely, the integrational matrix allows for a hypothetical prediction of each sub-scenarios political feasibility by help of its theoretical implications. Eventually, such alternative assessment cannot be seen as an integral part of the analysis (since the results of the alternative assessment will not find their way into the RCoA), but as an alternative approach that can confirm or challenge the results of the systematic political feasibility assessment from chapters 8.1 – 8.3.

The spatial placement of the sub-scenarios in the matrix (according to their expected degree of increase / decrease of economic and institutional integration relative to the status quo) has already been justified in chapter 7.2.2. Therefore, in this chapter I will compare the theoretical implications of this placement with the results of my systematic political feasibility assessment. This requires me to recapitulate the two assumptions that form the basis of the matrix's theoretical implications. First, I assume that the EU prefers every point on the matrix where the increase / decrease in institutional integration corresponds to the increase / decrease in economic integration (i.e., every sub-scenario that can *roughly* be placed on the diagonal line). Second, I assume that Switzerland prefers every point on the matrix where the increase in economic integration exceeds the increase in institutional integration and the decrease in expected sovereignty losses (i.e., every sub-scenario that can be placed above the red marked section of the diagonal line). If I confine myself to the overlap of these two areas, then I arrive at a 'feasibility margin' constituted by the preferences of both Switzerland and the EU, or, in the terminology of Tsebelis (1995), at a *winset*. Therefore, for a scenario of future Switzerland-EU relations to be politically feasible, the scenario needs to be located within the grey-shaded area.

The sub-scenarios that are located within the grey-shaded area are sub-scenarios 2.2, 2.3, 3.1, 3.2 and partly also sub-scenario 2.1. The sub-scenarios that have achieved at least passable likeliness scores (i.e. with likeliness score > very unlikely) in my *systematic* political feasibility assessment are sub-scenarios 2.2, 2.3 and 3.1. These are all also included in the winset of the integrational matrix, which confirms my findings on these sub-scenarios' better political feasibility prospects relative to the other sub-scenarios. This can be regarded as an encouraging finding, but it shall not be overestimated<sup>145</sup>. However, sub-scenario 3.2 is an outlier. It qualifies as a politically feasible scenario in the integrational matrix, but not according to the systematic political feasibility analysis, because a majority of partisan VPs and all institutional VPs in the Swiss political arena reject it. This discrepancy between the matrix and the systematic assessment I have to trace back to my assumptions: It appears like an increase in economic integration cannot always offset an increase in institutional integration, even if the increase in economic integration is larger than the increase in institutional integration. Hence, in the sub-scenarios that indicate a significant integrational shift, Switzerland – as an actor with *aggregated* preferences – may not be willing

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<sup>145</sup> Very importantly, the placement of the sub-scenarios in the integrational matrix, the two assumptions on Switzerland's and the EU's preferences and the resulting feasibility margin / winset are based on a very simple theoretical construct and have therefore not been developed thoroughly and backed with further theoretical literature. This is why congruencies between the integrational matrix and my systematic political feasibility assessment are to be seen as encouraging and to some extent confirming, but not as a robustness analysis in a methodological sense.

to accept such leap. There either seems to be a maximal increase of institutional integration that Switzerland is willing to accept in one step, starting from the status quo (exemplarily indicated by the green line in Figure 5.2), or alternatively a different feasibility margin for Switzerland (e.g. every sub-scenario that can be placed above the blue diagonal line in Figure 5.2, implying that increase in economic integration has to be *much* larger than increase in institutional integration for Switzerland to be acceptable). For both suggested amendments, see Figure 5.2.

Finally, it could also be the case that sub-scenario 3.2 has been placed wrongly in the matrix (see also footnote 78). Relative to the status quo, an EU accession could in the end come along with much more institutional integration (i.e. EP, Commission, Council, numerous agencies like the ECB) than economic integration (mainly the completion of the ESM, the Customs Union and the Euro) and would then have to be positioned more to the right in the matrix. Also for this proposed adjustment, see Figure 5.2. In any case, the integrational matrix, its theoretical implications, and the interplay between the two dimensions are in need of further conceptual elaboration and provide interesting avenues for research in scenario studies.

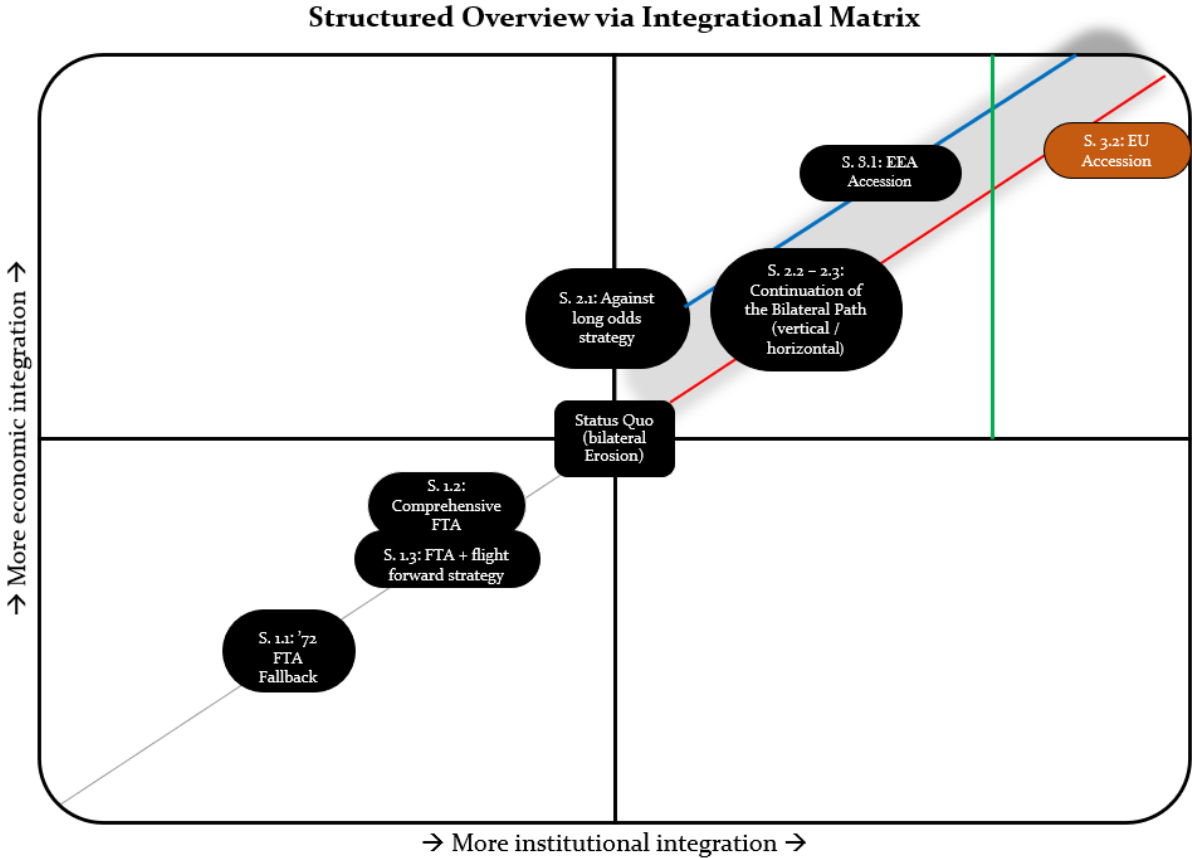


Figure 5.2: Own Illustration. The suggested amendments are indicated by the green line, the blue diagonal line and by sub-scenario 3.2 marked in orange and shifted to the right.



## 9. Economic Effects Assessment

The third part of the analysis is the economic effects assessment. It is primarily an extension of the political feasibility assessment; its purpose is to retrospectively connect the economic effects-focused scenario studies (see chapter 3.1.1. and 3.2) with the systematic political feasibility assessment that they have been lacking so far. Chapter 9 thus answers SQ5 (economic effects of sub-scenario n, expressed in an economic benefit score) and SQ6 (determination of the most beneficial sub-scenario for Switzerland in terms of its economic effects). The assessment itself consists of two components (see chapter 6.3). The first is a *general* assessment of each sub-scenario's expected economic effects, while the second is a *specific* assessment of each sub-scenario's economic effects with help of the effect channels of the two key agreements of the Bilaterals (FDFA, 2017; BAK Basel Economics, 2105), the AFMP and the MRA. These more specific effects are embodied in different kinds of (non-)modification of the respective agreement, i.e. in a retention, remodelling, erosion, abolition or further development of the AFMP or the MRA.

These two steps allow me to make use of the helpful research on economic effects of various types of scenarios for future Switzerland-EU relations that have already been conducted. However, the goal of this paper is not to add 'yet another economic analysis' to the literature of Switzerland-EU relations, but to make my systematic political feasibility assessment all the more valuable when supplemented with an economic assessment based on desk research.

### 9.1.1. Economic Effects Assessment – Sub-scenario 1.1

Each scenario's effects shall be measured relative the status quo of the Swiss economy (assessment in *general*), hence, relative to the effects that the AFMP and the MRA are currently exerting onto Switzerland (assessment in *specific*). In sub-scenario 1.1, this offers me the following baseline: Switzerland has terminated both the Bilaterals I and II, and thereby fallen back to the 1972-FTA that now is the agreement which forms the main basis for Switzerland-EU relations. The FTA includes preferential trade conditions for industrial goods and agriculturally processed products (Oesch, 2020a), but nothing that would manage to replace both AFMP and MRA, which have ceased to apply between Switzerland and the EU due to the termination of the Bilaterals I. What are the economic effects in general and in specific of such step, relative to the status quo?

Academic literature provides two ways to arrive at an assessment in general: The first relates to studies which analyse the *positive* effect of the Bilateral Agreements on the Swiss economy, the second relates to papers who examine the *negative* affect of the Bilateral Agreements' absence on the Swiss economy. In the first category, van Nieuwkoop & Müller (1999a) estimate the expected economic effects of the Bilaterals I relative to the status quo of the Swiss economy in 1999. Their findings suggest small but positive effects of the Bilaterals I, with welfare gains around 0.5 %. These results are supported by Bühler et al. (2011), who prove that trade liberalisations in the framework of the Bilaterals I had significant positive effects on Swiss industry growth. Unlike van Nieuwkoop & Müller (1999a), the study design and the analysis period of Bühler et al. (2011) have the advantage that the effects of the Bilaterals I can be assessed retrospectively, thus they do not have to rely on assumptions. In any case, both studies suggest that sub-scenario 1.1, which entails a cessation of the Bilaterals I & II, has a negative expected effect on the Swiss economy, owing to decreased growth and adverse welfare effects.

Studies in the second category examine the effect of the Bilaterals' absence. These studies have the advantage that their design is more accurate with the dynamics of sub-scenario 1.1<sup>146</sup>. In this respect, BAK Basel Economics (2015) analyses the economic effects of a cessation of the Bilaterals I relative to the status quo of the Swiss economy in 2018. The calculated estimates indicate that, with a cessation of the Bilaterals I in 2018, Swiss GDP will until 2035 be 7.1 % lower than in a scenario without cessation. The aggregate welfare loss is quantified at 630 bn. Swiss Francs (roughly 620 bn. €), which almost corresponds to Switzerland's GDP in 2015. Ecoplan (2015) uses a different methodology than BAK Basel Economics, but with the same status quo as a baseline. Consistent with sub-scenario 1.1, Ecoplan (2015) does explicitly not consider the effects of compensation measures in its calculations<sup>147</sup>, and assumes that Switzerland will revert to still existing agreements when the Bilaterals I fall away, hence *inter alia* the 72-FTA. The authors calculate that, with a cessation of the Bilaterals I in 2018, the Swiss GDP will be 4.9 % lower until 2035 relative to a scenario without cessation. Moreover, export and import volumes (-5.2 %; -4.6%), wages for low-skill and high skilled workers (-0.8 %; -0.6 %) and capital income are expected to shrink (Ecoplan, 2015). If I consider that the Bilaterals II were assumed to be retained in both studies, then the expected welfare losses of sub-scenario 1.1 are likely to be higher than 7.1 %, respectively 4.9 %. This is because a cessation of *both* Bilaterals I & II, as sub-scenario 1.1 stipulates it, would also entail a termination of, e.g., the Schengen Agreement and the Agreement on Agriculturally Processed Products, which both have substantial economic value (FDFA, 2017).

Two further studies hint at the presumed exclusively negative effects of sub-scenario 1.1 on the Swiss economy. Mion & Ponattu (2019) show that Switzerland gains per capita more from the ESM than any EU or EEA country. On average, ESM-related income gains in the EU and the EEA amounted to 840 € per year and capita. In Switzerland, income gains per year and capita were 2,914 €. This is noteworthy, given that Switzerland has – unlike all EU and EEA states – only sectorial access to the ESM and has not fully adopted all four freedoms of the EU (Jenni, 2019). Ultimately, Dümmler & Grünenfelder (2019) have computed that approximately *at least* 860,000 workers in Switzerland benefit directly from access to the ESM. Therefore, welfare gains stemming from the Bilateral Agreements appear to be felt by a vast share of the population in Switzerland. As a reverse conclusion, the results of Mion & Ponattu (2019) and Dümmler & Grünenfelder (2019) suggest that the implementation of sub-scenario 1.1 – which entails a grave reduction of Swiss access to the ESM – would lead to extensive income losses (or much smaller income gains), and would probably affect nearly a million Swiss workers directly.

As for the assessment in specific, sub-scenario 1.1 stipulates that both the AFMP and the MRA would cease to apply, since they are part of the Bilaterals I package. Accordingly, the first question is what effects would be 'channelled' onto the Swiss economy if the AFMP ceases to apply. BAK Basel Economics (2015) calculates that within the above mentioned 630 bn. Swiss Francs of aggregate welfare loss until 2035, 39 % are to be attributed to the AFMP (258 bn. Swiss Francs),

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<sup>146</sup> In particular, these studies do factor in the already occurred effects of the Bilateral agreements (irrespective of whether they are negative or positive). To give an example, whereas van Nieuwkoop & Müller's study (1999a) can only take into account the impacts of a future agreement, BAK Basel Economics' study (2015) can consider the effects of the Bilaterals from 2002-2015 and further negative / positive effects that stem from the abolition of the already occurred empirically provable effects from 2002-2015.

<sup>147</sup> Such measures are a distinctive feature of sub-scenarios 1.2 and 1.3, but not of sub-scenario 1.1.

which makes the AFMP the most valuable agreement among the Bilaterals I. Already in 1999, van Nieuwkoop & Müller have estimated that welfare gains of the Bilaterals I would be mainly caused by the immigration of EU citizens, i.e., by the AFMP. Also Ecoplan (2015) arrives at similar conclusions; an ‘isolated’ termination of the AFMP would result in a reduction of the Swiss GDP by nearly 4.5 % until 2035, thereby making it the most valuable agreement in the Bilaterals I package. Furthermore, with a cessation of the AFMP as provided for in sub-scenario 1.1, positive effects on growth and productivity of incumbent firms (Beerli et al., 2021) and positive effects on wages of highly educated native workers (e.g., Naguib, 2019) would fall away.

The second question is what effects would be channelled onto the Swiss economy if the MRA ceases to apply, as designated in a 1972-FTA fallback. BAK Basel Economics (2015) and Ecoplan (2015) suggest significant negative effects if the MRA drops out, albeit less in magnitude than a cessation of the AFMP. The negative effects on the Swiss economy are in this case to be traced back to a rise in export costs and decreased trade creation effects (BAK Basel Economics, 2015). Furthermore, the studies by Loridan (2008), Hälgl (2015) and Schwarzer (2017) give rise to the assumption that the cessation of the MRA leads to higher costs for incumbent firms, possibly leading to a rise in unemployment. Hug Alonso et al. (2022) show that the expiration of single chapters of the MRA has already led to substantial costs for the Swiss medicinal technology and diagnostics industry (see also Swiss Medtech, 2021, and SQS, 2021 and chapter 3.2).

The assessment can be summarised as follows: According to the general assessment, sub-scenario 1.1 leads to a material loss in welfare and in GDP gains, presumably even more pronounced than several studies suggest, owing the cessation of *both* Bilateral packages. Moreover, negative cost-bearing effects are to be expected for firms, as well as income losses among workers. As for the specific assessment, a cessation of AFMP and MRA likewise is supposed to result in welfare losses, less productivity and higher costs for firms, and in lower wages for native workers, and presumably in a rise in unemployment. Isolated positive effects of a 72-FTA fallback cannot be ruled out (Favre et al., 2013, Naguib, 2019, BAK Basel Economics, 2021), but they are starkly outweighed by the negative effects. Therefore, according to my economic effects assessment, the effects of sub-scenario 1.1 on the Swiss economy are **gravely disadvantageous** based on the results and suggestions of existing studies, and compared to the status quo of the Swiss economy.

### **9.1.2. Economic Effects Assessment – Sub-scenario 1.2**

The second sub-scenario features a baseline that is in many aspects similar to sub-scenario 1.1, but not equal: Switzerland has terminated either the Bilaterals I as a package or only a single agreement therein, with the result that the Bilaterals I as a whole cease to apply, including the AFMP and the MRA (Cottier et al., 2021; Federal Council, 2015; Grünenfelder & Schellenbauer, 2018). The Bilaterals II and further Bilateral agreements between Switzerland and the EU continue to apply. In order to compensate for the Bilaterals I, Switzerland has concluded a comprehensive FTA with the EU based on the FTA from 1972. A comprehensive FTA includes all provisions from the 1972-FTA, and – other than the 1972-FTA – also provisions on the reduction of tariffs and quantitative restrictions in agriculture (Federal Council, 2015), as well as liberalisations in the financial sector and in services (Cottier et al., 2021).

As for the assessment in general<sup>148</sup>, it should be considered that the Bilaterals II remain in force in sub-scenario 1.2, but that apart from that, many parameters stay the same (i.e. cessation of all agreements within the Bilaterals I). Hence, I assume that several assumptions from sub-scenario 1.1 can be held up. First, a cessation of the Bilaterals I, as stipulated in BAK Basel Economics (2015) and in Ecoplan (2015), would until 2035 lower the Swiss GDP by 7.1 % and 4.9 %, respectively. Also trade volumes and wages of low-skilled and high-skilled workers would sink significantly (Ecoplan, 2015). However, unlike sub-scenario 1.1, the present sub-scenario maintains agreements like Schengen, hence the calculated effects on GDP, wages and trade volumes are more likely to apply to sub-scenario 1.2 than to sub-scenario 1.1 (in the latter, calculated effects are presumably underestimating welfare losses). Second, general welfare losses (van Nieuwkoop & Müller, 1999a), extensive income losses (Mion & Ponattu, 2019) and negative effects for a substantial share of the Swiss population (Dümmeler & Grünenfelder, 2019) also apply to sub-scenario 1.2. A logical *preliminary* conclusion is thus that the effects of sub-scenario 1.2 on the Swiss economy are gravely disadvantageous, equal to sub-scenario 1.1. Yet, a fundamental difference between the sub-scenarios is the ‘comprehensivisation’ of the FTA in sub-scenario 1.2. The essential question is accordingly to what extent trade liberalisations in agriculture, finances (i.e. the banking sector) and services are able to mitigate otherwise gravely disadvantageous effects on the Swiss economy that an implementation of sub-scenario 1.2 would entail.

As for effects of trade liberalisations in general, Winters (2004, F4) concludes in a literature overview that “liberalisation generally induces a temporary (but possibly long-lived) increase in growth”. In respect of the financial sector, Mattoo et al. (2006) found that countries that fully liberalise their financial and telecom services sectors grow as far as 1.5 % quicker than other countries. Regarding studies that focus on Switzerland specifically, Bühler et al.’s results (2011, p. 22) “support the view that trade liberalization has a relevant effect on economic growth”, while van Nieuwkoop & Müller (1999a) suppose that agricultural liberalisations lead to lower prices for Swiss customers. Thus, in principle, the ‘comprehensivisation’ that sub-scenario 1.2 provides for, should effectuate that the economic effects of sub-scenario 1.2 are less disadvantageous than the ones from sub-scenario 1.1. Nonetheless, a report by the Swiss Federal Council (2015) that focuses explicitly on the impacts of a comprehensive FTA with the EU, challenges these general results. The report concludes that liberalisations in services and in the financial sector would only result in *limited* additional benefits for Switzerland, whereas a liberalisation in terms of a reduction of tariff barriers in the agricultural sector might even be less advantageous for the country. The report sums up that a comprehensive FTA would, relative to the current Bilateral framework, represent a clear economical setback. In the same vein, Grünenfelder et al. (2019) suggest that a comprehensive FTA along the lines of the CETA between the EU and Canada would, despite being more extensive than the 72-FTA, result in higher prices, a lower GDP per capita and less innovative capacity, compared to the current Bilateral framework.

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<sup>148</sup> There is no absolute consensus among the proposals and approaches from politics, civil society and science on what precisely a comprehensive FTA entails. Most contributors agree on liberalisations in the agricultural sector, whereas Cottier et al. (2021) additionally envisage liberalisations in finances and services. Grünenfelder & Schellenbauer (2018) go a step further and propose that a comprehensive FTA would be partly equivalent to the Bilateral Agreements in its substance. For my economic effects assessment, I confine myself to liberalisations in agriculture, finances and services.

The assessment of the economic effects of sub-scenario 1.2 *in specific* is conducted briefly. An FTA, even if comprehensive, does mainly allow for a reduction of trade barriers of any kind, but not for legal harmonisation (e.g., of standards or procedures) between two economic partners and an ensuing integration into an internal market. Hence, a comprehensive FTA as envisaged in sub-scenario 1.2 cannot replace the AFMP and the MRA, since these agreements base on legal harmonisation, i.e., alignment of Swiss laws (very explicitly stated by Federal Council, 2015, p. 29, p. 44; see also Cottier et al., 2021; Grünenfelder & Schellenbauer, 2018). As a consequence, both the AFMP and the MRA cease to apply in sub-scenario 1.2 and their economic effects cannot be reconstructed through a comprehensive FTA. I thus retain my assumptions from sub-scenario 1.1 and also adopt its economic consequences regarding AFMP and MRA for sub-scenario 1.2, which are a reduction in Swiss GDP, negative effects on productivity of firms and Swiss wages as well as higher costs for exporting firms.

In conclusion, expected economic effects of sub-scenario 1.2 are largely comparable to sub-scenario 1.1. Academic literature in general and in specific suggests that these effects are not beneficial for the Swiss economy at all; if anything, they are *slightly less disadvantageous* than the ones of sub-scenario 1.1. This is because, after all, additional trade liberalisations in several sectors (relative to the 72-FTA) that come with a comprehensive FTA might induce growth (Winters, 2004; Mattoo et al., 2006; Bühler et al., 2011), lead to lower customer prices (van Nieuwkoop & Müller, 1999a), and yield marginal additional benefits for Switzerland (Federal Council, 2015). Hence, my economic benefit score is as follows: According to my economic effects assessment, the effects of sub-scenario 1.2 on the Swiss economy are **very disadvantageous** based on the results and suggestions of existing studies, and compared to the status quo of the Swiss economy.

### 9.1.3. Economic Effects Assessment – Sub-scenario 1.3

The third sub-scenario - 72-FTA with flight forward strategy – is much alike sub-scenario 1.2: Switzerland would unilaterally terminate either the Bilaterals I or a single agreement therein, but would retain the Bilaterals II and several standalone Bilateral agreements. Also, Switzerland-EU relations would fall back to the 72-FTA as a primary economic cooperation basis. The main difference is that compensation measures would not be implemented via a ‘comprehensivisation’ of the 72-FTA, but via market liberal reforms (e.g., through liberalisation of the agricultural sector, and through a business tax cut), an expansion of the international FTA framework with third countries, further privatisations of public enterprises and a unilateral Swiss opening towards foreign investors (Grünenfelder et al., 2019). Regarding the assessment of sub-scenario 1.3 *in general*, I proceed as follows: Since scenario 1.3 has the same baseline as sub-scenario 1.2, I preliminarily conclude that the effects of sub-scenario 1.2 on the Swiss economy are gravely disadvantageous, equal to sub-scenario 1.2 (BAK Basel Economics, 2015; Ecoplan, 2015; van Nieuwkoop & Müller, 1999a; Mion & Ponattu, 2019; Dümmler & Grünenfelder, 2019). However, to what extent are the above listed market liberal reforms able to mitigate otherwise gravely disadvantageous effects on the Swiss economy that an implementation of sub-scenario 1.3 would entail?

Grünenfelder et al. (2019) conclude that sub-scenario 1.3 with the above laid out parameters (market liberal reforms, privatisations, etc.) would lead to substantially higher prosperity than a comprehensive FTA along the CETA, particularly through better innovation capacity, a higher GDP per capita and lower consumer prices. Yet, can this positive first assessment regarding sub-

scenario 1.3 be upheld when I analyse the ‘flight forward’ measures in more detail?<sup>149</sup> First, liberalisations in the agricultural sector are likely to have only limited, yet positive effects on the Swiss economy (Federal Council, 2015; van Nieuwkoop & Müller, 199a; Grünenfelder et al., 2019), as described above. Second, business tax cuts have proved to increase corporate labour investment within domestic firms in Germany (Dobbins & Jacob, 2016) and R&D investment within firms in China (Lan et al., 2020). Moreover, Dietz & Keuschnigg (2002) show that a business tax reform in Switzerland (including tax cuts) has encouraged investment in the corporate sector. Nonetheless, Auerbach (2018) analyses the 2017 US Tax Cuts and Jobs Act and summarises that estimates of the effects of tax cuts are highly debatable. I thus conclude that tax cuts are likely to have a positive impact on the Swiss economy from a macroeconomic perspective, but the magnitude of such measures is unclear. Third, one may assume that FTAs which reduce trade barriers and transaction costs have in principle a positive impact on firms and national economies. Several extensive studies suggest income growth and substantial efficiency gains for firms through FTAs (e.g., Anderson & Yotov, 2016; Cali et al., 2019) and thus support my assumption. However, economic growth effects in bilateral FTAs may be unequally distributed between trading countries (Hur & Park, 2012). For the case of FTAs concluded by Switzerland, Legge & Lukaszuk (2019) and BAK Economic Intelligence (2020) suggest that respective agreements create jobs in Switzerland, stimulate exports and reduce costs for Swiss firms. To sum up, chances are high that the Swiss economy would benefit from future bilateral FTAs with third countries. Fourth, classic economic models (Niskanen, 1968) as well as more recent studies (e.g., Bel & Fageda, 2007) tentatively suggest that privatisations of public bodies and enterprises encourage cost savings in the economy and within public bodies, but compelling empirical evidence is scanty and does not give rise to unambiguous inferences on the effect of privatisations on the Swiss economy (see, e.g. Flecker et al., 2009<sup>150</sup>). Positive macroeconomic effects caused by privatisations are thus far from guaranteed. Fifth, numerous studies indicate that foreign direct investments (FDIs) foster economic growth (Öztürk, 2007; Carkovic & Levine, 2002). Yet again, scholarly evidence is either too general (I assume that the studies’ context and design does not necessarily allow for cogent assumptions on the Swiss case) or too ambiguous in its expected effects to arrive at reliable conclusions regarding the effect of such measure on the Swiss economy.

On the whole, the ‘flight forward’ compensation measures from sub-scenario 1.3 might at least partly have the anticipated impact to mitigate negative economic effects owing to the cessation of the Bilaterals I. The assessment *in general* shows that business tax cuts, an expansion of the FTA network and possibly even agricultural liberalisations are likely to have a reconciling impact on the Swiss economy. The same conclusions cannot be drawn as regards a further opening towards FDIs, and effects may even be adverse for the Swiss economy if privatisations of public enterprises are purposed (Flecker et al., 2009). If I turn to the assessment *in specific* for sub-

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<sup>149</sup> To make the ‘flight forward strategy’ assessable in terms of its substance, I operationalise its concrete reform measures as encompassing a liberalisation of the agricultural sector, business tax cuts, an expansion of the international FTA framework with non-EU countries, privatisations of public enterprises (e.g., the Swiss Post and the Swiss Federal Railways) and a unilateral opening towards foreign investors.

<sup>150</sup> The extensive PIQUE project by Flecker et al. (2009) focuses on privatisations of public enterprises in EU countries and shows that privatisations of public services “have largely negative effects on employment and working conditions and varied effects on productivity and service quality” (p. 98). A positive effect of privatisations is therefore not to be expected.

scenario 1.3, I act on the assumption that was drawn for sub-scenario 1.2: An FTA, whether comprehensive or not, cannot replace the AFMP and the MRA which were abolished with the termination of the Bilaterals I and which base in essence on legal harmonisation of Swiss laws towards EU laws (Federal Council, 2015; Cottier et al., 2021). In the same vein, unilateral measures that merely aim at market liberalisations of any kind cannot reconstruct the market access that the two agreements allowed for. However, these measures might generate hidden effects: For example, a business tax cut could partially absorb increased export costs for firms that were originally caused by an abolition of the MRA (see also Hug Alonso et al., 2022), while FDIs could regain at least some of the technological and knowledge spillovers that got disrupted through the AFMP termination (Öztürk, 2007; Carkovic & Levine, 2002; Cristelli & Lissoni, 2020).

All told, I presume that the implementation of sub-scenario 1.3 would initially result in the same effects on the Swiss economy than sub-scenario 1.2, which are largely detrimental. However, market liberal compensation measures have the potential to more successfully mitigate otherwise gravely disadvantageous effects of the lost ESM market access than a comprehensive FTA would manage to do, for two reasons: First, business tax cuts, an expansion of the FTA network and possibly even agricultural liberalisations are likely to have a reconciling impact on the Swiss economy. Second, hidden effects of market liberal compensation measures might somewhat absorb the adverse impact of the abolition of AFMP and MRA. Nonetheless, I suppose that the termination of five vital market access agreements and their replacement through an FTA cannot result in more beneficial effects for the Swiss economy relative to the Bilateral status quo. Therefore, and according to my economic effects assessment, the effects of sub-scenario 1.3 on the Swiss economy are **rather disadvantageous** based on the results and suggestions of existing studies, and compared to the status quo of the Swiss economy.

#### **9.1.4. Economic Effects Assessment – Sub-scenario 2.1**

The economic effects assessment of sub-scenario 2.1 – the continuation of the Bilateral path without institutional elements – is in many ways an extrapolation of the Bilateral status quo that has been persisting since the entering into force of the second Bilateral package in 2004 (Oesch, 2020a)<sup>151</sup>. The Bilateral path has since its establishment not been experiencing any relevant institutionalisation; implementing sub-scenario 2.1 would thus simply represent a ‘carrying on’. Consequently, one may expect that in terms of the expected economic effects of sub-scenario 2.1 on Switzerland, there is zero difference relative to the status quo. As a result, I would have to assign this sub-scenario the likeliness score *difficult to say (it can fall on both sides)*, which would in turn represent a middle ground, proceeding from which external events and the general economic situation may cause this sub-scenario’s economic effects to fall on either side. However, two eventualities object to this inference: First, a continuation of the current Bilateral path as e.g., the SVP and Kompass/Europa demand it, would possibly comprise further market access agreements (e.g., an electricity agreement), which might improve the effects of sub-scenario 2.1 on the Swiss economy. Second, the EU has several times explicitly stated that without an institutionalisation, further market access agreements would not be concluded (see footnote 95) and has even implied that updates of existing agreements will not be approved without an institu-

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<sup>151</sup> The Bilaterals I & II are currently the main pillar for Switzerland-EU cooperation, but also ‘post-Bilateral’ agreements like the Customs Agreement from 2009 count as part of the Bilateral status quo.

tionalisation<sup>152</sup>. In light of political feasibility aspects, the second eventuality is more appropriate and more decisive for sub-scenario 2.1's expected effects on the Swiss economy. Such development would result in an erosion of the Bilateral framework<sup>153</sup>. The main question is thus; what economic effects would a Bilateral erosion have on the Swiss economy, in general and in specific?

The matter in hand – the economic effects of a Bilateral erosion on Switzerland, caused by the continuation of the Bilateral path without an institutionalisation, inducing the EU to slowly curtail Swiss market access to the ESM – is best analysed through assessing the effects of an erosion where they happen, i.e., within single agreements. An assessment *in general* does therefore neither lend itself to a robust conclusion, nor can it be backed by much scholarly literature. I therefore confine myself to a study by BAK Basel Economics (2021) which qualitatively assesses the effects of a failure of the 2018-IFA and of the ensuing erosion on the Upper Rhine region. The study concludes that on the one hand, regions on both sides of the Upper Rhine<sup>154</sup> would have to expect predominantly negative consequences from an erosion, and that the erosion could restrict growth potential in the region. On the other hand, BAK Basel Economics (2021) also states that the further development of such scenario is uncertain and that precise effects cannot be rigorously determined from today's point of view. Hence, I preliminarily conclude that, if anything, an erosion that maintains the Bilaterals but does not develop them further is at least rather disadvantageous for the Swiss economy – and so are the effects of sub-scenario 2.1.

As explained above, the economic effects of sub-scenario 2.1 can be best assessed by analysing (potential for) erosion within single Bilateral agreements. The economically most valuable agreement, the AFMP (BAK Basel Economics, 2015; Ecoplan, 2015), has not suffered from Bilateral erosion so far; internal processes for an incorporation of an amendment of directive 2005/36 (on the recognition of professional qualifications) are already underway and indications that the AFMP would soon suffer from legal obsolescence are not discernible (Hug Alonso & Dümmler, 2022). BAK Basel Economics (2021) comes to the same conclusion. Nonetheless, BAK Basel Economics (2021) and Hug Alonso et al. (2022) note that an eventual erosion of the AFMP would have far-reaching impacts on the Swiss economy, such as a skills shortage, decreased competitiveness of Swiss firms and less innovation capacity.

The effects of sub-scenario 2.1's erosion are best observable in the MRA. The refused integration of the MDR (concerning safety standards of medical technology products) has since 2021 already led to significant additional costs for the exporting industry (SQS, 2021). The inter-trade organisation Swiss Medtech (2021) expects annually recurring costs of 75 million Swiss Francs, while

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<sup>152</sup> Instances where updates of existing agreements have been blocked by the EU are the EU's refusal to update the MRA through non-incorporation of the MDR (Swissmedic, 2021) and the in-vitro diagnostics regulation 2017/746 (IVDR) (Hug Alonso et al., 2022), or the EU's decision to downgrade Switzerland to a non-associated third country in Horizon Europe, as well as a non-recognition of the conformity of the Swiss stock exchange regulation with EU law (see chapter 2).

<sup>153</sup> An erosion of the Bilateral agreements is to be understood as a lack of (legal) updating of the Bilateral agreements up to their inapplicability due to their legal obsolescence, which then impedes Swiss access to the ESM. Such held off updating occurs through the EU's refusal to incorporate new EU directives and regulations into Bilateral agreements, as described above. Moreover, erosion can also occur through the EU's denial to let Switzerland (continue to) participate in joint programmes and EU agencies.

<sup>154</sup> BAK Basel Economics (2021) defines Northwestern Switzerland and regions in Baden-Württemberg (Germany) and Alsace (France) that are close to the Rhine as belonging to the Upper Rhine region.



Hug Alonso et al. (2022) anticipate a shortage of medical technology products on the Swiss market, owing to increased market barriers. Moreover, also the EU's IVDR has lost its applicability to the MRA in May 2022, which has *ex ante* increased export costs for the diagnostics industry. Further hurdles are in the near future to be expected for the Swiss mechanical engineering industry and the Swiss construction products industry, and possibly for the strongly export-oriented pharmaceutical industry<sup>155</sup> (Hug Alonso et al., 2022). More instances of an already occurring erosion of the Bilateral framework concern cooperation in research and education (i.e. Horizon Europe and Erasmus) and agricultural cooperation (Hug Alonso & Dümmler, 2022).

In conclusion, the assessments *in general* and particularly *in specific* suggest that sub-scenario 2.1 will over time have marginal, but increasing detrimental effects on the Swiss export industry and therefore on the Swiss economy as whole via Bilateral erosion. This is under the assumption that the continuation of a Bilateral path without institutional elements will prompt the EU to further curb Swiss access to the ESM, as it has done in the recent past. Positive effects on the Swiss economy through additional agreements are rather unlikely under sub-scenario 2.1. This means that, according to my economic effects assessment, the effects of sub-scenario 2.1 on the Swiss economy are **rather disadvantageous** based on the results and suggestions of existing studies, and compared to the status quo of the Swiss economy.

### 9.1.5. Economic Effects Assessment – Sub-scenario 2.2

The second sub-scenario within scenario 2 – the IFA 2.0 – differs from sub-scenario 2.1 mainly through the horizontal institutionalisation of the Bilateral path by means of a dynamic adoption of EU law, an IDS and a homogeneous legal interpretation of the agreements. Also, other than in sub-scenario 2.3, further Bilateral agreements are not *explicitly* designated in sub-scenario 2.2, but much more likely to be realised than in sub-scenario 2.1. This I assume to apply because an institutionalisation of the Bilateral path as it is insisted on by the EU (irrespective of a horizontal or a vertical arrangement of institutional elements) will clear the way for additional Bilateral agreements (see e.g., Council of the EU, 2019). The key question to assess the economic impacts of sub-scenario 2.2 on Switzerland is thus: How would economic effects on Switzerland be different with a horizontal institutionalisation of the Bilateral path, compared to the status quo?

The assessment in general gives rise to three aspects that might, relative to the status quo, lead to more preferable economic effects for Switzerland. First, an institutionalisation that is characterised by a dynamic and 'predictable' adoption of new EU laws and by an institutionalised template on how to solve legal disputes, will enhance legal certainty for businesses operating in Switzerland. This argument has been put forward by legal and economic scholars like Oesch (2020a), Grünenfelder et al. (2019), Tobler & Beglinger (2020) and Ambühl & Scherer (2021a), as well as by political actors like the FDP (2022a) and the GLP (2018). Furthermore, the importance

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<sup>155</sup> Following a Commission proposal in April 2021, the Machinery Directive 2006/42 is soon to be revised (European Parliament, 2021c) and might from 2024 negatively affect the Swiss mechanical engineering industry, if the revision will not be incorporated into the MRA. A second proposal by the Commission from March 2022 suggested a revision of the Construction Products Regulation 305/2011 (Kurmayer, 2022; European Commission, 2022). In case of a non-adoption of the revision into the MRA, Swiss construction firms have to expect market barriers. Lastly, revised provisions on 'good manufacturing practice' (MRA, annex I, chapter 15) might in the next years obstruct market access for pharmaceutical enterprises, provided the Bilateral erosion continues in the MRA (Hug Alonso et al., 2022).

of institutions and legal certainty in encouraging economic growth, respectively economic efficiency, has been suggested by several scholars (e.g., Acemoglu et al., 2005; Portuese et al., 2014) and thus supports other scholars and political actors who employ this argument specifically to highlight the advantages of an institutionalisation of the Bilateral path. Second, through an institutionalisation (i.e., after the conclusion of an IFA 2.0), the EU will most likely resolve the legal blockade that has led to an erosion of several Bilateral agreements (as described in chapter 9.1.4.) and that already forms part of the Bilateral status quo. Examples are the refused adoption of the MDR and the IVDR into the MRA in 2021, respectively 2022. Their adoption would in turn decrease export costs for firms. Third, as suggested above, sub-scenario 2.2 offers the possibility to conclude further Bilateral agreements owing to institutionalisation. Whether contemplated agreements (in electricity and food safety) would actually result in positive economic effects for Switzerland cannot be told yet with certainty<sup>156</sup>. However, if Bilateral history is a guide, then positive effects on the Swiss economy are a realistic assumption.

The assessment in specific does not suggest any contradictory economic implications for sub-scenario 2.2. The major change triggered by an institutionalisation of the Bilateral framework is the conversion of legal updates of AFMP and MRA into a dynamic structure. In this regard, the most obvious and weighty EU legal act to be incorporated into the AFMP is the Citizens' Rights Directive 2004/38 (CRD), presumably with specific and temporary opt-outs or safeguard clauses. Expected economic effects of an incorporation of the CRD into the AFMP are marginally increasing social welfare costs, but also economic benefits stemming from the conclusion of an institutional agreement that most likely excel these increased welfare costs (Farman, 2021). However, the CRD was nowhere mentioned in the 2018-IFA draft (and would probably not be mentioned in a vertical arrangement either); ultimately its adoption is all but definitive. Dynamic adoption of EU laws into the MRA would almost certainly not be disputed at all<sup>157</sup>, but yet economically beneficial. The current blocking of the MDR and the IVDR would most likely be resolved if sub-scenario 2.2 should occur; this will then help Swiss exporting firms to regain their access to the ESM. Moreover, with sub-scenario 2.2, prospective updates (e.g., of the revised Machinery Directive 2006/42) will be integrated smoothly into the MRA.

To sum up, sub-scenario 2.2 would probably exert mild, but positive effects onto the Swiss economy. The institutionalisation allows for legal certainty and, possibly, economic growth and efficiency, it resolves the blockade in the MRA, in research cooperation and other areas and it clears the way for further Bilateral agreements. In addition, the legal enrichment of the AFMP does presumably not result in negative economic effects for Switzerland, whereas the further development of the MRA via dynamic adoption of laws inevitably would yield benefits for the country. Thus, according to this economic assessment, the effects of sub-scenario 2.2 on the Swiss economy are **rather advantageous** based on the results and suggestions of existing studies, and compared to the status quo of the Swiss economy. *Very advantageous* effects might be the case too, but the assessment does not allow for an overwhelming probability of such conclusion.

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<sup>156</sup> To the least, van Baal & Finger (2019) and Hettich et al. (2020) suggest largely positive effects of an electricity agreement on the Swiss economy.

<sup>157</sup> As Oesch (2020a, p. 85) notes, updates of EU directives and regulations into the MRA are usually a matter of routine and not prone to politicisation.

### 9.1.6. Economic Effects Assessment – Sub-scenario 2.3

Sub-scenario 2.3 – the continuation of the Bilateral path with a vertical integration of institutional elements in a ‘Bilaterals III’ narrative – is in many ways identical with sub-scenario 2.2, and accordingly similarly distant from the status quo as sub-scenario 2.2. Both sub-scenarios stipulate the continuation of the Bilateral path and the integration of the same institutional elements with the same outcomes (see also footnote 62, and the notion of a ‘basic pattern’ in footnote 64). Presumably, the largest difference relates to the public perception of the vertical approach as not being negatively branded (see chapter 8.2.3.), which certainly does not manifest itself in different economic effects than in sub-scenario 2.2. As a *preliminary* and basic conclusion, I therefore assume that sub-scenario 2.3 is equally advantageous for the Swiss economy as sub-scenario 2.2 (i.e., rather advantageous.)

However, the vertical integration of institutional elements constitutes a further difference between sub-scenarios 2.2 and 2.3. As a consequence, the vertical approach as designated by the Federal Council (2015), Ambühl & Scherer (2021b) and FDP (2022a) offers the potential for further market access agreements. Such possibility is also provided for in sub-scenario 2.2, but it is more explicitly scheduled in the present sub-scenario by means of an expansion of the negotiation mass. The key question is thus if a ‘verticalisation’ exerts different effects on the Swiss economy than sub-scenario 2.2, and if so, to what extent.

For the assessment *in general* I again analyse the three points already discussed in sub-scenario 2.2. First, legal certainty increases in the same way with a vertical approach, hence I suppose its positive effects on economic growth and efficiency (e.g., Acemoglu et al., 2005; Portuese et al., 2014) to apply also in sub-scenario 2.3. Second, a resolution of the legal blockade in, e.g., the MRA, would also be triggered with a vertical solution, provided institutional elements are integrated so that they have the same outcome as in sub-scenario 2.2 (i.e., the ‘basic pattern’). If anything, then it is the better chances that further Bilateral agreements will be concluded where sub-scenario 2.3 makes a difference compared to its horizontal twin. Therefore, what economic effects may the two agreements that were mentioned by the Federal Council (electricity, food safety, see also Hess, 2022a)<sup>158</sup> have on Switzerland? In respect of the electricity agreement, positive cost savings effects for Swiss end users are to be expected in significant quantity (Economiesuisse, 2019; van Baal & Finger; 2019, Hettich et al., 2020), as well as positive effects on grid stability and on security of supply (Dümmler, 2021). The latter is in turn a precondition for a sound business environment and economic growth. As for a potential food safety agreement, specifications on its purposed content do not suggest widespread *direct* economic effects. Negotiations on a food safety agreement have since 2008 been centred on Switzerland’s participation in pertinent EU agencies, on mutually improved access to foodstuff markets, and on mutual recognition of food law specifications (FDFA, 2019; Oesch, 2020a). The latter two aspects might decrease costs for exporting and importing firms and dip consumer prices, resulting in *indirect*

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<sup>158</sup> Other actors from politics and science have suggested that the expansion of the negotiation mass could include agreements in the fields of electricity, health and financial services (FDP, 2022a), or in electricity, research and health (Ambühl & Scherer, 2021b). An electricity agreement is therefore a common denominator, whereas an agreement in food safety has only been explicitly suggested by the Federal Council (Hess, 2022a). I will accordingly focus on electricity and food safety, as it is to be assumed that the Federal Council’s suggestions for further Bilateral agreements have the largest bearing.

positive effects for the Swiss economy. Altogether, both an electricity and a food safety agreement are more likely to exert positive economic effects on Switzerland<sup>159</sup>, and not negative ones.

In the assessment *in specific*, I retain the assumption that both a vertical and a horizontal arrangement are supposed to incorporate the same institutional elements with the same outcomes (see footnote 62). Thus, a dynamic legal updating of the AFMP and the MRA would also in sub-scenario 2.3 deliver net benefits for Switzerland, largely owing to the deblocking of MRA updates and an expected smooth legal integration process in the agreement. To conclude, the continuation of the Bilateral path via a vertical integration of institutional elements has largely the same expected effects on the Swiss economy as sub-scenario 2.2. The most profound difference between the two sub-scenarios is the expanded negotiation mass that would bring forth *at least* two additional market access agreements with advantageous effects for Swiss firms and customers. Relative to sub-scenario 2.2, economic effects are thus expected to be even more positive. As a consequence, I assign sub-scenario 2.3 a better likeliness score to account for the expected difference in (aggregated) effects: According to this economic assessment, the effects of sub-scenario 2.3 on the Swiss economy are **very advantageous** based on the results and suggestions of existing studies, and compared to the status quo of the Swiss economy.

#### 9.1.7. Economic Effects Assessment – Sub-scenario 3.1

A sub-scenario 3.1, in which Switzerland accedes to the EEA, would bear much more alterations relative to the status quo than all sub-scenarios within scenario 2 would. First, similar but not equal to sub-scenarios 2.2 and 2.3, an EEA accession would entail an institutionalisation of Switzerland-EU relations. In the EEA, EU legal acts are dynamically updated into the EEA *acquis*, EEA law is interpreted according to the Union law which it is based on, surveillance in EEA states is being conducted through the ESA (see chapter 7.1.2.), whereas legal disputes between the main contractual parties<sup>160</sup> are first discussed in the EEA joint committees, before they are forwarded to the CJEU for interpretational questions, provided that both sides consent (Tobler & Beglinger, 2020). Second, the EEA envisages not *sectorial* integration into the ESM, but a complete adoption of the four freedoms and of EU competition laws including state aid provisions, as well as legal harmonisation in the areas of social policy, consumer protection and several more (EEA Agreement, articles 1, 66 and 72; Economiesuisse, 2010; Tobler & Beglinger, 2020). Third, an EEA accession would concede Switzerland decision shaping rights in the areas mentioned in the second point (EEA Agreement, Articles 99-101). Supposedly, it is the first and to an even larger extent the second point, where economic effects on Switzerland (relative to the status quo) would be felt the most, since almost the entire ESM *acquis* would have to be adopted by Switzerland, resulting in liberalisations and better mutual market access (e.g., services and freedom of capital, see also Jenni, 2019), as well as in more extensive social policies and workers' rights. Therefore, what effects on the Swiss economy do these alterations have in an assessment *in general*?

As for the first point, the integration of institutional elements, I presume that arguments which have been brought forward for institutional elements in sub-scenarios 2.2 and 2.3, also apply to

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<sup>159</sup> Particularly remarkable are potential cost savings for end users (in both agreements), which would increase income growth per capita in Switzerland as a function of mutually improved market access.

<sup>160</sup> Those are Norway, Iceland and Liechtenstein on one side, and the EU on the other.

sub-scenario 3.1: Those are increased legal certainty including positive effects on economic efficiency and growth (Acemoglu et al., 2005; Portuese et al., 2014) and a resolution of the legal gridlock in several Bilateral agreements and thus a curbing of the already occurring Bilateral erosion. I expect the positive effects of legal certainty to be even stronger in case of an EEA accession, due to the larger scope of legally codified economic sectors and respective legal provisions. To this notion, Hauser & Roitinger (2001) mention that an EEA accession would supersede what in Switzerland is termed ‘voluntary adjustment’: Within the voluntary adjustment procedure, Switzerland aligns its laws unilaterally to EU laws in areas that are not covered by Bilateral agreements and associated legal obligations, in order for its laws to be compatible with EU countries, often for economic reasons (Oesch, 2020a, pp. 193-195). In this approach, Switzerland is often dependent on the EU’s ‘goodwill’, i.e. on the EU’s willingness to legally accept Europeanised Swiss laws (Oesch, 2020a), whereas in the EEA such acceptance is given in all areas of the ESM due to the institutionalised enactment of EU laws through the EEA joint committee (Hauser & Roitinger, 2001). This in turn replaces the legal uncertainty of the voluntary adjustment with an unambiguous legal framework for firms, most likely facilitating economic growth.

In terms of the second point (integration into the ESM through adoption of all four freedoms and competition laws as well as legal harmonisation in social policy, consumer protection and more), a quantitative analysis would be the most appropriate way to assess economic effects of such a large and complex change relative to the status quo. However, most studies quantitatively investigating economic consequences of a Swiss EEA accession are outdated and centred around the year 1992<sup>161</sup>, which makes them inapplicable for my assessment in general<sup>162</sup>. This lack of quantitative data makes the assessment of economic effects of sub-scenario 3.1 all the more difficult<sup>163</sup>. The few newer studies that analyse an EEA accession and reveal some hints at the probable economic effects of an EEA accession are by Hauser & Roitinger (2001), Economiesuisse (2010), Gentinetta (2010) and an unpublished report from the Federal Council (2013), where only scattered information is publicly available. Apart from the latter, they are all qualitative assessments and differ in their conclusions.

Hauser & Roitinger’s paper (2001) is probably the most extensive account on effects of an EEA accession in the new millennium. Besides their remarks on substantially increased legal certainty due to institutionalisation and the renunciation of voluntary adjustment (see above), the authors are sympathetic towards an EEA accession, not least because of expected positive economic effects of the improved free movement of services and capital (i.e. financial services in the latter

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<sup>161</sup> Examples for such studies are Hauser & Bradke (1991), BAK Basel Economics (1992) and Lüking & Liedtke (1993). Most likely, these assessments of economic effects of an EEA accession or its refusal centre around 1992 simply because of the high topicality of the EEA in Switzerland at that time. In the following years, the salience of this question and the emergence of corresponding studies have decreased noticeably (for this ascertainment, see also Brunetti et al. (1998)).

<sup>162</sup> The main reason for their inapplicability is that since 1992, the status quo of Switzerland-EU relations has altered significantly, particularly through the conclusion of the Bilaterals I & II. In other words, the status quo that these older studies refer to is not up to date anymore.

<sup>163</sup> The lack of quantitative studies is not so much a problem in any of the sub-scenarios within scenario 2, as these sub-scenarios do not differ very much from the status quo (unlike sub-scenario 3.1), and differences to the status quo can therefore be better crystallised and analysed regarding their potential economic effects. With a larger integrational step and numerous legal modifications that an EEA accession entails, the lack of quantitative studies carries larger weight and makes an economic assessment fuzzier.

case)<sup>164</sup>. The assumption of positive effects on the Swiss economy, stemming from liberalisation in services and finances, is supported by scholarly findings mentioned earlier (Mattoo et al., 2006; Bühler et al., 2011; Federal Council, 2015), who all suggest at least limited positive effects on the Swiss economy from such liberalisations. In another qualitative assessment, Economiesuisse (2010) also highlights institutionalisation and the ensuing increased legal certainty as beneficial for the economy, and appreciates the liberalisation in services that an EEA accession would comprise. However, Economiesuisse (2010) also supposes that additional regulations in social policy, consumer protection and competition law would impede the competitiveness of the Swiss economy, raise costs for firms and thus mitigate economic growth. The association concludes that altogether, negative effects of an EEA accession would prevail relative to the Bilateral framework<sup>165</sup>. In another qualitative contribution, Gentinetta (2010) tentatively supports a Swiss EEA accession, *inter alia* because of expected advantages for Switzerland in a full market liberalisation with the EU in services, because of increased legal certainty through institutionalisation and because of enhanced decision shaping rights. Ultimately, the unpublished report of the Federal Council (2013) sums up that an EEA accession would probably boost Swiss economic growth – once again owing to enhanced freedom of movement for services and resultant better access to the ESM for the large Swiss banking sector (Häfliger, 2013). In conclusion, studies investigating the economic effects of sub-scenario 3.1 *cautiously* suggest on balance rather advantageous outcomes for the Swiss economy, particularly given the looming rumblings of a Bilateral erosion, that form part of the status quo. Negative economic effects of sub-scenario 3.1 have also been mentioned (Economiesuisse, 2010), but they appear to be less salient in relevant literature.

A brief assessment *in specific* of EEA-induced economic effects cautiously substantiates my assumptions on the assessment *in general*. An EEA accession would modify the AFMP in the following way: The agreement as such would presumably be suspended; instead, Switzerland would adopt provisions on the free movement in persons (almost) entirely into its legal body. This includes an adoption of the CRD (probably with several reservations regarding its scope of application in the EEA, see footnote 135), and the incorporation of provisions on freedom of cross-border services (i.e. posted workers) and on social policy and workers' rights. As discussed earlier, an incorporation of the CRD would most likely not have significant adverse net effects on the Swiss economy (Farman, 2021). The incorporation of provisions on freedom of cross-border services would in turn abolish restrictions on service duration (maximally 90 working days per calendar year for posted workers (Oesch, 2020a; p. 93)) and the notification requirement (see footnote 18). According to above discussed literature, effects of such liberalisation in services are likely positive for the Swiss economy. Lastly, economic effects of provisions on social policy and

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<sup>164</sup> Jenni (2019) concludes that the largest gap in economic liberalisation between the Bilateral framework and the ESM with its fully developed four freedoms lays in services (particularly for EU / EEA employers who send off their workers their workers into Switzerland (see also *notification requirement* in footnote 18), for Swiss insurance companies and for Swiss private banks) and to a lesser extent in capital movement. In other words, particularly the private banking and insurance sectors would benefit from further liberalisations that would be triggered through an EEA accession.

<sup>165</sup> Economiesuisse is represents mainly Swiss firms and not employees, so its reasoning might be biased. Furthermore, the Bilateral path that Economiesuisse relates its assessment on the EEA to, has by now experienced an economic 'downgrading' through erosion (see also chapter 9.1.4), which might have the potential to amend Economiesuisse's conclusion if conducted today.

workers' rights<sup>166</sup> are hardly assessable in their economic effects, thus I refrain from any conclusions on this point.

An EEA accession would presumably suspend the MRA as such and render the necessity of mutual recognition of technical standards and specifications between Switzerland and the EEA-30 countries *per se* legally superfluous, because Switzerland would be (almost) fully integrated into the ESM. Hence, arguments from sub-scenarios 2.2 and 2.3 can also be applied at this point, implying that – with an EEA accession – pending MRA updates such as the MDR and ensuing erosion effects would be vitiated. Positive effects might also be expected for products that were so far not covered by the MRA, but that are traded between Switzerland and the EU/EEA. Moreover, protocol 12 of the EEA Agreement guarantees that EU MRAs with third countries are concluded in an equivalent manner also between the third country and EEA states (EFTA, n.d.2). Finally, also the Cassis de Dijon principle is incorporated in EEA law (Gentinetta, 2010). Switzerland has, however, implemented the principle only *autonomously* through voluntary adjustment (SECO, 2019b), implying positive economic effects mainly for EU importers. An EEA accession would cause the EU to expand the principle to Swiss products, leading to positive effects for Swiss exporters (Gentinetta, 2010). Overall, positive economic effects (particularly for trading firms) stemming from an EEA accession are also manifold if one focuses on the MRA only.

I conclude as follows: On the one hand, sub-scenario 3.1 leads to substantially increased legal certainty (also owing to a renunciation of voluntary adjustment), and to presumably to marginal economic growth owing to better access to the ESM. Negative effects on the Swiss economy cannot be ruled out, but are less salient. On the other hand, sub-scenario 3.1 exerts positive, probably *cost-reducing* effects on Swiss exporting firms through a complete realignment of MRA-based relations with the EU, whereas neither strong adverse nor strong positive effects can be assumed from the transformation of the AFMP into a full-blown amalgamation with the EU's freedom of persons framework. Substantial positive effects relative to sub-scenarios 2.2 and 2.3 are thus hardly suggestible, but positive effects of sub-scenario 3.1 relative to the status quo are present, given the looming Bilateral erosion in the status quo. Accordingly, the effects of sub-scenario 3.1 on the Swiss economy are **rather advantageous** based on the results and suggestions of existing studies, and compared to the status quo of the Swiss economy.

#### **9.1.8. Economic Effects Assessment – Sub-scenario 3.2**

More than any other sub-scenario, an EU accession of Switzerland represents a large integrational step that comprises numerous legal adaptations, an accession to various EU institutions and agencies, and thus large and possibly conflictive economic effects. In this light, an assessment *in specific* does not make sense, also considering the outright replacement of AFMP and MRA with the *Acquis Communautaire*. I will thus focus only on an assessment *in general*, i.e., on general macroeconomic effects that an EU accession might have on Switzerland. For that, some clarifications on the legal and institutional changes that an EU accession entails, are necessary.

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<sup>166</sup> Examples are Directive 2006/54 (on equal treatment of men and women in employment), which is incorporated into the EEA Agreement and in force (EEA-Lex, n.d.1), and Directive 2018/957 (implementing the principle of 'equal pay for the same work at the same place' for posted workers) which is currently under consideration for implementation in the EEA (EEA-Lex, n.d.2).

First, with an EU accession, Switzerland would join the Commission, the Council of the EU, the European Council, the CJEU and dozens of EU agencies and have decision making rights. Second – and this is a major difference relative to sub-scenario 3.1 –, Switzerland would join the Customs Union and relinquish its independent foreign trade policy, it would adopt the Common Agricultural Policy (CAP) and significantly liberalise its agricultural sector (Hauser & Roitinger, 2001), it would become a member of the EU’s Common Foreign and Security Policy and implement policies in the areas of freedom, security and justice, taxation, environment and several more. Third, Switzerland would become presumably one of the largest net payers to the EU household<sup>167</sup>. Fourth, there is a chance that Switzerland would (have to) become a Eurozone member and give up the Swiss Franc. On the last point, studies assessing the economic effects of an EU accession on Switzerland in most cases assume that Switzerland would become a member of the Eurozone. In addition, most of these studies are older than ten years<sup>168</sup>, hence they cannot factor in the most current developments in the Bilateral path, such as the erosion. Nonetheless, given the sub-scenario’s complexity and range of impacts, interpreting scholarly results is inevitably the best way to gauge the effects of an EU accession on the Swiss economy.

In 1999, Bärlocher et al. have investigated the macroeconomic effects of a Swiss EU accession in the short run, relative to both the 1999-status quo and the Bilaterals I. The authors conclude that an EU accession should not necessarily be preferred to the Bilateral path, and that adjustment costs of an accession would only be offset after eight years. In another study, van Nieuwkoop & Müller (1999a) conversely find that a “Swiss EU membership will lead to higher welfare gains compared with the Bilateral Sectoral Agreements. This in spite of Switzerland becoming a net payer of transfers to the EU in case of an EU membership” (p. 18). They ascribe the higher welfare gains relative to the Bilateral path *inter alia* to the abolition of border formalities and reduced transaction costs. However, if I consider that after the Bilaterals I and the compilation of the study, e.g., the Schengen agreement (2004) and the Customs agreement (2009) have further reduced border formalities and transaction costs, then the gap in welfare gains relative to the Bilateral framework would presumably be lower from today’s perspective. Furthermore, based on a model which allows for capturing an EU accession’s long term effects, Grether & Müller (2001) estimate that – relative to 1995 as a base year – Swiss aggregate welfare would increase around 1 % of GDP, “whether [Switzerland] chose the bilateral agreements or full EU membership as an integration strategy” (p. 221). Grether & Müller (2001) attribute the comparable welfare increases in both scenarios to Switzerland’s unilateral harmonisation efforts to EU law and to its transfers to the EU budget in case of an accession, whereby the latter to some extent would offset accession-related welfare gains. In other words, an EU accession would relative to a ‘Bilaterals I scenario’ not lead to an increase in aggregate welfare, because *supposedly* Switzerland was already largely integrated in the ESM in the 1990s. This argument would probably apply even more

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<sup>167</sup> In 2006, the Federal Council estimated that, as an EU member, Switzerland would have to pay 3.5 bn. Swiss Francs (back then roughly 2.25 bn. €) annually into the EU’s household budget (Gentinetta, 2010). If one takes the 2020 payments per country as a basis, then Switzerland would become one of the largest net payers expressed in € per capita, together with Denmark and Germany (BPB, 2022).

<sup>168</sup> I suppose that the lack of newer studies is to be traced back to the decreasing salience of the issue of an EU accession. On the one hand, the consolidation of the Bilateral path after 2004 has most likely lowered an EU accession’s standing as a valuable alternative. On the other hand, the Federal Council has in 2016 formally withdrawn its EU membership application (Swissinfo, 2016), thereby stating very clearly that an EU accession is not up to debate.



stringently today, as Switzerland has in these two decades further aligned its laws and economy with the EU, owing to voluntary adjustment efforts and further (post-)Bilateral agreements. Lacking welfare increases in an aggregate perspective notwithstanding, Grether & Müller (2002) have later found that an ‘isolated’ application of the CAP to the heavily protected Swiss agricultural sector would generate aggregate welfare gains for Switzerland in the range of 0.3-1.0 % of GDP. Adjustment costs of the CAP introduction would be markedly overcompensated by CAP-induced efficiency gains in Swiss agriculture (Grether & Müller, 2002).

Among the newer studies that could accommodate for the economic effects of the Bilaterals II too, Economiesuisse (2006) summarises that from a growth-political point of view an EU accession could not be justified, because upsides (e.g. higher degree of macroeconomic openness) and downsides (e.g. lower monetary stability) of an EU accession would approximately cancel each other out. In lieu thereof, the Bilateral path would offer a comparable degree of growth potential and legal certainty. However, in light of the current Bilateral erosion it is questionable whether such conclusion is still valid and whether an impaired ‘un-institutionalised’ Bilateralism would still be seen as equivalent to an EU accession in Economiesuisse’s analysis (2006). Ersoy et al. (2011) take the same line as Economiesuisse (2006) as they ask whether Switzerland would perform economically better in the EU or with the Bilateral agreements. The authors conclude that developing the Bilateral path “may well be the optimal strategy” (p. 19), as Switzerland already reaps large parts of the potential benefits of economic integration in Europe, owing to legal harmonisation and free trade. An EU accession would thus not guarantee better economic outcomes (Ersoy et al., 2011). Ultimately, in a literature review Selleslachs (2015, p. 86) sums up that “[s]everal studies have furthermore shown that Switzerland would benefit most likely - mainly economically - from EU membership”. Altogether therefore, various studies draw a balanced and yet unambiguous picture on the expected economic effects of sub-scenario 3.2, with several scholarly works suggesting that neither negative nor positive effects would outweigh drastically, and with some others suggesting that positive effects of an EU accession prevail. Few studies (e.g., Grether & Müller, 2001) may even give rise to slightly negative effects of an EU accession from today’s perspective. Yet, older studies’ findings have to be interpreted with caution.

Assumptions on the economic effects of Switzerland’s EU accession appear to be highly dependent on contingencies and temporal fluctuations. Two examples illustrate this caveat: First, Spirig (2005) supposes that, from a merely monetary and static perspective, costs and benefits of a Swiss EU accession would roughly balance each other out, resulting in a zero-sum situation. Yet, Spirig (2005) also states that any assessment of economic or monetary effects of an EU accession is dependent on contingencies and uncertainties of the future<sup>169</sup>, depending on which any cost or benefit may vary in its magnitude over time. A thorough approach on analysing an EU accession’s economic effects would therefore have to anticipate contingencies that *might* appear over the next years and that *might* have an influence on the ‘value’ of economic effects. Second, Stockhammer (2005) analyses the economic development of Austria under EU membership from a

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<sup>169</sup> As examples of contingencies and uncertainty factors that may have an influence on the expected magnitude of economic costs and benefits of a Swiss EU accession, Spirig (2005) names the development of the Euro and its impact on politico-economic stability, the (back in 2005) very recent EU enlargement, and expectable changes in the division of competences between the EU and its member states and in EU decision making, presumably in anticipation of the Lisbon treaty. Under each of these factors, the economic effects of an EU accession on Switzerland would have to be re-evaluated (Spirig, 2005).

from a ten-year perspective (1995-2005) and compares actual performance indicators with prognosticated economic effects from older studies. He concludes that these studies' expected effects were often wrong and overestimated economic benefits from Austria's EU accession. However, in 2020 Breuss retrospectively recaps that Austria has benefitted economically from the EU accession by means of a significant GDP growth. Hence, economic effects of sub-scenario 3.2 may also in the Swiss case vary considerably over time. All this adds to the 'fuzziness' of previously presented studies on expected economic effects of sub-scenario 3.2 on Switzerland.

To sum up, expected effects of studies that quantitatively and qualitatively evaluate a Swiss EU accession usually gather around anticipating no significant additional welfare benefits relative to the Bilateral path, with some studies proposing gains of an EU accession relative to Bilateralism, while isolated results could even be interpreted as suggesting negative effects of an EU accession (e.g., Grether & Müller, 2001). In light of the large margin of uncertainty regarding the eventual economic net effect of an EU accession, it is therefore **difficult to say (it can fall on both sides)** what the effects of sub-scenario 3.2 on the Swiss economy are, based on the results and suggestions of existing studies, and compared to the status quo of the Swiss economy. Both overall positive effects or a 'macroeconomic draw' relative to the status quo are possible.

## 9.2. Conclusion of Results on Economic Effects

Now that I have finalised the economic effects assessment, I will put my results in a comparative perspective, in order to answer SQ 6 ('Which sub-scenario is the most beneficial for Switzerland in terms of expected effects on the economy?') and in order to summarise my results on each sub-scenario concisely in an overview parallel to the political feasibility assessment.

Figure 8 shows each sub-scenario's economic value by means of its economic benefit score. The values of the economic benefit score are transformed into an interval scale, in which 1 = gravely disadvantageous, 2 = very disadvantageous, 3 = rather disadvantageous, 4 = difficult to say (it can fall on both sides), 5 = rather advantageous, 6 = very advantageous, and 7 = overwhelmingly advantageous. The economically most beneficial sub-scenario for Switzerland is sub-scenario 2.3 – a continuation of the Bilateral path with a vertical integration of institutional elements. The further sub-scenarios are, by decreasing order of their expected economic effects, sub-scenario 2.2 (the horizontal twin of sub-scenario 2.3) together with sub-scenario 3.1 (EEA accession), followed by sub-scenario 3.2 (EU accession), then sub-scenario 2.1 (the continuation of the Bilateral path without institutional elements) in common with sub-scenario 1.3 (the '72 FTA with 'flight forward strategy'), who both fare better than sub-scenario 1.2 (comprehensive FTA). The economically least advantageous outcome I expect for sub-scenario 1.1 (the '72-FTA Fallback).

It appears that what tips the scales for sub-scenario 2.3 as an economic winner relative to sub-scenario 2.2 is mainly the improved and explicitly envisaged prospect for further market access agreements (electricity and food safety), that I expect to be economically beneficial for Switzerland. This indicates that even small negotiation-related stipulations or marginally amended legal arrangements can make a difference. More in general, Figure 8 suggests that there are increasing economic benefits from integration, which, however, face a maximum of marginal returns at the integrational degree that sub-scenario 2.3 exhibits. A possible explanation of such might be that sub-scenario 2.3 offers a large scope of economic integration with a relatively small scope in

policy duties. Nonetheless, whereas this explanation is nothing more but a shot in the dark, the underlying observation may represent a promising avenue for future research.

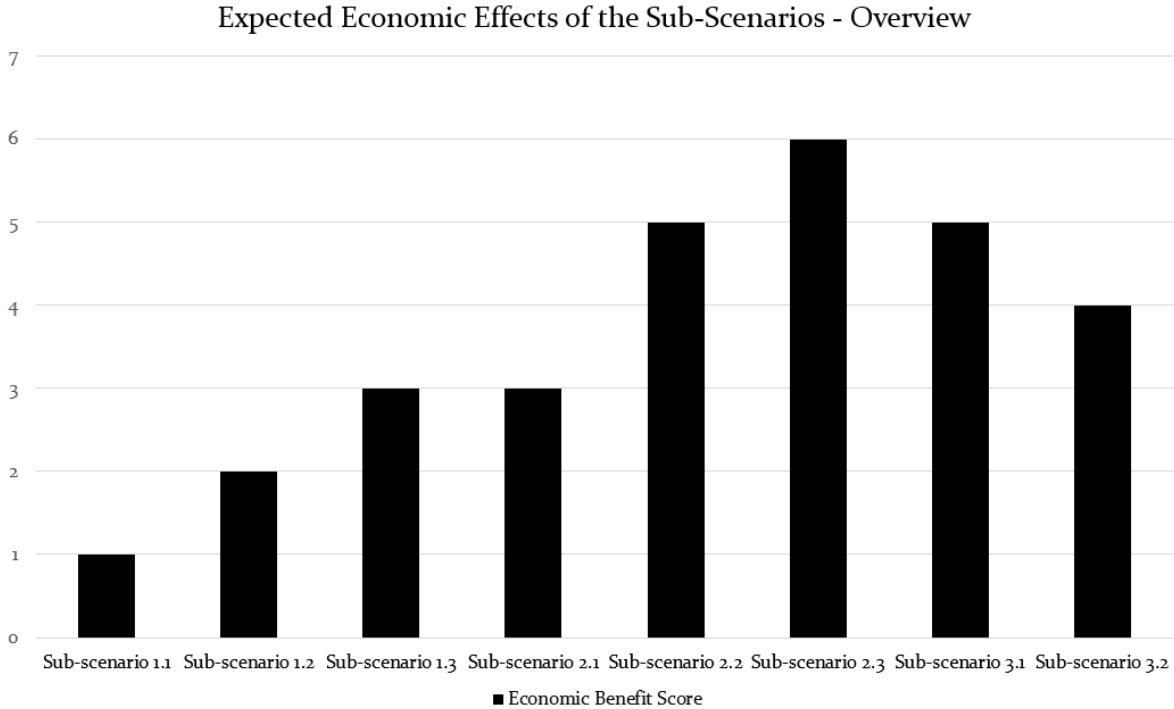


Figure 8: Own Illustration. The X-axis shows the sub-scenarios along the integrational dimension, while the Y-axis indicates each sub-scenario’s economic benefit score, expressed numerically.

## 10. Recommended Course of Action (RCoA)

The last part of the four-piece analysis ties up loose ends of the political feasibility assessment and the economic effects assessment, in order to arrive at an RCoA via an expected value analysis, i.e. in order to determine which sub-scenario should be pursued by Swiss policy makers in future Switzerland-EU relations. By doing so, this chapter answers the initial main RQ (*‘Which sub-scenario(s) will be recommended for a future course of action, based on both the sub-scenarios’ political feasibility prospects and their expected economic effects on Switzerland?’*). Also, as mentioned before, the resulting recommended course of action may be of use of the Swiss government, for the parliament, for parties, interest and lobbying groups, but also for civil society. The sub-scenario that will be chosen as a RCoA is the one with the highest expected value (EV). To determine each sub-scenario’s EV, I first have to transform the ordinal scales in interval scales with the following values per sub-scenario (see also chapter 6 for the precise methodology):

**Sub-scenario 1.1:**

- Likelihood score = *almost impossible* = **0.125**; economic benefit score = *gravely disadvantageous* = **1**

**Sub-scenario 1.2:**

- Likelihood score = *almost impossible* = **0.125**; economic benefit score = *very disadvantageous* = **2**

**Sub-scenario 1.3:**

- Likelihood score = *almost impossible* = **0.125**; economic benefit score = *rather disadvantageous* = **3**

**Sub-scenario 2.1:**

- Likelihood score = *very unlikely* = **0.25**; economic benefit score = *rather disadvantageous* = **3**

**Sub-scenario 2.2:**

- Likelihood score = *difficult to say (it can fall on both sides)* = **0.5**; economic benefit score = *rather advantageous* = **5**

**Sub-scenario 2.3:**

- Likelihood score = *rather likely* = **0.625**; economic benefit score = *very advantageous* = **6**

**Sub-scenario 3.1:**

- Likelihood score = *rather unlikely* = **0.375**; economic benefit score = *rather advantageous* = **5**

**Sub-scenario 3.2:**

- Likelihood score = *almost impossible* = **0.125**; economic benefit score = *difficult to say (it can fall on both sides)* = **4**

These numbers translate into an EV for each sub-scenario, following this formula:

$$EV_{Sn} = L_{Sn} * V_{Sn}$$

At which  $L_{Sn}$  represents the sub-scenario’s likelihood score, and  $V_{Sn}$  represents the sub-scenario’s value, i.e. its economic benefit score. The EVs per sub-scenario are as follows:

Sub-scenario	1.1	1.2	1.3	2.1	2.2	2.3	3.1	3.2
EV	0.125	0.25	0.375	0.75	2.5	3.75	1.875	0.5

Figure 9 depicts these numbers graphically (see next page). As can be seen in Figure 9, three sub-scenarios (2.2, 2.3 and 3.1) have a significantly higher expected value than a majority of five sub-scenarios. The latter not only seem to be politically unfeasible, but also they are either presumably economically disadvantageous for Switzerland (1.1, 1.2, 1.3, 2.1) or do not suggest substantial welfare increases relative to the status quo (3.2). In the light of such adverse feasibility *and* economic aspects, the question must be asked why these sub-scenarios are discussed in Swiss politics at all. Whereas a debate on sub-scenario 3.2 could be explained by progressive parties’ positive conception of “an ever closer union among the peoples of Europe” (TEU, Article 1), a genuine discussion on all sub-scenarios within scenario 1 appears to be unsubstantiated, assuming that politicians strive for utilitarian goals, i.e. maximum aggregate welfare. A probable justification in this regard might thus be simply the pursuit of electoral goals of right-wing parties or, from a normative-idealist viewpoint, a striving for isolationism in spite of adverse economic outcomes and low political feasibility. In any case, the pursuit of seemingly irrational conceptions for future relations between Switzerland and the EU appears to be a promising issue for further studies on Switzerland-EU relations.

As for the RCoA, it is sub-scenario 2.3, the continuation of the Bilateral path with a vertical integration of institutional elements, that I recommend as the best course of action for future Switzerland-EU relations. Accordingly, this sub-scenario combines in the best way political feasibility with favourable economic outcomes. It can *presumably* be implemented the easiest in both the Swiss and the EU political arena, and simultaneously it yields very positive *expected* effects on the Swiss economy. The high likeliness score of sub-scenario 2.3 materialises due to the agenda-setting role of the Federal council who manages to act as a ‘game changer’, due to a (slight) majority in favour of sub-scenario 2.3 in both parliamentary chambers and thanks to a presumed positive reception of the vertical approach by the electorate. On the EU side, no difference seems to be made between a vertical and a horizontal approach, provided institutional elements are incorporated satisfactorily into the Bilateral framework, specific and temporary opt-outs notwithstanding. The high economic benefit score eventually results owing to the sub-scenario’s facilitated legal certainty for Switzerland, the continued positive economic effects of market access to the ESM without costly legal and institutional adaptation to the EU (e.g., the absence of contributions to the EU household), owing to a cessation of the Bilateral erosion, and due to the prospect for further beneficial market access agreements. The Federal Council is thus well advised to stick to its current proposition. Single concessions in sensitive areas are most likely compensated by beneficial economic effects for Swiss firms and consumers. Most importantly, the opting for sub-scenario 2.3 does not lead to welfare losses: The fact that sub-scenario 2.3 is simultaneously the most feasible *and* the most economically beneficial sub-scenario appears to be a lucky window of opportunity for Swiss politics that should not be missed out.

Expected Values of the Sub-Scenarios - Overview

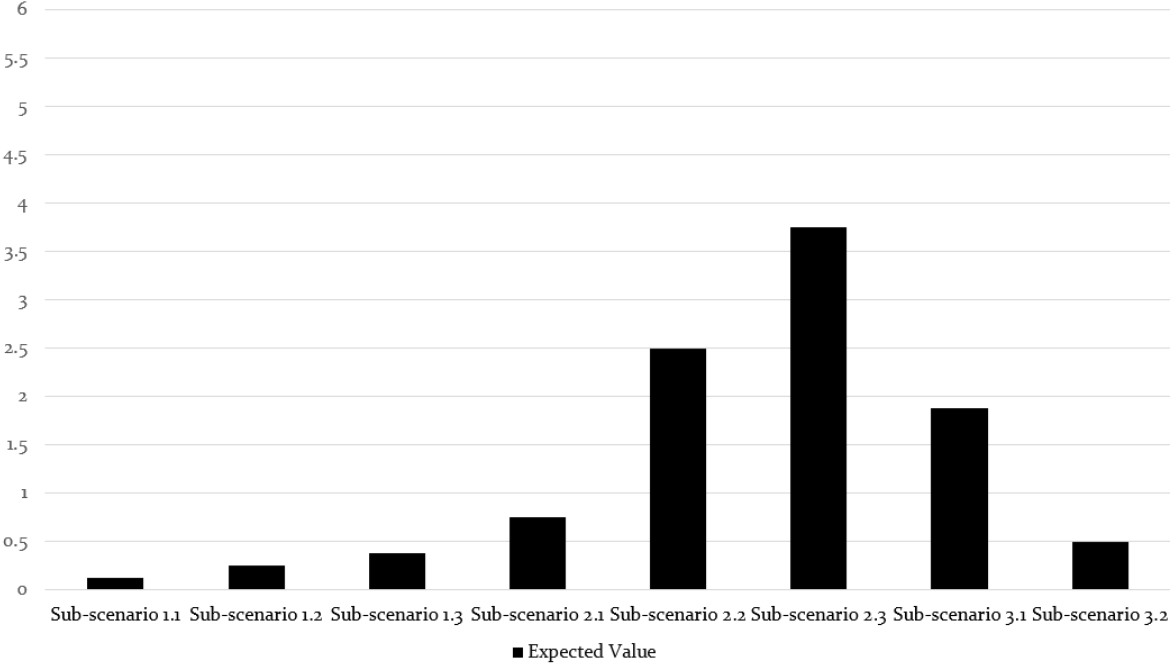


Figure 9: Own Illustration. The X-axis shows the sub-scenarios along the integrational dimension, while the Y-axis indicates each sub-scenario’s expected value, expressed numerically. The highest hypothetical value that a sub-scenario can have is 6.125 (i.e., almost guaranteed to be implemented with overwhelmingly advantageous effects for the Swiss economy, which translates into  $EV = 0.875 \cdot 7 = 6.125$ ), hence the Y-axis shows the range from the worst to the best possible sub-scenario.

## II. Conclusion

In the paper at hand I have aimed at providing a recommended course of action for future relations between Switzerland and the EU, that can be of use for various stakeholders in the Swiss political arena. I have done so by determining the scenario that is the most politically feasible in both the Swiss and the EU arena and simultaneously beneficial for Swiss (economic) welfare. The relevance of my contribution arises because I retrospectively connect economic effects-focused literature with the systematic political feasibility assessment that these studies have been lacking so far. The outcome shows that the Federal Council is well advised to stick to its current plans, which is the continuation of the Bilateral path with a vertical integration of various institutional elements and the prospect for further integration into the Single Market. It is remarkable that, by opting for this solution, the Federal Council chooses not only the most feasible solution, but also the one with the overall most beneficial expected economic effects, irrespective of feasibility aspects. Welfare losses can thereby be prevented. Even if exploratory talks with the EU on the vertical approach drag on into early July and actual negotiations have not started yet – hinting at dissent between Switzerland and the EU –, sub-scenario 3.2 is the best and most balanced solution out of all options that have been suggested by Swiss political, academic and civil society stakeholders. Furthermore, also an Institutional Framework Agreement with a horizontal approach and an EEA accession appear to be reasonable scenarios, albeit with lower expected values than the Federal Council's current undertaking. Apart from its direct results, my four-piece analysis gives rise to two impulses.

First, a political feasibility assessment is not a mere addendum to a macroeconomic analysis of a scenario or a policy option, but has an inherent value in itself. Conversely, this ascertainment reappraises the inherent value of macroeconomic and general economic effects analyses: On the one hand a 'standalone' economic analysis of the consequences of any future development of Switzerland-EU relations or, arguably, of any policy option, is often not *sufficient* to arrive at practicable suggestions. In the words of Milton Friedman (1953, p. 264), if it is the role of the economist "to prescribe what should be done in the light of what can be done", then the political scientist's role is to step in and to assess *ex-ante* what *can* be done at all, by means of a political feasibility analysis. On the other hand, a comprehensive economic analysis of the consequences of any future development of Switzerland-EU relations or, arguably, of any policy problem, is often not *necessary* in order to formulate practicable suggestions – *ex ante* feasibility considerations reduce the spectrum of possibilities to a smaller range of viable options. In other words, feasibility considerations separate the feasible from the merely utopian, and therefore they save time and reduce complexity for both the researcher and the policy-maker. Second, my study showcases the importance of multidisciplinary studies. The combination of the veto player theory together with economic studies and legal inputs has rendered a more complete picture of the holistic value of scenarios for future Switzerland-EU relations.

As for the limitations of my study, four remarks remain: First, my political feasibility assessments may themselves operate as self-fulfilling prophecies for each sub-scenario's political feasibility (one may also speak of a Pygmalion effect). There is a realistic possibility that a (sub-)scenario is perceived to be feasible by an outsider, *precisely* because I frame it as politically feasible in my assessment. As a consequence, this (sub-)scenario's feasibility becomes effectively enhanced

only through an outsider's positive perception of the (sub-)scenario. Second, just like economic assessments (Spirig, 2005), also political feasibility assessments are a snap-shot of the political circumstances and conditions of a given timeframe. The feasibility of a sub-scenario is thus dependent on 'omitted' variables that may only appear in the future. For example, the result of a seemingly irrelevant event like the parliamentary elections in France in June 2022 may have a negative impact on the feasibility of Swiss opt-outs in the realm of the CRD (Hess, 2022c), and therefore a negative impact on the political feasibility of sub-scenarios 2.2 and 2.3<sup>170</sup>. In other words, even the paper at hand may soon be outdated if political circumstances change. Third, there may well be other methodological tools besides the veto player theory that could be more precise in determining the political feasibility of integrational scenarios. Examples are interviews with policy-makers, negotiators and with representatives of veto players (e.g., the president of a labour union or the chairman of a party), or a content analysis by means of a quantitative evaluation of politician's speeches, party manifestos and other official documents of political parties. Fourth and last, I have confined myself to economic and welfare aspects when assessing a sub-scenario's value. However, welfare gains and losses may be unequally distributed among a population and only reflect a subset of economic reality. Moreover, one could also consider the 'social value' of a policy option or the possibility of an inherent normative value of European integration when assessing a scenario's quality, in order to have an even more complete picture.

The latter two aspects – alternative methodologies and the inclusion of non-economic aspects in determining a policy option's value – represent promising avenues for future research in the fields of Switzerland-EU relations and scenario studies. Likewise, the integrational matrix and its underlying assumptions on Swiss and EU preferences, as well as the pursuit of economically and feasibility-wise irrational notions by some political actors in the Swiss arena (i.e., the SVP regarding sub-scenarios 1.1, 1.2, 1.3 and 2.1) should be picked up by researchers in the future. Eventually, every scholarly contribution that takes a new perspective may eventually be of help to better understand the intricate matter of Switzerland-EU relations.

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<sup>170</sup> The result of the parliamentary elections in France was announced on the 20 June 2022 and could therefore not be considered anymore for my political feasibility assessment.

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## B. Appendix

### B.1. Appendix A – Explanatory Boxes 1 and 2

#### Explanatory Box 1 – The Institutional Framework Agreement in a Nutshell

The Draft of the Institutional Framework Agreement (IFA) as it was unilaterally concluded by the EU in 2018, consists of the following main provisions:

Following Article 1 IFA, the IFA's purpose is to guarantee legal certainty, equal treatment and homogeneous conditions in all areas of the ESM where Switzerland participates, for the contracting parties (Switzerland and EU), economic actors and individuals (Oesch, 2020a).

Article 2, IFA: The IFA and its institutional provisions are applicable to the five market access agreements from the Bilaterals I (the Agreement on the Free Movement of Persons, the Mutual Recognition Agreement, the Agreement on Trade in Agricultural Products, the Agreement on Air Transport, and the Ground Transportation Agreement) and future market access agreement. The Free Trade Agreement (FTA) between Switzerland and the EU from 1972 is not included in this applicational scope, but the contracting parties have signed a declaration of intent on the modernisation of the 1972-FTA (Oesch, 2020a).

Article 4, IFA: The first institutional element is the legal interpretation of the concerned Bilateral agreements. The agreements are interpreted homogeneously and under protection of principles of international law. Importantly, terms in the single Bilateral agreements which originate from Union law (i.e. from the *Acquis Communautaire*) and EU legal acts which are referenced in the single Bilateral agreements have to be interpreted and applied according to CJEU jurisprudence (Oesch, 2020a).

Articles 6-8c, IFA: The second institutional element is the surveillance structure of the concerned Bilateral agreements. Apart from state aid provisions, the two contractual parties are responsible for implementation, surveillance and legal protection regarding provisions in the Bilateral agreements. This corresponds to the two-pillar principle. Hence, supranational institutions are not involved, with the exception of the CJEU in the institutional dispute settlement (Oesch, 2020a).

Articles 12-14, IFA: The third institutional element is the dynamic adoption of EU laws into the concerned Bilateral agreements. The EU is obliged to notify Switzerland about new EU laws (i.e. regulations and directives) with relevance for the concerned Bilateral agreements. New EU laws will then be discussed and – if applicable in the case of a directive – adapted, before Switzerland is obliged to agree to an integration / adoption of the respective EU legal act into the respective Bilateral agreement. The time limit for an adoption is two years starting from the day of the EU's notification, and in case a (mandatory or optional) referendum gets triggered on the Swiss side, one additional year. Should the EU fail to notify, or should Switzerland fail to implement the legal act within the time limit, then the opposite party is allowed to take proportional compensation measures. Few exceptions from the dynamic adoption of EU laws into the Bilateral agreements have been agreed upon in the IFA, in areas where Swiss specificities exist in the original Bilateral agreements (Oesch, 2020a).

Article 10 and protocol 3, IFA: The fourth and last institutional element is the mechanism of the institutional dispute settlement (IDS) for legal disputes that originate from provisions within the concerned Bilateral agreements. Disputes that stem from provisions within the concerned Bilateral agreements are first discussed in the respective joint committee. Should the dispute not be resolved therein within three months, then each party can demand that the dispute be forwarded to an equally staffed (i.e. as many EU deputies as Swiss deputies) arbitral tribunal. If the dispute at hand contains legal terms that originate from Union law and if their interpretation is necessary for the arbitral tribunal's decision, then the CJEU inevitably has to be invoked for an interpretation of the relevant terms – similar to the CJEU's preliminary ruling procedure. Eventually, the CJEU's Interpretation is binding

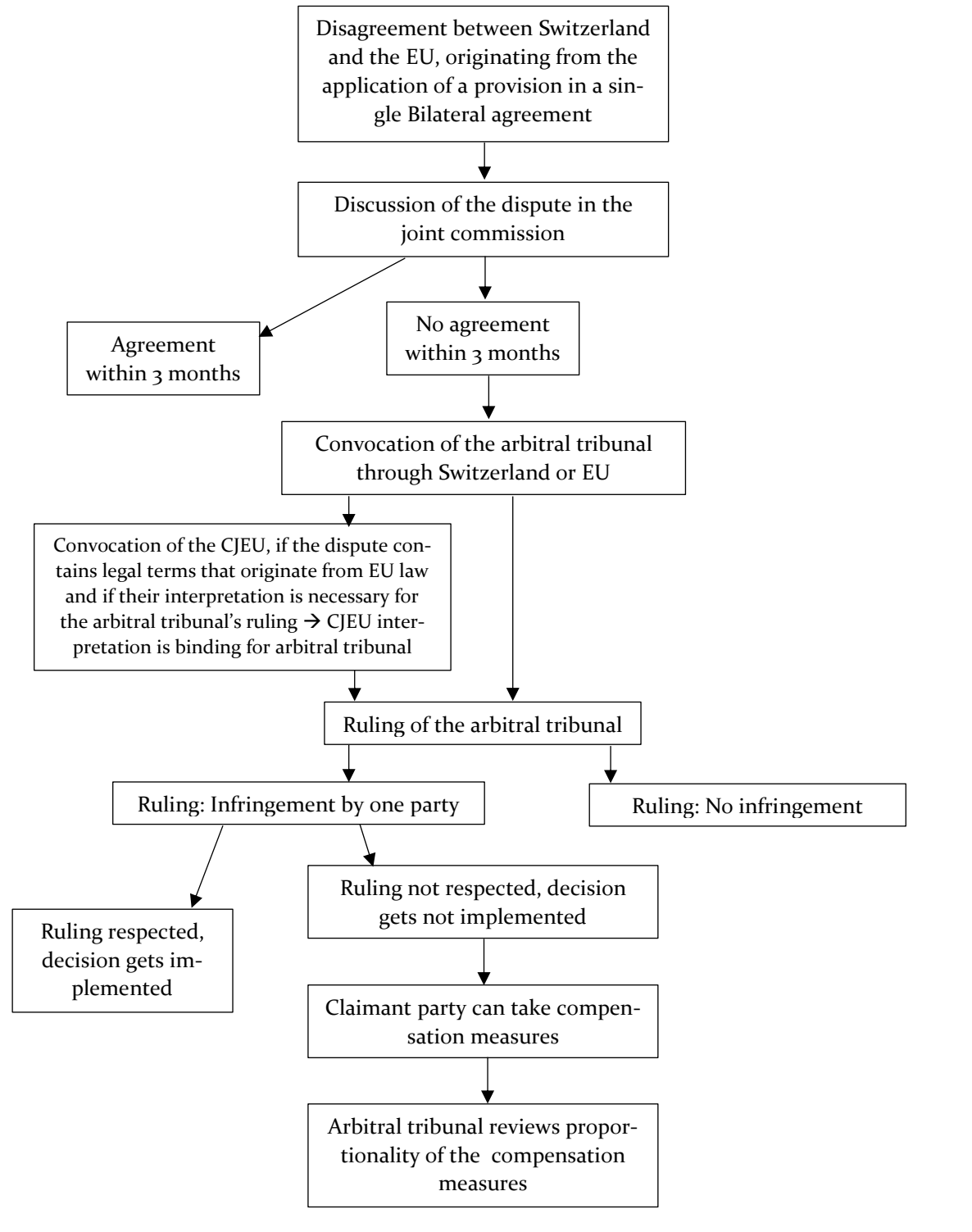
for the arbitral tribunal (Oesch, 2020a). For a more detailed and schematic display of the IDS, please see explanatory box 2 below.

Articles 8a-8b, IFA: Apart from provisions on the design of institutional elements, the IFA regulates the principles that shall apply for the granting of state aid (i.e., subsidies to private economic actors, etc.). These principles correspond to EU competition law as it applies in the Single Market. For the time being, EU state aid provisions shall only be applicable to the Agreement on Air Transport. According to the IFA, Switzerland is obliged to establish an independent agency which decides on the admissibility of instances of state aid on Swiss territory (Oesch, 2020a).

Protocol 1, IFA: This protocol alludes to Switzerland's accompanying measures in the area of Swiss wage protection, which *inter alia* concerns restricted freedom of services (i.e. services by posted EU workers) as regulated in the Agreement on the Free Movement of Persons. In this protocol, both Switzerland and the EU affirm that they adhere to the principle 'equal pay for the same work at the same place'. The EU recognises that for the implementation of these workers' rights, non-discriminating and proportional controls and further measures from the Swiss side are necessary. Also, the EU allows Switzerland to maintain the legal obligation for EU employers (who send their workers to Switzerland) to meet the minimal Swiss wage and employment standards, and to announce their operation *four* days in advance (Oesch, 2020a). The latter (i.e., a notification requirement) represents an IFA-specific concession from the Swiss side; in the original accompanying measures an announcement *eight* days in advance was provided for. The mentioned measures are 'immunised', meaning that Switzerland is not strictly obliged to dynamically adopt new EU legal acts that concern these areas and amend the measures (Oesch, 2020a).

## Explanatory Box 2 – The IFA’s Institutional Dispute Settlement Mechanism

The following scheme displays the IDS as it was provided for in the 2018-IFA draft.



Adapted from “InstA-Entwurf – Inhalt und zentrale Fragestellungen”, by Economiesuisse, 2019. <https://www.economiesuisse.ch/de/dossier-politik/insta-entwurf-inhalt-und-zentrale-fragestellungen>. Copyright 2019 by Economiesuisse.

## B.2. Appendix B – Analysis on the Likelihood of Opt-Outs

### Opt-outs and Further Specificities – Analysis of Their Likelihood

Opt-outs in general: The most insightful assessment (to my knowledge the only extensive and reliable statement available) regarding their likelihood in general has been issued by the EU Ambassador to Switzerland and Liechtenstein, Petros Mavromichalis, in an interview (Gafafer, 2022c): “In single material fields, provisions like safeguard clauses are conceivable, but they have to actually remain exceptions. They have to relate to specific problems and they have to be temporary. Single agreements like the free movement of persons or whole EU-directives cannot be excluded”. In conclusion, opt-outs could be possible, provided they are *specific* and *temporary*. Safeguard clauses can fulfil both requirements. This might be a window of opportunity for Switzerland; and based on this initial position I now assess the chances for opt-outs or exceptions in the most salient areas that are covered by both a horizontal IFA (sub-scenario 2.2) or a vertical integration of institutional elements (sub-scenario 2.3).

Accompanying measures / wage protection: According to several SP representatives, wage protection was already largely safeguarded in the 2018-IFA draft (Neuhaus, 2022), and also the FDP seems to be satisfied with their arrangement in the institutional embedment (2019). Moreover, also the amended posted workers directive 2018/957, which aims at the principle of ‘equal pay for the same work at the same place’, has the potential to accommodate concerns of the trade unions – provided Switzerland transposes it into national law by means of the dynamic adoption of EU law mechanism. At the least, the directive has been embraced by EU-member state trade unions (LTO, 2020). However, Swiss commentators have doubted the directive’s applicability to the Swiss social partnership system (Strahm, 2022). Nonetheless, in a study, Pärli (2022) analyses recent CJEU cases on wage protection and concludes that CJEU jurisprudence has become more social, insofar that the CJEU does not anymore give strict precedence to economic freedoms over social protection and worker’s rights (see also Mugglin, 2022). In closer reference to the Swiss case EU Commissioner Nicolas Schmit (responsible for employment and social rights) has shown himself receptive to compromises as regards Swiss wage controls (Gafafer, 2022d). Furthermore, the EU has in the past shown its willingness for concessions regarding wage protection-specific opt-outs, provided Switzerland would on its own part increase cohesion contributions (Federal Council, 2021a). Lastly, ‘yes’ (2019c) suggests practical opportunities for a digitalisation of administrative processes in order to accommodate certain EU demands without restricting Swiss wage protection.

To sum up, **a solution that accommodates both EU and Swiss (i.e., trade unions, SP and Greens) preferences is more likely than no solution**, given the various possibilities for compromise and digitalisation, and considering the development of EU law and CJEU jurisprudence. **Compromises might particularly be possible in sub-scenario 2.3**, that envisages a vertical setting in conjunction with an expanded negotiation mass, where Switzerland could make compromises on its own as a *quid pro quo* for received opt-outs in the area of the accompanying measures and wage protection. Although even in 2022 trade unions seem to remain sceptical and relentless on their position regarding wage protection (Schäfer, 2022), I assume that they can be convinced of the above mentioned ‘opportunities’, which is inevitable to also increase cohesion within the SP.

State aid measures: According to the Federal Council (2021), this critical aspect could be solved successfully already in the final negotiations on the IFA, shortly before Switzerland abandoned negotiations. The Federal Council (2021a) does not specify further whether an opt-out has been negotiated or whether this point has been solved otherwise. In any case, I assume that in negotiations on an IFA 2.0 (sub-scenario 2.2) or on a bundle of agreements with institutional elements incorporated vertically (Bilaterals III, sub-scenario 2.3), Swiss and EU negotiators could simply tie in with this solution and conclude it briefly. **An opt-out or another satisfactory solution is therefore very likely.**

Citizen's Rights Directive 2004/38 (CRD): In the last round of the IFA negotiations in 2021, the EU has not agreed on any opt-outs that Switzerland demanded in seven critical provisions of the CRD (i.e., opt-outs from the dynamic adoption of these provisions into the AFMP) (Federal Council, 2021a). Yet, a solution on this aspect seems feasible: According to Mavromichalis (Gafafer, 2022c), a temporary safeguard clause (that would, e.g., be triggered when a certain share of EU/EEA citizens in Switzerland actively obtains welfare benefits) might be attainable and satisfy the demands of Centre and FDP. Moreover, pursuant to several sources (Hess & Bühler, 2022; Rauchenstein, 2022) the EU Commission has in its latest exploratory talks with Switzerland in April 2022 shown its willingness to make concessions in the area of the CRD. These sources do not specify further on the type of concessions. However, in conjunction with the previously mentioned possibility for safeguard clauses it **is to assume that a compromise or an opt-out regarding the CRD is rather likely, especially if Switzerland is willing to make concessions in other areas – which is all the more likely in sub-scenario 2.3 with an expanded negotiation mass.**

Institutional Dispute Settlement (IDS): In this area, two salient options exist. The first option is the one provided for in the IFA draft, with dispute settlement by the joint commission, an arbitral tribunal and with CJEU involvement for the interpretation of relevant EU law (see chapter 2 and explanatory box 2). This option is negatively branded through being part of the failed 2018-IFA draft and has been critically reviewed by the Centre (2019) and even more so by the SVP. Yet it seems like the Federal Council does not rule out this option in its novel approach on a vertical integration of institutional elements. A probable reason for retaining this option is the legal fact that, according to the principle of autonomy of EU law, in treaties with non-EU members the CJEU always needs to be the sole institution that has competence to answer questions of interpretation of EU law (Tobler & Beglinger, 2020, p. 40). Hence, other courts designated in an agreement are thus always required to file interpretational questions on EU law to the CJEU. This procedure is guaranteed in option 1.

The second option is the one suggested by Ambühl & Scherrer (2021b) and the FDP (2022a). The solution does not involve the CJEU directly and gets on only with a joint committee and an arbitral tribunal. According to Ambühl & Scherrer (2021b) the CJEU's unique competence to interpret EU law would thereby not be curtailed. Nonetheless, this option is viewed critically by observers, mainly because the same solution has already been suggested by the Federal Council in IFA negotiations in 2018, but then been clearly declined by the EU (Gafafer, 2022e; Federal Council, 2021a). It is therefore all but clear whether this solution, that would presumably find a majority in Switzerland, would also be acceptable for the EU.

To sum up, political feasibility is most probably inverted on these two options. Option 1 is rather unfeasible for Switzerland and its VPs, option 2 is rather unfeasible for the EU. This is why a third option has to be considered, which is the affiliation of Switzerland to the EFTA court (Baudenbacher, 2021; Gafafer, 2021; 2022b). This solution would – theoretically – in every case exclude factual CJEU involvement (since for this to happen both contractual partners would need to agree), but it would still formally preserve the autonomy of EU law and exclusive CJEU jurisprudence (Tobler & Beglinger, 2020, p. 41). Moreover, 'foreign judges' would not judge over Bilateral cases on Swiss territory anymore, and the EU might be positively disposed towards that solution, because it has suggested it already in 2013 in IFA negotiations (see chapter 7.1.2.). Yet again, also option 3 is not flawless, because involvement of a supranational institution (i.e. the ESA) might trigger concerns regarding Swiss sovereignty (FDP, 2018; Gafafer, 2022b) – even if a Swiss judge is included. All things considered, however, **option three and a respective opt-out are the most likely to be accepted by both the Swiss and the EU side**, even though any solution might be rejected by the SVP and presumably by minor parts of Centre and FDP.

Joint and unilateral statements / exchange of letters: The last category comprises legal instruments (Breitenmoser, 2019; Cottier, 2020; Grünenfelder et al. 2019; Tobler, 2020), that intend to increase the political feasibility of an institutionalised Bilateral path on the Swiss side. They can be understood as 'residual solutions', in case Switzerland and the EU will not be able to agree on single institutional provisions within the areas discussed above, or in case insufficient agreement on such provisions still

leaves room for legal ambiguity within an 'IFA 2.0' or a 'Bilaterals III' solution. Then, joint or unilateral agreements or an exchange of letters might add some certainty to the (vertically or horizontally arranged) agreement and thereby marginally increase political feasibility in the Swiss political arena, provided they are explained accordingly to potential institutional, partisan and latent VPs. To conclude, these residual solutions **facilitate a safety net and increase the likeliness and the political feasibility of the above discussed opt-out areas.**

*Altogether, all above discussed opt-outs are more likely to be successfully negotiated or otherwise resolved in terms of their concerns than they are not.*



### B.3. Appendix C – Calculation of Agreement Index Values

Sub-scenario 1.1:

Per Faction in the Issue 'European Politics' (sub-scenario 1.1, AI values not adapted, directly taken from Schwarz), WITH RENEGADE				
Party	AI Value	Share Against Party Votes	Amount Against Party Votes NC	Amount Against Party Votes CoS
SVP	0.874	6.3	3.465	0.441
SP	0.945	2.75	1.0725	0.22
CVP	0.855	7.25	2.2475	1.015
FDP	0.833	8.35	2.4215	1.002
Average (Proxy GLP)	0.884	5.8	0.928	0

	Total NO NC	Total YES NC
Amount	111.7955	58.205
Share	55.89775	29.10225
	Total NO CoS	Total YES CoS
Amount	32.204	8.796
Share	70.00869565	19.12173913

Sub-scenarios 1.2 and 1.3:

Per Faction in the Issue 'European Politics' (sub-scenarios 1.2 and 1.3, AI values partly adapted), WITH RENEGADES				
Party	AI Value	Share Against Party Votes	Amount Against Party Votes NC	Amount Against Party Votes CoS
SVP	0.5	25	13.75	1.75
SP	1	0	0	0
CVP	0.855	7.25	2.2475	1.015
FDP	0.5	25	7.25	3
Average (Proxy GLP)	0.884	5.8	0.928	0

	Total NO NC	Total YES NC
Amount	118.3245	51.676
Share	59.16225	25.83775
	Total NO CoS	Total YES CoS
Amount	31.735	10.280
Share	68.98913043	22.34782609

Sub-scenario 2.1:

Per Faction in the Issue 'European Politics' (sub-scenario 2.1, AI values partly adapted), WITH RENEGADES, with Greens				
Party	AI Value	Share Against Party Votes	Amount Against Party Votes NC	Amount Against Party Votes CoS
SVP	0.874	6.3	3.465	0.441
SP	0.945	2.75	1.0725	0.22
CVP	0.8	10	3.1	1.4
FDP	0.5	25	7.25	3
GLP	0.95	2.5	0.4	0
Average (Proxy GPS)	0.884	5.8	1.74	0.29

	Total NO NC	Total YES NC
Amount	134.9025	63.358
Share	67.45125	31.67875
	Total NO CoS	Total YES CoS
Amount	34.531	11.179
Share	75.0673913	24.30217391

### Sub-scenario 2.2:

Per Faction in the Issue 'European Politics' (sub-scenario 2.2, AI values partly adapted), WITH RENEGADES, with Greens				
Party	AI Value	Share Against Party Votes	Amount Against Party Votes NC	Amount Against Party Votes CoS
SVP	0.874	6.3	3.465	0.441
SP	0.2	40	15.6	3.2
CVP	0.4	30	9.3	4.2
FDP	0.4	30	8.7	3.6
GLP	1	0	0	0
GPS	0.5	25	7.5	1.25

	Total NO NC	Total YES NC
Amount	116.635	83.365
Share	58.3175	41.6825

	Total NO CoS	Total YES CoS
Amount	29.209	16.791
Share	63.49782609	36.50217391

### Sub-scenario 2.3:

Per Faction in the Issue 'European Politics' (sub-scenario 2.3, AI values partly adapted), WITH RENEGADES, with Greens				
Party	AI Value	Share Against Party Votes	Amount Against Party Votes NC	Amount Against Party Votes CoS
SVP	0.874	6.3	3.465	0.441
SP	0.3	35	13.65	2.8
CVP	0.855	7.25	2.2475	1.015
FDP	0.833	8.35	2.4215	1.002
GLP	0.6	20	3.2	0
GPS	0.1	45	13.5	2.25

	Total NO NC	Total YES NC
Amount	98.254	101.746
Share	49.127	50.873

	Total NO CoS	Total YES CoS
Amount	16.026	29.974
Share	34.83913043	65.16086957

### Sub-scenario 3.1:

Per Faction in the Issue 'European Politics' (sub-scenario 3.1, AI values partly adapted), WITH RENEGADES, with Greens				
Party	AI Value	Share Against Party Votes	Amount Against Party Votes NC	Amount Against Party Votes CoS
SVP	1	0	0	0
SP	0.945	2.75	1.0725	0.22
CVP	0.7	15	4.65	2.1
FDP	0.7	15	4.35	1.8
GLP	1	0	0	0
GPS	0.884	5.8	1.74	0.29

	Total NO NC	Total YES NC
Amount	108.8125	91.188
Share	54.40625	45.59375

	Total NO CoS	Total YES CoS
Amount	29.61	16.390
Share	64.36956522	35.63043478

Sub-scenario 3.2:

Per Faction in the Issue 'European Politics' (sub-scenario 3.2, AI values partly adapted), WITH RENEGADES, with Greens				
Party	AI Value	Share Against Party Votes	Amount Against Party Votes NC	Amount Against Party Votes CoS
SVP	1	0	0	0
SP	0.7	15	5.85	1.2
CVP	0.855	7.25	2.2475	1.015
FDP	0.833	8.35	2.4215	1.002
GLP	0	50	8	0
GPS	0.8	10	3	0.5

	Total NO NC	Total YES NC
Amount	127.181	72.819
Share	63.5905	36.4095

	Total NO CoS	Total YES CoS
Amount	32.683	13.317
Share	71.05	28.95

Abbreviations:

AI = Agreement Index

NC = National Council

CoS = Council of States

GPS = Green Party Switzerland

All numbers and shares were calculated with the MS Excel Programme.