

AGREEMENT**between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis**

THE EUROPEAN UNION,

THE EUROPEAN COMMUNITY,

and

THE SWISS CONFEDERATION,

hereinafter referred to as 'the Contracting Parties',

WHEREAS with the entry into force of the Treaty of Amsterdam, the European Union has set itself the objective of maintaining and developing the Union as an area of freedom, security and justice, in which the free movement of persons is assured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime;

WHEREAS the Schengen *acquis*, which is integrated into the framework of the European Union, constitutes part of the provisions designed to achieve this area of freedom, security and justice insofar as these provisions create an area without internal border controls and provide for compensatory measures to ensure a high level of security;

CONSIDERING the geographical position of the Swiss Confederation;

WHEREAS the participation of the Swiss Confederation in the Schengen *acquis* and in its further development will, on the one hand, enable certain obstacles to the free movement of persons resulting from the geographical position of the Swiss Confederation to be eliminated and, on the other hand, strengthen cooperation between the European Union and the Swiss Confederation in the fields covered by the Schengen *acquis*;

WHEREAS the Agreement concluded on 18 May 1999 by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway ⁽¹⁾ associated the latter two States with the implementation, application and development of the Schengen *acquis*;

WHEREAS it is desirable that the Swiss Confederation be associated on an equal footing with Iceland and Norway in the implementation, application and development of the Schengen *acquis*;

WHEREAS an agreement should be concluded between the European Union, the European Community and the Swiss Confederation containing rights and obligations similar to those agreed between the Council of the European Union, of the one part, and Iceland and Norway, of the other part;

CONVINCED of the need to organise cooperation between the European Union and the Swiss Confederation as regards the implementation, practical application and further development of the Schengen *acquis*;

WHEREAS it is necessary, in order to associate the Swiss Confederation with the activities of the European Union in the fields covered by this Agreement and to enable it to participate in those activities, to set up a committee in accordance with the institutional model established for the association of Iceland and Norway;

WHEREAS Schengen cooperation is based on the principles of freedom, democracy, the rule of law and respect for human rights, as guaranteed in particular by the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950;

⁽¹⁾ OJ L 176, 10.7.1999, p. 36.

WHEREAS the provisions of Title IV of the Treaty establishing the European Community and the acts adopted on the basis of that Title do not apply to the Kingdom of Denmark pursuant to the Protocol on the position of Denmark annexed by the Treaty of Amsterdam to the Treaty on European Union and to the Treaty establishing the European Community, and whereas the decisions designed to develop the Schengen *acquis* pursuant to that Title which Denmark has transposed into its domestic law are only liable to create international-law obligations between Denmark and the other Member States;

WHEREAS the United Kingdom of Great Britain and Northern Ireland and Ireland participate in certain provisions of the Schengen *acquis*, in accordance with the decisions taken pursuant to the Protocol integrating the Schengen *acquis* into the framework of the European Union and annexed by the Treaty of Amsterdam to the Treaty on European Union and to the Treaty establishing the European Community ⁽¹⁾;

WHEREAS it is necessary to ensure that the States with which the European Union has established an association for the purpose of implementing, applying and developing the Schengen *acquis* also apply this *acquis* in their relations with each other;

WHEREAS the smooth operation of the Schengen *acquis* requires that this Agreement be applied simultaneously with the agreements between the various parties associated with or participating in the implementation and development of the Schengen *acquis* governing their mutual relations;

HAVING REGARD TO the Agreement on the association of the Swiss Confederation with the implementation, application and development of the Community *acquis* concerning the establishment of criteria and mechanisms to determine the State responsible for examining a request for asylum lodged in one of the Member States and concerning the setting-up of the 'Eurodac system';

BEARING IN MIND the link between the Schengen *acquis* and the Community *acquis*;

WHEREAS this link requires that the Schengen *acquis* be applied simultaneously with the Community *acquis* concerning the establishment of criteria and mechanisms for determining the State responsible for examining a request for asylum lodged in one of the Member States and concerning the setting-up of the 'Eurodac' system,

HAVE AGREED AS FOLLOWS:

Article 1

1. The Swiss Confederation, hereinafter referred to as 'Switzerland', shall be associated with the activities of the European Community and the European Union in the fields covered by the provisions referred to in Annexes A and B to this Agreement and their further development.

2. This Agreement creates reciprocal rights and obligations in accordance with the procedures set out herein.

Article 2

1. The provisions of the Schengen *acquis* as listed in Annex A to this Agreement as they apply to the Member States of the European Union, hereinafter referred to as 'Member States', shall be implemented and applied by Switzerland.

2. The provisions of the acts of the European Union and of the European Community listed in Annex B to this Agreement, to the extent that they have replaced and/or developed corresponding provisions of, or provisions adopted pursuant to, the

Convention signed in Schengen on 19 June 1990 implementing the Agreement on the gradual abolition of checks at common borders, hereinafter referred to as the Convention Implementing the Schengen Agreement, shall be implemented and applied by Switzerland.

3. The acts and measures taken by the European Union and the European Community amending or building upon the provisions referred to in Annexes A and B, to which the procedures set out in this Agreement have been applied, shall also, without prejudice to Article 7, be accepted, implemented and applied by Switzerland.

Article 3

1. A Mixed Committee is hereby established, consisting of representatives of the Swiss Government, members of the Council of the European Union, hereinafter referred to as the 'Council', and members of the Commission of the European Communities, hereinafter referred to as the 'Commission'.

⁽¹⁾ OJ L 131, 1.6.2000, p. 43 and OJ L 64, 7.3.2002, p. 20.

2. The Mixed Committee shall adopt its own Rules of Procedure by consensus.

3. The Mixed Committee shall meet at the initiative of its President or at the request of any of its members.

4. Subject to Article 4(2), the Mixed Committee shall meet at the level of Ministers, senior officials or experts, as circumstances require.

5. The office of President of the Mixed Committee shall be held:

- at the level of experts: by the representative of the European Union,
- at the level of senior officials and Ministers: alternately, for a period of six months, by the representative of the European Union and by the representative of the Swiss Government.

Article 4

1. The Mixed Committee shall address, in accordance with this Agreement, all matters covered by Article 2 and shall ensure that any concern entertained by Switzerland is duly considered.

2. In the Mixed Committee at ministerial level, the representatives of Switzerland shall have the opportunity:

- to explain the problems they encounter in respect of a particular act or measure or to respond to the problems encountered by other delegations,
- to express themselves on any questions concerning the drawing up of provisions of concern to them or the implementation thereof.

3. Meetings of the Mixed Committee at ministerial level shall be prepared by the Mixed Committee at the level of senior officials.

4. The representative of the Swiss Government shall have the right to make suggestions in the Mixed Committee relating to the matters mentioned in Article 1. After discussion, the Commission or any Member State may consider such suggestions with a view to making a proposal or taking an initiative, in accordance with the rules of the European Union, for the adoption of an act or measure of the European Community or the European Union.

Article 5

Without prejudice to Article 4, the Mixed Committee shall be informed about the preparation within the Council of any acts or measures which may be relevant to this Agreement.

Article 6

When drafting new legislation in a field which is covered by this Agreement, the Commission shall informally seek advice from Swiss experts in the same way as it seeks advice from experts of the Member States for drawing up its proposals.

Article 7

1. The adoption of new acts or measures related to the matters referred to in Article 2 shall be reserved to the competent institutions of the European Union. Subject to paragraph 2, such acts or measures shall enter into force simultaneously for the European Union, the European Community and its Member States concerned and for Switzerland, unless those acts or measures explicitly state otherwise. In this context, due account shall be taken of the period of time indicated by Switzerland in the Mixed Committee as being necessary to enable it to fulfil its constitutional requirements.

2. (a) The Council shall notify Switzerland immediately of the adoption of the acts or measures referred to in paragraph 1 to which the procedures set out in this Agreement have been applied. Switzerland shall decide whether to accept their contents and to implement them in its internal legal order. This decision shall be notified to the Council and to the Commission within 30 days of the adoption of the acts or measures concerned.

(b) If the contents of such an act or measure can become binding on Switzerland only after the fulfilment of constitutional requirements, Switzerland shall inform the Council and the Commission of this at the time of its notification. Switzerland shall promptly inform the Council and the Commission in writing upon fulfilment of all constitutional requirements. Where a referendum is not required, notification shall take place as soon as the referendum deadline expires. If a referendum is required, Switzerland shall have a maximum of two years from the date of the Council's notification within which to make its notification. From the date laid down for the entry into force of the act or measure for Switzerland and until it has given notification that the constitutional requirements have been met, Switzerland shall, where possible, implement the act or measure in question on a provisional basis.

If Switzerland cannot implement the act or measure at issue on a provisional basis, and if this causes difficulties that disrupt the operation of Schengen cooperation, the situation shall be examined by the Mixed Committee. The European Union and the European Community may take proportionate, appropriate measures against Switzerland to ensure that Schengen cooperation operates smoothly.

3. Acceptance by Switzerland of the acts and measures referred to in paragraph 2 creates rights and obligations between Switzerland, on the one hand, and the European Union, the European Community and the Member States, in so far as they are bound by these acts and measures, on the other hand.

4. Where:

- (a) Switzerland notifies its decision not to accept the contents of an act or measure referred to in paragraph 2 and to which the procedures set out in this Agreement have been applied; or
- (b) Switzerland does not carry out notification within the 30-day time limit referred to in paragraph 2(a) or paragraph 5(a); or
- (c) Switzerland does not carry out notification after the referendum deadline has expired or, in the case of a referendum, within the two-year time limit set out in paragraph 2(b), or does not provide for provisional implementation as envisaged in the same subparagraph from the date laid down for the entry into force of the act or measure concerned;

this Agreement shall be considered terminated unless the Mixed Committee, after carrying out a careful examination of ways of continuing the Agreement, decides otherwise within 90 days. Termination of this Agreement shall take effect three months after the expiry of the 90-day period.

- 5. (a) If provisions of a new act or measure have the effect of no longer allowing Member States to subject compliance with requests for mutual assistance in criminal matters or the recognition of orders from other Member States to search premises and/or seize items of evidence to the conditions set out in Article 51 of the Convention Implementing the Schengen Agreement, Switzerland may notify the Council and the Commission within the period of 30 days referred to in paragraph 2, point (a) that it will not accept or implement those provisions in its internal legal order where they apply to search and seizure requests or orders made for the purposes of investigating or prosecuting offences in the field of direct taxation which, if committed in Switzerland, would not be punishable under Swiss law with a custodial penalty. In that case this Agreement shall not be considered terminated, contrary to the provisions of paragraph 4.
- (b) The Mixed Committee shall convene within two months following a request by one of its members and, taking into account international developments, shall discuss the situation resulting from notification pursuant to point (a).

Once the Mixed Committee has unanimously reached an agreement on the full acceptance and implementation by Switzerland of the relevant provisions of the new act or measure, paragraphs 2, point (b), 3 and 4 shall apply. The information referred to in the first sentence of paragraph 2, point (b) shall be provided within 30 days of the agreement reached in the Mixed Committee.

Article 8

- 1. In order to achieve the Contracting Parties' objective of ensuring the most uniform possible application and

interpretation of the provisions referred to in Article 2, the Mixed Committee shall keep under constant review developments in the case-law of the Court of Justice of the European Communities, hereinafter referred to as the 'Court of Justice', and in the case-law relating to such provisions of the competent Swiss courts. To that end a mechanism shall be set up to ensure regular mutual transmission of such case-law.

- 2. Switzerland shall have the right to submit statements of case or written observations to the Court of Justice in cases where a court in a Member State has applied to the Court of Justice for a preliminary ruling concerning the interpretation of the provisions referred to in Article 2.

Article 9

- 1. Each year Switzerland shall report to the Mixed Committee on the way in which its administrative authorities and courts have applied and interpreted the provisions referred to in Article 2, as interpreted, where relevant, by the Court of Justice.

- 2. If, within two months of being notified of a substantial divergence between Court of Justice case-law and that of Switzerland's courts or of a substantial divergence between the authorities of the Member States concerned and the Swiss authorities in their application of the provisions referred to in Article 2, the Mixed Committee is unable to ensure a uniform application and interpretation, the procedure provided for in Article 10 shall be initiated.

Article 10

- 1. In the event of a dispute about the application of this Agreement or where the situation provided for in Article 9(2) occurs, the matter shall be officially entered as a matter of dispute on the agenda of the Mixed Committee, meeting at ministerial level.

- 2. The Mixed Committee shall have 90 days to settle the dispute, counting from the date of adoption of the agenda on which the dispute has been placed.

- 3. Where the dispute cannot be settled by the Mixed Committee within the 90-day deadline provided for in paragraph 2, this deadline shall be extended by 30 days with a view to reaching a final settlement.

If no final settlement is reached, this Agreement shall be terminated six months after the expiry of the 30-day period.

Article 11

- 1. As regards the administrative costs associated with implementing this Agreement, Switzerland shall make an annual contribution to the general budget of the European Communities of 7,286 % of an amount of EUR 8 100 000, subject to annual adjustment to reflect inflation in the European Union.

2. As regards the costs of developing the second generation Schengen Information System (SIS II), Switzerland shall contribute to the general budget of the European Communities an annual sum for the relevant financial years starting from the 2002 financial year, calculated in accordance with its gross domestic product as a percentage of the gross domestic product of all the participating States.

The contribution for the financial years preceding the entry into force of this Agreement shall be payable when the Agreement enters into force.

3. In cases where the operating costs associated with implementing this Agreement are not charged to the general budget of the European Communities but are directly payable by the participating Member States, Switzerland shall contribute to these costs in accordance with its gross domestic product, calculated as a percentage of the gross domestic product of all the participating States.

Where the operating costs are charged to the general budget of the European Community, Switzerland shall share in these costs by contributing to the said budget an annual sum, calculated in accordance with its gross domestic product as a percentage of the gross domestic product of all the participating States.

4. Switzerland shall have the right to receive documents drawn up by the Commission or the Council pertaining to this Agreement and, at meetings of the Mixed Committee, to request interpreting into an official language of the institutions of the European Communities of its choosing.

Article 12

1. This Agreement shall not affect in any respect the agreements concluded between the European Community and Switzerland, or between the European Community and its Member States, of the one part, and Switzerland, of the other part.

2. This Agreement shall not affect the agreements binding Switzerland, of the one part, and one or more Member States, of the other part, in so far as they are compatible with this Agreement. If these agreements are incompatible with this Agreement, the latter shall prevail.

3. This Agreement shall not affect in any respect any future agreements concluded with Switzerland by the European Community, or between the European Community and its Member States, of the one part, and Switzerland, of the other part, or agreements concluded on the basis of Articles 24 and 38 of the Treaty on European Union.

Article 13

1. Switzerland shall conclude an agreement with the Kingdom of Denmark on the creation of rights and obligations between Denmark and Switzerland as regards the provisions of Article 2 which come under Title IV of the Treaty establishing the European Community; the Protocol on the position of Denmark

annexed by the Treaty of Amsterdam to the Treaty on European Union and to the Treaty establishing the European Community shall therefore apply to these provisions.

2. Switzerland shall conclude an agreement with the Republic of Iceland and the Kingdom of Norway on the creation of reciprocal rights and obligations by virtue of those States' participation in the implementation, application and development of the Schengen *acquis*.

Article 14

1. This Agreement shall enter into force one month after the day on which the Secretary General of the Council, in his capacity as its depositary, has established that all the formal requirements have been met as regards the expression of consent by, or on behalf of, the Parties to be bound by this Agreement.

2. Articles 1, 3, 4, 5, 6 and 7(2)(a), first sentence, shall apply provisionally as of the time of signature of this Agreement.

3. With respect to acts or measures adopted after this Agreement has been signed but before it enters into force, the 30-day period referred to in Article 7(2)(a), last sentence shall start to run from the day of entry into force of this Agreement.

Article 15

1. The provisions referred to in Annexes A and B and those already adopted pursuant to Article 2(3) shall be put into effect by Switzerland on a date to be fixed by the Council, acting by unanimity of its Members representing the governments of those Member States which apply all the provisions of Annexes A and B, after consulting the Mixed Committee and after having satisfied itself that the preconditions for implementation of the relevant provisions have been fulfilled by Switzerland and that controls at its external borders are effective.

The Members of the Council representing the governments of Ireland and of the United Kingdom of Great Britain and Northern Ireland shall be involved in taking this decision in so far as it relates to the provisions of the Schengen *acquis* and the acts based on it or related to it in which these Member States participate.

The Members of the Council representing the governments of the Member States to which, in accordance with the Treaty of Accession, only some of the provisions of Annexes A and B apply shall be involved in taking this decision in so far as it relates to the provisions of the Schengen *acquis* that are already applicable to them.

2. Implementation of the provisions referred to in paragraph 1 shall create rights and obligations between Switzerland, of the one part, and, depending on the case, the European Union, the European Community and the Member States, in so far as they are bound by these provisions, of the other part.

3. This Agreement shall be applied only if the agreements referred to in Article 13 are also implemented.

4. Moreover, this Agreement shall be applied only if the agreement between the European Community and Switzerland on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in any of the Member States or in Switzerland is also implemented.

Article 16

1. Liechtenstein may accede to this Agreement.

2. The accession of Liechtenstein shall be the subject of a protocol to this Agreement setting out all the consequences of accession, including the creation of rights and obligations between Liechtenstein and Switzerland, and between Liechtenstein, of the one part, and the European Union, the European Community and its Member States, in so far as they are bound by the provisions of the Schengen *acquis*, of the other part.

Article 17

1. This Agreement may be terminated by Switzerland or by decision of the Council acting by unanimity of its Members. The

depository shall be notified of termination, which shall take effect six months after notification.

2. This Agreement shall be considered to have been terminated if Switzerland terminates one of the agreements referred to in Article 13 or the agreement referred to in Article 15(4).

Article 18

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

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

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

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

V Lucemburku dne dvacátého šestého října dva tisíce čtyři.

Udfærdiget i Luxembourg den seksogtyvende oktober to tusind og fire.

Geschehen zu Luxemburg am sechszwanzigsten Oktober zweitausendvier.

Kahe tuhande neljanda aasta oktoobrikuu kahekümne kuuendal päeval Luxembourgis.

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

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

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

Fatto a Lussemburgo, addì ventisei ottobre duemilaquattro.

Luksemburgā, divi tūkstoši ceturtdā gada divdesmit sestajā oktobrī.

Priimta du tūkstančiai ketvirtų metų spalio dvidešimt šeštą dieną Liuksemburge.

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

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

Gedaan te Luxemburg, de zesentwintigste oktober tweeduizend vier.

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

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

V Luxemburgu dvadsiateho šiesteho oktobra dvetisícštyri.

V Luxembourggu, dne šestindvajsetega oktobra leta dva tisoč štiri.

Tehty Luxemburgissa kahdentenäkymmenentenäkuudentena päivänä lokakuuta vuonna kaksituhattaneljä.

Som skedde i Luxemburg den tjugosjätte oktober tjugohundrafyra.

Por la Unión Europea
Za Evropskou unii
For Den Europæiske Union
Für die Europäische Union
Euroopa Liidu nimel
Για την Ευρωπαϊκή Ένωση
For the European Union
Pour l'Union européenne
Per l'Unione europea
Eiropas Savienības vārdā
Europos Sąjungos vardu
az Európai Unió részéről
Ghall-Unjoni Ewropea
Voor de Europese Unie
W imieniu Unii Europejskiej
Pela União Europeia
Za Európsku úniu
Za Evropsko unijo
Euroopan unionin puolesta
På Europeiska unionens vägnar

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

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

ANNEX A

(Article 2(1))

Part 1 of this Annex refers to the 1985 Schengen Agreement and the Convention implementing this Agreement, signed in Schengen on 19 June 1990. Part 2 refers to the instruments of accession and Part 3 to the relevant Schengen secondary legislation.

PART 1

The provisions of the Agreement signed in Schengen on 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.

All provisions of the Convention signed in Schengen on 19 June 1990 between the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands, implementing the Schengen Agreement of 14 June 1985, with the exception of:

Article 2(4) on controls on goods

Article 4, as far as controls on baggage are concerned

Article 10(2)

Article 19(2)

Articles 28 to 38 and related definitions

Article 60

Article 70

Article 74

Articles 77 to 91 insofar as they are covered by Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons

Articles 120 to 125 on the movement of goods

Articles 131 to 133

Article 134

Articles 139 to 142

Final Act: Declaration 2

Final Act: Declarations 4, 5 and 6

Minutes

Joint Declaration

Declaration by Ministers and State Secretaries.

PART 2

The provisions of the Accession Agreements and Protocols to the Schengen Agreement and the Schengen Convention with the Italian Republic (signed in Paris on 27 November 1990), the Kingdom of Spain and the Portuguese Republic (signed in Bonn on 25 June 1991), the Hellenic Republic (signed in Madrid on 6 November 1992), the Republic of Austria (signed in Brussels on 28 April 1995) and the Kingdom of Denmark, the Republic of Finland and the Kingdom of Sweden (signed in Luxembourg on 19 December 1996), with the exception of:

1. The Protocol, signed in Paris on 27 November 1990, on accession of the Government of the Italian Republic to the Agreement between the Governments of the Member States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at common borders signed at Schengen on 14 June 1985.
2. The following provisions of the Agreement, signed in Paris on 27 November 1990, on accession of the Italian Republic to the Convention, signed at Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the Governments of the Member States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at common borders, its Final Act and related Declarations:

Article 1

Articles 5 and 6

Final Act: Part I

Final Act: Part II, Declarations 2 and 3

Declaration by Ministers and State Secretaries.

3. The Protocol, signed in Bonn on 25 June 1991, on accession of the Government of the Kingdom of Spain to the Agreement between the Governments of the Member States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at common borders signed at Schengen on 14 June 1985, as amended by the Protocol on Accession by the Government of the Italian Republic, signed in Paris on 27 November 1990, and its accompanying Declarations.
4. The following provisions of the Agreement signed in Bonn on 25 June 1991 on accession of the Kingdom of Spain to the Convention, signed at Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the Governments of the Member States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at common borders, to which the Italian Republic acceded under the Agreement signed in Paris on 27 November 1990, its Final Act and related Declarations:

Article 1

Articles 5 and 6

Final Act: Part I

Final Act: Part II, Declarations 2 and 3

Final Act: Part III, Declarations 3 and 4

Declaration by Ministers and State Secretaries.

5. The Protocol, signed in Bonn on 25 June 1991, on accession of the Government of the Portuguese Republic to the Agreement between the Governments of the Member States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at common borders signed at Schengen on 14 June 1985, as amended by the Protocol on Accession by the Government of the Italian Republic, signed in Paris on 27 November 1990, and its accompanying Declarations.

6. The following provisions of the Agreement, signed in Bonn on 25 June 1991, on accession of the Portuguese Republic to the Convention, signed at Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the Governments of the Member States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at common borders, to which the Italian Republic acceded under the Agreement signed in Paris on 27 November 1990, its Final Act and related Declarations:

Article 1

Article 7 and 8

Final Act: Part I

Final Act: Part II, Declarations 2 and 3

Final Act: Part III, Declarations 2, 3, 4 and 5

Declaration by Ministers and State Secretaries.

7. The Protocol signed in Madrid on 6 November 1992 on accession of the Government of the Hellenic Republic to the Agreement between the Governments of the Member States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of controls at their common borders signed at Schengen on 14 June 1985, as amended by the Protocols on accession by the Government of the Italian Republic, signed in Paris on 27 November 1990, and by the Governments of the Kingdom of Spain and the Portuguese Republic, signed in Bonn on 25 June 1991, and its accompanying Declarations.

8. The following provisions of the Agreement signed in Madrid on 6 November 1992 on accession of the Hellenic Republic to the Convention, signed at Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the Governments of the Member States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at common borders, to which acceded the Italian Republic under the Agreement signed in Paris on 27 November 1990, and the Kingdom of Spain and the Portuguese Republic under the Agreements signed in Bonn on 25 June 1991, its Final Act and related Declarations:

Article 1

Articles 6 and 7

Final Act: Part I

Final Act: Part II, Declarations 2, 3 and 4

Final Act: Part III, Declarations 1 and 3

Declaration by Ministers and State Secretaries.

9. The Protocol, signed in Brussels on 28 April 1995, on accession of the Government of the Republic of Austria to the Agreement between the Governments of the Member States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at common borders signed at Schengen on 14 June 1985, as amended by the Protocols on accession by the Government of the Italian Republic, the Kingdom of Spain and the Portuguese Republic, and the Hellenic Republic, signed on 27 November 1990, 25 June 1991 and 6 November 1992 respectively.

10. The following provisions of the Agreement signed in Brussels on 28 April 1995 on accession of the Republic of Austria to the Convention, signed at Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the Governments of the Member States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at common borders, to which acceded the Italian Republic, the Kingdom of Spain and the Portuguese Republic, and the Hellenic Republic, under the Agreements signed on 27 November 1990, 25 June 1991 and 6 November 1992 respectively, and its Final Act:

Article 1

Articles 5 and 6

Final Act: Part I

Final Act: Part II, Declaration 2

Final Act: Part III

11. The Protocol signed in Luxembourg on 19 December 1996 on accession of the Government of the Kingdom of Denmark to the Agreement on the gradual abolition of checks at common borders signed at Schengen on 14 June 1985 and its related Declaration.

12. The following provisions of the Agreement signed in Luxembourg on 19 December 1996 on accession of the Kingdom of Denmark to the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders, signed at Schengen on 19 June 1990, and its Final Act and related Declarations:

Article 1

Article 7 and 8

Final Act: Part I

Final Act: Part II, Declaration 2

Final Act: Part III

Declaration by Ministers and State Secretaries.

13. The Protocol signed in Luxembourg on 19 December 1996 on accession of the Government of the Republic of Finland to the Agreement on the gradual abolition of checks at common borders signed at Schengen on 14 June 1985 and its related Declaration.

14. The following provisions of the Agreement signed in Luxembourg on 19 December 1996 on accession of the Republic of Finland to the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders, signed at Schengen on 19 June 1990, and its Final Act and related Declaration:

Article 1

Articles 6 and 7

Final Act: Part I

Final Act: Part II, Declaration 2

Final Act: Part III, except the Declaration on the Åland Islands

Declaration by Ministers and State Secretaries.

15. The Protocol signed in Luxembourg on 19 December 1996 on accession of the Government of the Kingdom of Sweden to the Agreement on the gradual abolition of checks at common borders signed at Schengen on 14 June 1985 and its related Declaration.

16. The following provisions of the Agreement signed in Luxembourg on 19 December 1996 on accession of the Kingdom of Sweden to the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders, signed at Schengen on 19 June 1990, and its Final Act and related Declaration:

Article 1

Articles 6 and 7

Final Act: Part I

Final Act: Part II, Declaration 2

Final Act: Part III

Declaration by Ministers and State Secretaries.

PART 3**A. The following Decisions of the Executive Committee:**

| | |
|--|---|
| SCH/Com-ex (93) 10 14.12.1993 | Confirmation of the Declarations by the Ministers and State Secretaries of 19 June 1992 and 30 June 1993, on entry into force |
| SCH/Com-ex (93) 14 14.12.1993 | Improving practical cooperation between the judicial authorities to combat drug trafficking |
| SCH/Com-ex (93) 21 14.12.1993 | Extending the uniform visa |
| SCH/Com-ex (93) 24 14.12.1993 | Common procedures for cancelling, rescinding or shortening the length of validity of the uniform visa |
| SCH/Com-ex (94) 1 Rev 2 26.4.1994 | Adjustment measures aiming to remove obstacles and restrictions on traffic flows at road border crossing points at internal borders |
| SCH/Com-ex (94) 15 Rev 21.11.1994 | Introducing a computerised procedure for consulting the central authorities referred to in Article 17(2) of the implementing convention |
| SCH/Com-ex (94) 16 Rev 21.11.1994 | acquisition of common entry and exit stamps |
| SCH/Com-ex (94) 17 Rev 4 22.12.1994 | Introducing and applying the Schengen system in airports and aerodromes |
| SCH/Com-ex (94) 25 22.12.1994 | Exchanges of statistical information on the issue of uniform visas |
| SCH/Com-ex (94) 28 Rev 22.12.1994 | Certificate provided for in Article 75 for the transportation of drugs and/or psychotropic substances |
| SCH/Com-ex (94) 29 Rev 2 22.12.1994 | Entry into force of the Convention implementing the Schengen Agreement of 19 June 1990 |
| SCH/Com-ex (95) PV 1 Rev (Point 8) | Common visa policy |
| SCH/Com-ex (95) 20 Rev 2 20.12.1995 | Approval of document SCH/I (95) 40 Rev 6 concerning the procedure for implementing Article 2(2) of the Convention |
| SCH/Com-ex (95) 21 20.12.1995 | Swift exchange between the Schengen States of statistical and tangible data on possible malfunctions at the external borders |
| SCH/Com-ex (96) 13 Rev 27.6.1996 | Principles for issuing Schengen visas in accordance with Article 30(1)(a) of the Convention implementing the Schengen Agreement |
| SCH/Com-ex (97) 39 Rev 15.12.1997 | Guiding Principles for means of proof and indicative evidence within the framework of readmission agreements between Schengen States |
| SCH/Com-ex (98) 1 Rev 2 21.4.1998 | Report on the activities of the task force |
| SCH/Com-ex (98) 12 21.4.1998 | Exchange at local level of statistics on visas |
| SCH/Com-ex (98) 18 Rev 23.6.1998 | Measures to be taken in respect of countries posing problems with regard to the issue of documents required to remove their nationals from Schengen territory READMISSION — VISA |
| SCH/Com-ex (98) 19 23.6.1998 | Monaco VISA — EXTERNAL BORDERS — SIS |
| SCH/Com-ex (98) 21 23.6.1998 | Stamping of passports of visa applicants VISAS |

| | |
|--|---|
| SCH/Com-ex (98) 26 def 16.9.1998 | Setting-up of the Schengen implementing Convention Standing Committee |
| SCH/Com-ex (98) 29 Rev 23.6.1998 | Catch-all clause to cover the whole technical Schengen <i>acquis</i> |
| SCH/Com-ex (98) 35 Rev 2 16.9.1998 | Forwarding the Common Manual to EU applicant States |
| SCH/Com-ex (98) 37 def 2 16.9.1998 | Action plan to combat illegal immigration |
| SCH/Com-ex (98) 51 Rev 3 16.12.1998 | Cross-border police cooperation in the area of crime prevention and detection |
| SCH/Com-ex (98) 52 16.12.1998 | Handbook on cross-border police cooperation |
| SCH/Com-ex (98) 56 16.12.1998 | Manual of documents on which a visa may be affixed |
| SCH/Com-ex (98) 57 16.12.1998 | Introduction of a harmonised form for invitations, proof of accommodation, and the acceptance of obligations of maintenance support |
| SCH/Com-ex (98) 59 Rev 16.12.1998 | Coordinated deployment of document advisers |
| SCH/Com-ex (99) 1 Rev 2 28.4.1999 | Schengen standards in drugs situation |
| SCH/Com-ex (99) 5 28.4.1999 | SIRENE Manual update |
| SCH/Com-ex (99) 6 28.4.1999 | Telecoms situation |
| SCH/Com-ex (99) 7 Rev 2 28.4.1999 | Liaison officers |
| SCH/Com-ex (99) 8 Rev 2 28.4.1999 | Payments to informers and infiltrators |
| SCH/Com-ex (99) 10 28.4.1999 | Illegal trade in weapons |
| SCH/Com-ex (99) 13 28.4.1999 | Adoption of new versions of the Common Manual and the Common Consular Instructions |
| SCH/Com-ex (99) 14 28.4.1999 | Manual of documents on which a visa may be affixed |
| SCH/Com-ex (99) 18 28.4.1999 | Improvement of police cooperation with regard to the prevention and detection of crime |

B. The following Declarations of the Executive Committee:

| Declaration | Subject |
|---|---|
| SCH/Com-ex (96) Decl 5 18.4.1996 | Determination of the concept of third-country 'alien' |
| SCH/Com-ex (96) Decl 6 Rev. 2 26.6.1996 | Declaration on extradition |
| SCH/Com-ex (97) Decl 13 Rev. 2 21.4.1996 | Abduction of minors |

C. The following Decisions of the Central Group:

| Decision | Subject |
|------------------------------|--|
| SCH/C (98) 117 27.10.1998 | Action plan to combat illegal immigration |
| SCH/C (99) 25 22.3.1999 | General principles for the remuneration of informants and infiltrators |

ANNEX B

(Article 2(2))

Switzerland will apply the following acts from the date set by the Council in accordance with Article 15.

If by that date a Convention or a Protocol referred to by an act marked below by an asterisk has not yet entered into force in all the Member States of the European Union at the time of adoption of the act concerned, Switzerland will apply the relevant provisions of these instruments only from the date on which the Convention or the Protocol at issue is in force for all the said Member States.

- Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons (OJ L 256, 13.9.1991, p. 51) and Commission Recommendation 93/216/EEC of 25 February 1993 on the European firearms pass (OJ L 93, 17.4.1993, p. 39) as modified by Commission Recommendation 96/129/EC of 12 January 1996 (OJ L 30, 8.2.1996, p. 47);
- Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas (OJ L 164, 14.7.1995, p. 1) as amended by Council Regulation (EC) No 334/2002 of 18 February 2002 (OJ L 53, 23.2.2002, p. 7); Commission Decision of 7 February 1996 and Commission Decision of 3 June 2002 laying down further technical specifications for the uniform format for visas (not published);
- Council Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31);
- Council Act of 29 May 2000 establishing in accordance with Article 34 of the Treaty on European Union the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union [provisions referred to in Article 2(1) of the Convention] (OJ C 197, 12.7.2000, p. 1);*
- Council Decision 2000/586/JHA of 28 September 2000 establishing a procedure for amending Articles 40(4) and (5), 41(7) and 65(2) of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders (OJ L 248, 3.10.2000, p. 1);
- Council Decision 2000/645/EC of 17 October 2000 correcting the Schengen *acquis* as contained in Schengen Executive Committee SCH/Com-ex (94)15 Rev (OJ L 272, 25.10.2000, p. 24);
- Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 81, 21.3.2001, p. 1) as amended by Council Regulation (EC) No 2414/2001 of 7 December 2001 (OJ L 327, 12.12.2001, p. 1) and by Council Regulation (EC) No 453/2003 of 6 March 2003 (OJ L 69, 13.3.2003, p. 10);
- Council Decision 2001/329/EC of 24 April 2001 updating Part VI and Annexes 3, 6 and 13 of the Common Consular Instructions and Annexes 5(a), 6(a) and 8 to the Common Manual (OJ L 116, 26.4.2001, p. 32);
- Council Regulation (EC) No 1091/2001 of 28 May 2001 on freedom of movement with a long-stay visa (OJ L 150, 6.6.2001, p. 4);
- Council Decision 2001/420/EC of 28 May 2001 on the adaptation of Parts V and VI and Annex 13 of the Common Consular Instructions on Visas and Annex 6a to the Common Manual with regard to long-stay visas valid concurrently as short-stay visas (OJ L 150, 6.6.2001, p. 47);
- Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals (OJ L 149, 2.6.2001, p. 34) and Council Decision 2004/191/EC of 23 February 2004 setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third country nationals (OJ L 60, 27.2.2004, p. 55);

- Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 (OJ L 187, 10.7.2001, p. 45);
- Council Act of 16 October 2001 establishing, in accordance with Article 34 of the Treaty on European Union, the Protocol to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union [provision referred to in Article 15 of the Protocol] (OJ C 326, 21.11.2001, p. 1);*
- Council Regulation (EC) No 2424/2001 of 6 December 2001 on the development of the second generation Schengen Information System (SIS II) (OJ L 328, 13.12.2001, p. 4);
- Council Decision 2001/886/JHA of 6 December 2001 on the development of the second generation Schengen Information System (SIS II) (OJ L 328, 13.12.2001, p. 1);
- Council Decision 2002/44/EC of 20 December 2001 amending Part VII and Annex 12 to the Common Consular Instructions and Annex 14a to the Common Manual (OJ L 20, 23.1.2002, p. 5);
- Council Regulation (EC) No 333/2002 of 18 February 2002 on a uniform format for forms for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State drawing up the form (OJ L 53, 23.2.2002, p. 4) and Commission Decision of 12 August 2002 laying down the technical specifications for the uniform format for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State drawing up the form (not published);
- Council Decision 2002/352/EC of 25 April 2002 on the revision of the Common Manual (OJ L 123, 9.5.2002, p. 47);
- Council Decision 2002/354/EC of 25 April 2002 on the adaptation of Part III of, and the creation of an Annex 16 to, the Common Consular Instructions (OJ L 123, 9.5.2002, p. 50);
- Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (OJ L 157, 15.6.2002, p. 1) and Commission Decision of 14 August 2002 laying down the technical specifications for the uniform format for residence permits for third country nationals (not published);
- Council Decision 2002/585/EC of 12 July 2002 on the adaptation of Parts III and VIII of the Common Consular Instructions (OJ L 187, 16.7.2002, p. 44);
- Council Decision 2002/586/EC of 12 July 2002 on the amendment of Part VI of the Common Consular Instructions (OJ L 187, 16.7.2002, p. 48);
- Council Decision 2002/587/EC of 12 July 2002 on the revision of the Common Manual (OJ L 187, 16.7.2002, p. 50);
- Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 1);
- Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 17);
- Council Regulation (EC) No 415/2003 of 27 February 2003 on the issue of visas at the border, including the issue of such visas to seamen in transit (OJ L 64, 7.3.2003, p. 1);
- The provisions of the 1995 Convention on simplified extradition procedure between the Member States of the European Union (OJ C 78, 30.3.1995, p. 2) and of the 1996 Convention relating to extradition between the Member States of the European Union (OJ C 313, 23.10.1996, p. 12) referred to in Council Decision 2003/169/JHA of 27 February 2003 determining which provisions of the 1995 Convention on simplified extradition procedure between the Member States of the European Union and of the 1996 Convention relating to extradition between the Member States of the European Union constitute developments of the Schengen *acquis* in accordance with the Agreement concerning the Republic of Iceland's and the Kingdom of Norway's association with the implementation, application and development of the Schengen *acquis* (OJ L 67, 12.3.2003, p. 25);*
- Council Decision 2003/170/JHA of 27 February 2003 on the common use of liaison officers posted abroad by the law enforcement agencies of the Member States [except Article 8] (OJ L 67, 12.3.2003, p. 27);

- Council Regulation (EC) No 693/2003 of 14 April 2003 establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transit Document (FRTD) and amending the Common Consular Instructions and the Common Manual (OJ L 99, 17.4.2003, p. 8);
- Council Regulation (EC) No 694/2003 of 14 April 2003 on uniform formats for Facilitated Transit Documents (FTD) and Facilitated Rail Transit Documents (FRTD) provided for in Regulation (EC) No 693/2003 (OJ L 99, 17.4.2003, p. 15);
- Council Decision No 2003/454 of 13 June 2003 amending Annex 12 of the Common Consular Instructions and Annex 14a of the Common Manual on visa fees (OJ L 152, 20.6.2003, p. 82);
- Council Regulation (EC) No 1295/2003 of 15 July 2003 relating to measures envisaged to facilitate the procedures for applying for and issuing visas for members of the Olympic family taking part in the 2004 Olympic or Paralympic Games in Athens (OJ L 183, 22.7.2003, p. 1);
- Council Decision 2003/585/EC of 28 July 2003 amending Annex 2, Schedule A, of the Common Consular Instructions and Annex 5, Schedule A, of the Common Manual on the visa requirements for holders of Pakistani diplomatic passports (OJ L 198, 6.8.2003, p. 13);
- Council Decision 2003/586/EC of 28 July 2003 on the amendment of Annex 3, Part I, of the Common Consular Instructions and Annex 5a, Part I of the Common Manual on third country nationals subject to airport visa requirements (OJ L 198, 6.8.2003, p. 15);
- Council Decision 2003/725/JHA of 2 October 2003 amending the provisions of Article 40(1) and (7) of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders (OJ L 260, 11.10.2003, p. 37);
- Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air (OJ L 321, 6.12.2003, p. 26);
- Council Decision 2004/14/EC of 22 December 2003 amending the third subparagraph (Basic criteria for examining applications) of Part V of the Common Consular Instructions (OJ L 5, 9.1.2004, p. 74);
- Council Decision 2004/15/EC of 22 December 2003 amending point 1.2 of Part II of the Common Consular Instructions and drawing up a new Annex thereto (OJ L 5, 9.1.2004, p. 76);
- Council Decision 2004/17/EC of 22 December 2003 amending Part V, point 1.4, of the Common Consular Instructions and Part I, point 4.1.2 of the Common Manual as regards inclusion of the requirement to be in possession of travel medical insurance as one of the supporting documents for the grant of a uniform entry visa (OJ L 5, 9.1.2004, p. 79);
- Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network (OJ L 64, 2.3.2004, p. 1);
- Council Decision 2004/466/EC of 29 April 2004 amending the Common Manual in order to include provisions for targeted border controls on accompanied minors (OJ L 157, 30.4.2004, p. 136);
- Corrigendum to Council Decision 2004/466/EC of 29 April 2004 amending the Common Manual in order to include provisions for targeted border controls on accompanied minors (OJ L 195, 2.6.2004, p. 44);
- Council Regulation (EC) No 871/2004 of 29 April 2004 concerning the introduction of some new functions for the Schengen Information System, including the fight against terrorism (OJ L 162, 30.4.2004, p. 29);
- Council Directive 2004/82/EC of 29 April 2004 on the obligation for carriers to communicate passenger data (OJ L 261, 6.8.2004, p. 24);
- Council Decision 2004/573/EC of 29 April 2004 on the organisation of joint flights for the removal, from the territory of two or more Member States, of third-country nationals who are the subjects of individual removal orders (OJ L 261, 6.8.2004, p. 28);

- Council Decision 2004/574/EC of 29 April 2004 amending the Common Manual (OJ L 261, 6.8.2004, p. 36);
 - Council Decision 2004/581/EC of 29 April 2004 determining the minimum indications to be used on signs at border posts (OJ L 261, 6.8.2004, p. 119);
 - Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS) (OJ L 213, 15.6.2004, p. 5).
-

FINAL ACT

The plenipotentiaries have adopted the joint declarations listed below and annexed to this Final Act:

1. Joint Declaration of the Contracting Parties on parliamentary consultation;
2. Joint Declaration of the Contracting Parties on external relations;
3. Joint Declaration of the Contracting Parties on Article 23(7) of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between Member States of the European Union.

The plenipotentiaries have also taken note of the declarations listed below and annexed to this Final Act:

1. Declaration by Switzerland on mutual assistance in criminal matters;
2. Declaration by Switzerland on Article 7(2)(b) (time limit for accepting new developments in the Schengen *acquis*);
3. Declaration by Switzerland on the application of the European Convention on Mutual Assistance in Criminal Matters and the European Convention on Extradition;
4. Declaration of the European Commission on the transmission of proposals;
5. Declaration of the European Commission on the committees that assist the European Commission in the exercise of its executive powers.

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

V Lucemburku dne dvacátého šestého října dva tisíce čtyři.

Udfærdiget i Luxembourg den seksogtyvende oktober to tusind og fire.

Geschehen zu Luxemburg am sechszwanzigsten Oktober zweitausendvier.

Kahe tuhande neljanda aasta oktoobrikuu kahekümne kuuendal päeval Luxembourgis.

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

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

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

Fatto a Lussemburgo, addì ventisei ottobre duemilaquattro.

Luksemburgā, divi tūkstoši ceturtdā gada divdesmit sestajā oktobrī.

Priimta du tūkstančiai ketvirtų metų spalio dvidešimt šeštą dieną Liuksemburge.

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

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

Gedaan te Luxemburg, de zesentwintigste oktober tweeduizend vier.

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

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

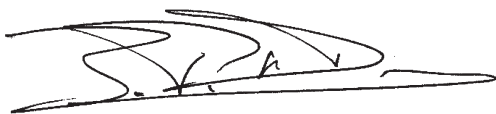
V Luxemburgu dvadsiateho šiesteho oktobra dvetisícčtyri.

V Luxembourg, dne šestindvajsetega oktobra leta dva tisoč štiri.

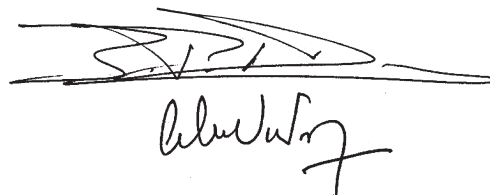
Tehty Luxemburgissa kahdentenäkymmenentenäkuudentena päivänä lokakuuta vuonna kaksituhattaneljä.

Som skedde i Luxemburg den tjugosjätte oktober tjugohundrafyra.

Por la Unión Europea
Za Evropskou unii
For Den Europæiske Union
Für die Europäische Union
Euroopa Liidu nimel
Για την Ευρωπαϊκή Ένωση
For the European Union
Pour l'Union européenne
Per l'Unione europea
Eiropas Savienības vārdā
Europos Sąjungos vardu
az Európai Unió részéről
Ghall-Unjoni Ewropea
Voor de Europese Unie
W imieniu Unii Europejskiej
Pela União Europeia
Za Európsku úniu
Za Evropsko unijo
Euroopan unionin puolesta
På Europeiska unionens vägnar



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



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



JOINT DECLARATIONS OF THE CONTRACTING PARTIES**JOINT DECLARATION OF THE CONTRACTING PARTIES ON PARLIAMENTARY CONSULTATION**

The Contracting Parties consider that matters covered by this Agreement should be discussed at the European Parliament-Switzerland interparliamentary meetings.

JOINT DECLARATION OF THE CONTRACTING PARTIES ON EXTERNAL RELATIONS

The Contracting Parties agree that the European Community undertake to encourage third countries or international organisations with which it concludes agreements in areas linked to Schengen cooperation to conclude similar agreements with the Swiss Confederation, without prejudice to the latter's competence to conclude such agreements.

**JOINT DECLARATION OF THE CONTRACTING PARTIES ON ARTICLE 23(7) OF THE CONVENTION OF 29 MAY 2000
ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN MEMBER STATES OF THE EUROPEAN UNION**

The Contracting Parties agree that Switzerland may, subject to the provisions of Article 23(1)(c) of the Convention on Mutual Assistance in Criminal Matters between Member States of the European Union, in the circumstances of a particular case, demand, unless the Member State concerned has obtained the consent of the data subject, that personal data not be used for the purposes referred to in Article 23(1)(a) and (b) without the prior consent of Switzerland in proceedings in which Switzerland could have refused or restricted the transmission or use of personal data under the Convention or the instruments referred to in Article 1 thereof.

If, in a particular case, Switzerland refuses to give its consent to a request from a Member State pursuant to the above provisions, it must give reasons for its decision in writing.

OTHER DECLARATIONS**DECLARATION BY SWITZERLAND ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS**

Switzerland declares that tax offences in the direct tax field being investigated by the Swiss authorities may not give rise, when this Agreement enters into force, to an appeal before a court competent *inter alia* to hear criminal matters.

DECLARATION BY SWITZERLAND ON ARTICLE 7(2)(b)**(Time limit for accepting new developments in the schengen *acquis*)**

The maximum time limit of two years laid down in Article 7(2)(b) covers both the approval and the implementation of the act or measure. It includes the following stages:

- the preparatory stage;
- the parliamentary procedure;
- the referendum deadline (100 days from the official publication of the act) and, where applicable;
- the referendum (organisation and voting).

The Federal Council shall inform the Council and the Commission without delay of the completion of each of these stages.

The Federal Council undertakes to use every means at its disposal to ensure that the abovementioned stages are completed as swiftly as possible.

DECLARATION BY SWITZERLAND ON THE APPLICATION OF THE EUROPEAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS AND THE EUROPEAN CONVENTION ON EXTRADITION

Switzerland undertakes to refrain from invoking its reservations and declarations made when ratifying the European Convention on Extradition of 13 December 1957 and the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 in so far as they are incompatible with this Agreement.

DECLARATION OF THE EUROPEAN COMMISSION ON THE TRANSMISSION OF PROPOSALS

When forwarding proposals relating to this Agreement to the Council of the European Union and to the European Parliament, the Commission shall forward copies of such proposals to Switzerland.

DECLARATION OF THE EUROPEAN COMMISSION ON THE COMMITTEES THAT ASSIST THE EUROPEAN COMMISSION IN THE EXERCISE OF ITS EXECUTIVE POWERS.

At present, in addition to the committee set up by Article 31 of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data, the committees which assist the European Commission in the exercise of its executive powers as regards the implementation, application and development of the Schengen *acquis* are:

- the committee set up by Article 6 of Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas (Visa Committee); and
 - the committee set up by Article 5 of Council Decision of 6 December 2001 (2001/886/JAI) and by Article 5 of Council Regulation (EC) No 2424/2001 of 6 December 2001, both instruments that refer to the development of the second generation Schengen information system (SIS II) (SIS II Committee).
-

AGREEMENT**in the form of an Exchange of Letters between the Council of the European Union and the Swiss federation on the committees that assist the European Commission in the exercise of its executive powers****A. Letter from the European Community**

Sir,

The Council refers to the negotiations concerning the Agreement on the association of the Swiss Confederation with the implementation, application and development of the Schengen *acquis* and has taken due note of the request of the Swiss Confederation, in the spirit of its participation in the decision-making process in the fields covered by the Agreement and in order to enhance the smooth operation of the Agreement, to be fully associated with the work of the committees which assist the European Commission in the exercise of its executive powers.

The Council notes that in future, when such procedures will be applied in the fields covered by the Agreement, there will indeed be a need to associate the Swiss Confederation with the work of these committees, *inter alia*, in order to ensure that the procedures of the Agreement have been applied to the acts or measures concerned, so that these may become binding on the Swiss Confederation.

The European Community undertakes to negotiate appropriate arrangements with a view to associating the Swiss Confederation with the work of these committees.

As regards Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data:

- The European Commission shall ensure that the experts from the Swiss Confederation participate as widely as possible, where a specific point concerns the application of the Schengen *acquis* and exclusively for that point, in preparing draft measures to be submitted subsequently to the committee established under Article 31 of that Directive, which assists the European Commission in the exercise of its executive powers. Accordingly, when drawing up its proposals, the European Commission shall consult the experts from the Swiss Confederation on the same basis as the experts from the Member States;
- Under the second subparagraph of Article 29(2) of the said Directive, the Swiss Confederation may appoint a representative of the supervisory authority or of the authorities designated by the Swiss Confederation to participate as an observer, without voting rights, in meetings of the group for the protection of individuals with regard to the processing of personal data. Participation will take place on the basis of an ad hoc invitation where a specific point concerns the application of the Schengen *acquis* and exclusively for that point.

I would be obliged if you would confirm that your Government is in agreement with the above.

Please accept, Sir, the assurance of my highest consideration.

B. *Reply from the Swiss Confederation*

Sir,

Thank for your letter dated ..., worded as follows:

'The Council refers to the negotiations concerning the Agreement on the association of the Swiss Confederation with the implementation, application and development of the Schengen *acquis* and has taken due note of the request of the Swiss Confederation, in the spirit of its participation in the decision-making process in the fields covered by the Agreement and in order to enhance the smooth operation of the Agreement, to be fully associated with the work of the committees which assist the European Commission in the exercise of its executive powers.

The Council notes that in future, when such procedures will be applied in the fields covered by the Agreement, there will indeed be a need to associate the Swiss Confederation with the work of these committees, *inter alia*, in order to ensure that the procedures of the Agreement have been applied to the acts or measures concerned, so that these may become binding on the Swiss Confederation.

The European Community undertakes to negotiate appropriate arrangements with a view to associating the Swiss Confederation with the work of these committees.

As regards Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data:

- The European Commission shall ensure that the experts from the Swiss Confederation participate as widely as possible, where a specific point concerns the application of the Schengen *acquis* and exclusively for that point, in preparing draft measures to be submitted subsequently to the committee established under Article 31 of that Directive, which assists the European Commission in the exercise of its executive powers. Accordingly, when drawing up its proposals, the European Commission shall consult the experts from the Swiss Confederation on the same basis as the experts from the Member States;
- Under the second subparagraph of Article 29(2) of the said Directive, the Swiss Confederation may appoint a representative of the supervisory authority or of the authorities designated by the Swiss Confederation to participate as an observer, without voting rights, in meetings of the group for the protection of individuals with regard to the processing of personal data. Participation will take place on the basis of an ad hoc invitation where a specific point concerns the application of the Schengen *acquis* and exclusively for that point.

I would be obliged if you would confirm that your Government is in agreement with the above.'

It is my pleasure to inform you that the Federal Council has indicated its agreement to the above arrangements.

Please accept, Sir, the assurance of my highest consideration.

JOINT DECLARATION ON JOINT MEETINGS OF MIXED COMMITTEES

The Delegations representing the Governments of the Member States of the European Union,

The Delegation of the European Commission,

The Delegations representing the Governments of the Republic of Iceland and the Kingdom of Norway,

The Delegation representing the Government of the Swiss Confederation,

- have decided to organise the meetings of the Mixed Committees, established by the Agreement on the association of Iceland and Norway with the implementation, application and development of the Schengen *acquis*, on the one hand, and the agreement on the association of Switzerland with the implementation, application and development of the Schengen *acquis*, on the other hand, jointly, no matter the level of the meeting.
 - note that holding these meetings jointly calls for a pragmatic arrangement regarding the office of presidency of such meetings when that presidency is to be held by the associated States according to the Agreement between the European Union, the European Community and the Swiss Confederation concerning the latter's association with the implementation, application and development of the Schengen *acquis* or the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*.
 - note the wish of the associated States to cede, as necessary, the exercise of their presidencies and rotate it among them in alphabetical order of name as of the entry into force of the Agreement between the European Union, the European Community and the Swiss Confederation concerning the latter's association with the implementation, application and development of the Schengen *acquis*.
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