

Agreement on land transport

1. The situation today

The Agreement on the carriage of goods and passengers by rail and road (“Agreement on land transport”) was signed in 1999 and entered into force in 2002 as part of a package of seven sectoral agreements with Switzerland¹. It provides for reciprocal market access for EU and Swiss companies providing international transport services by road and rail. It also provides the basis for cooperation and coordination between EU and Swiss authorities with a view to ensuring the efficient management of traffic flows, the interoperability of their land transport networks, rolling material and control and management systems, as well as regulatory convergence.

While the current Agreement on land transport allows for greater participation of international transport services providers in the respective markets of the EU and Switzerland and has achieved a high degree of alignment of the Parties’ respective legislation, it falls short of creating a common regulatory environment, which hampers the integration of their transport markets. The current institutional setup of the Agreement does not allow for its timely adaptation to the continuous development of the relevant Union acquis. Furthermore, the absence of common rules regarding market surveillance and rules for allowed financial support to transport companies poses a challenge to the Parties’ efforts to create a level playing field.

The EU and Switzerland therefore decided to include the update of the Agreement on land transport in the broad package negotiations held between March and December 2024.

2. The contents of the modernised agreement

With the negotiations on the modernisation of the Agreement on land transport, the EU and Switzerland aimed to correct the identified shortcomings, with the aim of providing legal certainty and predictability to EU and Swiss operators and ensuring that they can compete with one another on the basis of a level playing field.

First, the updated Agreement includes a new institutional setup that aims to ensure a level playing field, and a stable and predictable environment for citizens, consumers and businesses in the EU and in Switzerland. The setup involves the obligation to dynamically align on the relevant Union acquis. This means that Switzerland will have to adopt provisions of national law achieving the result to be attained by the Union acquis listed in the Annexes to the Agreement. In addition, that acquis will have to be uniformly interpreted and applied across the Union and Switzerland. In this context, Switzerland will have the possibility to take part in the relevant decision-shaping processes in the EU.

The EU and Switzerland agreed to a set of targeted exceptions to the principle of dynamic alignment. For instance, Switzerland will be able to:

- give priority to rail services that are part of the Swiss interval-service timetable;
- adopt capacity management instruments that provide for a minimum number of train paths per hour for certain traffic;

¹ In addition to the Agreement on land transport, the package of EU-Switzerland agreements which were signed in 1999 included the following: the Agreement on the free movement of persons, the Agreement on certain aspects of government procurement, the Agreement on trade in agricultural products, the Agreement on mutual recognition in relation to conformity assessment, the Agreement on air transport and the Agreement on scientific and technological cooperation.

- require passenger transport companies to participate in the Swiss ticketing and price integration system; and
- directly award public service contracts in rail transport, subject to specific conditions, provided that the Union's internal market is not affected as far as the Union's territory is concerned.

The Agreement will allow for the resolution of disputes between the EU and Switzerland through an arbitral tribunal, with a role for the European Court of Justice if there is a question of Union law that needs to be resolved in order for the arbitral tribunal to deliver its decision. Moreover, the case-law of the European Court of Justice will apply to this Agreement regardless of whether it is handed down before or after the signature of the Agreement.

Second, the modernised Agreement will include substantive and procedural rules regarding State aid. Switzerland will set up a system of State aid surveillance and enforcement equivalent to that of the EU as laid down in the relevant Union legal acts.

Third, the EU and Switzerland agreed on some substantive changes aimed at improving the functioning of the Agreement. For instance, the updated Agreement will clarify that railway undertakings may operate, under their own responsibility, both international passenger and freight rail services between the EU and Switzerland, including the possibility to pick up and set down passengers in the other side's territory along international routes.

3. The benefits of the modernised agreement

The modernisation of the Agreement on land transport will bring clear benefits to the EU and Swiss companies active in the land transport sector. The obligation that Swiss legislation will achieve the same results as EU rules will contribute to the reduction of the costs for companies as they will have to ensure compliance with requirements of one set of rules not two. It will also increase interoperability of the rolling material, which should drive down production costs. The inclusion of State aid rules will prevent either side from favouring its own companies and providing them an unfair competitive advantage by granting them unauthorised economic support. Clarifications of existing rights and obligations, such as in international passenger and freight transport, will also contribute to maintaining a competitive environment, which should also benefit consumers.