

No. 10716

**FRANCE
and
SWITZERLAND**

**Convention concerning adjoining national frontier clearance
offices and frontier clearance operations in transit (with
protocol). Signed at Berne on 28 September 1960**

Authentic text: French.

Registered by France on 3 September 1970

**FRANCE
et
SUISSE**

**Convention relative aux bureaux à contrôles nationaux juxta-
posés et aux contrôles en cours de route (avec protocole).
Signée à Berne le 28 septembre 1960**

Texte authentique: français.

Enregistrée par la France le 3 septembre 1970.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN FRANCE AND SWITZERLAND
CONCERNING ADJOINING NATIONAL FRONTIER
CLEARANCE OFFICES AND FRONTIER CLEARANCE
OPERATIONS IN TRANSIT

The President of the French Republic, President of the Community, and
The Swiss Federal Council,

desiring to facilitate the crossing of the frontier between the two countries,
have decided to conclude a Convention and have for that purpose appointed as
their respective plenipotentiaries:

For the President of the French Republic, President of the Community:

His Excellency Mr. Etienne Roland Dennery, Ambassador Extraordinary
and Plenipotentiary of France to Switzerland;

For the Swiss Federal Council:

Mr. Max Petitpierre, President of the Swiss Confederation, Chief of
the Federal Political Department;

who, having exchanged their full powers, found in good and due form, have
agreed as follows:

PART I

GENERAL PROVISIONS

Article 1

1. The Contracting Parties shall, pursuant of this Convention, take the
necessary measures to facilitate and expedite the crossing of the frontier
between the two countries.

2. For that purpose, they:

(a) May establish adjoining national frontier clearance offices;

¹ Came into force on 8 July 1961 by the exchange of the instruments of ratification, which took place at Paris, in accordance with article 29.

- (b) May institute frontier clearance operations in vehicles in transit on specified sections of route;
- (c) Shall consequently authorize the competent officials of either State to perform their duties in the territory of the other State, pursuant to this Convention.

3. The establishment, transfer, modification or discontinuance:

- (a) Of adjoining national frontier clearance offices;
- (b) Of sections of route on which frontier clearance operations may be carried out in transit,

shall be determined by mutual agreement by the competent authorities of the two States.

4. Arrangements concluded pursuant to paragraph 3 shall be confirmed by an exchange of diplomatic notes. They shall take effect after the completion of the formalities, if any, required under the laws of each State.

Article 2

For the purposes of this Convention:

1. The term "frontier clearance operations" means the application of all the laws, regulations and administrative provisions of the Contracting Parties relating to the crossing of the frontier by persons, and the entry, exit and transit of goods (including vehicles) and other property.
2. The term "territorial State" means the State in whose territory the frontier clearance operations of the other State are carried out.
3. The term "neighbouring State" means the other State.
4. The term "zone" means the area of the territorial State in which the officials of the neighbouring State are authorized to carry out frontier clearance operations.
5. The term "officials" means persons who are members of the departments responsible for frontier clearance operations and who perform their duties in the adjoining national frontier clearance offices or in vehicles in transit.
6. The term "offices" means the adjoining national frontier clearance offices.

Article 3

The zone may include:

1. In the case of rail traffic:
 - (a) Part of the station and its installations;
 - (b) The section of track between the frontier and the office, and parts of the stations situated on that section of route;
 - (c) In case of frontier clearance operations on a train in transit, the train while it is on the specified section of its route and parts of the stations at which that section begins and ends, as well as parts of the stations through which the train passes.
2. In the case of road traffic:
 - (a) Part of the service buildings;
 - (b) Sections of the road and of other installations;
 - (c) The road between the frontier and the office;
 - (d) In the case of frontier clearance operations on a vehicle in transit, the vehicle while it is on the specified section of its route and part of the buildings and installations at which that section begins and ends.
3. In the case of traffic by waterway:
 - (a) Part of the service buildings;
 - (b) Parts of the waterway and of riverside and port installations;
 - (c) The waterway between the frontier and the office;
 - (d) In the case of frontier clearance operations on a vessel in transit, the vessel and the accompanying inspection vessel on the specified section of its route, as well as part of the buildings and installations at which that section begins and ends.
4. In the case of air traffic:
 - (a) Part of the service buildings;
 - (b) Part of the airport and its installations.

PART II

FRONTIER CLEARANCE

Article 4

1. The laws, regulations and administrative provisions of the neighbouring State relating to frontier clearance shall apply in the zone in the same manner as in the commune having jurisdiction over the office of the neighbouring State. They shall be applied by the officials of the neighbouring State to the same extent and with the same consequences as in their own country. The commune having jurisdiction over the office of the neighbouring State shall be designated by the Government of that State.

2. When the laws, regulations or administrative provisions of the neighbouring State relating to frontier clearance are contravened in the zone, the courts of the neighbouring State shall be entitled to institute criminal proceedings and render decisions in the same manner as if the offences had been committed in the commune having jurisdiction over the frontier clearance office.

3. In other matters, the law of the territorial State shall remain applicable in the zone.

Article 5

The officials of the neighbouring State may not arrest within the zone persons who are not travelling to that State, unless such persons contravene in the zone the laws, regulations or administrative provisions of the neighbouring State relating to customs inspection.

Article 6

1. The frontier clearance operations of the country of exit shall be carried out before those of the country of entry.

2. The authorities of the country of entry may not begin their frontier clearance operations until completion of the exit clearance operations, to which waivers of such operations shall be regarded as equivalent.

3. The authorities of the country of exit shall not be entitled to resume clearance operations after the officials of the country of entry have begun their clearance operations. As an exceptional measure, exit clearance operations may be resumed with the consent of the competent officials of the country of entry.

4. If for practical reasons the order provided for in paragraphs 1-3 above is modified during clearance operations, the officials of the country of entry may not make arrests or seizures until the clearance operations of the country of exit have been completed. If they wish to take such action, they shall take the persons, goods or other property in respect of which exit clearance operations have not yet been completed to the officials of the country of exit. If the latter officials wish to make arrests or seizures, they shall have priority.

Article 7

The officials of the neighbouring State may freely transfer to the territory of their State any sums of money collected in the zone and any goods or other property retained or seized therein. They may also sell such articles in the territorial State provided that they comply with the laws in force in that State, and may subsequently transfer the proceeds to the neighbouring State.

Article 8

1. Goods turned back into the neighbouring State by officials of that State at the time of the exit clearance operations or which have been returned to the neighbouring State at the request of the person concerned before commencement of the entry clearance operations in the territorial State shall not be subject to the export regulations in force in, or the exit clearance operations carried out by, the territorial State.

2. Persons or goods turned back by officials of the country of entry may not be refused readmission to the country of exit.

Article 9

1. The officials of the two States shall assist one another as much as possible in the performance of their duties in the zone, particularly in organizing the respective clearance operations and ensuring that such operations are conducted rapidly, and in preventing persons, goods and other property from leaving the route or place provided for the clearance operations of the two States.

2. Goods or other property coming from the neighbouring State which are taken out of the zone before being cleared, shall, if seized immediately in or near the zone by officials of the territorial State, be handed over in the first instance to the officials of the neighbouring State. If it is established that the export regulations of the neighbouring State have not been contravened, such articles shall be returned to the officials of the territorial State.

3. The customs authorities of the territorial State shall, at the request of the customs authorities of the neighbouring State, conduct official investigations and communicate the results thereof to the latter authorities. They shall, in particular, conduct hearings of witnesses and experts.

4. They shall also issue to the persons concerned the documents relating to criminal procedure and shall notify such persons of any procedural measures or administrative decisions relating to offences detected in the zone.

5. The procedure for the application of the provisions of paragraphs 3 and 4 above shall be that provided for similar cases by the legislation of the territorial State.

6. The mutual administrative assistance provided for in paragraphs 3 and 4 above shall be limited to offences which are detected at, or immediately after, the time when they were committed and which are committed in the zone in contravention of the customs regulations governing the crossing of the frontier by persons or goods.

7. Any provisions of domestic law which, for the purposes of application of the aforesaid measures, require authorization by other authorities shall not be affected by the provisions of paragraph 1.

PART III

OFFICIALS

Article 10

1. The authorities of the territorial State shall grant to the officials of the neighbouring State the same protection and assistance in the performance of their duties as they grant to their own officials.

2. Crimes or offences committed in the zone against officials of the neighbouring State in the performance of their duties shall be punishable, in accordance with the laws of the territorial State, as if they had been committed against officials of the territorial State performing similar duties.

Article 11

Claims for compensation for damage or injury caused by officials of the neighbouring State in the performance of their duties in the zone shall be subject to the law and jurisdiction of the neighbouring State, as if the damage or injury had occurred in the commune of the neighbouring State having

jurisdiction over the frontier clearance office. Nationals of the territorial State shall nevertheless be treated in the same way as nationals of the neighbouring State.

Article 12

1. Officials of the neighbouring State who, pursuant to this Convention, are called upon to perform their duties in the zone shall be exempt from passport and visa requirements. They shall be entitled to cross the frontier and to proceed to their duty station on production of official documents showing their identity and official position.

2. The competent authorities of the territorial State reserve the right to request the authorities of the neighbouring State to withdraw certain officials.

Article 13

Officials of the neighbouring State who, pursuant to this Convention, are called upon to perform their duties in the territorial State may wear in that State their national uniform or a visible badge; they may carry their service weapons in the zone and when travelling between their duty station and their residence. The aforesaid weapons may, however, be used only in the zone and in self-defence.

Article 14

1. The officials of the neighbouring State shall be responsible solely to the authorities to whom they are answerable in all matters relating to their official duties, working relations and discipline.

2. The aforesaid officials may not be arrested in the zone by the authorities of the territorial State as a result of acts committed in the performance of their duties; they shall, in that case, be answerable to the authorities of the neighbouring State.

Article 15

1. Officials of the neighbouring State who, pursuant to this Convention, perform their duties in the zone and reside in the territorial State shall, with respect to the conditions relating to their place of residence, comply with the requirements of the competent authorities, in accordance with the provisions relating to the sojourn of aliens. They shall, if necessary, be provided with residence permits and other documents free of charge by the authorities of the country in which they perform their duties. Residence permits may not

be withheld from wives and children who live in the same household as the officials concerned and who are not engaged in any remunerative activity, unless they are personally affected by a decision prohibiting entry into the territorial State. The aforesaid wives and children shall be exempt from taxes relating to residence permits. The issuance of a permit for the performance of a remunerative activity to the members of the family of the aforesaid officials shall be left to the discretion of the competent authorities. If such a permit is required, it shall be issued upon receipt of the statutory taxes.

2. The time during which officials of the neighbouring State perform their duties in the territorial State or reside therein shall not be included in the periods which entitle a person to privileged treatment under existing conventions between the two States. The same shall apply to the members of the family who are granted a residence permit as a result of the presence of the head of the family in the territory of the territorial State.

Article 16

1. Officials of the neighbouring State who, pursuant to this Convention, are called upon to perform their duties in the zone and who reside in the territorial State shall be granted, in respect of themselves and the members of their family living in the same household, exemption from all entry and exit duties on their furniture, personal effects, including vehicles, and normal household provisions, at the time when they take up residence or establish a home in the territorial State. In order to benefit from the exemption, the aforesaid articles must be acquired on the open market in the neighbouring State or in the State in which the official or the members of his family were previously resident. The regulations of the territorial State concerning the use of the goods admitted free of charge shall be reserved.

2. The aforesaid officials, as well as the members of their family living in the same household, shall be exempt from all personal services and material obligations under public law in the territorial State. With respect to nationality and military service, their place of residence shall be regarded as being the territory of the neighbouring State. They shall not be subject, in the territorial State, to any tax or duty from which nationals of the territorial State resident in the same commune would be exempt.

3. Officials of the neighbouring State who, pursuant to this Convention, are called upon to perform their duties in the zone but are not resident in the territorial State shall be exempt in that State, under public law, from all

personal services and material obligations and direct taxes on their official remuneration.

4. The double taxation conventions which have been concluded between the contracting States shall apply also to officials of the neighbouring State who, pursuant to this Convention, are called upon to perform their duties in the zone.

5. The wages of officials of the neighbouring State who, pursuant to this Convention, are called upon to perform their duties in the zone shall not be subject to any currency restriction. They may freely transfer their savings to the neighbouring State.

PART IV

OFFICES

Article 17

1. The competent authorities shall determine by mutual agreement:
- (a) The premises needed for the operation in the zone of the services of the neighbouring State, as well as any charges that may be payable for their use;
 - (b) The compartments and premises to be reserved for officials responsible for carrying out frontier clearance operations in transit.

2. The working hours and functions of the offices shall be established by mutual agreement between the two competent authorities.

Article 18

Premises allocated for use as offices of the neighbouring State shall be designated by official emblems and coats of arms.

Article 19

Officials of the neighbouring State shall be entitled to maintain order on premises allocated to their exclusive use and to remove therefrom any person causing a disturbance. They may, if necessary, summon the assistance of officials of the territorial State for that purpose.

Article 20

Articles required for the operation of the offices or needed by officials of the neighbouring State during the performance of their duties in the territorial

State shall be exempt from customs duties and all entry or exit taxes without deposit of security. Unless otherwise provided by mutual agreement between the competent authorities, import or export prohibitions or restrictions shall not apply to the aforesaid articles. The same shall apply to official or personal vehicles used by officials for the performance of their duties in the territorial State.

Article 21

1. The territorial State shall authorize the installation—free of charge, except for payment of any costs entailed by the installation and rental of apparatus—of the telephone and telegraph equipment (including teleprinter equipment) required for the operation of the offices of the neighbouring State in the territorial State, the connexion of such equipment to the corresponding equipment of the neighbouring State, and the exchange of direct communications reserved exclusively for official matters with the aforesaid offices. Such communications shall be regarded as internal communications within the neighbouring State.

2. For the same purpose, the Governments of the two States undertake to grant, so far as is possible, every facility for the use of other means of telecommunication.

3. Furthermore, the regulations of the two States relating to the construction and operation of telecommunication installations shall be reserved.

Article 22

Official letters or packages and remittances from or to the offices of the neighbouring State need not be sent through the post but may be carried by officials of those offices. Such consignments must bear the official stamp of the service concerned.

PART V

PERSONS MAKING CUSTOMS DECLARATIONS

Article 23

1. Persons coming from the neighbouring State may complete all activities relating to frontier clearance at the offices of that State within the zone in the same manner and subject to the same reservations as in the neighbouring State.

2. The provisions of paragraph 1 shall apply in particular to persons coming from the neighbouring State who engage in such activities on a professional basis in that State; such persons shall, in respect of the said activities, be subject to the laws, regulations and administrative provisions of the neighbouring State. Activities thus carried on and services thus provided shall be regarded as having been carried on or provided exclusively in the neighbouring State, with all the resulting consequences in relation to taxation.

3. The persons referred to in paragraph 2 may, for the purpose of such activities, employ either French or Swiss personnel. The laws and regulations of the territorial State governing the employment of foreign workers shall not be applicable in this case.

4. In order to enable the persons referred to in paragraph 2 and their employees to carry on such activities in a normal manner, they shall be granted facilities compatible with the general provisions of the State concerning the crossing of the frontier and sojourn in that State.

Article 24

1. Persons resident in either contracting States may also complete all activities relating to frontier clearance at the offices of the other State, irrespective of the territorial State. They shall be accorded fully equal treatment by the authorities of the other State.

2. The provisions of paragraph 1 shall apply in particular to persons resident in one Contracting State who carry on the aforesaid activities on a professional basis. So far as the turnover tax is concerned, the services provided in an office of the other State shall always be regarded as having been provided in the State to which the said office belongs.

3. If, in either of the two States, the aforesaid persons require a permit in order to carry on their professional activities, no distinction shall be made between persons resident in one or other of the Contracting States in connexion with the granting of such a permit.

4. Paragraphs 3 and 4 of article 23 shall also apply to persons resident in the neighbouring State.

PART VI

FINAL PROVISIONS

Article 25

The procedures for the application of this Convention shall be determined, as necessary, by mutual agreement between the competent authorities of the two States.

Article 26

1. After the Mixed Commission provided for in article 27 has given an opinion, either Contracting Party may terminate the arrangements referred to in article 1, paragraph 3, within the period and under the conditions provided for in that paragraph.

2. After the Mixed Commission provided for in article 27 has given an opinion, the High Contracting Parties may, by simple exchange of notes, make any amendments to this Convention that they consider necessary. However, the provisions of this paragraph shall not apply to those clauses of this Convention which, under the constitutional provisions of the two States, require the approval of the legislature for their application.

Article 27

1. A Franco-Swiss Mixed Commission, which shall be established as soon as possible after the entry into force of this Convention, shall have the following functions:

- (a) To prepare the arrangements provided for in article 1 and formulate proposals for any amendments to this Convention that may be necessary;
- (b) To endeavour to resolve any difficulties which might arise from the application of this Convention.

2. The Commission shall be composed of six members, three of whom shall be appointed by each Contracting Party. The Commission shall elect its Chairman alternately from among the French and the Swiss members. The Chairman shall not have a casting vote. The members of the Commission may be assisted by experts.

Article 28

Any measures that either Contracting Party might be called upon to take for reasons of national security, or because of a state of war or the proclamation of a state of siege or state of emergency, or in connexion with mobilization in either State shall be expressly reserved.

Article 29

1. This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible at Paris.

2. It shall enter into force on the date of the exchange of the instruments of ratification.

3. It shall cease to have effect two years after it has been denounced by either of the Contracting Parties.

IN WITNESS WHEREOF the plenipotentiaries of both Contracting States have signed this Convention and have thereto affixed their seals.

DONE at Berne, on 28 September 1960, in duplicate in the French language.

For the President
of the French Republic,
President of the Community:
Etienne DENNERY
[SEAL]

For the Swiss Federal
Council:
Max PETITPIERRE
[SEAL]

FINAL PROTOCOL

On the occasion of the signature of the Convention concerning adjoining national frontier clearance offices and frontier clearance operations in transit concluded today between France and Switzerland, the undersigned plenipotentiaries have agreed on the following provision which shall form an integral part of the Convention:

There is agreement on the fact that, as soon as this Convention enters into force, the provisions of articles 4-16, 17, paragraph 2, 18-24, 27 and 28, as well as those of the two exchanges of letters which form an integral part of

the Convention, shall apply *mutatis mutandis* to the adjoining national frontier clearance offices already covered by agreements between the Contracting Parties and shall prevail over the corresponding provisions of the aforesaid agreements.

DONE at Berne, on 28 September 1960, in duplicate in the French language.

For the President
of the French Republic,
President of the Community:
Etienne DENNERY

For the Swiss Federal
Council
Max PETITPIERRE