

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION No 1/2010 OF THE COMMUNITY/SWITZERLAND INLAND TRANSPORT COMMITTEE

of 22 December 2010

amending Annex 1 to the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road

(2011/45/EU)

THE COMMITTEE,

HAS DECIDED AS FOLLOWS:

Having regard to the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road, and in particular Article 52(4) thereof,

Article 1

Annex 1 to the Agreement is hereby repealed and replaced by the text annexed to this Decision.

Whereas:

Article 2

(1) The first indent of Article 52(4) of the Agreement provides for the Joint Committee to adopt decisions revising Annex 1.

This Decision shall enter into force on 1 January 2011.

(2) Annex 1 has been amended last by Decision 1/2009 of the Joint Committee of 17 June 2009.

Done at Berne, 22 December 2010.

(3) New legal acts of the European Union have been adopted in the areas covered by the Agreement. Annex 1 must therefore be reworded to bring it into line with the changes in the relevant legislation of the European Union,

The Chairman

Peter FÜGLISTALER

*The Head of the Delegation of
the European Union*

Enrico GRILLO PASQUARELLI

ANNEX

‘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 — ADMISSION TO THE OCCUPATION

- 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 Council Directive 98/76/EC of 1 October 1998 (OJ L 277, 14.10.1998, p. 17).

SECTION 2 — SOCIAL STANDARDS

- 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 Commission Regulation (EC) No 68/2009 of 23 January 2009 (OJ L 21, 24.1.2009, p. 3).
- Regulation (EC) No 484/2002 of the European Parliament and of the Council of 1 March 2002 amending Council Regulations (EEC) No 881/92 and (EEC) No 3118/93 for the purposes of establishing a driver attestation (OJ L 76, 19.3.2002, p. 1).

For the purposes of this Agreement,

- (a) only Article 1 of Regulation (EC) No 484/2002 shall apply;
 - (b) the European Community and the Swiss Confederation shall exempt from the obligation to hold a driver attestation all citizens of the Swiss Confederation, of a European Community Member State and of a Member State of the European Economic Area;
 - (c) the Swiss Confederation may not exempt citizens of States other than those mentioned in point b) from the obligation to hold a driver attestation without prior consultation with and approval by the European Community.
- Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No 3820/85 and Council Directive 91/439/EEC and repealing Council Directive 76/914/EEC (OJ L 226, 10.9.2003, p. 4).
 - Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC (OJ L 102, 11.4.2006, p. 35).
 - Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (OJ L 102, 11.4.2006, p. 1).
 - Commission Regulation (EC) No 68/2009 of 23 January 2009 adapting for the ninth time to technical progress Council Regulation (EEC) No 3821/85 on recording equipment in road transport (OJ L 21, 24.1.2009, p. 3).

SECTION 3 — TECHNICAL STANDARDS

Motor vehicles

- Council Regulation (EC) No 2411/98 of 3 November 1998 on the recognition in intra-Community traffic of the distinguishing sign of the Member State in which motor vehicles and their trailers are registered (OJ L 299, 10.11.1998, 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, 2.3.1992, p. 27), as last amended by Directive 2002/85/EC of the European Parliament and of the Council of 5 November 2002 (OJ L 327, 4.12.2002, p. 8).
- 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 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), as last amended by Directive 2002/7/EC of the European Parliament and of the Council of 18 February 2002 (OJ L 67, 9.3.2002, p. 47).
- Directive 2000/30/EC of the European Parliament and of the Council of 6 June 2000 on the technical roadside inspection of the roadworthiness of commercial vehicles circulating in the Community (OJ L 203, 10.8.2000, p. 1).
- Directive 2003/20/EC of the European Parliament and of the Council of 8 April 2003 amending Council Directive 91/671/EEC on the approximation of the laws of the Member States relating to compulsory use of safety belts in vehicles of less than 3,5 tonnes (OJ L 115, 9.5.2003, p. 63)
- Commission Directive 2003/26/EC of 3 April 2003 adapting to technical progress Directive 2000/30/EC of the European Parliament and of the Council as regards speed limiters and exhaust emissions of commercial vehicles (OJ L 90, 8.4.2003, p. 37).
- Directive 2009/40/EC of the European Parliament and of the Council of 6 May 2009 on roadworthiness tests for motor vehicles and their trailers (Recast) (OJ L 141, 6.6.2009, p. 12).

Transport of dangerous goods

- 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), as last amended by Council Directive 2008/54/EC of the European Parliament and of the Council of 17 June 2008 (OJ L 162, 21.6.2008, p. 11).
- Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods (OJ L 260, 30.9.2008, p. 13).

For the purposes of this Agreement the following derogations to Directive 2008/68/EC apply in Switzerland:

1. Road transport

Derogations for Switzerland under Article 6(2)(a) of Directive 2008/68/EC of 24 September 2008 on the inland transport of dangerous goods

RO - a - CH - 1

Subject: Transport of diesel fuel and heating oil with UN number 1202 in tank containers.

Reference to Annex I, I.1, to this Directive: 1.1.3.6 and 6.8

Content of the Annex to the Directive: Exemptions related to the quantities transported per transport unit, regulations concerning the construction of tanks.

Content of the national legislation: Tank containers which are not constructed according to 6.8 but according to national legislation, which have a capacity of less than or equal to 1210 l and which are used to transport heating oil or diesel fuel with UN number 1202 may benefit from the exemptions in 1.1.3.6 ADR.

Initial reference to the national legislation: Appendix 1, paragraphs 1.1.3.6.3(b) and 6.14, of the Ordinance on the carriage of dangerous goods by road (SDR; RS 741.621).

Expiry date: 1 January 2017.

RO - a - CH - 2

Subject: Exemption from the requirement to carry a transport document for certain quantities of dangerous goods as defined in 1.1.3.6.

Reference to Annex I, I.1, to this Directive: 1.1.3.6 and 5.4.1.

Content of the Annex to the Directive: Requirement to have a transport document.

Content of the national legislation: The transport of uncleaned empty containers belonging to Transport Category 4 and filled or empty gas cylinders for breathing apparatuses for use by emergency services or as diving equipment, in quantities not exceeding the limits set in 1.1.3.6, is not subject to the obligation to carry a transport document provided for in 5.4.1.

Initial reference to the national legislation: Appendix 1, paragraph 1.1.3.6.3(c) of the Ordinance on the carriage of dangerous goods by road (SDR; RS 741.621).

Expiry date: 1 January 2017.

RO - a - CH - 3

Subject: Transport of uncleaned empty tanks by companies servicing storage facilities for liquids hazardous to water.

Reference to Annex I, I.1, to this Directive: 6.5, 6.8 and 8.2 and 9.

Content of the Annex to the Directive: Construction, equipping and inspection of tanks and vehicles; driver training.

Content of the national legislation: Vehicles and uncleaned empty tanks/containers used by companies servicing storage facilities for liquids hazardous to water to contain liquids while stationary tanks are being serviced are not subject to the construction, equipping and inspection regulations or to the labelling and orange-plate identification regulations stipulated by the ADR. They are subject to particular labelling and identification regulations, and the driver of the vehicle is not obliged to have undertaken the training described in 8.2.

Initial reference to the national legislation: Appendix 1, paragraph 1.1.3.6.3.10, of the Ordinance on the carriage of dangerous goods by road (SDR; RS 741.621).

Expiry date: 1 January 2017.

Derogations for Switzerland under Article 6(2)(b)(i) of Directive 2008/68/EC of 24 September 2008 on the inland transport of dangerous goods

RO - b i - CH - 1

Subject: Transport of domestic waste containing dangerous goods to waste disposal installations.

Reference to Annex I, I.1, to this Directive: 2, 4.1.10, 5.2 and 5.4.

Content of the Annex to the Directive: Classification, combined packaging, marking and labelling, documentation.

Content of the national legislation: The rules include provisions relating to the simplified classification of domestic waste containing (domestic) dangerous goods by an expert recognised by the competent authority, to the use of appropriate receptacles and to driver training. Domestic waste which cannot be classified by the expert may be transported to a treatment centre in small quantities identified by package and by transport unit.

Initial reference to the national legislation: Appendix 1, paragraph 1.1.3.7, of the Ordinance on the carriage of dangerous goods by road (SDR; RS 741.621).

Comments: These rules may only be applied to the transport of domestic waste containing dangerous goods between public treatment sites and waste disposal installations.

Expiry date: 1 January 2017.

RO - b i - CH - 2

Subject: Return transport of fireworks.

Reference to Annex I, I.1, to this Directive: 2.1.2, 5.4.

Content of the Annex to the Directive: Classification and Documentation.

Content of the national legislation: With the aim of facilitating the return transport of fireworks with UN numbers 0335, 0336 and 0337 from retailers to suppliers, exemptions regarding the indication of the net mass and product classification in the transport document are envisaged.

Initial reference to the national legislation: Appendix 1, paragraph 1.1.3.8, of the Ordinance on the carriage of dangerous goods by road (SDR; RS 741.621).

Comments: Detailed checking of the exact contents of each item of unsold product in each package is practically impossible for products intended for retail trade.

Expiry date: 1 January 2017.

RO - b i - CH - 3

Subject: ADR training certificate for journeys undertaken with the purpose of transporting vehicles which have broken down, of carrying out repairs, of gaining tank vehicle/tank expertise, and journeys made in tank vehicles by experts responsible for examination of the vehicle in question.

Reference to Annex I, I.1, to this Directive: 8.2.1.

Content of the Annex to the Directive: Drivers of vehicles must attend training courses.

Content of the national legislation: ADR training and certificates are not required for journeys undertaken with the purpose of transporting vehicles that have broken down or test drives related to repairs, journeys made in tank vehicles with a view to gaining tank vehicle/tank expertise, and journeys made by experts responsible for tank vehicle examination.

Initial reference to the national legislation: Instructions of 30 September 2008 of the Federal Department of Environment, Transport, Energy and Communication (DETEC) on the carriage of dangerous goods by road.

Comments: In some cases, vehicles which have broken down or are undergoing repairs and tank vehicles being prepared for technical inspection or being checked at the time of the inspection still contain dangerous goods.

The requirements in 1.3 and 8.2.3 are still applicable.

Expiry date: 1 January 2017.

2. Rail transport

Derogations for Switzerland under Article 6(2)(a) of Directive 2008/68/EC of 24 September 2008 on the inland transport of dangerous goods

RA - a - CH - 1

Subject: Transport of diesel fuel and heating oil with UN number 1202 in tank containers.

Reference to Annex II, Section II.1, to this Directive: 6.8.

Content of the Annex to the Directive: Regulations concerning the construction of tanks.

Content of the national legislation: Tank containers which are not constructed according to 6.8 but according to national legislation, which have a capacity of less than or equal to 1210 l and which are used to transport heating oil or diesel fuel with UN number 1202 are authorised.

Initial reference to the national legislation: Annex to the DETEC Ordinance of 3 December 1996 relating to the transport of dangerous goods by rail and cableway installation (RSD, RS 742.401.6) and Appendix 1, Chapter 6.14, of the Ordinance relating to the carriage of dangerous goods by road (SDR, RS 741.621).

Expiry date: 1 January 2017.

RA - a - CH - 2

Subject: Transport document.

Reference to Annex II, Section II.1, to this Directive: 5.4.1.1.1.

Content of the Annex to the Directive: General information required in the transport document.

Content of the national legislation: Use of a collective term in the transport document and an annexed list containing the information prescribed as stipulated above.

Initial reference to the national legislation: Annex to the DETEC Ordinance of 3 December 1996 relating to the transport of dangerous goods by rail and cableway installation (RSD, RS 742.401.6).

Expiry date: 1 January 2017.

SECTION 4 — ACCESS AND TRANSIT RIGHTS WITH REGARD TO RAILWAYS

- 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 — OTHER FIELDS

- 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).
 - Directive 2004/54/EC of the European Parliament and of the Council of 29 April 2004 on minimum safety requirements for tunnels in the Trans-European Road Network (OJ L 167, 30.4.2004, p. 39).'
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