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CORRIGENDUM

Subject: Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road

Pages CE/CH/en 16, 17, 19, CE/CH/Annex 6/en 2, CE/CH/Annex 7/en 1, 4 and 6 and Annex CE/CH/Annex 9/en 1 shall be replaced by the corresponding attached pages.

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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 co-ordinated 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 co-ordination 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.

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 in 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 325 CHF 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.

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 twelve months for any number of journeys may be issued, provided all the journeys are of the same nature.

INTERNATIONAL CARRIAGE OF PASSENGERS BY COACH AND BUSArticle 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, insofar as such services are operated under the conditions specified in 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.

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 Ordinance 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.

¹ Official Compilation of Federal Law 1999 721.

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 - insofar 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.

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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