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### Legislation

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#### Contents

#### I Acts whose publication is obligatory

.....

#### II Acts whose publication is not obligatory

##### Council

2006/233/EC:

- ★ **Council Decision of 27 February 2006 on the conclusion of the Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics** ..... 1
- Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics** ..... 2
- Final Act** ..... 18
- ★ **Information relating to the entry into force of the Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics** ..... 21

2006/234/EC:

- ★ **Council Decision of 27 February 2006 concerning the conclusion of an Agreement between the Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confederation in the MEDIA Plus and MEDIA Training Community programmes, and a Final Act** ..... 22
- Agreement between the European Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confederation in the Community programmes MEDIA Plus and MEDIA Training** ..... 23
- Final Act** ..... 32
- ★ **Information relating to the entry into force of the Agreement between the European Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confederation in the Community programmes MEDIA Plus and MEDIA Training** ..... 35

**EN**

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

★ Council Decision of 27 February 2006 on the conclusion, on behalf of the European Community, of the Agreement between the European Community and the Swiss Confederation concerning the latter's participation in the European Environment Agency and the European Environment Information and Observation Network .....	36
Agreement between the European Community and the Swiss Confederation concerning the participation of Switzerland in the European Environment Agency and the European Environment Information and Observation Network .....	37
★ Information relating to the entry into force of the Agreement between the European Community and the Swiss Confederation concerning the participation of Switzerland in the European Environment Agency and the European Environment Information and Observation Network .....	48

## II

(Acts whose publication is not obligatory)

## COUNCIL

## COUNCIL DECISION

of 27 February 2006

**on the conclusion of the Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics**

(2006/233/EC)

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty establishing the European Community, and in particular Article 285 in conjunction with Article 300(2), first sentence, and Article 300(3), first sub-paragraph thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament <sup>(1)</sup>,

Whereas:

- (1) On 20 July 2000, the Council authorised the Commission to negotiate with the Swiss Confederation an agreement on cooperation in the field of statistics.
- (2) According to Council Decision of 26 October 2004, and subject to its conclusion at a later date, the Agreement was signed on behalf of the European Community on 26 October 2004.
- (3) The Agreement should be approved,

HAS DECIDED AS FOLLOWS:

*Article 1*

The Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics is hereby approved on behalf of the European Community.

The text of the Agreement is attached to this Decision.

*Article 2*

The Community shall be represented on the Joint Committee set up under Article 3 of the Agreement by the Commission assisted by representatives of the Member States.

The position to be taken by the Community as regards decisions of the Joint Committee shall be adopted by the Council, acting by qualified majority on a proposal from the Commission, for matters relating to the financial contribution of Switzerland and for substantial derogations regarding the extension of acts of Community legislation to Switzerland. For all other decisions of the Joint Committee and for recommendations the Community position shall be adopted by the Commission.

*Article 3*

The President of the Council shall effect the notification provided for in Article 13 of the Agreement on behalf of the European Community <sup>(2)</sup>.

*Article 4*

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 27 February 2006.

*For the Council*

*The President*

U. PLASSNIK

<sup>(1)</sup> Opinion delivered on 14 December 2004 (not yet published in the Official Journal).

<sup>(2)</sup> The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

## AGREEMENT

### between the European Community and the Swiss Confederation on cooperation in the field of statistics

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community',

and

THE SWISS CONFEDERATION, hereinafter referred to as 'Switzerland',

hereinafter together referred to as the 'Contracting Parties',

DESIRING to improve the cooperation between the Community and Switzerland in the field of statistics and, to that end, to define through this Agreement the principles and conditions governing that cooperation;

CONSIDERING that appropriate measures should be established in order to realise a gradual harmonisation and ensure the coherent evolution of the legal framework for the collection of data, the classifications, the definitions and the methodologies in statistics;

WHEREAS common rules for the production of statistics within the area covered by the Community and Switzerland are to be set out;

AGREEING that it is appropriate to base those rules on the legislation which is in force within the Community,

HAVE AGREED AS FOLLOWS:

#### Article 1

##### Subject matter

1. This Agreement applies to the cooperation in the field of statistics between the Contracting Parties in order to ensure the production and dissemination of coherent and comparable statistical information for describing and monitoring all economic, social and environmental policies relevant for the bilateral cooperation.

2. To this end, the Contracting Parties shall develop and use harmonised methods, definitions and classifications as well as common programmes and procedures organising statistical work at appropriate administrative levels and in accordance with the provisions laid down in this Agreement.

3. The production of Contracting Parties' statistics shall conform to impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality; it shall not entail excessive burdens on economic operators.

#### Article 2

##### Legal acts in the field of statistics

The Acts referred to in Annex A, as adapted by this Agreement, shall be binding upon the Contracting Parties.

#### Article 3

##### Joint Committee

1. A Committee composed of representatives of the Contracting Parties, to be known as the 'Community/Switzerland Statistical Committee' (hereinafter referred to as the Joint Committee), is hereby established.

It shall be responsible for the administration of this Agreement and shall ensure its proper implementation. For this purpose it

shall make recommendations and take decisions in the cases provided for in this Agreement. The Joint Committee shall act by mutual agreement. A decision of the Joint Committee shall be binding upon the Contracting Parties.

2. The Joint Committee and the Statistical Programme Committee (SPC) established by Council Decision 89/382/EEC, Euratom of 19 June 1989 shall organise their tasks for the purposes of this Agreement in combined meetings.

3. 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 Chair and laying down the Chair's terms of reference.

4. The Joint Committee shall meet as and when necessary. Either Contracting Party may request the convening of a meeting. The Joint Committee may decide to set up any subcommittee or working party that can assist it in carrying out its tasks.

5. A Contracting Party may at any time raise a matter of concern at the level of the Joint Committee.

6. Each decision shall state the date of its implementation. The decisions shall be submitted if necessary for ratification or approval by the Contracting Parties in accordance with their own procedures and shall be put into effect by the Contracting Parties in accordance with their own rules.

#### Article 4

##### New legislation

1. This Agreement shall be without prejudice to the right of each Contracting Party, subject to compliance with the provisions of this Agreement, to amend unilaterally its legislation on a point regulated by this Agreement.

2. During the period preceding the formal adoption of new legislation, the Contracting Parties shall inform and consult each other as closely as possible. At the request of either Contracting Party, a preliminary exchange of views may take place in the Joint Committee.

3. As soon as a Contracting Party has adopted an amendment of its legislation, it shall inform the other Contracting Party.

4. The Joint Committee shall:

- either adopt a decision revising Annex A and/or Annex B or, if necessary, propose a revision of the provisions of this Agreement, so as to incorporate therein, if necessary on a basis of reciprocity, the amendments made to the legislation in question;
- or adopt a decision to the effect that the amendments to the legislation in question shall be regarded as being in accordance with the proper functioning of this Agreement;
- or decide any other measure to ensure the proper functioning of this Agreement.

#### Article 5

##### Statistical cooperation

1. The Community Statistical programme referred to in Chapter II of Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics, as from time to time adopted by Decisions of the European Parliament and of the Council, shall constitute the framework for the statistical actions to be carried out by Switzerland for the relevant time periods covered by each programme. All main fields and statistical themes of the Community Statistical programme shall be considered to be relevant for the Community/Switzerland statistical cooperation and shall be open for full participation by Switzerland.

2. A specific Community/Switzerland annual statistical programme shall be developed every year as a subset of, and in parallel with, the annual work programme drawn up by the Commission in accordance with the Decision of the European Parliament and of the Council establishing the specific relevant Community statistical programme. Each Community/Switzerland annual statistical programme shall be submitted for examination and approval to the Joint Committee. It shall indicate in particular those actions within the themes of the programme which are relevant and have priority for the Community/Switzerland statistical cooperation during the programme period.

3. Statistical information from Switzerland shall be transmitted to Eurostat for storage, processing and dissemination. To this end, the Swiss Federal Statistical Office shall work in close cooperation with Eurostat in order to ensure that data from Switzerland are transmitted properly and disseminated to the various user groups through the normal dissemination channels as part of the Community/Switzerland statistics.

The handling of statistics from Switzerland shall be governed by Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics.

4. The Joint Committee shall examine the progress made in the framework for Community/Switzerland statistical actions. It

shall in particular assess whether the objectives, priorities and actions planned during the first three years of application of this Agreement have been achieved. It shall also assess whether the contents of Annex A adequately reflect the concept of relevance as mentioned in Article 1(1).

#### Article 6

##### Participation

1. Entities established in Switzerland shall be entitled to participate in specific Community programmes managed by Eurostat, with the same contractual rights and obligations as those of entities established in the Community. However, entities established in Switzerland shall not be entitled to receive any financial contribution from Eurostat.

2. Swiss national experts may be seconded to Eurostat. The costs associated with the secondment of Swiss national experts to Eurostat, including salaries, social security costs, provision for pensions, daily and travel allowances, shall be borne entirely by Switzerland.

3. Entities established in the Community shall be entitled to participate in specific programmes managed by the Swiss Federal Statistical Office, with the same contractual rights and obligations as those of entities established in Switzerland.

#### Article 7

##### Other forms of cooperation

1. Transfer of technology in the field of statistics between the Swiss Federal Statistical Office and Eurostat may take place by mutual agreement.

2. The Contracting Parties may exchange any information in the field of statistics.

3. The statistical services of the Contracting Parties may exchange officials. The statistical services of the Member States of the Community may also exchange officials with Switzerland. The conditions under which these exchanges take place shall be agreed directly between the statistical services involved.

#### Article 8

##### Financial provisions

1. In order to cover the entirety of the costs of its participation, Switzerland shall contribute financially to the Community Statistical Programme on an annual basis from the entry into force of this Agreement.

2. The rules governing Switzerland's financial contribution are set out in Annex B.

#### Article 9

##### Non-discrimination

Within the scope of application of this Agreement, and without prejudice to any special provisions contained therein, any discrimination of grounds of nationality shall be prohibited.

*Article 10***Fulfilment of obligations**

The Contracting Parties shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Agreement and shall refrain from any measures which would jeopardise attainment of the objectives of this Agreement.

*Article 11***Annexes**

The Annexes shall form an integral part of this Agreement.

*Article 12***Territorial application**

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 that Treaty and, on the other hand, to the territory of Switzerland.

*Article 13***Entry into force and duration**

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 January of the year

following the day on which the Contracting Parties notify each other that the procedures necessary to this end have been completed.

2. This Agreement shall be concluded for an initial period of five years. Unless written notice of termination is given six months before the expiration of this period, the Agreement shall be considered as renewed indefinitely.

3. Either Contracting Party may terminate this Agreement by a written notification to the other Contracting Party. This Agreement shall cease to be in force six months after the date of such notification.

*Article 14***Authentic texts**

1. This Agreement shall be drawn up in duplicate in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish languages, each of these texts being equally authentic.

2. The Maltese language version shall be authenticated by the Contracting Parties on the basis of an Exchange of Letters. It shall also be authentic, in the same way as for the languages referred to in paragraph 1.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have hereunto set their hands.

Hecho en Luxemburgo, el veintiséis de octubre de dos mil cuatro.

V Lucemburku dne dvacátého šestého října dva tisíce čtyři.

Udfærdiget i Luxembourg den seksogtyvende oktober to tusind og fire.

Geschehen zu Luxemburg am sechszwanzigsten Oktober zweitausendundvier.

Kahe tuhanda neljanda aasta oktoobrikuu kahekümne kuuendal päeval Luxembourgis.

Έγινε στο Λουξεμβούργο, στις είκοσι έξι Οκτωβρίου δύο χιλιάδες τέσσερα.

Done at Luxembourg on the twenty-sixth day of October in the year two thousand and four.

Fait à Luxembourg, le vingt-six octobre deux mille quatre.

Fatto a Lussemburgo, addì ventisei ottobre duemilaquattro.

Luksemburgā, divi tūkstoši ceturtā gada divdesmit sestajā oktobrī.

Priimta du tūkstančiai ketvirtų metų spalio dvidešimt šeštą dieną Liuksemburge.

Kelt Luxembourgban, a kettőezer-negyedik év október havának huszonhatodik napján.

Magħmula fil-Lussemburgu fis-sitta u għoxrin jum ta' Ottubru tas-sena elfejn u erbgha.

Gedaan te Luxemburg, de zesentwintigste oktober tweeduizendvier.

Sporządzono w Luksemburgu, dnia dwudziestego szóstego października roku dwa tysiące czwartego.

Feito no Luxemburgo, em vinte e seis de Outubro de dois mil e quatro.

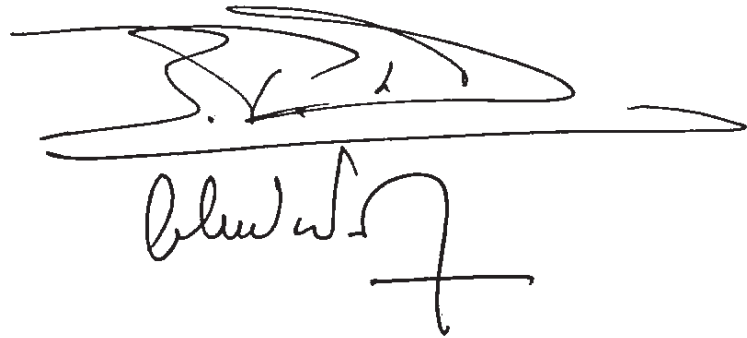
V Luxemburgu dvadsiateho šiesteho oktobra dvetisícčtyri.

V Luxembourggu, dne šestindvajsetega oktobra leta dva tisoč štiri

Tehty Luxemburgissa kahdentenäkymmenentenäkuudentena päivänä lokakuuta vuonna kaksituhattaneljä.

Som skedde i Luxemburg den tjugosjätte oktober tjugohundrafyra.

Por la Comunidad Europea  
Za Evropské společenství  
For Det Europæiske Fællesskab  
Für die Europäische Gemeinschaft  
Euroopa Ühenduse nimel  
Για την Ευρωπαϊκή Κοινότητα  
For the European Community  
Pour la Communauté européenne  
Per la Comunità europea  
Eiropas Kopienas vārdā  
Europos bendrijos vardu  
az Európai Közösség részéről  
Għall-Komunità Ewropea  
Voor de Europese Gemeenschap  
W imieniu Wspólnoty Europejskiej  
Pela Comunidade Europeia  
Za Európske spoločenstvo  
za Evropsko skupnost  
Euroopan yhteisön puolesta  
På Europeiska gemenskapens vägnar



Für die Schweizerische Eidgenossenschaft  
Pour la Confédération suisse  
Per la Confederazione svizzera



## ANNEX A

## LEGAL ACTS IN THE FIELD OF STATISTICS REFERRED TO IN ARTICLE 2

## SECTORAL ADAPTATION

1. The term 'Member State(s)' contained in the acts referred to in this Annex shall be understood to include Switzerland, in addition to its meaning in the relevant Community acts.
2. Provisions laying down by whom the costs for carrying out surveys and the like shall be borne shall not apply for the purposes of this Agreement.

## ACTS REFERRED TO

## BUSINESS STATISTICS

- 397 R 0058: Council Regulation (EC, Euratom) No 58/97 of 20 December 1996 concerning structural business statistics (OJ L 14, 17.1.1997, p. 1), as amended by:
  - 398 R 0410: Council Regulation (EC, Euratom) No 410/98 of 16 February 1998 (OJ L 52, 21.2.1998, p. 1),
- 32002 R 2056: Regulation (EC) No 2056/2002 of the European Parliament and of the Council of 5 November 2002 (OJ L 317, 21.11.2002, p. 1).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) The first reference years for which statistics are to be compiled by Switzerland are the following:
  - For Annex 1, Section 5 (First reference year) and Section 11 (Transition period) calendar year 2002,
  - For Annex 2, Section 5 (First reference year) and Section 10 (Transition period) calendar year 2002 for all yearly statistics, calendar year 2003 for the 2-yearly characteristics 20210 to 20310, calendar year 2002 for the 3-yearly characteristic 23110, calendar year 2004 for the 4-yearly characteristic 16135, calendar year 2003 for the 4-yearly characteristics 15420, 15441 and 15442,
  - For Annex 3, Section 5 (First reference year) and Section 10 (Transition period) calendar year 2002 for all yearly statistics, calendar year 2002 for the 5-yearly characteristics relating to division 52, calendar year 2003 for the 5-yearly characteristics relating to division 51, calendar year 2005 for the 5-yearly characteristics relating to division 50,
  - For Annex 4, Section 5 (First reference year) and Section 10 (Transition period) calendar year 2002 for all yearly statistics, calendar year 2003 for the 2-yearly characteristics 20210 to 20310, calendar year 2002 for the 4-yearly characteristics 16131 and 16132, calendar year 2003 for the 3-yearly characteristics 23110, 23120, 15420, 15441 and 15442,
  - For Annex 5, Section 5 (First reference year) and Section 9 (Transition period) calendar year 2002,
  - For Annex 6, Section 5 (First reference year) and Section 10 (Transition period) calendar year 2004,
  - For Annex 7, Section 5 (First reference year) and Section 10 (Transition period) calendar year 2003;
- (b) For the purposes of Annexes 1 to 7, the transition period will not extend more than four years beyond the first reference years for the compilation of the statistics indicated in Section 5 of the said Annexes, and as amended in (a);
- (c) For Annexes 1, 2, 3, 4 and 5, Switzerland is exempted from providing data as amended in (a) for the years 2002, 2003, 2004 and 2005;
- (d) For Annexes 6 and 7, Switzerland is exempted from providing data as amended in (a) for the years 2003, 2004, 2005 and 2006;
- (e) Switzerland shall not be bound by the regional breakdown of the data as required by this Regulation;
- (f) Switzerland is exempted from providing data at the 4-digit level of the NACE REV 1;
- (g) Switzerland is exempted from providing data required by this Regulation for kind of activity units.



- 398 R 2700: Commission Regulation (EC) No 2700/98 of 17 December 1998 concerning the definitions of characteristics for structural business statistics (OJ L 344, 18.12.1998, p. 49), as amended by:
  - 32002 R 2056: Regulation (EC) No 2056/2002 of the European Parliament and of the Council of 5 November 2002 (OJ L 317, 21.11.2002, p. 1).
- 398 R 2701: Commission Regulation (EC) No 2701/98 of 17 December 1998 concerning the series of data to be produced for structural business statistics (OJ L 344, 18.12.1998, p. 81), as amended by:
  - 32002 R 2056: Regulation (EC) No 2056/2002 of the European Parliament and of the Council of 5 November 2002 (OJ L 317, 21.11.2002, p. 1).
- 398 R 2702: Commission Regulation (EC) No 2702/98 of 17 December 1998 concerning the technical format for the transmission of structural business statistics (OJ L 344, 18.12.1998, p. 102), as amended by:
  - 32002 R 2056: Regulation (EC) No 2056/2002 of the European Parliament and of the Council of 5 November 2002 (OJ L 317, 21.11.2002, p. 1).
- 399 R 1618: Commission Regulation (EC) No 1618/1999 of 23 July 1999 concerning the criteria for the evaluation of quality of structural business statistics (OJ L 192, 24.7.1999, p. 11).
- 399 R 1225: Commission Regulation (EC) No 1225/99 of 27 May 1999 concerning the definitions of characteristics for insurance services statistics (OJ L 154, 19.6.1999, p. 1).
- 399 R 1227: Commission Regulation (EC) No 1227/99 of 28 May 1999 concerning the technical format for the transmission of insurance services statistics (OJ L 154, 19.6.1999, p. 75).
- 399 R 1228: Commission Regulation (EC) No 1228/99 of 28 May 1999 concerning the series of data to be produced for insurance services statistics (OJ L 154, 19.6.1999, p. 91).
- 398 R 1165: Council Regulation (EC) No 1165/98 of 19 May 1998 concerning short-term statistics (OJ L 162, 5.6.1998, p. 1), as implemented by:
  - 32001 R 0586: Commission Regulation (EC) No 586/2001 of 26 March 2001 on implementing Council Regulation (EC) No 1165/98 concerning short-term statistics as regards the definition of Main Industrial Groupings (MIGS) (OJ L 86, 27.3.2001, p. 11),
  - 32001 R 0588: Commission Regulation (EC) No 588/2001 of 26 March 2001 implementing Council Regulation (EC) No 1165/98 concerning short-term statistics as the definition of variables (OJ L 86, 27.3.2001, p. 18).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) Switzerland shall supply data as from the first quarter 2007;
  - (b) Switzerland is exempted from providing data at the 4-digit level of the NACE REV 1.
- 393 R 2186: Council Regulation (EEC) No 2186/93 of 22 July 1993 on Community coordination in drawing up business registers for statistical purposes (OJ L 196, 5.8.1993, p. 1).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) Switzerland shall put into effect the measures necessary to comply with this Regulation by 1 January 2006;
- (b) For Switzerland, entry 1 (k) of Annex II of the Regulation shall not apply.

#### TRANSPORT AND TOURISM STATISTICS

- 398 R 1172: Council Regulation (EC) No 1172/98 of 25 May 1998 on statistical returns in respect of the carriage of goods by road (OJ L 163, 6.6.1998, p. 1), as amended by:
  - 399 R 2691: Commission Regulation (EC) No 2691/99 of 17 December 1999 (OJ L 326, 18.12.1999, p. 39).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

Switzerland shall collect the data required by this Regulation from, at the latest, the beginning of year 2006 onwards.

- 32001 R 2163: Commission Regulation (EC) No 2163/2001 of 7 November 2001 concerning the technical arrangements for data transmission for statistics on the carriage of goods by road (OJ L 291, 8.11.2001, p. 13).

— 32003 R 0006: Commission Regulation (EC) No 6/2003 of 30 December 2002 concerning the dissemination of statistics on the carriage of goods by road (OJ L 1, 4.1.2003, p. 45).

— 32003 R 0091: Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16 December 2002 on rail transport statistics (OJ L 14, 21.1.2003, p. 1), as amended by:

— 32003 R 1192: Commission Regulation (EC) No 1192/2003 of 3 July 2003 (OJ L 167, 4.7.2003, p. 13).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

Switzerland shall collect the data required by this Regulation from, at the latest, the beginning of year 2006 onwards.

— 380 L 1119: Council Directive 80/1119/EEC of 17 November 1980 on statistical returns in respect of carriage of goods by inland waterways (OJ L 339, 15.12.1980, p. 30).

— 395 L 0064: Council Directive 95/64/EC of 8 December 1995 on statistical returns in respect of carriage of goods and passengers by sea (OJ L 320, 30.12.1995, p. 25), as amended by:

— 398 D 0385: Commission Decision 98/385/EC of 13 May 1998 (OJ L 174, 18.6.1998, p. 1),

— 32000 D 0363: Commission Decision 363/2000/EC of 28 April 2000 (OJ L 132, 5.6.2000, p. 1).

— 32001 D 0423: Commission Decision 2001/423/EC of 22 May 2001 on arrangements for publication or dissemination of the statistical data collected pursuant to Council Directive 95/64/EC on statistical returns in respect of carriage of goods and passengers by sea (OJ L 151, 7.6.2001, p. 41).

— 32003 R 0437: Regulation (EC) No 437/2003 of the European Parliament and of the Council of 27 February 2003 on statistical returns in respect of the carriage of passengers, freight and mail by air (OJ L 66, 11.3.2003, p. 1), as amended by:

— 32003 R 1358: Commission Regulation (EC) No 1358/2003 of 31 July 2003 (OJ L 194, 1.8.2003, p. 9).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

Switzerland shall collect the data required by this Regulation from, at the latest, the beginning of year 2006 onwards.

— 393 D 0704: Council Decision 93/704/EC of 30 November 1993 on the creation of a Community database on road accidents (OJ L 329, 30.12.1993, p. 63).

— 395 L 0057: Council Directive 95/57/EC of 23 November 1995 on the collection of statistical information in the field of tourism (OJ L 291, 6.12.1995, p. 32).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptation:

Switzerland shall collect the data required by this Directive from, at the latest, 2007 onwards.

— 399 D 0035: Commission Decision 1999/35/EC of 9 December 1998 on the procedures for implementing Council Directive 95/57/EC on the collection of statistical information in the field of tourism (OJ L 9, 15.1.1999, p. 23).

#### FOREIGN TRADE STATISTICS

— 395 R 1172: Council Regulation (EC) No 1172/95 of 22 May 1995 on the statistics relating to the trading of goods by the Community and its Member States with non-member countries (OJ L 118, 25.5.1995, p. 10), as amended by:

— 397 R 0476: Council Regulation (EC) No 476/97 of 13 March 1997 (OJ L 75, 15.3.1997, p. 1),

— 398 R 0374: Council Regulation (EC) No 374/98 of 12 February 1998 (OJ L 48, 19.2.1998, p. 6).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) For Switzerland the statistical territory shall comprise the customs territory;

(b) Switzerland shall not be bound to compile statistics of trade between Switzerland and Liechtenstein;

(c) The classification referred to in Article 8(2) shall be made at least down to the first six digits;

(d) Article 10(1)(h), (j) shall not apply;

(e) Article 10(1)(i): The nationality of the means of transport crossing the frontier is only applicable for road transport.

- 32000 R 1917: Commission Regulation No 1917/2000 of 7 September 2000 laying down certain provisions for the implementation of Council Regulation (EC) No 1172/95 as regards statistics on external trade (OJ L 229, 9.9.2000, p. 14), as amended by:
  - 32001 R 1669: Commission Regulation (EC) No 1669/2001 of 20 August 2001 (OJ L 224, 21.8.2001, p. 3).
 The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:
  - (a) The reference to Regulation (EC) No 2454/96 in Article 6(1) is not applicable;
  - (b) The following new subparagraph shall be added to Article 7(1)(a):
 

‘For Switzerland “country of origin” shall be taken to mean the country in which the goods originated within the meaning of the national rules of origin.’;
  - (c) The following new subparagraph shall be added to Article 9(2):
 

‘For Switzerland “the customs value” shall be defined within the respective national rules.’;
  - (d) Article 11(2) is not applicable;
  - (e) Section 2 (Articles 16-19) is not applicable.
- 32002 R 1779: Commission Regulation (EC) No 1779/2002 of 4 October 2002 on the nomenclature of countries and territories for the external trade statistics of the Community and statistics of trade between Member States (OJ L 269, 5.10.2002, p. 6).

#### STATISTICAL PRINCIPLES AND CONFIDENTIALITY

- 390 R 1588: Council Regulation (Euratom, EEC) No 1588/90 of 11 June 1990 on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities (OJ L 151, 15.6.1990, p. 1).
- The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:
- (a) The following new point is added to Article 2:
    - 11. ‘Staff of the Office of the EFTA Statistical Adviser: staff of the EFTA Secretariat working on the premises of the SOEC.’;
  - (b) In the second sentence of Article 5(1), the term ‘SOEC’ is replaced by ‘SOEC and of the Office of the EFTA Statistical Adviser’;
  - (c) The following new subparagraph is added to Article 5(2):
 

‘Confidential statistical data transmitted to the SOEC through the Office of the EFTA Statistical Adviser shall be accessible also to the staff of this Office.’;
  - (d) In Article 6, the term ‘SOEC’ shall, for these purposes, be read as to include the Office of the EFTA Statistical Adviser.
- 397 R 0322: Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics (OJ L 52, 22.2.1997, p. 1).
  - 32002 R 0831: Commission Regulation (EC) No 831/2002 of 17 May 2002 implementing Council Regulation (EC) No 322/97 on Community Statistics, concerning access to confidential data for scientific purposes (OJ L 133, 18.5.2002, p. 7).

#### DEMOGRAPHIC AND SOCIAL STATISTICS

- 376 R 0311: Council Regulation (EEC) No 311/76 of 9 February 1976 on the compilation of statistics on foreign workers (OJ L 39, 14.2.1976, p. 1).
- 398 R 0577: Council Regulation (EC) No 577/98 of 9 March 1998 on the organisation of a labour force sample survey in the Community (OJ L 77, 14.3.1998, p. 3), as amended by:
  - 32002 R 1991: Regulation (EC) No 1991/2002 of the European Parliament and of the Council of 8 October 2002 (OJ L 308, 9.11.2002, p. 1),
  - 32002 R 2104: Commission Regulation (EC) No 2104/2002 of 28 November 2002 (OJ L 324, 29.11.2002, p. 14).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) Irrespective of the provisions of Article 1, Switzerland is permitted to carry out an annual survey until 2007;
  - (b) For Switzerland, irrespective of the provisions of Article 2(4), the sampling unit is an individual and the information concerning the other members of the household may include at least the characteristics listed under Article 4(1).
- 32000 R 1575: Commission Regulation (EC) No 1575/2000 of 19 July 2000 implementing Council Regulation (EC) No 577/98 on the organisation of a labour force sample survey in the Community concerning the codification to be used for data transmission from 2001 onwards (OJ L 181, 20.7.2000, p. 16).
  - 32000 R 1897: Commission Regulation (EC) No 1897/2000 of 7 September 2000 implementing Council Regulation (EC) No 577/98 on the organisation of a labour force sample survey in the Community concerning the operational definition of unemployment (OJ L 228, 8.9.2000, p. 18).
  - 32002 R 2104: Commission Regulation (EC) No 2104/2002 of 28 November 2002 adapting Council Regulation (EC) No 577/98 on the organisation of a labour force sample survey in the Community and Commission Regulation (EC) No 1575/2000 implementing Council Regulation (EC) No 577/98 as far as the list of education and training variables and their codification to be used for data transmission from 2003 onwards are concerned (OJ L 324, 29.11.2002, p. 14).
  - 32003 R 0246: Commission Regulation (EC) No 246/2003 of 10 February 2003 adopting the programme of ad hoc modules, covering the years 2004 to 2006, to the labour force sample survey provided by Council Regulation (EC) No 577/98 (OJ L 34, 11.2.2003, p. 3).
  - 399 R 0530: Council Regulation (EC) No 530/1999 of 9 March 1999 concerning structural statistics on earnings and labour costs (OJ L 63, 12.3.1999, p. 6).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) Switzerland shall collect the data required by this Regulation for the first time in 2008 for the statistics on the level and composition of labour costs and in 2006 for the statistics on the structure and distribution of earnings;
  - (b) For the years 2006 and 2008, Switzerland shall be permitted to provide data required in Article 6(1)(a), (2)(a) based on enterprises.
- 32000 R 0452: Commission Regulation (EC) No 452/2000 of 28 February 2000 implementing Council Regulation (EC) No 530/1999 concerning structural statistics on earnings and on labour costs as regards quality evaluation on labour costs statistics (OJ L 55, 29.2.2000, p. 53).
  - 32000 R 1916: Commission Regulation (EC) No 1916/2000 of 8 September 2000 on implementing Council Regulation (EC) No 530/1999 concerning structural statistics on earnings and on labour costs as regards the definition and transmission of information on structure of earnings (OJ L 229, 9.9.2000, p. 3).
  - 399 R 1726: Commission Regulation (EC) No 1726/1999 of 27 July 1999 implementing Council Regulation (EC) No 530/1999 concerning structural statistics on earnings and on labour costs as regards the definition and transmission on information on labour costs (OJ L 203, 3.8.1999, p. 28).
  - 32002 R 0072: Commission Regulation (EC) No 72/2002 of 16 January 2002 implementing Council Regulation (EC) No 530/1999 as regards quality evaluation of structural statistics on earnings (OJ L 15, 17.1.2002, p. 7).
  - 32003 R 0450: Regulation (EC) No 450/2003 of the European Parliament and of the Council of 27 February 2003 concerning the labour cost index (OJ L 69, 13.3.2003, p. 1), as implemented by:
    - 32003 R 1216: Commission Regulation (EC) No 1216/2003 of 7 July 2003 implementing Regulation (EC) No 450/2003 of the European Parliament and of the Council concerning the labour cost index (OJ L 169, 8.7.2003, p. 37).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

Switzerland shall compile the data required by this Regulation for the first time at the beginning of 2007, and thereafter for each quarter.

- 32003 R 1177: Regulation (EC) No 1177/2003 of the European Parliament and of the Council of 16 June 2003 concerning Community statistics on income and living conditions (EU-SILC) (OJ L 165, 3.7.2003, p. 1)

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

Switzerland shall collect the data required by this Regulation from, at the latest, 2007 onwards.

#### ECONOMIC STATISTICS

- 32003 R 1287: Council Regulation (EC, Euratom) No 1287/2003 of 15 July 2003 on the harmonisation of gross national income at market prices (GNI Regulation) (OJ L 181, 19.7.2003, p. 1).
- 395 R 2494: Council Regulation (EC) No 2494/95 of 23 October 1995 concerning harmonised indices of consumer prices (OJ L 257, 27.10.1995, p. 1).

For Switzerland the Regulation applies to the harmonisation of consumer price indices for international comparisons. It is not relevant as regards the explicit purposes of calculating harmonised CPI's in the context of the Economic and Monetary Union.

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) Article 2c, as well as references to MUICP in Articles 8(1) and 11, are not applicable;
  - (b) Article 5(1)(a) is not applicable;
  - (c) Article 5(2) is not applicable;
  - (d) The consultation of the EMI as specified in Article 5(3) is not applicable;
  - (e) Switzerland shall supply data required by this Regulation, at the latest, with the index for January 2007 onwards.
- 396 R 1749: Commission Regulation (EC) No 1749/96 of 9 September 1996 on initial implementing measures for Council Regulation (EC) No 2494/95 concerning harmonised indices of consumer prices (OJ L 229, 10.9.1996, p. 3), as amended by:
    - 398 R 1687: Council Regulation (EC) No 1687/98 of 20 July 1998 (OJ L 214, 31.7.1998, p. 12).
    - 398 R 1688: Council Regulation (EC) No 1688/98 of 20 July 1998 (OJ L 214, 31.7.1998, p. 23).
  - 396 R 2214: Commission Regulation (EC) No 2214/96 of 20 November 1996 concerning harmonised indices of consumer prices: transmission and dissemination of sub-indices of the HICP (OJ L 296, 21.11.1996, p. 8), as amended by:
    - 399 R 1617: Commission Regulation (EC) No 1617/1999 of 23 July 1999 (OJ L 192, 24.7.1999, p. 9).
    - 399 R 1749: Commission Regulation (EC) No 1749/1999 of 23 July 1999 (OJ L 214, 13.8.1999, p. 1), as corrected by OJ L 267, 15.10.1999, p. 59.
    - 32001 R 1920: Commission Regulation (EC) No 1920/2001 of 28 September 2001 (OJ L 261, 29.9.2001, p. 46), as corrected by OJ L 295, 13.11.2001, p. 34.
  - 396 R 2223: Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community (OJ L 310, 30.11.1996, p. 1), as amended by:
    - 398 R 0448: Council Regulation (EC) No 448/98 of 16 February 1998 (OJ L 58, 27.2.1998, p. 1).
    - 32000 R 1500: Commission Regulation (EC) No 1500/2000 of 10 July 2000 (OJ L 172, 12.7.2000, p. 3).
    - 32000 R 2516: Regulation (EC) No 2516/2000 of the European Parliament and of the Council of 7 November 2000 (OJ L 290, 17.11.2000, p. 1).
    - 32001 R 0995: Commission Regulation (EC) No 995/2001 of 22 May 2001 (OJ L 139, 23.05.2001, p. 3).
    - 32001 R 2558: Regulation (EC) No 2558/2001 of the European Parliament and of the Council of 3 December 2001 (OJ L 344, 28.12.2001, p. 1).
    - 32002 R 0113: Commission Regulation (EC) No 113/2002 of 23 January 2002 (OJ L 21, 24.1.2002, p. 3).
    - 32002 R 1889: Commission Regulation (EC) No 1889/2002 of 23 October 2002 (OJ L 286, 24.10.2002, p. 1).
    - 32003 R 1267: Regulation (EC) No 1267/2003 of the European Parliament and of the Council of 16 June 2003 (OJ L 180, 18.7.2003, p. 1).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) Switzerland shall be permitted to compile data by institutional units when the provisions of this Regulation refer to industry;
- (b) Switzerland shall not be bound by the regional breakdown of the data as required by this Regulation;
- (c) Switzerland shall not be bound by EU/third countries breakdown of exports and imports of services as required by this Regulation;
- (d) Switzerland shall put into effect the measures necessary to allocate FISIM from, at the latest, 2006 onwards;
- (e) In Annex B, Derogations concerning the tables to be supplied in the framework of the questionnaire 'ESA-95' by country, the following shall be added after point 15 (Iceland):

## 16. SWITZERLAND

### 16.1 Derogations for tables

Table No	Table	Derogation	Until
1	Main aggregates, annual and quarterly	Transmission for 1990 onwards	
2	Main aggregates of the general government	Transmission delay: t+8 months Periodicity: annual Transmission for 1990 onwards	Unlimited Unlimited
3	Tables by industry	Transmission for 1990 onwards	
4	Exports and imports by EU/third countries	Transmission for 1998 onwards	
5	Household final consumption expenditure by purpose	Transmission for 1990 onwards	
6	Financial accounts by institutional sectors	Transmission for 1998 onwards	2006
7	Balance sheets for financial assets and liabilities	Transmission for 1998 onwards	2006
8	Non-financial accounts by institutional sectors	Transmission delay: t+18 months Transmission for 1990 onwards	Unlimited
9	Detailed tax and social contributions receipts by sector	Transmission delay: t+18 months Transmission for 1998 onwards	Unlimited
10	Tables by industry and region, NUTS II, A17	No regional breakdown	
11	General government expenditure by function	Transmission for 2005 onwards No Backward calculations	2007
12	Tables by industry and by region, NUTS III, A3	No regional breakdown	
13	Household accounts by region, NUTS II	No regional breakdown	
14-22	In accordance with derogation (a) of this Regulation, Switzerland shall be exempted from providing data for tables 14 to 22.'		

— 398 D 0715: Commission Decision 98/715/EC of 30 November 1998 clarifying Annex A to Council Regulation (EC) No 2223/96 on the European system of national and regional accounts in the Community as concerns the principles for measuring prices and volumes (OJ L 340, 16.12.1998, p. 33).

The provisions of the Decision shall, for the purposes of this Agreement, be read with the following adaptation:

Article 3 (classification of methods by product) shall not apply to Switzerland.

- 397 D 0178: Commission Decision 97/178/EC, Euratom of 10 February 1997 on the definition of a methodology for the transition between the European System of National and Regional Accounts in the Community (ESA 95) and the European System of Integrated Economic Accounts (ESA second edition) (OJ L 75, 15.3.1997, p. 44).
- 397 R 2454: Commission Regulation (EC) No 2454/97 of 10 December 1997 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for the quality of HICP weightings (OJ L 340, 11.12.1997, p. 24).
- 398 R 2646: Commission Regulation (EC) No 2646/98 of 9 December 1998 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for the treatment of tariffs in the Harmonised Index of Consumer Prices (OJ L 335, 10.12.1998, p. 30).
- 399 R 1617: Commission Regulation (EC) No 1617/1999 of 23 July 1999 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for the treatment of insurance in the Harmonised Index of Consumer Prices and modifying Commission Regulation (EC) No 2214/96 (OJ L 192, 24.7.1999, p. 9).
- 399 R 2166: Council Regulation (EC) No 2166/1999 of 8 October 1999 laying down detailed rules for the implementation of Regulation (EC) No 2494/95 as regards minimum standards for the treatment of products in the health, education and social protection sectors in the Harmonised Index of Consumer Prices (OJ L 266, 14.10.1999, p. 1).
- 399 D 0622: Commission Decision 1999/622/EC, Euratom of 8 September 1999 on the treatment of repayments of VAT to non-taxable units and to taxable units for their exempt activities, for the purpose of implementing Council Directive 89/130/EEC, Euratom on the harmonisation of the compilation of gross national product at market prices (OJ L 245, 17.9.1999, p. 51).
- 32000 R 2601: Commission Regulation (EC) No 2601/2000 of 17 November 2000 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards the timing of entering purchaser prices into the Harmonised Index of Consumer Prices (OJ L 300, 29.11.2000, p. 14).
- 32000 R 2602: Commission Regulation (EC) No 2602/2000 of 17 November 2000 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for the treatment of price reductions in the Harmonised Index of Consumer Prices (OJ L 300, 29.11.2000, p. 16), as amended by:
  - 32001 R 1921: Commission Regulation (EC) No 1921/2001 of 28 September 2001 (OJ L 261, 29.9.2001, p. 49), as corrected by OJ L 295, 13.11.2001, p. 34.
- 32001 R 1920: Commission Regulation (EC) No 1920/2001 of 28 September 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for the treatment of service charges proportional to transaction values in the harmonised index of consumer prices and amending Regulation (EC) No 2214/96 (OJ L 261, 29.9.2001, p. 46), as corrected by OJ L 295, 13.11.2001, p. 34.
- 32001 R 1921: Commission Regulation (EC) No 1921/2001 of 28 September 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for revisions of the harmonised index of consumer prices and amending Regulation (EC) No 2602/2000 (OJ L 261, 29.9.2001, p. 49), as corrected by OJ L 295, 13.11.2001, p. 34.

#### NOMENCLATURES

- 390 R 3037: Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1), as amended by:
  - 393 R 0761: Commission Regulation (EEC) No 761/93 of 24 March 1993 (OJ L 83, 3.4.1993, p. 1).
  - 32002 R 0029: Commission Regulation (EC) No 29/2002 of 19 December 2001 (OJ L 6, 10.1.2002, p. 3).
- 393 R 0696: Council Regulation (EEC) No 696/93 of 15 March 1993 on the statistical units for the observation and analysis of the production system in the Community (OJ L 76, 30.3.1993, p. 1).

- 393 R 3696: Council Regulation (EEC) No 3696/93 of 29 October 1993 on the statistical classification of products by activity (CPA) in the European Economic Community (OJ L 342, 31.12.1993, p. 1), as amended by:
  - 398 R 1232: Commission Regulation (EC) No 1232/98 of 17 June 1998 (OJ L 177, 22.6.1998, p. 1).
  - 32002 R 0204: Commission Regulation (EC) No 204/2002 of 19 December 2001 (OJ L 36, 6.2.2002, p. 1).
- 32003 R 1059: Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1).

#### AGRICULTURAL STATISTICS

- 396 L 0016: Council Directive 96/16/EC of 19 March 1996 on statistical surveys of milk and milk products (OJ L 78, 28.3.1996, p. 27).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptation:

Switzerland shall not be bound by the regional breakdown of the data as required by this Directive.

- 397 D 0080: Commission Decision 97/80/EC of 18 December 1996 laying down provisions for the implementation of Council Directive 96/16/EC on statistical surveys of milk and milk products (OJ L 24, 25.1.1997, p. 26), as amended by:
  - 398 D 0582: Council Decision 98/582/EC of 6 October 1998 (OJ L 281, 17.10.1998, p. 36).
- 388 R 0571: Council Regulation (EEC) No 571/88 of 29 February 1988 on the organisation of Community surveys on the structure of agricultural holdings (OJ L 56, 2.3.1988, p. 1), as amended by:
  - 396 R 2467: Council Regulation (EC) No 2467/96 of 17 December 1996 (OJ L 335, 24.12.1996, p. 3).
  - 32002 R 143: Commission Regulation (EC) No 143/2002 of 24 January 2002 (OJ L 24, 26.1.2002, p. 16).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) In Article 4, the text beginning with 'and insofar as they are important locally ...' until '... the particular technical economic guidelines within the meaning of the same Decision' is not applicable;
  - (b) In Article 6(2), the text 'standard gross margin (SGM), within the meaning of Decision 85/377/EEC' is replaced by:

'standard gross margin (SGM), within the meaning of Decision 85/377/EEC, or to the value of the total agricultural production';
  - (c) Articles 10, 12, and 13, and Annex II shall not apply;
  - (d) Switzerland shall not be bound by the typology referred to in Articles 6, 7, 8, 9 and Annex I of this Regulation. However, Switzerland shall transmit the necessary additional information allowing the reclassification according to this typology;
  - (e) Irrespective of the provisions of the Regulation, Switzerland shall be permitted to carry out the survey in May and supply the data, at the latest, 18 months thereafter.
- 390 R 0837: Council Regulation (EEC) No 837/90 of 26 March 1990 concerning statistical information to be supplied by the Member States on cereals production (OJ L 88, 3.4.1990, p. 1).
  - 393 R 0959: Council Regulation (EC) No 959/93 of 5 April 1993 concerning statistical information to be supplied by Member States on crop products other than cereals (OJ L 98, 24.4.1993, p. 1), as amended by:
    - 32003 R 0296: Commission Regulation (EC) No 296/2003 of 17 February 2003 (OJ L 43, 18.2.2003, p. 18).



## FISHERY STATISTICS

- 391 R 1382: Council Regulation (EEC) No 1382/91 of 21 May 1991 on the submission of data on the landings of fishery products in Member States (OJ L 133, 28.5.1991, p. 1), as amended by:
  - 393 R 2104: Council Regulation (EEC) No 2104/93 of 22 July 1993 (OJ L 191, 31.7.1993, p. 1).
- 391 R 3880: Council Regulation (EEC) No 3880/91 of 17 December 1991 on the submission of nominal catch statistics by Member States fishing in the north-east Atlantic (OJ L 365, 31.12.1991, p. 1), as amended by:
  - 32001 R 1637: Commission Regulation (EC) No 1637/2001 of 23 July 2001 (OJ L 222, 17.8.2001, p. 20).
- 393 R 2018: Council Regulation (EEC) No 2018/93 of 30 June 1993 on the submission of catch and activity statistics by Member States fishing in the Northwest Atlantic (OJ L 186, 28.7.1993, p. 1), as amended by:
  - 32001 R 1636: Commission Regulation (EC) No 1636/2001 of 23 July 2001 (OJ L 222, 17.8.2001, p. 1).
- 395 R 2597: Council Regulation (EC) No 2597/95 of 23 October 1995 on the submission of nominal catch statistics by Member States fishing in certain areas other than those of the North Atlantic (OJ L 270, 13.11.1995, p. 1), as amended by:
  - 32001 R 1638: Commission Regulation (EC) No 1638/2001 of 24 July 2001 (OJ L 222, 17.8.2001, p. 29).
- 396 R 0788: Council Regulation (EC) No 788/96 of 22 April 1996 on the submission by Member States of statistics on aquaculture production (OJ L 108, 1.5.1996, p. 1).

## ENERGY STATISTICS

- 390 L 0377: Council Directive 90/377/EEC of 29 June 1990 concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users (OJ L 185, 17.7.1990, p. 16).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

Switzerland shall put into effect the measures necessary to comply with this Directive as from 1 January 2006.

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## ANNEX B

**FINANCIAL RULES GOVERNING THE CONTRIBUTION OF SWITZERLAND REFERRED TO IN ARTICLE 8****1. Determination of financial participation**

- 1.1. Switzerland shall contribute financially, on an annual basis, to the Community Statistical Programme.
- 1.2. This contribution shall be based on three elements:
  - The total cost of Eurostat [Cost]
  - The number of Member States in the European Union [# Members]
  - The proportion of the statistical programme in which Switzerland is deemed to participate [prop]
- 1.3. The financial contribution shall be:  $[\text{Cost}] * [\text{prop}] / [\# \text{ Members}]$
- 1.4. These elements shall be defined as follows:
  - 1.4.1. The total cost of Eurostat shall be defined as the amount of commitment appropriations in the Statistics Policy Area (Title 29) of the Budget of the European Union, according to the Activity Based Budgeting nomenclature. This shall comprise Management and Support Expenditure of Policy Area Statistics (Expenditure related to staff in active employment, External Staff and other management expenditure, Buildings and related expenditure and Support expenditure for operations) and the Financial Interventions in respect of the Production of Statistical Information. [Cost]
  - 1.4.2. The number of Member States shall be defined as the number of Member States of the European Union on 1 January of the year in question. [# Members]
  - 1.4.3. The proportion of the statistical programme in which Switzerland is deemed to participate is defined as the ratio of Eurostat's estimate of the sum of the credits, allocated under Article 29 02 01 or successor Article of the Budget of the European Union of the modules of the Commission's Annual Statistical Programme in which Switzerland participates, divided by the total of all credits allocated to Article 29 02 01 or successor Article. [prop]
- 1.5. A draft calculation of this financial contribution shall be made immediately after the adoption of the Preliminary Draft Budget of the European Union for the year in question. The final calculation shall be made immediately after the adoption of the Budget for that year.

**2. Payment procedures**

- 2.1. The Commission shall issue, at the latest on 15 March and 15 June each financial year, a call for funds to Switzerland corresponding to its contribution under this Agreement. These calls for funds shall provide respectively for the payment:
  - Of six twelfths of Switzerland's contribution not later than 20 April, and
  - Six twelfths of its contribution not later than 15 July.
- 2.2. The contributions of Switzerland shall be expressed and paid in euro.
- 2.3. Switzerland shall pay its contribution under this Agreement in accordance with the schedule in point 2.1. Any delay in payment shall give rise to the payment of interest at a rate equal to the one-month Euro inter-bank offered rate (EURIBOR) on the due date as on page 248 of Telerate. This rate shall be increased by 1,5 percentage points for each month of delay. The increased rate shall be applied to the entire period of delay. However, the interest shall be due only in respect of any contribution paid more than thirty days after the scheduled payment dates mentioned in point 2.1.
- 2.4. Costs incurred by Swiss representatives and experts participating in meetings convened by the Commission under this Agreement shall not be reimbursed by the Commission. As stated in Article 6(2), the costs associated with the secondment of Swiss national officials to Eurostat shall be borne entirely by Switzerland.

Subject to an agreement between EUROSTAT and the Swiss Federal Statistical Office, Switzerland may deduct from its financial contribution the cost for seconded national experts. The maximum amount to be deducted for each official shall not exceed the maximum deducted for officials from EEA-EFTA countries being seconded to Eurostat under the EEA Agreement. This sum shall be agreed on an annual basis.
- 2.5. Payments effected by Switzerland shall be credited as budgetary revenue earmarked to the corresponding budget line of the statement of revenue of the General Budget of the European Union. The Financial Regulation applicable to the General Budget of the European Communities shall apply to the management of appropriations.

**3. Conditions for implementation**

- 3.1. The financial contribution of Switzerland in accordance with Article 8 shall normally remain unchanged for the financial year in question.
- 3.2. The Commission, at the time of the closure of the accounts relating to each financial year (n), within the framework of the establishment of the revenue and expenditure account, shall proceed to the regularisation of the accounts with respect to the participation of Switzerland, taking into consideration modifications resulting from transfers, cancellations, carry-overs, or by supplementary and amending budgets during the financial year. This regularisation shall be made in the framework of the establishment of the budget for the following year (n+2) and should be reflected in the call for funds.

**4. Information**

- 4.1. At the latest on 31 May of each financial year (n+1), the statement of appropriations corresponding to Eurostat's operational and administrative financial obligations, related to the previous financial year (n), shall be prepared and transmitted to Switzerland for information, according to the format of the Commission's revenue and expenditure account.
  - 4.2. The Commission shall communicate to Switzerland all other general financial data relating to Eurostat which is made available to EEA-EFTA States.
-

**FINAL ACT**

The Plenipotentiaries

of the EUROPEAN COMMUNITY

and

of the SWISS CONFEDERATION,

meeting at Luxembourg on 26 October 2004 for the signature of the Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics, have adopted the following Joint Declaration, which is attached to this Final Act:

Joint Declaration by the Contracting Parties on the revision of Annexes A and B by the Joint Committee.

They have also noted the following Declaration, which is attached to this Final Act:

Declaration of the Council on Swiss attendance of committees.

Hecho en Luxemburgo, el veintiséis de octubre de dos mil cuatro.

V Lucemburku dne dvacátého šestého října dva tisíce čtyři.

Udfærdiget i Luxembourg den seksogtyvende oktober to tusind og fire.

Geschehen zu Luxemburg am sechszwanzigsten Oktober zweitausendundvier.

Kahe tuhanda neljanda aasta oktoobrikuu kahekümne kuuendal päeval Luxembourgis.

Έγινε στο Λουξεμβούργο, στις είκοσι έξι Οκτωβρίου δύο χιλιάδες τέσσερα.

Done at Luxembourg on the twenty-sixth day of October in the year two thousand and four.

Fait à Luxembourg, le vingt-six octobre deux mille quatre.

Fatto a Lussemburgo, addì ventisei ottobre duemilaquattro.

Luksemburgā, divi tūkstoši ceturtdā gada divdesmit sestajā oktobrī.

Priimta du tūkstančiai ketvirtų metų spalio dvidešimt šeštą dieną Liuksemburge.

Kelt Luxembourgban, a kettőezer-negyedik év október havának huszonhatodik napján.

Magħmula fil-Lussemburgu fis-sitta u għoxrin jum ta' Ottubru tas-sena elfejn u erbgħa.

Gedaan te Luxemburg, de zesentwintigste oktober tweeduizendvier.

Sporządzono w Luksemburgu, dnia dwudziestego szóstego października roku dwa tysiące czwartego.

Feito no Luxemburgo, em vinte e seis de Outubro de dois mil e quatro.

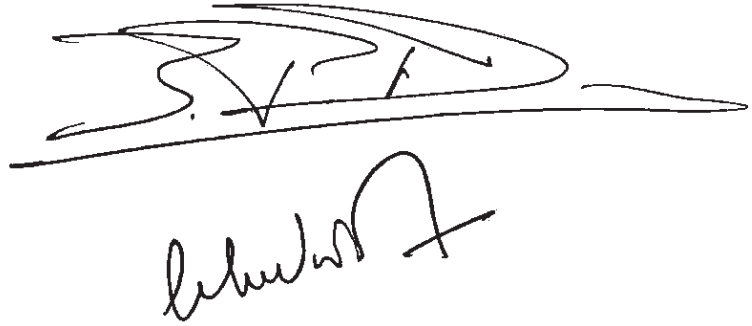
V Luxemburgu dvadsiateho šiesteho oktobra dvetisícčtyri.

V Luxembourggu, dne šestindvajsetega oktobra leta dva tisoč štiri

Tehty Luxemburgissa kahdentenäkymmenentenäkuudentena päivänä lokakuuta vuonna kaksituhattaneljä.

Som skedde i Luxemburg den tjugosjätte oktober tjugohundrafyra.

Por la Comunidad Europea  
Za Evropské společenství  
For Det Europæiske Fællesskab  
Für die Europäische Gemeinschaft  
Euroopa Ühenduse nimel  
Για την Ευρωπαϊκή Κοινότητα  
For the European Community  
Pour la Communauté européenne  
Per la Comunità europea  
Eiropas Kopienas vārdā  
Europos bendrijos vardu  
az Európai Közösség részéről  
Għall-Komunità Ewropea  
Voor de Europese Gemeenschap  
W imieniu Wspólnoty Europejskiej  
Pela Comunidade Europeia  
Za Európske spoločenstvo  
za Evropsko skupnost  
Euroopan yhteisön puolesta  
På Europeiska gemenskapens vägnar



Für die Schweizerische Eidgenossenschaft  
Pour la Confédération suisse  
Per la Confederazione svizzera



**JOINT DECLARATION BY THE CONTRACTING PARTIES**  
**on the revision of annexes A and B by the Joint Committee**

The Joint Committee shall meet as soon as possible after entry into force of this Agreement to prepare a revision to Annex A in order to update the list of legislative acts contained therein and to include the current Community statistical programme. In addition, the Joint Committee shall update and review Annexes A and B at the time of the entry into force of each new multi-year statistical programme referred to in Article 5(1) in order to add a reference to that programme and take account of the specificities of that programme, including the arrangements for the financial contribution.

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**DECLARATION OF THE COUNCIL**  
**on Swiss attendance of committees**

The Council agrees that Switzerland's representatives, as from the start of the cooperation in connection with the programmes and actions referred to in Article 5(2) of this Agreement, shall, insofar as the items concern them, participate fully without the right to vote in the committees and other bodies which assist the Commission of the European Communities in the management and development of these programmes and actions.

In case of other committees dealing with areas covered by this Agreement in which Switzerland has adopted either the *acquis communautaire* or equivalent measures, the Commission will consult Swiss experts by the method specified in Article 100 of the EEA Agreement.

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**Information relating to the entry into force of the Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics <sup>(1)</sup>**

The procedures necessary for the entry into force of the Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics, signed in Luxembourg on 26 October 2004, having been completed on 27 February 2006, this Agreement will enter into force, in conformity with its Article 13(1), on 1 January 2007.

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<sup>(1)</sup> See page 2 of this Official Journal.

**COUNCIL DECISION****of 27 February 2006****concerning the conclusion of an Agreement between the Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confederation in the MEDIA Plus and MEDIA Training Community programmes, and a Final Act**

(2006/234/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 150(4) and 157(3), in conjunction with the first sentence of Article 300(2), and the first subparagraph of Article 300(3), thereof,

Having regard to the proposal from the Commission

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Whereas:

- (1) The Commission has negotiated, on behalf of the European Community, an agreement to enable the Swiss Confederation to participate in the MEDIA Plus and MEDIA Training Community programmes, and a Final Act.
- (2) The Agreement and the Final Act were signed on behalf of the Community on 26 October 2004, subject to conclusion at a later date.
- (3) This Agreement and Final Act should be approved by the Community,

HAS DECIDED AS FOLLOWS:

*Article 1*

The Agreement between the European Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confed-

eration in the MEDIA Plus and MEDIA Training Community programmes, and the Final Act, are hereby approved on behalf of the Community.

The text of the Agreement and the Final Act are attached to this Decision.

*Article 2*

The Commission shall represent the Community in the Joint Committee established by Article 8 of the Agreement.

*Article 3*

The President of the Council shall, on behalf of the Community, give the notification provided for in Article 13 of the Agreement <sup>(2)</sup>.

*Article 4*

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 27 February 2006.

*For the Council*

*The President*

U. PLASSNIK

<sup>(1)</sup> Not yet published in the Official Journal.

<sup>(2)</sup> The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.



## AGREEMENT

### **between the European Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confederation in the Community programmes MEDIA Plus and MEDIA Training**

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community',  
of the one part, and  
THE SWISS CONFEDERATION, hereinafter referred to as 'Switzerland',  
of the other part  
hereinafter together referred to as 'the Contracting Parties',

WHEREAS the Community, pursuant to Council Decision 2000/821/EC of 20 December 2000 and Decision No 163/2001/EC of the European Parliament and of the Council of 19 January 2001, as last amended by Decision No 846/2004/EC of the European Parliament and of the Council of 29 April 2004 and Decision No 845/2004/EC of the European Parliament and of the Council of 29 April 2004, has established a programme to encourage the development, distribution and promotion of European audiovisual works and a training programme for professionals in the European audiovisual programme industry (hereinafter referred to as the 'MEDIA programme');

WHEREAS the MEDIA programme provides, under certain conditions, for the participation of third countries which are party to the Council of Europe Convention on Transfrontier Television, other than EFTA countries party to the EEA Agreement and candidate countries for accession to the European Union, on the basis of supplementary appropriations and specific procedures to be established in agreements between the parties concerned;

WHEREAS the abovementioned provisions make the opening up of programmes to these third countries subject to a prior examination of the compatibility of their legislation with the relevant *acquis communautaire*;

WHEREAS Switzerland and the Community, in the Joint Declaration on further future negotiations in the Final Act of the seven agreements of 21 June 1999, have expressed a wish to negotiate Switzerland's participation in these programmes;

WHEREAS Switzerland is committed to completing its legislative framework in order to ensure the required level of compatibility with the *acquis communautaire*; whereas, therefore, on the date of entry into force of this Agreement, Switzerland fulfils the participation conditions laid down by the abovementioned Decisions;

WHEREAS, in particular, cooperation between the Community and Switzerland, with a view to pursuing the objectives fixed for the MEDIA programme, within the context of transnational cooperation activities involving the Community and Switzerland, by its nature enriches the impact of the different actions undertaken pursuant to that programme and strengthens the skill levels of human resources in the Community and Switzerland;

WHEREAS the Contracting Parties have a common interest in the development of the European audiovisual programme industry in the context of wider cooperation;

WHEREAS the Contracting Parties consequently expect to obtain mutual benefits from the participation of Switzerland in the MEDIA programme,

HAVE AGREED AS FOLLOWS:

#### *Article 1*

##### **Subject matter**

The objective of the cooperation between the Community and Switzerland established by this Agreement is the participation of Switzerland in all actions under the MEDIA programme. Unless otherwise provided by this Agreement, this shall take place with due regard for the objectives, criteria, procedures and deadlines laid down by the legal acts concerning the programmes and listed in Annex I.

#### *Article 2*

##### **Compatibility of legislative frameworks**

In order to be able to fulfil the participation conditions laid down by the abovementioned Decisions on the date of entry into force of this Agreement, Switzerland will implement the

measures described in Annex II, with a view to completing its legislative framework so as to ensure the required level of compatibility with the *acquis communautaire*.

#### *Article 3*

##### **Eligibility**

Unless otherwise provided in this Agreement:

1. The conditions for the participation of organisations and individuals from Switzerland in each of the actions shall be the same as those applicable to organisations and individuals from the Member States of the Community.
2. The eligibility of institutions, organisations and individuals from Switzerland shall be governed by the provisions of the legal acts concerning the programmes and listed in Annex I.

3. In order to ensure the Community dimension of the programmes, all projects and activities necessitating a European partnership shall, in order to be eligible for Community financial support, include at least one partner from one of the Member States of the Community. Other projects and actions shall present a clear European and Community dimension.

#### Article 4

##### Procedures

1. The terms and conditions for the submission, assessment and selection of applications from institutions, organisations and individuals from Switzerland shall be the same as those applicable to eligible institutions, organisations and individuals from the Member States of the Community.

2. In accordance with the relevant provisions of the legal acts listed in Annex I, the Commission of the European Communities (hereinafter referred to as 'the Commission') may consider Swiss experts when appointing independent experts to assist it with project evaluation.

3. The language to be used in all contacts with the Commission, as regards the application process, contracts, reports to be submitted and other administrative aspects of the programmes, shall be one of the official languages of the Community.

#### Article 5

##### National structures

1. Switzerland shall establish the appropriate structures and mechanisms at national level and shall adopt all other necessary measures for national coordination and organisation of activities to implement the MEDIA programme in accordance with the relevant provisions of the legal acts listed in Annex I. In particular, Switzerland undertakes to establish a MEDIA Desk in cooperation with the Commission.

2. The maximum amount of financial support to be allocated by the programmes to the activities of the MEDIA Desk shall not exceed 50 % for the total budget for those activities.

#### Article 6

##### Financial provisions

To cover the costs resulting from its participation in the MEDIA programme, Switzerland shall each year pay a contribution to the general budget of the European Union in accordance with the terms and conditions set out in Annex III.

#### Article 7

##### Financial control

The rules on financial control relating to Swiss participants in the MEDIA programme are set out in Annex IV.

#### Article 8

##### Joint Committee

1. A Joint Committee is hereby established.

2. The Joint Committee shall consist of representatives of the Community and representatives of Switzerland. It shall act by mutual agreement.

3. The Joint Committee shall be responsible for the management and proper implementation of this Agreement.

4. At the request of either one of them, the Contracting Parties shall exchange information and hold consultations within the Joint Committee on the activities covered by this Agreement and related financial aspects.

5. In order to discuss the proper functioning of this Agreement, the Joint Committee shall meet at the request of either of the Contracting Parties. It shall adopt its rules of procedure and may create working groups to assist it with its task.

6. The Contracting Parties may submit any disputes relating to the interpretation or application of this Agreement to the Joint Committee. The Joint Committee may settle such disputes and shall be provided with any information which might be useful for an in-depth examination of the situation with a view to finding an acceptable solution. To this end, the Joint Committee shall examine all possibilities for maintaining the proper functioning of this Agreement.

7. The Joint Committee shall periodically examine the Annexes to this Agreement. Acting on a proposal from either of the Contracting Parties, it may decide to amend them.

#### Article 9

##### Monitoring, evaluation and reports

Without prejudice to the responsibilities of the Community in relation to programme monitoring and evaluation pursuant to the provisions of the legal acts concerning the programmes and listed in Annex I, the participation of Switzerland in the MEDIA programme shall be continuously monitored in the context of a partnership between the Community and Switzerland. In order to help it to prepare reports on the experience acquired in the application of the programme, Switzerland shall submit to the Commission a contribution describing the national measures taken by Switzerland in this regard. It shall take part in any other specific activities proposed by the Community for this purpose.

#### Article 10

##### Annexes

The Annexes to this Agreement shall form an integral part thereof.

*Article 11***Territorial application**

This Agreement shall apply to the territories in which the Treaty establishing the European Community is applicable, under the conditions laid down in that Treaty, and to the territory of Switzerland.

*Article 12***Duration and termination**

1. This Agreement is concluded for the duration of the MEDIA programme.
2. If the Community adopts new multiannual programmes to encourage the development, distribution and promotion of European audiovisual works or in the field of training for professionals in the European audiovisual programme industry, this Agreement may be extended or renegotiated under mutually agreed conditions.
3. Either the Community or Switzerland may terminate this Agreement by notifying the other Party of its decision. The Agreement shall cease to apply 12 months after the date of such notification. Projects and activities in progress at the time of termination shall continue until their completion according to the conditions laid down in this Agreement. The Contracting

Parties shall settle by mutual agreement any other consequences of termination.

*Article 13***Entry into force**

This Agreement shall enter into force on the first day of the second month following the notification by the Contracting Parties of the completion of their respective procedures.

*Article 14***Use of languages**

1. This Agreement shall be drawn up in duplicate in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish languages, each of these texts being equally authentic.
2. The Maltese language version shall be authenticated by the Contracting Parties on the basis of an exchange of letters. It shall also be authentic, in the same way as for the languages referred to in paragraph 1.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have hereunto set their hands.

Hecho en Luxemburgo, el veintiséis de octubre de dos mil cuatro.

V Lucemburku dne dvacátého šestého října dva tisíce čtyři.

Udfærdiget i Luxembourg den seksogtyvende oktober to tusind og fire.

Geschehen zu Luxemburg am sechszwanzigsten Oktober zweitausendundvier.

Kahe tuhande neljanda aasta oktoobrikuu kahekümne kuuendal päeval Luxembourgis.

Έγινε στο Λουξεμβούργο, στις είκοσι έξι Οκτωβρίου δύο χιλιάδες τέσσερα.

Done at Luxembourg on the twenty-sixth day of October in the year two thousand and four.

Fait à Luxembourg, le vingt-six octobre deux mille quatre.

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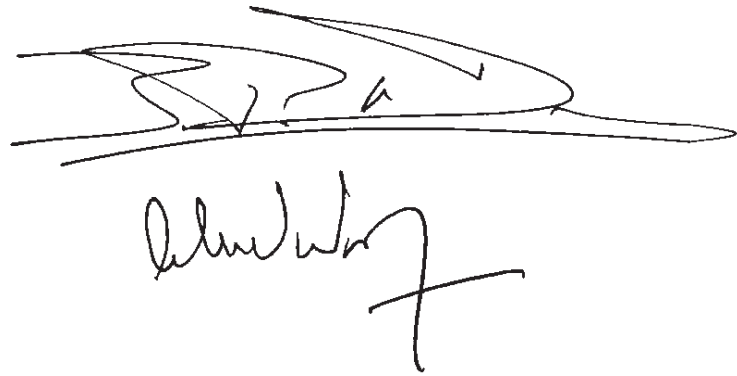
V Luxemburgu dvadsiateho šiesteho oktobra dvetisícčtyri.

V Luxembourg, dne šestindvajsetega oktobra leta dva tisoč štiri

Tehty Luxemburgissa kahdentenäkymmenentenäkuudentena päivänä lokakuuta vuonna kaksituhattaneljä.

Som skedde i Luxemburg den tjugosjätte oktober tjugohundrafyra.

Por la Comunidad Europea  
Za Evropské společenství  
For Det Europæiske Fællesskab  
Für die Europäische Gemeinschaft  
Euroopa Ühenduse nimel  
Για την Ευρωπαϊκή Κοινότητα  
For the European Community  
Pour la Communauté européenne  
Per la Comunità europea  
Eiropas Kopienas vārdā  
Europos bendrijos vardu  
az Európai Közösség részéről  
Ghall-Komunità Ewropea  
Voor de Europese Gemeenschap  
W imieniu Wspólnoty Europejskiej  
Pela Comunidade Europeia  
Za Európske spoločenstvo  
za Evropsko skupnost  
Euroopan yhteisön puolesta  
På Europeiska gemenskapens vägnar



Für die Schweizerische Eidgenossenschaft  
Pour la Confédération suisse  
Per la Confederazione svizzera



## ANNEX I

**List of legal acts concerning the MEDIA Programme**

Council Decision 2000/821/EC of 20 December 2000 on the implementation of a programme encouraging the development, distribution and promotion of European audiovisual works (Media Plus — Development, Distribution and Promotion) (2001-2005) (OJ L 336, 30.12.2000, p. 82).

Decision No 163/2001/EC of the European Parliament and of the Council of 19 January 2001 on the implementation of a training programme for professionals in the European audiovisual programme industry (MEDIA-Training) (2001-2005) (OJ L 26, 27.1.2001, p. 1).

Council Regulation (EC) No 885/2004 of 26 April 2004 adapting Regulation (EC) No 2003/2003 of the European Parliament and of the Council, Council Regulations (EC) No 1334/2000, (EC) No 2157/2001, (EC) No 152/2002, (EC) No 1499/2002, (EC) No 1500/2003 and (EC) No 1798/2003, Decisions No 1719/1999/EC, No 1720/1999/EC, No 253/2000/EC, No 508/2000/EC, No 1031/2000/EC, No 163/2001/EC, No 2235/2002/EC and No 291/2003/EC of the European Parliament and of the Council, and Council Decisions 1999/382/EC, 2000/821/EC, 2003/17/EC and 2003/893/EC in the fields of free movement of goods, company law, agriculture, taxation, education and training, culture and audiovisual policy and external relations, by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (OJ L 168, 1.5.2004, p. 1).

Decision No 845/2004/EC of the European Parliament and of the Council of 29 April 2004 amending Decision No 163/2001/EC of the European Parliament and of the Council on the implementation of a training programme for professionals in the European audiovisual programme industry (MEDIA-Training) (2001-2005) (OJ L 157, 30.4.2004, p. 1).

Decision No 846/2004/EC of the European Parliament and of the Council of 29 April 2004 amending Council Decision 2000/821/EC on the implementation of a programme to encourage the development, distribution and promotion of European audiovisual works (MEDIA Plus — Development, Distribution and Promotion) (2001-2005) (OJ L 157, 30.4.2004, p. 4).

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## ANNEX II

## Article 1

**Freedom of broadcast reception and retransmission**

1. Where a Member State of the Community is party to the Council of Europe Convention on Transfrontier Television, Switzerland shall ensure the freedom of reception and retransmission on its territory with regard to television broadcasts under the jurisdiction of that Member State in accordance with the provisions of the Convention.
2. In cases other than those referred to in paragraph 1, Switzerland shall ensure freedom of reception and retransmission on its territory with regard to television broadcasts under the jurisdiction of a Member State of the Community (as determined pursuant to Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, hereinafter referred to as the 'Television without Frontiers Directive', as amended by Directive 97/36/EC of the European Parliament and of the Council), in accordance with the following procedures: Switzerland shall maintain the right to
  - (a) suspend retransmission of broadcasts from a television broadcasting organisation under the jurisdiction of a Member State of the Community which has manifestly, seriously and gravely infringed the rules on the protection of minors and human dignity set out in Articles 22 and 22a of the 'Television without Frontiers' Directive;
  - (b) take action against a television broadcasting organisation which is established in the territory of a Member State of the Community but whose activity is entirely or mainly directed towards Swiss territory, if the place of establishment was chosen with a view to evading the rules which would have applied to the organisation had it been established on Swiss territory. These conditions will be interpreted in the light of the relevant case law of the Court of Justice of the European Communities (Case 33/74 Van Binsbergen v. Bestuur van de Bedrijfsvereniging, [1974] ECR 1299; and Case C-23/93 TV10 SA v Commissariaat voor de Media, [1994] ECR I-4795).
3. In the cases referred to in paragraph 2 of this Article, action shall be taken after an exchange of views within the Joint Committee established under this Agreement.

## Article 2

**Promotion of distribution and production of television programmes**

1. Switzerland shall apply by analogy Articles 4 and 5 of Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, as amended by Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997, and shall ensure that broadcasters subject to the jurisdiction of its authorities implement them.
  2. For the purposes of implementation of the previous paragraph, the definition of a European work shall be that set out in Article 6 of Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, as amended by Directive 97/36/EC.
  3. Switzerland shall ensure that works originating from Member States of the Community are not subject to discrimination in the context of the application of this Agreement and for the period of its duration.
  4. The procedures for realising these commitments shall be defined in the Swiss regulations applicable to television broadcasting and shall be legally binding from the date of entry into force of this Agreement. This regulatory framework shall require broadcasters to ensure that the proportions laid down in Directive 89/552/EEC are achieved, in accordance with paragraphs 1 and 2 of this Article, and that each year they provide the Swiss regulator with a report on the proportions achieved and the reasons for any failure to comply. Where these proportions are only partially achieved and the reasons given are inadequate, the competent authority shall adopt appropriate measures. In all cases, broadcasters shall ensure that progress is made towards the proportions laid down in the Directive.
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## ANNEX III

**Financial contribution of Switzerland to 'MEDIA Plus' and 'Media Training'**

1. The financial contribution to be made by Switzerland to the budget of the European Union in order to participate in the 'MEDIA Plus' and 'MEDIA-Training' programmes, which will be allocated proportionally to the respective programme budgets, shall be as follows (in million euro):

2005	2006
4,2	4,2

2. The Financial Regulation applicable to the general budget of the European Communities shall apply, in particular to the management of Switzerland's contribution.
3. The travel and subsistence expenses of representatives and experts from Switzerland in connection with their participation in meetings organised by the Commission in conjunction with implementation of the programmes shall be reimbursed by the Commission on the same basis and in accordance with the procedures currently in force for experts from the Member States of the Community.
4. Following the entry into force of this Agreement, and at the beginning of each subsequent year, the Commission will send to Switzerland a request for funds corresponding to its contribution to the budget for the programmes, in accordance with this Agreement.  
This contribution shall be expressed in euro and shall be paid into a euro bank account held by the Commission.
5. Switzerland shall pay its contribution by 1 April, if the request for funds is sent by the Commission before 1 March, or no later than 30 days after the request for funds if this is sent by the Commission after that date.  
Any delay in the payment of the contribution will entail the payment of interest by Switzerland on the outstanding amount from the due date. The interest rate shall correspond to the rate applied by the European Central Bank, on the due date, for its operations in euro, increased by 3,5 percentage points.

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## ANNEX IV

**Financial control of Swiss participants in the MEDIA programme***Article 1***Direct communication**

The Commission shall communicate directly with programme participants established in Switzerland and with their subcontractors. These may submit directly to the Commission all relevant information and documentation which they are required to provide on the basis of the instruments referred to in this Agreement and of the contracts concluded to implement them.

*Article 2***Audits**

1. In accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002, and with the other provisions referred to in this Agreement, the contracts concluded with programme participants established in Switzerland may provide for scientific, financial, technological or other audits to be conducted at any time on the premises of participants or their subcontractors by Commission staff or other persons mandated by the Commission.
2. Commission staff and other persons mandated by the Commission shall have appropriate access to sites, works and documents and to all the information required in order to carry out such audits, including information in electronic form. This right of access shall be stated explicitly in the contracts entered into to implement the instruments referred to in this Agreement.
3. The Court of Auditors of the European Communities shall have the same rights as the Commission.
4. Audits may be conducted after the programme or this Agreement expires, on the terms laid down in the contracts in question.
5. The Swiss Federal Audit Office shall be informed in advance of audits to be conducted on Swiss territory. This information shall not be a legal condition for carrying out such audits.

*Article 3***On-the-spot checks**

1. Within the framework of this Agreement, the Commission (OLAF) shall be authorised to carry out on-the-spot checks and inspections on Swiss territory, in accordance with the terms and conditions laid down in Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities.
2. On-the-spot checks and inspections shall be prepared and conducted by the Commission in close collaboration with the Swiss Federal Audit Office or with the other competent Swiss authorities designated by the Swiss Federal Audit Office, which shall be notified in good time of the object, purpose and legal basis of the checks and inspections, so that they can provide all the requisite help. To that end, officials of the competent Swiss authorities may participate in on-the-spot checks and inspections.
3. If the Swiss authorities concerned so wish, on-the-spot checks and inspections may be carried out jointly by the Commission and by them.
4. Where the participants in the MEDIA programme resist an on-the-spot check or inspection, the Swiss authorities, acting in accordance with national rules, shall give Commission inspectors such assistance as they need to allow them to discharge their duty of carrying out an on-the-spot check or inspection.
5. The Commission shall report as soon as possible to the Swiss Federal Audit Office any fact or suspicion relating to an irregularity which has come to its notice in the course of the on-the-spot check or inspection. In any event, the Commission shall be required to inform the abovementioned authority of the result of such checks and inspections.



*Article 4***Information and consultation**

1. For the purposes of proper implementation of this Annex, the competent Swiss and Community authorities shall regularly exchange information and, at the request of one of the Parties, shall conduct consultations.
2. The competent Swiss authorities shall inform the Commission without delay of any information which has come to their notice suggesting an irregularity in connection with the conclusion and implementation of contracts or agreements concluded to implement the instruments referred to in this Agreement.

*Article 5***Confidentiality**

Information communicated or acquired in any form under this Annex shall be covered by professional secrecy and protected in the same way as similar information is protected by Swiss law and by the corresponding provisions applicable to the Community institutions. Such information may not be communicated to persons other than those in the Community institutions, in the Member States or in Switzerland whose functions require them to know it, nor may it be used for purposes other than to ensure effective protection of the Contracting Parties' financial interests.

*Article 6***Administrative measures and penalties**

Without prejudice to application of Swiss criminal law, administrative measures and penalties may be imposed by the Commission in accordance with Regulation (EC, Euratom) No 1605/2002, Regulation (EC, Euratom) No 2342/2002 and Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests.

*Article 7***Recovery and enforcement**

Decisions taken by the Commission under the MEDIA programme within the scope of this Agreement which impose a pecuniary obligation on persons other than States shall be enforceable in Switzerland. The enforcement order shall be issued, without any checks other than verification of the authenticity of the act, by the authority designated by the Swiss government, which shall inform the Commission thereof. Enforcement shall take place in accordance with the Swiss rules of procedure. The legality of the enforcement decision shall be subject to control by the Court of Justice of the European Communities.

Judgments given by the Court of Justice of the European Communities pursuant to an arbitration clause shall be enforceable on the same terms.

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**FINAL ACT**

The plenipotentiaries:

of the EUROPEAN COMMUNITY

and

of the SWISS CONFEDERATION,

meeting at Luxembourg on 26 October 2004, for the signature of the Agreement between the European Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confederation in the Community programmes MEDIA Plus and MEDIA Training, have adopted the following joint declaration, which is attached to this Final Act:

Joint Declaration by the Contracting parties on the development of a mutually beneficial dialogue on audiovisual policy.

They have also noted the following declaration, which is attached to this Final Act:

Declaration of the Council on Swiss participation in committees.

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Za Evropské společenství  
For Det Europæiske Fællesskab  
Für die Europäische Gemeinschaft  
Euroopa Ühenduse nimel  
Για την Ευρωπαϊκή Κοινότητα  
For the European Community  
Pour la Communauté européenne  
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Europos bendrijos vardu  
az Európai Közösség részéről  
Għall-Komunità Ewropea  
Voor de Europese Gemeenschap  
W imieniu Wspólnoty Europejskiej  
Pela Comunidade Europeia  
Za Európske spoločenstvo  
za Evropsko skupnost  
Euroopan yhteisön puolesta  
På Europeiska gemenskapens vägnar

Für die Schweizerische Eidgenossenschaft  
Pour la Confédération suisse  
Per la Confederazione svizzera

**JOINT DECLARATION****by the contracting parties on the development of a mutually beneficial dialogue on audiovisual policy**

The two Parties declare that, with a view to ensuring the proper implementation of the Agreement and consolidating the spirit of cooperation in matters relating to audiovisual policy, the development of a dialogue on these subjects is a matter of mutual interest.

The two Parties declare that this dialogue will take place both within the Joint Committee established under the Agreement and in other arenas, wherever appropriate and whenever necessary. The two Parties declare that, with this in mind, representatives of Switzerland may be invited to meetings held on the fringe of meetings of the 'Contact Committee' established by Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities.

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**DECLARATION OF THE COUNCIL  
on Swiss participation in committees**

The Council agrees that Switzerland's representatives shall, in so far as the items concern them, attend meetings of the MEDIA programme committees and expert groups as observers. These committees and expert groups shall meet without the Swiss representatives when voting.

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**Information relating to the entry into force of the Agreement between the European Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confederation in the Community programmes MEDIA Plus and MEDIA Training <sup>(1)</sup>**

The procedures necessary for the entry into force of the Agreement between the European Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confederation in the Community programmes MEDIA Plus and MEDIA Training, signed in Luxembourg on 26 October 2004, having been completed on 27 February 2006, this Agreement will enter into force, in conformity with its Article 13, on 1 April 2006.

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<sup>(1)</sup> See page 23 of this Official Journal.

## COUNCIL DECISION

of 27 February 2006

**on the conclusion, on behalf of the European Community, of the Agreement between the European Community and the Swiss Confederation concerning the latter's participation in the European Environment Agency and the European Environment Information and Observation Network**

(2006/235/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) in conjunction with the first sentence of the first subparagraph of Article 300(2), the first sentence of the first subparagraph of Article 300(3) and Article 300(4) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament <sup>(1)</sup>,

Whereas:

- (1) The activities of the European Environment Agency and the European Environment Information and Observation Network, established by Council Regulation (EEC) No 1210/90 <sup>(2)</sup>, have already been extended to other European countries by means of bilateral agreements entered into by the Community, taking into account the transboundary nature of environmental issues and the importance of enhancing international cooperation in the field of environment.
- (2) On 20 July 2000, the Council authorised the Commission to negotiate with the Swiss Confederation an agreement concerning the participation in the European Environment Agency and the European Environment Information and Observation Network.
- (3) Subject to its conclusion at a later date, the Agreement was signed on behalf of the European Community on 26 October 2004.
- (4) The Agreement should be approved by the Community,

HAS DECIDED AS FOLLOWS:

*Article 1*

The Agreement between the European Community and the Swiss Confederation concerning the latter's participation in the European Environment Agency and the European Environment Information and Observation Network is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

*Article 2*

The President of the Council shall, on behalf of the Community, give the notification provided for in Article 20 of the Agreement <sup>(3)</sup>.

*Article 3*

The Community shall be represented by the Commission on the Joint Committee set up under Article 16 of the Agreement.

The position to be taken by the Community as regards decisions of the Joint Committee shall be adopted by the Council, acting by qualified majority on a proposal from the Commission, for matters relating to the financial contribution of Switzerland and for any substantial derogation regarding the incorporation of acts of Community legislation to Annex I and for any amendment to Annex III.

For all other decisions of the Joint Committee, including the regular incorporation of acts of Community legislation to Annex I, subject to any technical adjustment needed, and matters relating to the internal functioning of the Joint Committee, the Community position shall be adopted by the Commission.

*Article 4*

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 27 February 2006.

*For the Council*

*The President*

U. PLASSNIK

<sup>(1)</sup> Not yet published in the Official Journal.

<sup>(2)</sup> OJ L 120, 11.5.1990, p. 1. Regulation as last amended by Regulation (EC) No 1641/2003 of the European Parliament and of the Council (OJ L 245, 23.9.2003, p. 1).

<sup>(3)</sup> The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

**AGREEMENT****between the European Community and the Swiss Confederation concerning the participation of Switzerland in the European Environment Agency and the European Environment Information and Observation Network**

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community',

and

THE SWISS CONFEDERATION, hereinafter referred to as 'Switzerland',

Hereinafter together referred to as the 'Contracting Parties',

RECOGNISING the transboundary nature of environmental issues and the importance of enhancing international cooperation in the field of environment,

TAKING INTO ACCOUNT Council Regulation (EEC) No 1210/90 of 7 May 1990 on the establishment of the European Environment Agency and the European Environment Information and Observation Network, as amended by Council Regulation (EC) No 933/1999 and Regulation (EC) No 1641/2003 of the European Parliament and of the Council,

TAKING INTO ACCOUNT that the activities of the European Environment Agency and the European Environment Information and Observation Network have already extended to other European countries by means of bilateral agreements entered into by the European Community,

HAVE AGREED AS FOLLOWS:

*Article 1*

Switzerland shall participate fully in the European Environment Agency, hereinafter referred to as the 'Agency', and the European Environment Information and Observation Network (EIONET) and shall apply the acts listed in Annex I.

*Article 2*

Switzerland shall contribute financially to the activities referred to under Article 1 (Agency and EIONET) in accordance with the following:

- (a) The annual contribution for a given year shall be calculated on the basis of the Community subsidy to the budget of the Agency for that given year, divided by the number of Member States of the Community.
- (b) The further terms and conditions of the financial contribution of Switzerland are set out in Annex II.

*Article 3*

Switzerland shall participate fully, without the right to vote, in the Agency Management Board and shall be associated with the work of the Scientific Committee of the Agency.

*Article 4*

Switzerland shall, within six months from the entry into force of this Agreement, inform the Agency of the main component elements of its national information networks as set out in the acts listed in Annex I.

*Article 5*

Switzerland shall in particular designate from among the institutions referred to in Article 4 or from among other organisations established in its territory a 'national focal point' for coordinating and/or transmitting the information to be supplied at national level to the Agency and to the institutions or bodies forming part of the EIONET, including the topic centres referred to under Article 6.

*Article 6*

Switzerland may also, within the period laid down in Article 4, identify the institutions or other organisations established in its territory, which could be specifically entrusted with the task of cooperating with the Agency as regards certain topics of particular interest. An institution thus identified should be in a position to conclude an agreement with the Agency to act as a topic centre of the network for specific tasks. These centres shall cooperate with other institutions which form part of the network.

*Article 7*

Within six months of receiving the information referred to in Articles 4, 5 and 6, the Management Board of the Agency shall review the main elements of the network to take account of the participation of Switzerland.

*Article 8*

Switzerland should, subject to the condition that confidentiality is protected, provide data according to the obligations and practice established in the Agency work programme.

*Article 9*

The Agency may agree with the institutions or bodies designated by Switzerland and which form part of the network, as referred to in Articles 4, 5 and 6, upon the necessary arrangements, in particular contracts, for successfully carrying out the tasks which it may entrust to them.

*Article 10*

Environmental data supplied to or emanating from the Agency may be published and shall be made accessible to the public, provided that confidential information is afforded the same degree of protection in Switzerland as it is afforded within the Community.

*Article 11*

The Agency shall have legal personality in Switzerland and it shall enjoy in Switzerland the most extensive legal capacity accorded to legal persons under its laws.

*Article 12*

Switzerland shall apply to the Agency the Protocol on the Privileges and Immunities of the European Communities, which is set out as Annex III.

*Article 13*

By way of derogation from Article 12(2)(a) of Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 on the Staff Regulations of Officials and the Conditions of Employment of other servants of the European Communities, nationals of Switzerland enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Agency.

*Article 14*

The provisions relating to financial control by the Community in Switzerland concerning the participants in the activities of the Agency or EIONET are set out in Annex IV.

*Article 15*

The Contracting Parties shall take any general or specific measures required to fulfil their obligations under this Agreement. They shall see to it that the objectives set out in this Agreement are attained.

*Article 16*

1. A Joint Committee, composed of representatives of the Contracting Parties, shall ensure the proper application of this Agreement. It shall meet upon request of a Contracting Party.

2. The Joint Committee shall hold an exchange of views on the implications of new Community legislation amending Regulation EEC No 1210/90 or any other legal instrument referred to in this Agreement, including, if appropriate, on any expected implications relating to the financial contribution laid down in Article 2 of this Agreement and Annex II thereto.

3. In accordance with the respective internal procedures of the Contracting Parties, the Joint Committee may adopt a decision amending the Annexes to this Agreement or decide any other measure to safeguard the proper functioning of this Agreement.

4. The Joint Committee shall act by mutual agreement.

*Article 17*

The Annexes to this Agreement, including the Appendix thereto, shall form an integral part thereof.

*Article 18*

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

*Article 19*

This Agreement is concluded for an unlimited period. Either Contracting Party may denounce this Agreement by notifying the other Contracting Party. This Agreement shall cease to apply six months after the date of such notification.

*Article 20*

This Agreement will be approved by the Contracting Parties in accordance with their own internal procedures. It shall enter into force on the first day of the second month following the day on which the Contracting Parties notify each other that the procedures necessary to this end have been completed.

*Article 21*

1. This Agreement shall be drawn up in duplicate in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish languages, each of these texts being equally authentic.

2. The Maltese language version shall be authenticated by the Contracting Parties on the basis of an exchange of letters. It shall also be authentic, in the same way as for the languages referred to in paragraph 1.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have hereunto set their hands.



Hecho en Luxemburgo, el veintiséis de octubre de dos mil cuatro.

V Lucemburku dne dvacátého šestého října dva tisíce čtyři.

Udfærdiget i Luxembourg den seksogtyvende oktober to tusind og fire.

Geschehen zu Luxemburg am sechszwanzigsten Oktober zweitausendundvier.

Kahe tuhanda neljanda aasta oktoobrikuu kahekümne kuuendal päeval Luxembourgis.

Έγινε στο Λουξεμβούργο, στις είκοσι έξι Οκτωβρίου δύο χιλιάδες τέσσερα.

Done at Luxembourg on the twenty-sixth day of October in the year two thousand and four.

Fait à Luxembourg, le vingt-six octobre deux mille quatre.

Fatto a Lussemburgo, addì ventisei ottobre duemilaquattro.

Luksemburgā, divi tūkstoši ceturtdā gada divdesmit sestajā oktobrī.

Priimta du tūkstančiai ketvirtų metų spalio dvidešimt šeštą dieną Liuksemburge.

Kelt Luxembourgban, a kettőezer-negyedik év október havának huszonhatodik napján.

Magħmula fil-Lussemburgu fis-sitta u għoxrin jum ta' Ottubru tas-sena elfejn u erbgħa.

Gedaan te Luxemburg, de zesentwintigste oktober tweeduizendvier.

Sporządzono w Luksemburgu, dnia dwudziestego szóstego października roku dwa tysiące czwartego.

Feito no Luxemburgo, em vinte e seis de Outubro de dois mil e quatro.

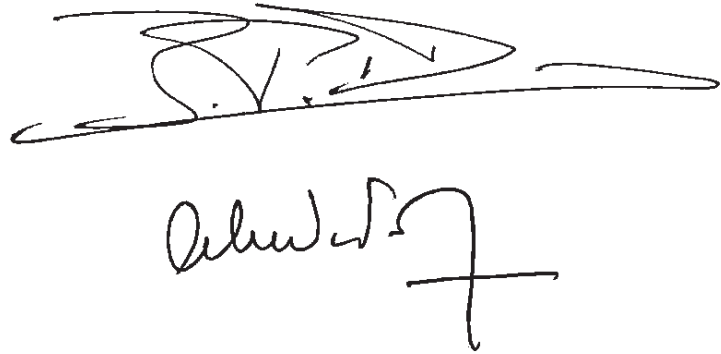
V Luxemburgu dvadsiateho šiesteho oktobra dvetisícčtyri.

V Luxembourggu, dne šestindvajsetega oktobra leta dva tisoč štiri

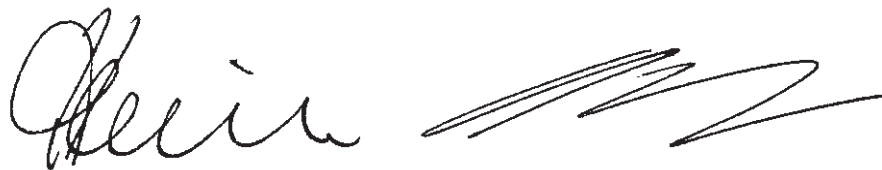
Tehty Luxemburgissa kahdentenäkymmenentenäkuudentena päivänä lokakuuta vuonna kaksituhattaneljä.

Som skedde i Luxemburg den tjugosjätte oktober tjugohundrafyra.

Por la Comunidad Europea  
Za Evropské společenství  
For Det Europæiske Fællesskab  
Für die Europäische Gemeinschaft  
Euroopa Ühenduse nimel  
Για την Ευρωπαϊκή Κοινότητα  
For the European Community  
Pour la Communauté européenne  
Per la Comunità europea  
Eiropas Kopienas vārdā  
Europos bendrijos vardu  
az Európai Közösség részéről  
Għall-Komunità Ewropea  
Voor de Europese Gemeenschap  
W imieniu Wspólnoty Europejskiej  
Pela Comunidade Europeia  
Za Európske spoločenstvo  
za Evropsko skupnost  
Euroopan yhteisön puolesta  
På Europeiska gemenskapens vägnar



Für die Schweizerische Eidgenossenschaft  
Pour la Confédération suisse  
Per la Confederazione svizzera



## ANNEX I

**Applicable acts**

Wherever acts specified in this Annex contain references to Member States of the European Community, or a requirement for a link with the latter, the references shall, for the purpose of this Agreement, be understood to apply equally to Switzerland or to the requirement of a link with Switzerland.

- Council Regulation (EEC) No 1210/90 of 7 May 1990 on the establishment of the European Environment Agency and the European Environment Information and Observation Network (OJ L 120, 11.5.1990, p. 1), as amended by:
  - Council Regulation (EC) No 933/1999 of 29 April 1999 (OJ L 117, 5.5.1999, p. 1);
  - Regulation (EC) No 1641/2003 of the European Parliament and of the Council of 22 July 2003 (OJ L 245, 29.9.2003, p. 1).

## ANNEX II

**Financial contribution of Switzerland to the European Environment Agency**

1. The financial contribution to be paid by Switzerland to the budget of the European Union to participate in the Agency will be calculated by dividing the annual Community subsidy to the Agency for a given year by the number of Member States of the Community.
2. The contribution of Switzerland will be managed in accordance with the Financial Regulation applicable to the general budget of the European Communities.
3. Travel costs and subsistence costs incurred by representatives and experts of Switzerland for the purposes of taking part in the Agency activities or meetings related to the implementation of the Agency's work programme shall be reimbursed by the Agency on the same basis as and in accordance with the procedures currently in force for the experts of the Member States of the Community.
4. After the entry into force of this Agreement and at the beginning of each following year, the Commission of the European Communities, hereinafter referred to as 'the Commission', will send to Switzerland a call for funds corresponding to its contribution to the Agency under this Agreement. For the first calendar year of its participation Switzerland will pay a contribution calculated from the date of participation to the end of the year on a pro rata basis. For the following years the contribution will be in accordance with this Agreement.

This contribution shall be expressed in euro and paid into a euro bank account of the Commission.

5. Switzerland will pay its contribution according to the call for funds by 1 May provided that the call for funds is sent by the Commission before 1 April, or at the latest in a period of 30 days after the call for funds is sent.

Any delay in the payment of the contribution shall give rise to the payment of interest by Switzerland on the outstanding amount from the due date. The interest rate corresponds to the rate applied by the European Central Bank, on the due date, for its operations in euro, increased by 1,5 percentage points.

## ANNEX III

**Protocol on the privileges and immunities of the European Communities**

THE HIGH CONTRACTING PARTIES,

CONSIDERING that, in accordance with Article 28 of the Treaty establishing a Single Council and a Single Commission of the European Communities, these Communities and the European Investment Bank shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks,

HAVE AGREED upon the following provisions, which shall be annexed to this Treaty.

## CHAPTER I

**PROPERTY, FUNDS, ASSETS AND OPERATIONS OF THE EUROPEAN COMMUNITIES***Article 1*

The premises and buildings of the Communities shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation.

The property and assets of the Communities shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice.

*Article 2*

The archives of the Communities shall be inviolable.

*Article 3*

The Communities, their assets, revenues and other property shall be exempt from all direct taxes.

The governments of the Member States shall, wherever possible, take the appropriate measures to remit or refund the amount of indirect taxes or sales taxes included in the price of movable or immovable property, where the Communities make, for their official use, substantial purchases the price of which includes taxes of this kind. These provisions shall not be applied, however, so as to have the effect of distorting competition within the Communities.

No exemption shall be granted in respect of taxes and dues which amount merely to charges for public utility services.

*Article 4*

The Communities shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of articles intended for their official use: articles so imported shall not be disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the government of that country.

The Communities shall also be exempt from any customs duties and any prohibitions and restrictions on import and exports in respect of their publications.

*Article 5*

The European Coal and Steel Community may hold currency of any kind and operate accounts in any currency.

## CHAPTER II

**COMMUNICATIONS AND LAISSEZ PASSER***Article 6*

For their official communications and the transmission of all their documents, the institutions of the Communities shall enjoy in the territory of each Member State the treatment accorded by that State to diplomatic missions.

Official correspondence and other official communications of the institutions of the Communities shall not be subject to censorship.

*Article 7*

1. *Laissez passer* in a form to be prescribed by the Council, which shall be recognized as valid travel documents by the authorities of the Member States, may be issued to members and servants of the institutions of the Communities by the Presidents of these institutions. These *laissez passer* shall be issued to officials and other servants under conditions laid down in the Staff Regulations of officials and the Conditions of Employment of other servants of the Communities.

The Commission may conclude agreements for these *laissez passer* to be recognised as valid travel documents within the territory of third countries.

2. The provisions of Article 6 of the Protocol on the privileges and immunities of the European Coal and Steel Community shall, however, remain applicable to members and servants of the institutions who are at the date of entry into force of this Treaty in possession of the *laissez passer* provided for in that Article, until the provisions of paragraph 1 of this Article are applied.

## CHAPTER III

**MEMBERS OF THE EUROPEAN PARLIAMENT***Article 8*

No administrative or other restriction shall be imposed on the free movement of Members of the European Parliament travelling to or from the place of meeting of the European Parliament.

Members of the European Parliament shall, in respect of customs and exchange control, be accorded:

- (a) by their own government, the same facilities as those accorded to senior officials travelling abroad on temporary official missions;
- (b) by the government of other Member States, the same facilities as those accorded to representatives of foreign governments on temporary official missions.

#### Article 9

Members of the European Parliament shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties.

#### Article 10

During the sessions of the European Parliament, its Members shall enjoy:

- (a) in the territory of their own State, the immunities accorded to members of their parliament;
- (b) in the territory of any other Member State, immunity from any measure of detention and from legal proceedings.

Immunity shall likewise apply to Members while they are travelling to and from the place of meeting of the European Parliament.

Immunity cannot be claimed when a Member is found in the act of committing an offence and shall not prevent the European Parliament from exercising its right to waive the immunity of one of its Members.

### CHAPTER IV

#### REPRESENTATIVES OF MEMBER STATES TAKING PART IN THE WORK OF THE INSTITUTIONS OF THE EUROPEAN COMMUNITIES

#### Article 11

Representatives of Member States taking part in the work of the institutions of the Communities, their advisers and technical experts shall, in the performance of their duties and during their travel to and from the place of meeting, enjoy the customary privileges, immunities and facilities.

This Article shall also apply to members of the advisory bodies of the Communities.

### CHAPTER V

#### OFFICIALS AND OTHER SERVANTS OF THE EUROPEAN COMMUNITIES

#### Article 12

In the territory of each Member State and whatever their nationality, officials and other servants of the Communities shall:

- (a) subject to the provisions of the Treaties relating, on the one hand, to the rules on the liability of officials and other

servants towards the Communities and, on the other hand, to the jurisdiction of the Court in disputes between the Communities and their officials and other servants, be immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. They shall continue to enjoy this immunity after they have ceased to hold office;

- (b) together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for the registration of aliens;
- (c) in respect of currency or exchange regulations, be accorded the same facilities as are customarily accorded to officials of international organisations;
- (d) enjoy the right to import free of duty their furniture and effects at the time of first taking up their post in the country concerned, and the right to re export free of duty their furniture and effects, on termination of their duties in that country, subject in either case to the conditions considered to be necessary by the government of the country in which this right is exercised;
- (e) have the right to import free of duty a motor car for their personal use, acquired either in the country of their last residence or in the country of which they are nationals on the terms ruling in the home market in that country, and to re export it free of duty, subject in either case to the conditions considered to be necessary by the government of the country concerned.

#### Article 13

Officials and other servants of the Communities shall be liable to a tax for the benefit of the Communities on salaries, wages and emoluments paid to them by the Communities, in accordance with the conditions and procedure laid down by the Council, acting on a proposal from the Commission.

They shall be exempt from national taxes on salaries, wages and emoluments paid by the Communities.

#### Article 14

In the application of income tax, wealth tax and death duties and in the application of conventions on the avoidance of double taxation concluded between Member States of the Communities, officials and other servants of the Communities who, solely by reason of the performance of their duties in the service of the Communities, establish their residence in the territory of a Member State other than their country of domicile for tax purposes at the time of entering the service of the Communities, shall be considered, both in the country of their actual residence and in the country of domicile for tax purposes, as having maintained their domicile in the latter country provided that it is a member of the Communities. This provision shall also apply to a spouse, to the extent that the latter is not separately engaged in a gainful occupation, and to children dependent on and in the care of the persons referred to in this Article.

Movable property belonging to persons referred to in the preceding paragraph and situated in the territory of the country where they are staying shall be exempt from death duties in that country; such property shall, for the assessment of such duty, be considered as being in the country of domicile for tax purposes, subject to the rights of third countries and to the possible application of provisions of international conventions on double taxation.

Any domicile acquired solely by reason of the performance of duties in the service of other international organisations shall not be taken into consideration in applying the provisions of this Article.

#### Article 15

The Council shall, acting unanimously on a proposal from the Commission, lay down the scheme of social security benefits for officials and other servants of the Communities.

#### Article 16

The Council shall, acting on a proposal from the Commission and after consulting the other institutions concerned, determine the categories of officials and other servants of the Communities to whom the provisions of Article 12, the second paragraph of Article 13, and Article 14 shall apply, in whole or in part.

The names, grades and addresses of officials and other servants included in such categories shall be communicated periodically to the governments of the Member States.

### CHAPTER VI

#### PRIVILEGES AND IMMUNITIES OF MISSIONS OF THIRD COUNTRIES ACCREDITED TO THE EUROPEAN COMMUNITIES

#### Article 17

The Member State in whose territory the Communities have their seat shall accord the customary diplomatic immunities and privileges to missions of third countries accredited to the Communities.

### CHAPTER VII

#### GENERAL PROVISIONS

#### Article 18

Privileges, immunities and facilities shall be accorded to officials and other servants of the Communities solely in the interests of the Communities.

Each institution of the Communities shall be required to waive the immunity accorded to an official or other servant wherever that institution considers that the waiver of such immunity is not contrary to the interests of the Communities.

#### Article 19

The institutions of the Communities shall, for the purpose of applying this Protocol, cooperate with the responsible authorities of the Member States concerned.

#### Article 20

Articles 12 to 15 and Article 18 shall apply to Members of the Commission.

#### Article 21

Articles 12 to 15 and Article 18 shall apply to the Judges, the Advocates General, the Registrar and the Assistant Rapporteurs of the Court of Justice, without prejudice to the provisions of Article 3 of the Protocols on the Statute of the Court of Justice concerning immunity from legal proceedings of Judges and Advocates General.

#### Article 22

This Protocol shall also apply to the European Investment Bank, to the members of its organs, to its staff and to the representatives of the Member States taking part in its activities, without prejudice to the provisions of the Protocol on the Statute of the Bank.

The European Investment Bank shall in addition be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the Bank has its seat. Similarly, its dissolution or liquidation shall not give rise to any imposition. Finally, the activities of the Bank and of its organs carried on in accordance with its Statute shall not be subject to any turnover tax.

#### Article 23

This Protocol shall also apply to the European Central Bank, to the members of its organs and to its staff, without prejudice to the provisions of the Protocol on the Statute of the European System of Central Banks and the European Central Bank.

The European Central Bank shall, in addition, be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the Bank has its seat. The activities of the Bank and of its organs carried on in accordance with the Statute of the European System of Central Banks and of the European Central Bank shall not be subject to any turnover tax.

The above provisions shall also apply to the European Monetary Institute. Its dissolution or liquidation shall not give rise to any imposition.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Protocol.

Done at Brussels this eighth day of April in the year one thousand nine hundred and sixty-five.

*Appendix to ANNEX III***Procedure for the application in Switzerland of the Protocol on privileges and immunities****1. Extension of application to Switzerland**

Wherever the Protocol on the privileges and immunities of the European Communities (hereinafter called 'the Protocol') contains references to Member States, the references shall be understood to apply equally to Switzerland, unless the following provisions determine otherwise.

**2. Exemption of the Agency from indirect taxation (including VAT)**

Goods and services exported from Switzerland shall not be subject to Swiss value added tax (VAT). In the case of goods and services provided to the Agency in Switzerland for its official use, in accordance with the second paragraph of Article 3 of the Protocol, exemption from VAT shall be granted by way of refund. Exemption from VAT shall be granted if the actual purchase price of the goods and services mentioned in the invoice or equivalent document totals at least 100 Swiss francs (inclusive of tax).

The VAT refund shall be granted on presentation to the Federal Tax Administration's VAT Main Division of the Swiss forms provided for the purpose. As a rule, refund applications shall be processed within the three months following the date on which they were lodged together with the necessary supporting documents.

**3. Procedure for the application of the rules relating to the Agency's staff**

As regards the second paragraph of Article 13 of the Protocol, Switzerland shall exempt, according to the principles of its national law, officials and other servants of the Agency within the meaning of Article 2 of Regulation (Euratom, ECSC, EEC) No 549/69 of the Council of 25 March 1969 (OJ L 74, 27.3.1969, p. 1) from federal, cantonal and communal taxes on salaries, wages and emoluments paid to them by the Community and subject to an internal tax for its own benefit.

Switzerland shall not be considered as a Member State within the meaning of point 1 above for the application of Article 14 of the Protocol.

Officials and other servants of the Agency and members of their families who are members of the social insurance system applicable to officials and other servants of the Community shall not be obliged to be members of the Swiss social security system.

The Court of Justice of the European Communities shall have exclusive jurisdiction in any matters concerning relations between the Agency or the Commission and its staff with regard to the application of Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 (OJ L 56, 4.3.1968, p. 1) and the other provisions of Community law laying down working conditions.

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## ANNEX IV

**Financial control as regards Swiss participants in activities of the European Environment Agency and EIONET***Article 1***Direct communication**

The Agency and the Commission shall communicate directly with all persons or entities established in Switzerland and participating in activities of the Agency or EIONET, as contractors, participants in Agency programmes, recipients of payments from the Agency or the Community budget, or subcontractors. Such persons may send directly to the Commission and to the Agency all relevant information and documentation which they are required to submit on the basis of the instruments referred to in this Agreement and of contracts or agreements concluded and any decisions taken pursuant to them.

*Article 2***Audits**

1. In accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 and the financial regulation adopted by the Management Board of the Agency on 26 March 2003, with Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 and with the other instruments referred to in this Agreement, contracts or agreements concluded and decisions taken with beneficiaries established in Switzerland may provide for scientific, financial, technological or other audits to be conducted at any time on the premises of the beneficiaries and of their subcontractors by Agency and Commission officials or by other persons mandated by the Agency and the Commission.
2. Agency and Commission officials and other persons mandated by the Agency and the Commission shall have appropriate access to sites, works and documents and to all the information required in order to carry out such audits, including in electronic form. This right of access shall be stated explicitly in the contracts or agreements concluded to implement the instruments referred to in this Agreement.
3. The Court of Auditors of the European Communities is to have the same rights as the Commission.
4. The audits may take place until five years after the expiry of this Agreement or under the terms of the contracts or agreements concluded and the decisions taken.
5. The Swiss Federal Audit Office shall be informed in advance of audits conducted on Swiss territory. This information shall not be a legal condition for carrying out such audits.

*Article 3***On-the-spot checks**

1. Under this Agreement, the Commission (OLAF) shall be authorised to carry out on-the-spot checks and inspections on Swiss territory, under the terms and conditions set out in Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996.
2. On-the-spot checks and inspections shall be prepared and conducted by the Commission in close cooperation with the Swiss Federal Audit Office or with other competent Swiss authorities appointed by the Swiss Federal Audit Office, which shall be notified in good time of the object, purpose and legal basis of the checks and inspections, so that they can provide all the requisite help. To that end, the officials of the competent Swiss authorities may participate in the on-the-spot checks and inspections.
3. If the Swiss authorities concerned so wish, the on-the-spot checks and inspections may be carried out jointly by the Commission and by them.
4. Where the participants in the programme resist an on-the-spot check or inspection, the Swiss authorities, acting in accordance with national rules, shall give the Commission inspectors such assistance as they need to allow them to discharge their duty in carrying out an on-the-spot check or inspection.
5. The Commission shall report as soon as possible to the Swiss Federal Audit Office any fact or suspicion relating to an irregularity which has come to its notice in the course of the on-the-spot check or inspection. In any event the Commission is required to inform the aforementioned authority of the result of such checks and inspections.



*Article 4***Information and consultation**

1. For the purposes of proper implementation of this Annex, the competent Swiss and Community authorities shall exchange information regularly and, at the request of one of the Parties, shall conduct consultations.
2. The competent Swiss authorities shall inform the Agency and the Commission without delay of any fact or suspicion which has come to their notice relating to an irregularity in connection with the conclusion and implementation of the contracts or agreements concluded in application of the instruments referred to in this Agreement.

*Article 5***Confidentiality**

Information communicated or acquired in any form whatever pursuant to this Annex shall be covered by professional secrecy and protected in the same way as similar information is protected by Swiss law and by the corresponding provisions applicable to the Community institutions. Such information shall not be communicated to persons other than those within the Community institutions, in the Member States, or in Switzerland whose functions require them to know it, nor may it be used for purposes other than to ensure effective protection of the financial interests of the Contracting Parties.

*Article 6***Administrative measures and penalties**

Without prejudice to application of Swiss criminal law, administrative measures and penalties may be imposed by the Agency or the Commission in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 and with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests.

*Article 7***Recovery and enforcement**

Decisions taken by the Agency or the Commission within the scope of this Agreement which impose a pecuniary obligation on persons other than States shall be enforceable in Switzerland. The enforcement order shall be issued, without any further control than verification of the authenticity of the act, by the authority designated by the Swiss government, which shall inform the Agency or the Commission thereof. Enforcement shall take place in accordance with the Swiss rules of procedure. The legality of the enforcement decision shall be subject to control by the Court of Justice of the European Communities.

Judgments given by the Court of Justice of the European Communities pursuant to an arbitration clause shall be enforceable on the same terms.

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**Information relating to the entry into force of the Agreement between the European Community and the Swiss Confederation concerning the participation of Switzerland in the European Environment Agency and the European Environment Information and Observation Network <sup>(1)</sup>**

The procedures necessary for the entry into force of the Agreement between the European Community and the Swiss Confederation concerning the participation of Switzerland in the European Environment Agency and the European Environment Information and Observation Network, signed in Luxembourg on 26 October 2004, having been completed on 27 February 2006, this Agreement will enter into force, in conformity with its Article 20, on 1 April 2006.

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<sup>(1)</sup> See page 37 of this Official Journal.