

AGREEMENT**between the European Community and the Swiss Confederation on the Carriage of Goods and Passengers by Rail and Road**

THE SWISS CONFEDERATION, hereinafter referred to as 'Switzerland', of the one part,

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community', of the other part,

together hereinafter referred to as 'the Contracting Parties',

AWARE of the mutual interest of the Contracting Parties in promoting cooperation and trade, in particular by granting each other access to the transport market, as provided for under Article 13 of the Agreement between the European Economic Community and the Swiss Confederation on the Carriage of Goods by Road and Rail of 2 May 1992, hereinafter referred to as the 1992 Agreement,

DESIROUS of developing a coordinated transport policy aimed at encouraging the use of means of transporting passengers and goods that are more environmentally sound in a bid to combine environmental protection with transport systems efficiency, notably in the Alpine region,

DESIROUS of ensuring healthy competition between the various modes of transport and whereas these modes of transport should cover the costs they incur,

AWARE of the need to ensure consistency between Swiss transport policy and the general principles underlying the Community's transport policy, particularly in the context of the implementation of a coordinated legislative and regulatory framework,

HAVE AGREED AS FOLLOWS:

TITLE I

*Article 2***GENERAL PROVISIONS****Scope***Article 1***General principles and objectives**

1. This Agreement between the Community and Switzerland is aimed, on the one hand, at liberalising access by the Contracting Parties to each other's transport market for the carriage of passengers and goods by road and rail in such a way as to ensure the more efficient management of traffic using routes which, from a technical, geographical and economic viewpoint, are most suitable for all the modes of transport covered by the Agreement and, on the other, at laying the basis for a coordinated transport policy.

2. The provisions of the Agreement and their application are based on the principles of reciprocity and free choice of mode of transport.

3. The Contracting Parties undertake not to take discriminatory measures when applying this Agreement.

1. This Agreement shall apply to the two-way carriage of goods and passengers by road between the Contracting Parties, to through traffic crossing the territory of the Parties, without prejudice to the 1992 Agreement and subject to Article 7(3), to the carriage by road of passengers and goods on a triangular basis and to Swiss home trade.

2. This Agreement shall apply to the international carriage by rail of passengers and goods and to combined international transport. It shall not apply to railway undertakings whose activities are limited solely to urban, suburban or regional operations.

3. This Agreement shall apply to transport operations carried out by road transport undertakings or by railway undertakings established in one of the Contracting Parties.

Article 3

Definitions

1. Road transport

For the purposes of this Agreement:

- 'the occupation of road haulage operator' shall mean the activity of any undertaking transporting goods for hire or reward by means of either a motor vehicle or a combination of vehicles,
- 'the occupation of road passenger transport operator' shall mean the activity of any undertaking engaged, for hire or reward, in the international carriage of passengers by coach or bus,
- 'undertaking' shall mean any natural person, any legal person, whether profit-making or not, any association or group of persons without legal personality, whether profit-making or not, or any official body, whether having its own legal personality or being dependent upon an authority having such personality,
- 'vehicle' shall mean a motor vehicle registered in the territory of a Contracting Party or a combination of vehicles of which at least the tractive unit is registered in the territory of a Contracting Party and intended exclusively for the carriage of goods, or any motor vehicle so constructed and equipped as to be suitable for carrying more than nine persons, including the driver, and intended for that purpose,
- 'international carriage' shall mean a journey undertaken by a vehicle, the point of departure of which is on the territory of one Contracting Party and the destination of which is on the territory of the other Contracting Party or in a third country, or vice versa, and the movement of an unladen vehicle in connection with the aforesaid journey; if the point of departure or the destination of the journey is located in a third country, carriage must be effected by a vehicle registered in the Contracting Party where the point of departure or the destination of the journey is located,
- 'transit' shall mean the carriage of goods or passengers (without loading or unloading) and the movement of unladen vehicles across the territory of a Contracting Party,
- 'Swiss home trade' shall mean any carriage of goods for hire or reward from one Member State of the Community to another Member State by a vehicle registered in Switzerland, whether or not, in the course of the same journey and using the normal route, the vehicle travels through Switzerland,
- 'triangular transport operations involving third countries' shall mean any carriage of passengers or goods from the territory of one Contracting Party to a third country, and vice versa, by a vehicle registered in the territory of the other Contracting Party, whether or not, in the course of the same journey and using the normal route, the vehicle travels through the country in which it is registered,

- 'authorisation' shall mean the authorisation, licence or concession required under the legislation of the Contracting Party.

2. Rail transport

For the purposes of this Agreement:

- 'railway undertaking' shall mean any private or public undertaking whose main business is to provide rail transport services for goods and/or passengers with a requirement that the undertaking should ensure traction; such traction may be provided using rolling stock that is not the property of the railway undertaking concerned and using staff who are not directly employed by the railway undertaking concerned,
- 'international grouping' shall mean any association of at least two railway undertakings established in different Member States of the Community, or, in the case of one of them, in Switzerland, for the purpose of providing international transport services between the Community and Switzerland,
- 'infrastructure manager' shall mean any public body or undertaking responsible in particular for establishing and maintaining railway infrastructure, as well as for operating the control and safety systems,
- 'licence' shall mean an authorisation issued by the competent authority of a Contracting Party to an undertaking, by which its capacity as a railway undertaking is recognised. That capacity may be limited to the operation of specific types of transport services,
- 'licensing authority' shall mean the body charged by each Contracting Party with the issue of licences,
- 'train path' shall mean the infrastructure capacity needed to run a train between two places at a given time,
- 'allocation' shall mean the allocation of railway infrastructure capacity by an allocation body,
- 'allocation body' shall mean the authority and/or infrastructure manager designated by one of the Contracting Parties for the allocation of infrastructure capacity,
- 'urban and suburban services' shall mean transport services operated to meet the transport needs of an urban centre or conurbation, as well as the transport needs between such centre or conurbation and surrounding areas,
- 'regional services' shall mean transport services operated to meet the transport needs of a region,
- 'combined transport' shall mean the carriage of goods by heavy goods vehicles or loading units which complete part of their journey by rail as well as begin and/or end the journey by road,

- 'competitive rail transport prices': rail transport prices shall be considered competitive if the average rail transport prices in Switzerland are no higher than the road transport costs, as defined in Annex 9, for a similar route.

Article 4

Reservation under the 1992 Agreement

Subject to the derogations introduced under this Agreement, the rights and obligations of the Contracting Parties arising from the 1992 Agreement shall not be affected by the provisions of this Agreement.

TITLE II

INTERNATIONAL ROAD TRANSPORT

A. COMMON PROVISIONS

Article 5

Admission to the occupation

1. Undertakings wishing to operate as professional road hauliers shall meet the following three requirements:
 - (a) good repute;
 - (b) appropriate financial fitness;
 - (c) professional competence.
2. The provisions applicable in this area are set out in section 1 of Annex 1.

Article 6

Social standards

The social provisions applicable in this area are set out in section 2 of Annex 1.

Article 7

Technical standards

1. Subject to the provisions of paragraphs 2 and 3, Switzerland shall adopt, no later than six months after signature of this Agreement, arrangements that are equivalent to Community legislation on the technical conditions governing road transport, as set out in section 3 of Annex 1.

2. Switzerland shall have a transitional period of two years, from the date on which this Agreement enters into force, to make its legislation relating to technical controls for vehicles equivalent to Community law.

3. From 1 January 2001, the actual total laden weight limit applied by Switzerland for articulated vehicles and road trains shall be 34 tonnes for all types of traffic.

From 1 January 2005, Switzerland shall make its legislation on the maximum permissible weight limits for these vehicles in international traffic equivalent to that in force in the Community on the date of signature of the Agreement.

4. The introduction of the road-use charges defined in Article 40 shall proceed in parallel with the gradual increase in the weight limit provided for in paragraph 3.

5. Each Contracting Party undertakes not to subject vehicles approved in the territory of the other Contracting Party to conditions that are more restrictive than those in force in its own territory.

Article 8

Transitional arrangements governing the weight of vehicles

1. With a view to the gradual introduction of the definitive arrangements defined in the second paragraph of Article 7(3), the carriage of goods by means of a vehicle the actual total laden weight of which is in excess of 28 t (before 31 December 2000) or 34 t (between 1 January 2001 and 31 December 2004) but does not exceed 40 t, from a point of departure in the Community for a destination beyond the Swiss zone close to the frontier, as defined in Annex 6, (and vice versa) or in transit across Switzerland shall be subject to a quota based on the payment of a supplementary charge for use of the infrastructure, in accordance with the procedures set out in paragraphs 2, 3 and 4. In the case of vehicles registered in Switzerland, this quota may also be used for transport operations within Switzerland.

2. The Community shall receive a quota of 250 000 authorisations for the year 2000. Switzerland shall receive a quota of 250 000 authorisations for the year 2000. In the event that the Agreement does not enter into force on 1 January 2000, the number of authorisations for the year 2000 shall be reduced on a pro rata basis.

3. The Community shall receive a quota of 300 000 authorisations for the year 2001 and the year 2002. Switzerland shall receive a quota of 300 000 authorisations for the year 2001 and the year 2002.

4. The Community shall receive a quota of 400 000 authorisations for the year 2003 and the year 2004. Switzerland shall receive a quota of 400 000 authorisations for the year 2003 and the year 2004.

5. The use of the authorisations provided for in paragraphs 2, 3, and 4 shall be subject, in the case of each operator, whether Swiss or Community, to the payment of a charge for the use of the Swiss infrastructure, calculated and levied in accordance with the procedures laid down in Annex 2.

6. With effect from 1 January 2005, vehicles meeting the technical standards laid down in the second paragraph of Article 7(3) shall be exempt, under Article 32, from any quota or authorisation arrangements.

B. INTERNATIONAL CARRIAGE OF GOODS BY ROAD

Article 9

Carriage of goods between the territories of the Contracting Parties

1. The international carriage of goods by road for hire or reward as well as unladen journeys between the territories of the Contracting Parties shall take place under the Community authorisation for Community carriers, set out in Regulation (EEC) No 881/92 and of which a model is given in Annex 3, and under a similar Swiss authorisation for Swiss carriers.

2. In the case of transport operations falling within the scope of this Agreement, these authorisations shall replace the bilateral authorisations exchanged between the Member States of the Community and Switzerland which were necessary until the entry into force of this Agreement.

3. The transport operations referred to in Annex 4 shall be exempt from any carriage authorisation and any system of licences.

4. The procedures governing the issuing, renewal and withdrawal of authorisations and the procedures governing mutual assistance shall be covered by the provisions of Regulation (EEC) No 881/92 for Community carriers and by equivalent Swiss provisions.

Article 10

Carriage of goods in transit across the territory of the Contracting Parties

1. The international carriage of goods for hire or reward as well as movements of empty vehicles in transit across the territory of the Contracting Parties shall be deregulated. These transport operations shall be carried out under the licences referred to in Article 9.

2. Paragraphs 2, 3 and 4 of Article 9 shall apply.

Article 11

Transit across Austria

A system of ecopoints equivalent to that provided for under Article 11 of Protocol 9 of the Act of Accession of Austria to the European Union shall apply to Swiss operators in transit across the territory of Austria within the limits of validity of this Protocol. The method of calculation and the detailed rules and procedures for the management and control of the ecopoints shall be defined under an administrative arrangement to be established by joint agreement between the Contracting Parties on conclusion of this Agreement and shall comply *mutatis mutandis* with the provisions of the aforesaid Protocol 9.

Article 12

Swiss home trade

1. From 2001, Swiss home trade shall be permitted subject to the following conditions:

- such transport operations shall be carried out under the Swiss authorisation referred to in Article 9(1),
- they shall be restricted to a single transport operation, on the return route, following on from the carriage of goods between Switzerland and a Member State of the Community.

2. Until that date, however, it shall continue to be permissible to exercise existing rights under the bilateral agreements in force. These rights are listed in Annex 5 to this Agreement.

3. From 2005, Swiss home trade shall be totally deregulated. Transport operations shall be carried out under the Swiss licence referred to in Article 9(1).

Article 13

Triangular transport operations involving third countries

1. The arrangements governing triangular transport involving third countries shall be determined by joint agreement on conclusion of the necessary agreement between, on the one hand, the Community and the third country in question and, on the other, Switzerland and the third country in question. The purpose of these arrangements is to ensure reciprocity of treatment between Community and Swiss operators with respect to triangular transport.

2. Pending the conclusion of agreements between the Community and the third countries concerned, this Agreement shall not affect the provisions relating to triangular transport as set out in bilateral agreements concluded between the Member States of the Community and Switzerland concerning transport involving third countries. These rights are listed in Annex 5 to this Agreement.

3. Following the definition of the arrangements referred to in paragraph 1, Switzerland shall, as far as is necessary, conclude or adapt bilateral agreements with these third countries.

Article 14

Transport between two points situated on the territory of a Member State of the Community or between two points situated on Swiss territory

Transport between two points situated on the territory of a Member State of the Community by a Swiss-registered vehicle and transport between two points situated on Swiss territory by a vehicle registered in a Member State of the Community are not authorised under this Agreement.

Article 15

Ban on night driving and Sunday driving and exemptions from the weight limit

1. The ban on night driving on Swiss territory shall apply only between 22.00 and 05.00.

2. The exemptions from the weight limit and from the ban on night driving and Sunday driving are set out in Annex 6.

3. Exemptions from the ban on night driving shall be granted in a non-discriminatory manner and may be obtained from a single office. They shall be granted against payment of a fee to cover the administrative costs.

Article 16

Abolition of certain exemptions from the weight limit

The provisions of Annex 6 (II)(3) and (4) of the 1992 Agreement shall no longer apply from the date on which this Agreement enters into force.

C. INTERNATIONAL CARRIAGE OF PASSENGERS BY COACH AND BUS

Article 17

Conditions applicable to carriers

1. Carriers operating for hire or reward shall be permitted to carry out the transport services defined in Article 1 of Annex 7, without discrimination as to nationality or place of establishment, provided those carriers:

- are authorised in the Member State of the Community where they are established or in Switzerland to undertake carriage by coach and bus in the form of regular services, including special regular services, or occasional services,

- meet legal requirements on road safety as far as the standards for drivers and vehicles are concerned.

2. Own-account carriers shall be permitted to carry out the transport services defined in Article 1(3) of Annex 7, without discrimination as to nationality or place of establishment, provided those carriers:

- are authorised in the Member State of the Community where they are established or in Switzerland to undertake carriage by coach and bus in accordance with the market-access conditions laid down by national legislation,
- meet legal requirements on road safety as far as the standards for drivers and vehicles are concerned.

3. Carriers who meet the conditions set out in paragraph 1 may carry out international passenger transport operations by coach and bus provided, in the case of Community carriers, they hold a Community licence or, in the case of Swiss carriers, they hold a similar Swiss licence.

The model for such licences and the procedures for obtaining, using and renewing them shall be as laid down in Regulation (EEC) No 684/92, as amended by Regulation (EC) No 11/98, for Community carriers and in equivalent Swiss legislation.

Article 18

Access to the market

1. Occasional services as referred to in Article 1(2.1) of Annex 7 shall not require authorisation.

2. Special regular services, as defined in Article 1(1.2) of Annex 7 shall not require authorisation if they are covered, on Community territory, by a contract concluded between the organiser and the carrier.

3. Unladen journeys by vehicles in connection with the transport operations referred to in paragraphs 1 and 2 shall likewise not require authorisation.

4. In accordance with Articles 2 et seq. of Annex 7, authorisation shall be required for regular services.

5. In accordance with Articles 2 et seq. of Annex 7, authorisation shall be required for special regular services not covered, on Community territory, by a contract concluded between the organiser and the carrier.

In Switzerland, such services shall not require authorisation.

6. Own-account road transport operations defined in Article 1(3), of Annex 7 shall not require authorisation but shall be subject, on Community territory, to a system of certificates.

Article 19

Triangular transport operations involving third countries

1. The arrangements governing triangular transport involving third countries shall be determined by joint agreement on conclusion of the necessary agreement between, on the one hand, the Community and the third country in question and, on the other, Switzerland and the third country in question. The purpose of these arrangements is to ensure reciprocity of treatment between Community and Swiss operators with respect to triangular transport.

2. Pending the conclusion of agreements between the Community and the third countries concerned, this Agreement shall not affect the provisions relating to transport referred to in paragraph 1 as set out in bilateral agreements concluded between the Member States of the Community and Switzerland concerning transport involving third countries. These rights are listed in Annex 8 to this Agreement.

3. Following the definition of arrangements referred to in paragraph 1, Switzerland shall, as far as is necessary, conclude or adapt bilateral agreements with these third countries.

Article 20

Transport between two points situated on the territory of the same Contracting Party

1. Transport between two points situated on the territory of the same Contracting Party by carriers established in the territory of the other Contracting Party are not authorised under this Agreement.

2. However, it shall continue to be permissible to exercise existing rights under the bilateral agreements concluded between the Member States of the Community and Switzerland that are in force, provided there is no discrimination between Community carriers and no distortion of competition. These rights are listed in Annex 8 to this Agreement.

Article 21

Procedures

The procedures governing the issuing, use, renewal and expiry of authorisations and the procedures governing mutual assistance shall be covered by the provisions of Annex 7 to this Agreement.

Article 22

Transitional provision

Authorisations in respect of services existing at the time of entry into force of this Agreement shall remain valid until their expiry, to the extent that the services in question continue to be subject to authorisation.

TITLE III

INTERNATIONAL RAIL TRANSPORT

Article 23

Management independence

The Contracting Parties undertake:

- to guarantee the management independence of the railway undertakings, mainly by according them independent status, thus enabling them to adapt their activities to the market and to manage their affairs under the responsibility of their governing bodies,
- to separate the management of the railway infrastructure from the provision of railway transport services, at least at the accounting level; aid paid to one of these two areas of activity may not be transferred to the other.

Article 24

Access and transit rights with regard to the railway infrastructure

1. Railway undertakings and international groupings shall have the access and/or transit rights defined in the Community legislation referred to in Annex 1, section 4.

2. Railway undertakings established on the territory of one Contracting Party shall be granted right of access to the infrastructure on the territory of the other Contracting Party for the purpose of operating international combined transport services.

3. Railway undertakings and international groupings making use of their access or transit rights shall conclude the necessary administrative, technical and financial agreements with the managers of the railway infrastructure used with a view to regulating traffic control and safety issues concerning the international transport services referred to in paragraphs 1 and 2.

*Article 25***Railway licences**

1. The granting of an appropriate licence for the type of railway service in question shall be a precondition for any access or transit request involving the railway infrastructure, and hence the right to provide transport services. However, such a licence shall not in itself confer right of access to the railway infrastructure.
2. A railway undertaking shall be entitled to apply for a licence in Switzerland or in the Member State of the Community in which it is established. The Contracting Parties shall not issue licences or extend their validity where the requirements of this Agreement have not been met.
3. Under the responsibility of the Contracting Parties, the licences shall be issued by the authority responsible for licences specially designated for existing and new undertakings.
4. The licences shall be recognised in the Community or in Switzerland on a reciprocal basis.
5. They shall be subject to requirements laid down by the Contracting Parties relating to good repute, financial fitness, professional competence and cover for civil liability during their entire period of validity. The provisions applicable in this area are set out in Section 4 of Annex 1.
6. A licence shall be valid for as long as the railway undertaking fulfils its obligations under the abovementioned provisions. However, the authority responsible may require licences to be reviewed at regular intervals.
7. The procedures for checking, amending, suspending or withdrawing a licence shall be governed by the abovementioned legal provisions.

*Article 26***Issuing the safety certificate**

1. The Contracting Parties shall also require railway undertakings to submit a safety certificate setting out the safety requirements imposed on them with a view to ensuring a risk-free service on the routes in question.
2. A railway undertaking may apply for a safety certificate to a body designated by the Contracting Party in whose territory the infrastructure used by the railway body is situated.
3. To obtain the safety certificate, the railway undertaking must comply with Swiss law in respect of that part of the route which is located in Switzerland and with Community law in respect of that part of the route which is located on Community territory.

*Article 27***Allocation of train paths**

1. Each Contracting Party shall designate the body responsible for allocating capacity, whether it be a specific authority or the infrastructure manager. In particular, the allocation body, which shall be informed of all train paths available, shall ensure that:
 - railway infrastructure capacity is allocated on a fair and non-discriminatory basis and that,
 - subject to paragraphs 3 and 4 of this Article, the allocation procedure allows optimum effective use of the infrastructure.
2. A railway undertaking or international grouping applying for one or more train paths shall submit its application to the allocation body or bodies of the Contracting Party on whose territory the departure point of the service concerned is situated. The allocation body to which an application for infrastructure capacity has been submitted shall immediately inform its counterparts of this request. The latter shall take a decision no later than one month after receiving the necessary information; each allocation body shall have the right to refuse an application. The allocation body to which an application has been submitted shall, together with its counterparts, take a decision on the application no later than two months after all the necessary information has been submitted. The procedures for dealing with the handling of applications for infrastructure capacity are governed by the provisions set out in Section 4 of Annex 1.
3. The Community and Switzerland may take the necessary measures to ensure that priority is given to the following rail services in the allocation of railway infrastructure capacity:
 - (a) services provided in the public interest;
 - (b) services wholly or partly operated on infrastructure constructed or developed for these services (for example, special high-speed or specialised freight lines).
4. The Community and Switzerland may instruct the allocation body to grant special rights as regards infrastructure capacity allocation on a non-discriminatory basis to railway undertakings operating certain types of services or providing such services in certain areas if such rights are indispensable to ensure adequate public services or efficient use of infrastructure capacity or to allow the financing of new infrastructures.
5. The Contracting Parties may provide for the possibility that applications for infrastructure access are accompanied by a deposit or similar security.

6. The Community and Switzerland shall draw up and publish procedures for allocating railway infrastructure capacity. They shall notify accordingly the Joint Committee set up under Article 51 of this Agreement.

Article 28

Accounts and user fees

1. The accounts of an infrastructure manager must be at least in balance when considered over a reasonable period of time between, on the one hand, the revenue accruing from these fees and from possible State contributions and, on the other, the infrastructure expenditure.

2. The infrastructure manager shall apply a railway infrastructure user fee, which he shall be responsible for managing, to be paid by the railway undertakings or international groupings using this infrastructure.

3. The infrastructure user fees shall be determined mainly on the basis of the type of service, the period of service, the state of the market and the nature and degree of wear and tear on the infrastructure.

4. Fees shall be payable to the infrastructure manager(s).

5. Each Contracting Party shall determine the procedures for fixing the fees, after consultations with the infrastructure manager. The fees charged for services of an equivalent nature in the same market shall apply without discrimination.

6. The infrastructure manager shall, in good time, notify the railway undertakings or international groupings which use his infrastructure in order to provide the services referred to in Article 24 of all major changes in the quality or capacity of the infrastructure concerned.

Article 29

Appeals

1. The Contracting Parties shall take the necessary measures to ensure that decisions on allocating infrastructure capacity or on collecting fees are subject to appeal before an independent body. This body shall give its judgement within two months of receiving all the necessary information.

2. The Contracting Parties shall take the necessary measures to ensure that the decisions taken in accordance with paragraph 1 and with Article 25(3) are subject to judicial review.

TITLE IV

COORDINATED TRANSPORT POLICY

A. GENERAL PROVISIONS

Article 30

Objectives

1. The Contracting Parties have agreed to develop, as and where necessary, a coordinated transport policy covering passengers and goods. The aim of this policy is to combine transport systems efficiency with environmental protection so as to ensure sustainable mobility.

2. The Contracting Parties shall make every effort to create broadly comparable transport conditions, including tax arrangements, in their respective territories, particularly with a view to avoiding the diversion of traffic in the Alpine regions and to ensuring better traffic distribution in those areas.

Article 31

Measures

1. To this end, the Contracting Parties shall take measures designed to ensure healthy competition between and within the various modes of transport and to facilitate the use of more environmentally sound means of transporting passengers and goods.

2. In addition to the provisions set out in Titles II and III, these measures shall include:

- developing transalpine railway infrastructures and making available railway transport services and combined transport services that are competitive in terms of price and quality,
- introducing appropriate road transport charging systems,
- supporting measures.

3. The measures taken by the Contracting Parties under this Agreement shall be implemented progressively and, as far as possible, in a coordinated manner.

*Article 32***Principles**

Subject to the provisions of Article 47, the measures set out in Article 31 shall comply with the following principles:

- no discrimination, whether direct or indirect, on the grounds of the nationality of the carrier, the place of registration of the vehicle, or the origin and/or destination of the transport operation,
- free choice of the mode of transport,
- no unilateral quantitative restrictions,
- territoriality,
- proportionality in the imposition of charges relating to transport costs, extending also to criteria relating to the type of vehicle,
- transparency,
- comparable conditions for using different transalpine routes,
- avoiding any distortion of traffic flows in the Alpine regions,
- reciprocity.

B. RAIL AND COMBINED TRANSPORT*Article 33***Objectives**

1. The Contracting Parties agree on the objective of establishing a rail and combined transport capability that is adequate in terms of capacity and that is competitive, both economically and in terms of quality of service, with road transport for the Alpine region, while at the same time respecting the principles set out in Article 32 and ensuring not only the free play of market forces, notably by opening up access to the railway infrastructure as provided for in Title III, but also the independence of the railway undertakings.

2. To this end, the Contracting Parties shall:

- within the limits of their competence take the necessary infrastructure and operational measures, in Switzerland and on Community territory, to ensure the long-term viability, cohesion and integration of Swiss capability in a long-distance railway system,
- also undertake to develop the interconnection and interoperability of their rail and combined transport networks. They shall ensure the necessary cooperation for this purpose with the international organisations and institutions concerned and instruct the Joint Committee to monitor these aspects.

3. The Contracting Parties undertake that, while phasing in the road tax arrangements referred to in Article 40, they will also take steps to provide users with a rail and combined transport capability which, in terms of capacity, price and quality, is such as to ensure an equitable distribution of traffic over the various transalpine routes.

*Article 34***Railway supply capacity**

1. The Contracting Parties confirm their respective commitments as set out in Articles 5 and 6 of the 1992 Agreement, whereby it is foreseen that Switzerland constructs a new rail link through the Alps (NRLA) and the Community is to increase the capacity of the north and south access routes to the NRLA. Furthermore, they are agreed that these new railway infrastructures will be constructed in accordance with loading gauge C of the IUR.

2. For the Community the infrastructure measures referred to in paragraph 1 form part of the measures taken under, and in accordance with, Decision No 1692/96/EC of the European Parliament and of the Council on Community guidelines for the development of the trans-European transport network, including the rail and combined transport axes across the Alps and, in particular, the access routes to the Swiss railway infrastructures and the combined transport installations.

3. Both Contracting Parties shall work together to enable their respective competent authorities to plan and implement, in a coordinated manner, the infrastructure, rail and combined transport measures necessary to meet the commitments referred to in paragraphs 1 and 2 and to harmonise the timetable of work depending on the capacity required. To this end, they shall pursue the aim of producing a return on investment and shall take all appropriate measures within the Joint Committee.

4. The Joint Committee may set up a subcommittee with responsibility for overseeing the coordination of infrastructure projects in the Alpine region. The subcommittee shall consist of representatives of Switzerland, the Community and the Member States of the Community which are situated in the Alpine region.

*Article 35***Economic parameters**

1. The Contracting Parties shall do everything necessary to achieve the objective set out in Article 33. To this end, they shall take steps to ensure that the carriage of goods by rail and combined transport across Switzerland, including accompanied combined transport, remains competitive, in terms of price and quality of service, with road transport over the same routes, while at the same time honouring guarantees regarding the independence of the railway undertakings.

2. With a view to establishing a suitable rail and combined transport capability, the Contracting Parties may provide financial support for investment in railway infrastructure, fixed or mobile equipment needed for transshipment between terrestrial modes, transport equipment specifically adapted to combined transport and used for combined transport and, as far as their respective legislation permits, operating costs for combined transport services crossing Swiss territory, to the extent that these measures help to improve the level of quality and competitiveness in terms of prices of the rail and combined transport capability and do not create any disproportionate distortion of competition between operators. Responsibility for rail transport pricing shall continue to be exercised by the competent authorities or entities.

3. The Contracting Parties may also conclude public service contracts with the railway undertakings in order to guarantee adequate rail transport services, taking particular account of social and environmental factors.

4. Each of the Contracting Parties shall take steps, within the limits of its competence, to ensure that the effect on the market of any official aid granted by one of the Contracting Parties is not undermined by the behaviour of the other Contracting Party or an entity established on its own territory or on the territory of the other Contracting Party.

5. The Joint Committee shall monitor the application of this Article by the Contracting Parties.

Article 36

Quality parameters

1. The Contracting Parties agree to do everything necessary to achieve the objective set out in Article 33. To this end, they undertake to promote combined transport.

2. During the transitional phase referred to in Article 8, Switzerland also undertakes, in accordance with Title II of the 1992 Agreement, to establish an accompanied combined transport ('rolling highway') capability which is competitive in quality and price terms with road transport.

3. The Contracting Parties shall do everything necessary to promote combined transport. In particular, they shall take steps to ensure that the following provisions are applied:

- compliance with the regulations governing technical and social standards for road transport, notably as regards driving time and rest periods, speed limits and maximum weight and dimension standards,

- reduction of rail transport frontier controls and transfer of these controls to the point of embarkation or disembarkation in accordance with the Convention of 20 May 1987 between the Community and Switzerland and between the EFTA countries on a common transit procedure,
- facilitation of the organisation of the combined transport chain by simplifying the regulatory and administrative conditions governing each of the Contracting Parties,
- provision of incentives to combined transport operators and railway operators to improve the quality of their service.

A list of railway parameters is set out in Annex 9. These parameters shall be taken into consideration when invoking Article 46.

4. Within the scope of their powers, the Contracting Parties shall ensure that appropriate measures are taken to permit the swift creation of rail freight corridors. They shall keep each other regularly informed of any measures they propose to take in relation to these rail corridors.

5. The Joint Committee shall prepare a report every two years on the implementation of the measures referred to in this Article.

C. ROAD TRANSPORT CHARGING SYSTEMS

Article 37

Objectives

Within the scope of their powers and in accordance with their respective procedures and with the objectives of Title III of the 1992 Agreement, the Parties shall set themselves the objective of gradually introducing charging systems geared towards charging to road vehicles and other modes of transport the costs to which they give rise.

Article 38

Principles

1. The charging systems shall be based on the principles set out in Article 32, notably the principles of non-discrimination, proportionality and transparency.

2. Charges shall consist of taxes on vehicles, taxes on fuels and fees for the use of the road network.

3. In seeking to achieve the objectives referred to in Article 37, preference shall be given to measures which do not result in diverting traffic away from the technically, economically and geographically most suitable route between the point of departure and the point of final destination of the transport operation.

4. The measures shall be applied in such a way as not to impede the free movement of goods or services between the Contracting Parties, notably as regards the administration and collection of tolls or road-use charges, the absence of controls or systematic verification at the frontiers between the Contracting Parties and the absence of excessive formalities. In order to avoid difficulties in this respect, Switzerland shall endeavour to apply the Community rules in force in this area.

5. The provisions of this Chapter shall apply to vehicles having a maximum authorised weight (MAW), stated on their registration document, of 12 tonnes or more. However, this Agreement shall not prevent the adoption by either Contracting Party, on its territory, of measures designed to include vehicles which have an MAW of less than 12 tonnes.

6. The Contracting Parties shall not grant to firms, including transport undertakings, any direct or indirect State aid designed to make it easier for those firms to bear the burden of the transport charges levied under the charging systems provided for in this Agreement.

Article 39

Interoperability of instruments

The Contracting Parties shall hold consultations within the Joint Committee to achieve an appropriate level of interoperability of the electronic systems for collecting road use charges.

Article 40

Swiss measures

1. With a view to achieving the objectives set out Article 37 and in the light of the weight limit increases stipulated in Article 7(3), Switzerland shall introduce a non-discriminatory tax on vehicles, in two stages commencing on 1 January 2001 and 1 January 2005 respectively. In particular, the tax shall be based on the principles referred to in Article 38(1) and on the procedures set out in Annex 10.

2. The charges shall be differentiated according to three categories of emission standards (EURO). Under the taxation system applicable from 1 January 2005, the difference in charge from one category to another must be as large as possible but must not exceed 15 % of the weighted average of the charges referred to in paragraph 4.

3. (a) Under the taxation system applicable from 1 January 2001, the maximum amounts in the case of a vehicle having an actual total laden weight of not more than 34 t and travelling a distance of 300 km across the Alps may not exceed CHF 205 for a vehicle not complying with the EURO standards, CHF 172 for a vehicle complying with the EURO I standard and CHF 145 for a vehicle complying with the EURO II standard.

(b) By way of derogation from paragraph (a), the Community shall, for the period 1 January 2001 to 31 December 2004, receive an annual quota for 220 000 single journeys by empty vehicles or vehicles carrying light products, provided the actual total laden weight of the vehicle does not exceed 28 tonnes, in transit across the Swiss Alps, against payment of a charge for use of the infrastructure. This charge shall be CHF 50 in the year 2001, CHF 60 in 2002, CHF 70 in 2003 and CHF 80 in 2004. Switzerland shall also receive a quota subject to the same conditions. These journeys shall be subject to the usual control procedure.

4. Under the taxation system applicable from 1 January 2005, the weighted average of the charges shall not exceed CHF 325 for vehicles having an actual total laden weight of not more than 40 t and travelling a distance of 300 km across the Alps. The charge for the most polluting category shall not exceed CHF 380.

5. A part of the charges referred to in paragraphs 3 and 4 may be made up of toll fees for the use of specialised Alpine infrastructure. This part must not constitute more than 15 % of the charges referred to in paragraphs 3 and 4.

6. The weightings referred to in paragraph 4 shall be determined according to the number of vehicles per EURO standard category operating in Switzerland. The number of vehicles in each category shall be established on the basis of censuses which will be examined by the Joint Committee. The Joint Committee shall determine the weighting on the basis of examinations, the first of which shall take place before 1 July 2004, carried out every two years, in order to take account of trends in the structure of the vehicle fleet operating in Switzerland and changes in the EURO standards.

Article 41

Community measures

The Community shall continue to develop charging systems applicable on its territory, reflecting the costs arising from the use of the infrastructure. These systems shall be based on the 'user-pays' principle.

Article 42

Review of the level of charges

1. On 1 January 2007, and at two-yearly intervals thereafter, the maximum levels of the charges fixed in Article 40(4) shall be adjusted in line with the rate of inflation in Switzerland during the previous two years. For this purpose, Switzerland shall send to the Joint Committee, by 30 September at the latest of the year preceding the adjustment, the necessary statistical data on which to base the adjustment under consideration. The Joint Committee shall meet, at the Community's request, within 30 days of receiving this communication, to hold consultations on the adjustment under consideration.

If, during the period between signature of this Agreement and 31 December 2004, the average annual rate of inflation in Switzerland exceeds 2 %, the maximum levels of the charges fixed in Article 40(4) shall be adjusted to take account only of the inflation which exceeds the annual rate of 2 %. The procedure laid down in the previous subparagraph shall apply.

2. With effect from 1 January 2007, the Joint Committee may, at the request of one of the Parties, review the maximum levels of the charges fixed in Article 40(4) with a view to adjusting them by joint agreement. This review shall be undertaken on the basis of the following criteria:

- the level and structure of taxes in the two Contracting Parties, notably with regard to comparable transalpine routes,
- the distribution of traffic between comparable transalpine routes,
- modal distribution trends in the Alpine region,
- the development of the transalpine railway infrastructure.

D. SUPPORTING MEASURES

Article 43

Facilitation of frontier controls

1. The Contracting Parties undertake to reduce and simplify the formalities associated with transport operations, particularly in the area of customs.

2. The Agreement between the European Economic Community and the Swiss Confederation on the simplification of inspections and formalities in respect of the carriage of goods of 21 November 1990, the Convention on a common transit procedure of 20 May 1987 and, in the case of rail transport, the agreement between railway companies on technical inspections for the assignment of goods wagons to international transport operations shall serve as the basis for the measures taken by the Contracting Parties in pursuance of paragraph 1.

Article 44

Ecological standards for commercial vehicles

1. With a view to ensuring better environmental protection and without prejudice to the obligations incumbent under Article 7, the Contracting Parties shall seek, in particular, to introduce ecological standards providing a high level of protection in order to reduce exhaust gas, particle and noise emissions from heavy goods vehicles.

2. The Contracting Parties shall hold regular consultations in the course of preparing these standards.

3. The EURO emission category for heavy goods vehicles (as defined in Community legislation), if not stated on the vehicle registration document, must be ascertained from the date on which the vehicle first entered into service, as stated on that document, or, where appropriate, from an additional special document issued by the competent authorities of the issuing State.

Article 45

Traffic observatory

1. A permanent observatory for the monitoring of road, rail and combined traffic in the Alpine region shall be set up as soon as this Agreement enters into force. It shall report annually on traffic trends to the Joint Committee set up under Article 51 of this Agreement. The Joint Committee may also ask the observatory to prepare a special report, particularly in cases where the provisions of Articles 46 and 47 of this Agreement are applied.

2. The work of the observatory shall be financed by the Contracting Parties, in a proportion to be decided by the Joint Committee.

3. The Contracting Parties shall determine the administrative procedures governing the operation of the observatory by means of a decision of the Joint Committee to be taken at its first meeting.

E. CORRECTIVE MEASURES

Article 46

Unilateral safeguard measures

1. If, after 1 January 2005, despite competitive rail prices and the correct application of the measures provided for in Article 36 regarding quality parameters, there are difficulties with Swiss transalpine road traffic flows and if, over a 10-week period, the average rate of utilisation of the rail capacity in Switzerland (accompanied and unaccompanied combined transport) is less than 66 %, Switzerland may, by way of derogation from the provisions of Article 40(4) and (5), increase the charges provided for in Article 40(4) by no more than 12,5 %. All the revenue from this increase shall be used to help make rail and combined transport more competitive vis-à-vis road transport.

2. Where the same circumstances as those set out in paragraph 1 occur on its territory, the Community may, subject to comparable conditions, take similar corrective measures.

3. (a) The above measure shall be limited in scope and duration to whatever is strictly necessary to remedy the situation. The duration of the measure may not exceed six months but may be extended for one further period of six months. Further extensions may be agreed by the Joint Committee.
- (b) Where one of the Contracting Parties has, on a previous occasion, applied the measures referred to in paragraph 1 or 2, further recourse to such measures by that Contracting Party shall be subject to the following conditions:
- where the duration of the previous measures did not exceed six months, further measures may be taken only after a period of 12 months from the date of cessation of the previous measures,
 - where the duration of the previous measures exceeded six months, further measures may be taken only after a period of 18 months from the date of cessation of the previous measures,
 - under no circumstances may safeguard measures be introduced more than twice within five years of the date on which such measures were first introduced.

The Joint Committee may decide, by common agreement, to derogate from these conditions in specific cases.

4. Before taking the measures provided for in the foregoing paragraphs, the Contracting Party concerned shall inform the Joint Committee of its intention. The Joint Committee shall meet to examine the matter. Save where the Joint Committee decides otherwise, the Contracting Party concerned may take the measure in question after a period of 30 days from the date of notification of the measure to the Joint Committee.

Article 47

Consensual safeguard measures

1. In the event of serious disturbance of transalpine traffic flows, prejudicing the attainment of the objectives set out in Article 30 of this Agreement, the Joint Committee shall meet, at the request of one of the Contracting Parties, in order to decide on appropriate measures to deal with the situation. The requesting Contracting Party shall immediately inform the traffic observatory, which shall report within 14 days on the situation and on any measures to be taken.

2. The Joint Committee shall meet within 15 days of the request being submitted. It shall examine the situation, taking due account of the traffic observatory's report. Within 60 days of its first meeting on the matter, the Joint Committee shall decide on the measures to be taken. This period may be extended by common agreement.

3. These safeguard measures shall be limited, in scope and duration, to whatever is strictly necessary to remedy the situation. Priority must be given to options which interfere as little as possible with the operation of the Agreement.

Article 48

Crisis measures

If transalpine traffic flows are seriously disrupted for reasons of force majeure, such as in the event of a natural disaster, the Contracting Parties shall, each on its own territory, take all possible concerted action to restore and maintain the flow of the traffic. Priority shall be given to sensitive cargoes such as perishable goods.

TITLE V

GENERAL AND FINAL PROVISIONS

Article 49

Implementation of the Agreement

1. The Contracting Parties shall take all appropriate measures, both general and particular, to ensure the fulfilment of obligations under this Agreement.

2. They shall refrain from taking any measure likely to jeopardise the achievement of the objectives of this Agreement.

3. The provisions of this Agreement relating to maximum authorised weight limits for articulated vehicles and road trains and to transport charging systems shall be implemented under a two-stage procedure, from 1 January 2001 to 31 December 2004 and from 1 January 2005.

Article 50

Rectification measures

If one Contracting Party finds that the other Contracting Party has failed to comply with the obligations laid down in this Agreement or has failed to implement a decision of the Joint Committee, the injured Contracting Party may, after consultations within the Joint Committee, take appropriate measures to maintain the balance of this Agreement. The Contracting Parties shall provide the Joint Committee with all the necessary information to enable it to carry out an in-depth examination of the situation.

Article 51

Joint Committee

1. A Joint Committee known as the 'Community/Switzerland Inland Transport Committee' is hereby established; it shall be made up of representatives of the Contracting Parties and be responsible for the management and proper application of this Agreement. To this end, it shall draw up recommendations. It shall take decisions on matters provided for under the Agreement; these decisions shall be carried out by the Contracting Parties in accordance with their own rules. The Joint Committee shall reach its decisions by common agreement.

2. In particular, the Joint Committee shall be responsible for the monitoring and application of the provisions of this Agreement and, in particular, Articles 27(6), 33, 34, 35, 36, 39, 40, 42, 45, 46, 47 and 54. It shall implement the adaptation and revision clauses referred to in Articles 52 and 55.

3. In order to ensure the satisfactory implementation of this Agreement, the Contracting Parties shall exchange information on a regular basis and, at the request of one of them, shall hold consultations within the Joint Committee. The Contracting Parties shall exchange information provided by the authorities responsible for applying this Agreement and, in particular, for issuing authorisations and carrying out inspections. These authorities shall engage in a direct exchange of correspondence.

4. The Joint Committee shall adopt, by a decision, its rules of procedure which shall include, among other provisions, the procedures for convening meetings, appointing the Chairman and laying down the latter's terms of reference.

5. The Joint Committee shall meet as and when necessary, and at least once a year. Either Contracting Party may request the convening of a meeting.

6. The Joint Committee may decide to set up such working parties or groups of experts as it sees fit to assist it in the accomplishment of its tasks.

7. This Committee shall also perform the duties previously performed by the Joint Committee known as the 'Community/Switzerland Inland Transport Committee' set up under Article 18 of the 1992 Agreement.

Article 52

Development of laws

1. Subject to compliance with the principle of non-discrimination and with the provisions of this Agreement, this Agreement shall not prejudice the right of either Contracting Party to amend unilaterally its domestic legislation in the areas covered by this Agreement.

2. As soon as one of the Contracting Parties draws up new legislation in an area covered by this Agreement, it shall formally request the opinion of experts of the other Contracting Party. During the period preceding the formal adoption of this new legislation, the Contracting Parties shall keep each other informed and shall hold consultations as and when necessary. At the request of one of the Contracting Parties, a preliminary exchange of views shall take place within the Joint Committee, in particular as regards the impact such an amendment would have on the operation of the Agreement.

3. At the time of adoption of the amended legislation, and at the latest eight days after its publication in the *Official Journal of the European Communities* or in the Official Compilation of Federal Laws and Decrees, the Contracting Party concerned shall notify the other Contracting Party of the text of these new provisions. At the request of one of the Contracting Parties, an exchange of views shall take place within the Joint Committee regarding the impact of the amendment on the operation of this Agreement no later than two months after the date of submission of the request.

4. The Joint Committee shall either:

- adopt a decision revising Annexes 1, 3, 4 and 7 or, if necessary, propose that the provisions of this Agreement be revised, so as to incorporate therein, as and where necessary and on a basis of reciprocity, the amendments to the legislation concerned, or
- adopt a decision whereby the amendments to the legislation concerned are deemed to conform to this Agreement, or
- decide on any other measure aimed at safeguarding the proper functioning of this Agreement.

5. The Joint Committee shall decide on the procedures for adapting this Agreement to the relevant provisions of future agreements between the Community or Switzerland, on the one hand, and third countries, on the other, as referred to in Articles 13 and 19.

6. With a view to attaining the objectives set out in this Agreement, the Contracting Parties shall, in accordance with the timetable laid down in Article 49, take all necessary measures to ensure that the rights and obligations equivalent to those contained in the legal instruments of the Community, as listed in Annex 1, are actively applied in the course of their relations.

Article 53

Confidentiality

The representatives, experts and other agents of the Contracting Parties shall be required, even after termination of their appointments, not to divulge information obtained in the context of this Agreement and which, by its very nature, is covered by the obligation of professional secrecy.

*Article 54***Settlement of disputes**

Each Contracting Party may bring a matter under dispute which concerns the interpretation or application of this Agreement to the Joint Committee, which shall endeavour to settle the dispute. The Joint Committee shall be provided with all relevant information for an in-depth examination of the situation with a view to finding an acceptable solution. To that end, the Joint Committee shall be required to examine all possibilities for maintaining the good functioning of this Agreement.

*Article 55***Revision of the Agreement**

1. If one of the Contracting Parties wishes to have the provisions of this Agreement revised, it shall notify the Joint Committee accordingly. Subject to paragraphs 2 and 3, the amended version of this Agreement shall enter into force on completion of the respective internal procedures.

2. Annexes 1, 3, 4 and 7 may be amended by a decision of the Joint Committee in accordance with Article 51(1) so as to take account of developments in Community legislation in this area.

3. Annexes 5, 6, 8 and 9 may be amended by a decision of the Joint Committee in accordance with Article 51(1).

*Article 56***Annexes**

Annexes 1 to 10 shall form an integral part of this Agreement.

*Article 57***Territorial scope**

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in this Treaty and, on the other, to the territory of Switzerland.

*Article 58***Final clauses**

1. This Agreement shall be ratified or approved by the Contracting Parties in accordance with their own procedures. It shall enter into force on the first day of the second month following the final notification of the deposit of the instruments of ratification or approval of all the following seven agreements:

- Agreement on the Carriage of Goods and Passengers by Rail and Road,
- Agreement on the Free Movement of Persons,
- Agreement on Air Transport,
- Agreement on Trade in Agricultural Products,
- Agreement on Mutual Recognition in Relation to Conformity Assessment,
- Agreement on Certain Aspects of Government Procurement,
- Agreement on Scientific and Technological Cooperation.

2. This Agreement shall be concluded for an initial period of seven years. It shall be renewed indefinitely unless the Community or Switzerland notifies the other Contracting Party to the contrary before the initial period expires. Where such notification is given, paragraph 4 shall apply.

3. The Community or Switzerland may terminate this Agreement by notifying its decision to the other Contracting Party. Where such notification is given, paragraph 4 shall apply.

4. The seven agreements referred to in paragraph 1 shall cease to be applicable six months after receipt of the notification of non-renewal, as referred to in paragraph 2, or of termination, as referred to in paragraph 3.

Hecho en Luxemburgo, el veintiuno de junio de mil novecientos noventa y nueve, en doble ejemplar en lenguas alemana, danesa, española, finesa, francesa, griega, inglesa, italiana, neerlandesa, portuguesa y sueca, siendo cada uno de estos textos igualmente auténtico.

Udfærdiget i Luxembourg, den enogtyvende juni nitten hundrede og nioghalvfems, i to eksemplarer på dansk, engelsk, finsk, fransk, græsk, italiensk, nederlandsk, portugisisk, spansk, svensk og tysk, idet hver af disse tekster har samme gyldighed.

Geschehen zu Luxemburg am einundzwanzigsten Juni neunzehnhundertneunundneunzig in zwei Urschriften in dänischer, deutscher, englischer, finnischer, französischer, griechischer, italienischer, niederländischer, portugiesischer, spanischer und schwedischer Sprache, wobei jeder dieser Wortlaute gleichermaßen verbindlich ist.

Έγινε στο Λουξεμβούργο, στις είκοσι μία Ιουνίου χίλια εννιακόσια ενενήντα εννέα, εις διπλούν στην αγγλική, γαλλική, γερμανική, δανική, ελληνική, ισπανική, ιταλική, ολλανδική, πορτογαλική, σουηδική, και φινλανδική γλώσσα, κάθε κείμενο από τα οποία είναι αυθεντικό.

Done at Luxembourg on the twenty-first day of June in the year one thousand and ninety-nine, and drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish and Swedish languages, each text being equally authentic.

Fait à Luxembourg, le vingt-et-un juin mil neuf cent quatre-vingt dix-neuf, en double exemplaire en langues allemande, anglaise, danoise, espagnole, finnoise, française, grecque, italienne, néerlandaise, portugaise et suédoise, chacun de ces textes faisant également foi.

Fatto a Lussemburgo, addì ventuno giugno millenovecentonovantanove, in duplice copia, in lingua danese, finlandese, francese, greca, inglese, italiana, olandese, portoghese, spagnola, svedese e tedesca, ciascun testo facente ugualmente fede.

Gedaan te Luxemburg, de eenentwintigste juni negentienhonderd negenennegentig, in twee exemplaren in de Deense, de Duitse, de Engelse, de Finse, de Franse, de Griekse, de Italiaanse, de Nederlandse, de Portugese, de Spaanse en de Zweedse taal, zijnde alle teksten gelijkelijk authentiek.

Feito em Luxemburgo, em vinte e um de Junho de mil novecentos e noventa e nove, em duplo exemplar nas línguas alemã, dinamarquesa, espanhola, finlandesa, francesa, grega, inglesa, italiana, neerlandesa, portuguesa e sueca, fazendo fé qualquer dos textos.

Tehty Luxemburgissa kahdentenakymmenentenäensimmäisenä päivänä kesäkuuta vuonna tuhatyhdeksänsataayhdeksänkymmentäyhdeksän kahtena kappaleena englannin, espanjan, hollannin, italian, kreikan, portugalin, ranskan, ruotsin, saksan, suomen ja tanskan kielellä, ja kaikki teksti ovat yhtä todistusvoimaiset.

Utfärdat i Luxemburg den tjugoförsta juni nittonhundraiontionio i två exemplar på det danska, engelska, finska, franska, grekiska, italienska, nederländska, portugisiska, spanska, svenska och tyska språket, vilka samtliga texter är lika giltiga.

Por la Comunidad Europea

For Det Europæiske Fællesskab

Für die Europäische Gemeinschaft

Για την Ευρωπαϊκή Κοινότητα

For the European Community

Pour la Communauté européenne

Per la Comunità europea

Voor de Europese Gemeenschap

Pela Comunidade Europeia

Euroopan yhteisön puolesta

På Europeiska gemenskapens vägnar



Por la Confederación Suiza
For Det Schweiziske Edsforbund
Für der Schweizerischen Eidgenossenschaft
Για την Ελβετική Συνομοσπονδία
For the Swiss Confederation
Pour la Confédération suisse
Per la Confederazione svizzera
Voor de Zwitserse Bondsstaat
Pela Confederação Suíça
Sveitsin valaliiton puolesta
På Schweiziska Edsförbundets vägnar

D. Lauber

Hein

LIST OF ANNEXES

- Annex 1: Articles 5(2), 6, 7(1), 24(1), 25(5) and 27(2): applicable provisions
- Annex 2: Article 8(5): rules for applying the charges provided for in Article 8
- Annex 3: Article 9(1): model authorisation for the international carriage of goods by road
- Annex 4: Article 9(3): list of types of carriage to be exempted from any system of licences and from any authorisation
- Annex 5: Articles 12 and 13: list of existing rights under the bilateral agreements in force
- Annex 6: Article 15(2): exemptions from the weight limit and from the ban on night and Sunday driving
- Annex 7: Articles 17, 18 and 21: international carriage of passengers, by coach and bus, and authorisation procedures
- Annex 8: Articles 19 and 20: list of existing rights under the bilateral agreements in force
- Annex 9: Article 36: quality parameters for rail and combined transport services
- Annex 10: Article 40(1): rules for applying the charges provided for in Article 40

ANNEX I

APPLICABLE PROVISIONS

In accordance with Article 52(6) of this Agreement, Switzerland shall apply legal provisions equivalent to the following:

Relevant provisions of Community Law

Section 1

- Council Directive 96/26/EC of 29 April 1996 on admission to the occupation of road haulage operator and road passenger transport operator and mutual recognition of diplomas, certificates and other evidence of formal qualifications intended to facilitate for these operators the right to freedom of establishment in national and international transport operations (OJ L 124, 23.5.1996, p. 1), as last amended by Directive 98/76/EC (OJ L 277, 14.10.1998, p. 17).

Section 2

- Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport (OJ L 370, 31.12.1985, p. 8), as last amended by Council Regulation (EC) No 2135/98 (OJ L 274, 9.10.1998, p. 1).
- Council Regulation (EEC) No 3820/85 of 20 December 1985 on the harmonisation of certain social legislation relating to road transport (OJ L 370, 31.12.1985, p. 1), or equivalent rules laid down in the AETR Agreement, including amendments thereto.
- Council Directive 88/599/EEC of 23 November 1988 on standard checking procedures for the implementation of Regulation (EEC) No 3820/85 on the harmonisation of certain social legislation relating to road transport and Regulation (EEC) No 3821/85 on recording equipment in road transport (OJ L 325, 29.11.1988, p. 55), as last amended by Regulation (EC) No 2135/98 (OJ L 274, 9.10.1998, p. 1).
- Council Directive 76/914/EEC of 16 December 1976 on the minimum level of training for some road transport drivers (OJ L 357, 29.12.1976, p. 36).

Section 3

- Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic (OJ L 235, 17.9.1996, p. 59).
- Council Directive 96/96/EC of 20 December 1996 on the approximation of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers (OJ L 46, 17.2.1997, p. 1).
- Council Directive 91/542/EEC of 1 October 1991 amending Directive 88/77/EEC on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous pollutants from diesel engines for use in vehicles (OJ L 295, 25.10.1991, p. 1).
- Council Directive 92/6/EEC of 10 February 1992 on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community (OJ L 57, 23.2.1992, p. 27).
- Council Directive 92/24/EEC of 31 March 1992 relating to speed limitation devices or similar speed limitation on-board systems of certain categories of motor vehicles (OJ L 129, 14.5.1992, p. 154).
- Council Directive 92/97/EEC of 10 November 1992 amending Directive 70/157/EEC on the approximation of the laws of the Member States relating to the permissible sound level and the exhaust system of motor vehicles (OJ L 371, 19.12.1992, p. 1).

- Council Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road (OJ L 319, 12.12.1994, p. 7).
- Council Directive 95/50/EC of 6 October 1995 on uniform procedures for checks on the transport of dangerous goods by road (OJ L 249, 17.10.1995, p. 35).
- Council Directive 96/35/EC of 3 June 1996 on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway (OJ L 145, 19.6.1996, p. 10).
- Commission Directive 96/86/EC of 13 December 1996 adapting to technical progress Council Directive 94/55/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road (OJ L 335, 24.12.1996, p. 43).

Section 4

- Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings (OJ L 143, 27.6.1995, p. 70).
- Council Directive 95/19/EC of 19 June 1995 on the allocation of railway infrastructure capacity and the charging of infrastructure fees (OJ L 143, 27.6.1995, p. 75).
- Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways (OJ L 237, 24.8.1991, p. 25).

Section 5

- Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils (OJ L 316, 31.10.1992, p. 19).
 - Council Directive 96/49/EC of 23 July 1996 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail (OJ L 235, 17.9.1996, p. 25).
 - Commission Directive 96/87/EC of 13 December 1996 adapting to technical progress Council Directive 96/49/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail (OJ L 335, 24.12.1996, p. 45).
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ANNEX 2

RULES FOR APPLYING THE CHARGES PROVIDED FOR IN ARTICLE 8

1. The Swiss charge for vehicles having an actual total laden weight of more than 28 t using the authorisation referred to in Article 8(2) shall not exceed:

- CHF 180 for a journey transiting Switzerland,
- CHF 70 for a bilateral return journey to or from Switzerland.

2. The maximum Swiss charge for vehicles using the authorisation referred to in Article 8(3) and having an actual total laden weight of more than 34 t but not more than 40 t and travelling a distance of 300 km across the Alps shall be CHF 252 for a vehicle not complying with the EURO standards, CHF 211 for a vehicle complying with the EURO I standard and CHF 178 for a vehicle complying with the EURO II standard. The charge shall be applied in accordance with the provisions of Article 40.

3. The maximum Swiss charge for vehicles using the authorisation referred to in Article 8(4), having an actual total laden weight of more than 34 t but not more than 40 t and travelling a distance of 300 km across the Alps shall be CHF 300 for a vehicle not complying with the EURO standards, CHF 240 for a vehicle complying with the EURO I standard and CHF 210 for a vehicle complying with the EURO II standard. The charge shall be applied in accordance with the provisions of Article 40.

ANNEX 3

EUROPEAN COMMUNITY

(a)

(Blue card - DIN A4)

(First page of the authorisation)

(Text in (one of) the official language(s) of the Member State issuing the authorisation)

State issuing the authorisation: Distinguishing sign ⁽¹⁾ :
--

Name of the competent authority or body:

AUTHORISATION No

for the international carriage of goods by road for hire or reward

This authorisation entitles ⁽²⁾

.....

.....

.....

to engage in the international carriage of goods by road for hire or reward by any route, for journeys or parts of journeys effected for hire or reward within the territory of the Community, as laid down in Council Regulation (EEC) No 881/92, and subject to the general provisions of this authorisation.

Particular remarks:

.....

.....

.....

This authorisation shall be valid from to

Issued at, on

.....
⁽³⁾

⁽¹⁾ The distinguishing signs are: (A) Austria (from 1 January 1997), (B) Belgium, (DK) Denmark, (D) Germany, (GR) Greece, (E) Spain, (F) France, (FIN) Finland, (IRL) Ireland, (I) Italy, (L) Luxembourg, (NL) Netherlands, (P) Portugal, (S) Sweden, (UK) United Kingdom.

⁽²⁾ Name or business name and full address of the haulier.

⁽³⁾ Signature and stamp of the issuing competent authority or body.

(Second page of the authorisation)
(Text in (one of) the official language(s) of the Member State issuing the authorisation)

GENERAL PROVISIONS

This authorisation is issued under Council Regulation (EEC) No 881/92, on access to the market in the carriage of goods by road within the Community to or from the territory of a Member State or passing across the territory of one or more Member States ⁽¹⁾.

It entitles the holder to engage in the international carriage of goods by road for hire or reward by any route, for journeys or parts of journeys effected within the territory of the Community and, where appropriate, subject to the conditions laid down herein:

- where the point of departure and the point of arrival are situated in two different Member States, with or without transit through one or more Member States or non-member countries,
- from a Member State to a non-member country or vice versa, with or without transit through one or more Member States or non-member countries,
- between non-member countries with transit through the territory of one or more Member States, and unladen journeys in connection with such carriage.

In the case of carriage from a Member State to a non-member country or vice versa, this authorisation is valid for that part of the journey effected on the territory of the Member State of loading or unloading upon conclusion of the necessary agreement between the Community and the non-member country in question in accordance with Regulation (EEC) No 881/92.

The authorisation is personal to the holder and is not transferable.

It may be withdrawn by the competent authority of the Member State which issued it, notably where the haulier has:

- not complied with all the conditions for using the authorisation,
- supplied incorrect information with regard to the data needed for the issue or extension of the authorisation.

The original of the authorisation must be kept by the haulage undertaking.

A certified copy of the authorisation must be kept in the vehicle ⁽²⁾. In the case of a coupled combination of vehicles it must accompany the motor vehicle. It covers the coupled combination of vehicles even if the trailer or semi-trailer is not registered or authorised to use the roads in the name of the authorisation holder or if it is registered or authorised to use the roads in another Member State.

The authorisation must be produced whenever required by an authorised inspecting officer.

Within the territory of each Member State the holder must comply with the laws, regulations and administrative provisions in force in that State, in particular with regard to transport and traffic.

⁽¹⁾ OJ L 95, 9.4.1992, p. 1.

⁽²⁾ 'Vehicle' means a motor vehicle registered in a Member State or a coupled combination of vehicles, the motor vehicle of which at least is registered in a Member State, used exclusively for the carriage of goods.

ANNEX 4

TYPES OF CARRIAGE EXEMPT FROM ANY SYSTEM OF LICENCES AND FROM ANY AUTHORISATION

1. Carriage of mail as a public service
 2. Carriage of vehicles which have suffered damage or breakdown
 3. Carriage of goods in motor vehicles the permissible laden weight of which, including that of trailers, does not exceed 6 tonnes or the permissible payload of which, including that of trailers, does not exceed 3,5 tonnes
 4. Carriage of goods in motor vehicles provided the following conditions are fulfilled:
 - (a) the goods carried must be the property of the undertaking or must have been sold, bought, let out on hire or hired, produced, extracted, processed or repaired by the undertaking;
 - (b) the purpose of the journey must be to carry the goods to or from the undertaking or to move them, either inside the undertaking or outside for its own requirements;
 - (c) motor vehicles used for such carriage must be driven by employees of the undertaking;
 - (d) the vehicles carrying the goods must be owned by the undertaking or have been bought by it on deferred terms or hired provided that in the latter case they meet the conditions of Council Directive 84/647/EEC of 19 December 1984 on the use of vehicles hired without drivers for the carriage of goods by road.

This provision shall not apply to the use of a replacement vehicle during a short breakdown of the vehicle normally used;
 - (e) carriage must be no more than ancillary to the overall activities of the undertaking
 5. Carriage of medicinal products, appliances, equipment and other articles required for medical care in emergency relief, in particular for natural disasters.
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ANNEX 5

**LIST OF THE PROVISIONS CONTAINED IN THE BILATERAL ROAD TRANSPORT AGREEMENTS
CONCLUDED BY SWITZERLAND WITH THE DIFFERENT MEMBER STATES OF THE COMMUNITY
RELATING TO THE CARRIAGE OF GOODS IN TRIANGULAR TRAFFIC**

Country	Agreement signed (date)	Entry into force	Conditions
Germany	17.12.1953	1.2.1954	Article 7: Under national law, triangular traffic as such permitted; other so-called triangular traffic prohibited.
Austria	22.10.1958	4.4.1959	Article 8: Hauliers entitled to effect the carriage of goods are authorised to carry, in vehicles registered in one of the contracting States: (a) goods intended for or coming from one of the States. Triangular traffic as such permitted; other so-called triangular traffic prohibited.
Belgium	25.2.1975	24.7.1975	Article 4(1)(b): Triangular traffic as such permitted; other so-called triangular traffic prohibited.
Denmark	27.8.1981	25.3.1982	Article 4(2): Carriage from a third country to the other Contracting Party or from the other Contracting Party to a third country is subject to an authorisation issued on a case-by-case basis by the other Contracting Party.
Spain	23.1.1963	21.8.1963	Protocol of 29 October 1971: Triangular traffic as such permitted; other so-called triangular traffic prohibited.
Finland	16.1.1980	28.5.1981	Article 6(2) and minutes of the meeting of the Swiss-Finnish Joint Committee on 23 and 24 May 1989, point 2.2: triangular traffic as such and other so-called triangular traffic permitted subject to authorisation.
France	20.11.1951	1.4.1952	Under national law: Swiss hauliers: all types of triangular traffic prohibited in France; French hauliers: all types of triangular traffic permitted in Switzerland.
Greece	8.8.1970	6.9.1971	Article 3 and minutes of the meeting of the Swiss-Greek Joint Committee on 11 to 13 December 1972: all types of triangular traffic permitted (under special quota authorisations).
Italy	—	—	Minutes of the meeting of the Swiss-Italian Joint Committee on 14 June 1993: Swiss hauliers: quota authorisations for triangular traffic as such; other so-called triangular traffic is prohibited; Italian hauliers: triangular traffic as such permitted without authorisation; quota authorisations for other so-called triangular traffic.

Country	Agreement signed (date)	Entry into force	Conditions
Ireland	—	—	Under national law: Swiss hauliers: all types of triangular traffic prohibited except where an authorisation is issued by the Irish authorities; Irish hauliers: all types of triangular traffic permitted in relations with Switzerland.
Luxembourg	17.5.1972	1.6.1972	The agreement applies only to the carriage of passengers. No arrangement has been agreed regarding the carriage of goods. Triangular traffic is permitted under national law. (Application of the principle of reciprocity). All types of triangular traffic permitted.
Netherlands	20.5.1952	15.6.1952	The agreement applies only to the carriage of passengers. No arrangement has been agreed regarding the carriage of goods. Triangular traffic is permitted under national law. (Application of the principle of reciprocity). All types of triangular traffic permitted.
Portugal	28.6.1973	1.1.1974	All types of triangular traffic deregulated under the decision taken by the Swiss-Portuguese Joint Committee on 6 June 1996.
United Kingdom	20.12.1974	21.11.1975	Article 3(b): Triangular traffic as such permitted. Other so-called triangular traffic prohibited.
Sweden	12.12.1973	22.4.1974	Article 4(1) and (2): Triangular traffic permitted under special quota authorisations.

Triangular traffic as such: where the vehicle, following the normal route, transits the country in which it is registered, e. g. when a Swiss-registered vehicle carries goods from Germany to Italy via Switzerland.

Other so-called triangular traffic: where the vehicle does not transit the country in which it is registered, e. g. when a Swiss-registered vehicle carries goods from Germany to Italy via Austria.

ANNEX 6

EXEMPTIONS FROM THE WEIGHT LIMIT AND FROM THE BAN ON NIGHT AND SUNDAY DRIVING**I. Exemption from the weight limit during the period ending on 31 December 2004**

For journeys originating abroad and ending in the Swiss frontier area⁽¹⁾, (and vice versa), exceptions are permitted without charge for any goods up to a total 40 tonnes and for 40-foot ISO containers in combined transport up to a total of 44 tonnes. For reasons of road design, certain customs posts apply lower limits.

II. Other exemptions from the weight limit

For journeys originating abroad and ending beyond the Swiss frontier area⁽¹⁾, (and vice versa), and for transit through Switzerland, an actual total laden weight greater than the maximum weight permitted in Switzerland may also be authorised for types of carriage not referred to in Article 8:

- (a) for the carriage of goods which are indivisible, in cases in which the stipulations cannot be obeyed despite the use of a suitable vehicle;
- (b) for transfers or for the use of special vehicles, notably working vehicles which, owing to the purpose for which they are used, are not compatible with the provisions regarding weight;
- (c) for the transport in an emergency of damaged or broken-down vehicles;
- (d) for the transport of supplies for aircraft catering;
- (e) haulage by road during the initial and final stages of combined transport, usually within a 30 km radius of the terminal.

III. Exemption from the ban on night and Sunday driving

The following exemptions from the ban on night and Sunday driving are planned:

- (a) *without special permission*
 - journeys made to provide emergency assistance in case of disasters,
 - journeys made to provide emergency assistance in the event of accidents, notably public transport and air traffic accidents;
- (b) *with special permission*

For the carriage of goods which, because of their nature, justify night-time haulage and, for genuine reasons, haulage on Sundays:

 - perishable agricultural products (such as berries, fruit and vegetables, plants (including cut flowers) or freshly squeezed fruit juices), throughout the year,
 - pigs and chickens for slaughter,
 - fresh milk and perishable milk products,
 - circus equipment, musical instruments belonging to an orchestra, theatre props, etc.,
 - daily newspapers including an editorial component, and postal consignments transported under a legal service requirement.

To ease approval procedures, authorisations valid for up to 12 months for any number of journeys may be issued, provided all the journeys are of the same nature.

⁽¹⁾ Switzerland's frontier area is defined in Annex 4 to the minutes of the fifth meeting of the Joint Committee set up under the 1992 Agreement, held in Brussels on 2 April 1998. It is generally an area within a 10-kilometre radius of a customs post.

ANNEX 7

INTERNATIONAL CARRIAGE OF PASSENGERS BY COACH AND BUS*Article 1***Definitions**

For the purposes of this Agreement, the following definitions shall apply:

1. Regular services

- 1.1. Regular services are services which provide for the carriage of passengers at specified intervals along specified routes, passengers being taken up and set down at predetermined stopping points. Regular services shall be open to all, subject, where appropriate, to compulsory reservation.

An adaptation of the conditions of the carriage of such a service does not affect its character as a regular service.

- 1.2. Services, by whomsoever organised, which provide for the carriage of specified categories of passengers to the exclusion of other passengers, in so far as such services are operated under the conditions specified in point 1.1, shall be deemed to be regular services. Such services are hereinafter called 'special regular services'.

Special regular services shall include:

- (a) the carriage of workers between home and work;
- (b) carriage to and from the educational institution for school pupils and students;
- (c) the carriage of soldiers and their families between their State of origin and the area of their barracks.

The fact that a special service may be varied according to the needs of users shall not affect its classification as a regular service.

- 1.3. The organisation of parallel or temporary services, serving the same public as existing regular services, the non-serving of certain stops and the serving of additional stops on existing regular services shall be governed by the same rules as existing regular services.

2. Occasional services

- 2.1. Occasional services are services which do not meet the definition of regular services, including special regular services, and which are characterised above all by the fact that they carry groups of passengers assembled at the initiative of the customer or of the carrier himself.

The organisation of parallel or temporary services comparable to existing regular services and serving the same public as the latter shall be subject to authorisation in accordance with the procedure laid down in section I.

- 2.2. The services referred to in point 2 shall not cease to be occasional services solely because they are provided at certain intervals.

- 2.3. Occasional services may be provided by a group of carriers acting on behalf of the same contractor.

The names of such carriers and, where appropriate, the connection points en route shall be communicated to the competent authorities of the European Community Member States concerned and of Switzerland, in accordance with the procedures to be determined by the Joint Committee.

3. Own-account transport operations

Own-account transport operations are those carried out for non-profit-making and non-commercial purposes by a natural or legal person, provided that:

- the transport activity is only an ancillary activity for that natural or legal person,
- the vehicles used are the property of that natural or legal person, or have been obtained on deferred terms by them or have been the subject of a long-term leasing contract and are driven by that natural or legal person or by a member of their staff.

Section I

REGULAR SERVICES SUBJECT TO AUTHORISATION

Article 2

Nature of the authorisation

1. Authorisations shall be issued in the name of the transport undertaking; they may not be transferred by the latter to third parties. However, the carrier who has received the authorisation may, with the consent of the authority referred to in Article 3(1) of this Annex, operate the service through a subcontractor. In this case, the name of the latter undertaking and its role as subcontractor shall be indicated in the authorisation. The subcontractor must fulfil the conditions laid down in Article 17 of the Agreement.

In the case of undertakings associated for the purpose of operating a regular service, the authorisation shall be issued in the names of all the undertakings. It shall be given to the undertaking that manages the operation and copies shall be given to the others. The authorisation shall state the names of all the operators.

2. The period of validity of an authorisation shall not exceed five years.
3. Authorisations shall specify the following:
 - (a) the type of service;
 - (b) the route of the service, in particular the place of departure and the place of destination;
 - (c) the period of validity of the authorisation;
 - (d) the stops and the timetable.
4. Authorisations shall conform to the model set out in Regulation (EC) No 2121/98 ⁽¹⁾.
5. Authorisations shall entitle their holder(s) to operate regular services in the territories of the Contracting Parties.
6. The operator of a regular service may use additional vehicles to deal with temporary and exceptional situations.

In this event, the carrier must ensure that the following documents are on board the vehicle:

- a copy of the regular service authorisation,
- a copy of the contract between the operator of the regular service and the firm supplying the additional vehicles, or an equivalent document,
- a certified copy of the Community licence in the case of Community carriers, or of a similar Swiss licence in the case of Swiss carriers, issued to the operator of the regular service.

⁽¹⁾ Commission Regulation (EC) No 2121/98 of 2 October 1998 laying down detailed rules for the application of Council Regulations (EEC) No 684/92 and (EC) No 12/98 as regards documents for the carriage of passengers by coach and bus (OJ L 268, 3.10.1998, p. 10).

*Article 3***Submission of applications for authorisation**

1. Community operators applying for authorisation shall submit their applications in accordance with the provisions of Article 6 of Regulation (EEC) No 684/92, as amended by Regulation (EC) No 11/98, and Swiss operators applying for authorisation shall submit their applications in accordance with chapter 5 of the order of 25 November 1998 on concessions for the carriage of passengers (OCTV) ⁽¹⁾. In the case of services exempt from authorisation in Switzerland but subject to authorisation in the Community, Swiss operators applying for authorisation shall submit their applications to the competent Swiss authorities if the place of departure of such services is in Switzerland.
2. Applications shall conform to the model set out in Regulation (EC) No 2121/98.
3. Persons applying for authorisation shall provide any additional information they consider relevant or which is requested by the issuing authority. In particular, applicants should provide a driving schedule which makes it possible to check whether the service complies with legislation on driving and rest periods. Community carriers should also submit a copy of the Community licence for the international carriage of passengers by road for hire or reward, and Swiss carriers a copy of a similar Swiss licence, issued to the operator of the regular service.

*Article 4***Authorising procedure**

1. Authorisations shall be issued in agreement with the competent authorities of the Contracting Parties on whose territories passengers are picked up or set down. The issuing authority shall send its assessment to such authorities — as well as to the competent authorities of Member States of the Community whose territories are crossed without passengers being picked up or set down — together with a copy of the application and copies of any other relevant documentation.
2. The competent authorities of Switzerland and of the European Community Member States whose agreement has been requested shall notify the issuing authority of their decision within two months. This time limit shall be calculated from the date of receipt of the request for an opinion which is shown in the acknowledgement of receipt. If, within this period, the issuing authority has received no reply, the authorities consulted shall be deemed to have given their agreement, and the issuing authority shall issue the authorisation.
3. Subject to paragraphs 7 and 8, the issuing authority shall take a decision within four months of the date on which the carrier submits the application.
4. Authorisation shall be granted unless:
 - (a) the applicant is unable to provide the service which is the subject of the application with equipment directly available to him;
 - (b) in the past, the applicant has failed to comply with national or international legislation on road transport, and in particular the conditions and requirements relating to authorisations for international road passenger services, or has committed serious breaches of legislation in regard to road safety, in particular the rules applicable to vehicles and driving and rest periods for drivers;
 - (c) in the case of an application for renewal of an authorisation, the authorisation conditions have not been met;
 - (d) it is shown that the service being applied for would directly compromise the existence of regular services already authorised, except in cases where the regular services in question are provided by a single carrier or group of carriers only;

⁽¹⁾ RS/SR 744.11.

- (e) it appears that the applicant intends to operate only the most profitable of the existing services on the routes concerned;
- (f) the competent authority of a Contracting Party decides, on the basis of a detailed analysis, that the said service would seriously affect the viability of a comparable rail service on the direct sections concerned. All decisions taken under this provision, and the reasons for those decisions, shall be notified to the carriers concerned.

From 1 January 2000, where an existing international coach or bus service is seriously affecting the viability of a comparable rail service on the direct sections concerned, the competent authority of a Contracting Party may, with the agreement of the Joint Committee, suspend or withdraw the authorisation to operate the international coach or bus service after giving the carrier six months' notice.

The fact that a carrier offers lower prices than are offered by other road carriers, or that the route in question is already being operated by other road carriers, may not in itself constitute justification for refusing the application.

- 5. The issuing authority may refuse applications only for reasons compatible with this Agreement.
- 6. If the procedure for reaching the agreement referred to in paragraph 1 does not result in an agreement being reached, the matter may be referred to the Joint Committee.
- 7. The Joint Committee shall, as swiftly as possible, take a decision which shall take effect within 30 days of its being notified to Switzerland and the European Community Member States concerned.
- 8. Once the procedure laid down in this Article has been completed, the issuing authority shall inform all the authorities referred to in paragraph 1 and shall, where appropriate, send them a copy of the authorisation.

Article 5

Issuing and renewing authorisations

- 1. Once the procedure laid down in Article 4 has been completed, the issuing authority shall either grant the authorisation or shall formally refuse the application.
- 2. A decision refusing an application must state the reasons for that refusal. The Contracting Parties shall ensure that carriers have the opportunity to invoke their rights if their application is refused.
- 3. Article 4 of this Annex shall apply, *mutatis mutandis*, to applications for the renewal of authorisations or for alteration of the conditions under which the services subject to authorisation must be operated.

In the event of a minor alteration to the operating conditions, in particular the adjustment of fares or timetables, the issuing authority need only supply the information in question to the competent authorities of the other Contracting Party.

Article 6

Lapse of an authorisation

The procedure to be followed in respect of the lapse of an authorisation shall be as laid down in Article 9 of Regulation (EEC) No 684/92 and in Article 44 of the OCTV.

Article 7

Obligations of carriers

- 1. Save in the event of force majeure, the operator of a regular service shall, until the authorisation expires, take all measures to guarantee a transport service that meets the required standards of continuity, regularity and capacity and complies with the other conditions laid down by the competent authority in accordance with Article 2(3) of this Annex.

2. The carrier shall publish the route of the service, the stops, the timetable, the fares and the conditions of carriage — in so far as these are not laid down by law — in such a way as to ensure that this information is readily available to all users.
3. It shall be possible for Switzerland and the European Community Member States concerned, by common agreement and in agreement with the holder of the authorisation, to make changes to the operating conditions governing a regular service.

Section II

OCCASIONAL SERVICES AND OTHER SERVICES EXEMPT FROM AUTHORISATION

Article 8

Control document

1. The services referred to in Article 18(1) of the Agreement shall be carried out under cover of a control document (journey form).
2. A carrier operating occasional services must fill out a journey form before each journey.
3. The books of journey forms shall be supplied by the competent authorities of Switzerland or the European Community Member State where the carrier is established or by bodies appointed by those authorities.
4. The model for the control document and the way in which it is to be used shall be as laid down in Regulation No 2121/98.

Article 9

Certificate

The certificate referred to in Article 18(6) of the Agreement shall be issued by the competent authority of Switzerland or the European Community Member State where the vehicle is registered.

It shall conform to the model set out in Regulation (EC) No 2121/98.

Section III

CONTROLS AND PENALTIES

Article 10

Transport tickets

1. Passengers using a regular service, excluding special regular services, shall throughout their journey possess transport tickets, either individual or collective, which indicate:
 - the places of departure and destination and, where appropriate, the return journey,
 - the period of validity of the ticket,
 - the fare.
2. The transport ticket provided for in paragraph 1 shall be presented at the request of any authorised inspecting officer.

*Article 11***Inspections on the road and in undertakings**

1. In the case of carriage for hire or reward, the following documents must be carried on board the vehicle and must be presented at the request of any authorised inspecting officer: a certified true copy of the Community licence for Community carriers or of the similar Swiss licence for Swiss carriers and, depending on the type of service, either the authorisation (or a certified copy thereof) or the journey form.

In the case of own-account transport operations, the certificate (or a certified copy thereof) must be carried on board the vehicle and must be presented at the request of any authorised inspecting officer.

In the case of the services covered by Article 18(2) of the Agreement, the contract or a certified true copy of it shall serve as a control document.

2. Carriers operating coaches and buses in international passenger transport shall allow all inspections intended to ensure that operations are being conducted correctly, in particular as regards driving and rest periods.

*Article 12***Mutual assistance**

1. The competent authorities of the Contracting Parties shall, on request, provide each other with any relevant information in their possession concerning:
 - breaches of this Agreement, and of other rules governing the international carriage of passengers by coach or bus, committed in their territory by a carrier from another Contracting Party, and the penalties imposed,
 - the penalties imposed on their own carriers for breaches committed on the other Contracting Party's territory.
2. The competent authorities of the Contracting Party in which the carrier is established shall withdraw the Community licence or the similar Swiss licence if the holder:
 - no longer meets the conditions laid down in Article 17(1) of the Agreement,
 - has provided inaccurate information on the data needed for issuing the Community licence or similar Swiss licence.
3. The issuing authority shall withdraw an authorisation if the holder no longer meets the conditions for issuing that authorisation under this Agreement, in particular if the competent authorities of the Contracting Party in which the carrier is established request such withdrawal. The issuing authority shall immediately inform the competent authorities of the other Contracting Party.
4. If a carrier commits a serious breach or repeatedly commits minor breaches of transport regulations and road safety rules, in particular the rules applicable to vehicles, driving and rest periods for drivers and the unauthorised operation of the parallel or temporary services referred to in Article 1(2.1), the competent authorities of the Contracting Party in which that carrier is established may, in particular, withdraw his Community licence or similar Swiss licence, or may temporarily and/or partially withdraw the certified copies of his Community licence or similar Swiss licence.

These penalties shall be determined according to the seriousness of the offence committed by the holder of the Community licence or similar Swiss licence, and according to the total number of certified copies he possesses in connection with his international transport operations.

ANNEX 8

**LIST OF THE PROVISIONS CONTAINED IN THE BILATERAL ROAD TRANSPORT AGREEMENTS
CONCLUDED BY SWITZERLAND WITH THE DIFFERENT MEMBER STATES OF THE COMMUNITY
RELATING TO THE GRANTING OF AUTHORISATIONS FOR THE CARRIAGE OF PASSENGERS IN
TRIANGULAR TRAFFIC**

Country	Agreement signed (date)	Entry into force	Conditions
Germany	17.12.1953	1.2.1954	Articles 4 and 5: — in accordance with national law — respecting the principle of reciprocity
Austria	22.10.1958	4.4.1959	Article 6: — in accordance with national law — respecting the principle of reciprocity
Belgium	25.2.1975	24.7.1975	Article 3: — in accordance with national law
Denmark	27.8.1981	25.3.1982	Articles 3 and 5: — in accordance with national law
Spain	23.1.1963	21.8.1963	Articles 2 and 3: — express authorisation of the other Contracting Party — by mutual agreement (reciprocity)
Finland	16.1.1980	28.5.1981	Article 3: — in accordance with national law
France	20.11.1951	1.4.1952	Chapter II: — by mutual agreement — respecting the principle of reciprocity
Greece	8.8.1970	6.9.1971	Article 2: — by mutual agreement (reciprocity)
Italy	—	—	In accordance with national law (no bilateral agreement)
Ireland	—	—	In accordance with national law (no bilateral agreement)
Luxembourg	17.5.1972	1.6.1972	Article 3: In accordance with national law
Netherlands	20.5.1952	15.6.1952	Paragraph 2(2) In accordance with national law
Portugal	28.6.1973	1.1.1974	Protocol to the agreement, sections 5 and 6 — mutual agreement — reciprocity
United Kingdom	20.12.1974	21.11.1975	In accordance with national law (the agreement relates only to the carriage of goods)
Sweden	12.12.1973	22.4.1974	Article 3: In accordance with national law

ANNEX 9

THE QUALITY OF RAIL AND COMBINED TRANSPORT SERVICES

Should Switzerland wish to take the safeguard measures referred to in Article 46 of the Agreement, the following conditions shall apply.

1. The average price of rail or combined transport through Switzerland must not be greater than the cost for a vehicle of 40 t maximum authorised weight travelling a distance of 300 km across the Alps. In particular, the average price charged for accompanied combined transport ('truck on train') must not exceed the costs of road transport (road charges and variable costs).
 2. Switzerland has taken steps to increase the competitiveness of combined transport and the carriage of goods by rail through its territory.
 3. The parameters used in evaluating the competitiveness of combined transport and the carriage of goods by rail shall include at least the following:
 - the extent to which timetables and speed meet the needs of the users,
 - the degree to which the providers of the service guarantee and accept responsibility for its quality,
 - the extent to which the Swiss operators meet their quality-of-service commitments or, if they fail to do so, the extent to which customers are compensated,
 - booking conditions.
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ANNEX 10

RULES FOR APPLYING THE CHARGES PROVIDED FOR IN ARTICLE 40

Subject to the provisions of Article 40(3.(b)) and (5), the charges provided for in Article 40 shall be applied as follows:

- (a) in the case of transport operations in Switzerland, the charges shall be increased or decreased in proportion to the extent to which the actual distance travelled in Switzerland is greater than or less than 300 km;
 - (b) the charges shall be proportional to the vehicle's weight category.
-