

The Swiss Constitution of 18 April 1999

Translator's Note

This represents an amalgam of the version prepared for the Federal Chancellery by Pierre Karrer of Zurich, with that started, but apparently never finished, by the Institute for Constitutional Law in the University of Wurzburg, BRD; and, more generally, my own systematic up-datings and revisions.

In doing this I have tried to keep closely to the terminology used in the originals and not to use terms drawn from the American federal system since, on the one hand this can give a false impression of the nature of Swiss institutions and, on the other, it can cause confusion for readers who will find a different range of names being used in actual practice from those contained in this version of the Constitution. This is especially so with the use of 'municipalities'. I also think that not talking specifically of the 'Federal Council' etc means missing something of the thinking about the Confederation which underlies the constitutional structure. For this reason I have used the formulation of 'a confederal responsibility' rather than 'a federal concern' used in the standard English version of the 1874 constitution, partly because the original texts always talk of the 'Confederation' and not the 'Federation'. Doing this has also meant largely reverting to the use of 'the law' rather than the too English 'Statute'.

Equally, I have tried to follow the structure of the original even if this means avoiding what could be more lapidary English formulations. Hence I have not added explanatory titles to articles where the originals leave them out. Finally I have tried to eliminate some general and grammatical weaknesses in the original version.

However, after some hesitation I have decided to differ from the Wurzburg version which argued against using the 'shall' formula where the original French and German use the present tense. This is because 'shall' is the normal 'mandatory' style in English legal writing as the English versions of the European treaties show. And, even though the use of a form of the future might wrongly suggest that the Swiss yet to do things which they have actually been doing for years, it does avoid what is a rather odd usage in English as "The Confederation legislates....". It might also be said that the 'shall' formula conveys more of the commitment to principles of the originals.

The text initially reflected the original texts as they were in mid May 2002. However, I have followed the Karrer draft in including the new legal reforms since they have been agreed even if they have yet to come into effect. Because of this I have inserted the existing text as a footnote along with other explanatory points. Conversely I have not included the detailed footnote references to the Swiss Statute book since these are only in the national language versions. The text now covers the Constitution as it is up to late February 2003.

In preparing this version I am grateful to John Bennet, Alan Dashwood, Aldo Lombardi, Anne Stevens, Michel Walter and Hans-Ulrich Wili for their advice and to Pro Helvetia for the facilities which enabled me to start the process of revision.

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The Constitution of the Swiss Confederation

Agreed by the Federal Parliament on 18 December 1998.

Adopted by compulsory dual majority public referendum: 18 April 1999.

Application decree of the Federal Parliament: 28 September 1999.

In force: 1 January 2000.

Preamble

In the name of Almighty God !

The People and the Swiss Cantons,

Conscious of their responsibility towards creation;

Resolved to renew their alliance

So as to strengthen liberty, democracy, independence and peace
in a spirit of solidarity and openness towards the world

Determined to live together with their diversities
respecting each other and in equity,

Conscious of their common achievements and of their duty to take responsibility for
future generations,

Knowing that only those remain free who use their freedom, and that the strength
of a community is measured by the well being of its weakest members;

Agree the Constitution which follows:

Title One: General Provisions

Article 1 *The Swiss Confederation*

The People and the Cantons of Zurich, Berne, Lucerne, Uri, Schwyz, Obwald, Nidwald, Glarus, Zug, Fribourg, Solothurn, Basle-City, Basle-Country, Schaffhausen, Appenzell Outer-Rhodes, Appenzell Inner-Rhodes, St. Gall, Graubunden, Aargau, Thurgau, Ticino, Vaud, Valais, Neuchâtel, Geneva, and Jura form the Swiss Confederation.

Article 2 *Aims*

(1) The Swiss Confederation shall protect the liberty and rights of the people and

safeguard the independence and security of the country.

(2) It shall promote the common welfare, the sustainable development, the internal cohesion and the cultural diversity of the country.

(3) It shall seek to guarantee the greatest possible equality of opportunity.

(4) It shall commit itself to supporting the long-term preservation of natural resources and in favour of a just and peaceful international order.

Article 3 *Cantons*

The Cantons are sovereign insofar as their sovereignty is not limited by the Federal Constitution; they exercise all rights which are not delegated to the Confederation.

Article 4 *National Languages*

The National Languages are German, French, Italian, and Romansh.

Article 5 *The Rule of Law*

(1) The law is the basis and limitation for all activities of the state.

(2) State activity must be in the public interest and proportionate to the ends sought

(3) State institutions and private persons must act in good faith.

(4) The Confederation and the Cantons shall respect international law.

Article 6 *Individual and Social Responsibility*

Every individual shall be responsible for themselves and for contributing, as far as in them lies, to achieving the tasks of state and society.

Title 2: Fundamental Rights, Citizenship and Social Goals

Chapter One: Fundamental Rights

Article 7 *Human Dignity*

Human dignity ought to be respected and protected.

Article 8 *Equality*

(1) Everyone is equal before the law.

(2) No one should be discriminated against simply because of their origin, race, sex, age, language, social position, way of life, religious, philosophical, or political convictions, or because of a physical, mental or psychological disability.

(3) Men and women have equal rights in law. The law shall provide for legal and material equality, particularly in the family, during education, and in the workplace. Men and women have the right to equal pay for work of equal value.

(4) The law shall provide for measures to eliminate the inequalities which bear down on the disabled

Article 9 *Protection Against Arbitrariness and the Preservation of Good Faith*

Everyone has the right to be treated by state institutions in a non arbitrary way and according to the rules of good faith.

Article 10 *The Right to Life and to Personal Freedom*

- (1) Everyone has the right to life. The death penalty is prohibited.
- (2) Everyone has the right to personal liberty, particularly to bodily and mental integrity, and to freedom of movement.
- (3) Torture and all other forms of cruel, inhuman, or degrading treatment or punishment are prohibited.

Article 11 *The Protection of Children and Young People*

- (1) Children and young people have the right to special protection of their personal integrity and also to encouragement of their development.
- (2) They exercise their rights themselves to the extent that their intellectual capacities allow.

Article 12 *The Right to Aid in Distress*

Whoever is in distress, and is not in a position to look after themselves, has the right to help and assistance and also to benefit from the indispensable means for living a dignified human life.

Article 13 *Rights to Privacy*

- (1) Everyone has the right to expect that their private and family life, their domicile, their correspondence and their telecommunications will be respected
- (2) Everyone has the right to be protected against any abuse of personal data relating to them.

Article 14 *Rights to Marriage and Family*

The rights to marriage and family are guaranteed.

Article 15 *Freedom of Religion and Conscience*

- (1) Freedom of religion and conscience is guaranteed.
- (2) Everyone has the right to choose their religion freely and also to develop their philosophical convictions and to expound them individually or in community with others.
- (3) Every one has the right to join or belong to a religious community and to receive a religious education.
- (4) No one may be forced to join or belong to a religious community, to carry out religious acts or to undergo a religious education.

Article 16 *Freedom of Opinion and Information*

- (1) The freedom of opinion and of information is guaranteed.
- (2) Everyone has the right freely to form, express, and disseminate their opinions.
- (3) Everyone has the right to receive information freely, to gather it from generally accessible sources and to disseminate it.

Article 17 *Freedom of the Media*

- (1) The freedom of the press, radio and television, along with other forms of distributing

productions and information deriving from public telecommunications is guaranteed.
(2) Censorship is prohibited.
(3) Journalistic confidentiality is guaranteed.

Article 18 *Freedom of Language*

The freedom of language is guaranteed.

Article 19 *The Right to Basic Education*

The right to a sufficient and free basic education is guaranteed.

Article 20 *The Freedom of Science*

The freedom of teaching and of scientific research is guaranteed.

Article 21 *The Freedom of Art*

The freedom of art is guaranteed.

Article 22 *Freedom of Assembly*

(1) The freedom of assembly is guaranteed.
(2) Everyone has the right to organize meetings and to choose whether to participate in them or not.

Article 23 *Freedom of Association*

(1) The freedom of association is guaranteed.
(2) Everyone has the right to form associations, to join them or to belong to them and to participate in their collective activities.
(3) Nobody shall be forced to join or to belong to an association.

Article 24 *Freedom of Residence*

(1) Swiss citizens have the right to establish their domicile anywhere within the country.
(2) They have the right to leave or to return to Switzerland.

Article 25 *Protection against expulsion, extradition, and removal by force*

(1) No Swiss may be expelled from the country; they may only be extradited to a foreign authority with their consent.
(2) Refugees may not be forcibly returned to the territory of a state where they have been persecuted nor can they be handed back to the control of the authorities of such a state.
(3) Nobody may be removed by force to a state where they are threatened by torture or any other form of cruel and inhuman treatment or punishment.

Article 26 *The Right to Property*

(1) The right to property ownership is guaranteed.
(2) Expropriation and restrictions of ownership equivalent to expropriation requires compensation in full.

Article 27 *Economic Freedom*

(1) Economic freedom is guaranteed.
(2) This involves above all the freedom to choose one's profession, and to enjoy both

free access to, and free exercise of, a gainful private activity.

Article 28 *Freedom to Organize*

(1) Workers, employers, and their organizations have the right to collective organization for the protection of their interests, to form unions and to decide whether to join them or not.

(2) Conflicts shall, as far as possible, be resolved through negotiation and mediation.

(3) Strikes and lockouts are permissible when they relate to labour relations, and when they conform with obligations to keep the 'labour peace' or to resort to conciliation.

(4) Legislation may prohibit certain categories of persons from striking.

Article 29 *General Procedural Guarantees*

(1) Everyone person has the right, in legal or administrative proceedings, to have their case treated equitably and decided within a reasonable time.

(2) The parties to a case have the right to be heard.

(3) Every one lacking the necessary funds has the right to free legal assistance, unless their case appears to be without any chance of success. They have, moreover, the right to free legal representation to the extent that this is necessary to protect their rights.

Article 29a *Guarantee of Access to a Judge*¹

Everyone has the right to have legal disputes judged by a judicial authority. The Confederation and the Cantons may, in exceptional cases, exclude access to a judge.

Article 30 *Guarantees in Judicial Proceedings*

(1) Everyone whose case must be decided by judicial proceedings has the right to have this done in a court which is established by law, has jurisdiction and is both independent and impartial. Special courts are prohibited.

(2) Someone against whom a civil action is brought has the right to have the case heard before a court in their place of residence. Legislation may prescribe another jurisdiction.

(3) Court hearings and verdicts shall be public. Legislation may provide for exceptions.

Article 31 *Loss of Liberty*

(1) No one may be deprived of their liberty except in the cases and in the forms provided by the law.

(2) Everyone deprived of their liberty has the right to be informed immediately, and in a language that they understand, of the reasons for their detention and of the rights they enjoy. They must have the opportunity to assert their rights. In particular, they have the right to have their close friends and relations informed.

(3) Everyone taken into preventive detention has the right to be brought before a judge without delay; the judge shall decide whether they should remain in detention or should be released. Everyone held in preventive detention has the right to be judged within a reasonable time.

¹ This article was, along with other judicial changes, approved by votation on 12 March 2000. It has yet to come into force, having to wait on parliamentary approval of the overall reform of justice together with decisions on implementation.

(4) All those who are deprived of their liberty without trial have the right to bring their case to the notice of a court at any time. The court shall decide as soon as possible whether their detention is legal.

Article 32 *Criminal procedure*

- (1) Everyone is presumed innocent until they are proved guilty and sentenced.
- (2) All those who are accused have the right to be informed as soon as possible, and in full detail, of the accusations against them. They must be able to exercise their rights of legal defence.
- (3) All those who have been sentenced have the right to have the judgment reviewed by a higher court. This does not apply to cases where the Federal Tribunal sits as a court of first instance.

Article 33 *Right of Petition*

- (1) Everyone has the right to address petitions to the authorities without incurring any adverse consequences.
- (2) The authorities must take cognizance of petitions.

Article 34 *Political Rights*

- (1) Political rights are guaranteed.
- (2) Guarantees of political rights protect the free formation of opinion by citizens and the true and certain expression of their will.

Article 35 *Implementation of Fundamental Rights*

- (1) Fundamental rights must be implemented throughout the entire legal system.
- (2) Whoever exercises a function for the state must respect fundamental rights and contribute to their implementation.
- (3) The authorities shall ensure, where applicable, that fundamental rights are also respected in relations amongst private parties.

Article 36 *Limitations of Fundamental Rights*

- (1) Any limitation of a fundamental right requires a legal basis. Major limitations must be expressly prescribed by a law. Cases of clear and present danger are excluded from this provision.
- (2) Any limitation of a fundamental right must be justified by public interest or by the need to protect the fundamental rights of others.
- (3) Limitations of fundamental rights must be proportionate to the aims envisaged.
- (4) The core elements of fundamental rights shall be inviolable.

Chapter 2: Nationality, Citizenship and Political Rights

Article 37 *Nationality and Citizenships*

- (1) Everyone who holds citizenship of a Commune, and of the Canton to which it belongs, has Swiss citizenship.
- (2) No one should enjoy privileges or suffer loss because of their citizenship. Exceptions are possible to regulate political rights in bourgeoisies and corporations, and

to provide for participation in their assets, unless cantonal legislation provides otherwise.

Article 38 *The Acquisition and Loss of Citizenship*

(1) The Confederation shall regulate the acquisition and the loss of citizenship through descent, marriage and adoption. Moreover, it shall also regulate the loss of Swiss citizenship on other grounds, along with the reinstatement of citizenship.

(2) It shall set minimum requirements for the naturalization of foreigners by the Cantons, and shall grant naturalization permits.

(3) It shall facilitate the naturalization of stateless children.

Article 39 *The Exercise of Political Rights*

(1) The Confederation shall regulate the exercise of political rights at the federal level; the Cantons shall regulate the exercise of these rights at the cantonal and communal levels.

(2) Political rights shall be exercised in the citizen's place of residence. The Confederation and the Cantons may prescribe exceptions.

(3) No one may simultaneously exercise political rights in more than one Canton.

(4) The Cantons may require that newly established residents undergo a qualifying period, of no more than three months, before exercising political rights in cantonal and communal affairs.

Article 40 *Swiss Abroad*

(1) The Confederation shall encourage links both amongst Swiss citizens resident abroad, and between them and Switzerland. It may support organizations which pursue this goal.

(2) It shall legislate on the rights and obligations of Swiss citizens resident abroad, in particular on the exercise of the political rights at the federal level, on the duty to render military or alternative service, on assistance to those in need and on social security.

Chapter 3: Social Goals

Article 41

(1) The Confederation and the Cantons shall undertake to ensure that, in addition to personal responsibility and private initiatives,

a. everyone benefits from social security;

b. everyone benefits from the necessary health care which they need;

c. families, as communities of adults and children, are protected and encouraged;

d. everyone capable of working should be able to support themselves by work carried on under equitable conditions;

e. everyone looking for housing should be able to find appropriate housing for themselves and their family at affordable terms;

f. children and young people, together with people of working age, should be able to benefit from initial and continuing education according to their aptitudes;

g. children and young people are encouraged to develop into independent and socially responsible people, and are supported in their social, cultural, and political integration.

(2) The Confederation and the Cantons shall undertake to ensure that everyone is

insured against the economic consequences of old age, disability, illness, accidents, unemployment, maternity and against being orphaned or widowed.

(3) They shall undertake to achieve these social goals within the framework of their constitutional powers and with the means available to them.

(4) These social goals shall not be interpreted as conferring any special right to state services.

Title 3: Confederation, Cantons, and Communes

Chapter One: Relations between the Confederation and the Cantons

Section 1: Tasks of the Confederation and the Cantons

Article 42 *The Tasks of the Confederation*

(1) The Confederation shall accomplish the tasks which are attributed to it by the Constitution.

(2) It shall take on those tasks which require uniform regulation.

Article 43 *The Tasks of the Cantons*

Within the framework of their powers, the Cantons shall define the tasks which they undertake shall accomplish.

Section 2: Cooperation between the Confederation and the Cantons

Article 44 *Principles*

(1) The Confederation and the Cantons shall support each other in the fulfilment of their tasks and shall collaborate generally.

(2) They owe each other respect and support. They shall mutually grant each other administrative and judicial assistance.

(3) Disputes between the Cantons, or between Cantons and the Confederation, shall, as far as is possible, be resolved through negotiation or mediation.

Article 45 *Participation in Federal Decision Making*

(1) In the cases specified by the Federal Constitution, the Cantons shall participate in the decision-making process at the federal level, in particular in formulating federal legislation.

(2) The Confederation shall inform the Cantons of its plans, fully and in good time; it shall consult them if their interests are likely to be affected.

Article 46 *Implementation of Federal Law*

(1) The Cantons shall implement federal law in conformity with the Constitution and with statute law.

(2) The Confederation shall leave the Cantons as large a margin of manoeuvre as possible, and shall take their specificities into account.

(3) The Confederation shall take into account the financial burden associated with

implementing federal law by leaving sufficient sources of financing to the Cantons, and by ensuring an equitable financial equalization.

Article 47 *Cantonal Autonomy*

The Confederation shall respect the autonomy of the Cantons.

Article 48 *Inter-cantonal Treaties*

(1) The Cantons may enter into inter-cantonal treaties, and may create common organizations and institutions. They may, in particular, join forces collectively to fulfill tasks of regional significance.

(2) The Confederation may participate in such organizations or institutions within the limits of its powers.

(3) Inter-cantonal treaties may not be contrary either to the law or the interests of the Confederation, nor yet to the rights of other Cantons. The Confederation must be notified of such treaties.

Article 49 *Supremacy of and Respect for Federal Law*

(1) Federal law takes precedence over contrary cantonal law.

(2) The Confederation shall ensure that the Cantons respect federal law.

Section 3: Communes

Article 50

(1) Communal autonomy is guaranteed within the limits fixed by cantonal law.

(2) The Confederation shall take into account the possible long term consequences of its activities for Communes.

(3) In so doing, it shall also consider the special situations of cities, conurbations and mountainous regions.

Section 4: Federal Guarantees

Article 51 *Cantonal Constitutions*

(1) Every Canton shall adopt a democratic constitution. The cantonal constitution must be approved by the people, and must be subject to revision if a majority of the electorate so requires.

(2) The cantonal constitutions must be guaranteed by the Confederation. This guarantee will be forthcoming provided the constitutions are not contrary to federal law.

Article 52 *The Constitutional Order*

(1) The Confederation shall protect the constitutional order of the Cantons.

(2) It shall intervene if the public order of a Canton is disturbed or threatened and cannot be restored by the Canton whether alone or with the help of other Cantons.

Article 53 *Cantonal Existence, Status and Territory*

(1) The Confederation shall protect the existence and status of the Cantons together with their territory.

(2) All alterations to the number of the Cantons, or to their status, are subject to the assent of the relevant electorate and of the Cantons concerned, and also of a double vote of the People and the Cantons.

(3) All changes to the territory of a Canton are subject to the approval of the electorate of the Cantons concerned, and to the assent of the Federal Assembly in the form of a federal decree.

(4) Inter-cantonal boundary settlements may be made by treaty between the Cantons concerned.

Chapter Two: Powers

Section 1: Relations with Foreign Countries

Article 54 *Foreign Affairs*

(1) Foreign Relations are a Confederal responsibility.

(2) The Confederation shall seek to preserve the independence and prosperity of Switzerland and its welfare; in particular it shall contribute to alleviating need and poverty in the world, and to promoting respect for human rights, democracy, the peaceful coexistence of peoples and the conservation of natural resources.

(3) It shall take the powers of the Cantons into consideration, and shall safeguard their interests.

Article 55 *Cantonal Participation in External Policy Decisions*

(1) The Cantons shall be associated with the preparation of those decisions on foreign policy which concern affect their powers or their essential interests.

(2) The Confederation shall inform the Cantons fully and in good time, and shall consult them.

(3) The recommendations of the Cantons shall be given particular weight when their responsibilities are involved. In such cases, the Cantons will be associated with international negotiations in an appropriate manner.

Article 56 *Cantonal Relations with Foreign Countries*

(1) The Cantons may conclude treaties with foreign countries in those fields within their remit.

(2) These treaties may not be contrary to the law, nor to the interests of the Confederation, nor to the laws of other Cantons. Before concluding a treaty, the Cantons must inform the Confederation.

(3) The Cantons may deal directly with lower ranking foreign authorities; in other cases, cantonal relations with foreign countries shall be conducted by the Confederation, acting on their behalf.

Section 2: Security, National and Civil Defence

Article 57 *Security*

(1) The Confederation and the Cantons shall provide, within the framework of their powers, for the security of the country and the protection of its population.

(2) They shall coordinate their efforts in the field of internal security.

Article 58 *The Army*

(1) Switzerland shall have an army. This shall be organized predominantly on the militia principle.

(2) The army shall contribute to preventing war and to maintaining peace; it shall ensure that the country is defended and its population is protected. It shall lend support to the civil authorities when they have to repel serious threats to internal security or to cope with other exceptional circumstances. The law may prescribe further tasks.

(3) The use of the army is a confederal responsibility. The Cantons may mobilize their troops to maintain public order on their territory, if the means available to their civil authorities no longer enable them to master serious threats to internal security.

Article 59 *Military and Alternative Service*

(1) Every Swiss male is liable to military service. The law shall provide for an alternative form of service.

(2) Swiss women may serve in the army on a voluntary basis.

(3) Swiss males who perform neither military nor alternative service must pay a tax. The tax is levied by the Confederation but is assessed and collected by the Cantons.

(4) The Confederation shall legislate on fair compensation for loss of income.

(5) Those whose health is affected as a result of their military or alternative service have the right to appropriate compensation from the Confederation. If they lose their lives while on service their next of kin also have a right to equal support.

Article 60 *The Organisation, Instruction, and Equipment of the Army*

(1) Legislation on military matters and on the organization, training and equipment of the army, is a confederal responsibility.

(2) Within the limits of federal law, the Cantons shall have the power to raise cantonal troops, to appoint and to promote the officers of such troops, and to furnish a part of their clothing and equipment.

(3) The Confederation may take over cantonal military installations provided fair compensation is paid.

Article 61 *Civil Defence*

(1) Legislation on civil defence is a confederal responsibility. Civil defence is designed to protect people and property in the case of armed conflicts.

(2) The Confederation shall legislate on the involvement of civil defence in catastrophes and emergencies.

(3) The Confederation may make the civil defence service compulsory for men. For women, it shall be voluntary.

(4) The Confederation shall legislate on fair compensation for loss of income.

(5) Those whose health is affected as a result of their civil defence service have the right to appropriate compensation from the Confederation. If they lose their lives while on service their next of kin also have a right to equal support.

Section 3: Education, Research and Culture

Article 62 *Education*

(1) Education is a cantonal responsibility.

(2) The Cantons shall ensure that there is a sufficient basic education, open to all children. This education shall be compulsory, and subject to state management or supervision. It shall be free in state schools. The school year shall begin between mid-August and mid-September.

Article 63 *Professional Education and Universities*

- (1) The Confederation shall legislate on professional education.
- (2) It shall manage technical universities. It may create, operate, or support other universities and institutions of higher education. It may make its support conditional upon measures of co-ordination being taken.

Article 64 *Research*

- (1) The Confederation shall encourage scientific research.
- (2) It may make its support conditional, in particular, upon coordination measures being taken.
- (3) It may create, take over, or operate research institutions.

Article 65 *Statistics*

- (1) The Confederation shall collect the necessary statistical data on the condition status and evolution of the population, the economy, the society, the territory, and the environment in Switzerland.
- (2) To rationalize facilitate the collection of data, it may legislate on harmonizing and maintaining official records.

Article 66 *Support of Education*

- (1) The Confederation may grant subsidies to the Cantons to cover the expenses they may incur in awarding scholarships and other educational grants.
- (2) It may, moreover, while respecting cantonal autonomy in educational matters, complement cantonal measures and take its own measures to encourage education.

Article 67 *The Educational Needs of Adults and Young People*

- (1) The Confederation and the Cantons shall, when fulfilling their tasks, take into account children's and young people's special needs for development and protection.
- (2) The Confederation may complement cantonal measures and support both extra-curricular activities for children and young people and the training of adults.

Article 68 *Sport*

- (1) The Confederation shall promote sport, particularly sporting education.
- (2) It shall operate a sports school.
- (3) It may legislate on the practice of sport by the young, and may make sports education in schools compulsory.

Article 69 *Culture*

- (1) The field of culture is a cantonal responsibility.
- (2) The Confederation may support cultural activities of national interest, and encourage artistic and musical expression, particularly by promoting education in these fields.
- (3) In accomplishing its tasks, it shall take into account the cultural and linguistic diversity of the country.

Article 70 *Languages*

- (1) The official languages of the Confederation are German, French, and Italian. Romansh shall be an official language for Confederal relations with Romansh speakers.
- (2) The Cantons shall decide on their official languages. In order to preserve harmony between linguistic communities, the cantons shall respect the traditional territorial

distribution of languages, and shall take indigenous linguistic minorities into account.
(3) The Confederation and the Cantons shall encourage understanding and exchange between the linguistic communities.

(4) The Confederation shall support the pluri-lingual Cantons in the fulfilment of their particular tasks.

((5) The Confederation shall support the measures taken by the Cantons of Graubunden and Ticino to safeguard and promote Romansh and Italian.

Article 71 *The Cinema*

(1) The Confederation may encourage Swiss film production and cinematic culture.

(2) It may legislate to encourage the variety and the quality of cinematographic works produced.

Article 72 *Church and State*

(1) Regulation of the relationship between church and state is a cantonal responsibility.

(2) The Confederation and the Cantons may, within the limits of their powers, take measures to maintain public peace between the members of the various religious communities.

(3)²

Section 4: Environment and Land Use Planning

Article 73 *Sustainable Development*

The Confederation and the Cantons shall work to establish a lasting equilibrium with nature, in particular enhancing both its capacity to renew itself and the way it is used by man.

Article 74 *Protection of the Environment*

(1) The Confederation shall legislate to protect mankind and its natural environment against harmful and offensive damage.

(2) It shall ensure that such damage is avoided. Polluters shall pay for the costs of protection and making good.

(3) Implementation of federal regulations shall fall to the Cantons, insofar as the law does not reserve this for the Confederation.

Article 75 *Land Use Planning*

(1) The Confederation shall lay down principles for land use planning. Their implementation shall fall to the Cantons, and shall serve to achieve a considered and moderate use of the soil and a rational occupation of the land.

(2) The Confederation shall encourage and coordinate the efforts of the Cantons, and shall collaborate with them.

(3) In fulfilling their tasks, the Confederation and the Cantons shall take the needs of land use planning into account.

² This was the so called 'Diocesan' article, making creation of Catholic bishoprics dependent on government approval, and which was abrogated on 10 vi 2001.

Article 76 *Water*

(1) Within the limits of its powers, the Confederation shall ensure the rational use and the protection of water resources, and shall combat the harmful effects of water.

(2) It shall establish principles on the conservation and development of water reserves, on the use of water both for the production of energy and for cooling purposes and also on other interventions in the water cycle.

(3) It shall legislate on water protection, on securing sufficient residual water, on hydraulic engineering, on the safety of dams and on actions to influence rainfall.

(4) The Cantons shall have control over their own water resources. Within the limits of federal law, they may levy dues for water use. The Confederation shall have the right to use water for its transport operations; and where it does it shall pay dues and compensation.

(5) In consultation with the cantons concerned, the Confederation shall decide on the rights to water resources of interest to other states and shall set the rates for their use. If the Cantons concerned cannot agree on rights to inter-cantonal water reserves, the Confederation will decide the matter.

(6) In fulfilling its tasks, the Confederation shall take into account the interests of those Cantons from which the water originates.

Article 77 *Forests*

(1) The Confederation shall ensure that forests may fulfill their protective, economic and social functions.

(2) It shall establish principles for the protection of forests.

(3) It shall encourage measures for the conservation of forests.

Article 78 *Nature and Cultural Heritage*

(1) The protection of nature and of cultural heritage is a cantonal responsibility.

(2) In fulfilling its tasks, the Confederation shall take into account the objectives of the protection of the natural and cultural heritage. It shall protect landscape the physiognomy of localities, historical sites and natural and cultural monuments; it shall preserve them in their entirety if the public interest so requires.

(3) It may support efforts towards the protection of nature and the cultural patrimony and may, by contract or by expropriation, acquire or preserve things of national importance.

(4) It shall legislate on the protection of animal and plant life and on the preservation of their diverse natural environments. It shall protect endangered species from extinction.

(5) Marshes and wetlands of special beauty and national significance shall be protected. No installations may be built on them, and no alterations of any kind may be made to the land. Exception is made for installations serving to ensure their protection or their continuing use for agricultural purposes.

Article 79 *Hunting and Fishing*

The Confederation shall establish principles for hunting and fishing, notably principles which preserve the diversity of fish, wild animals and birds.

Article 80 *The Protection of Animals*

(1) The Confederation shall legislate on the protection of animals.

(2) In particular it shall regulate:

- a. the keeping and care of animals;
- b. experiments on and abuse of live animals;

- c. the use of animals;
- d. the import of animals and products of animal origin;
- e. trade in and transport of animals;
- f. the slaughter of animals.

(3) Implementation of such confederal regulations shall fall to the Cantons, insofar as the law does not reserve this for the Confederation.

Section 5: Public Works and Transport

Article 81 *Public Works*

The Confederation may, in the interest of the country, or of a large part of it, carry out and build and operate public works, or encourage their development.

Article 82 *Road Traffic*

- (1) The Confederation shall legislate on road traffic.
- (2) It exercises ultimate supervision over roads of national importance; it may determine which transit roads must remain open to traffic.
- (3) The use of public roads shall be free. The Federal Assembly may authorize exceptions.

Article 83 *National Highways*

- (1) The Confederation shall ensure the construction of a network of national highways and shall see that such highways are usable.
- (2) The Cantons shall build and maintain their national highways in conformity with federal policies, subject to ultimate confederal supervision.
- (3) The Confederation and the Cantons shall jointly bear the costs of the national highways jointly. The cost to be borne by each Canton shall be calculated taking into account the burdens which national highways impose on them, their interest in these highways and their financial resources.

Article 84 *Alpine Transit*³

- (1) The Confederation shall protect the alpine regions from the negative effects of transit traffic. It shall limit the nuisances caused by such traffic to a level which is harmful neither to people, animals and plants, nor to their environment.
- (2) Transalpine freight in border-to-border transit shall be carried by rail. The Federal Council shall take the necessary measures. Exceptions are only permitted if they are inevitable. They must also be specified by a law.
- (3) The capacity of transit roads in the alpine regions may not be increased. Bypasses to relieve the pressure of through transit traffic in towns and villages are excluded from this provision.

Article 85 *Financial Dues for Heavy Goods Lorries**

- (1) The Confederation may levy dues on heavy goods lorries proportional to the benefits provided or the consumption involved where heavy goods traffic creates public costs which are not already covered by other fees or charges.
- (2) The net revenue from the dues shall be used to cover costs arising from road traffic.

³ An asterisk signifies that there is a Transitional Provision attached to the Article.

(3) The Cantons shall receive shares of the net revenue from the dues. These shall be calculated by taking into account the particular repercussions of the levy in mountainous and remote regions.

Article 86 *Motor Fuels Consumption Tax and other Traffic Charges*

(1) The Confederation may raise a consumption tax on motor fuels.

(2) It shall raise a tax on the use of national highways by those motor vehicles and trailers which are not subject to heavy lorry dues.

(3) Half of the net revenue both from the motor fuels consumption tax and from the national highway tax shall be used for the following purposes and costs linked to road traffic:

a. Construction, maintenance and operation of national highways;

b. Measures to promote combined traffic and the transit of accompanied goods road vehicles, or to separate railway traffic from road traffic;

c. Contributions towards the construction of main roads;

d. Contributions towards the construction of protective works against natural disasters and towards measures of protection of the environment and landscape made necessary by road traffic;

e. General participation in the financing by the Cantons of highways open to motor vehicles and to the equalization of financial charges in matters relating to roads;

f. Contributions to the Cantons without national highways, and to Cantons with alpine roads carrying international traffic.

(4) If the revenues are insufficient to meet these needs, the Confederation can raise a surcharge on the motor fuels consumption tax.

Article 87 *Transport **

Legislation on rail traffic, cable cars, water borne traffic, navigation, aviation, and space travel is a confederal responsibility.

Article 88 *Footpaths and Hiking Trails*

(1) The Confederation shall enunciate establish principles applicable to networks of footpaths and hiking trails.

(2) It may support and coordinate measures taken by of the Cantons for the management and upkeep of such networks.

(3) In fulfilling its tasks, it shall take into account networks of footpaths and hiking trails, and shall replace those paths and trails which it has to close.

Section 6: Energy and Communications

Article 89 *Energy Policy*

(1) Within their respective powers, the Confederation and the Cantons shall work to develop a sufficient, diversified, reliable and economic energy supply, compatible both with the protection of the environment and with the economical and efficient use of energy.

(2) The Confederation shall enunciate principles on the use of domestic and renewable energy, and for the economical and efficient use of energy.

(3) The Confederation shall legislate on the consumption of energy by fixed installations, vehicles and appliances. It shall promote the development of energy techniques,

particularly in the fields of energy saving and renewable energy.

(4) Measures concerning the use of energy in buildings are primarily a cantonal responsibility.

(5) In its energy policy, the Confederation shall take into account the efforts of the Cantons, of the Communes and of economic interests; it shall take into consideration conditions in the various regions and the limitations of what is economically feasible.

Article 90 *Nuclear Energy**

Legislation on nuclear energy is a confederal responsibility.

Article 91 *Energy Transport*

(1) The Confederation shall legislate on the transport and supply of electricity.

(2) Legislation on pipelines for the transport of liquid or gaseous fuels is a confederal responsibility.

Article 92 *Postal and Telecommunication Services*

(1) Postal and telecommunication services are a confederal responsibility.

(2) The Confederation shall ensure adequate and universally available basic postal and telecommunication services, at reasonable rates, across all regions. Rates shall be fixed according to uniform principles.

Article 93 *Radio and Television*

(1) Legislation on radio and television and other forms of public broadcasting of features and information is a confederal responsibility.

(2) Radio and Television shall contribute to education and cultural development, to the free formation of opinion and to entertainment. They shall take into account the particularities of the country and the needs of the Cantons. They shall present events factually and shall reflect diverse opinions fairly and adequately.

(3) The independence of radio and television and the autonomy of their programme making are guaranteed.

(4) The situation and the role of other media, in particular the press, should be taken into account.

(5) Complaints about programmes may be submitted to an independent authority.

Section 7: Economy

Article 94 *The Principles of Economic Order*

(1) The Confederation and the Cantons shall respect the principle of economic freedom.

(2) They shall seek to safeguard the interests of the national economy and, together with the private sector of the economy, to contribute to the welfare and economic security of the population.

(3) Within the limits of their respective powers, they shall seek to create favourable conditions for the private sector of the economy.

(4) Derogations from the principle of economic freedom, in particular measures threatening competition, are shall be allowed only if prescribed by the Federal Constitution or if based on the regalian rights of the cantons.

Article 95 *Gainful Private Economic Activity**

(1) The Confederation may legislate on the exercise of gainful private economic activities.

(2) It shall seek to create a unified Swiss economic area. It shall guarantee that individuals having a university education, or a federal or cantonal education certificate, or an education certificate recognized by a Canton, may exercise their profession throughout the whole of Switzerland.

Article 96 *Competition Policy*

(1) The Confederation shall legislate so as to curtail economically or socially damaging effects of cartels and other restrictions on competition.

(2) It shall take measures

- a. to prevent abusive price fixing by firms or by private and public law bodies also enjoying a dominant position on the market;
- b. against unfair competition.

Article 97 *Consumer Protection*

(1) The Confederation shall take measures to protect consumers.

(2) It shall legislate to make remedies available to consumer organizations. In the field of federal legislation against unfair competition, these organizations shall have the same rights as professional and economic associations.

(3) The Cantons shall provide a conciliation procedure or a simple and speedy judicial procedure for litigants in cases involving sums below a specified amount. The Federal Council shall specify the amount in question.

Article 98 *Banking and Insurance*

(1) The Confederation shall legislate on banking and stock exchanges, taking account of the special role and status of cantonal banks.

(2) It may legislate on other types of financial services.

(3) It shall legislate on private insurance.

Article 99 *Monetary Policy*

(1) Money and currency are a confederal responsibility. The Confederation shall have the sole and exclusive right to strike coins and to issue bank notes.

(2) As an independent central bank, the Swiss National Bank shall follow a monetary policy which serves the general interest of the country. The policy shall be administered with the cooperation, and under the supervision of, the Confederation.

(3) The Swiss National Bank shall create sufficient monetary reserves from its profits; a part of these reserves must shall be held in gold.

(4) At least two thirds of the net profits of the Swiss National Bank shall be credited to the Cantons.

Article 100 *Cyclical Economic Policy*

(1) The Confederation shall take measures to ensure consistent economic development and, in particular, to prevent and fight inflation and unemployment.

(2) It shall take note of the economic development of the various regions. It shall cooperate with the Cantons and economic actors.

(3) In the fields of credit and currency, in foreign trade and in public finance, it may, if necessary, depart from the principle of economic freedom.

(4) In their budgetary policy, Confederation, Cantons and Communes shall take the economic cycle into account.

(5) In order to stabilize the economy, the Confederation may temporarily levy surcharges, or grant rebates on federal taxes and dues. The accumulated funds thus raised shall be frozen; when they are released, direct surcharges shall be individually reimbursed, and indirect surcharges shall be used to grant rebates or to create employment.

(6) The Confederation may oblige firms businesses to accumulate anti-crisis reserves. To facilitate this it may grant tax privileges, and may also oblige the Cantons to grant such privileges. After the release of the reserves, firms shall be free to decide how to use them within the guidelines provided by law.

Article 101 *Foreign Trade*

(1) The Confederation shall safeguard the external interests of the Swiss economy.

(2) In special cases, it may take measures to protect the domestic economy. It may, if necessary, depart from the principle of economic freedom.

Article 102 *Maintaining Stocks of Essential Goods and Services**

(1) The Confederation shall ensure the country's stocks of essential goods and services in order to meet any threats of war, other manifestations of force or severe shortages which the economy cannot by itself counteract. It shall take preventative measures.

(2) It may, if necessary, depart from the principle of economic freedom.

Article 103 *Structural Policy**

The Confederation may support economically threatened regions, and promote branches of the economy and professions, if the measures of self-help that can reasonably be expected of them are insufficient to ensure their existence. It may, if necessary, depart from the principle of economic freedom.

Article 104 *Agriculture*

(1) The Confederation shall ensure that agriculture, by way of an output which responds both to the demands both of sustainable development and of the market, contributes substantially

- a. to securing the provisioning of the population;
- b. to the conservation of national resources and the upkeep of the rural landscape.
- c. to a decentralized pattern of settlement on the land

(2) In addition to the measures of self-help that may reasonably be expected from agriculture and, if need arise, departing from the principle of economic freedom, the Confederation shall promote cultivation of the land by peasant farms.

(3) It shall conceive the measures in such a way that agriculture may fulfill its multiple functions. Its powers and tasks shall, above all, be the following:

- a. It shall complement peasant agricultural revenues by direct payments, so as to secure a fair and adequate remuneration for the services rendered, provided that the farmer can prove compliance with ecological requirements;
- b. It shall promote, by way of economically advantageous incentives, forms of farming production which are particularly close to nature and respectful of both the environment and animals;

- c. It shall legislate on the declarations of origin and on quality, production methods and processing processes for foodstuffs;
- d. It shall protect the environment against pollution due to excessive use of fertilizers, chemicals and other auxiliary substances;
- e. It may encourage agricultural research, dissemination counselling, and education in agriculture and also subsidize investments;
- f. It may legislate on the consolidation of rural landed properties.

(4) To these ends it shall invest specially targeted agricultural credits and the Confederation's general funds.

Article 105 *Alcohol*

Legislation on the production, the importing, the refining, and the sale of distilled spirits is a confederal responsibility. The Confederation shall, in particular, take into account the harmful effects of the consumption of alcohol.

Article 106 *Games of Chance**

- (1) Legislation on gambling and lotteries is a confederal responsibility.
- (2) A federal license from the Confederation shall be required to establish and run a gambling casino. When issuing a federal license, the Confederation shall take regional circumstances and the dangers of gambling into account.
- (3) The Confederation shall levy a tax on the revenues from casinos a tax on their revenues; this tax shall not exceed 80 percent of the gross revenues from games of chance. The yield shall be used to cover the confederal subsidy to old age, survivors', and disability insurance.
- (4) Approval of gambling machines involving an element of skill and where money can be won is a cantonal responsibility.

Article 107 *Weapons and Military Material*

- (1) The Confederation shall legislate against the misuse of weapons, associated equipment, and munitions.
- (2) It shall legislate on the production, acquisition, distribution, import, export and transit of military materiel.

Section 8: Housing, Work, Social Security and Health

Article 108 *Promotion of Construction and Access to Property Ownership*

- (1) The Confederation shall encourage the construction and the purchase of flats and family houses for individuals' own use and the activity both of developers and of organisations working to build social housing.
- (2) It shall promote, in particular, the acquisition and development of land for housing purposes, the rationalisation of building techniques and the reduction of construction and housing costs.
- (3) It may legislate on the development of land for the erection of housing and on the rationalisation of construction techniques.
- (4) In fulfilling this task, it shall, in particular, takes special note of the interests of families and of the elderly, the needy and the disabled.

Article 109 *Leasehold*

(1) The Confederation shall legislate against abuses in tenancy arrangements, particularly against unfair rents, on the quashing of abusive notices of termination, and on the extension of tenancies only for short periods.

(2) It may legislate to confer generally binding effect on general contracts between landlords and tenants. Contracts may become generally binding only if they take fairly into account justified minority interests and regional differences, and respect the principle of equality before the law.

Article 110 *Labour*

(1) The Confederation may legislate on:

- a. the protection of workers;
- b. the relationship between employers and workers, in particular the common regulation of matters concerning business or professional activity;
- c. recruitment services;
- d. extending the application of collective labour contracts.

(2) Collective labour contracts may have their scope extended only if they fairly take into account justified minority interests and regional differences, and also respect both the principle of equality before the law and the freedom to unionize.

(3) August 1 is the National Day of the Confederation. In labour law, it is treated as if it were assimilated to a Sunday, and is paid.

Article 111 *Old Age, Survivors and Disability Insurance*

(1) The Confederation shall take measures so as to ensure an adequate social security provision for the elderly, survivors, and the disabled. This provision shall be based on three pillars, to wit, federal old age, survivors' and disability insurance; company pension plans; and on arrangements made by individuals for their own future.

(2) The Confederation shall ensure that the federal old age, survivors', and disability insurance, and company pension plans can fulfill their purpose in lasting manner.

(3) It may require the Cantons to exempt from taxation both the institutions of the federal old age, survivors', and disability insurance, and company pension plans, while also granting tax relief to persons insured and their employers both on contributions paid and on monies set aside for future benefits.

(4) In cooperation with the Cantons, the Confederation shall encourage individuals to provide for their own future, particularly through by fiscal measures and by policies encouraging property ownership.

Article 112 *Old Age, Survivors' and Disability Insurance**

(1) The Confederation shall legislate on the old age, survivors', and disability insurance scheme.

(2) In doing so, it shall respect the following principles:

- a. Insurance is compulsory;
- b. Pensions must be sufficient to cover basic living expenses;
- c. The maximum pension must not be more than twice the minimum;
- d. Pensions must at least keep up with price inflation.

(3) Insurance shall be financed:

- a. by contributions from the insured; in the case of employees half their contributions are to be met by their employers;
- b. by subsidies from of the Confederation and, if the law so provides, from

the Cantons.

(4) Together, the subsidies of the Confederation and the Cantons shall not exceed half the total disbursements made under the scheme.

(5) Confederal subsidies shall be primarily financed by the net proceeds of the tax on tobacco, the tax on distilled spirits, and the tax on the revenue from the operation of gaming houses.

(6) The Confederation shall encourage the integration of those with disabilities, and also support efforts to assist the elderly, survivors, and the disabled. To this end, it may use the funds of the old age, survivors' and disability insurance.

Article 113 *Company Pension Plans**

(1) The Confederation shall legislate on pension plans provided by companies.

(2) In doing so, it shall respect the following principles:

a. Company pension plans, together with the old age, survivors', and disability insurance, should permit the insured to maintain their previous standard of living in an appropriate way;

b. Company pension plans shall be mandatory for employees; The law may prescribe exceptions;

c. Employers shall insure their employees with a pension institution. If necessary, the Confederation shall give them the possibility of insuring their employees with a federal pension institution;

d. The self-employed may voluntarily insure themselves with a pension institution;

e. The Confederation declare company pension schemes obligatory for particular groups of the self-employed, whether in general or just for specific particular risks.

(3) Company pension plans shall be financed through contributions by the insured themselves; at least half the contribution of employees shall be paid by their employers.

(4) Pension institutions must satisfy minimum federal requirements; the Confederation may prescribe nationwide measures to resolve particular problems.

Article 114 *Unemployment Insurance*

(1) The Confederation shall legislate on unemployment insurance.

(2) In doing so, it shall respect the following principles:

a. The insurance shall guarantee an appropriate compensation for loss of earnings, and shall support measures to prevent and fight unemployment;

b. Insurance shall be mandatory for employees; the law may provide for exceptions;

c. The self-employed may voluntarily insure themselves.

(3) Unemployment insurance shall be financed by the contributions of the insured themselves. Half the contribution of employees shall be paid by their employers.

(4) In exceptional circumstances, the Confederation and the Cantons shall provide subsidies.

(5) The Confederation may legislate on social assistance to the unemployed.

Article 115 *Assistance to those in Need*

Those in need shall be assisted by the Cantons in which they are resident. The Confederation may provide for exceptions, and shall determine the competent authorities.

Article 116 *Family Allowances and Maternity Insurance*

(1) In fulfilling its tasks, the Confederation shall take into account the needs of the family. It may support measures to protect the family.

(2) It may legislate on family allowances and operate a federal family compensation fund.

(3) It shall institute a maternity insurance scheme. It may also oblige people who cannot benefit from the insurance to contribute.

(4) The Confederation may declare mandatory both the joining of a family compensation fund and maternity insurance, whether generally or for certain categories of persons, and may make its subsidies dependent upon equitable contributions by the Cantons.

Article 117 *Health and Accident Insurance*

(1) The Confederation shall legislate on health and accident insurance.

(2) It may declare mandatory health and accident insurance generally or for certain categories of people.

Article 118 *Health Protection of Health*

(1) Within the limits of its powers, the Confederation shall take measures for the protection of health.

(2) It shall legislate on:

- a. the use of foodstuffs and of therapeutics, drugs, organic materials, chemicals and things which may be dangerous to health;
- b. fighting contagious, widespread or other diseases which are particularly dangerous to humans and animals;
- c. protection against ionizing radiation.

Article 119 *Medically Assisted Procreation and Genetic Engineering involving humans*

(1) Human beings should be protected against the abuse of medically assisted procreation and genetic engineering.

(2) The Confederation shall legislate on the use of human reproductive and genetic material. In doing so it shall ensure the protection of human dignity, of personality, and of family, and, in particular, it shall respect the following principles:

- a. All forms of cloning and interference with genetic material of human reproductive cells and embryos are prohibited;
- b. Non-human reproductive and genetic material may neither be introduced into nor combined with human reproductive material;
- c. Methods of medically assisted procreation are only authorised when sterility or the danger of transmission of a serious illness cannot be otherwise avoided; but neither in order to induce certain characteristics in the child nor to conduct research. The fertilization of human ova outside a woman's body ova shall be permitted only under conditions determined by the law. No more human ova may be developed into embryos outside a woman's body than are capable of being immediately implanted into her;
- d. The donation of embryos and all forms of surrogate maternity are prohibited;
- e. No trade may be conducted in human reproductive material or in any product obtained from embryos;
- f. An individual's person's genetic material may only be analysed, registered or disclosed with their consent, or if a statute so provides;
- g. Everyone must person shall have access to the data concerning their

ancestry.

Article 119a *Medical Transplantation*⁴

(1) The Confederation shall establish rules in the field of transplantation of organs, tissues and cells. In doing this it shall seek to safeguard human dignity, personality and health

(2) It shall oversee a fair distribution of organs.

(3) The donations of human organs, tissues and cells shall be free of charge. Trade in human organs is prohibited.

Article 120 *Genetic Engineering in the Non-Human Field*

(1) Individuals and their environment should be protected against the abuse of genetic engineering.

(2) The Confederation shall legislate on the use of the reproductive and genetic material of animals, plants, and other organisms. In doing so, it shall respect the integrity of living organisms and the security of man, animal and environment, and shall protect the genetic diversity of animal and vegetal species.

Section 9 The Establishment and Residence of Foreigners

Article 121

(1) Legislation on immigration, emigration, establishment and residence and domicile of foreigners and on granting asylum is a confederal responsibility.

(2) Foreigners who endanger Switzerland's security may be removed from Switzerland by force.

Section 10 Civil and Criminal Law, Weights and Measures

Article 122 *Civil Law*⁵

(1) Legislation in the field of civil law and civil procedure is a confederal responsibility.

(2) Judicial organization and the administration of civil law are cantonal responsibilities except where the law provides otherwise.

(3) Abrogated⁶

Article 123 *Criminal Law*⁷

(1) Legislation in the field of criminal law and criminal procedure is a confederal

⁴ Added 7 February 1999

⁵ Amended 12 March 2000

⁶ Formerly "Civil judgements having the force of law are executable throughout Switzerland"

⁷ The amendment of 12 March 2000 will change the order and will eliminate the old paragraph 3 which read "Judicial organization, procedure and administration in penal matters are a cantonal responsibility".

responsibility.

(2) Judicial organisation and the administration of criminal justice along with the execution of sentences and other criminal law measures are cantonal responsibilities except where the law provides otherwise.

(3) The Confederation can make financial contributions to the cantons

- a. for the building of penal institutions
- b. for improving the carrying out of sentences and penalties
- c. for the support of institutions providing educational services designed for children, adolescents and young adults.

Article 124 *Aid to Victims of Criminal Acts*

The Confederation and the Cantons shall ensure that the victims of criminal acts against bodily, corporal, mental, or sexual integrity receive assistance and also appropriate compensation if, as a consequence of such the criminal acts, they suffer financial difficulties.

Article 125 *Weights and Measures*

Legislation on weights and measures is a confederal responsibility.

Chapter 3 Financial System

Article 126 *Financial Management*⁸

(1) The Confederation shall keep its expenditure and receipts in balance over the medium term.

(2) The ceiling for total expenditure, which must be agreed in the budget is set by the expected receipts, taking into account the economic situation.⁹

(3) Exceptional financial needs may justify an appropriate increase in the ceiling as defined in para 2. Any such increase must be agreed by the Federal Assembly in conformity with Article 159/3lit. c.

(4) If the total expenditures recorded in the annual accounts exceed the maximum amount according to subsections 2 or 4, the overspend shall be rectified in the following years.

(5) The detailed arrangements shall be regulated by the law.

Article 127 *Principles of Taxation*

(1) The general principles regulating of taxation, particularly on liability to tax, on decisions on what should be taxed and on its calculation, shall be established by law.

(2) To the extent that the nature of the tax allows it, the principles of universality, of equality of tax treatment and of taxation in proportion according to economic capacity shall be followed.

(3) Inter-cantonal double taxation is prohibited. The Confederation shall take any the necessary measures.

⁸Amended 2 December 2001

⁹This previously read "It shall reduce the federal debt. In doing so, it shall take the economic situation into consideration"

Article 128 *Direct Taxes**

- (1) The Confederation may raise direct taxes:
 - a) of at most 11.5 percent on the income of individuals;
 - b) of at most 9.8 percent on the net profit of corporate bodies;
 - c) of at most 0.0825 percent on the capital and the reserves of corporate bodies.
- (2) In establishing tax scales, the Confederation shall take into account the burden of direct taxes on the Cantons and Communes.
- (3) Periodic adjustment to individuals' tax position will be made to avoid inflation inadvertently lifting them into higher tax brackets.
- (4) The Cantons shall assess and collect the taxes. Three tenths of the gross tax yield shall be due to the Cantons; at least one sixth of this amount shall be used for financial equalization among the Cantons.

Article 129 *Harmonization of Taxes*

- (1) The Confederation shall establish principles for the harmonization of direct taxes of the Confederation, Cantons, and Communes; it shall take into account the efforts of the Cantons to harmonize their taxes.
- (2) Harmonization shall extend to the duty to pay taxes, to what is to be taxed, to the time scale of calculation and to procedural and criminal law on taxation. It does not cover tax scales, tax rates, and levels of exemption.
- (3) The Confederation may legislate against arrangements granting unjustified tax advantages.

Article 130 *Value Added Tax**

- (1) The Confederation may levy a value added tax with a maximum tax rate of 6.5 per cent on the supply of goods and services, including own use, and on imports.
- (2) 5 per cent of the tax yield shall be used for measures in favour of low income groups.
- (3) If, because of the development of the age structure, the financing of the old age, survivors' and disability insurance is no longer secured, the value added tax rate may be raised in a Federal statute, by at most 1 percent point.¹⁰

Article 131 *Special Consumption Taxes**

- (1) The Confederation may levy special consumption taxes on the following:
 - a. tobacco and tobacco products;
 - b. distilled spirits;
 - c. beer;
 - d. automobiles and their components;
 - e. petrol, other mineral oils, natural gas and products obtained by refining them, and also on motor fuels.
- (2) It may levy a surcharge on motor fuels.
- (3) One tenth of the net yield of the tax on distilled spirits is to be allocated to the Cantons. The cantons will use such funds to fight the causes and effects of substance addiction.

¹⁰ Acted on with effect from 1 i 2001

Article 132 *Stamp and Withholding Taxes**

(1) The Confederation may levy a stamp tax on securities, on insurance premium receipts and other documents relating to trading operations. Documents concerning operations in immovable property and mortgages shall be exempt from stamp tax.

(2) The Confederation may levy a withholding tax on the revenue from movable capital assets, on lottery winnings and on insurance benefits.

Article 133 *Customs Duties*

Legislation on customs duties and other levies on trans-border goods traffic is a confederal responsibility.

Article 134 *Exclusion of Cantonal and Communal Taxation*

What federal legislation subjects to value added tax, to a special consumption tax, to stamp tax, or to withholding tax, or declares to be exempt from these taxes, may not then be taxed by the Cantons and the Communes with levies of the same kind.

Article 135 *Financial Equalization*

(1) The Confederation shall promote financial equalization among the Cantons.

(2) When granting subsidies, it shall take into account the financial capacity of the Cantons and the special situation of the mountainous regions.

Title 4: People and Cantons

Chapter One: General Provisions

Article 136 *Political Rights*

(1) All Swiss citizens who have completed their 18th year and are not under guardianship because of mental illness or incapacity, shall have political rights in federal matters. All Swiss shall have the same political rights and duties.

(2) They may participate in elections to the National Council and in federal votations, and may launch and sign popular initiatives and demands for referenda in federal matters.

Article 137 *Political Parties*

Political parties shall contribute to the forming the People's opinion and will.

Chapter 2: Initiative and Referendum

Article 138 *Popular Initiative for Total Revision of the Federal Constitution*

(1) Any 100 000 citizens entitled to vote may, within a period of no more than 18 months from the official publication of their initiative, propose a total revision of the Federal Constitution.¹¹

¹¹ 9 February 2003 saw the addition of the new standard statement of the time within which signatures must be collected to activate a votation.

(2) This proposal must be submitted to the People by referendum.

Article 139 *Popular Initiatives for Partial Revisions of the Federal Constitution*

(1) Any 100 000 citizens entitled to vote may, within a period of no more than 18 months from the official publication of their initiative, propose a partial revision of the Federal Constitution as a fully formulated proposal for amendment.¹²

(2) Where a popular initiative does not respect either the principles of unity of form and unity of matter, or the mandatory rules of international law, the Federal Assembly shall declare it invalid, whether in whole or in part.

(3) The initiative shall be submitted to the vote of the People and the Cantons. The Federal Assembly shall recommend that it be approved or rejected. It may submit its own counter-project.

Article 139a *General Popular Initiative*¹³

(1) Any 100 000 citizens entitled to vote may, within a period of no more than 18 months from the official publication of their initiative and in the form of a generally conceived proposition, the adoption, modification or repeal of constitutional or legislative dispositions.

(2) Where an initiative does not respect either the principles of unity of form and unity of matter, or the mandatory rules of international law, the Federal Assembly shall declare it invalid, whether in whole or in part.

(3) If the Federal Assembly accepts the initiative, it shall prepare the constitutional or legislative alterations envisaged.

(4) The Federal Assembly may table a counter project to the alterations which it has thus prepared. Constitutional changes (project and counter-project) shall be decided by vote of both people and cantons while legislative changes (project and counter-project) shall be decided by the people alone.

(5) If the Federal Assembly rejects the initiative, it shall submit it to a popular vote. If the initiative is agreed by the people the Federal Assembly shall prepare the constitutional or legislative alterations envisaged.

Article 139b *Procedure applicable to a vote on an initiative and a counter-project*

(1) Citizens entitled to vote shall decide at one and the same time on:

- a. The popular initiative or the changes prepared as a result of an initiative;
- b. The Federal Assembly's counter project

(2) They can approve the two together. They can also indicate, in response to a second question, the project which they would prefer should both be accepted.

(3) When it comes to constitutional changes which have been approved if, in response to the second question, one of the projects obtains a majority of popular votes and the other a majority of cantons, the project to be implemented will be that which the second

¹² The article was revised after 9 February 2003 as part of the reform of political rights, writing in the new time scale and eliminating the possibility of a generally phrased idea for an amendment, this being replaced by the new general popular initiative. The old paragraphs 2 -6 (on the way general and specific proposals were to be treated) were then eliminated or echoed in 139a and 139b.

¹³ Inserted 9 February 2003

question shows to have recorded the highest percentage of popular votes and cantons.

Article 140 *Obligatory Referendum*

(1) The following shall be submitted to the vote of the People and the Cantons:

- a. Revisions of the Federal Constitution;
- b. Entry into organizations for collective security or into supranational communities;
- c. Federal Statutes declared urgent but which lack a constitutional basis and whose validity exceeds one year; such Federal Statutes must be submitted to a vote within one year of their adoption by the Federal Assembly.

(2) The following are shall be submitted to the vote of the People alone:

- a. Popular initiatives for total revision of the Federal Constitution;
abis Projected law and Assembly counter project deriving from a general popular initiative;¹⁴
- b. General popular initiatives rejected by the Federal Assembly
- c. The question whether a total revision of the Constitution should be carried out if both Councils disagree.

Article 141 *Optional Referendum*

(1) The following are submitted to the vote of the People at the request of any 50,000 citizens entitled to vote, or of eight Cantons, declared within a period of no more than 18 months from the official publication of the act in question:

- a. Federal Laws;
- b. Federal laws declared urgent with a validity exceeding one year;
- c. Federal decrees to the extent the Constitution or statute law prescribes this;
- d. International treaties which:
 1. are of unlimited duration and may not be terminated;
 2. provide for the entry into an international organization;
 3. contain important provisions which create binding legal rules or require the adaption of federal law in order to become effective¹⁵

Article 141a *The application of international treaties*

(1) When the decree approving an international treaty is submitted to obligatory referendum, the Federal Assembly may include therein the constitutional changes linked to the application of the treaty.

(2) When the decree approving an international treaty liable to a facultative referendum, the Federal Assembly may include therein those legal changes linked to the application

¹⁴ The revision of 9 February 2003 updated this to take account of the removal of the possibility of a generally phrased partial revision and the introduction of the right to a general popular initiative.

¹⁵ On 9 February 2003 the People agreed to the removal of both the old 1d/3 (involve a multilateral unification of law) and (2) The Federal Assembly may submit other international treaties to optional referendum.

of the treaty.¹⁶

Article 142 *Required Majorities*

(1) Proposals submitted to the vote of the People shall be accepted if the majority of those voting approves them.

(2) Proposals submitted to the vote of the People and the Cantons shall be accepted if both the majority of those voting and the majority of the Cantons approve them.

(3) The result of a popular vote in a Canton determines the vote of that Canton.

(4) The Cantons of Obwald, Nidwald, Basle-City, Basle-Country, Appenzell Outer Rhodes and Appenzell Inner Rhodes each count for one half of a cantonal vote.

Title 5: Federal Authorities

Chapter One: General Provisions

Article 143 *Eligibility*

Every Swiss citizen entitled to vote is eligible for membership of the National Council, the Federal Council and the Federal Tribunal.

Article 144 *Incompatibilities*

(1) Members of the National Council, of the Council of States, of the Federal Council, and Judges on the Federal Tribunal may not at the same time be members of another of these bodies.

(2) The members of the Federal Council and the full-time judges of the Federal Tribunal may not carry out another function for the Confederation or for a Canton, nor may they exercise any other gainful employ.

(3) The law may provide for other incompatibilities.

Article 145 *Length of Tenure*

The members of the National Council, the Federal Council, and the Chancellor of the Confederation shall be elected for a term of four years. The judges of the Federal Tribunal shall be elected for a term of six years.

Article 146 *Confederal Liability*

The Confederation shall be answerable for damage illegally caused by its servants in the exercise of their official activities.

Article 147 *Consultation Procedure*

Cantons, political parties and interested circles shall be invited to comment, during preparatory phases, on important legislative bills, on other projects with major implications and also on important international treaties.

¹⁶ Inserted on 9 February 2003

Chapter 2: The Federal Assembly

Section 1: Organisation

Article 148 *The Role of the Federal Assembly and its Bi-Cameralism*

- (1) Subject to the rights of the People and the Cantons, the Federal Assembly is the highest authority of the Confederation.
- (2) It has two Chambers, the National Council and the Council of States, each endowed with equal powers.

Article 149 *The Composition and Election of the National Council*

- (1) The National Council shall be composed of 200 deputies of the People.
- (2) Deputies are elected directly by the People according to the system of proportional representation. The National Council shall be renewed in full every four years.
- (3) Each Canton shall form an electoral constituency.
- (4) Seats shall be distributed among the Cantons in proportion to their population. Each Canton has a right to have at least one seat.

Article 150 *Composition and Election of the Council of States*

- (1) The Council of States shall consist of 46 deputies of the Cantons.
- (2) The Cantons of Obwald, Nidwald, Basle-City, Basle-Country, Appenzell Outer Rhodes and Appenzell Inner Rhodes shall elect one deputy each, the other Cantons shall elect two.
- (3) The Cantons shall decide on the rules for the election of their representatives to the Council of States.

Article 151 *Sessions*

- (1) The Councils shall meet regularly for plenary sessions. The summoning of meetings is regulated by the law.
- (2) One fourth of the members of a Council or the Federal Council may request that the two Councils be called to an extraordinary session.

Article 152 *Presidency*

Each Council shall elect from amongst its members, for a one year term, a President, a first Vice-President and a second Vice-president. These mandates are not renewable for the following year.

Article 153 *Parliamentary Committees*

- (1) Each Council shall appoint committees from within its own ranks.
- (2) The law may prescribe joint committees.
- (3) The law may delegate certain powers, not of a legislative nature, to committees.
- (4) To help them fulfill their tasks, the committees shall have the right to obtain information, to consult documents and to conduct inquiries. The law shall define the limits to these rights.

Article 154 *Groups*

The members of the Federal Assembly may form political groups.

Article 155 *Parliamentary Services*

The Federal Assembly shall benefit from parliamentary services. It may also call upon the services of the Federal Administration. The law shall regulate the precise details.

Section 2 Procedure**Article 156** *Separate Deliberation*

- (1) The National Council and the Council of States shall deliberate separately.
- (2) Decisions of the Federal Assembly shall require the approval of both Councils.
- (3) The law shall ensure that, in case of differences between the two councils, that a decision will be taken on
 - a. The validity or partial nullity of a popular initiative
 - b. the application of a general popular initiative approved by the people;
 - c. the application of a federal decree approved by the people and envisaging a total revision of the Constitution
 - d. the budget or additions thereto¹⁷

Article 157 *Joint Deliberation*

- (1) The National Council and the Council of States shall deliberate in common as the Federal Assembly in Joint Session, under the chairmanship of the President of the National Council, in order to:
 - a. hold elections;
 - b. rule on jurisdictional disputes between the highest federal authorities;
 - c. to rule on petitions for pardon.
- (2) The Federal Assembly in Joint Session shall assemble for special occasions, and to hear declarations by the Federal Council.

Article 158 *Public Nature of Sessions*

Meetings of the Councils shall be public. The law may provide for exceptions.

Article 159 *Quorum and Majority*

- (1) The Councils may deliberate validly only if the majority of their members are present.
- (2) Decisions are taken in both Councils and in the Federal Assembly in Joint Session by the majority of those voting.
- (3) However, the majority of the members of each Council shall be required for the following:
 - a. Declarations that Federal laws are 'urgent';
 - b. Provisions granting subsidies, authorizing credit lines, and establishing spending ceilings which cause new one-off time expenditures exceeding 20 Million Swiss Francs, or new recurrent expenditures exceeding 2 Million Swiss Francs.
 - c. Increases of total expenditure in case of extraordinary payment requirements as provided by Article 126 sub. 3.¹⁸
- (4) The Federal Assembly may, by an ordinance, adjust to inflation the amounts set out

¹⁷ Added 9 February 2003

¹⁸ Added 2 December 2001

under the terms of subsection 3 lit.b.¹⁹

Article 160 *Rights of Initiative and Proposition*

- (1) All members of the Federal Assembly, all parliamentary groups, all parliamentary committees and all Cantons have the right to submit initiatives to the Federal Assembly.
- (2) Members of the Federal Assembly and of the Federal Council may present propositions concerning a proposal under discussion.

Article 161 *Ban on Accepting Direction from Outside*

- (1) The members of the Federal Assembly shall vote without instructions.
- (2) They shall make public their links with interest groups.

Article 162 *Immunity*

- (1) The members of the Federal Assembly and the Federal Council, together with the Federal Chancellor may not be held responsible for their statements in the Councils and before parliamentary organs.
- (2) The law may provide for further forms of immunity, and extend them to other individuals.

Section 3: Powers

Article 163 *The Form of Acts Passed by the Federal Assembly*

- (1) The Federal Assembly shall enact legally binding rules in the form of Federal Statutes or ordinances.
- (2) Other acts shall be issued as federal decrees. Where a federal decree is not liable to challenge by referendum it shall be known as a 'simple' federal decree.

Article 164 *Legislation*

- (1) All important provisions establishing binding legal rules of law must be enacted in the form of a Federal law. This is particularly so with fundamental provisions on:
 - a. the exercise of political rights;
 - b. the restriction of constitutional rights;
 - c. the rights and obligations of individuals;
 - d. the definition of a tax payer, decisions on what should be taxable and the calculation of taxes;
 - e. the tasks and services of the Confederation;
 - f. cantonal obligations when implementing and executing federal law;
 - g. the organization and procedures of federal authorities.
- (2) A Federal Statute may delegate the power to legislate in binding form unless this is excluded by the Federal Constitution.

Article 165 *Urgent Legislation*

- (1) A Federal Statute whose coming into force brooks no delay, may be declared 'urgent' by the majority of each Council and put into force immediately. There must be a time limit on its applicability.
- (2) If a referendum is demanded against an urgent Federal Statute, the latter shall lapse

¹⁹Amended 2 December 2001

one year after its adoption by the Federal Assembly, unless it is approved by the People within that time.

(3) An urgent Federal Statute that has no constitutional basis shall lapse one year after its adoption by the Federal Assembly unless, within that time, it is adopted by the People and the Cantons. There must be a time limit on its applicability.

(4) An urgent Federal Statute which was not adopted at votation may not be renewed.

Article 166 *Foreign Relations and International Treaties*

(1) The Federal Assembly shall participate in shaping foreign policy and shall supervise foreign relations.

(2) It shall approve international treaties with the exception of those which, by statute law or international treaty, are within the powers of the Federal Council.

Article 167 *Finances*

The Federal Assembly shall consent to federal spending, agree the budget and approve federal accounts.

Article 168 *Elections*

(1) The Federal Assembly shall elect the members of the Federal Council, the Federal Chancellor, the judges of the Federal Tribunal, and the General.

(2) The law may empower the Federal Assembly to carry out other elections or to confirm other nominations.

Article 169 *Ultimate Supervision*

(1) The Federal Assembly shall exercise ultimate supervision of the Federal Council, the Federal Administration, the Federal Courts and the other organs entrusted with tasks of the Confederation.

(2) Official secrecy shall not be used as a reason for preventing special delegations of responsibility to supervisory commissions where these are duly prescribed by Statute.

Article 170 *The Evaluation of Efficacy*

The Federal Assembly shall ensure that the efficacy of measures taken by the Confederation is evaluated.

Article 171 *Mandates to the Federal Council*

The Federal Assembly may confer mandates on to the Federal Council. Statute shall regulate the precise details and, in particular, the instruments which the Federal Assembly may use to influence matters within the remit of the Federal Council .

Article 172 *Relations between the Confederation and the Cantons*

(1) The Federal Assembly shall oversee relations between the Confederation and the Cantons.

(2) It shall guarantee cantonal constitutions.

(3) Should the Federal Council or a Canton raise objections, it shall decide whether to approve inter-cantonal treaties and treaties between Cantons and foreign countries,

Article 173 *Other Tasks and Powers*

(1) Beside this the Federal Assembly shall have following further tasks and powers:

- a. It shall take measures to safeguard the external security, independence,

- and neutrality of Switzerland;
 - b. It shall take measures to secure the internal security;
 - c. If extraordinary circumstances so require, it may issue ordinances or simple federal decrees to fulfill the tasks listed at literas a and b;
 - d. It shall orders active military service, and to this end, shall mobilize all or part of the army.
 - e. It shall take measures to enforce federal law;
 - f. It shall decide on the validity of those popular initiatives which that meet the formal requirements;
 - g. It shall cooperate in planning major state activities;
 - h. It shall decide on individual acts if a Federal Statute expressly so provides.
 - i. It shall rule on conflicts of jurisdiction between the highest federal authorities;
 - k. It shall decide on petitions for pardon and grant amnesties.
- (2) The Federal Assembly shall, moreover, deal with all subjects that are within the remit of the Confederation but which are not attributed to another federal authority.
- (3) The law may assign other tasks and powers to the Federal Assembly.

Chapter 3: The Federal Council and the Federal Administration

Section 1 Organisation and Procedure

Article 174 *The Role of the Federal Council*

The Federal Council is the highest governing authority and the supreme executive authority of the Confederation.

Article 175 *Composition and Election*

- (1) The Federal Council shall consist of seven members.
- (2) The members of the Federal Council shall be elected by the Federal Assembly after each full renewal of the National Council.
- (3) They are elected for four years from amongst Swiss citizens eligible for membership in the National Council.²⁰
- (4) The various regions and language communities must be equitably represented in the Federal Council.²¹

Article 176 *Presidency*

- (1) The President of the Confederation shall chair the Federal Council .
- (2) The Federal Assembly shall elects, for a one year term, one of the members of the Federal Council as President of the Confederation and another as Vice-President of the Federal Council.
- (3) These mandates may not be renewed for the following year. The outgoing President of the Confederation may not be elected as Vice-President for the following year.

²⁰Inserted 7 February 1999

²¹Amended 7 February 1999, replacing “Not more than one member from the same Canton shall be elected”.

Article 177 *The Principle of Collective Authority and the Division into Departments*

- (1) The Federal Council shall take its decisions as a collegial body.
- (2) For the preparation and implementation of decisions, the business of the Federal Council shall be distributed amongst its members according to Departments.
- (3) Decisions on business can be entrusted to Departments or to administrative units subordinated to them; in such cases the right of appeal shall be guaranteed.

Article 178 *The Federal Administration*

- (1) The Federal Council shall direct the Federal Administration. It shall ensure that the tasks which are entrusted to it are effectively carried out.
- (2) The Federal Administration shall be divided into Departments; each Department is directed by one member of the Federal Council .
- (3) Statute may attribute administrative tasks to outside organizations and individuals provided that these are duly constituted under public or private law.

Article 179 *Federal Chancery*

The Federal Chancery is the general staff of the Federal Council. It shall be directed by the Chancellor of the Confederation.

Section 2: Powers

Article 180 *Government Policy*

- (1) The Federal Council shall determine the aims and means of its governmental policy. It shall plan and coordinate the activities of the state.
- (2) It shall inform the public of its activity fully and in good time, unless overriding public or private concerns prevent this.

Article 181 *The Right of Initiative*

The Federal Council shall submit drafts of its legislative proposals to the Federal Assembly.

Article 182 *Legislation and Implementation*

- (1) The Federal Council shall issue legally binding acts in the form of ordinances, insofar as the Constitution or the law empower it to do so.
- (2) It shall ensure the implementation of legislation, decrees of the Federal Assembly and judgments of the federal judiciary.

Article 183 *Finances*

- (1) The Federal Council shall prepare estimates along with a draft budget, and keep the accounts of the Confederation.
- (2) It shall ensure proper financial management.

Article 184 *Foreign Relations*

- (1) The Federal Council is responsible for foreign affairs subject to the Federal Assembly's rights of participation; it shall represent Switzerland abroad.
- (2) It shall sign and ratify treaties. It shall submit them to the Federal Assembly for approval.
- (3) When the defence of the country's interests of the country so requires, the Federal Council may issue ordinances and take all necessary decisions. Such ordinances must

have a definite expiry date.

Article 185 *External and Internal Security*

- (1) The Federal Council shall take measures to preserve the external security, the independence and the neutrality of Switzerland.
- (2) It shall take measures to safeguard internal security.
- (3) It may use the present article to issue ordinances and orders to obviate existing, or imminent, major disturbances in public order which gravely threaten the external or internal. Such ordinances must have a definite expiry date.
- (4) In urgent cases, it may mobilize troops. If it mobilizes more than 4,000 members of the armed forces for active duty, or if the mobilization is expected to last more than three weeks, the Federal Assembly must be convened without delay.

Article 186 *Relations between the Confederation and the Cantons*

- (1) The Federal Council is responsible for relations between the Confederation and the Cantons, and shall collaborate with the latter.
- (2) It shall approve cantonal legislation where the implementation of federal law so requires.
- (3) It may raise objections against to treaties between the Cantons, or between Cantons and foreign countries.
- (4) It shall ensure respect for the implementation of federal law, for cantonal constitutions and for inter-cantonal treaties, and shall take any measures necessary to this end.

Article 187 *Other Tasks and Powers*

- (1) The Federal Council shall also have the following further tasks and powers:
 - a. Supervising the Federal Administration and the other organizations or persons entrusted with tasks of the Confederation;
 - b. Regularly informing the Federal Assembly of its stewardship and of the state of the country;
 - c. Making appointments that are not in the remit of other authorities;
 - d. Deciding on appeals where the law so provides.
- (2) The law may attribute further tasks and powers to the Federal Council.

Chapter 4: The Federal Tribunal and other Judicial Authorities

Article 188 *The Role of the Federal Tribunal*

- (1) The Federal Tribunal is the highest federal judicial authority of the Confederation.
- (2) Its organization and its procedure shall be regulated by the law.
- (3) The Federal Tribunal shall decide on the organization of its administration.

Article 189 *Jurisdiction of Federal Tribunal*²²

- (1) The Federal Tribunal shall have jurisdiction over violations of:

²²Amended 12 March 2000 but not yet put into effect. Implementation is likely to be in 2003 or 2004.

- a. federal law;
- b. public international law;
- c. inter-cantonal law;
- d. cantonal constitutional rights;
- e. communal autonomy and other guarantees granted by the Cantons to corporate public bodies;
- f. federal and cantonal provisions on political rights.

(1bis) The Federal Tribunal shall hear complaints relating to the failure by the Federal Assembly to respect the content and objectives of a general popular initiative²³

(2) It shall adjudicate in public law disputes between the Confederation and the Cantons or amongst the Cantons.

(3) The law may confer other powers on the Federal Tribunal.

(4) Enactments of the Federal Assembly and the Federal Council cannot be challenged before the Federal Tribunal. Exceptions may be provided for by the law.

Article 190 *Applicable Law*

Neither the Federal Tribunal nor any other authority can refuse to apply a federal statute or international law.

Article 191 *Access to the Federal Tribunal*

(1) The law shall guarantee access to the Federal Tribunal.

(2) For disputes that do not concern a legal question of fundamental importance, The law may provide for a threshold sum.

(3) The law may, for certain specified matters, exclude access to the Federal Tribunal.

(4) For manifestly unjustified complaints the law may provide for a simplified procedure.

Article 191a *Other Confederal Judicial Authorities*

(1) The Confederation shall establish a federal criminal court. This will hear, as a court of first instance, those cases which the law attributes to the jurisdiction of the Confederation. The law may confer other powers on the Federal Criminal Court.

(2) The Confederation shall establish federal judicial authorities to hear public law disputes arising from within the administrative jurisdiction of the Federal Administration.

(3) Other judicial authorities may be established by the law.

Article 191b *Cantonal Judicial Authorities*

(1) The Cantons shall establish cantonal judicial authorities to judge civil and public law cases and criminal offences.

(2) They may establish common judicial authorities.

²³ This clause, introduced after 9 February 2003, is to remain effective after the other judicial clauses come into effect.

Article 191c *Independence of the Judiciary*²⁴

All judicial authorities shall be independent in their judicial activity and are bound only by the law.

Title 6: Revision of the Constitution and Transitional Provisions

Chapter One: Revision

Article 192 *The Principle*

- (1) The Federal Constitution may be revised in whole or in part at any time.
- (2) Where the Federal Constitution and legislation deriving from it do not provide otherwise the revision shall follow the legislative process.

Article 193 *Total Revision*

- (1) A total revision of the Federal Constitution may be proposed by the People or by one of the two Councils, or decreed by the Federal Assembly as a whole.
- (2) If the initiative emanates from the People, or if the Councils disagree, the People shall decide whether a total revision should be undertaken.
- (3) Should the People accept a total revision, new elections to both Councils shall be held.

²⁴ This will replace the existing text eg

i) Article 189

- (1) The Federal Tribunal has jurisdiction over:
 - a. complaints regarding the violation of constitutional rights;
 - b. complaints regarding the violation of communal autonomy and other cantonal guarantees on the behalf associations of public law;
 - c. complaints regarding the violation of international or inter-cantonal contracts;
 - d. public law disputes between the Confederation and the Cantons or between Cantons.
- (2) The law may provide for further grounds for jurisdiction of the Federal Tribunal

ii) Article 190 Jurisdiction in Civil, Criminal and Public Law

- (1) The law provides for the jurisdiction of the Federal Tribunal regarding civil, criminal and public law and in all other areas of the law.
- (2) The Cantons may, with the consent of the Federal Assembly, assign to the Federal Tribunal for its determination disputes of cantonal public law.

iii) Article 191 Relevant Law

Federal statutes and public international law are the relevant laws for the Federal Tribunal and other law-applying public agencies.

(4) The mandatory provisions of international law may not be violated.

Article 194 *Partial Revision*

(1) A partial revision of the Federal Constitution may be requested by the People, or be decreed by the Federal Assembly.

(2) A partial revision must respect the principle of the unity of subject matter. Nor it may violate the mandatory provisions of international law.

(3) A popular initiative for partial revision must, moreover, respect the principle of the unity of form.

Article 195 *Entry into Force*

The Constitution revised in whole total or in part shall enter into force as soon as it is accepted by the People and the Cantons.

Chapter 2 Transitional Provisions

Article 196 *Transitional Provisions pursuant to the Federal decree of December 18, 1998 on a new federal constitution*²⁵

1. Transitional Provision to Article 84 (Transalpine Traffic)

The transfer of freight transit traffic from road to rail shall be completed within ten years of the date of the adoption of the popular initiative for the protection of the alpine regions from transit traffic.

2. Transitional Provision to Article 85 (Flat Heavy Goods Vehicle Charge)

(1) The Confederation shall levy an annual charge for the use of roads open to general traffic on each domestic and foreign motor vehicle and trailer having a total weight of over 3.5 tons

(2) The charge shall be:

- a. for lorries and articulated motor vehicles of
 - over 3,5 up to 12t: CHF 650
 - over 12 up to 18t: CHF 2000
 - over 18 up to 26t: CHF 3000
 - over 26t: CHF 4000
- b. for trailers of
 - over 8 up to 10t: CHF 1500
 - over 10t: CHF 2000
- c. for coaches: CHF 650

(3) The rates may be adjusted by means of a Federal law, insofar as this is justified by the cost of road traffic.

(4) The Federal Council may, moreover, by means of an ordinance, bring the tariff categories that apply above 12 tons, as listed in paragraph 2, into line with possible amendments of the weight categories defined in the road traffic law.

(5) For vehicles which are not on the road in Switzerland during the whole year, the Federal Council shall lay down graduated rates related to time on the road, while taking into account the costs of collecting the charge.

(6) The Federal Council shall regulate the implementation of the charge. It may establish the rates for special categories of vehicles implied in subsection 2; exempt certain vehicles from the charge; and establish special regulations, particularly for journeys in border areas. Such regulations shall not result in vehicles registered abroad being treated more favourably than Swiss vehicles. The Federal Council may prescribe fines in case of infractions. The Cantons shall collect the charges on vehicles registered in Switzerland.

(7) The charge may be wholly or partly abolished by the law.

(8) The present article shall apply until the coming into force of the Federal law of December 19, 1997 on the levy on heavy goods vehicles.

3. Transitional Provision to Article 87 (Railroad and other Traffic)

(1) The Major Railroad Projects concerned are the New Alpine Crossing, Rail 2000, the

²⁵Adopted 3 March 2002

linking of Eastern and Western Switzerland to the European high-speed railroad network, and the improvement of protection against noise along railway lines whether by active or by passive measures.

- (2) In order to finance the Major Railroad Projects, the Federal Council may:
- a. until the charge on heavy goods vehicles related to benefits or consumption envisaged by Article 85 comes into force, use the full yield of the flat rate heavy goods vehicle charge, set out in Article 196, subsection 2, and may, for this purpose, at most double the rates;
 - b. use no more than two thirds of the yield of the heavy goods vehicle charge related to benefits or consumption envisaged in Article 85;
 - c. use funds accruing from the tax on mineral fuels set out in Article 86, subsection 3, letter b to cover at most 25 percent of the total costs of the base tunnels of the New Alpine Crossing;
 - d. raise funds on the capital markets up to a maximum of 25 percent of the general costs of the new alpine crossing, Rail 2000, and the link of Eastern and Western Switzerland to the European high-speed railroad network;
 - e. raise by .1 percent points all value added tax rates (including surcharges) set out in Article 196, subsection 14 and Article 130;
 - f. look for additional financing from private sources or international organizations.

(3) The financing of the Major Railroad Projects as defined in paragraph 1 shall be assured by a fund legally dependent on the Confederation, but with its own separate accounts. The proceeds from the tolls and taxes set out in paragraph 2 shall be credited to the financial accounts of the Confederation, and transferred into the fund that same year. The Confederation may advance monies to the fund. The Federal Assembly shall issue regulations for the fund by means of an ordinance.

(4) The four Major Railroad Projects listed in paragraph 1 shall be regulated by means of Federal laws. The overall necessity of each major project must be established, along with the stage reached in its planning. For the New Alpine Crossing project, the various construction phases shall be defined in the relevant Federal law. The Federal Assembly shall allocate the necessary funds through authorized credit lines. The Federal Council shall approve the relevant construction phases and determine the timetable.

(5) This provision shall apply until the construction of the Major Railroad Projects mentioned in paragraph 1 is completed, and their financing has ended and advances can be repaid.

4. Transitional Provision to Article 90 (Nuclear Energy)

No general, building, start-up or operating permits for new installations designed for the production of nuclear energy shall be granted before September 23, 2000.

5. Transitional Provision to Article 95 (Gainful Private Economic Activity)

Until federal legislation is adopted, the Cantons shall mutually recognize their education or training certificates.

6. Transitional Provision to Article 102 (Supplying the Country)

(1) The Confederation shall ensure the country is stocked with millable cereals and baking flour.

(2) This transitional provision shall remain in effect, at the latest, until December 31, 2003.

7. Transitional Provision to Article 103 (Structural Policy)

For up to ten years from the entry into force of the Constitution, the Cantons may continue to apply existing regulations which make the opening of new businesses in specific sectors of the hotel and restaurant industry conditional upon establishing a need for such.

8. Transitional Provision to Article 106 (Games of Chance)

(1) Article 106 shall become operative on the coming into effect of a new Federal law on gambling and casinos.

(2) Until that date, the following provisions shall apply:

a. It is forbidden to open and operate casinos.

b. Cantonal governments may, under specific conditions dictated by the public interest, authorize recreational gambling as was customary in Kursaals until the spring of 1925 if they are of the opinion that such gambling is necessary to maintain or develop tourism, and if it is organized by a Kursaal operator serving this purpose. The Cantons may also prohibit this type of gambling.

c. The Federal Council shall issue an ordinance on the conditions dictated by public interest. The stake shall be no more than 5 Swiss Francs.

d. Each cantonal gambling license must be approved by the Federal Council.

e. One fourth of the gross receipts of gambling operations shall be credited to the Confederation which will apply it, irrespective of its own needs, to the benefit of victims of natural disasters, and for generally useful public institutions.

f. The Confederation may also take necessary measures concerning lotteries.

9. Transitional Provision to Article 110 Subsection 3 (National Day)

(1) Until the entry into force of new federal legislation, the Federal Council shall decide on detailed implementation.

(2) Swiss National Day shall not be included in the number of holidays as laid down in Article 18, paragraph. 2 of the Labour Law.

10. Transitional Provision to Article 112 (Old Age, Survivors', and Disability Insurance)

As long as the federal old age, survivors', and disability insurance do not cover basic living expenses, the Confederation shall grant the Cantons subsidies to cover the costs of supplementary benefits.

11. Transitional Provision to Article 113 (Company Pension Plans)

Insured persons who belong to the generation employed before the introduction of mandatory Company pension plans, and therefore did not contribute for the full period, shall receive the minimum statutory benefits, adjusted according to their income, for up to 10 to 20 years after the entry into force of the new law.

12. Transitional Provision to Article 126 (Financial Management)

(1) The deficit in the financial accounts of the Confederation shall be reduced by making savings until the accounts are largely in balance.

(2) The deficit in the 1999 accounts may not exceed 5 billion Swiss Francs nor that in 2000 more not exceed 2.5 billion francs. In 2001 accounts, it shall be reduced to a sum less than 2 percent of receipts.

(3) If the economic situation so requires, the majority of the members of both Councils may, by way of a decree, extend the deadlines set out in paragraph 2 by, at most, two years.

(4) The Federal Assembly and the Federal Council shall take into account the objectives of paragraph 2 when establishing the budget and the multi-annual financing plan, as it shall when considering any proposals with financial implications.

(5) When implementing the budget, the Federal Council shall use all opportunities for savings. To this end, it may freeze credits and credit lines already authorised.

Allowances duly based on legal provisions and, formally guaranteed cash payments, shall not be affected.

(6) If the objectives laid out in paragraph 2 are not achieved, the Federal Council shall determine the additional amount to be saved. To this end,

a. it shall decide on supplementary savings within its remit;

b. it shall propose necessary amendments of the law to the Federal Assembly.

(7) The Federal Council shall establish the total sum of the additional savings needed in such a way that the objectives shall be achieved no more than two years after the expiry of the deadlines laid down in paragraph 2. Savings shall be made both in subsidies to third parties and in Confederation's own field of activity.

(8) The two Councils shall decide on proposals from the Federal Council in the same session, and shall put their decree into force by following the procedure laid down in Article 165 of the Constitution; they shall be bound by the amount of savings fixed by the Federal Council under the terms of paragraph 6.

(9) Should the deficit later again exceed 2 percent of receipts, the overspend must be brought back to the 2 per cent level in the course of the next financial year. If the economy so requires, the Federal Assembly may, by way of an ordinance, extend the period by no more than two years. In all other respects, the procedure in paragraphs 4 to 8 shall be applicable.

(10) This provision shall remain in effect until it replaced by constitutional law measures to limit the federal deficit and debt.

13. Transitional Provision to Article 128 (Term of Tax Levy)

The Federal direct tax may be levied until the end of 2006.

14. Transitional Provision to Article 130 (Value Added Tax)

(1) Until a statute on value added tax enters into force, the implementing provisions shall be established by the Federal Council. The following principles shall therefore apply:

a. The following shall be taxable:

1. The supply of goods and services that a business provides against payment within Switzerland (including own use);

2. The import of goods

b. The following are shall be exempt from the tax, and there shall be no right to deduct withholding tax:

1. Postal services within the framework of its monopoly but excluding passenger transport;
2. Health services;
3. Social welfare and social security services;
4. Services related to education, teaching and the care of children and young people;
5. Cultural services;
6. Insurance transactions;
7. Money market and capital market transactions, with the exception of asset management and the recovery of debts;
8. Transfer, long term leasing, and letting of immovable property;
9. Betting, lotteries, and other games of chance;
10. Services rendered by non-profit organizations to their members against the payment of a fee fixed by their articles of incorporation;
11. Supply of official Swiss postage stamps used as such.

To avoid interference with fair competition or to simplify the collection of the tax, both voluntary taxation of the transactions listed above and the right to deduct tax in advance may be permitted

c. The following shall be free of tax but shall be liable to the deduction of withholding taxes:

1. The export of goods, and services rendered abroad;
2. Services in connection with the export or transit of goods.

d. The following shall not be subjected to the tax on transactions made within Switzerland:

1. Businesses with a total annual taxable turnover of no more than 75,000 francs;
2. Businesses with a total annual taxable turnover of no more than 250,000 francs, provided that the amount of tax, after deduction of withholding tax, does not consistently exceed 4,000 francs per year;
3. Farmers, foresters, and horticulturists who supply produce exclusively from their own businesses, and livestock dealers;
4. Painters and sculptors with respect to works of art created by them personally.

To avoid interference with fair competition or to simplify tax collection, the businesses and persons listed above may be permitted to pay tax on a voluntary basis, and their right to deduct withholding tax shall be accorded.

e. The tax rate shall be:

1. 2.0 per cent on the delivery transactions and importation of the following goods which the Federal Council may define in greater detail:
 - piped water,
 - foodstuffs and beverages, with the exception of alcoholic drinks,
 - livestock, poultry, fish,

- cereals,
 - seeds, tuberous vegetables, plant bulbs, growing plants, cuttings, grafts, and cut flowers and branches, including in the form of bouquets, wreaths and similar arrangements,
 - fodder, silage acids, straw, fertilizers, and pesticides,
 - medicines,
 - newspapers, magazines, books and other printed materials within the parameters to the extent defined by the Federal Council;
2. Up to 2. per cent on radio and television activities where these are not of a commercial character;
 3. Up to 6.5 percent on the supply and the importation of other goods and on all other taxable services.
- f. The tax shall be calculated on the payment obtained, or, if there is no such payment, and in the case of imports, on the value of the goods or services received.
- g. The following shall be liable to pay tax:
1. Taxpayers who generate taxable turnover;
 2. The recipients of services originating abroad, provided that their annual value is above 10,000 francs per year;
 3. Individuals who import goods, and who are liable to pay customs duty or to make a customs declaration.
- h. Taxpayers must pay tax on their taxable turnover; if they use the goods supplied and the services received to generate taxable turnover within Switzerland or abroad, the following may be deducted from their liabilities as withholding tax:
1. the tax passed on to the taxpayer by other taxpayers, and
 2. the tax paid on the importation of goods or on the receipt of services from abroad;
 3. 2.0 per cent of the price of natural products purchased from businesses which, under the terms of litera d, point 3 above, are not subject to the tax.
- The right to deduct withholding tax does not extend to non-commercial expenditures.
- i. As a general rule, the accounting period for the tax and the deduction of withholding tax shall be quarterly.
- k. Special provisions may be established for turnover taxation in the case of gold coins and refined gold, and of goods which are already subject to special fiscal charges.
- l. Simplifications may be made if they neither greatly alter tax revenues nor significantly affect competition, and always providing they do not create excessive tax accounting difficulties for other tax payers.
- m. Tax evasion and the undermining of taxation are shall be punishable in ways analogous to those in other federal criminal provisions in the field of tax law.
- n. The special provisions on the criminal liability of businesses prescribed by Article 7 of the Federal Statute on Administrative Criminal Law of 22 March 1974 may also be applied in cases where a fine of more than 5,000 francs is possible.
- (2) During the first five years following the introduction of the value added tax, 5 percent of the its yield shall be used to reduce health insurance premiums so as to benefit those individuals in lower income strata. The Federal Assembly shall decide how this part of the value added tax, dedicated to a specific purpose, shall be used after the expiry of

this period.

(3) The Confederation may, by law, set a lower rate for the value added tax on tourist services in Switzerland, provided that such services are largely used by foreigners and that the competitive situation so requires.

(4) The value added tax may be levied until the end of 2006.

15. Transitional Provision to Article 131 (Beer Tax)

Until the adoption of a new Federal Statute, the beer tax shall be levied according to the law presently in force.

16. Transitional Provision to Article 132 (Cantonal Share of Withholding Tax)

Until the new financial equalization among the Cantons, the cantonal share of the yield of the withholding tax shall be 12 per cent. If the tax rate for the withholding tax exceeds 30 percent, the share of the Cantons shall be 10 per cent.

Article 197 *Transitional Dispositions following on the acceptance of the Constitution of 18 April 1999*

I. Swiss Membership of the UN²⁶

1. Switzerland shall be a member of the United Nations Organisation (UNO)
2. The Federal Council is authorised to send the Secretary General of the UN a request that Switzerland be admitted to the UN and a declaration of acceptance of the obligations contained in the UN Charter.

Final Provisions of the Federal Decree of December 18, 1998²⁷

II

- 1 The Federal Constitution of May 29, 1874 is hereby abrogated.
- 2 The following provisions of the Federal Constitution, which must be converted into statutory law, shall remain applicable until such new statutory provisions come into force:

a. Article 32 quater subs. 618

Hawking and other forms of itinerant sale of spirits are prohibited.

b. Article 36 quinquies subs. 1, first sentence, 2, sentences 2 to 5, and 4, second sentence¹⁹

- 1 For the use of first and second-class national highways, the

²⁶ Agreed at votation on 3 March 2002

²⁷ A Parliamentary act which dealt with the processes of implementation of the proposed new constitution

Confederation shall levy an annual charge of 40 francs on domestic and foreign motor vehicles and trailers up to a total weight of 3.5 tons each...

2 ... The Federal Council It may exempt specific vehicles from the charge and issue special regulations, particularly for journeys in frontier areas. Such regulations shall not result in vehicles registered abroad being treated more favourably than Swiss vehicles. The Federal Council may establish fines for infringements. The Cantons shall collect the charge for vehicles registered in Switzerland, and shall ensure that all vehicles comply with the relevant rules.

4 ... The law may also extend the charge to other categories of motor vehicles, which are not subject to the charge on heavy goods vehicles.

c. Article 121 bis , subs. 1, 2, and subs. 3, first and second sentence

1 Should the Federal Assembly prepare a counter-project, three questions shall be submitted to the voters on the same ballot. Every voter may state:

1. whether they prefer the popular initiative to the existing law;
2. whether they prefer the counter-project to the existing law;
3. which of the two texts should be applied in the case that the People and the Cantons prefer both texts to the existing law.

2 The absolute majority shall be calculated separately for each question. Where questions are not answered such ballots shall not be counted.

3 Should both the popular initiative and the counter-project be accepted, the vote on the third question shall be decisive. The text which enters into force will be that which obtains most votes from the People and Cantons in response to this question.....

III The Federal Assembly shall adapt the form of amendments of the Federal Constitution of May 29, 1874 to the new Constitution. Decrees of this kind shall not be subject to referendum challenge..

IV

1 This decree shall be submitted to the votation of the People and the Cantons.

2 The Federal Assembly shall determine the date of entry into force of the Constitution²⁸.

²⁸ This was later set at 1 January 2000. A statement to this effect appears after Article 197 in the original texts.