

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(77) 23 final.

Brussels, 15 February 1977.

## DRAFT AGREEMENT

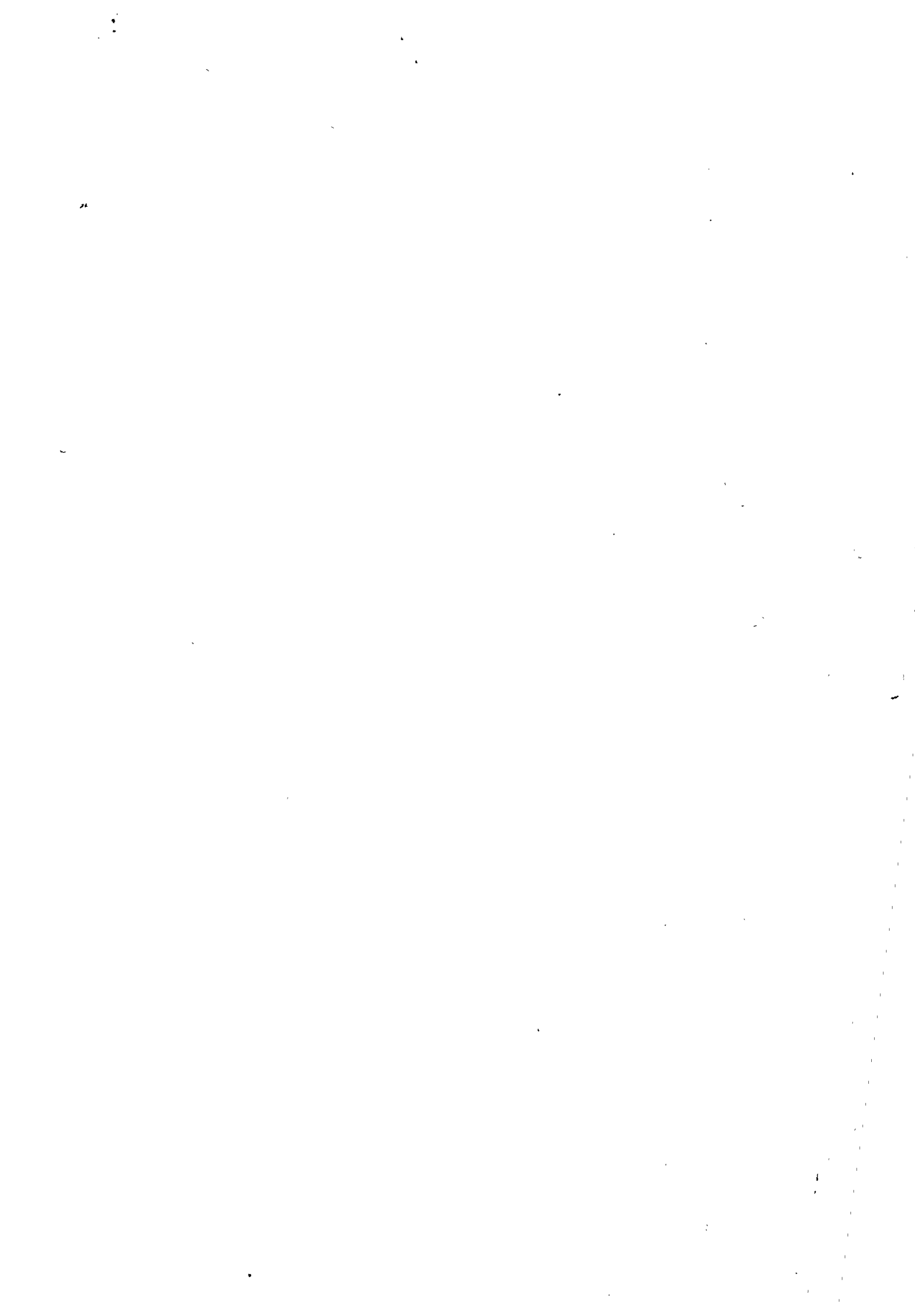
between the European Economic Community,  
the Republic of Austria and the Swiss  
Confederation on the extension of the  
application of the rules on Community  
transit

## RECOMMENDATION FOR A REGULATION

of the Council on the conclusion of an  
Agreement between the European Economic  
Community, the Republic of Austria and  
the Swiss Confederation, on the extension  
of the application of the rules on  
Community transit

(Presented by the Commission to the  
Council)

COM(77) 23 final.



I. INTRODUCTION

The Council authorized the Commission in a Decision adopted on 25 June 1976 "to negotiate an Agreement between the European Economic Community, the Republic of Austria and the Swiss Confederation to extend the application of the rules on Community transit."

This Decision followed the recommendation from the Commission to the Council on 12 March 1976<sup>(1)</sup>.

The Agreement is intended to extend the scope of the bilateral Agreement concluded on 23 and 30 November 1972 between the EEC and the Swiss Confederation and the EEC and the Republic of Austria respectively on the application of Community transit rules<sup>(2)</sup> to goods crossing Community territory as well as the territories of Austria and Switzerland. As each of the two Agreements was strictly bilateral, no provision was made for that kind of traffic.

Negotiations on the proposed Agreement were held in Berne on 20 and 21 October 1976. The draft Agreement, Annex A to this report, was initialled on 21 October 1976.

II. BRIEF FOR THE NEGOTIATIONS

Negotiations were carried out on the basis of the guidelines laid down by the Council in the Decision of 25 June 1976.

A. Scope of the Agreement

The application of the EEC-Austria and EEC-Switzerland Agreements are to be extended to cover the carriage of goods between two points in the Community which also cross both Austria and Switzerland so as to reduce formalities to a minimum.<sup>(3)</sup>

The proposed Agreement also provides that the regulations on Community transit may be applied to any other carriage of goods which cross both Austria and Switzerland (see Article 2 of Annex A).

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(1) See S/498/76 (EFTA) (CH 2) (A 5) (EC 02) + corr.1

(2) OJ No L 365 of 31.12.1973 and OJ No L 58 of 28.2.1974

(3) The Agreement is expected to apply also to the Principality of Liechtenstein (see Article 4 of Annex A)

B. Undertaking given by Austria and Switzerland

The Agreement, as negotiated, stipulates that Austria and Switzerland in their mutual relations subject to the limits referred to under A above, shall have the same rights and obligations as any Member State vis-à-vis either of them (see Article 3(1) and (2) of Annex A). Special provisions in the EEC-Switzerland Agreement, for which there are no corresponding provisions in the EEC-Austria Agreement, shall also apply in dealings between Austria and Switzerland (see Article 3(3) of Annex A).

C. Administration of the Agreement

In accordance with Directives adopted by the Council, under which any problem of implementation of the proposed Agreement must be dealt with by the Joint Committees set up under the two Agreements referred to under I, a special clause to this effect in the draft Agreement was not considered necessary. The work of the two Joint Committees is prepared at Working Party meetings set up for this purpose by the procedural rules of those Joint Committees.

D. Implementation of the Agreement

The Agreement will come into force on the first day of the second month following the date on which the Contracting Parties notify each other of the completion of the necessary procedures (see Article 5 of Annex A). Any of the Contracting Parties may denounce the Agreement, providing six months' notice is given (see Article 6 of Annex A).

III. LEGAL BASIS

The Commission considers that the Agreement should be concluded under Article 113 of the Treaty. The bilateral Agreements on the application of the Community transit rules were concluded on the same basis.

IV. CONCLUSIONS AND RECOMMENDATIONS

Briefly, the Commission considers that the Agreement as negotiated fully meets the aims of the negotiations.

Accordingly, the Commission is submitting to the Council:

- the text of the Agreement, as negotiated, (Annex A)
- a Recommendation for a regulation on the conclusion of this Agreement (Annex B).

DRAFT

AGREEMENT

between the European Economic Community,  
the Republic of Austria and the Swiss  
Confederation on the extension of the  
application of the rules on Community  
transit

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THE EUROPEAN ECONOMIC COMMUNITY,

THE REPUBLIC OF AUSTRIA and

THE SWISS CONFEDERATION,

DESIRING to simplify the customs formalities at the frontiers in  
respect of goods traffic through both Austrian and Swiss territories

CONSIDERING that simplification can be achieved by the extension of the  
application of the provisions of the Transit Agreements concluded between  
the European Economic Community and the Swiss Confederation and  
the Republic of Austria in respect of the carriage of goods through both  
those Contracting Parties.

HAVE AGREED AS FOLLOWS :

Article 1

For the purpose of this Agreement :

- (a) the "EEC-Switzerland Transit Agreement" means the Agreement signed on  
23 November 1972, as currently amended or as may be amended, between  
the European Economic Community and the Swiss Confederation on the  
application of the rules on Community transit;
- (b) the "EEC -Austria Transit Agreement" means the Agreement signed on  
30 November 1972, as currently amended or as may be amended, between the  
European Economic Community and the Republic of Austria on the applica-  
tion of the rules on Community transit ;
- (c) the "Community" means the European Economic Community;
- (d) a "Member State" means a Member State of the Community.

Article 2

The provisions of the EEC-Switzerland Transit Agreement and of the EEC-Austria Transit Agreement shall be extended to the movement of goods between two points situated in the Community through both the territory of Austria and the territory of Switzerland.

These rules may also apply to any other movement of goods through both the territory of Austria and the territory of Switzerland.

Article 3

1. For the purposes of applying Article 2 and without prejudice to Article 13 (1) of the EEC-Switzerland and EEC-Austria transit Agreement :

- the Swiss Confederation shall, in relation to the Republic of Austria, have the same rights and obligations as a Member State ;
- the Republic of Austria shall, in relation to the Swiss Confederation, have the same rights and obligations as a Member State.

2. Guarantees drawn up in accordance with the specimens in the two Agreements shall be completed accordingly.

3. The following provisions which do not appear in the EEC-Austria Transit Agreement shall also apply in dealings between the Swiss Confederation and the Republic of Austria :

(a) where, in application of Article 4, paragraphs 1 and 2 of the two Transit Agreements, criminal proceedings prove necessary these shall be carried out in each State in accordance with the provisions of national law on prosecutions for customs offences.

(b) the customs administrations of the Republic of Austria or of the Swiss Confederation shall, in the circumstances covered by Article 4 of the two Transit Agreements, furnish all information of their disposal, where necessary following investigation carried out at the request of the customs administrations of the Swiss Confederation or of the Republic of Austria relating to the goods or to persons convicted or suspected of having infringed provisions of the Community transit regulations.

However, the administrative assistance referred to in the said Article 4 may, in respect of persons neither convicted nor suspected of having

infringed these provisions having regard to the provisions of national law which guarantee the protection of industrial, commercial or professional secrecy, be limited to such information as does not imperil this protection.

- (c) Internal Community transit documents shall not be issued in respect of goods reconsigned from Switzerland after being warehoused in a private warehouse within the meaning of the Swiss Federal customs law.

#### Article 4

This Agreement shall apply to the Principality of Liechtenstein as long as that Principality remains bound to the Swiss Confederation by a customs union treaty.

#### Article 5

This Agreement shall enter into force on the first day of the second month following the day on which the Contracting Parties notify each other of the completion of the procedures necessary to that end.

#### Article 6

This Agreement may be denounced by any of the Contracting Parties, subject to six months' notice.

#### Article 7

This Agreement is drawn up in three copies in the Danish, Dutch, English, French, German and Italian languages, all six texts being equally authentic.

RECOMMENDATION

for a Council Regulation on the  
conclusion of an Agreement between  
the European Economic Community, the  
Republic of Austria and the  
Swiss Confederation, on the extension  
of the application of the rules on  
Community transit

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,  
and in particular Article 113 thereof;

Having regard to the Recommendation from the Commission;

Whereas the Agreements<sup>(1)(2)</sup> between the European Economic Community  
and Switzerland and Austria on the application of the rules on Community  
transit, signed respectively on 23 and 30 November 1972, are designed  
to simplify frontier formalities in respect of goods crossing Switzerland  
or Austria from and to points in the Community;

Whereas this objective is not achieved whenever goods during the same  
journey cross both Switzerland and Austria, each Agreement being strictly  
bilateral;

Whereas it would be in the interests of all the Contracting Parties to the  
two aforementioned Agreements to extend their scope to include the  
carriage of goods through both Austria and Switzerland;

HAS ADOPTED THIS REGULATION:

Article 1

The Agreement between the European Economic Community, the Republic of  
Austria and the Swiss Confederation, on the extension of the application  
of the rules on Community transit is concluded on behalf of the Community.

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(1) OJ No L 365, 31.12.1973, p.226

(2) OJ No L 58, 28.2.1974, p. 40                      .../...



The text of the Agreement is annexed to this Regulation.

Article 2

The President of the Council shall, by virtue of Article 5 of the Agreement, notify the completion by the Community<sup>(1)</sup> of the procedures necessary for the entry into force of the Agreement .

Article 3

This Regulation shall enter into force on the third day following its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council

The President

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(1) The date on which the Agreement enters into force will be published in the Official Journal of the European Communities

