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# 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

Luxembourg, 21 June 1999

[The Agreement entered into force on 1 June 2002]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
October 2002*

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**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<sup>1</sup>**

The Swiss Confederation, of the one part,

and

the European Community, the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland, of the other part,

hereinafter referred to as “the Contracting Parties”

Convinced that the free movement of persons between the territories of the Contracting Parties is a key factor in the harmonious development of their relations,

Resolved to bring about the free movement of persons between them on the basis of the rules applying in the European Community,

Have decided to conclude this Agreement:

**I. Basic Provisions**

ARTICLE 1

**Objective**

The objective of this Agreement, for the benefit of nationals of the Member States of the European Community and Switzerland, is:

- (a) to accord a right of entry, residence, access to work as employed persons, establishment on a self-employed basis and the right to stay in the territory of the Contracting Parties;
- (b) to facilitate the provision of services in the territory of the Contracting Parties, and in particular to liberalise the provision of services of brief duration;
- (c) to accord a right of entry into, and residence in, the territory of the Contracting Parties to persons without an economic activity in the host country;
- (d) to accord the same living, employment and working conditions as those accorded to nationals.

ARTICLE 2

**Non-discrimination**

Nationals of one Contracting Party who are lawfully resident in the territory of another Contracting Party shall not, in application of and in accordance with the provisions of Annexes I, II and III to this Agreement, be the subject of any discrimination on grounds of nationality.

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<sup>1</sup> European Communities No. 1 (2000) Cm 4904.

## ARTICLE 3

### **Right of entry**

The right of entry of nationals of one Contracting Party into the territory of another Contracting Party shall be guaranteed in accordance with the provisions laid down in Annex I.

## ARTICLE 4

### **Right of residence and access to an economic activity**

The right of residence and access to an economic activity shall be guaranteed unless otherwise provided in Article 10 and in accordance with the provisions of Annex I.

## ARTICLE 5

### **Persons providing services**

(1) Without prejudice to other specific agreements between the Contracting Parties specifically concerning the provision of services (including the Government Procurement Agreement in so far as it covers the provisions of services), persons providing services, including companies in accordance with the provisions of Annex I, shall have the right to provide a service in the territory of the other Contracting Party for a period not exceeding 90 days' of actual work in a calendar year.

(2) Providers of services shall have the right of entry into, and residence in, the territory of the other Contracting Party:

- (a) where they have the right to provide a service under paragraph 1 or by virtue of the provisions of an agreement mentioned in paragraph 1;
- (b) or, if the conditions specified in (a) are not fulfilled, where they have received authorisation to provide a service from the competent authorities of the Contracting Party concerned.

(3) Nationals of a Member State of the European Community or Switzerland entering the territory of a Contracting Party solely to receive services shall have the right of entry and residence.

(4) The rights referred to in this Article shall be guaranteed in accordance with the provisions laid down in Annexes I, II and III. The quantitative limits of Article 10 may not be relied upon as against persons referred to in this Article.

## ARTICLE 6

### **Right of residence for persons not pursuing an economic activity**

The right of residence in the territory of a Contracting Party shall be guaranteed to persons not pursuing an economic activity in accordance with the provisions of Annex I relating to non-active people.

## ARTICLE 7

### **Other rights**

The Contracting Parties shall make provision, in accordance with Annex I, for the following rights in relation to the free movement of persons:

- (a) the right to equal treatment with nationals in respect of access to, and the pursuit of, an economic activity, and living, employment and working conditions;
- (b) the right to occupational and geographical mobility which enables nationals of the Contracting Parties to move freely within the territory of the host state and to pursue the occupation of their choice;
- (c) the right to stay in the territory of a Contracting Party after the end of an economic activity;
- (d) the right of residence for members of the family, irrespective of their nationality;
- (e) the right of family members to pursue an economic activity, irrespective of their nationality;
- (f) the right to acquire immovable property in so far as this is linked to the exercise of rights conferred by this Agreement;
- (g) during the transitional period, the right after the end of an economic activity or period of residence in the territory of a Contracting Party, to return there for the purposes of pursuing an economic activity and the right to have a temporary residence permit converted into a permanent one.

## ARTICLE 8

### **Coordination of social security systems**

The Contracting Parties shall make provision, in accordance with Annex II, for the coordination of social security systems with the aim in particular of:

- (a) securing equality of treatment;
- (b) determining the legislation applicable;
- (c) aggregation, for the purpose of acquiring and retaining the right to benefits, and of calculating such benefits, all periods taken into consideration by the national legislation of the countries concerned;
- (d) paying benefits to persons residing in the territory of the Contracting Parties;
- (e) fostering mutual administrative assistance and cooperation between authorities and institutions.

## ARTICLE 9

### **Diplomas, certificates and other qualifications**

In order to make it easier for nationals of the Member States of the European Community and Switzerland to gain access to and pursue activities as employed and self-employed persons and to provide services, the Contracting Parties shall take the necessary measures, in accordance with Annex III, concerning the mutual recognition of diplomas, certificates and other qualifications, and co-ordination of the laws, regulations and administrative provisions of the Contracting Parties on access to and pursuit of activities as employed and self-employed persons and the provision of services.

## **II. General and Final Provisions**

## ARTICLE 10

### **Transitional provisions and development of the Agreement**

(1) For five years after the entry into force of the Agreement, Switzerland may maintain quantitative limits in respect of access to an economic activity for the following two categories of residence: residence for a period of more than four months and less than one year and residence for a period equal to, or exceeding, one year. There shall be no restriction on residence for less than four months.

From the beginning of the sixth year, all quantitative limits applicable to nationals of the Member States of the European Community shall be abolished.

(2) For a maximum period of two years, the Contracting Parties may maintain the controls on the priority of workers integrated into the regular labour market and wage and working conditions applicable to nationals of the other Contracting Party, including the persons providing services referred to in Article 5. Before the end of the first year, the Joint Committee shall consider whether these restrictions need to be maintained. It may curtail the maximum period of two years. The controls on the priority of workers integrated into the regular labour market shall not apply to providers of services liberalised by a specific agreement between the Contracting Parties concerning the provision of services (including the Agreement on certain aspects of government procurement in so far as it covers the provision of services).

(3) On entry into force of this Agreement and until the end of the fifth year, each year Switzerland shall reserve, within its overall quotas, for employed and self-employed persons of the European Community at least 15,000 new residence permits valid for a period equal to, or exceeding, one year and 115,500 valid for more than four months and less than one year.

(4) Notwithstanding the provisions of paragraph 3, the Contracting Parties have agreed on the following arrangements: if, after five years and up to 12 years after the entry into force of the Agreement, the number of new residence permits of either of the categories referred to in paragraph 1 issued to employed and self-employed persons of the European Community in a given year exceeds the average for the three preceding years by more than 10 per cent, Switzerland may, for the following year, unilaterally limit the number of new residence permits of that category for employed and self-employed persons of the European Community to the average of the three preceding years plus five per cent. The following year, the number may be limited to the same level.

Notwithstanding the provisions of the previous subparagraph, the number of new residence permits issued to employed and self-employed persons of the European Community may not be limited to fewer than 15,000 per year valid for a period equal to, or exceeding, one year and 115,000 per year valid for more than four months and less than one year.

(5) The transitional provisions of paragraphs 1 to 4, and in particular those of paragraph 2 concerning the priority of workers integrated into the regular labour market and controls on wage and working conditions, shall not apply to employed and self-employed persons who, at the time of this Agreement's entry into force, are authorised to pursue an economic activity in the territory of the Contracting Parties. Such persons shall in particular enjoy occupational and geographical mobility. The holders of residence permits valid for less than one year shall be entitled to have their permits renewed; the exhaustion of quantitative limits may not be invoked against them. The holders of residence permits valid for a period equal to, or exceeding, one year shall automatically be entitled to have their permits extended. Such employed and self-employed persons shall therefore enjoy the rights to free movement accorded to established persons in the basic provisions of this Agreement, and in particular Article 7 thereof, from its entry into force.

(6) Switzerland shall regularly and promptly forward to the Joint Committee any useful statistics and information, including measures implementing paragraph 2. A Contracting Party may request a review of the situation within the Joint Committee.

(7) No quantitative limits may be applied to frontier workers.

(8) The transitional provisions on social security and the retrocession of unemployment insurance contributions are laid down in the Protocol to Annex II.

## ARTICLE 11

### **Processing of appeals**

(1) The persons covered by this Agreement shall have a right of appeal to the competent authorities in respect of the application of the provisions of this Agreement.

(2) Appeals must be processed within a reasonable period of time.

(3) Persons covered by this Agreement shall have the opportunity to appeal to the competent national judicial body in respect of decisions on appeals, or the absence of a decision within a reasonable period of time.

## ARTICLE 12

### **More favourable provisions**

This Agreement shall not preclude any more favourable national provisions which may exist for both nationals of the Contracting Parties and their family members.

## ARTICLE 13

### **Standstill**

The Contracting Parties undertake not to adopt any further restrictive measures vis-à-vis each other's nationals in fields covered by this Agreement.

## ARTICLE 14

### **Joint Committee**

(1) A Joint Committee composed of representatives of the Contracting Parties is hereby established. It shall be responsible for the management and proper application of the Agreement. To that end it shall issue recommendations. It shall take decisions in the circumstances provided for in the Agreement. The Joint Committee shall reach its decisions by mutual agreement.

(2) In the event of serious economic or social difficulties, the Joint Committee shall meet, at the request of either Contracting Party, to examine appropriate measures to remedy the situation. The Joint Committee may decide what measures to take within 60 days of the date of the request. This period may be extended by the Joint Committee. The scope and duration of such measures shall not exceed that which is strictly necessary to remedy the situation. Preference shall be given to measures that least disrupt the working of this Agreement.

(3) For the purposes of proper implementation of the Agreement, the Contracting Parties shall regularly exchange information and, at the request of either of them, shall consult each other within the Joint Committee.

(4) The Joint Committee shall meet as and when necessary and at least once a year. Either Party may request the convening of a meeting. The Joint Committee shall meet within 15 days of a request under paragraph 2.

(5) The Joint Committee shall establish its rules of procedure which shall contain, inter alia, provisions on the convening of meetings, the appointment of the chairman and the chairman's term of office.

(6) The Joint Committee may decide to set up any working party or group of experts to assist it in the performance of its duties.

## ARTICLE 15

### **Annexes and Protocols**

The Annexes and Protocols to this Agreement shall form an integral part thereof. The Final Act shall contain the declarations.

## ARTICLE 16

### **Reference to Community law**

(1) In order to attain the objectives pursued by this Agreement, the Contracting Parties shall take all measures necessary to ensure that rights and obligations equivalent to those contained in the legal acts of the European Community to which reference is made are applied in relations between them.

(2) Insofar as the application of this Agreement involves concepts of Community law, account shall be taken to the relevant case-law of the Court of Justice of the European Communities prior to the date of its signature. Case-law after that date shall be brought to Switzerland's attention. To ensure that the Agreement works properly, the Joint Committee shall, at the request of either Contracting Party, determine the implications of such case-law.

## ARTICLE 17

### **Development of law**

(1) As soon as one Contracting Party initiates the process of adopting a draft amendment to its domestic legislation, or as soon as there is a change in the case-law of authorities against whose decisions there is no judicial remedy under domestic law in a field governed by this Agreement, it shall inform the other Contracting Party through the Joint Committee.

(2) The Joint Committee shall hold an exchange of views on the implications of such an amendment for the proper functioning of the Agreement.



## ARTICLE 18

### **Revision**

If a Contracting Party wishes to have this Agreement revised, it shall submit a proposal to that effect to the Joint Committee. Amendments to this Agreement shall enter into force after the respective internal procedures have been completed, with the exception of amendments to Annexes II and III, which shall be adopted by decision of the Joint Committee and may enter into force immediately after that decision.

## ARTICLE 19

### **Settlement of disputes**

(1) The Contracting Parties may bring a matter under dispute which concerns the interpretation or application of this Agreement to the Joint Committee.

(2) The Joint Committee may settle the dispute. Any information which might be of use in making possible an in-depth examination of the situation with a view to finding an acceptable solution shall be supplied to the Joint Committee. To this end, the Joint Committee shall consider every possible means to maintain the good functioning of this Agreement.

## ARTICLE 20

### **Relationship to bilateral social security agreements**

Unless otherwise provided for under Annex II, bilateral social security agreements between Switzerland and the Member States of the European Community shall be suspended on the entry into force of this Agreement, in so far as the latter covers the same subject-matter.

## ARTICLE 21

### **Relationship to bilateral agreements on double taxation**

(1) The provisions of bilateral agreements between Switzerland and the Member States of the European Community on double taxation shall be unaffected by the provisions of this Agreement. In particular, the provisions of this Agreement shall not affect the double taxation agreements' definition of "frontier workers".

(2) No provision of this Agreement may be interpreted in such a way as to prevent the Contracting Parties from distinguishing, when applying the relevant provisions of their fiscal legislation, between taxpayers whose situations are not comparable, especially as regards their place of residence.

(3) No provision of this Agreement shall prevent the Contracting Parties from adopting or applying measures to ensure the imposition, payment and effective recovery of taxes or to forestall tax evasion under their national tax legislation or agreements aimed at preventing double taxation between Switzerland, of the one part, and one or more Member States of the European Community, of the other part, or any other tax arrangements.

## ARTICLE 22

### **Relationship to bilateral agreements on matters other than social security and double taxation**

(1) Notwithstanding the provisions of Article 20 and 21, this Agreement shall not affect agreements linking Switzerland, of the one part, and one or more Member States of the European Community, of the other part, such as those concerning private individuals, economic operators, cross-border co-operation or local frontier traffic, in so far as they are compatible with this Agreement.

(2) In the event of incompatibilities between such agreements and this Agreement, the latter shall prevail.

## ARTICLE 23

### **Acquired rights**

In the event of termination or non-renewal, rights acquired by private individuals shall not be affected. The Contracting Parties shall settle by mutual agreement what action is to be taken in respect of rights in the process of being acquired.

## ARTICLE 24

### **Territorial scope**

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

## ARTICLE 25

### **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 the second month following the last notification of deposit of the instruments of ratification or approval of all seven of the following agreements:

Agreement on the free movement of persons

Agreement on air transport

Agreement on the carriage of passengers and goods by road and rail

Agreement on trade in agricultural products

Agreement on the mutual recognition of conformity assessment

Agreement on the certain aspects of government procurement

Agreement on scientific and technological co-operation.

(2) This Agreement shall be concluded for an initial period of seven years. It shall be renewed indefinitely unless the European Community or Switzerland notifies the other Contracting Party to the contrary before the initial period expires. In the event of such notification, paragraph 4 shall apply.

(3) The European Community or Switzerland may terminate this Agreement by notifying its decision to the other Party. In the event of such notification, the provisions of paragraph 4 shall apply.

(4) The seven Agreements referred to in paragraph 1 shall cease to apply six months after receipt of notification of non-renewal referred to in paragraph 2 or termination referred to in paragraph 3.

Done at Luxembourg on the twenty-first day of June in the year one thousand nine hundred and ninety-nine, in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish and Swedish languages, each of those texts being equally authentic.

[Here follow the signatures]

## ANNEX I

### Free movement of persons

#### I. GENERAL PROVISIONS

##### ARTICLE 1

###### Entry and exit

(1) The Contracting Parties shall allow nationals of the other Contracting Parties and members of their family within the meaning of Article 3 of this Annex and posted persons within the meaning of Article 17 of this Annex to enter their territory simply upon production of a valid identity card or passport.

No entry visa or equivalent requirement may be demanded save in respect of members of the family and posted workers within the meaning of Article 17 of this Annex who do not have the nationality of a Contracting Party. The Contracting Party concerned shall grant these persons every facility for obtaining any necessary visas.

(2) The Contracting Parties shall grant nationals of the Contracting Parties, and members of their family within the meaning of Article 3 of this Annex and posted workers within the meaning of Article 17 of this Annex, the right to leave their territory simply upon production of a valid identity card or passport. The Contracting Parties may not demand any exit visa or equivalent requirement from nationals of the other Contracting Parties.

The Contracting Parties, acting in accordance with their laws, shall issue to such nationals, or renew, an identity card or passport, which shall state in particular the holder's nationality.

The passport must be valid at least for all the Contracting Parties and for the countries through which the holder must pass when travelling between them. Where the passport is the only document on which the holder may lawfully leave the country, its period of validity may not be less than five years.

##### ARTICLE 2

###### Residence and economic activity

(1) Without prejudice to the provisions for the transitional period, which are laid down in Article 10 of this Agreement and Chapter VII of this Annex, nationals of a Contracting Party shall have the right to reside and pursue an economic activity in the territory of the other Contracting Party under the procedures laid down in Chapters II to IV. That right shall be substantiated through the issue of a residence permit or, for persons from frontier zones, by means of a special permit.

Nationals of a Contracting Party shall also have the right to visit another Contracting Party or to remain there after a period of employment of less than one year in order to seek employment and to reside there for a reasonable amount of time, which may be up to six months, to allow them to find out about the employment opportunities corresponding to their professional qualifications and, if necessary, take the appropriate steps to take up employment. Those seeking employment shall have the right, in the territory of the Contracting Party concerned, to receive the same assistance as employment agencies in that state grant to its own nationals. They may be excluded from social security schemes for the duration of such residence.

(2) Nationals of the Contracting Parties not pursuing any economic activity in the host State who do not have a right of residence pursuant to other provisions of this Agreement shall, provided they fulfil the preconditions laid down in Chapter V, have a right of residence. That right shall be substantiated through the issue of a residence permit.

(3) The residence or special permit granted to nationals of the Contracting Parties shall be issued and renewed free of charge or on payment of a sum not exceeding the charges or taxes which nationals are required to pay for the issue of identity cards. The Contracting Parties shall take the necessary measures to simplify the formalities and procedures for obtaining those documents as far as possible.

(4) The Contracting Parties may require nationals of the other Contracting Parties to report their presence in the territory.

### ARTICLE 3

#### **Members of the family**

(1) A person who has the right of residence and is a national of a Contracting Party is entitled to be joined by the members of his family. An employed person must possess housing for his family which is regarded as of normal standard for national employed persons in the region where he is employed, but this provision may not lead to discrimination between national employed persons from the other Contracting Party.

(2) The following shall be regarded as members of the family, whatever their nationality:

- (a) his spouse and their relatives in the descending line who are under the age of 21 or are dependent;
- (b) his relatives in the ascending line and those of his spouse who are dependent on him;
- (c) in the case of a student, his spouse and their dependent children.

The Contracting Parties shall facilitate the admission of any member of the family not covered by the provisions of this paragraph under (a), (b) and (c), if that person is a dependant or lives in the household of the national of a Contracting Party in the country of provenance.

(3) When issuing a residence permit to members of the family of a national of a Contracting Party, the Contracting Parties may require only the documents listed below:

- (a) the document by virtue of which they entered the territory;
- (b) a document issued by the competent authority of the state of origin or provenance proving their relationship;
- (c) for dependants, a document issued by the competent authority of the state of origin or provenance certifying that they are dependants of the person referred to in paragraph 1 or that they live in his household in that state.

(4) The period of validity of a residence permit issued to a member of the family shall be the same as that of the permit issued to the person on whom he is dependent.

(5) The spouse and the dependent children or children aged under 21 of a person having a right of residence shall have the right to take up an economic activity whatever their nationality.

(6) The children of a national of a Contracting Party, whether or not he is pursuing or has pursued an economic activity in the territory of the other Contracting Party, shall be admitted to general education, apprenticeships and vocational training courses on the same basis as nationals of the host state, if those children are living in its territory.

The Contracting Parties shall promote initiatives to enable such children to follow the abovementioned courses under the best conditions.

## ARTICLE 4

### **Right to stay**

(1) Nationals of a Contracting Party and members of their family shall have the right to stay in the territory of another Contracting Party after their economic activity has finished.

(2) In accordance with Article 16 of the Agreement, reference is made to Regulation (EEC) No 1251/70 (OJ L 142, 1970, p. 24)<sup>1</sup> and Directive 75/34/EEC (OJ L 14, 1975, p.10).

## ARTICLE 5

### **Public order**

(1) The rights granted under the provisions of this Agreement may be restricted only by means of measures which are justified on grounds of public order, public security or public health.

(2) In accordance with Article 16 of the Agreement, reference is made to Directives 64/221/EEC (OJ L 56, 1964, P.850)<sup>2</sup>, 72/194/EEC (OJ L 121, 1972, p.32)<sup>2</sup> and 75/35/EEC (OJ L 14, 1975, p. 10<sup>2</sup>).

## II. EMPLOYED PERSONS

## ARTICLE 6

### **Rules regarding residence**

(1) An employed person who is a national of a Contracting Party (hereinafter referred to as "employed person") and is employed for a period of one year or more by an employer in the host state shall receive a residence permit which is valid for at least five years from its date of issue. It shall be extended automatically for a period of at least five years. When renewed for the first time, its period of validity may be limited, but not to less than one year, where its holder has been involuntarily unemployed for more than 12 consecutive months.

(2) An employed person who is employed for a period of more than three months but less than one year by an employer in the host state shall receive a residence permit for the same duration as his contract.

An employed person who is employed for a period of up to three months does not require a residence permit.

(3) When issuing residence permits, the Contracting Parties may not require an employed person to produce more than the following documents:

- (a) the document by virtue of which he entered their territory;
- (b) a contractual statement from the employer or a written confirmation of engagement.

(4) A residence permit shall be valid throughout the territory of the issuing state.

(5) Breaks in residence of less than six consecutive months and absences for the purposes of fulfilling military service obligations shall not affect the validity of the residence permit.

(6) A valid residence permit may not be withdrawn from an employed person merely on the grounds that he is no longer working, either because he has become temporarily unable to work owing to an accident or illness, or because he is voluntarily unemployed as certified by the competent employment office.

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<sup>1</sup> As in force at the date of signing the Agreement.

<sup>2</sup> As in force at the date of signing the Agreement.

(7) Completion of the formalities for obtaining a residence permit shall not prevent an applicant immediately taking up employment under the contract he has concluded.

#### ARTICLE 7

##### **Employed frontier workers**

(1) An employed frontier worker is a national of a Contracting Party who has his residence in the territory of a Contracting Party and who pursues an activity as an employed person in the territory of the other Contracting Party, returning to his place of residence as a rule every day, or at least once a week.

(2) Frontier workers shall not require a residence permit.

The competent authorities of the state of employment may nevertheless issue the frontier worker with a special permit for a period of at least five years or for the duration of his employment where this is longer than three months and less than one year. It shall be extended for at least five years provided that the frontier worker furnishes proof that he is actually pursuing an economic activity.

(3) Special permits shall be valid throughout the territory of the issuing state.

#### ARTICLE 8

##### **Occupational and geographical mobility**

(1) Employed persons shall have the right to occupational and geographical mobility throughout the territory of the host state.

(2) Occupational mobility shall include changes of employer, employment or occupation and changing from employed to self-employed status. Geographical mobility shall include changes in the place of work and residence.

#### ARTICLE 9

##### **Equal treatment**

(1) An employed person who is a national of a Contracting Party may not, by reason of his nationality, be treated differently in the territory of the other Contracting Party from national employed persons as regards conditions of employment and working conditions, especially as regards pay, dismissal, or reinstatement or re-employment if he becomes unemployed.

(2) An employed person and the members of his family referred to in Article 3 of this Annex shall enjoy the same tax concessions and welfare benefits as national employed persons and members of their family.

(3) He shall also be entitled on the same basis and on the same terms as national employed persons to education in vocational training establishments and in vocational retraining and occupational rehabilitation centres.

(4) Any clause in a collective or individual agreement or in any other collective arrangements concerning access to employment, employment, pay and other terms of employment and dismissal, shall be automatically void insofar as it provides for or authorises discriminatory conditions with respect to foreign employed persons who are nationals of the Contracting Parties.

(5) An employed person who is a national of a Contracting Party and is employed in the territory of the other Contracting Party shall enjoy equal treatment in terms of membership of trade union organisations and exercise of union rights, including the right to vote and right of access to executive or managerial positions within a trade union organisation; he may be precluded from involvement in the management of public law bodies and from holding an office governed by public law. He shall, moreover, have the right to be eligible for election to bodies representing employees in an undertaking.

These provisions shall be without prejudice to laws or regulations in the host state which confer more extensive rights on employed persons from the other Contracting Party.

(6) Without prejudice to the provisions of Article 26 of this Annex, an employed person who is a national of a Contracting Party and employed in the territory of the other Contracting Party shall enjoy all the rights and all the advantages accorded to national employed persons in terms of housing, including ownership of the housing he needs.

Such a worker shall have the same right as nationals to register on the housing lists in the region in which he is employed, where such lists exist; he shall enjoy the resultant benefits and priorities.

If his family has remained in his state of provenance, it shall be considered for this purpose as residing in the said region, where national workers benefit from a similar presumption.

## ARTICLE 10

### **Public service employment**

A national of a Contracting Party pursuing an activity as an employed person may be refused the right to take up employment in the public service which involves the exercise of public power and is intended to protect the general interests of the state or other public bodies.

## ARTICLE 11

### **Cooperation in relation to employment services**

The Contracting Parties shall cooperate, within the EURES (European Employment Services) network, in particular in setting up contacts, matching job vacancies and applications and exchanging information on the state of the labour market and living and working conditions.

## III SELF-EMPLOYED PERSONS

## ARTICLE 12

### **Rules regarding residence**

(1) A national of a Contracting Party wishing to become established in the territory of another Contracting Party in order to pursue a self-employed activity (hereinafter referred to as a self-employed person) shall receive a residence permit valid for a period of at least five years from its date of issue, provided that he produces evidence to the competent national authorities that he is established or wishes to become so.

(2) The residence permit shall be extended automatically for a period of at least five years, provided that the self-employed person produces evidence to the competent national authorities that he is pursuing a self-employed economic activity.



- (3) When issuing residence permits, the Contracting Parties may not require self-employed persons to produce more than the following:
- (a) the document by virtue of which he entered their territory;
  - (b) the evidence referred to in paragraphs 1 and 2.
- (4) A residence permit shall be valid throughout the territory of the issuing state.
- (5) Breaks in residence of less than six consecutive months and absences for the purposes of fulfilling military service obligations shall not affect the validity of the residence permit.
- (6) Valid residence permits may not be withdrawn from persons referred to in paragraph 1 merely because they are no longer working owing to temporary incapacity as a result of illness or accident.

## ARTICLE 13

### **Self-employed frontier workers**

- (1) A self-employed frontier worker is a national of a Contracting Party who is resident in the territory of a Contracting Party and who pursues a self-employed activity in the territory of the other Contracting Party, returning to his place of residence as a rule every day or at least once a week.
- (2) Self-employed frontier workers shall not require a residence permit.

The relevant authorities of the state concerned may nevertheless issue a self-employed frontier worker with a special permit valid for at least five years provided that he produces evidence to the competent national authorities that he is pursuing or wishes to pursue a self-employed activity. The permit shall be extended for at least five years, provided that the frontier worker produces evidence that he is pursuing a self-employed activity.

- (3) Special permits shall be valid throughout the territory of the issuing state.

## ARTICLE 14

### **Occupational and geographical mobility**

- (1) Self-employed persons shall have the right to occupational and geographical mobility throughout the territory of the host state.
- (2) Occupational mobility shall include change of occupation and changing from self-employed to employed status. Geographical mobility shall include changes in the place of work and residence.

## ARTICLE 15

### **Equal treatment**

- (1) As regards access to a self-employed activity and the pursuit thereof, a self-employed worker shall be afforded no less favourable treatment in the host country than that accorded to its own nationals.
- (2) The provisions of Article 9 of this Annex shall apply mutatis mutandis to the self-employed persons referred to in this Chapter.

## ARTICLE 16

### **Exercise of public authority**

A self-employed person may be denied the right to pursue an activity involving, even on an occasional basis, the exercise of public authority.

## IV. PROVISION OF SERVICES

## ARTICLE 17

### **Persons providing services**

With regard to the provision of services, the following shall be prohibited under Article 5 of this Agreement:

- (a) any restriction on the cross-frontier provision of services in the territory of a Contracting Party not exceeding 90 days of actual work per calendar year;
- (b) any restriction on the right of entry and residence in the cases covered by Article 5(2) of this Agreement concerning:
  - (i) persons providing services who are nationals of the Member States of the European Community or Switzerland and are established in the territory of a Contracting Party other than that of the person receiving services;
  - (ii) employees, irrespective of their nationality, of persons providing services, who are integrated into one Contracting Party's regular labour market and posted for the provision of a service in the territory of another Contracting Party without prejudice to Article 1.

## ARTICLE 18

The provisions of Article 17 of this Annex shall apply to companies formed in accordance with the law of a Member State of the European Community or Switzerland and having their registered office, central administration or principal place of business in the territory of a Contracting Party.

## ARTICLE 19

A person providing services who has the right or has been authorised to provide a service may, for the purposes of its provision, temporarily pursue his activity in the state in which the service is provided on the same terms as those imposed by that State on its own nationals, in accordance with the provisions of this Annex and Annexes II and III.

## ARTICLE 20

(1) Persons referred to in Article 17(b) of this Annex who have the right to provide a service shall not require a residence permit for periods of residence of 90 days or less. Such residence shall be covered by the documents referred to in Article 1, by virtue of which they entered the territory.

(2) Persons referred to in Article 17(b) of this Annex who have the right or have been authorised to provide a service for a period exceeding 90 days shall receive, to substantiate that right, a residence permit for a period equal to that of the provision of services.

(3) The right of residence shall apply throughout the territory of Switzerland or the Member State of the European Community concerned.

(4) For the purposes of issuing residence permits, the Contracting Parties may not require of the persons referred to in Article 17(b) of this Annex more than:

- (a) the document by virtue of which they entered the territory;
- (b) evidence that they are providing or wish to provide a service.

#### ARTICLE 21

(1) The total duration of provision of services under Article 17(a) of this Annex, whether continuous or consisting of successive periods of provision, may not exceed 90 days of actual work per calendar year.

(2) The provisions of paragraph 1 shall be without prejudice to the discharge by the person providing a service of his legal obligations under the guarantee given to the person receiving the service or to cases of force majeure.

#### ARTICLE 22

(1) The provisions of Articles 17 and 19 of this Annex shall not apply to activities involving, even on an occasional basis, the exercise of public authority in the Contracting Party concerned.

(2) The provisions of Articles 17 and 19 of this Annex and measures adopted by virtue thereof shall not preclude the applicability of laws, regulations and administrative provisions providing for the application of working and employment conditions to employed persons posted for the purposes of providing a service. In accordance with Article 16 of this Agreement, reference is made to Directive 96/71/EC of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 1997, P.1).<sup>3</sup>

(3) The provisions of Articles 17(a) and 19 of this Annex shall be without prejudice to the applicability of the laws, regulations and administrative provisions prevailing in all Contracting Parties at the time of this Agreement's entry into force in respect of:

- (i) the activities of temporary and interim employment agencies;
- (ii) financial services where provision is subject to prior authorisation in the territory of a Contracting Party and the provider to prudential supervision by that Contracting Party's authorities.

(4) The provisions of Articles 17(a) and 19 of this Annex shall be without prejudice to the applicability of the Contracting Parties' respective laws, regulations and administrative provisions concerning the provision of services of 90 days of actual work or less required by imperative requirements in the public interest.

#### ARTICLE 23

##### **Persons receiving services**

(1) A person receiving services within the meaning of Article 5(3) of this Agreement shall not require a residence permit for a period of residence of three months or less. For a period

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<sup>3</sup> As in force at the date of signing the Agreement.

exceeding three months, a person receiving services shall be issued with a residence permit equal in duration to the service. He may be excluded from social security schemes during his period of residence.

(2) A residence permit shall be valid throughout the territory of the issuing state.

## V. PERSONS NOT PURSUING AN ECONOMIC ACTIVITY

### ARTICLE 24

#### Rules regarding residence

(1) A person who is a national of a Contracting Party not pursuing an economic activity in the state of residence and having no right of residence pursuant to other provisions of this Agreement shall receive a residence permit valid for at least five years provided he proves to the competent national authorities that he possesses for himself and the members of his family:

- (a) sufficient financial means not to have to apply for social assistance benefits during their stay;
- (b) all-risks sickness insurance cover.<sup>4</sup>

The Contracting Parties may, if they consider it necessary, require the residence permit to be revalidated at the end of the first two years of residence.

(2) Financial means shall be considered sufficient if they exceed the amount below which nationals, having regard to their personal situation and, where appropriate, that of their family, can claim social security benefits. Where that condition cannot be applied, the applicant's financial means shall be regarded as sufficient if they are greater than the level of the minimum social security pension paid by the host state.

(3) Persons who have been employed for less than one year in the territory of a Contracting Party may reside there provided they comply with the conditions set out in paragraph 1 of this Article. The unemployment benefits to which they are entitled under national law which is, where appropriate, complemented by the provisions of Annex II, shall be considered to be financial means within the meaning of paragraphs 1(a) and 2 of this Article.

(4) A student who does not have a right of residence in the territory of the other Contracting Party on the basis of any other provision of this Agreement shall be issued with a residence permit for a period limited to that of the training or to one year, if the training lasts for more than one year, provided he satisfies the national authority concerned, by means of a statement or, if he chooses, by any other at least equivalent means, that he has sufficient financial means to ensure that neither he, his spouse nor his dependent children will make any claim for social security of the host state during their stay, and provided he is registered in an approved establishment for the purpose of following, as his principal activity, a vocational training course and has all-risks sickness insurance cover. This Agreement does not regulate access to vocational training or maintenance assistance given to the students covered by this Article.

(5) A residence permit shall automatically be extended for at least five years provided that the eligibility conditions are still met. Residence permits for students shall be extended annually for a duration equal to the remaining training period.

(6) Breaks in residence of less than six consecutive months and absences for the purposes of fulfilling military service obligations shall not affect the validity of the residence permit.

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<sup>4</sup> In Switzerland, sickness insurance for persons who do not elect to make it their domicile must include accident and maternity cover.

- (7) A residence permit shall be valid throughout the territory of the issuing state.
- (8) The right of residence shall obtain for as long as beneficiaries of that right fulfil the conditions laid down in paragraph 1.

## VI. PURCHASE OF IMMOVABLE PROPERTY

### ARTICLE 25

- (1) A national of a Contracting Party who has a right of residence and his principal residence in the host state shall enjoy the same rights as a national as regards the purchase of immovable property. He may set up his principal residence in the host state at any time in accordance with the relevant national rules irrespective of the duration of his employment. Leaving the host state shall not entail any obligation to dispose of such property.
- (2) The national of a Contracting Party who has a right of residence but does not have his principal residence in the host state shall enjoy the same rights as a national as regards the purchase of immovable property needed for his economic activity. Leaving the host state shall not entail any obligation to dispose of such property. He may also be authorised to purchase a second residence or holiday accommodation. This Agreement shall not affect the rules applying to pure capital investment or business of unbuilt land and apartments.
- (3) A frontier worker shall enjoy the same rights as a national as regards the purchase of immovable property for his economic activity and as a secondary residence. Leaving the host state shall not entail any obligation to dispose of such property. He may also be authorised to purchase holiday accommodation. This Agreement shall not affect the rules applying in the host state to pure capital investment or business of unbuilt land and apartments.

## VII. TRANSITIONAL PROVISIONS AND DEVELOPMENT OF THE AGREEMENT

### ARTICLE 26

#### **General provisions**

- (1) When the quantitative restrictions laid down in Article 10 of this Agreement are applied, the provisions contained in this Chapter shall supplement or replace the other provisions of this Annex, as the case may be.
- (2) When the quantitative restrictions laid down in Article 10 of this Agreement are applied, the pursuit of an economic activity shall be subject to the issue of a residence and/or a work permit.

### ARTICLE 27

#### **Rules relating to the residence of employed persons**

- (1) The residence permit of an employed person who has an employment contract for a period of less than one year shall be extended for up to a total of 12 months provided that the employed person furnishes proof to the competent national authorities that he is able to pursue an economic activity. A new residence permit shall be issued provided that the employed person furnishes proof that he is able to pursue an economic activity and that the quantitative limits laid down in Article 10 of this Agreement have not been reached. There shall be no obligation to leave the country between two employment contracts in accordance with Article 24 of this Annex.

(2) During the period referred to in Article 10(2) of this Agreement, a Contracting Party may require that a written contract or draft contract be produced before issuing a first residence permit.

(3) (a) Persons who have previously held temporary jobs in the territory of the host state for at least 30 months shall automatically have the right to take up employment for an unlimited duration.<sup>5</sup> They may not be denied this right on the grounds that the number of residence permits guaranteed has been exhausted.

(b) Persons who have previously held seasonal employment in the territory of the host state for a total of not less than 50 months during the last 15 years and do not meet the conditions of entitlement to a residence permit in accordance with the provisions of subparagraph (a) above shall automatically have the right to take up employment for an unlimited duration.

## ARTICLE 28

### **Employed frontier workers**

(1) An employed frontier worker is a national of a Contracting Party who has his normal place of residence in the frontier zones of Switzerland or neighbouring states and who pursues an activity as an employed person in the frontier zones of another Contracting Party returning as a rule to his principal residence every day, or at least once a week. For the purposes of this Agreement, frontier zones shall mean the zones defined in the agreements concluded between Switzerland and its neighbours concerning movement in frontier zones.

(2) The special permit shall be valid throughout the frontier zone of the issuing state.

## ARTICLE 29

### **Employed persons' right to return**

(1) An employed person who, on the date this Agreement entered into force, was holding a residence permit valid for at least one year and who has then left the host country shall be entitled to preferential access to the quota for a new residence permit within six years of his departure provided he proves that he is able to pursue an economic activity.

(2) A frontier worker shall have the right to a new special permit within six years of the end of his previous employment over an uninterrupted period of three years, subject to verification of his pay and working conditions if he is employed for the two years following the Agreement's entry into force, provided he proves to the competent national authorities that he is able to pursue an economic activity.

(3) Young persons who have left the territory of a Contracting Party after residing there for at least five years before the age of 21 shall have the right for a period of four years to return to that country and pursue an economic activity.

## ARTICLE 30

### **Employed persons' occupational and geographical mobility**

(1) An employed person holding a residence permit valid for less than one year shall, for the twelve months following the commencement of his employment, have the right to occupational and geographical mobility. The right to change from employed to self-employed status shall also be allowed subject to compliance with Article 10 of this Agreement.

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<sup>5</sup> They shall not be subject to the priority accorded to workers integrated into the regular labour market or monitoring of compliance with wage and employment conditions in a particular sector or place.

(2) Special permits issued to employed frontier workers shall confer the right to occupational and geographical mobility within all the frontier zones of Switzerland or its neighbouring states.

#### ARTICLE 31

##### **Rules relating to the residence of self-employed persons**

A national of a Contracting Party wishing to become established in the territory of another Contracting Party in order to pursue a self-employed activity (hereinafter referred to as a “self-employed worker”) shall receive a residence permit valid for a period of six months. He shall receive a residence permit valid for at least five years provided that he proves to the competent national authorities before the end of the six-month period that he is pursuing a self-employed activity. If necessary, the six-month period may be extended by a maximum of two months if there is a genuine likelihood that he will produce such proof.

#### ARTICLE 32

##### **Self-employed frontier workers**

(1) A self-employed frontier worker is a national of a Contracting Party who is ordinarily resident in the frontier zones of Switzerland or neighbouring states and who pursues a self-employed activity in the frontier zones of the other Contracting Party returning as a rule to his principal residence in principle every day or at least once a week. For the purposes of this Agreement, frontier zones shall mean the zones defined in the agreements concluded between Switzerland and its neighbouring states concerning movement in frontier zones.

(2) A national of a Contracting Party who wishes in his capacity as a frontier worker to pursue a self-employed activity in the frontier zones of Switzerland or its neighbouring states shall receive a preliminary six-month special permit in advance. He shall receive a special permit for a period of at least five years provided that he proves to the competent national authorities, before the end of that six-month period, that he is pursuing a self-employed activity. If necessary, the six-month period may be extended by a maximum of two months if there is a genuine likelihood that he will produce such proof.

(3) Special permits shall be valid throughout the frontier zone of the issuing state.

#### ARTICLE 33

##### **Self-employed persons’ right to return**

(1) A self-employed person who has held a residence permit valid for a period of at least five years and who has left the host state shall have the right to a new permit within six years of his departure provided he has already worked in the host country for an uninterrupted period of three years and proves to the competent national authorities that he is able to pursue an economic activity.

(2) A self-employed frontier worker shall have the right to a new special permit within a period of six years of the termination of previous activity lasting for an uninterrupted period of four years provided he proves to the competent national authorities that he is able to pursue an economic activity.

(3) Young persons who have left the territory of a Contracting Party after residing there for at least five years before the age of 21 shall have the right for a period of four years to return to that country and pursue an economic activity.

## ARTICLE 34

### **Self-employed persons' occupational and geographical mobility**

Special permits issued to self-employed frontier workers shall confer the right to occupational and geographical mobility within the frontier zones of Switzerland or its neighbouring states. Preliminary six-month residence permits issued in advance (in the case of frontier workers, special permits) shall confer the right only to geographical mobility.

## ANNEX II

### **Co-ordination of social security schemes**

#### ARTICLE 1

(1) The contracting parties agree, with regard to the coordination of social security schemes, to apply among themselves the Community acts to which reference is made, as in force at the date of signature of the Agreement and as amended by section A of this Annex, or rules equivalent to such acts.

(2) The term "Member State(s)" contained in the acts referred to in section A of this Annex shall be understood to include Switzerland in addition to the States covered by the relevant Community acts.

#### ARTICLE 2

(1) For the purposes of applying the provisions of this Annex, the contracting parties shall take into consideration the Community acts referred to in or amended by section B of this Annex.

(2) For the purposes of applying the provisions of this Annex, the contracting parties shall take note of the Community acts referred to in section C of this Annex.

#### ARTICLE 3

(1) The arrangements relating to unemployment insurance for Community workers holding a Swiss residence permit valid for less than one year are set out in a protocol to this Annex.

(2) The protocol forms an integral part of this Annex.



## SECTION A: ACTS REFERRED TO

1. **371 R 1408**<sup>6</sup>: Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to the members of their families moving within the Community,

as updated by:

**397 R 118**: Council Regulation (EC) No 118/97 of 2 December 1996 (OJ L 28, 30.1.97, p. 1) modifying and updating Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 fixing the procedure for implementing Regulation (EEC) No 1408/71,

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<sup>6</sup> N.B. The Community acquis as applied by the EC Member States within the European Community when this Agreement is signed:

The principles of **aggregation** of entitlements to unemployment benefit and its provision **in the state of last employment** apply irrespective of the duration of employment.

Persons who have been **employed for a period of less than one year** within the territory of a Member State may, in order to seek a new job, reside there after the end of their employment for a reasonable period, which may be up to six months, for the purpose of identifying offers of jobs corresponding to their professional qualifications and, if necessary, taking the steps required to obtain employment. These persons may also remain after the end of their employment if they have sufficient financial means to support themselves and the members of their families without having to draw on welfare benefits during their stay, and if they have sickness insurance cover for all risks. Unemployment benefit to which they are entitled under national legislation, and which may if necessary be supplemented under aggregation rules, is to be regarded as such financial means. Financial means are deemed adequate if they exceed the amount below which nationals of the State concerned may, while taking into account their personal circumstances and possibly those of their families, claim welfare benefits. If this precondition is not applicable, the financial means of the applicant are considered adequate if they exceed the level of the minimum social security pension granted by the host State.

**Seasonal** workers may exercise their rights to unemployment benefits in the State of last employment regardless of when the season concerned comes to an end. They may remain after the end of their employment provided that they satisfy the conditions mentioned in the previous paragraph. If they make themselves available for work in the State of residence, they will receive unemployment benefits in that State in accordance with the provisions of Article 71 of Regulation 1408/71.

**Frontier** workers may make themselves available for work in the State of residence or in the State of last employment if they have maintained personal and professional links and thus have better prospects of finding employment there. They will draw unemployment benefits in the State in which they make themselves available for work.

**397 R 1290:** Council Regulation (EC) No 1290/97 of 27 June 1997 (OJ L 176, 4.7.97, p.1) modifying Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 fixing the procedure for implementing Regulation (EEC) No 1408/71,

**398 R 1223:** Council Regulation (EC) No 1223/98 of 4 June 1998 (OJ L 168, 13.6.98, p.1) modifying Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 fixing the procedure for implementing Regulation (EEC) No 1408/71,

**398 R 1606:** Council Regulation (EC) No 1606/98 of 29 June 1998 (OJ L 209, 25.7.98, p.1) modifying Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 fixing the procedure for implementing Regulation (EEC) No 1408/71.

**399 R 307:** Council Regulation (EC) No 307/1999 of 8 February 1999 (OJ L 38, 12.2.1999 p.1) amending Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 with a view to extending them to cover students.

**For the purposes of this Agreement, the Regulation shall be adapted as follows:**

- (a) Article 95a shall not be applicable;
- (b) Article 95b shall not be applicable;
- (c) The following shall be added to **Annex I, section I:**

**“Switzerland**

If a Swiss institution is the competent institution for granting healthcare benefits in accordance with Title III Chapter 1 of the Regulation:

An employed worker within the meaning of the Federal Old-Age and Survivors' Insurance Act shall be deemed an “employed person” within the meaning of Article 1(a)(ii) of the Regulation.

A self-employed worker within the meaning of the Federal Old-Age and Survivors' Insurance Act shall be deemed a “self-employed person” within the meaning of Article 1(a)(ii) of the Regulation.”

- (d) The following shall be added to **Annex I, section II:**

**“Switzerland**

For the purpose of determining entitlement to benefits in kind pursuant to the provisions of Title III Chapter 1 of the Regulation, “member of the family” shall mean the spouse as well as the children under the age of 18 and those under the age of 25 attending school, pursuing studies or undergoing an apprenticeship.”

- (e) The following shall be added to **Annex II, section I:**

**“Switzerland**

The cantonal schemes (Graubünden, Lucerne, St. Gallen) for family allowances for self-employed persons.”

- (f) The following shall be added to **Annex II, section II:**

**“Switzerland**

Birth grants and adoption grants pursuant to the relevant cantonal legislation on family benefits (Fribourg, Geneva, Jura, Lucerne, Neuchâtel, Schaffhausen, Schwyz, Solothurn, Uri, Valais, Vaud).”

(g) The following shall be added to **Annex II, section III**:

**“Switzerland**

Does not apply.”

(h) The following shall be added to **Annex IIa**:

**“Switzerland**

- (a) Supplementary benefits (Federal Supplementary Benefits Act of 19 March 1965) and similar benefits provided for under cantonal legislation.
- (b) Pensions in the case of hardship under invalidity insurance (Article 28 subpara. 1a of the Federal Invalidity Insurance Act of 19 June 1959, as amended on 7 October 1994).
- (c) Non-contributory mixed benefits in the event of unemployment, as provided for under cantonal legislation.”

(i) The following shall be added to **Annex III, Part A**:

**“Germany-Switzerland**

- (a) Convention on social security of 25 February 1964, as amended by Complementary Conventions No 1 of 9 September 1975 and No 2 of 2 March 1989:
  - (i) Article 4(2) as regards the payment of cash benefits to persons resident in a third country;
  - (ii) point 9b, paragraph 1, Nos 2-4 of the Final Protocol;
  - (iii) point 9e, paragraph 1(b), first, second and fourth sentences, of the Final Protocol.
- (b) Convention on unemployment insurance of 20 October 1982, as amended by the Additional Protocol of 22 December 1992,
  - (i) Article 7(1);
  - (ii) Article 8(5). Germany (district of Büsingen) shall contribute a sum equivalent to the cantonal contribution under Swiss law towards the cost of actual places on employment-promotion measures for workers subject to this provision.

**Austria-Switzerland**

Article 4 of the Convention on social security of 15 November 1967, as amended by Complementary Conventions No 2 of 17 May 1973, No 2 of 30 November 1977, No 3 of 14 December 1987 and No 4 of 11 December 1996, as regards the payment of cash benefits to persons resident in a third country.

**Belgium-Switzerland**

- (a) Article 3(1) of the Convention on social security of 24 September 1975 as regards the payment of cash benefits to persons resident in a third country.
- (b) Point 4 of the Final Protocol to the said Convention as regards the payment of cash benefits to persons resident in a third country.

**Denmark-Switzerland**

Article 6 of the Convention on social security of 5 January 1983, as amended by Complementary Conventions No 1 of 18 September 1985 and No 2 of 11 April 1996, as regards the payment of cash benefits to persons resident in a third country.

**Spain-Switzerland**

- (a) Article 2 of the Convention on social security of 13 October 1969, as amended by the Complementary Convention of 11 June 1982, as regards the payment of cash benefits to persons resident in a third country.
- (b) Point 17 of the Final Protocol to the above Convention; persons insured under the Spanish scheme by virtue of this provision are exempted from the requirement to join the Swiss sickness insurance scheme.

**Finland-Switzerland**

Article 5(2) of the Convention on social security of 28 June 1985.

**France-Switzerland**

Article 3(1) of the Convention on social security of 3 July 1975, as regard the payment of cash benefits to persons resident in a third country.

**Greece-Switzerland**

Article 4 of the Convention on social security of 1 June 1973, as regards the payment of cash benefits to persons resident in a third country.

**Italy-Switzerland**

(a) Article 3, second sentence, of the Convention on social security of 14 December 1962, as amended by Complementary Convention No 1 of 18 December 1963, the Complementary Agreement of 4 July 1969, the Additional Protocol of 25 February 1974 and Complementary Agreement No 2 of April 1980, as regards the payment of cash benefits to persons resident in a third country.

(b) Article 9(1) of the said Convention.

**Luxembourg-Switzerland**

Article 4(2) of the Convention on social security of 3 June 1969, as amended by the Complementary Convention of 26 March 1976.

**Netherlands-Switzerland**

Article 4, second sentence, of the Convention on social security of 27 May 1970.

**Portugal-Switzerland**

Article 3, second sentence, of the Convention on social security of 11 September 1975, as amended by the Complementary Convention of 11 May 1994, as regards the payment of cash benefits to persons resident in a third country.

**United Kingdom-Switzerland**

Article 3(1) and (2) of the Convention on social security of 21 February 1968, as regards the payment of cash benefits to persons resident in a third country.

**Sweden-Switzerland**

Article 5(2) of the Convention on social security of 20 October 1978.

(j) The following shall be added to **Annex III, Part B**:

**Germany-Switzerland**

(a) Article 4(2) of the Convention on social security of 25 February 1964, as amended by Complementary Conventions No 1 of 9 September 1975 and No 2 of 2 March 1989, as regards the payment of cash benefits to persons resident in a third country.

(b) Convention on unemployment insurance of 20 October 1982, as amended by the Additional Protocol of 22 December 1992,

(i) Article 7(1);

(ii) Article 8(5). Germany (district Busingen) shall contribute a sum equivalent to the cantonal contribution under Swiss law towards the cost of actual places on employment-promotion measures for workers subject to this provision.

**Austria-Switzerland**

Article 4 of the Convention on social security of 15 November 1967, as amended by Complementary Conventions No 1 of 17 May 1973, No 2 of 30 November 1977, No 3 of 14 December 1987 and No 4 of 11 December 1996, as regards the payment of cash benefits to persons resident in a third country.

**Belgium-Switzerland**

- (a) Article 3(1) of the Convention on social security of 24 September 1975, as regards the payment of cash benefits to persons resident in a third country.
- (b) Point 4 of the Final Protocol to the said Convention, as regards the payment of cash benefits to persons resident in a third country.

**Denmark-Switzerland**

Article 6 of the Convention on social security of 5 January 1983, as amended by Complementary Conventions No 1 of 18 September 1985 and No 2 of 11 April 1996, as regards the payment of cash benefits to persons residents in a third country.

**Spain-Switzerland**

- (a) Article 2 of the Convention on social security of 13 October 1969 as amended by the Complementary Convention of 11 June 1982, as regards the payment of cash benefits to persons resident in a third country.
- (b) Point 17 of the Final Protocol to the above Convention; persons insured under the Spanish scheme by virtue of this provision are exempted from the requirement to join the Swiss sickness insurance scheme.

**Finland-Switzerland**

Article 5(2) of the Convention on social security of 28 June 1985.

**France-Switzerland**

Article 3(1) of the Convention on social security of 3 July 1975, as regards the payment of cash benefits to persons resident in a third country.

**Greece-Switzerland**

Article 4 of the Convention on social security of 1 June 1973, as regards the payment of cash benefits to persons resident in a third country.

**Italy-Switzerland**

- (a) Article 3, second sentence, of the Convention on social security of 14 December 1962, as amended by the Complementary Convention of 18 December 1963, the Complementary Agreement of 4 July 1969, the Additional Protocol of 25 February 1974 and Complementary Agreement No 2 of 2 April 1980, as regards the payment of cash benefits to persons resident in a third country.
- (b) Article 9(1) of the said Convention.

**Luxembourg-Switzerland**

Article 4(2) of the Convention on social security of 3 June 1967, as amended by the Complementary Convention of 26 March 1976.

**Netherlands-Switzerland**

Article 4, second sentence, of the Convention on social security of 27 May 1970.

**Portugal-Switzerland**

Article 3, second sentence, of the Convention on social security of 11 September 1975, as amended by the Complementary Convention of 11 May 1994, as regards the payment of cash benefits to persons resident in a third country.

**United Kingdom-Switzerland**

Article 3(1) and (2) of the Convention on social security of 21 February 1968, as regards the payment of cash benefits to persons resident in a third country.

**Sweden-Switzerland**

Article 5(2) of the Convention on social security of 20 October 1978.”

(k) The following shall be added to **Annex IV, Part A:**

**“Switzerland**

None.”

(l) The following shall be added to **Annex IV, Part B:**

**“Switzerland**

None”.

(m) The following shall be added to **Annex IV, Part C:**

**“Switzerland**

All claims for old-age, survivors’ and invalidity pensions under the basic scheme and old-age pensions under the occupational benefit plans.”

(n) The following shall be added to **Annex IV, Part D2:**

“Survivors’ and invalidity pensions under the Federal Law on occupational benefits plans for old-age, survivors’ and invalidity insurance of 25 June 1982.”

(o) The following shall be added to **Annex VI:**

“1. Article 2 of the Federal Old-Age and Survivors’ Insurance Act and Article 1 of the Federal Invalidity Insurance Act, which govern voluntary insurance in these insurance branches for Swiss nationals resident in States not subject to this Agreement, shall be applicable to persons resident outside Switzerland who are nationals of the other States to which this Agreement applies, and to refugees and stateless persons resident in the territory of these States, where these persons join the voluntary insurance scheme not later than one year after the date on which they ceased to be covered by old-age, survivors’ and invalidity insurance after a continuous period of insurance of at least five years.

2. Where a person ceases to be insured under Swiss old-age, survivors’ and invalidity insurance after a continuous period of insurance of at least five years, he shall continue to be entitled to be insured with the agreement of the employer if he works in a State to which this Agreement does not apply for an employer in Switzerland and if he submits an application to this effect within six months of the date on which he ceases to be insured.

3. Compulsory cover under the Swiss sickness insurance scheme and possible exemptions

(a) Compulsory insurance under the Swiss sickness insurance scheme shall cover the following persons not resident in Switzerland:

- (i) persons subject to Swiss legal provisions under the terms of Title II of the Regulation;
- (ii) persons for whom Switzerland is the competent State under Articles 28, 28a or 29 of the Regulation;
- (iii) persons receiving Swiss unemployment insurance benefits;
- (iv) members of the family of these persons or of a worker resident in Switzerland who is insured under the Swiss sickness insurance scheme, except if these family members are resident in one of the following States: Denmark, Spain, Portugal, Sweden, United Kingdom.

(b) Persons referred to in (a) may, on request, be exempted from compulsory insurance if they are resident in one of the following States and can prove that they are eligible there for cover in the event of sickness: Germany, Austria, Finland, Italy and, with regard to persons referred to in a) i)-iii), Portugal. This request must be submitted within three months of the date on which the obligation to take out insurance in Switzerland comes into effect; where the request is submitted after the deadline, the insurance shall take effect as from the date of affiliation.

4. Persons resident in Germany, Austria, Belgium or the Netherlands but with sickness insurance cover in Switzerland shall, when in Switzerland, benefit from the application by analogy of Article 20, first and second sentences, of the Regulation. In these cases, the Swiss insurer shall bear all invoiced costs.

5. For the purposes of applying Articles 22, 22a, 22b, 22c, 25 and 31 of the Regulation, the Swiss insurer shall bear all invoiced costs.

6. Sickness insurance benefits paid by the institution of the place of residence to the persons referred to in 4 shall be reimbursed in accordance with Article 93 of Regulation (EEC) No 574/72.

7. Periods of daily allowance insurance completed under the insurance scheme of another State to which this Agreement applies shall be taken into account for reducing or lifting a possible reserve in daily allowance insurance in the event of maternity or sickness where the person becomes insured with a Swiss insurer within three months of ceasing to be covered by insurance in another country.

8. An employed or self-employed person who is no longer subject to Swiss legislation on invalidity insurance shall, for purposes of Title III Chapter 3 of the Regulation, be regarded as being insured by that insurance for the purposes of granting of an ordinary invalidity pension.

(a) for a period of one year with effect from the day on which work preceding invalidity was interrupted, if he had to give up his gainful employment or self-employment in Switzerland owing to an accident or an illness and if the invalidity was diagnosed in this country; he shall be obliged to pay contributions to old-age, survivors' and invalidity insurance as if he were domiciled in Switzerland;

(b) for the period for which he undergoes rehabilitation measures under invalidity insurance after having ceased his gainful employment or self-employment; he shall then remain subject to the obligation to pay contributions to old-age, survivors' and invalidity insurance;

(c) in cases where (a) and (b) are not applicable,

(i) if he is insured under the old-age, survivors' or invalidity insurance of another State to which this Agreement applies on the date on which the risk insured against materialises within the meaning of Swiss legislation on invalidity insurance; or

(ii) if he is entitled to claim a pension under the invalidity or old-age insurance of another State to which the Agreement applies or if he receives such a pension; or

(iii) if he is incapable of working while subject to the legislation of another State to which the Agreement applies and is entitled to claim the payment of benefits from a sickness or accident insurance scheme of that State or if he receives such benefit; or

(iv) if he is entitled to claim, because of unemployment, the pay of benefits from the unemployment insurance scheme of another State to which the Agreement applies or if he receives such benefit; or

(v) if he has worked in Switzerland as a frontier worker and if, during the three years immediately preceding the materialisation of the risk within the meaning of Swiss legislation, he has paid contributions for at least twelve months in accordance with that legislation.

9. Point 8(a) shall apply by analogy to the granting of rehabilitation measures under Swiss invalidity insurance.

(p) The following shall be added to **Annex VII**:

“Pursuit of self-employment in Switzerland and of employment in any other State to which this Agreement applies.”

2. **372 R 0574:** Council Regulation (EEC) No 574/72 of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to the members of their families moving within the Community.

as updated by:

**397 R 118:** Council Regulation (EC) No 118/97 of 2 December 1996 (OJ L 28, 30.1.97, p. 1) modifying and updating Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 fixing the procedure for implementing Regulation (EEC) No 1408/71,

**397 R 1290:** Council Regulation (EC) No 1290/97 of 27 June 1997 (OJ L 176 4.7.97, p. 1) modifying Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 fixing the procedure for implementing Regulation (EEC) No 1408/71,

**398 R 1223:** Council Regulation (EC) No 1223/98 of 4 June 1998 (OJ L 168, 13.6.98, p. 1) modifying Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 fixing the procedure for implementing Regulation (EEC) No 1408/71,

**398 R 1606:** Council Regulation (EC) No 1606/98 of 29 June 1998 (OJ L 209, 25.7.98, p. 1) modifying Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 fixing the procedure for implementing Regulation (EEC) No 1408/71.

**399 R 307:** Council Regulation (EC) No 307/1999 of 8 February 1999 (OJ L 38, 12.2.1999 p. 1) amending Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 with a view to extending them to cover students.

**For the purposes of this Agreement, the Regulation shall be adapted as follows:**

- (a) The following shall be added to **Annex 1:**

**“Switzerland**

1. Bundesamt für Sozialversicherung, Bern – Office fédéral des assurances sociales, Berne – Ufficio federal delle assicurazioni sociali, Berna (Federal Insurance Office, Berne).

2. Bundesamt für Wirtschaft und Arbeit, Bern – Office fédéral du développement économique et de l’emploi, Berne – Ufficio federale dello sviluppo economico e del lavoro, Berna (Federal Office for Industry and Labour, Berne).”

- (b) The following shall be added to **Annex 2:**

**“Switzerland**

1. Sickness and maternity

Versicherer – Assureur – Assicuratore

(Insurer) under the Federal Sickness Insurance Act providing cover to the person concerned.



2. Invalidity
  - (a) Invalidity insurance:
    - (i) Persons resident in Switzerland:
 

IV Stelle – Office AI – Ufficio AI  
(Invalidity insurance office) of the canton in which they are resident.
    - (ii) Persons not resident in Switzerland:
 

IV-Stelle für Versicherte im Ausland, Genf – Office AI pour les assurés à l'étranger, Genève – Ufficio AI per gli assicurati all'estero, Ginevra  
(Invalidity insurance office for persons insured abroad, Geneva)
  - (b) Occupational benefit plans:
 

Pension fund of which the most recent employer is a member.
3. Old age and death
  - (a) Old-age and survivor's insurance:
    - (i) Persons resident in Switzerland:
 

Ausgleichskasse – Caisse de compensation – Cassa di compensazione, à laquelle les contributions ont été payées en dernier lieu  
(Compensation fund) to which contributions have been paid most recently.
    - (ii) Persons not resident in Switzerland:
 

Schweizerische Ausgleichskasse, Genf – Caisse suisse de compensation, Genève – Cassa svizzera di compensazione, Ginevra  
(Swiss Compensation Fund, Geneva).
  - (b) Occupational benefit plans:
 

Pension fund of which the most recent employer is a member.
4. Occupational accidents and diseases
  - (a) Employed persons:
 

Insurer against accidents with which the employer is insured.
  - (b) Self-employed persons:
 

Insurer against accidents with which the person concerned is voluntarily insured.
5. Unemployment
  - (a) Full unemployment:
 

Unemployment insurance fund chosen by the worker.
  - (b) Partial unemployment:
 

Unemployment insurance fund chosen by the employer.
6. Family benefits
  - (a) Federal scheme:
    - (i) Employed persons:
 

Kantonale Ausgleichskasse – Caisse cantonale de compensation – Cassa cantonale di compensazione (cantonal compensation fund) of which the employer is a member.
    - (ii) Self-employed persons:
 

Kantonale Ausgleichskasse – Caisse cantonale de compensation – Cassa cantonale di compensazione (cantonal compensation fund) of the canton of residence.
  - (b) Cantonal schemes:
    - (i) Employed persons:
 

Familienausgleichskasse – Caisse de compensation familiale – Cassa di compensazione familiare (family compensation fund) of which the worker is a member, or the employer.

- (ii) Self-employed persons:  
The institution designated by the canton.”

(c) The following shall be added to **Annex 3**:

“**Switzerland**

1. Sickness and maternity

Gemeinsame Einrichtung KVG, Solothurn – Institution commune LaMal, Soleure – Istituzione commune LaMal, Soletta (common institution under the Federal Sickness Insurance Act, Solothurn).

2. Invalidity

(a) Invalidity insurance

Schweizerische Ausgleichskasse, Genf – Caisse suisse de compensation, Genève – Cassa svizzera di compensazione, Ginevra (Swiss Compensation Fund, Geneva).

(b) Occupational welfare benefit:

Sicherheitsfonds – Fonds de garantie – Fondo di garanzia LPP (Guarantee Fund).

3. Old age and death

(a) Old-age and survivors’ insurance:

Schweizerische Ausgleichskasse, Genf – Caisse Suisse de compensation, Genève – Cassa svizzera di compensazione, Ginevra (Swiss Compensation Fund, Geneva).

(b) Occupational benefit plans:

Sicherheitsfonds – Fonds de garantie – Fondo di garanzia LPP (Guarantee Fund).

4. Occupational accidents and diseases

Schweizerische Unfallversicherungsanstalt, Luzern – Caisse nationale suisse d’assurance en cas d’accidents, Lucerne – Cassa nazionale svizzera di assicurazione contro gli incidenti, Lucerna (Swiss National Accident Insurance Fund, Lucerne).

5. Unemployment

(a) Full unemployment:

Unemployment insurance fund chosen by the employed person.

(b) Partial unemployment:

Unemployment insurance fund chosen by the employer.

6. Family benefits

The institution designated by the canton of residence or the host canton.”

(d) The following shall be added to **Annex 4**:

“**Switzerland**

1. Sickness and maternity

Gemeinsame Einrichtung KVG, Solothurn – Institution commune LaMal, Soleure – Istituzione commune LaMal, Soletta (common institution under the Federal Sickness Insurance Act, Solothurn).

2. Invalidity

(a) Invalidity insurance:

Schweizerische Ausgleichskasse, Genf – Caisse Suisse de compensation, Genève – Cassa svizzera di compensazione, Ginevra (Swiss Compensation Fund, Geneva).

(b) Occupational benefit plans:

Sicherheitsfonds – Fonds de garantie – Fondo di garanzia LPP (Guarantee Fund)

3. Old-age and death

(a) Old-age and survivors' insurance:

Schweizerische Ausgleichskasse, Genf – Caisse Suisse de compensation, Genève – Cassa svizzera di compensazione, Ginevra (Swiss Compensation Fund, Geneva).

(b) Occupational benefit plans:

Sicherheitsfonds – Fonds de garantie – Fondo di garanzia LPP (Guarantee Fund).

4. Occupational accidents and diseases

Schweizerische Unfallversicherungsanstalt, Luzern – Caisse nationale Suisse d'assurance en cas d'accidents, Lucerne – Cassa nazionale svizzera di assicurazione contro gli incidenti, Lucerna (Swiss National Accident Insurance Fund, Lucerne).

5. Unemployment

Bundesamt für Wirtschaft und Arbeit, Bern – Office fédéral du développement économique et de l'emploi, Berne – Ufficio federale dello sviluppo economico e del lavoro, Berna (Federal Office for Industry and Labour, Berne).

6. Family benefits

Bundesamt für Sozialversicherung, Bern – Office fédéral des assurances sociales, Berne – Ufficio federale delle assicurazioni sociali, Berna (Federal Social Insurance Office, Berne)."

(e) The following shall be added to **Annex 5**:

**"Switzerland**

None."

(f) The following shall be added to **Annex 6**:

**"Switzerland**

Direct payment."

(g) The following shall be added to **Annex 7**:

**"Switzerland**

Schweizerische Nationalbank, Zürich – Banque nationale Suisse, Zurich – Banca nazionale svizzera, Zurigo (Swiss National Bank, Zurich)."

(h) The following shall be added to **Annex 8**:

**"Switzerland**

None."

(i) The following shall be added to **Annex 9**:

**"Switzerland**

The annual average cost of benefits in kind is calculated by taking into account the benefits granted by insurers under federal legislation on sickness insurance."

(j) The following shall be added to **Annex 10**:

**"Switzerland**

1. For the application of Article 11(1) of the implementing Regulation:

(a) in relation to Article 14(1) and 14b(1) of the Regulation:

Ausgleichskasse der Alters-, Hinterlassenen- und Invalidenversicherung – Caisse de compensation de l'assurance-vieillesse, survivants et invalidité – Cassa di compensazione dell'assicurazione vecchiaia, superstiti e invalidità (the competent compensation fund for old-age, survivors' and invalidity insurance);

- (b) in relation to Article 17 of the Regulation:  
 Bundesamt für Sozialversicherung, Bern – Office fédéral des assurances sociales, Berne – Ufficio federale delle assicurazioni sociali, Berna (Federal Social Insurance Office, Berne).
2. For the application of Article 11a(1) of the implementing Regulation:
- (a) in relation to Articles 14(1) and 14b(2) of the Regulation:  
 Ausgleichskasse der Alters-, Hinterlassenen- und Invalidenversicherung – Caisse de compensation de l'assurance-vieillesse, survivants et invalidité – Cassa die compensazione dell'assicurazione vecchiaia, superstiti e invalidità (the competent compensation fund for old-age, survivors' and invalidity insurance);
- (b) in relation to Article 17 of the Regulation:  
 Bundesamt für Sozialversicherung, Bern – Office fédéral des assurances sociales, Berne – Ufficio federale delle assicurazioni sociali, Berna (Federal Social Insurance Office, Berne).
3. For the application of Article 12a of the implementing Regulation:  
 Gemeindeverwaltung – Administration communale – Amministrazione comunale Ausgleichskasse der Alters-, Hinterlassenen- und Invalidenversicherung – Caisse de compensation de l'assurance-vieillesse, survivants et invalidité – Cassa die compensazione dell'assicurazione vecchiaia, superstiti e invalidità (the competent compensation fund for old-age, survivors' and invalidity insurance).
4. For the application of Article 13(2) and (3) and Article 14(1) and (2) of the implementing Regulation:  
 Eidgenössische Ausgleichskasse, Bern – Caisse fédérale de compensation, Berne – Cassa federale di compensazione, Berna, (Federal Compensation Fund, Berne).
5. For the application of Articles 38(1), 70(1), 82(2) and 86(2) of the implementing Regulation:  
 (the local authority at the place of residence).
6. For the application of Articles 80(2) and 81 of the implementing Regulation:  
 Bundesamt für Wirtschaft und Arbeit, Bern – Office fédéral du développement économique et de l'emploi, Berne – Ufficio federale dello sviluppo economico e del lavoro, Berna (Federal Office for Industry and Labour, Berne).
7. For the application of Article 102(2) of the implementing Regulation:
- (a) in relation to Article 36 of the Regulation:  
 Gemeinsame Einrichtung KVG, Solothurn – Institution commune LaMal, Soleure – Istituzione commune LaMal, Soletta (common institution under the Federal Sick Insurance Act, Solothurn).
- (b) in relation to Article 63 of the Regulation:  
 Schweizerische Unfallversicherungsanstalt, Luzern – Caisse nationale Suisse d'assurance en cas d'accidents, Lucerne – Cassa nazionale svizzera di assicurazione contro gli incidenti, Lucerna (Swiss National Accident Insurance Fund, Lucerne);
- (c) in relation to Article 70 of the Regulation:  
 Bundesamt für Wirtschaft und Arbeit, Bern – Office fédéral du développement économique et de l'emploi, Berne – Ufficio federale dello sviluppo economico e del lavoro, Berna (Federal Office for Industry and Labour, Berne).
8. For the application of Article 113(2) of the implementing Regulation:
- (a) in relation to Article 20(1) of the Regulation:  
 Gemeinsame Einrichtung KVG, Solothurn – Institution commune LaMal, Soleure – Istituzione commune LaMal, Soletta (common institution under the Federal Sick Insurance Act, Solothurn).

(b) in relation to Article 62(1) of the implementing Regulation:

Schweizerische Unfallversicherungsanstalt, Luzern – Caisse nationale Suisse d'assurance en cas d'accidents, Lucerna – Cassa nazionale svizzera di assicurazione contro gli incidenti, Lucerna (Swiss National Accident Insurance Fund, Lucerne).”

(k) The following shall be added to **Annex 11**:

“**Switzerland**

None.”

3. **398 L 49** Council Directive **98/49/EC** of 29 June 1998 (OJ L 209, 25.7.98, p. 46) on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community.

## **SECTION B: ACTS OF WHICH THE CONTRACTING PARTIES SHALL TAKE DUE ACCOUNT**

- 4.1 **373 D 0919(02):** Decision No 74 of 22 February 1973 concerning the provision of medical care in cases of temporary stay under Article 22(1)(a)(i) of Council Regulation (EEC) No 1408/71 and Article 21 of Council Regulation (EEC) No 574/72 (OJ C 75, 19.9.1973, p. 4).
- 4.2 **373 D 0919(03):** Decision No 75 of 22 February 1973 concerning the investigation of applications for review made under Article 94(5) of Council Regulation (EEC) No 1408/71 by invalidity pensioners (OJ C 75, 19.9.1973, p. 5).
- 4.3 **373 D 0919(06):** Decision No 78 of 22 February 1973 concerning the interpretation of Article 7(1)(a) of Council Regulation (EEC) No 574/72 relating to the procedure for implementing the provisions on reduction and suspension (OJ C 75, 19.9.1973, p. 8).
- 4.4 **373 D 0919(07):** Decision No 79 of 22 February 1973 concerning the interpretation of Article 48(2) of Council Regulation (EEC) No 1408/71 relating to the aggregation of insurance periods treated as such with regard to insurance for invalidity, old age and death (OJ C 75, 19.9.1973, p. 9).
- 4.5 **373 D 0919(09):** Decision No 81 of 22 February 1973 concerning aggregation of insurance periods completed in a specific employment pursuant to Article 45(2) of Council Regulation (EEC) No 1408/71 (OJ C 75, 19.9.1973, p. 11).
- 4.6 **373 D 0919(11):** Decision No 83 of 22 February 1973 concerning the interpretation of Article 68(2) of Council Regulation (EEC) No 1408/71 and of Article 82 of Council Regulation (EEC) No 574/72 relating to increases in unemployment benefit for dependent members of the family (OJ C 75, 19.9.1973, p. 14).
- 4.7 **373 D 0919(13):** Decision No 85 of 22 February 1973 concerning the interpretation of Article 57(1) of Council Regulation (EEC) No 1408/71 and of Article 67(3) of Council Regulation (EEC) No 574/72 relating to the determination of the applicable legislation and the institution competent for the granting of benefits in respect of occupational diseases (OJ C 75, 19.9.1973, p. 17).
- 4.8 **373 D 1113(02):** Decision No 86 of 24 September 1973 concerning the methods of operation and the composition of the Audit Board of the Administrative Commission of the European Communities on social security for migrant workers (OJ C 96, 13.11.1973, p. 2), as amended by:
- 395 D 0512:** Decision No 159 of 3 October 1995 (OJ L 294, 8.12.1995, p. 38).
- 4.9 **374 D 0720(06):** Decision No 89 of 20 March 1973 concerning the interpretation of Article 16(1) and (2) of Council Regulation (EEC) No 1408/71 relating to persons employed by diplomatic missions and consular posts (OJ C 86, 20.7.1974, p. 7).
- 4.10 **374 D 0720(07):** Decision No 91 of 12 July 1973 concerning the interpretation of Article 46(3) of Council Regulation (EEC) No 1408/71 relating to the award of benefits due under paragraph 1 of the said Article (OJ C 86, 20.7.1974, p. 8).
- 4.11 **374 D 0823(04):** Decision No 95 of 24 January 1974 concerning the interpretation of Article 46(2) of Council Regulation (EEC) No 1408/71 on the calculation of pro rata pensions (OJ C 99, 23.8.1974, p. 5).
- 4.12 **374 D 1017(03):** Decision No 96 of 15 March 1974 concerning the revision of rights to benefit pursuant to Article 49(2) of Council Regulation (EEC) No 1408/71 (OJ C 126, 17.10.1974, p. 23).
- 4.13 **375 D 0705(02):** Decision No 99 of 13 March 1975 concerning the interpretation of Article 107(1) of Council Regulation (EEC) No 574/72 with regard to the obligation to recalculate current benefits (OJ C 150, 5.7.1975, p. 2).

- 4.14 **375 D 0705(03)**: Decision No 100 of 23 January 1975 concerning the refund of cash benefits provided by the institution of the place of stay or of residence on behalf of the competent institution and the details of refunding these benefits (OJ C 150, 5.7.1975, p. 3).
- 4.15 **376 D 0526(03)**: Decision No 105 of 19 December 1975 on the implementation of Article 50 of Council Regulation (EEC) No 1408/71 (OJ C 117, 26.5.1976, p. 3).
- 4.16 **378 D 0530(02)**: Decision No 109 of 18 November 1977 amending Decision No 92 of 22 November 1973, concerning the concept of sickness and maternity insurance benefits in kind referred to in Articles 19(1) and (2), 22, 25(1), (3) and (4), 26, 28(1), 28a, 29 and 31 of Council Regulation (EEC) No 1408/71 and the determination of the amounts to be refunded under Articles 93, 94 and 95 of Council Regulation (EEC) No 574/72, as well as the advances to be paid in pursuance of Article 102(4) of the same Regulation (OJ C 125, 30.5.1978, p. 2).
- 4.17 **383 D 0115**: Decision No 115 of 15 December 1982 concerning the granting of prostheses, major appliances and other substantial benefits in kind provided for in Article 24(2) of Council Regulation (EEC) No 1408/71 (OJ C 193, 20.7.1983, p. 7).
- 4.18 **383 D 0117**: Decision No 117 of 7 July 1982 concerning the conditions for implementing Article 50(1)(a) of Council Regulation (EEC) No 574/72 (OJ C 238, 7.9.1983, p. 3), as amended by:
- 1 94 N**: Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded (OJ C 241, 29.8.1994, p. 21, as amended by OJ L 1, 1.1.1995, p. 1).

The provisions of the Decision shall, for the purposes of the present Agreement, be read with the following adaptations:

**“Switzerland**

Schweizerische Ausgleichskasse, Genf—Caisse suisse de compensation, Genève—Cassa svizzera di compensazione, Ginevra (Swiss Compensation Fund, Geneva).”

- 4.19 **83 D 1112(02)**: Decision No 118 of 20 April 1983 concerning the conditions for implementing Article 50(1)(b) of Council Regulation (EEC) 574/72 (OJ C 306, 12.11.1983, p. 2), as amended by:

**1 93 N**: Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded (OJ C 241, 29.8.1994, p. 21 as amended by OJ L 1, 1.1.1995, p. 1).

The provisions of the Decision shall, for the purposes of the present Agreement, be read with the following adaptations:

The following shall be added to Article 2 No 4:

**“Switzerland**

Schweizerische Ausgleichskasse, Genf—Caisse suisse de compensation, Genève—Cassa svizzera di compensazione, Ginevra (Swiss Compensation Fund, Geneva).”

- 4.20 **383 D 1102(03)**: Decision No 119 of 24 February 1983 concerning the interpretation of Article 76 and Article 79(3) of Council Regulation (EEC) No 1408/71 and of Article 10(1) of Council Regulation (EEC) No 574/72 relating to the overlapping of family benefits and allowances (OJ C 295, 2.11.1983, p. 3).
- 4.21 **383 D 0121**: Decision No 121 of 21 April 1983 concerning the interpretation of Article 17(7) of Council Regulation (EEC) No 574/72 relating to the granting of prostheses, major appliances and other substantial benefits in kind (OJ C 193, 20.7.1983, p. 10).

- 4.22 **386 D 0126:** Decision No 126 of 17 October 1985 concerning the application of Articles 14(1)(a), 14a(1)(a), 14b(1) and (2) of Council Regulation (EEC) No 1408/71 (OJ C 141, 7.6.1986, p. 3).
- 4.23 **387 D XXX:** Decision No 132 of 23 April 1987 concerning the interpretation of Article 40(3)(a)(ii) of Council Regulation (EEC) No 1408/71 (OJ C 271, 9.10.1987, p. 3).
- 4.24 **387 D 284:** Decision No 133 of 2 July 1987 concerning the application of Articles 17(7) and 60(6) of Council Regulation (EEC) No 574/72 (OJ C 284, 22.10.1987, p. 3 and OJ C 64, 9.3.1988, p. 13).
- 4.25 **388 D XXX:** Decision No 134 of 1 July 1987 concerning the interpretation of Article 45(2) of Council Regulation (EEC) No 1408/71 relating to aggregation of insurance periods completed in an occupation subject to a special scheme in one or more Member States (OJ C 64, 9.3.1988, p. 4).
- 4.26 **388 D XXX:** Decision No 135 of 1 July 1987 concerning the granting of benefits in kind provided for in Article 17(7) and Article 60(6) of Council Regulation (EEC) No 574/72 and the concept of urgency within the meaning of Article 20 of Council Regulation (EEC) No 1408/71 and of extreme urgency within the meaning of Articles 17(7) and 60(6) of Council Regulation (EEC) No 574/72 (OJ C 281, 9.3.1988, p. 7), as amended by:
- 1 94 N:** Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded (OJ C 241, 29.8.1994, p. 21 as amended by OJ L 1, 1.1.1995, p. 1).

The provisions of the Decision shall, for the purposes of the present Agreement, be read with the following adaptations:

The following shall be added to Article 2 No 2:

“CHF 800 for the institution of the place of residence in Switzerland;”.

- 4.27 **388 D 64:** Decision No. 136 of 1 July 1987 concerning the interpretation of Article 45(1) to (3) of Council Regulation (EEC) No. 1408/71 with regard to the taking into account of insurance periods completed under the legislations of other Member States for the acquisition, retention or recovery of the right to benefits (OJ C 64, 9.3.1988, p. 7), as amended by:
- 1 94 N:** Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded (OJ C 241, 29.8.1994, p. 21, as amended by OJ L 1, 1.1.1995, p. 1).

The provisions of the Decision shall, for the purposes of the present Agreement, be read with the following adaptations:

“**Switzerland**

None.”

- 4.28 **389 D 606:** Decision No. 137 of 15 December 1988 concerning the application of Article 15(3) of Council Regulation (EEC) No 574/72 (OJ C 140, 6.6.1989, p. 3).
- 4.29 **389 D XXX:** Decision No. 138 of 17 February 1989 concerning the interpretation of Article 22 (1)(c)(i) of Council Regulation (EEC) No. 1408/71 in the case of organ transplants or other forms of surgery requiring tests on biological samples while the person concerned is not present in the Member State where the tests are carried out (OJ C 287, 15.11.1989, p. 3).
- 4.30 **390 D XXXX:** Decision No. 139 of 30 June 1989 concerning the date to be taken into consideration for determining the rates of conversion referred to in Article 107 of Council Regulation (EEC) No. 574/72 to be applied when calculating certain benefits and contributions (OJ C 94, 12.4.1990, p. 3).



- 4.31 **390 D XXX:** Decision No. 140 of 17 October 1989 concerning the rate of conversion to be applied by the institution of a wholly unemployed frontier worker's place of residence to the last wage or salary he received in the competent State (OJ C 94, 12.4.1990, p. 4).
- 4.32 **390 D XXX:** Decision No. 141 of 17 October 1989 amending Decision No. 127 of 17 October 1985 concerning the compilation of the lists provided for in Articles 94(4) and 95(4) of Regulation (EEC) No. 574/72/EEC (OJ C 94, 12.4.1990, p. 5).
- 4.33 **390 D XXX:** Decision No. 142 of 13 February 1990 concerning the application of Articles 73, 74 and 75 of Council Regulation (EEC) No. 1408/71 (OJ C 80, 30.3.1990, p. 7).

The provisions of the Decision shall, for the purposes of the present Agreement, be read with the following adaptations:

- (a) No. 1 shall not apply.
- (b) No. 3 shall not apply.
- 4.34 **391 D 140:** Decision No. 144 of 9 April 1990 on the model forms necessary for the application of Council Regulations (EEC) No. 1408/71 and (EEC) No. 574/72 (E401-E410 F) (OJ L 71, 18.3.1991, p. 1).
- 4.35 **391 D 425:** Decision No. 147 of 11 October 1990 concerning the application of Article 76 of Council Regulation (EEC) No. 1408/71 (OJ L 235, 23.8.1991, p. 21), as amended by:  
395 D 2353: Decision No. 155 of 6 July 1994 (E 401-411) (OJ L 209, 5.9.1995, p. 1).
- 4.36 **393 D 22:** Decision No. 148 of 25 June 1992 concerning the use of the certificate concerning the applicable legislation (Form E 101) where the period of posting does not exceed three months (OJ L 22, 30.1.1993, p. 124).
- 4.37 **393 D 825:** Decision No. 150 of 26 June 1992 concerning the application of Articles 77, 78 and 79(3) of Regulation (EEC) No. 1408/71 and of Article 10(1)(b)(ii) of Regulation (EEC) No 574/72 (OJ C 229, 25.8.1993, p. 5), as amended by:  
**1 94 N:** Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded (OJ C 241, 29.8.1994, p. 21), as amended by OJ L 1, 1.1.1995, p. 1).

The provisions of the Decision shall, for the purposes of the present Agreement, be read with the following adaptations:

**“Switzerland**

Schweizerische Ausgleichskasse, Genf—Caisse suisse de compensation, Genève—Cassa svizzera di compensazione, Ginevra (Swiss Compensation Fund, Geneva).”

- 4.38 **394 D 602:** Decision No. 151 of 22 April 1993 concerning the application of Article 10a of Regulation (EEC) No. 1408/71 and Article 2 of Regulation (EEC) No. 1247/92 (OJ L 244, 19.9.1994, p. 1).

The provisions of the Decision shall, for the purposes of the present Agreement, be read with the following adaptations:

The following shall be added to the Annex:

**“Switzerland**

1. Invalidity, old age and death

a) Invalidity insurance:

Schweizerische Ausgleichskasse, Genf—Caisse suisse de compensation, Genève—Cassa svizzera di compensazione, Ginevra (Swiss Compensation Fund, Geneva).

b) Occupational welfare benefit:

Sicherheitsfonds—Fonds de garantie—Fondo di garanzia LPP.

Provident institution under the Federal Act on occupational benefit plans for old-age, survivors' and invalidity insurance.

2. Unemployment

Bundesamt für Wirtschaft und Arbeit, Bern—Office fédéral du développement économique et de l'emploi, Berne—Ufficio federale dello sviluppo economico e del lavoro, Berna (Federal Office for Industry and Labour, Berne).

3. Family benefits

Bundesamt für Sozialversicherung, Bern—Office fédéral des assurances sociales, Berne—Ufficio federale delle assicurazioni sociali, Berna (Federal Social Insurance Office, Berne).”

4.39 **394 D 604:** Decision No. 153 of 7 October 1993 on the model forms necessary for the application of Council Regulation (EEC) No. 1408/71 and (EEC) No. 574/72 (E001, E103-E127) (OJ L 244, 19.9.1994, p. 22).

4.40 **394 D 605:** Decision No. 154 of 8 February 1994 on the model forms necessary for the application of Council Regulations (EEC) No. 1408/71 and (EEC) No. 574/72 (E301, E302, E303) (OJ L 244, 19.19.1994, p. 123).

4.41 **395 D 353:** Decision No. 155 of 6 July 1994 on the model forms necessary for the application of Council Regulations (EEC) No. 1408/71 and (EEC) No. 574/72 (E401-E411) (OJ L 244, 5.9.1995, p. 1).

4.42 **395 D 0419:** Decision No. 156 of 7 April 1995 concerning the rules of priority with regard to sickness and maternity insurance (OJ L 249, 17.10.1995, p. 41).

4.43 **396 D 732:** Decision No. 158 of 27 November 1995 on the model forms necessary for the application of Regulations (EEC) No. 1408/71 and (EEC) No. 574/72 (E201-E215) (OJ L 336, 27.12.1996, p. 1).

4.44 **395 D 512:** Decision No. 159 of 3 October 1995 amending Decision No. 8/6 of 24 September 1973 concerning the methods of operation and the composition of the Audit Board of the Administrative Commission of the European Communities on Social Security for Migrant Workers (OJ L 294, 8.12.1995, p. 38).

4.45 **396 D 172:** Decision No. 160 of 28 November 1995 concerning the scope of Article 71(1)(b)(ii) of Council Regulation (EEC) No. 1408/71 relating to the right to unemployment benefits of workers, other than frontier workers, who, during their last employment, were resident in the territory of a Member State other than the competent State (OJ L 49, 28.2.1996, p. 31).

4.46 **396 D 249:** Decision No. 161 of 15 February 1996 concerning the reimbursement by the competent institution of a Member State of the costs incurred during a stay in another Member State by means of the procedure referred to in Article 34(4) of Regulation (EEC) No 574/72 (OJ L 83, 2.4.1996, p. 19).

- 4.47 **396 D 554:** Decision No. 162 of 31 May 1996 concerning the interpretation of Articles 14(1) and 14b(1) of Council Regulation (EEC) No. 1408/71 on the legislation applicable to posted workers (OJ L 241, 21.9.1996, p. 28).
- 4.48 **396 D 555:** Decision No. 163 of 31 May 1996 concerning the interpretation of Article 22(1)(A) of Regulation (EEC) No. 1408/71 in respect of persons undergoing dialysis or oxygen therapy (OJ L 241, 21.9.1996, p. 31).
- 4.49 **397 D 533:** Decision No. 164 of 27 November 1996 on the model forms necessary for the application of Council Regulations (EEC) No. 1408/71 and (EEC) No. 574/72 (E101 and E102) (OJ L 216 du 8.8.1997, p. 85).
- 4.50 **397 D 0823:** Decision No. 165 of 30 June 1997 on the model forms necessary for the application of Council Regulations (EEC) No. 1408/71 and (EEC) No. 574/72 (E128 and E128B) (OJ L 341, 12.12.1997, p. 61).
- 4.51 **398 D 0441:** Decision No. 166 of 2 October 1997 on the amending of forms E106 and E109 (OJ L 195, 11.7.1998, p. 25).
- 4.52 **398 D 0442:** Decision No. 167 of 2 December 1997 amending Decision No. 146 of 10 October 1990 concerning the interpretation of Article 94(9) of Regulation (EEC) No. 1408/71 (OJ L 195, 11.7.1998, p. 35).
- 4.53 **398 D 0443:** Decision No. 168 of 11 June 1998 on the amending of forms E121 and E127 and the discontinuance of form E122 (OJ L 195, 11.7.1998, p. 37).
- 4.54 **398 D 0444:** Decision No. 169 of 11 June 1998 concerning the methods of operation and the composition of the Technical Commission on Data Processing of the Administrative Commission of the European Communities on Social Security for Migrant Workers (OJ L 195, 11.7.1998, p. 46).
- 4.55 **398 D 0565:** Decision No. 170 of 11 June 1998 amending Decision No. 141 of 17 October 1989 concerning the compilation of the lists provided for in Articles 94(4) and 95(4) of Council Regulation (EEC) No. 574/72 of 21 March 1972 (OJ L 275, 10.10.1998, p. 40).

## SECTION C: ACTS OF WHICH THE CONTRACTING PARTIES SHALL TAKE NOTE

The Contracting Parties shall take note of the content of the following acts:

- 5.1 Recommendation No. 14 of 23 January 1975 concerning the issue of Form E111 to workers posted abroad (adopted by the Administrative Commission during its 139th meeting on 23 January 1975).
- 5.2 Recommendation No. 15 of 19 December 1980 on the determination of the language of issue of the forms required for the purposes of Regulations (EEC) No. 1408/71 and (EEC) No. 574/72/EEC (adopted by the Administrative Commission during its 176th meeting on 19 December 1980).
- 5.3 **385 Y 0016:** Recommendation No. 16 of 12 December 1984 concerning the conclusion of agreements pursuant to Article 17 of Regulation (EEC) No. 1408/71 (OJ C 273, 24.10.1985, p. 3).
- 5.4 **385 Y 0017:** Recommendation No. 17 of 12 December 1984 concerning the statistical data to be supplied each year for the drawing up of the reports of the Administrative Commission (OJ C 273, 24.10.1985, p. 3).
- 5.5 **386 Y 0018:** Recommendation No. 18 of 28 February 1986 relating to the legislation applicable to unemployed persons engaged in part-time work in a Member State other than the State of residence (OJ C 284, 11.11.1986, p. 4).
- 5.6 **392 Y 19:** Recommendation No. 19 of 24 November 1992 on the improvement of cooperation among the Member States in implementing the Community Regulations (OJ C 199, 23.7.1993, p. 11).
- 5.7 **396 Y 592:** Recommendation No. 20 of 31 May 1996 concerning improvement of the administration and settlement of reciprocal claims (OJ L 259, 12.10.1996, p. 19).
- 5.8 **397 Y 0304(01):** Recommendation No. 21 of 28 November 1996 concerning the application of Article 69(1)(a) of Regulation (EEC) No. 1408/71 to unemployed persons accompanying their spouses employed in a Member State other than the competent State (OJ C 67, 4.3.1997, p. 3).
- 5.9 **380 Y 0609(03):** Updating of the Declarations of the Member States provided for in Article 5 of Council Regulation (EEC) No. 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (OJ C 139, 9.6.1980, p. 1).
- 6.0 **381 Y 0613(01):** Declarations by Greece provided for in Article 5 of Council Regulation (EEC) No. 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (OJ C 143, 13.6.1981, p. 1).
- 6.1 **386 Y 0338(01):** Updating of the Declarations of the Member States provided for in Article 5 of Council Regulation (EEC) No. 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (OJ C 338, 31.12.1986, p. 1).
- 6.2 **C/107/87/p. 1:** Declarations of the Member States provided for in Article 5 of Council Regulation (EEC) No. 1408/71 of 14 June 1971 on the application of social security schemes to employed and self employed persons and their families moving within the Community (OJ C 107, 22.4.1987, p. 1).
- 6.3 **C/323/80/p.1:** Notifications to the Council by the Governments of the Federal Republic of Germany and of the Grand Duchy of Luxembourg of the conclusion of a convention between these two Governments on various social security questions, pursuant to Articles 8(2) and 96 of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (OJ C 323, 11.12.1980, p. 1).

- 6.4 **L/90/87/p. 39:** Declaration made by the French Republic pursuant to Article 1(j) of Council Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons, self-employed persons and members of their families moving within the Community (OJ L 90, 2.4.1987, p. 39).

## **Protocol to Annex II to the Agreement on the free movement of persons**

### Unemployment insurance

1. The following rules shall apply with respect to unemployment insurance for workers holding a residence permit with a period of validity of less than one year:

1.1 Only workers who have paid contributions in Switzerland for the minimum period required under the Federal Unemployment Insurance and Insolvency Allowances Act (loi fédérale sur l'assurance-chômage obligatoire et l'indemnité en cas d'insolvabilité—LACI)<sup>7</sup> and who also satisfy the other conditions of eligibility for unemployment benefit shall be entitled to such benefit provided by the unemployment insurance under the conditions laid down by law.

1.2 A portion of the contributions levied for workers whose period of contribution is too short to give entitlement to unemployment benefit in Switzerland under 1.1 shall be refunded to their States of origin in accordance with the provisions of 1.3 in order to contribute towards the cost of benefits provided to these workers in the event of full unemployment; these workers shall then have no entitlement to benefit in the event of their being fully unemployed in Switzerland. They shall, however, be entitled to allowances for bad weather and in the event of the employer becoming insolvent. Benefits in the event of full unemployment shall be paid by the State of origin, provided that the workers concerned make themselves available for work. Periods of insurance completed in Switzerland shall be taken into account in the same way as if they had been completed in the State of origin.

1.3 The portion of the contributions levied for workers referred to in 1.2 shall be refunded on an annual basis in accordance with the following provisions:

- (a) The total contributions of these workers shall be calculated, by country, on the basis of the annual number of workers employed and the average annual contributions paid for each worker (employer's and employee's contributions).
- (b) Of the amount calculated in this way, a portion thereof corresponding to the relative share represented by unemployment benefit as a percentage of all the allowances referred to in 1.2 shall be refunded to the workers' States of origin, and a portion shall be retained by Switzerland as a reserve for subsequent benefits.<sup>8</sup>
- (c) Switzerland shall, on an annual basis, provide a statement showing the contributions refunded. If the States of origin so request, it shall indicate the bases for the calculation and the sums refunded. The States of origin shall each year notify Switzerland of the number of recipients of unemployment benefit as referred to in 1.2.

2. Frontier workers' unemployment insurance contributions in Switzerland, as provided for under the respective bilateral agreements, shall continue to be refunded.

3. The arrangements under 1 and 2 shall apply for a period of seven years from the date of entry into effect of the Agreement. If, at the end of the seven-year period, a Member State encounters difficulties with the ending of the arrangements for refunding of contributions, or Switzerland encounters difficulties with the aggregation arrangements, the matter may be referred to the Joint Committee by any of the contracting parties.

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<sup>7</sup> Currently 6 months, or 12 months in the event of recurrent unemployment.

<sup>8</sup> Refunded contributions for workers who will exercise their right to unemployment benefit in Switzerland after having paid contributions for at least six months—over several periods of residence—within the space of two years.

## 2. Allowances for helpless persons

Allowances for helpless persons under the Federal Old-Age and Survivors' Insurance Act (loi fédérale sur l'assurance-vieillesse et survivants) and the Federal Invalidity Insurance Act (loi fédérale sur l'assurance-invalidité) shall, by means of a decision of the Joint Committee, be provided for in the text of Annex II to the Agreement on the free movement of persons in Annex IIa to Regulation No 1408/71, as soon as the amendment of these Acts stipulating that these benefits shall be financed exclusively by the public authorities enters into effect.

## 3. Occupational benefit plans concerning old-age, survivors' and invalidity pensions

Notwithstanding Article 10(2) of Council Regulation (EEC) No 1408/71, the vested benefit provided for under the Federal Act on free movement among occupational benefit plans concerning old-age, survivors' and invalidity pensions (Loi fédérale sur le libre passage dans la prévoyance professionnelle vieillesse, survivants et invalidité) of 17 December 1993 shall be paid out on request to an employed or self-employed person who intends to leave Switzerland for good and who, under Title II of the Regulation, will no longer be subject to Swiss law, provided that they leave Switzerland within five years of this Agreement entering into effect.

RATIFICATIONS, ACCESSIONS AND EFFECTIVE DATES

<i>State</i>	<i>Action</i>	<i>Date</i>	<i>Effective Date</i>
Austria	Signature	21 Jun 1999	1 Jun 2002
	Ratification	11 Jul 2000	
Belgium	Signature	21 Jun 1999	1 Jun 2002
	Ratification	13 Feb 2002	
Denmark	Signature	21 Jun 1999	1 Jun 2002
	Ratification	14 Dec 2000	
European Community	Signature	21 Jun 1999	1 Jun 2002
	Ratification	17 Apr 2002	
Finland	Signature	21 Jun 1999	1 Jun 2002
	Ratification	27 Dec 2001	
France	Signature	21 Jun 1999	1 Jun 2002
	Ratification	27 Dec 2001	
Germany	Signature	21 Jun 1999	1 Jun 2002
	Ratification	21 Nov 2001	
Greece	Signature	21 Jun 1999	1 Jun 2002
	Ratification	11 Oct 2001	
Ireland	Signature	21 Jun 1999	1 Jun 2002
	Ratification	3 Dec 2001	
Italy	Signature	21 Jun 1999	1 Jun 2002
	Ratification	12 Feb 2001	
Luxembourg	Signature	21 Jun 1999	1 Jun 2002
	Ratification	19 Jun 2001	
Netherlands	Signature	21 Jun 1999	1 Jun 2002
	Ratification	16 Nov 2001	
Portugal	Signature	21 Jun 1999	1 Jun 2002
	Ratification	18 Dec 2000	
Spain	Signature	21 Jun 1999	1 Jun 2002
	Ratification	19 Feb 2001	
Sweden	Signature	21 Jun 1999	1 Jun 2002
	Ratification	2 Mar 2001	
Swiss Confederation	Signature	21 Jun 1999	1 Jun 2002
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