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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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

AMENDING PROTOCOL
TO THE AGREEMENT
BETWEEN THE EUROPEAN COMMUNITY
AND THE SWISS CONFEDERATION
ON THE CARRIAGE OF GOODS AND PASSENGERS
BY RAIL AND ROAD

THE EUROPEAN UNION, hereinafter referred to as the "Union",

and

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

hereinafter referred to as the "Contracting Parties",

REAFFIRMING the importance of the Agreement between the European Community and the Swiss Confederation on the Carriage of Goods and Passengers by Rail and Road, done at Luxembourg on 21 June 1999 (hereinafter referred to as the "Agreement");

WISHING to promote the carriage of passengers and goods by road and rail between the Contracting Parties within the scope of the Agreement;

RECOGNISING the Contracting Parties' policies of shifting goods from road to rail;

WISHING, with regard to rail transport, to preserve a transport system of quality based on the performance, attractiveness and reliability of transport services of goods and passengers that is essential for the population and economy;

RECOGNISING the necessity to clarify the right of railway undertakings to carry out international rail passenger transport, including the right to pick up passengers at any station located along an international route and to set them down at another, including in cases in which such stations are located in the territory of the other Contracting Party;

RECOGNISING that subject to the applicable competition rules of the Contracting Parties, applicable Union law does not preclude international groupings from operating international services, including international services that are partly composed of services which participate in the interval-service timetable;

ACKNOWLEDGING the importance of facilitating new international rail passenger services and thereby improving international railway connections between the Contracting Parties, while ensuring that passengers of Swiss purely domestic services are not negatively affected;

ACKNOWLEDGING the benefits for passengers which can arise from the opening of the market for the provision of international passenger rail services, and therefore the importance, taking into account the exceptions granted to Switzerland, of ensuring effective infrastructure access and a level playing field for the provision of such services;

ACKNOWLEDGING the Swiss heavy goods vehicle charge and the common goal to be in line with the principles governing the charging of road vehicles in the Union;

RECOGNISING the advantages of close cooperation between Switzerland and the European Union Agency for Railways (ERA) based on Article 75 of Regulation (EU) 2016/796 of the European Parliament and the Council¹,

HAVE AGREED AS FOLLOWS:

¹ Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 (OJ L 138, 26.5.2016, p. 1).

ARTICLE 1

Amendments to the Agreement

The Agreement is amended as follows:

- (1) in Article 2, paragraph 2 is replaced by the following:

"2. This Agreement shall apply to the international carriage by rail of passengers and goods and to combined international transport.

This Agreement shall not apply to purely domestic rail passenger carriage, meaning national long-distance, regional and local transport, in Switzerland.

This Agreement shall not apply to railway undertakings which only operate urban, suburban or regional services on local and regional stand-alone networks for transport services on railway infrastructure or on networks intended only for the operation of urban or suburban rail services.";

- (2) in Article 3(2), the following indent is added:

"– 'international carriage by rail of passengers' shall mean a passenger service where the train crosses the border between the Contracting Parties, including the right to pick up passengers at any station located along the international route and to set them down at another, including in cases where such stations are located in the territory of the other Contracting Party, provided that the principal purpose of the service is to carry passengers between stations located in the territory of one Contracting Party and stations located in the territory of the other Contracting Party.";

(3) Article 7 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. Subject to paragraphs 2 and 3, Switzerland shall adopt or maintain, in accordance with Article 5(2) of the Institutional Protocol to this Agreement (hereinafter referred to as the 'Institutional Protocol'), arrangements corresponding to Union legislation on the technical conditions governing road transport, as set out in Section 3 of Annex 1.";

(b) paragraph 2 is replaced by the following:

"2. Switzerland shall adopt or maintain, in accordance with Article 5(2) of the Institutional Protocol, legislation corresponding to Union legislation relating to technical controls for vehicles referred to in Section 3 of Annex 1.";

(4) Article 9 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. The international carriage of goods by road for hire or reward, as well as unladen journeys between the territories of the Contracting Parties, shall take place under a Union authorisation, for which a model is provided in Annex 3, pursuant to Union legislation referred to in Annex 1, or under a Swiss authorisation pursuant to the corresponding Swiss legislation adopted or maintained in accordance with Article 5(2) of the Institutional Protocol.";

(b) paragraph 4 is replaced by the following:

"4. The procedures governing the issuing, renewal and withdrawal of authorisations and the procedures governing mutual assistance shall be covered by the Union legislation referred to in Section 1 of Annex I or the corresponding Swiss legislation adopted or maintained in accordance with Article 5(2) of the Institutional Protocol.";

(5) in Article 17, paragraph 3 is replaced by the following:

"3. The model for such licences and the procedures for obtaining, using and renewing them shall be as laid down in the Union law referred to in Section 1 of Annex 1 or in the corresponding Swiss provisions adopted or maintained in accordance with Article 5(2) of the Institutional Protocol.";

(6) Article 24 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. Railway undertakings and international groupings established on the territory of one Contracting Party shall have the right of transit and the right of access to railway infrastructure in the other Contracting Party, for the purpose of operating an international service, under the conditions specified in the Union legislation referred to in Section 4 of Annex 1.";

(b) the following paragraph is inserted:

"1a. In the course of an international passenger service, railway undertakings shall have the right to pick up passengers at any station located along the international route and to set them down at another, including in cases where such stations are located in the territory of the same Contracting Party, provided that the principal purpose of the service concerned is to carry passengers from the territory of one Contracting Party to the territory of the other. Following a request from the relevant competent authorities or interested railway undertakings, the relevant regulatory body or bodies shall determine whether the principal purpose of the service is to carry passengers from the territory of one Contracting Party to the territory of the other.";

(7) the following article is inserted:

"ARTICLE 24a

Exceptions from dynamic alignment concerning rail transport

The following shall be exceptions within the meaning of Article 5(7) of the Institutional Protocol:

1. The option of obliging passenger transport companies to participate in public transport price integration, i.e. a single transport contract is offered to a passenger who uses the networks of different public transport companies, provided that price-setting powers remain with the companies.

2. The application of Swiss capacity management instruments providing for a minimum number of train paths per hour for defined types of traffic, including freight, regional and long-distance passenger traffic that may also serve an international purpose. Such instruments shall be subject to the principle of non-discrimination referred to in Article 1(3) of the Agreement.

Undertakings planning and operating international rail passenger services in Switzerland shall be treated as interested parties within the existing Swiss consultation procedures under the Swiss capacity management instruments.

3. The option of giving priority to passenger traffic according to the interval-service timetable applicable to rail services throughout the territory of Switzerland.

The criterion referred to in the first subparagraph shall be applied in a non-discriminatory manner for the allocation of train paths to companies submitting comparable applications in terms of service frequency.

The priority referred to in the first subparagraph shall be given to services that are indispensable for the interval-service timetable.

If, prior to the deadline for the annual allocation procedure, an undertaking submits an application for a train path for international passenger transport in Switzerland that cannot be satisfied in the mutual coordination phase, that application shall have priority for the use of the remaining unallocated capacity, including capacity which had been secured in the Swiss capacity management instruments but was not requested during the annual allocation procedure.

The Union or its Member States may, on their territory, give priority to companies established in the Union and operating passenger rail services over a Swiss international passenger rail service that operates a part of the international service under the Swiss interval-service timetable and that does not perform the service within an international grouping.

4. The right to include non-discriminatory provisions in the authorisations and concessions granted to railway transport undertakings and international groupings relating to social standards, such as local and sector-specific salary and working conditions in Switzerland.

5. As regards tendering obligations for public service obligations for cross-border regional, urban and sub-urban rail passenger services, Switzerland may directly award a public service contract for the part of a cross border regional, urban and suburban rail passenger service which is operated on Swiss territory. In such case, Switzerland shall award the public service contract either to the operator that has been awarded the public service contract on the Union territory or to the operator that is cooperating with the railway undertaking which has been awarded the public service contract for the operation of the line on the Union territory.

Subject to this paragraph, the competent authorities shall consult each other beforehand on the modalities of the public service to be awarded, including on the timing of the award procedure.";

- (8) the following article is inserted:

"ARTICLE 29a

Participation in the European Union Agency for Railways

Switzerland shall have the right to participate, in accordance with Article 75 of Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 (OJ L 138, 26.5.2016, p. 1), in the European Union Agency for Railways (hereinafter referred to as 'ERA'), including appropriate access to databases and registers.

ERA shall not have any executive powers in Switzerland. Therefore, the relevant provisions of Regulation (EU) 2016/796 creating such executive powers of ERA in Switzerland shall not be integrated into Annex 1 to the Agreement.";

- (9) the following article is inserted:

"ARTICLE 32a

The exclusion of increases in road capacity

As an exception within the meaning of Article 5(7) of the Institutional Protocol, new infrastructure for road safety purposes, such as the drilling of a second road tunnel at the Gotthard, shall not be considered as an increase in road capacity and limiting road capacity to the current level shall not be considered as a unilateral quantitative restriction.";

(10) Article 40 is replaced by the following:

"ARTICLE 40

Swiss measures

1. With a view to achieving the objectives set out in Article 37 and in the light of the weight limit increases stipulated in Article 7(3), Switzerland shall introduce a non-discriminatory tax on vehicles. In particular, the tax shall be based on the principles referred to in Article 38(1) and on the procedures set out in Annex 10.
2. The charges shall be differentiated according to categories based on vehicle emissions. Upon request of Switzerland, the Joint Committee shall decide on a differentiation according to categories completely or partially based on consumption.
3. The weighted average of the charges shall not exceed CHF 325 for vehicles having a permissible maximum laden mass according to the vehicle registration document of not more than 40 t and travelling a distance of 300 km across the Alps. The charge for the most polluting category shall not exceed CHF 380.
4. A part of the charges referred to in paragraph 3 may be made up of toll fees for the use of specialised Alpine infrastructure. This part must not constitute more than 15 % of the charges referred to in paragraph 3.

5. The weightings referred to in paragraph 3 shall be determined according to the number of vehicles per category operating in Switzerland. The number of vehicles in each category shall be established on the basis of censuses which will be examined by the Joint Committee. The Joint Committee shall determine the weighting on the basis of examinations, carried out every two years, in order to take account of trends in the structure of the vehicle fleet operating in Switzerland and of emission and consumption developments.";

(11) Article 42 is replaced by the following:

"ARTICLE 42

Review of the level of charges

1. On 1 January 2007, and at two-yearly intervals thereafter, the maximum levels of the charges fixed in Article 40(3) shall be adjusted in line with the rate of inflation in Switzerland during the previous two years. For this purpose, Switzerland shall send to the Joint Committee, by 30 September at the latest of the year preceding the adjustment, the necessary statistical data on which to base the adjustment under consideration. The Joint Committee shall meet, at the Union's request, within 30 days of receiving this communication, to hold consultations on the adjustment under consideration.

2. With effect from 1 January 2007, the Joint Committee may, at the request of one of the Contracting Parties, review the maximum levels of the charges fixed in Article 40(3) with a view to adjusting them by joint agreement. This review shall be undertaken on the basis of the following criteria:

- the level and structure of taxes in the two Contracting Parties, notably with regard to comparable transalpine routes,

- the distribution of traffic between comparable transalpine routes,
- modal distribution trends in the Alpine region,
- the development of the transalpine railway infrastructure.";

(12) in Article 46, paragraph 1 is replaced by the following:

"1. If, after 1 January 2005, despite competitive rail prices and the correct application of the measures provided for in Article 36 regarding quality parameters, there are difficulties with Swiss transalpine road traffic flows and if, over a 10-week period, the average rate of utilisation of the rail capacity in Switzerland (accompanied and unaccompanied combined transport) is less than 66 %, Switzerland may, by way of derogation from Article 40(3) and (4), increase the charges provided for in Article 40(3) by no more than 12,5 %. All the revenue from this increase shall be used to help make rail and combined transport more competitive vis-à-vis road transport.";

(13) Article 51 is replaced by the following:

"ARTICLE 51

Joint Committee

1. A Joint Committee is hereby established.

The Joint Committee shall be composed of representatives of the Contracting Parties.

2. The Joint Committee shall be co-chaired by a representative of the Union and a representative of Switzerland.
3. The Joint Committee shall:
 - (a) ensure the proper functioning and the effective administration and application of this Agreement;
 - (b) provide a forum for mutual consultation and a continuous exchange of information between the Contracting Parties, in particular with a view to finding a solution to any difficulty of interpretation or application of this Agreement or of a legal act of the Union to which reference is made in this Agreement in accordance with Article 10 of the Institutional Protocol to this Agreement;
 - (c) make recommendations to the Contracting Parties in matters pertaining to this Agreement;
 - (d) adopt decisions where provided for in this Agreement;
 - (e) be responsible for the monitoring and application of this Agreement and, in particular Articles 27(6) and Articles 33, 34, 35, 36, 39, 40, 42, 45, 46 and 47; and
 - (f) exercise any other competence granted to it in this Agreement.
4. The Joint Committee shall act by consensus.

Decisions shall be binding on the Contracting Parties, which shall take all necessary measures to implement them.

5. The Joint Committee shall meet at least once a year, in Brussels and Bern alternately, unless the co-chairs decide otherwise. It shall also meet at the request of either Contracting Party.

The co-chairs may agree that a meeting of the Joint Committee be held by videoconference or teleconference.

6. The Joint Committee shall adopt its rules of procedure and update them as necessary.

7. The Joint Committee may decide to set up any working party or group of experts that can assist it in carrying out its duties.";

(14) in Article 53, the title is replaced by the following:

"ARTICLE 53

Professional secrecy";

(15) the following article is inserted:

"ARTICLE 53a

Classified information and sensitive non-classified information

1. Nothing in this Agreement shall be construed as requiring a Contracting Party to make available classified information.

2. Classified information or material provided by, or exchanged between, the Contracting Parties under this Agreement shall be handled and protected in compliance with the Agreement between the European Union and the Swiss Confederation on the security procedures for the exchange of classified information, done at Brussels on 28 April 2008, and any security arrangement implementing it.

3. The Joint Committee shall adopt, by means of a decision, handling instructions to ensure the protection of sensitive non-classified information exchanged between the Contracting Parties.";

(16) Article 55 is amended as follows:

(a) paragraph 1 is replaced by the following:

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

(b) paragraph 2 is deleted;

(c) paragraph 3 is replaced by the following:

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

(17) Article 57 is replaced by the following:

"This Agreement shall apply, of the one part, to the territory in which the Treaty on European Union and the Treaty on the Functioning of the European Union apply and under the conditions laid down in those Treaties, and, of the other part, to the territory of Switzerland.";

(18) Annex 1 is amended as follows:

(a) after the title, the following points are inserted:

- "1. Within the scope of the Agreement, the legal acts of the Union listed in this Annex shall apply subject to the principle of dynamic alignment referred to in Article 5 of the Institutional Protocol, as well as subject to the exceptions listed in paragraph 7 of that Article.
2. Unless otherwise provided for in technical adaptations, rights and obligations provided for in the legal acts of the Union set out in this Annex for Member States of the Union shall be understood to be provided for for Switzerland. This shall be applied in full compliance with the Institutional Protocol.";

(b) Section 4 is amended as follows:

(i) the following acts are inserted:

- "– Regulation (EU) No 913/2010 of the European Parliament and of the Council of 22 September 2010 concerning a European rail network for competitive freight (OJ L 276, 20.10.2010, p. 22).

- Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012, p. 32).
- Commission Implementing Regulation (EU) 2016/545 of 7 April 2016 on procedures and criteria concerning framework agreements for the allocation of rail infrastructure capacity (OJ L 94, 8.4.2016, p. 1).
- Commission Delegated Decision (EU) 2017/2075 of 4 September 2017 replacing Annex VII to Directive 2012/34/EU of the European Parliament and of the Council establishing a single European railway area (OJ L 295, 14.11.2017, p. 69).";

(ii) the following acts are deleted:

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

(iii) in the entry concerning Directive 2007/59/EC, the following is added:

"The train driver's licence and the complementary certificate issued in accordance with points (a) and (b) of Articles 4(1) of Directive 2007/59/EC and the corresponding provisions adopted or maintained in Switzerland's legal order pursuant to Article 5 of the Institutional Protocol are mutually recognised";

(iv) in the entry concerning Directive (EU) 2016/797, the following is added:

"Directive (EU) 2016/797 is subject to transitory measures to maintain smooth rail traffic between Switzerland and the Union, as laid down in Decision n° 2/2019 of the Community/Switzerland Inland Transport Committee (OJ L 13, 17.1.2020, p. 43) including any subsequent amendments, if and to the extent that the Contracting Parties decide within the Joint Committee on adaptations extending those measures, taking into account Article 29a, second subparagraph, of the Agreement and Article 5 of the Institutional Protocol. Where Directive (EU) 2016/797 refers to the 'European Union Agency for Railways', the reference shall mean, for the territory of Switzerland, the 'Swiss national safety authority'.";

- (v) in the entry concerning Directive (EU) 2016/798, the following is added:

"Directive (EU) 2016/798 is subject to transitory measures to maintain smooth rail traffic between Switzerland and the Union, as laid down in Decision n° 2/2019 of the Community/Switzerland Inland Transport Committee (OJ L 13, 17.1.2020, p. 43) including any subsequent amendments, if and to the extent that the Contracting Parties decide within the Joint Committee on adaptations extending those measures, taking into account Article 29a, second subparagraph, of the Agreement and Article 5 of the Institutional Protocol. Where Directive (EU) 2016/798 refers to the 'European Union Agency for Railways', the reference shall mean, for the territory of Switzerland, the 'Swiss national safety authority'.";

- (vi) in the entry concerning Commission Implementing Regulation (EU) 2018/545, the following is added:

"Commission Implementing Regulation (EU) 2018/545 is subject to transitory measures to maintain smooth rail traffic between Switzerland and the Union, as laid down in Decision n° 2/2019 of the Community/Switzerland Inland Transport Committee (OJ L 13, 17.1.2020, p. 43) including any subsequent amendments, if and to the extent that the Contracting Parties decide within the Joint Committee on adaptations extending those measures, taking into account Article 29a, second subparagraph, of the Agreement and Article 5 of the Institutional Protocol. Where Commission Implementing Regulation (EU) 2018/545 refers to the 'European Union Agency for Railways', the reference shall mean, for the territory of Switzerland, the 'Swiss national safety authority'.";

(vii) in the entry concerning Commission Implementing Regulation (EU) 2018/763, the following is added:

"Commission Implementing Regulation (EU) 2018/763 is subject to transitory measures to maintain smooth rail traffic between Switzerland and the Union, as laid down in Decision n° 2/2019 of the Community/Switzerland Inland Transport Committee (OJ L 13, 17.1.2020, p. 43) including any subsequent amendments, if and to the extent that the Contracting Parties decide within the Joint Committee on adaptations extending those measures, taking into account Article 29a, second subparagraph, of the Agreement and Article 5 of the Institutional Protocol. Where Commission Implementing Regulation (EU) 2018/763 refers to the 'European Union Agency for Railways', the reference shall mean, for the territory of Switzerland, the 'Swiss national safety authority'.";

(viii) in the entry concerning Commission Implementing Regulation (EU) 2019/250, the following is added:

"Commission Implementing Regulation (EU) 2019/250 is subject to transitory measures to maintain smooth rail traffic between Switzerland and the Union, as laid down in Decision n° 2/2019 of the Community/Switzerland Inland Transport Committee (OJ L 13, 17.1.2020, p. 43) including any subsequent amendments, if and to the extent that the Contracting Parties decide within the Joint Committee on adaptations extending those measures, taking into account Article 29a, second subparagraph, of the Agreement and Article 5 of the Institutional Protocol. Where Commission Implementing Regulation (EU) 2019/250 refers to the 'European Union Agency for Railways', the reference shall mean, for the territory of Switzerland, the 'Swiss national safety authority'.";

(c) in Section 5, the following act is inserted:

"– Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ L 315, 3.12.2007, p. 1), as last amended by Regulation (EU) 2016/2338 of the European Parliament and of the Council of 14 December 2016 (OJ L 354, 23.12.2016, p. 22); with the exception of Articles 5 and 5a of Regulation (EC) No 1370/2007, under the terms referred to in Article 24a(5) of the Agreement.";

(19) Annex 10 is replaced by the following:

"ANNEX 10

RULES FOR APPLYING THE CHARGES PROVIDED FOR IN ARTICLE 40

Subject to the provisions of Article 40(4), the charges provided for in Article 40 shall be applied as follows:

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

- (20) The Joint Declaration, attached to this Protocol, is added to the Declarations attached to the Final Act to the Agreement.

ARTICLE 2

Entry into force

1. This Protocol shall be ratified or approved by the Contracting Parties in accordance with their own procedures. The Contracting Parties shall notify each other of the completion of the internal procedures necessary to the entry into force of this Protocol.
2. This Protocol shall enter into force on the first day of the second month following the last notification regarding the following instruments:
 - (a) Institutional Protocol to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons;
 - (b) Amending Protocol to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons;
 - (c) Institutional Protocol to the Agreement between the European Community and the Swiss Confederation on air transport;

- (d) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on air transport;
- (e) State Aid Protocol to the Agreement between the European Community and the Swiss Confederation on air transport;
- (f) Institutional Protocol to the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road;
- (g) State Aid Protocol to the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road;
- (h) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products;
- (i) Institutional Protocol to the Agreement between the European Community and the Swiss Confederation on mutual recognition in relation to conformity assessment;
- (j) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on mutual recognition in relation to conformity assessment;
- (k) Agreement between the European Union and the Swiss Confederation on Switzerland's regular financial contribution towards reducing economic and social disparities in the European Union;

- (l) Agreement between the European Union and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, on the participation of the Swiss Confederation in Union programmes.
- (m) Agreement between the European Union and the Swiss Confederation on the terms and conditions for the participation of the Swiss Confederation in the European Union Agency for the Space Programme.

This Protocol is drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each text being equally authentic.

IN WITNESS WHEREOF, the undersigned, duly authorised thereto, have signed this Protocol.

Done at ... this day of ... in the year ...

For the European Union

For the Swiss Confederation

JOINT DECLARATION
ACCOMPANYING THE AMENDING PROTOCOL
TO THE AGREEMENT BETWEEN THE EUROPEAN COMMUNITY
AND THE SWISS CONFEDERATION ON THE CARRIAGE OF GOODS
AND PASSENGERS BY RAIL AND ROAD

1. The Contracting Parties note that applicable EU law allows independent national capacity allocation bodies to be competent to allocate train paths in a non-discriminatory manner.

The Contracting Parties note that in accordance with Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012, p. 32), the traffic management remains within the competence of national infrastructure managers.

2. The Contracting Parties note that, subject to the respective competition rules, applicable EU law does not preclude international groupings from operating international services, including international services that are partly composed of services which participate in the interval-service timetable.
3. The Contracting Parties endeavour to prolong the transitory measures to maintain smooth rail traffic between Switzerland and the European Union provided by Decision n°2/2019 of the Community/Switzerland Inland Transport Committee (OJ EU L 13, 17.1.2020, p. 43) at three-year intervals, subject to the respective decisions of the Joint Committee.
