COMMON POSITION (EC) No 55/2000

adopted by the Council on 8 December 2000

with a view to adopting Regulation (EC) No .../2000 of the European Parliament and of the Council, of ..., on the distribution of permits for heavy goods vehicles travelling in Switzerland

(2000/C 375/05)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and, in particular, Article 71 thereof;

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the Economic and Social Committee [2],

After consulting the Committee of the Regions,

Acting in accordance with the procedure referred to in Article 251 of the Treaty [3],

Whereas:

(1) The Swiss Federal Council decided, on 1 November 2000, to allow heavy goods vehicles of up to 34 tonnes to travel on its territory from 1 January 2001 and to open up the quotas, from the same date, for vehicles the actual total laden weight of which is more than 34 tonnes but not more than 40 tonnes and for empty and light goods vehicles. That decision accompanied the introduction of the RPLP (heavy traffic levy) on the Swiss network.

(2) That Decision is an autonomous measure taken by the Swiss Confederation and, as a result, it cannot be deemed to be a provisional application of the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road signed on 21 June 1999. The conclusion of that Agreement by the Community calls for the simultaneous entry into force of the seven agreements signed on the same date with the Swiss Confederation.

(3) It is necessary to establish on a lasting basis rules governing the distribution and management of the permits made available to the Community as from 1 January 2001.

(4) For practical and organisational reasons, the Commission should be entrusted with the task of distributing the permits to Member States.

(5) To that end, an allocation method should be established. Thereafter, Member States should share out the permits allocated to them among transport undertakings with reference to objective criteria.

(6) In order to ensure the optimal use of permits, all unallocated permits should be returned to the Commission for redistribution.

(7) The allocation of permits should be based on criteria that take full account of existing freight transport flows and genuine transport needs across the Alpine region.

(8) It may prove necessary to revise the allocation of permits on the basis of genuine traffic flows, while taking account of relevant items of the method described in Annex III. In carrying out such revision, the Commission should be assisted by a Committee.

(9) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [4],

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[1] OJ C 114, 27.4.1999, p. 4 and OJ C 248 E, 29.8.2000, p. 108.
[2] OJ C 329, 17.11.1999, p. 1.
[3] Opinion of the European Parliament of 15 December 1999 (OJ C 296, 18.10.2000, p. 108), Council Common Position of 8 December 2000 and Decision of the European Parliament of ... (not yet published in the Official Journal).
[4] OJ C 184, 17.7.1999, p. 23.

HAVE ADOPTED THIS REGULATION:

Article 1

This Regulation lays down the rules for the distribution of permits allocated to the Community by Switzerland allowing heavy goods vehicles of up to 34 tonnes to travel on its territory as from 1 January 2001, opening up, from the same date, the quotas for vehicles the actual total laden weight of which is more than 34 tonnes but not more than 40 tonnes and for empty and light goods vehicles and introducing the RPLP (heavy traffic levy) on the Swiss network.

Article 2

For the purposes of this Regulation:

1. 'full-weight permit' shall mean a permit to travel on Swiss territory granted for goods vehicles the actual total laden weight of which is more than 34 tonnes but not more than 40 tonnes;

2. 'empty permit' shall mean a permit to travel on Swiss territory granted for goods vehicles that are empty or are transporting light loads.

Article 3

1. The Commission shall allocate permits in accordance with paragraphs 2, 3 and 4.

2. The full-weight permits shall be distributed in accordance with Annex I.

3. The empty permits shall be distributed in accordance with Annex II.

4. The permits for each year shall be distributed before 15 August of the preceding year.

Article 4

Member States shall distribute permits amongst the undertakings established in their territory according to objective and non-discriminatory criteria.

Article 5

Before 15 September each year, Member States shall transfer to the Commission those permits which have not been allocated to undertakings.

In accordance with the procedure laid down in Article 7, the Commission shall allocate those permits to one or more Member States in such a way as to ensure an optimal use thereof.

Article 6

When the Commission makes its proposal for adjustment, it shall take as a basis actual traffic flows during 2001, while seeing to it that equal account is taken of criteria relating to bilateral traffic operations and transit traffic operations. Should the recalculation result in an allocation for any Member State which differs substantially from that set out in Annexes I and II, any amendments necessary to adapt Annexes I and II shall be adopted in accordance with the procedure laid down in Article 7.

Article 7

1. The Commission shall be assisted by a committee.

2. Where reference is made to this Article, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

Article 8

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

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

Done at ...

For the European Parliament	*For the Council*
The President	*The President*

ANNEX I

SCALE FOR ALLOCATING 'FULL-WEIGHT PERMITS'

The Commission shall allocate 'full-weight permits' to the Member States according to the following scale:

Member State	%
Belgium	6,9
Denmark	1,4
Germany	25
Greece	0,9
Spain	2
France	15
Ireland	0,85
Italy	24
Luxembourg	1,45
Netherlands	8,9
Austria	8
Portugal	0,7
Finland	0,8
Sweden	0,75
United Kingdom	3,35
Total	100

The total number of permits to be allocated will amount to 300 000 for 2001 and 2002 and to 400 000 for 2003 and 2004.

ANNEX II

SCALE FOR ALLOCATING 'EMPTY PERMITS'

The Commission shall allocate 'empty permits' to the Member States according to the following scale:

Number of 'empty permits' available annually

Member State	2001-2004
Belgium	14 067
Denmark	1 310
Germany	50 612
Greece	5 285
Spain	1 500
France	16 126
Ireland	220
Italy	93 012
Luxembourg	3 130
Netherlands	21 517
Austria	2 183
Portugal	192
Finland	867
Sweden	381
United Kingdom	9 598
Total	220 000

ANNEX III

METHODOLOGY FOR DETERMINING THE ALLOCATION OF PERMITS

Allocation of the permits determined in Annexes I and II will take place on the basis of the following methodology:

'Full-weight permits'

Initially, each Member State will receive 1 500 permits.

Thereafter, the remaining permits will be allocated in equal parts on the basis of criteria relating to bilateral traffic operations and transit traffic operations.

This result will be adjusted slightly to take account of the specific geographical situation of certain Member States.

Bilateral traffic

The allocation will take place on the basis of the shares of each Member State in bilateral transport to and from Switzerland.

Transit traffic

The allocation will take place on the basis of the shares of heavy vehicles registered in the Member State concerned in the total number of diverted kilometres in north-south and south-north trans-Alpine road traffic as a result of the current weight restrictions in Switzerland.

Diverted mileage will be calculated as the difference between the actual distance of trans-Alpine journeys and the shortest distance through Switzerland. The mileages through Switzerland will be adjusted by the addition of 60 kilometres to take into account border delays and road traffic conditions.

For those Member States where the above method leads to less than 200 permits, the allocation will be established at a level of 200 permits.

'Empty permits'

The 'empty permits' will be allocated on the basis of the shares of vehicles registered in the Member States in the transit traffic through Switzerland of vehicles with a laden weight between 7,5 and 28 tonnes.

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

On 26 February 1999, the Commission submitted to the Council a proposal for a Regulation on the distribution of permits for heavy goods vehicles travelling in Switzerland ([1]); the proposal is designed to distribute among the Member States permits which Switzerland has granted the Community under the Agreement between the Swiss Federation and the European Community on the transport of goods by rail and road.

The Economic and Social Committee delivered its Opinion on 22 September 1999 ([2]).

The European Parliament delivered its Opinion on first reading under the co-decision procedure on 15 December 1999 ([3]).

The Commission submitted an amended proposal on 2 March 2000 ([4]).

On 12 December 2000, the Council adopted its common position in accordance with Article 251 of the Treaty.

II. ANALYSIS OF THE COMMON POSITION

Since the Commission submitted its amended proposal in March 2000, the Council's discussions on the matter have been informed by a concern to abide fully by the outcome of the European Parliament's first reading, including the amendments tabled by the Parliament, which the Commission took on board in its amended proposal. However, in establishing its common position the Council has found itself obliged to take account of a number of factors and developments which have arisen in the intervening period.

The initial Commission proposal was presented as an act implementing one of the agreements between the European Communities and the Swiss Federation, viz. the Agreement on the transport of goods by rail and road. However, owing to the fact that ratification procedures on one of the agreements in the package of seven signed with Switzerland are still under way in some Member States, these agreements, including the road traffic agreement on the transport of goods by rail and road, have not yet entered into force and are not likely to do so for some months yet. In this connection, it will be remembered that the seven agreements with Switzerland were negotiated as a package and were intended to be concluded and to enter into force on the same day. This principle is established in Article 58 of the road traffic agreement.

In the meantime the Swiss Federal Council decided, on 1 November 2000, to allow heavy goods vehicles of up to 34 tonnes to travel on its roads from 1 January 2001 and to open up quotas, from the same date, for vehicles between 34 and 40 tonnes and for vehicles that are empty or transporting light loads. That decision by the Swiss authorities accompanies the introduction of the RPLP (heavy traffic levy) on the Swiss network.

([1]) OJ C 114, 27.4.1999, p. 4.
([2]) OJ C 329, 17.11.1999, p. 1.
([3]) OJ C 296, 18.10.2000, p. 108.
([4]) OJ C 248 E, 29.8.2000, p. 108.

Given this last development, the adoption of the Regulation has thus become very urgent, if Community hauliers are not be deprived of the benefits of the Swiss decision. Nevertheless, given that the seven agreements form a package, the Council did not want the decision to be regarded as advance implementation of the road traffic agreement. This concern is reflected in the structure of the text. The Council has therefore made a number of amendments, as compared with the outcome of the European Parliament's first reading, notably in order to uncouple the Regulation from the road traffic agreement. Then, in drawing up the allocation scales, it took account of the latest statistics, keeping to the methodology in the Commission proposal but adjusting it slightly to reflect the specific geographical position of certain Member States. It felt it would be useful to include a review clause on the basis of real flows after one year. The Council also took into account the deadline proposed by the Parliament for re-allocating unused permits.

III. **AMENDMENTS**

The Council has adopted all the amendments tabled by the European Parliament. However, with due regard for the rights and prerogatives of the European Parliament laid down in Article 7, particularly paragraph 3 thereof, of the Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of the implementing powers conferred on the Commission (OJ C 184, 17.7.1999, p. 23), it has used the wording agreed with the European Parliament since adoption of the Socrates Programme (see Art. 7 of the draft Regulation).

The Council has amended the Commission proposal notably in order to uncouple it from the road traffic agreement signed with Switzerland. It has accordingly inserted new recitals 1 and 2 and amended Articles 1, 2 and 8 — likewise for the purpose of 'uncoupling'. Lastly, the Council has provided for a review mechanism after one year in Article 6 of the draft Regulation.