

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION No 1/2022 OF THE COMMUNITY/SWITZERLAND INLAND TRANSPORT COMMITTEE of 21 December 2022

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 and Decision No 2/2019 of the Committee [2023/143]

THE COMMITTEE,

Having regard to the Agreement of 21 June 1999 between the European Community and the Swiss Confederation on the Carriage of Goods and Passengers by Rail and Road ⁽¹⁾ ('the Agreement'), and in particular Article 52(4) thereof,

Whereas:

- (1) Under Article 51(2) of the Agreement, the Community/Switzerland Inland Transport Committee ('the Joint Committee') is responsible for the monitoring and application of the provisions of the Agreement and implements the adaptation and revision clauses referred to in Articles 52 and 55 thereof.
- (2) Under Article 52(4) of the Agreement, the Joint Committee adopts, inter alia, decisions revising Annex 1 so as to incorporate therein, as and where necessary and on a basis of reciprocity, amendments to the relevant legislation or decides on any other measure aimed at safeguarding the proper functioning of the Agreement.
- (3) By Decision No 2/2019 of 13 December 2019 ⁽²⁾, the Joint Committee, on the one hand, revised Annex 1 to the Agreement so as to incorporate substantive provisions of Directive (EU) 2016/797 of the European Parliament and of the Council ⁽³⁾ and Directive (EU) 2016/798 of the European Parliament and of the Council ⁽⁴⁾ and, on the other, adopted transitory provisions to maintain smooth rail traffic between Switzerland and the European Union. The transitory provisions set out in Articles 2, 3, 4 and 5 of Decision No 2/2019 were initially applicable until 31 December 2020. By Decision No 2/2020 of 11 December 2020 ⁽⁵⁾, the Joint Committee extended their applicability until 31 December 2021. By Decision No 2/2021, their applicability was extended until 31 December 2022 ⁽⁶⁾.

⁽¹⁾ OJ L 114, 30.4.2002, p. 91.

⁽²⁾ Decision No 2/2019 of the Community/Switzerland Inland Transport Committee of 13 December 2019 on transitory measures to maintain smooth rail traffic between Switzerland and the European Union (OJ L 13, 17.1.2020, p. 43).

⁽³⁾ Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (OJ L 138, 26.5.2016, p. 44).

⁽⁴⁾ Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (OJ L 138, 26.5.2016, p. 102).

⁽⁵⁾ Decision No 2/2020 of the Community/Switzerland Inland Transport Committee of 11 December 2020 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 and Decision No 2/2019 of the Committee on transitory measures to maintain smooth rail traffic between Switzerland and the European Union (OJ L 15, 18.1.2021, p. 34).

⁽⁶⁾ Decision No 2/2021 of the Community/Switzerland Inland Transport Committee of 17 December 2021 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 and Decision No 2/2019 on transitory measures to maintain smooth rail traffic between Switzerland and the European Union (OJ L 46, 25.2.2022, p. 125).

- (4) By Decision No 1/2021 of 17 December 2021, the date by which certain Swiss national rules listed in Annex 1 to the Agreement that may be incompatible with the technical specifications for interoperability should have been reviewed to decide whether to remove, amend or keep them was extended until 31 December 2022. In view of the stage reached in the review, that date should be changed to 31 December 2023 for those national rules that have not yet been reviewed.
- (5) Pending the adoption of the final provisions replacing the current transitional arrangements, the provisions laid down in Articles 2, 3, 4 and 5 of Decision No 2/2019 should be extended until 31 December 2023 in order to maintain smooth rail traffic between Switzerland and the European Union.
- (6) Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 ⁽⁷⁾ extends to national transport the uniform rules contained in the European Agreement of 30 September 1957 concerning the International Carriage of Dangerous Goods by Road (ADR), the Regulations concerning the International Carriage of Dangerous Goods by Rail (RID) and the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN). Article 6(2) and (3) of Directive 2008/68/EC allows Member States to request derogations from the annexes to the ADR and the RID for the carriage of small quantities of dangerous goods within their territory or for local transport. Switzerland has drawn up a list of such derogations. They are set out in Annex 1 to the Agreement. Those derogations were extended at the end of 2016 and will expire on 1 January 2023. On 29 September 2022 Switzerland requested that they be extended again. Article 6(4) of Directive 2008/68/EC allows the derogations to be extended for a maximum period of 6 years. It is therefore appropriate to extend the derogations until 1 January 2029. It is also necessary to correct the national references of the derogations, which have been amended since the last extension, in Annex 1 to the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

1. Section 4 of Annex 1 to the Agreement is amended as follows:

- (1) The date of '31 December 2022', by which the compatibility of the following Swiss national rules with the corresponding Union technical specifications for interoperability should have been reviewed, is replaced by '31 December 2023' for the following provisions:
 - (a) With regard to Commission Regulation (EU) No 1302/2014 of 18 November 2014 concerning a technical specification for interoperability relating to the 'rolling stock – locomotives and passenger rolling stock' subsystem of the rail system in the European Union ⁽⁸⁾:
 - CH-TSI LOC&PAS-009 (version 1.0 of June 2015)
 - CH-TSI LOC&PAS-019 (version 2.0 of June 2019)
 - CH-TSI LOC&PAS-020 (version 2.0 of June 2019)
 - CH-TSI LOC&PAS-025 (version 2.0 of June 2019)
 - CH-TSI LOC&PAS-027 (version 2.0 of June 2019)
 - CH-TSI LOC&PAS-031 (version 2.1 of November 2020)
 - CH-TSI LOC&PAS-035 (version 2.1 of November 2020)
 - CH-TSI LOC&PAS-036 (version 2.0 of June 2019).
 - (b) With regard to Commission Regulation (EU) 2016/919 of 27 May 2016 on the technical specification for interoperability relating to the 'control-command and signalling' subsystems of the rail system in the European Union ⁽⁹⁾:
 - CH-TSI CCS-006 (version 2.1 of November 2020)
 - CH-TSI CCS-019 (version 3.0 of November 2020)

⁽⁷⁾ OJ L 260, 30.9.2008, p. 13.

⁽⁸⁾ OJ L 356, 12.12.2014, p. 228.

⁽⁹⁾ OJ L 158, 15.6.2016, p. 1.

- CH-TSI CCS-026 (version 2.1 of November 2020)
- CH-TSI CCS-032 (version 2.1 of November 2020)
- CH-TSI CCS-033 (version 1.1 of November 2020)
- CH-TSI CCS-038 (version 1.1 of November 2020)
- CH-CSM-RA-001 (version 1.0 of June 2019).

(2) The references to the following Swiss national rules are deleted:

(a) With regard to the Swiss national rules relating to Commission Regulation (EU) No 1302/2014, the following rule is deleted:

‘— CH-TSI LOC&PAS-037 (version 1.0 of June 2019): ETCS service brake (the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 31 December 2021).’

(b) With regard to the Swiss national rules relating to Commission Regulation (EU) 2016/919, the following rules are deleted:

‘— CH-TSI CCS-035 (version 1.0 of June 2019): Text to be displayed at the DMI (the rule may be incompatible with Regulation (EU) 2016/919 and must be reviewed before 31 December 2022);’

and

‘— CH-CSM-RA-002 (version 1.0 of June 2019): Requirements at speeds greater than 200 km/h (the rule may be incompatible with Regulation (EU) 2016/919 and must be reviewed before 31 December 2022).’

2. The text of the part entitled ‘*Transportation of dangerous goods*’ of Section 3, ‘Technical standards’, of Annex 1 to the Agreement concerning the carriage of dangerous goods is replaced by the text set out in the Annex.

Article 2

Decision No 2/2019 of the Joint Committee of 13 December 2019 is amended as follows:

(1) Article 6(3) is replaced by the following:

‘3. Annex 1 identifies the applicable national rules and specific cases that are potentially incompatible with Union law. If compatibility with Union law has not been established by 31 December 2023, those national rules and specific cases may no longer be applied unless the Joint Committee decides otherwise.’

(2) In Article 8, the second paragraph is replaced by the following:

‘Articles 2, 3, 4 and 5 shall apply until 31 December 2023.’

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Berne, 21 December 2022.

For the Swiss Confederation
The President
Peter FÜGLISTALER

For the European Union
The Head of the European Union Delegation
Kristian SCHMIDT

ANNEX

'Transportation of dangerous goods'

- Directive (EU) 2022/1999 of the European Parliament and of the Council of 19 October 2022 on uniform procedures for checks on the transport of dangerous goods by road (codification) (OJ L 274, 24.10.2022, p. 1).
- 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), as last amended by Commission Implementing Decision (EU) 2022/1095 of 29 June 2022 (OJ L 176, 1.7.2022, p. 33).

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

1. Road transport

Derogations for Switzerland under Article 6(2)(a) of Directive 2008/68/EC 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, Section I.1, to that Directive: points 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 point 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 point 1.1.3.6 ADR.

Initial reference to the national legislation: Appendix 1, points 1.6.14.4, 4.8 and 6.14, of the Ordinance of 29 November 2002 on the carriage of dangerous goods by road (SDR; RS 741.621).

Date of expiration: 1 January 2029.

RO-a-CH-2

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

Reference to Annex I, Section I.1, to that Directive: points 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, with the exception of UN No 3509, 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 point 1.1.3.6, is not subject to the obligation to carry the transport document provided for in point 5.4.1.

Initial reference to the national legislation: Appendix 1, point 8.1.2.1(a), of the Ordinance of 29 November 2002 on the carriage of dangerous goods by road (SDR; RS 741.621).

Date of expiration: 1 January 2029.

RO-a-CH-3

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

Reference to Annex I, Section I.1, to that Directive: points 6.5, 6.8, 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 specific labelling and identification regulations, but the driver of the vehicle is not required to have undertaken the training described in point 8.2.

Initial reference to the national legislation: Appendix 1, point 1.1.3.6.6, of the Ordinance of 29 November 2002 on the carriage of dangerous goods by road (SDR; RS 741.621).

Date of expiration: 1 January 2029.

Derogations for Switzerland under Article 6(2)(b)(i) of Directive 2008/68/EC

RO-bi-CH-1

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

Reference to Annex I, Section I.1, to that Directive: points 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, point 1.1.3.11, of the Ordinance of 29 November 2002 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.

Date of expiration: 1 January 2029.

RO-bi-CH-2

Subject: Return transport of fireworks.

Reference to Annex I, Section I.1, to that Directive: points 2.1.2 and 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 are provided for regarding the indication of the net mass and product classification in the transport document.

Initial reference to the national legislation: Appendix 1, point 1.1.3.12, of the Ordinance of 29 November 2002 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, in practice, impossible for products intended for retail trade.

Date of expiration: 1 January 2029.

RO-bi-CH-3

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

Reference to Annex I, Section I.1, to that Directive: point 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 with tank vehicles made for the examination of the tank vehicle or its tank, and journeys made by experts responsible for the examination of tank vehicles.

Initial reference to the national legislation: Appendix 1, point 8.2.1, of the Ordinance of 29 November 2002 on the carriage of dangerous goods by road (SDR; RS 741.621).

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.

Date of expiration: 1 January 2029.

2. *Railway transport*

Derogations for Switzerland under Article 6(2)(a) of Directive 2008/68/EC

RA-a-CH-1

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

Reference to Annex II, Section II.1, to that Directive: point 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 point 6.8 but according to national legislation are authorised for the transport of diesel fuel with UN number 1202.

Initial reference to the national legislation: Annex 2.1 to Ordinance of 31 October 2012 on the transport of dangerous goods by rail and cableway installation (RSD; RS 742.412) and Appendix 1, Chapters 1.6, 4.8 and 6.14, of the Ordinance of 29 November 2002 on the carriage of dangerous goods by road (SDR; RS 741.621).

Date of expiration: 1 January 2029.

RA-a-CH-2

Subject: Transport document.

Reference to Annex II, Section II.1, to that Directive: point 5.4.1.1.1.

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

Content of the national legislation: A collective term may be used in the transport document if a list containing the information prescribed as stipulated above accompanies that document.

Initial reference to the national legislation: Annex 2.1 to Ordinance of 31 October 2012 on the transport of dangerous goods by rail and cableway installation (RSD; RS 742.412).

Date of expiration: 1 January 2029.

- Directive 2010/35/EU of the European Parliament and of the Council of 16 June 2010 on transportable pressure equipment and repealing Council Directives 76/767/EEC, 84/525/EEC, 84/526/EEC, 84/527/EEC and 1999/36/EC (OJ L 165, 30.6.2010, p. 1).'
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