

UNION INTERPARLEMENTAIRE

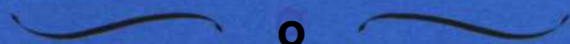


INTER-PARLIAMENTARY UNION

ASSOCIATION DES SECRÉTAIRES GÉNÉRAUX DES PARLEMENTS  
ASSOCIATION OF SECRETARIES GENERAL OF PARLIAMENTS



***CONSTITUTIONAL***  
***AND PARLIAMENTARY***  
***INFORMATION***



**The New Swiss Constitution**

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# **INTER-PARLIAMENTARY UNION**

## **Aims**

The Inter-Parliamentary Union whose international Statute is outlined in a Headquarters Agreement drawn up with the Swiss federal authorities, is the only world-wide organization of Parliaments.

The aim of the Inter-Parliamentary Union is to promote personal contacts between members of all Parliaments and to unite them in common action to secure and maintain the full participation of their respective States in the firm establishment and development of representative institutions and in the advancement of the work of international peace and co-operation, particularly by supporting the objectives of the United Nations.

In pursuance of this objective, the Union makes known its views on all international problems suitable for settlement by parliamentary action and puts forward suggestions for the development of parliamentary assemblies so as to improve the working of those institutions and increase their prestige.

## **Membership of the Union (January 2001)**

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Congo, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Djibouti, Ecuador, Egypt, El Salvador, Estonia, Ethiopia, Fiji, Finland, Former Yugoslav Republic of Macedonia, France, Gabon, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Japan, Jordan, Kazakstan, Kenya, Korea (Dem. P. R. of), Korea (Rep. of), Kuwait, Kyrgyzstan, Laos, Latvia, Lebanon, Liberia, Libya, Lithuania, Luxembourg, Malawi, Malaysia, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Moldova, Monaco, Mongolia, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Russia, Rwanda, San Marino, Sao Tome and Principe, Senegal, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Tanzania, Thailand, Togo, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia, Zimbabwe.

Associated members: Andean Parliament, Central American Parliament, European Parliament, Latin American Parliament, Parliamentary Assembly of the Council of Europe.

## **Structure**

The organs of the Union are:

1. *The Inter-Parliamentary Conference* which meets twice a year.
2. *The Inter-Parliamentary Council*, composed of two members from each affiliated Group. *President*: Mrs Najma Heptulla (India).
3. *The Executive Committee*, composed of twelve members elected by the Conference, as well as of the Council President acting as *ex officio* President.
4. *Secretariat of the Union*, which is the international secretariat of the Organization, the headquarters being located at: Place du Petit-Saconnex, CP 438, 1211 Geneva, Switzerland.

*Secretary general*: Mr. Anders Johnsson.

## **Official publication**

The Union's official organ is the *Inter-Parliamentary Bulletin*, which appears quarterly in both English and French. This publication is indispensable in keeping posted on the activities of the Organization. Subscription can be placed with the Union's Secretariat in Geneva.

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# Constitutional and Parliamentary Information

Association of Secretaries General  
of Parliaments

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# The New Swiss Constitution

## Communication from Mr John CLERC, Deputy Secretary General of the Federal Assembly of Switzerland, Berlin Session (October 1999)

Mr CLERC spoke as follows, "At the last conference in April 1999 in Brussels when we heard Mr TIITINEN present a communication on the Constitutional Revision in Finland, Switzerland was on the eve of a constitutional referendum and, as you no doubt remember, I then announced that in the event of the adoption of this constitutional reform I would present a communication in Berlin.

### Historical perspective

Until 1848 Switzerland was a confederation of states directed by a Conference of Ambassadors called The Diet. In the year of the springtime of peoples, several months after a civil war which had seen the protestant cantons defeat the catholic cantons, the Constitution of 12 September 1848 made Switzerland a Federal State. It created the parliamentary bodies which we know today, the National Council and the Council of States, borrowed from the American model. The solution arrived at had to satisfy both the conservatives who missed the old Diet and the radicals who wished for a federal convention. The Constitution gave the Confederation, which conserved its name although in reality Switzerland was now a Federal Republic, new powers with regard to foreign affairs and customs. A postal system was established, the currency was unified and the Franc replaced the various cantonal monetary systems. The Swiss Army was established. A Government of seven members was instituted with a revolving presidency exercised for one year by each of the ministers in turn. This formula assured a considerable governmental stability to my country.

After an attempt at constitutional revision in 1872, judged too centralising, a new attempt was successful on 19 May 1874. The right to legislative referendum was introduced on this occasion. In 1891, the right of popular initiative of referendum was also introduced. The Constitution of 1874 gave the Federal State powers in relation to civil law, contractual law, worker protection, bank notes and railway legislation in particular.

In the course of time a centralising movement developed. This resulted in the extension of the powers of the Confederation. To confine ourselves to the post-war years, one can cite the powers acquired in the areas of nuclear energy, main roads, town and country planning, environmental protection, scientific research, sex equality, and radio and television. In total one hundred and forty articles had been amended during this period of one hundred and twenty five years.

A movement of parliamentary origin began from about the middle of the 1960s demanding modernisation of this fundamental charter which had over the years been subjected to the irreparable ravages of time. Our old Constitution had known as many face lifts as the singer Cher but with less success, and spare tyres had accumulated with the numerous additional articles, (a), (b), (c), (d) even up to (i)...!

### Objectives of the Reform of 1999

The reform of the Constitution which has been decided on this year aims to make clear the living reality of the Constitution and existing constitutional law, basing itself on a wide political consensus. The lacunae of the constitutional text have been filled up, the drafting improved, the normative density reduced and the language modernised. The reform of the Constitution is also the opportunity to recall the fundamental elements of the Confederation and emphasise that which ensures the cohesion of Switzerland as a nation, issuing from the free decision of its citizens rather than from a common language or a naturally delimited territory. Similarly this reform creates great transparency, indispensable for the good functioning of state institutions and the confidence of citizens in the State.

The reform of the Constitution does not intend simply to limit itself to the arrangement of constitutional law already in force. Certain innovations were judged necessary, in particular with regard to the authorities and citizens' rights, so as to preserve and strengthen the capacity of the State to take decisions and to act, faced with the challenges ahead. The institutions of the Federal State, originating in their fundamental form from the last century, have when taken as a whole given satisfaction. Fundamental changes were not as a consequence proposed. However, certain adaptations were necessary so as to ensure the institutional structure of the State is not subjected to the wear and tear of time.

With these objectives in mind the Government communication on the reform of the Federal Constitution included three objectives: Objective A

entitled federal decision on the updating of the Federal Constitution; Objective B, federal decision on the reform of citizens rights - which has failed, and which proposed in particular the increase in the number of signatures necessary to achieve a referendum or a request for a referendum; and Objective C, federal decision on reform of the judicial system, the fate of which had been decided by Parliament the previous Thursday. The idea of a constitutional jurisdiction has not been retained. The Federal Tribunal, which is our Supreme Court, will no longer be the Court of first instance and a certain limitation in those cases which can be brought before the Supreme Court will allow a reduction in its workload.

The agreed reform thus does not constitute either a total revision in the classical sense of the term, nor a purely formal revision limited to a reformulation of constitutional law in force. The reform proposed brings together an updating of current constitutional law. Even if it does not include significant amendments in all areas, it is nonetheless conceived as an open process which will afterwards allow the integration of further areas of reform.

## **Characteristics of the new Constitution**

The Order, which the people accepted on 18 April, corresponded with the mandate issued by the Federal Assembly twelve years ago. According to its terms the Government had to submit to Parliament a draft new Constitution, updating current constitutional law both written and non-written, rendering it comprehensible, ordering it systematically and unifying both its language and the normative density. The up-dating of the Federal Constitution states the essential characteristics of the Swiss State as the rights of citizens, the rule of law, federalism and the social state. This up-dating takes account of the development of constitutional law. To a significant extent this development has taken place outside the text of the Constitution itself and the jurisprudence of the Federal Tribunal. The practice of Parliament and the Federal Council, as well as the numerous regulations of international law, being of an obligatory character for Switzerland, have during the last decades strongly affected constitutional law. This has particularly been the case for the development of fundamental rights and the general principles of the activity of the State.

## **Parliamentary Debates**

The very principle of constitutional reform has been a matter of controversy in the National Council. A right wing group proposed that it not be discussed,

claiming that the reform was unnecessary and that the text placed far too much emphasis on state regulation and social rights, neglecting the principle of individual responsibility and economic freedom. This proposal, also supported by a small extreme right wing group with xenophobic tendencies, which was also claiming that the text subjected Switzerland to norms of the European Union, was rejected by one hundred and fifty-three votes to ten. One socialist party criticised the weakness of the social rights and the possibility of state intervention in economic affairs, and the absence of an explicit anchoring in the constitutional text of the wish for an integration of Switzerland with the European Union and the United Nations. These proposals have also been rejected.

The Constitution was adopted by the Parliament, as predicted, in the year when Switzerland was commemorating the 150th anniversary of the Federal State. In voting, the National Council adopted the reform by one hundred and thirty-four votes to fourteen and the Council of States voted for it unanimously.

The new Constitution presents constitutional law in force in a more comprehensible language. It is comprehensive and clearly articulated. It takes account of unwritten constitutional law and legal judgements of a constitutional nature. A series of outdated laws have been removed as well as laws which are not worthy of being included within the Constitution. Now the new Constitution expresses the constitutional reality of today and the improvement in the ordering of paragraphs now makes the Constitution resemble a French garden rather, Mr President, than an English garden.

The essential characteristics of the Confederation have been clarified. Direct democracy, federalism, the protection of fundamental rights, the rule of law and the social state make up the distinctive marks of Switzerland today. The new Constitution makes them clearer and expresses a modern understanding of the State. The new Constitution did not limit itself to reproducing the law in force. It also contains significant innovations for which wide political consensus has been obtained in Parliament. It has been the occasion for the introduction of a number of particular reforms which would not have been achieved or not as quickly through the process of partial revision. The new text should constitute an important foundation for other fundamental reforms. These are particularly necessary in the institutional domain - the reform of the justice system which I have already referred to, reform of the state, and financial equalization, in other words the financial relationships between the Confederation and the Cantons. In all these areas the people and the Cantons will vote separately. These proposals are being prepared and when the moment comes could well be integrated into the Federal Constitution.

## Formal amendments

The new Constitution adopts linguistic formulae which correspond to current usage. It avoids as much as possible technical terms and foreign terms. It emphasises a consistency of expression. So as to take account in its language of the equality of sexes, either neutral formulae or a double formula of masculine and feminine is used (consistently in the German text, in the majority of cases in the French and Italian texts).

The new Constitution has a more systematic structure. This structure is clear and each article is given a specific title. The articles are often shorter than in the previous version and organised more comprehensively. The new Constitution aims at completeness. The constitutional status of law is in the final analysis a question of political decision-making. Government and Parliament have proceeded to raise to a constitutional level provisions which currently belong to that merely of law, for example, data protection. By contrast, other constitutional provisions have been "relegated" to a legislative level, for example, the forbidding of absinthe which is a Franco-Swiss beverage from the Neuchâtel Canton or from the "département" of Doubs which up until now had been the subject of a particular article in the Constitution.

## Adaptation to constitutional reality

The constitutional law in force is not only found in the actual text of the Constitution. As I said previously, the jurisprudence of the Federal Tribunal and the practice of authoritative bodies have strongly influenced it. The new text allows account to be taken of this development as well as to fill in existing gaps in the Constitution. At the same time we can respond to questions which have until now remained unanswered. The following comments cover important provisions the constitutional significance of which have been recognised although up until now they had not appeared in the Constitution. For example, in the preamble to the Constitution it stated the responsibility of the Swiss people towards future generations. In the same way the preamble of the new Constitution clearly expresses the responsibility of the Swiss people towards creation, complementing the invocation of God which appears at the head of the current text, "in the name of the all powerful God". Sustainable development has been included as an objective in the preamble and the principle of sustainable development is also included in the actual text of the Constitution in such matters as foreign affairs, town and rural planning, energy and agriculture.



We have an article on the encouragement of equality of opportunity, another article on the respect for international law. The new text requires the Confederation and the Cantons to respect international law. We have a text on individual and social responsibility which specifies the relationship between the individual, society and the State, which underlines the fact that in addition to rights the individual also has responsibilities. We have a very detailed list of fundamental rights in which there appear a number of fundamental principles or related rights, which up until now had been recognised as unwritten constitutional rights. I will spare you the long list in that they are rights which correspond to those recognised in all States governed by the rule of law. One article has made life difficult: that refers to trade union freedoms which include the right to strike and to have a lock-out and which are permissible as a means of last resort in the re-establishment of industrial peace.

With regard to federalism, which is one of the principal characteristics of Switzerland, the beginning of Title III takes account, in depth and in a detailed manner, of the relationship between the Confederation and the Cantons, the principles underlying the distribution of responsibilities between the Confederation and Cantons, and emphasises the partnership between these two entities. An article on the communes and the cities also takes into account both urban conglomerations and the mountain regions.

The new Constitution determines the competence of the Confederation in matters of foreign affairs as well as the rights of the Federal Assembly to participate in external policy, which are expressly mentioned. One particular novelty is the article which concerns the rights of Cantons to participate in the preparation of decisions on foreign affairs when their competence and essential interests are implicated. We have an article on languages, which raises to the constitutional level the rights to language and in particular sets out the issues which form the basis of the principle of the territoriality of languages. We have an article on genetic engineering which forbids cloning. We have for the first time an article on political parties. Even if, up until now, the legislation on proportional representation took as understood their recognition, they henceforth appear explicitly in the Constitution.

**Amongst the significant innovations**, one can cite an article on the integration of the disabled which gives to the Parliament the mandate of combatting discrimination against handicapped people.

With regard to Parliament itself, a second Vice-President is created in each of the Chambers instead of the single Vice-President that currently exists. The right of committees to have decision-making competences but not legislative ones is specified. The departments of Parliament, that is to say, the administra-

tion to which both M<sup>me</sup> HUBER and myself belong, are henceforth under the direction of Parliament and no longer under the Federal Chancellery (which is the Secretariat of the Government). The new Constitution states that one cannot use "official secrets" in response to the inquiries of delegations and scrutiny committees. We also have an article which allows Parliament to evaluate the effectiveness of measures taken by the Confederation.

**Certain provisions which were of a merely legal nature have been elevated to the constitutional level.** I will not mention all of them and refer you to the written text of my communication which has been distributed to you. Certain provisions of an infra-constitutional level have been abandoned, for example those that concern the forbidding of decorations: a citizen cannot receive a foreign decoration or a foreign title. The article which contained this prohibition has been demoted to the merely legislative level.

## The popular vote of 18 April 1999

The work thus debated in Parliament has been submitted to the people in a referendum which was held on 18 April 1999. The result has been 59.2% of favourable votes. Thirteen Cantons have adopted the constitutional text and ten have rejected it. The participation, on what is a very theoretical matter for the great majority of citizens, was only 36%. The significant number of opponents (41%) has created some surprise and in the middle of Sunday afternoon, 18 April, there was a fear at one moment that the text would be rejected. But the three last Cantons to communicate their results were favourable to the text. The campaign has been rather lethargic and conservatives have played upon the fear of the dissolution of Switzerland and a loss of independence. The Suisse romande, Italian Switzerland and the Switzerland of rheto-romanche, as well as the large populous cantons of Zurich, Berne and Basle, approved the new Constitution. By contrast the Cantons of eastern Switzerland and central Switzerland, with the exception of Lucerne, rejected the new text.

This exercise, that is to say, a constitutional reform starting from cold, demonstrates that it is not possible to draft a new fundamental text of this kind in the absence of a grass-roots political movement and a significant historical event. Thus our text does not contain anything revolutionary. Nevertheless the exercise of modernising the Constitution has been worth the effort. Moreover, the triple objective of the reform has been achieved, that is the consolidation of the current situation, the construction of the future and the strengthening of Switzerland (this is what was contained in the constitutional text which I

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distributed to you). The modernised Constitution will be able to enter into force on 1 January 2000.

These, Mr President, are the main characteristics of the new Swiss Federal Constitution."

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Mr DAVIES thanked Mr CLERC for his his very full and interesting presentation on the Swiss constitutional reform and asked him what would have happened if the vote had resulted in a rejection of the proposal.

Mr CLERC said that the possibility of rejection had at no point been envisaged. However, if that had taken place, the Constitution would have continued to be revised through gradual changes. It had to be admitted that a rejection would have constituted a blow to Parliament, the Government and the political parties which had supported the reform. He wondered, however, if Mr DAVIES, was not implying that Switzerland should move away from a written Constitution ...

Mr DAVIES said that he had not wished to make such an implication, and asked what the relationship was between the Constitution and the Confederation on the one hand, and absinthe and the Constitution on the other ...

Mr CLERC said that absinthe was a liquor extracted from a plant. This drink was very widespread in France and in Switzerland in the 19th Century, but as the result of a popular movement, the consuming of absinthe had been forbidden in Switzerland through the means of the Constitution.

Mrs ROBBERS (Netherlands) congratulated Mr CLERC on his communication and asked him for details of the constitutional provisions relating to international treaties and on the existence of specific provisions with regard to the European Union.

Mr CLERC said that with regard to international law, Switzerland was naturally bound by all treaties which it had signed and the international law to which it was party had a superior legal standing to that of national law. In the case of a contradiction between international law and domestic law it was international law which had to be applied. This had been applied, for example, with regard to the status of refugees provided for in the Convention of 1951 and which prevailed over Swiss law with regard to the right of asylum. With regard to the European Union, certain people wished to anticipate the accession of Switzerland to the European Union and mark more clearly in the very text of the

Constitution the will of the Swiss people to participate in the EU. This idea had not been retained because Switzerland is not for the moment a member of the EU. When the time came for accession to the European Union, the question would no doubt be posed again in different terms. That would be the time to see whether certain articles of the Constitution needed to be revised. The possibility of this vote being considered in whatever way as a prelude to accession to the EU had, however, been consciously avoided and those who had wished to make reference to a future accession by Switzerland to the EU had not secured a majority on this point in the Parliament.

Mr McKAY (United Kingdom), having thanked Mr CLERC for his presentation, asked him for more details on article 169 of the Constitution which related to the High Supervision and on the particular delegations of scrutiny committees mentioned in paragraph 2 of that article.

Mr CLERC said that article 169 basically provided for scrutiny by the Federal Assembly of Government and of the administration. In paragraph 2, which was a new paragraph, article 169 stated that official secrets did not constitute a reason which could be used against the inquiries of the scrutiny committees mentioned in law. There existed two permanent scrutiny committees which were the Finance Committee and the Management Committee. And at the heart of each of these two committees there was a joint delegation of the two Chambers consisting of six members, three from the National Council and three from the Council of the States. These parliamentary bodies had respectively the names of Delegation of the Management Committee and Delegation of Finance. A person called to give evidence before a body of this type naturally found themselves, if they were a civil servant, in a situation of conflicting loyalties since on the one hand they were bound by official secrets in relation to their superiors, their minister and their administration, but on the other they had to respond to the questions of these committees. Article 169, paragraph 2, stated in fact that civil servants called to give evidence before the Delegations had to speak the whole truth without being able to invoke any provision of official secrets in order to limit the nature of their evidence. The lifting of official secrets in these cases thus constituted a protection for civil servants. It was also invaluable for parliamentary committees of inquiry which could be established to undertake investigations into particular areas. Over a period of twenty years the Swiss Parliament had created three such committees.

Mrs REYES (Philippines) thanked Mr CLERC for his communication. Referring to article 188 of the Constitution, which related to the role of the Federal Supreme Court, she asked him if the federal judges were elected.

Mr CLERC confirmed the fact that the federal judges were elected by Parliament for a mandate of six years. He said that members of parliament could exercise a right of proposal, each party having the right to a number of judges approximately in proportion to their number of seats. In practice it was members of parliament from the legal professions who examined the curriculum vitae, qualification of candidates and linguistic balance. At the cantonal level the method of nomination could vary. The cantonal judges were often elected by the cantonal parliament and also in certain Cantons by the people, either tacitly or explicitly.

Mrs REYES (Philippines) wondered how independent such judges could be given the nature of their nomination.

Mr CLERC confirmed the independence of the judicial power in relation to the Executive and the Legislature, both at the federal level and at the cantonal level. This mode of nomination had to ensure both a political and linguistic balance. The independence of the judges elected by an absolute majority in Parliament could not be questioned.

Mr MYTTENAERE (Belgium) also thanked Mr CLERC. He wished to obtain more information on the motives of those opposed to the constitutional reform and asked about the existence of an evaluation of the administration and the possible reform of the administration. He asked in particular how 40% of the Swiss population could oppose in a vote this Constitution when it was essentially a text which brought together a whole series of existing provisions. Secondly he asked Mr CLERC to say a few words of explanation about those provisions relating to the Federal Assembly in the new text. He had understood that the Federal Assembly could be associated in important planning undertaken by the State and that it could evaluate the effectiveness of decisions taken by the Government. He wondered how concretely this was put into effect. Mr MYTTENAERE said that he could not end without, in all friendship, addressing a comment to Mr CLERC which was perhaps somewhat acidic. Mr CLERC had quite rightly underlined that the text had as its objective a greater compactness. It had, however, seemed necessary to include a provision providing for the Assembly to be able to appoint a second Vice-President .... Moreover, with regard to article 8, paragraph 3 which affirmed the legal equality of men and women, he wished to know if this meant that henceforth all the Cantons recognised women's right to vote.

Mr CLERC, in response to the latter question, said that the constitutional Federal Tribunal had come to a decision on this matter a number of years ago and invited the last demi-canton which was refusing to change (the Canton of Appenzell) to implement the law on the right to vote for women. With regard to

the motives of those opposing the constitutional reform, he said that speaking personally, he had not understood what could be the basis for such opposition. Some people had thought the text did not have enough reforms included but in essence the opposition was more formal than fundamental, but it was able to excite interest from the media and thus elicit invitations to appear on television. He added that the most serious opposition came from certain conservative groups who were on occasion worried by the spectre of dependence on the decisions of foreign judges.

He then expressed his surprise with regard to Mr MYTTENAERE's remark on the relative unimportance of the constitutional provision relating to the function of a second Vice-President. He did not think this was a minor matter for everyone new that a second Vice-President could become a first Vice-President and then President of the Parliament, which was a very important office. He was, on the contrary, convinced that this embryo President had to be included in the constitutional text in the form of second Vice-President ...

Mr CLERC asked M<sup>me</sup> HUBER if she was willing to respond to the last question from Mr MYTTENAERE, having said that whilst undertaking a reform of the administration and its methods of work, the process of parliamentary scrutiny of the effectiveness of the administration was only in its infancy. He agreed that it was naturally an essential parliamentary responsibility. Returning to the question of international law, he added that the primacy of international law over national law could signify that foreign judges were going to govern Switzerland which would thus lose its independence, but this had to be considered realistically. Similarly the current Constitution included a well-hidden provision on the neutrality of the State but that objective naturally appeared today totally marginal and was not explicitly mentioned in the new text. However, having compared the two versions, some people considered the new text was totally unacceptable.

M<sup>me</sup> HUBER (Switzerland) said that article 170, relating to the evaluation of the effectiveness of measures taken by the Confederation, was a new provision in the Swiss Constitution. Up until now the evaluation had consisted of considering whether the laws had been implemented by the Government in conformity with the wishes of Parliament. To this end Parliament had a small administrative unit of six to eight persons comprising in particular scientific experts who had as their task the evaluation of the reality of implementation of laws by the Government. The provisions relating to planning were also an innovation. Parliament wished henceforth to have greater involvement in such planning, but this provision had not as yet been implemented.

Mr HAHN (Israel) asked Mr CLERC about the conditions for the election and about the duration of the mandate of federal judges as well as the existence of a form of scrutiny of constitutionality.

Mr CLERC said that the federal judges were elected by Parliament for a duration of six years, indefinitely renewable. Up until now there were only two cases where the judges had not been re-elected. He added that reform of the justice system, which would have been the third part of the constitutional reform had not been adopted. There was no system of scrutiny of the constitutionality of laws. With regard to legislative referendum he said that the people were sovereign and that the Supreme Court as a result had to accept the wishes of the people. In the absence of a legislative referendum, a law was applied as it had been adopted by the Federal Assembly. Initially the Government had envisaged a reform of the justice system which would have contained a provision allowing for the introduction of a constitutional opposition with regard to international commitments. However, the parliamentary assemblies did not come to agreement in this matter. In March 2000 the Parliament will examine a minor constitutional revision on this last point but this did not constitute the wider reform of the judicial system which the Parliament had initially envisaged.

Mr SALIM (Nigeria) asked for more information on articles 58 and 59 of the new Constitution which related to questions of defence. With regard to defence of the Cantons, mentioned in article 58-3 and the relations between the Cantons and the federal authorities in the maintenance of order, he wished in particular to know if there existed a possibility of conflict of responsibility.

Mr CLERC said that whereas the police came under the competence of the Cantons the article referred to was concerned with the army rather than the police. He added that in certain cases the army could be brought in to intervene if the police, which were a cantonal resource, were not sufficient, for example, in the organisation of a large international conference in Geneva. As for article 59, it referred to alternative public service. The intention was that those men who did not wish to do military service could ask to do public service instead, for example in the social sector or health sector.

Mrs PONCEAU (France) asked about the motivation for the reclassification of certain matters from the merely legal level to the constitutional level and mentioned in particular the construction of public housing by private individuals.

Mr CLERC said that the former Constitution already contained an article on housing. The reconstruction of public housing by private individuals which up until now was a merely legal matter had been incorporated as a new article in the Constitution.

Mr CORBETT (Canada) said that having quickly gone through all the articles, he could not find anywhere a provision relating to conditions for the revision of the new Constitution and wished therefore to obtain more detail on that subject. He wondered in particular if the constitutional revision could be adopted by a simple majority of Cantons and of people.

Mr CLERC confirmed that to be adopted, constitutional revision had to obtain a double majority, that of the Swiss people who were sovereign and that of the majority of Cantons but it was in fact a simple majority, no qualified majority being provided for. He said that the new Constitution had been adopted by 21% of the Swiss people.

Mr SANTARA (Mali) asked about the "relegation" of certain provisions from the constitutional level to the legislative level. Citing the preamble to the new Constitution which referred to the responsibility of the Swiss people and the Cantons towards creation, he wondered if this principle did not pose a problem to hard-line partisans of the secular state.

Mr CLERC said that some people had thought it important to emphasise the fact that Switzerland was a country of Christian faiths without, however, upsetting those who were secular. The divine invocation had not been suppressed and they had been able to find agreement on the formula which was retained. He added that a Christian party had wished to have another reference nearer to that contained in the Polish Constitution.

With regard to the transfer of laws from the constitutional to the legislative level, he said that the change had been effected without in any way changing the content of the text in force. For example, absinthe remained prohibited in Switzerland but through the legislative means rather than as a result of the constitutional text. In the same way the regulation of road tax discs was henceforth fixed simply by law.

Mr MYTTENAERE (Belgium) asked Mr CLERC about the taking into account of official languages when judges were elected to the Federal Tribunal, mentioned in article 188, and asked for details on the number of official languages.

Mr CLERC said that Switzerland had four official languages. In practice, however, there were only three, Romanche being an official language of somewhat marginal importance. In fact this language, which was spoken by 0.5 per cent of the Swiss population, was not currently used by the administration. No official document was published in Romanche and no requirement was made of the choice of judges to the Federal Tribunal with regard to Romanche. In reality one could at a pinch even say that the Swiss State had in practice only two official languages, French and German, since with regard to Italian it had to be



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recognised that not all administrative documents were published in this latter language.

Mr DAVIES one again thanked Mr CLERC for his very complete and interesting communication. He concluded by underlining one important point in the Swiss constitutional reform which was the making of the parliamentary departments dependent on Parliament itself and no longer on Government. He observed that this advance, which could perhaps be emulated by others in future, would no doubt be envied by those colleagues who did not enjoy such an autonomy in their own parliament.

**Federal Decree  
on a new Federal Constitution**

**of December 18, 1998**

# Federal Decree on a new Federal Constitution

of December 18, 1998

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The Federal Parliament of the Swiss Confederation

on the basis of the message of the Federal Government of November 20, 1996,

decrees:

## I

### Federal Constitution of the Swiss Confederation

of

#### **Preamble**

In the name of God Almighty!

We, the Swiss People and Cantons,

whereas,

we are mindful of our responsibility towards creation;

resolve to renew our alliance to strengthen liberty and democracy, independence and peace in  
solidarity and openness towards the world;

are determined to live our diversity in unity respecting one another;

are conscious of our common achievements and our responsibility towards future generations;

and

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know that only those remain free who use their freedom, and that the strength of a people is measured by the welfare of the weakest of its members;

now, therefore,

we adopt the following Constitution:

## Title 1: General Provisions

### Art. 1 Swiss Confederation

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

### Art. 2 Purpose

<sup>1</sup> The Swiss Confederation shall protect the liberty and the rights of the people, and shall ensure the independence and security of the country.

<sup>2</sup> It shall promote the common welfare, the sustainable development, the inner cohesion, and the cultural diversity of the country.

<sup>3</sup> It shall ensure equal opportunities for all citizens to the extent possible.

<sup>4</sup> It shall strive to secure the long-term preservation of natural resources, and to promote a just and peaceful international order.

### **Art. 3 Cantons**

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

### **Art. 4 National Languages**

The national languages are German, French, Italian, and Romansh.

### **Art. 5 Rule of Law**

<sup>1</sup> The state's activities shall be based on and limited by the Rule of Law.

<sup>2</sup> State activity must be in the public interest and proportional to the goals pursued.

<sup>3</sup> State organs and private persons must act in good faith.

<sup>4</sup> The Confederation and the Cantons shall respect international law.

### **Art. 6 Individual and Social Responsibility**

All persons are responsible for themselves, and shall make use of their abilities to contribute to achieving the goals of state and society.

## **Title 2: Fundamental Rights, Civil Rights and Social Goals**

### **Chapter 1: Fundamental Rights**

#### **Art. 7 Human Dignity**

Human dignity shall be respected and protected.

### **Art. 8 Equality before the Law**

<sup>1</sup> All human beings are equal before the law.

<sup>2</sup> Nobody shall suffer discrimination, particularly on grounds of origin, race, sex, age, language, social position, lifestyle, religious, philosophical or political convictions, or because of a corporal or mental disability.

3 Men and women have equal rights. Legislation shall ensure equality in law and in fact, particularly in family, education, and work. Men and women shall have the right to equal pay for work of equal value.

4 Legislation shall provide for measures to eliminate disadvantages affecting disabled people.

### **Art. 9 Protection against Arbitrariness and Principle of Good Faith**

Every person has the right to be treated by the state organs without arbitrariness and in good faith.

### **Art. 10 Right to Live and Personal Freedom**

<sup>1</sup> Every person has the right to live. The death penalty is prohibited.

<sup>2</sup> Every person has the right to personal liberty, particularly to corporal and mental integrity, and to freedom of movement.

3 Torture and any other cruel, inhuman or degrading treatment or punishment are prohibited.

### **Art. 11 Protection of Children and Young People**

<sup>1</sup> Children and young people have the right to special protection of their integrity and to encouragement of their development.

<sup>2</sup> They may exercise their rights themselves to the extent of their capacity to discern.

### **Art. 12 Right to Aid in Distress**

Persons in distress and incapable of looking after themselves have the right to be helped and assisted, and to receive the means that are indispensable for leading a life in human dignity.

### **Art. 13 Right to Privacy**

<sup>1</sup> All persons have the right to receive respect for their private and family life, home, and secrecy of the mails and telecommunications.

<sup>2</sup> All persons have the right to be protected against the abuse of personal data.

### **Art. 14 Right to Marriage and Family**

The right to marry and to have a family is guaranteed.

### **Art. 15 Freedom of Religion and Philosophy**

<sup>1</sup> The freedom of religion and philosophy is guaranteed.

<sup>2</sup> All persons have the right to choose their religion or philosophical convictions freely, and to profess them alone or in community with others.

<sup>3</sup> All persons have the right to join or to belong to a religious community, and to follow religious teachings.

<sup>4</sup> No person shall be forced to join or belong to a religious community, to participate in a religious act, or to follow religious teachings.

### **Art. 16 Freedom of Opinion and Information**

<sup>1</sup> The freedom of opinion and information is guaranteed.

<sup>2</sup> All persons have the right to form, express, and disseminate their opinions freely.

<sup>3</sup> All persons have the right to receive information freely, to gather it from generally accessible sources, and to disseminate it.

**Art. 17 Freedom of the Media**

<sup>1</sup> The freedom of the press, radio and television, and of other forms of public telecasting of productions and information is guaranteed.

<sup>2</sup> Censorship is prohibited.

<sup>3</sup> Editorial secrecy is guaranteed.

**Art. 18 Freedom of Language**

The freedom of language is guaranteed.

**Art. 19 Right to Primary Education**

The right to sufficient and free primary education is guaranteed.

**Art. 20 Freedom of Science**

The freedom of scientific research and teaching is guaranteed.

**Art. 21 Freedom of Art**

The freedom of art is guaranteed.

**Art. 22 Freedom of Assembly**

<sup>1</sup> The freedom of assembly is guaranteed.

<sup>2</sup> Every person has the right to organize assemblies, to participate in them or to stay away from them.

**Art. 23 Freedom of Association**

<sup>1</sup> The freedom of association is guaranteed.

<sup>2</sup> Every person has the right to form associations, to join or to belong to them, and to participate in their activities.



<sup>3</sup> No person shall be forced to join or to belong to an association.

**Art. 24 Freedom of Domicile**

<sup>1</sup> Swiss citizens have the right to establish their domicile anywhere within the country.

<sup>2</sup> They have the right to leave or to return to Switzerland.

**Art. 25 Protection against expulsion, extradition, and removal by force**

<sup>1</sup> Swiss citizens may not be expelled from the country; they may be extradited to a foreign authority only with their consent.

<sup>2</sup> Refugees may not be removed by force or extradited to a state in which they are persecuted.

<sup>3</sup> No person shall be removed by force to a state where he or she is threatened by torture, or another means of cruel and inhuman treatment or punishment.

**Art. 26 Right to property**

<sup>1</sup> The right to property is guaranteed.

<sup>2</sup> Expropriation and restrictions of ownership equivalent to expropriation shall be fully compensated.

**Art. 27 Economic Freedom**

<sup>1</sup> Economic freedom is guaranteed.

<sup>2</sup> It contains particularly the freedom to choose one's profession, and to enjoy free access to and free exercise of private economic activity.

**Art. 28 Freedom to Unionize**

<sup>1</sup> Workers, employers, and their organizations have the right to unionize for the defense of their interests, to form unions and to join them or to keep out of them.

<sup>2</sup> Conflicts shall be resolved to the extent possible through negotiation and mediation.

<sup>3</sup> Strike and lockout are permitted when they relate to labor relations, and when they are not contrary to obligations to keep labor peace or to resort to conciliation.

<sup>4</sup> Legislation may prohibit certain categories of persons from striking.

#### **Art. 29 General Procedural Guarantees**

<sup>1</sup> Every person has the right in legal or administrative proceedings to have the case treated equally and fairly, and judged within a reasonable time.

<sup>2</sup> The parties have the right to be heard.

<sup>3</sup> Every person lacking the necessary means has the right to free legal assistance, unless the case appears to be without any chance of success. The person has moreover the right to free legal representation, to the extent that this is necessary to protect the person's rights.

#### **Art. 30 Judicial Proceedings**

<sup>1</sup> Every person whose case must be judged in judicial proceedings has the right to have this done by a court that is established by law, has jurisdiction, and is independent and impartial. Exceptional tribunals are prohibited.

<sup>2</sup> A person against whom a civil action is brought has the right to have the case heard before the court at the person's domicile. Legislation may provide for another jurisdiction.

<sup>3</sup> The court hearing shall be public, and the judgment shall be publicly proclaimed. Legislation may provide for exceptions.

#### **Art. 31 Habeas Corpus**

<sup>1</sup> No person may be deprived of liberty except in the cases and in the forms provided by statute.

<sup>2</sup> All persons deprived of their liberty have the right to be informed immediately, and in a language that they understand, of the reasons for their detention, and of their rights. They must have

the opportunity to assert their rights. In particular, they have the right to have their close relatives informed.

<sup>3</sup> Every person taken into preventive detention has the right to be brought before a judge without delay; the judge shall decide whether the person shall remain in detention or shall be released. Every person in preventive detention has the right to be judged within a reasonable time.

<sup>4</sup> All persons who are deprived of their liberty without a trial have the right to seize a court at any time. The court shall decide as soon as possible whether the detention is legal.

### **Art. 32 Criminal procedure**

<sup>1</sup> Every person shall be presumed innocent until the person is subject to a condemnation having force of law.

<sup>2</sup> Every accused person has the right to be informed as soon as possible and in full detail of the accusations. The person must have the opportunity to exercise its means of defense.

<sup>3</sup> Every condemned person has the right to have the judgment reviewed by a higher court. The cases where the Federal Supreme Court sits as a court of sole instance are reserved.

### **Art. 33 Right of Petition**

<sup>1</sup> Every person has the right to address petitions to authorities without suffering prejudice.

<sup>2</sup> The authorities must take cognizance of petitions.

### **Art. 34 Political Rights**

<sup>1</sup> The political rights are guaranteed.

<sup>2</sup> The guarantee of political rights protects the free formation of opinion by the citizens and the unaltered expression of their will.

### **Art. 35 Realization of Fundamental Rights**

<sup>1</sup> The fundamental rights shall be realized in the entire legal system.

2 Whoever exercises a function of the state must respect the fundamental rights and contribute to their realization.

3 The authorities shall ensure that the fundamental rights also be respected in relations among private parties whenever the analogy is applicable.

### **Art. 36 Limitations of Fundamental Rights**

<sup>1</sup> Any limitation of a fundamental right requires a legal basis. Grave limitations must be expressly foreseen by statute. Cases of clear and present danger are reserved.

2 Any limitation of a fundamental right must be justified by public interest, or serve for the protection of fundamental rights of other persons.

3 Limitations of fundamental rights must be proportionate to the goals pursued.

<sup>4</sup> The essence of fundamental rights is inviolable.

## **Chapter 2: Citizenship and Political Rights**

### **Art. 37 Citizenships**

<sup>1</sup> Every person who has the citizenship of a Municipality and of the Canton, to which it belongs has Swiss citizenship.

<sup>2</sup> No person shall enjoy a privilege or suffer prejudice because of his or her citizenship. Exceptions are possible to regulate political rights in bourgeoisies and corporations, and provide for participation in their assets, unless cantonal legislation excludes this.

**Art. 38 Acquisition and Loss of Citizenship**

<sup>1</sup> The Confederation shall regulate the acquisition and the loss of citizenship through descent, marriage and adoption. Moreover, it shall regulate the loss of Swiss citizenship on other grounds, and the reinstatement of citizenship.

<sup>2</sup> It shall set minimum requirements for the naturalization of foreigners by the Cantons, and grant naturalization permits.

<sup>3</sup> It shall facilitate the naturalization of stateless children.

**Art. 39 Exercise of Political Rights**

<sup>1</sup> The Confederation shall regulate the exercise of political rights in federal matters; the Cantons shall regulate the exercise of these rights in cantonal and municipal matters.

<sup>2</sup> The political rights shall be exercised at the domicile. The Confederation and the Cantons may foresee exceptions.

<sup>3</sup> No person shall exercise political rights in more than one Canton.

<sup>4</sup> The Cantons may provide that new domiciliaries may exercise political rights in cantonal and municipal matters, only once a waiting period of no more than three months has been observed.

**Art. 40 Swiss citizens domiciled abroad**

<sup>1</sup> The Confederation shall encourage links amongst Swiss citizens domiciled abroad, and their links with Switzerland. It may support organizations which pursue this goal.

<sup>2</sup> It shall legislate on the rights and obligations of Swiss citizens domiciled abroad, in particular on the exercise of the political rights on the federal level, the duty to render military or alternative service, assistance to needy persons, and social security.

## Chapter 3: Social Goals

### Art. 41

<sup>1</sup> The Confederation and the Cantons shall strive to ensure that, in addition to personal responsibility and private initiative,

- a. every person shall benefit from social security;
- b. every person shall benefit from necessary health care;
- c. the family as a community of adults and children shall be protected and encouraged;
- d. every person capable of working shall sustain himself or herself through working under fair and adequate conditions;
- e. every person looking for housing shall find, for himself or herself and his or her family, appropriate housing at reasonable conditions;
- f. children and young people and people of working age shall benefit from initial and continuing education according to their abilities;
- g. children and young people shall be encouraged in their development to become independent and socially responsible persons, and they shall be supported in their social, cultural, and political integration.

2 The Confederation and the Cantons shall strive to ensure that every person shall be insured against the economic consequences of old age, disability, illness, accidents, unemployment, raterernity, orphanhood, and widowhood.

3 They shall strive to realize the social goals within the framework of their constitutional powers and with the means available to them.

4 No direct subjective right to prestations by the state may be derived from the social goals.

## **Title 3: Confederation, Cantons, and Municipalities**

### **Chapter 1: Relationship between the Confederation and the Cantons**

#### **Section 1: Tasks of the Confederation and the Cantons**

##### **Art. 42 Tasks of the Confederation**

<sup>1</sup> The Confederation shall accomplish the tasks which are attributed to it by the Constitution.

<sup>2</sup> It shall assume the tasks which require uniform regulation.

##### **Art. 43 Tasks of the Cantons**

The Cantons shall define the tasks which they shall accomplish within the framework of their powers.

#### **Section 2: Cooperation between the Confederation and the Cantons**

##### **Art. 44 Principles**

<sup>1</sup> The Confederation and the Cantons shall collaborate, and shall support each other in the fulfillment of their tasks.

<sup>2</sup> They owe each other mutual consideration and support. They shall grant each other administrative and judicial assistance.

<sup>3</sup> Disputes between Cantons, or between Cantons, and the Confederation shall, to the extent possible, be resolved through negotiation or mediation.

##### **Art. 45 Participation in Federal Decision Making**

<sup>1</sup> In the cases foreseen by the Federal Constitution, the Cantons shall participate in the decision-making process on the federal level, in particular in federal legislation.

<sup>2</sup> The Confederation shall inform the Cantons timely and fully of its plans; it shall consult them if their interests are involved.

#### **Art. 46 Implementation of Federal Law**

<sup>1</sup> The Cantons shall implement federal law in conformity with the Constitution and the statute.

<sup>2</sup> The Confederation shall leave the Cantons as large a space of action as possible, and shall take their particularities into account.

<sup>3</sup> The Confederation shall take into account the financial burden that is associated with implementing federal law by leaving sufficient sources of financing to the Cantons, and by ensuring an equitable financial equalization.

#### **Art. 47 Autonomy of the Cantons**

The Confederation shall respect the autonomy of the Cantons.

#### **Art. 48 Intercantonal Treaties**

<sup>1</sup> The Cantons may enter into intercantonal treaties, and may create common organizations and institutions. They may, in particular, join forces to fulfill tasks of regional interest.

<sup>2</sup> The Confederation may participate in such organizations or institutions within the limits of its powers.

<sup>3</sup> Intercantonal treaties may not be contrary to the law or the interests of the Confederation, nor to the rights of other Cantons. The Confederation must be notified of such treaties.

#### **Art. 49 Supremacy of and Respect for Federal Law**

<sup>1</sup> Federal law takes precedence over contrary cantonal law.

<sup>2</sup> The Confederation shall ensure that the Cantons respect federal law.



### Section 3: Municipalities

#### Art. 50

<sup>1</sup> The autonomy of the Municipalities is guaranteed within the limits fixed by cantonal law.

<sup>2</sup> In its activity, the Confederation shall take into account the possible consequences for the Municipalities.

<sup>3</sup> In particular, it shall take into account the special situation of cities, agglomerations, and mountainous regions.

### Section 4: Federal Guarantees

#### Art. 51 Cantonal Constitutions

<sup>1</sup> 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 people so requires.

<sup>2</sup> The cantonal constitutions must be guaranteed by the Confederation. The Confederation shall grant this guarantee, if the constitutions are not contrary to federal law.

#### Art. 52 Constitutional Order

<sup>1</sup> The Confederation shall protect the constitutional order of the Cantons.

<sup>2</sup> It shall intervene if the inner order of a Canton is disturbed or threatened and cannot be protected by the Canton alone or with the help of other Cantons.

#### Art. 53 Existence and Territory of the Cantons

<sup>1</sup> The Confederation shall protect the existence and the territory of the Cantons.

<sup>2</sup> Modifications of the number of the Cantons, of the Cantons or their status are subject to the assent of the population concerned, of the Cantons concerned, and of the People and the Cantons.

<sup>3</sup> Modifications of the territory of a Canton are subject to the assent of the population concerned, of the Cantons concerned, and the assent of the Federal Parliament in the form of a federal decree.

<sup>4</sup> Intercantonal boundary settlements may be made by treaty between the Cantons concerned.

## Chapter 2: Powers

### Section 1: Relations with foreign countries

#### Art. 54 Foreign Relations

<sup>1</sup> Foreign Relations are a federal matter.

<sup>2</sup> The Confederation shall strive to preserve the independence of Switzerland and its welfare; it shall, in particular, contribute to alleviate need and poverty in the world, and to promote respect for human rights, democracy, the peaceful coexistence of nations, and the preservation of natural resources.

<sup>3</sup> It shall take into consideration the powers of the Cantons, and shall protect their interests.

#### **Art. 55 Participation of the Cantons in Decisions of Foreign Policy**

<sup>1</sup> The Cantons shall participate in the preparation of decisions of foreign policy which concern their powers or their essential interests.

<sup>2</sup> The Confederation shall inform the Cantons timely and fully, and consult them.

<sup>3</sup> The position of the Cantons shall have particular weight when their powers are concerned. In these cases, the Cantons shall participate in international negotiations as appropriate.

## Art. 56 Relations between the Cantons and Foreign Countries

<sup>1</sup> The Cantons may conclude treaties with foreign countries within the scope of their powers.

<sup>2</sup> 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.

<sup>3</sup> The Cantons may deal directly with lower ranking foreign authorities; in other cases, the relations of the Cantons with foreign countries shall be conducted by the Confederation acting on their behalf.

## Section 2: Security, National and Civil Defense

### Art. 57 Security

<sup>1</sup> The Confederation and the Cantons shall ensure, within the framework of their powers, the security of the country and the protection of the population.

<sup>2</sup> They shall coordinate their efforts in the field of inner security.

### Art. 58 Army

<sup>1</sup> Switzerland shall have an army. The army shall be organized, in principle, as a militia.

<sup>2</sup> The army shall contribute to prevent war and to maintain peace; it shall defend the country and protect its population. It shall lend support to the civil authorities when they must repel serious threats to internal security or master other exceptional circumstances. The statute may provide for further tasks.

<sup>3</sup> The use of the army is a federal matter. The Cantons may engage their troops to maintain public order on their territory, if the means of the civil authorities no longer suffice to repel serious threats to inner security.

### **Art. 59 Military and Alternative Service**

<sup>1</sup> Every Swiss man must render military service. The statute shall provide for an alternative service.

<sup>2</sup> For Swiss women, military service is voluntary.

<sup>3</sup> Swiss men who render neither military nor alternative service owe a tax. The tax is levied by the Confederation and is assessed and collected by the Cantons.

<sup>4</sup> The Confederation shall legislate on fair compensation for loss of income.

<sup>5</sup> Those who render military or alternative service and thereby suffer health impairment or lose their lives, have the right for themselves or their relatives to adequate support by the Confederation.

### **Art. 60 Organisation, Instruction, and Equipment of the Army**

<sup>1</sup> Legislation on the military and on the organization, the instruction, and the equipment of the army, is a federal matter.

<sup>2</sup> Within the limits of federal law, the Cantons shall have the power to form cantonal troops, to appoint and to promote officers of such troops, and to furnish a part of their clothing and equipment.

<sup>3</sup> The Confederation may take over military installations of the Cantons against fair compensation.

### **Art. 61 Civil defense**

<sup>1</sup> Legislation on civil defense is a federal matter; civil defense has the purpose of protecting persons and property against the consequences of armed conflicts.

<sup>2</sup> The Confederation shall legislate on the intervention of civil defense in catastrophes and emergencies.

<sup>3</sup> The Confederation may make the civil defense service compulsory for men. For women, it shall be voluntary.

<sup>4</sup> The Confederation shall legislate on fair compensation for loss of income.

<sup>5</sup> Those who render civil defense service and thereby suffer health impairment or lose their lives, have the right for themselves or their relatives to adequate support by the Confederation.

### Section 3: Education, Research, and Culture

#### Art. 62 Education

<sup>1</sup> Education is a cantonal matter.

2 The Cantons shall ensure a sufficient primary education open to all children. This education shall be compulsory, and shall be placed under state direction or supervision. It shall be free in public schools. The school year shall begin between mid-August and mid-September.

#### Art. 63 Professional Education and Universities

<sup>1</sup> The Confederation shall legislate on professional education.

2 It shall operate technical universities. It may create, operate, or support other universities and institutions of higher learning. It may make its support conditional upon taking coordination measures.

#### Art. 64 Research

<sup>1</sup> The Confederation shall encourage scientific research.

2 It may make its support conditional, in particular, upon taking coordination measures.

<sup>3</sup> It may create, take over, or operate research institutions.

### **Art. 65 Statistics**

<sup>1</sup> The Confederation shall collect the necessary statistical data on the status and evolution of the population, the economy, the society, the territory, and the environment in Switzerland.

<sup>2</sup> To facilitate the collection of data, it may legislate on harmonizing and keeping official registers.

### **Art. 66 Support of Education**

<sup>1</sup> The Confederation may grant subsidies to the Cantons for the expenses that they may incur for scholarships and for other assistance towards education.

<sup>2</sup> It may, moreover, complement cantonal measures while respecting cantonal autonomy in school matters, and take its own measures to encourage education.

### **Art. 67 Education of Young People and Adults**

<sup>1</sup> 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.

<sup>2</sup> The Confederation may complement cantonal measures and support the extra-curricular work with children and young people and the education of adults.

### **Art. 68 Sport**

<sup>1</sup> The Confederation shall promote sport, particularly sport education.

<sup>2</sup> It shall operate a sport school.

<sup>3</sup> It may legislate on youth sport, and may make sport education in schools compulsory.

### **Art. 69 Culture**

<sup>1</sup> The field of culture is a cantonal matter.

<sup>2</sup> The Confederation may support cultural activities of national interest, and encourage art and music, in particular in the field of education.

<sup>3</sup> In accomplishing its tasks, it shall take into account the cultural and linguistic diversity of the country.

## **Art. 70 Languages**

<sup>1</sup> The official languages of the Confederation are German, French, and Italian. Romansh shall be an official language for communicating with persons of Romansh language.

<sup>2</sup> The Cantons shall designate their official languages. In order to preserve harmony between linguistic communities, they shall respect the traditional territorial distribution of languages, and take into account the indigenous linguistic minorities.

<sup>3</sup> The Confederation and the Cantons shall encourage understanding and exchange between the linguistic communities.

<sup>4</sup> The Confederation shall support the plurilingual Cantons in the fulfillment of their particular tasks.

<sup>5</sup> The Confederation shall support the measures taken by the Cantons of Grisons and Ticino to maintain and to promote Romansh and Italian.

## **Art. 71 Film**

<sup>1</sup> The Confederation may encourage Swiss film production and film culture generally.

<sup>2</sup> It may legislate to encourage the variety and quality of cinematographic works offered.

## **Art. 72 Church and State**

<sup>1</sup> The regulation of the relationship between church and state is a cantonal matter.

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

3 No diocese may be set up without the consent of the Confederation.

## **Section 4: Environment and Zoning**

### **Art. 73 Sustainable Development**

The Confederation and the Cantons shall strive to establish a durable equilibrium between nature, in particular its capacity to renew itself, and its use by man.

### **Art. 74 Protection of the Environment**

<sup>1</sup> The Confederation shall legislate on the protection of man and the natural environment against harm and nuisance.

<sup>2</sup> It shall ensure that such influences are avoided. The polluters shall pay for the costs of avoidance and removal.

<sup>3</sup> The federal regulations shall be implemented by the Cantons, insofar as the statute does not reserve this for the Confederation.



## Art. 75 Zoning

<sup>1</sup> The Confederation shall establish principles on zoning. Zoning falls to the Cantons, and shall serve to achieve an appropriate and moderate use of the land and its ordered inhabitation.

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 zoning into account.

## Art. 76 Water

<sup>1</sup> Within the limits of its powers, the Confederation shall ensure the moderate use and the protection of water resources, and fight against harmful effects of water.

<sup>2</sup> It shall establish principles on the preservation and use of water reserves, on the use of water for the production of energy and for cooling purposes, and on other interventions into 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 interventions to influence precipitation.

<sup>4</sup> The Cantons shall dispose of their 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 traffic enterprises; it shall pay dues and compensation for this.

<sup>5</sup> On rights concerning international water resources and dues connected with them, the Confederation shall decide in consultation with the Cantons concerned. If the Cantons concerned cannot agree on rights to intercantonal water reserves, the Confederation shall decide.

<sup>6</sup> In fulfilling its tasks, the Confederation shall take into account the interests of the Cantons from which the water originates.

## Art. 77 Forests

<sup>1</sup> 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.

## Art. 78 Nature and Cultural Heritage

<sup>1</sup> The protection of nature and cultural heritage is a cantonal matter.

2 In fulfilling its tasks, the Confederation shall take into account the objectives of the protection of nature and cultural heritage. It shall protect scenery, localities, historical sites, and natural and cultural monuments; it shall preserve them untouched if public interest so requires.

3 It may support efforts towards the protection of nature and cultural heritage, and may, by contract or by expropriation, acquire or secure objects of national importance .

<sup>4</sup> It shall legislate on the protection of animal and plant life, and on the preservation of their natural environment and multiplicity. It shall protect endangered species from extinction.

5 Moors and marshland of special beauty and national importance shall be protected. No installations may be built on them, and no alterations of any kind may be made to the land. An exception is made for installations serving to ensure their protection or continuation of existing agricultural use.

### **Art. 79 Fishery and Hunting**

The Confederation shall establish principles on the exercise of fishery and hunting, in particular to preserve multiplicity of fish, game, and birds.

### **Art. 80 Protection of Animals**

<sup>1</sup> The Confederation shall legislate on the protection of animals.

<sup>2</sup> It shall regulate in particular:

- a. the keeping and care of animals;
- b. experiments and intervention on live animals;
- c. the use of animals;
- d. the importation of animals and animal products;
- e. trade in animals and transportation of animals;
- f. the slaughter of animals.

<sup>3</sup> The federal regulations shall be implemented by the Cantons, insofar as the statute does not reserve this for the Confederation.

## **Section 5: Public Works and Transportation**

### **Art. 81 Public Works**

In the interest of Switzerland or a large part of the country, the Confederation may build and operate public works, or promote the realization of such works.

### **Art. 82 Road Traffic**

<sup>1</sup> The Confederation shall legislate on road traffic.

<sup>2</sup> It exercises high 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 Parliament may authorize exceptions.

### **Art. 83 National Highways**

<sup>1</sup> The Confederation shall ensure the construction of a network of national highways and the utilization of these highways.

<sup>2</sup> The Cantons shall build and maintain their national highways according to the rules established by the Confederation and under its high supervision.

3 The Confederation and the Cantons shall bear the costs of the national highways jointly. The costs to be borne by each Canton shall be allocated by taking into account the burden falling on them due to the national highways, their interest in these highways, and their financial resources.

### **Art. 84 Alpine Transit**

<sup>1</sup> The Confederation shall protect the alpine regions from the negative effects of transit traffic. It shall limit the nuisance caused by such traffic to a level which is not harmful to persons, animals, or plants, or their environment.

<sup>2</sup> Transalpine freight in border-to-border transit shall be transported by rail. The Federal Government shall take the necessary measures. Exceptions shall be permitted only if they are inevitable. They shall be specified by statute.

3 The capacity of transit roads in the alpine regions may not be increased, except for bypass roads to relieve the pressure of through-traffic in towns and villages.

## Art. 85 Charge on Heavy Goods Traffic

<sup>1</sup> The Confederation may levy a charge on heavy goods traffic related to motor power or consumption. The charge may only be levied to the extent to which heavy goods traffic creates public costs which are not already covered by other contributions or charges.

<sup>2</sup> The net revenue from the charge shall be used to cover costs in connection with road traffic.

<sup>3</sup> The Cantons shall receive portions of the net revenue from the charge. These portions shall be calculated by taking into account the specific repercussions of the charge in mountainous and remote regions.

## Art. 86 Motor Fuels Consumption Tax and other Traffic Charges

<sup>1</sup> The Confederation may raise a consumption tax on motor fuels.

<sup>2</sup> It shall raise a tax on the use of national highways by motor vehicles and trailers which are not subject to the heavy goods traffic charge.

<sup>3</sup> It shall use half of the net revenue from the motor fuels consumption tax and the net revenue from the national highway tax for the following purposes and costs in connection with road traffic:

- a. Construction, maintenance, and operation of national highways;
- b. Measures to promote combined traffic and traffic of accompanied road vehicles, or to separate railway traffic from road traffic;
- c. Contributions towards the construction of main roads;
- d. Contributions towards the construction of works of protection against natural elements, and towards measures of protection of the environment and scenery made necessary by road traffic;

- e. General participation in the financing by the Cantons of highways open to motor vehicles and to equalization of financial charges in the field of roads;
- f. Contributions to the Cantons without national highways, and to Cantons with alpine roads serving international traffic.

4 If these means are insufficient, the Confederation shall raise a surtax on the motor fuels consumption tax.

#### **Art. 87 Rail Traffic and further Means of Traffic**

The legislation on rail traffic, cable cars, navigation, aviation, and space travel is a federal matter.

#### **Art. 88 Footpaths and Hiking Trails**

<sup>1</sup> The Confederation shall establish principles on networks of footpaths and hiking trails.

<sup>2</sup> It may support measures of the Cantons to establish and keep such networks, and to coordinate them.

3 In fulfilling its tasks, it shall take into account networks of footpaths and hiking trails, and shall replace paths and trails that it must close.

## Section 6: Energy and Communication

### Art. 89 Energy Policy

<sup>1</sup> Within their powers, the Confederation and the Cantons shall strive to ensure a sufficient, diversified, reliable, and economical energy supply compatible with the protection of the environment, and the economical and efficient use of energy.

<sup>2</sup> The Confederation shall establish principles on the use of domestic and renewable energy, and the economical and efficient use of energy.

<sup>3</sup> The Confederation shall legislate on the use of energy for installations, vehicles, and appliances. It shall promote the development of energy techniques, particularly in the fields of energy saving and renewable energy.

<sup>4</sup> Measures concerning the use of energy in buildings are primarily a cantonal matter.

<sup>5</sup> In its energy policy, the Confederation shall take into account the efforts of the Cantons, of the Municipalities, and of economic circles; it shall take into account the conditions in the various regions, and the limitations of what is economically feasible.

### Art. 90 Nuclear Energy

Legislation in the field of nuclear energy is a federal matter.

### Art. 91 Transportation of Energy

<sup>1</sup> The Confederation shall legislate on the transportation and the supply of electricity.

<sup>2</sup> Legislation on pipelines for the transport of liquid or gaseous fuels is a federal matter.

## **Art. 92 Postal and Telecommunication Services**

<sup>1</sup> Postal and telecommunication services are a federal matter.

<sup>^</sup> The Confederation shall ensure sufficient and reasonable basic postal and telecommunication services in all regions. The rates shall be fixed according to uniform principles.

## **Art. 93 Radio and Television**

<sup>1</sup> Legislation on radio and television and other forms of public telecasting of features and information is a federal matter.

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

<sup>3</sup> The independence of radio and television and the autonomy of their programming are guaranteed.

<sup>4</sup> The situation and the role of other media, in particular the press, shall be taken into account.

<sup>5</sup> It shall be possible to submit complaints about programs to an independent authority.

## **Section 7: Economy**

### **Art. 94 Principles of Economic Order**

<sup>1</sup> The Confederation and the Cantons shall respect the principle of economic freedom.

<sup>2</sup> They shall safeguard the interests of the national economy and, together with the private sector of the economy, contribute to the welfare and economic security of the population.



<sup>3</sup> Within the limits of their powers, they shall strive to create favorable conditions for the private sector of the economy.

<sup>4</sup> Derogations from the principle of economic freedom, in particular measures against competition, shall be allowed only if foreseen by the Federal Constitution or based on cantonal monopolies.

#### **Art. 95 Private Economic Activity**

<sup>1</sup> The Confederation may legislate on the exercise of private economic activity.

<sup>2</sup> It shall strive to create a unified Swiss economic area. It shall guarantee that persons having a university education or a federal or cantonal education certificate or an education certificate recognized by a Canton may exercise their profession throughout Switzerland.

#### **Art. 96 Competition Policy**

<sup>1</sup> The Confederation shall legislate to fight against economically or socially damaging effects of cartels and other restrictions of competition.

<sup>2</sup> It shall take measures

- a. to prevent abuses in price fixing by enterprises and organizations of private and public law enjoying a dominant position on the market;
- b. against unfair competition.

## Art. 97 Consumer Protection

<sup>1</sup> The Confederation shall take measures for consumer protection.

<sup>2</sup> It shall legislate on the 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.

<sup>3</sup> The Cantons shall provide a conciliation procedure or a simple and speedy judicial procedure for cases below a certain value in dispute. The Federal Government shall establish this value.

## Art. 98 Banking and Insurance

<sup>1</sup> The Confederation shall legislate on banking and stock exchanges; it shall take into account the specific task and position of the cantonal banks.

<sup>2</sup> It may legislate on financial services in other fields.

<sup>3</sup> It shall legislate on private insurance.

## Art. 99 Monetary Policy

<sup>1</sup> Money and currency are a federal matter. The Confederation shall have the exclusive right to coin money and to issue bank notes.

<sup>2</sup> As an independent central bank, the Swiss National Bank shall follow a monetary policy which serves the general interest of the country; it shall be administered with the cooperation and under the supervision of the Confederation.

<sup>3</sup> The Swiss National Bank shall create sufficient monetary reserves from its profits; a part of these reserves shall be held in gold.

<sup>4</sup> At least two thirds of the net profits of the Swiss National Bank shall be credited to the Cantons.

## **Art. 100 Policy on Economic Development**

<sup>1</sup> The Confederation shall take measures to ensure a balanced economic development and, in particular, to prevent and fight unemployment and inflation.

<sup>2</sup> It shall take into account the economic development of the various regions. It shall cooperate with the Cantons and the economic circles.

<sup>3</sup> 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.

<sup>4</sup> In their budgetary policy, the Confederation, Cantons and Municipalities shall take into account the economic development.

<sup>5</sup> In order to stabilize the economy, the Confederation may temporarily levy surcharges, or grant rebates on federal taxes and dues. The accumulated funds shall be frozen; after their release, direct surcharges shall be individually reimbursed, and indirect surcharges shall be used to grant rebates or to create employment.

<sup>6</sup> The Confederation may oblige businesses to accumulate reserves for the creation of employment; for this purpose, it shall grant tax privileges, and may also oblige Cantons to grant such privileges. After the release of the reserves, the businesses shall be free to decide how to use them within the purposes prescribed by statute.

## **Art. 101 Foreign Trade**

<sup>1</sup> The Confederation shall safeguard abroad the interests of the Swiss economy.

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

### **Art. 102 Supply of Essential Goods and Services**

<sup>1</sup> The Confederation shall ensure the country's supply of essential goods and services in case of threats of military or economic war, or of severe shortages which the economy cannot counteract by itself. It shall take provisional measures.

<sup>2</sup> It may, if necessary, depart from the principle of economic freedom.

### **Art. 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 are insufficient to ensure their existence. It may, if necessary, depart from the principle of economic freedom.

### **Art. 104 Agriculture**

<sup>1</sup> The Confederation shall ensure that agriculture contributes substantially by way of a sustainable and market-oriented production

- a. to the secure provisioning of the population;
- b. to the conservation of national resources and the upkeep of rural scenery;
- c. to a decentralized inhabitation of the country.

<sup>2</sup> In addition to the measures of self-help that may reasonably be expected from agriculture and, if necessary, in derogation of the principle of economic freedom, the Confederation shall promote farms cultivating the land.

3 It shall conceive the measures in such a way that agriculture may fulfill its multiple functions.

Its powers and tasks shall particularly be the following:

- a. It shall complement agricultural revenues by direct payments, to secure a fair and adequate remuneration for the services rendered, provided that compliance with ecological requirements is proven;
- b. It shall promote, by way of economic incentives, forms of production which are particularly close to nature and friendly to the environment and the animals;
- c. It shall legislate on the declaration of origin, quality, production and processing methods 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, counseling, and education, and subsidize investments;
- f. It may legislate on the consolidation of rural property.

<sup>4</sup> To these ends it shall invest dedicated funds from the agricultural field and general federal funds.

### **Art. 105 Alcohol**

The legislation on the production, the importation, the refining, and the sale of distilled spirits is a federal matter. The Confederation shall, in particular, take into account the harmful effects of the consumption of alcohol.

## **Art. 106 Gambling**

<sup>1</sup> Legislation on gambling and lotteries is a federal matter.

<sup>2</sup> A federal license is required to establish and run a gambling casino. When issuing a federal license, the Confederation shall take into account regional circumstances and the dangers of gambling.

<sup>3</sup>\* The Confederation shall levy from casinos a tax on their revenues; this tax shall not exceed 80 percent of the gross revenues from gambling. It shall be used to cover the federal subsidy to old age, survivors', and disability insurance.

<sup>4</sup> The licensing of gambling machines involving an element of skill and where money can be won is a cantonal matter.

## **Art. 107 Weapons and Military Material**

<sup>1</sup> The Confederation shall legislate on the misuse of weapons, associated equipment, and ammunition.

<sup>2</sup> It shall legislate on the production, acquisition, distribution, importation, exportation, and transit of military material.

## **Section 8: Housing, Work, Social Security and Health**

### **Art. 108 Promotion of Construction and Ownership of Housing**

<sup>1</sup> The Confederation shall encourage the construction and the ownership of housing for private persons' own use, and the activity of developers and organisations for social housing.

<sup>2</sup> It shall promote, in particular, the acquisition and development of land, the efficiency of construction, and the reduction of construction and housing costs.

<sup>3</sup> It may legislate on the development of land for the construction of housing, and on efficiency in construction.

<sup>4</sup> In fulfilling this task, it shall, in particular, take into account the interests of families and elderly, needy, and disabled persons.

#### **Art. 109 Landlord and Tenant**

<sup>1</sup> The Confederation shall issue regulations against abuses in the field of landlord and tenant, particularly against abusive rent, on avoiding abusive notices of termination, and on the limited extension of tenancies.

<sup>2</sup> 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.

#### **Art. 110 Labor**

<sup>1</sup> The Confederation may legislate on:

- a. the protection of employees;
- b. the relationship between employees and employers, in particular the common regulation of matters concerning an enterprise or a trade;
- c. placement services;
- d. conferring generally binding effect on collective labor contracts.

<sup>2</sup> Collective labor contracts may receive generally binding effect only if they take fairly into account justified minority interests and regional differences, and respect the principle of equality before the law and the freedom to unionize.

<sup>3</sup> August 1 is the Federal National Day. In labor law, it is assimilated to a Sunday, and paid.

### **Art. 111 Social Security**

<sup>1</sup> The Confederation shall take measures for an adequate social security for the elderly, survivors, and disabled persons. These shall be based on three pillars, namely, federal old age, survivors', and disability insurance, employee pension plans, and provision by individuals for their own future.

<sup>2</sup> The Confederation shall ensure that the federal old age, survivors', and disability insurance, and the employee pension plans may fulfill their purpose durably.

<sup>3</sup> It may oblige the Cantons to exempt from taxation the institutions of the federal old age, survivors', and disability insurance, and the employee pension plans, and to grant tax relief to persons insured and their employers for contributions paid, and entitlements to future benefits.

<sup>4</sup> In cooperation with the Cantons, the Confederation shall encourage individuals to provide for their own future, particularly by fiscal measures and by policies encouraging ownership.

### **Art. 112 Old age, Survivors' and Disability Insurance**

<sup>1</sup> The Confederation shall legislate on the old age, survivors', and disability insurance.

<sup>2</sup> In doing so, it shall respect the following principles:

- a. The insurance shall be mandatory;
- b. The pensions must cover basic living expenses appropriately;



- c. The maximal pension shall not exceed twice the minimal pension;
- d. The pensions shall at least be adapted to the development of prices.

3 The insurance shall be financed:

- a. by contributions of the insured persons; half the contributions of employees shall be paid by their employers;
- b. by subsidies of the Confederation and, if the statute so provides, of the Cantons.

<sup>4</sup> Together, the subsidies of the Confederation and the Cantons shall not exceed half the disbursements.

<sup>5</sup> The subsidies of the Confederation 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 casinos.

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

### **Art. 113 Employee Pension Plans**

<sup>1</sup> The Confederation shall legislate on employee pension plans.

<sup>2</sup> In doing so, it shall respect the following principles:

- a. Employee pension plans together with the old age, survivors', and disability insurance shall ensure appropriately that the previous lifestyle may be maintained;
- b. Employee pension plans shall be mandatory for employees; the statute may foresee exceptions;

- c. Employers shall insure their employees with a pension institution. If necessary, the Confederation shall give them the possibility to insure their employees with a federal pension institution;
- d. Self-employed persons may voluntarily insure themselves with a pension institution;
- e. For particular groups of self-employed persons, the Confederation may declare employee pension plans mandatory, in general or only for particular risks.

<sup>3</sup> Employee pension plans shall be financed through contributions by the insured persons; at least half the contribution of employees shall be paid by their employers.

<sup>4</sup> Employee pension institutions must satisfy federal minimum requirements; the Confederation may provide for nationwide measures to resolve particular problems.

## **Art. 114 Unemployment Insurance**

<sup>1</sup> The Confederation shall legislate on unemployment insurance.

<sup>2</sup> 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 statute may provide exceptions;
- c. Self-employed persons may voluntarily insure themselves.

<sup>3</sup> The unemployment insurance shall be financed by the contributions of the insured persons. Half the contribution of employees shall be paid by their employers.

<sup>4</sup> In extraordinary circumstances, the Confederation and the Cantons shall provide subsidies.

<sup>5</sup> The Confederation may legislate on social assistance to the unemployed.

### **Art. 115 Assistance to Needy Persons**

Needy persons shall be assisted by the Cantons in which they are domiciled. The Confederation may provide for exceptions, and shall determine the competent authorities.

### **Art. 116 Family Allocations and Maternity Insurance**

<sup>1</sup> In fulfilling its tasks, the Confederation shall take into account the needs of the family. It may support measures to protect the family.

<sup>2</sup> It may legislate on family allocations and operate a federal family compensation fund.

<sup>3</sup> It shall institute a maternity insurance. It may also oblige persons to contribute who cannot benefit from the insurance.

<sup>4</sup> The Confederation may declare mandatory joining a family compensation fund and maternity insurance generally or for certain categories of persons, and may make its subsidies dependent upon fair contributions by the Cantons.

### **Art. 117 Health and Accident Insurance**

<sup>1</sup> The Confederation shall legislate on health and accident insurance.

<sup>2</sup> It may declare mandatory health and accident insurance generally or for certain categories of persons.

### **Art. 118 Protection of Health**

<sup>1</sup> Within the limits of its powers, the Confederation shall take measures for the protection of health.

<sup>2</sup> It shall legislate on:

- a. the use of foodstuffs and of therapeutics, drugs, organisms, chemicals, and objects which may be dangerous to health;
- b. fighting contagious, widespread or particularly dangerous human and animal diseases;
- c. protection against ionizing radiation.

**Art. 119 Medical Assistance to Procreation and Gene Technology in the Human Field**

<sup>1</sup> Persons shall be protected against the abuse of medically assisted procreation and gene technology-

<sup>2</sup> The Confederation shall legislate on the use of human reproductive and genetic material. 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 is 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 may only be used when sterility or the danger of transmission of a serious illness cannot be avoided otherwise, 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 shall be permitted only under conditions determined by statute. 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 with human reproductive material or with any product obtained from embryo's;
- f. A person's genetic material may only be analyzed, registered or disclosed with the consent of that person, or if a statute so provides;
- g. Every person shall have access to the data concerning his or her ancestry.

#### **Art. 120 Gene Technology in the Non-Human Field**

<sup>1</sup> Persons and their environment shall be protected against abuse of gene technology.

<sup>2</sup> The Confederation shall legislate on the use of the reproductive and genetic material of animals, plants, and other organisms. In doing so, it shall take into account the dignity of creation and the security of man, animal and environment, and shall protect the genetic multiplicity of animal and vegetal species.

#### **Section 9: Residence and Domicile of Foreigners**

##### **Art. 121**

<sup>1</sup> Legislation on immigration, emigration, residence and domicile of foreigners, and on granting asylum are federal matters.

<sup>2</sup> Foreigners who endanger Switzerland's security may be removed from Switzerland by force.

#### **Section 10: Civil and Criminal Law, Weights and Measures**

##### **Art. 122 Civil Law**

<sup>1</sup> Legislation in the field of civil law is a federal matter.

<sup>2</sup> The organisation of the judiciary, civil procedure, and civil justice are cantonal matters.

•\* Civil judgments having force of law are enforceable throughout Switzerland.

### **Art. 123 Criminal Law**

<sup>1</sup> Legislation in the field of criminal law is a federal matter.

2 The Confederation may grant subsidies to the Cantons for:

- a. the construction of institutions;
- b. the improved carrying out of penalties and measures;
- c. the support of institutions that execute educational measures for children, for young people and for young adults.

^ The organisation of the judiciary, criminal procedure, and criminal justice are cantonal matters.

### **Art. 124 Aid to Victims of Criminal Acts**

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

### **Art. 125 Weights and Measures**

Legislation on weights and measures is a federal matter.

## Chapter 3: Finances

### Art. 126 Budget

<sup>1</sup> The Confederation shall keep its expenditure and receipts in balance in the long term.

<sup>2</sup> It shall reduce the federal debt. In doing so, it shall take the economic situation into consideration.

### Art. 127 Principles of Taxation

<sup>1</sup> The general principles of taxation, particularly the circle of taxpayers, and the object of the tax and its calculation, shall be established by statute.

<sup>2</sup> To the extent that the nature of the tax allows it, the principles of universality and equality of tax treatment and of taxation according to economic capacity shall be followed.

<sup>3</sup> Intercantonal double taxation is prohibited. The Confederation shall take the necessary measures.

### Art. 128 Direct Taxes

<sup>1</sup> The Confederation may raise a direct tax:

- a. of at most 11.5 percent on the income of natural persons;
- b. of at most 9.8 percent on the net profit of legal entities;
- c. of at most .0825 percent on the capital and the reserves of legal entities.

<sup>2</sup> In establishing the tax scales, the Confederation shall take into account the burden of direct taxes on the Cantons and the Municipalities.

3 The effect on natural persons of the shift into higher tax brackets due to inflation shall be periodically equalized.

<sup>4</sup> The Cantons shall assess and collect the taxes. Three tenths of the gross tax yield shall fall to the Cantons; at least one sixth of this amount shall be used for financial equalization among Cantons.

#### **Art. 129 Harmonization of Taxes**

<sup>1</sup> The Confederation shall establish principles on the harmonization of direct taxes of the Confederation, the Cantons and the Municipalities; it shall take into account the efforts of the Cantons to harmonize their taxes.

<sup>2</sup> The harmonization shall concern tax liability, tax object, taxation period, and procedural and criminal law on taxation. Harmonization shall not cover tax scales, tax rates, and tax-exempt amounts.

3 The Confederation may issue regulations against arrangements granting unjustified tax advantages.

#### **Art. 130 Value Added Tax**

<sup>1</sup> The Confederation may levy a value added tax with a maximum tax rate of 6.5 percent on the supply of goods and services, including own use, and on imports.

2 5 percent of the tax yield shall be used for measures in favor of low income groups.

<sup>3</sup> 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 by at most 1 percent point by Federal Statute.



## Art. 131 Special Consumption Taxes

<sup>1</sup> 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. crude, oil, other mineral fuels, natural gas, and products obtained through refining them, and on motor fuels.

<sup>2</sup> It may levy a surtax on motor fuels.

<sup>3</sup> One tenth of the net yield of the tax on distilled spirits shall be credited to the Cantons. These funds shall be used to fight the causes and the effects of addiction.

## Art. 132 Stamp and Withholding Taxes

<sup>1</sup> The Confederation may levy a stamp tax on securities, on insurance premium receipts, and on other documents of commerce; documents concerning operations in immovable property and mortgages shall be exempt from stamp tax.

<sup>2</sup> The Confederation may levy a withholding tax on the revenue from movable capital assets, on lottery gains, and on insurance benefits.

### **Art. 133 Customs Duties**

Legislation on customs duties and other levies on trans-border goods traffic is a federal matter.

### **Art. 134 Exclusion of Cantonal and Municipal 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 be taxed by the Cantons and the Municipalities with taxes of the same kind.

### **Art. 135 Financial Equalization**

<sup>1</sup> The Confederation shall promote financial equalization among the Cantons.

<sup>2</sup> 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 1: General Provisions**

#### **Art. 136 Political Rights**

<sup>1</sup> All Swiss citizens who are 18 years or older, and are not under guardianship because of mental illness or weakness, shall have political rights in federal matters. All shall have the same political rights and obligations.

<sup>2</sup> They may participate in elections to the House of Representatives and in federal votations, and may launch and sign popular initiatives and referenda in federal matters.

### **Art. 137 Political Parties**

The political parties shall contribute to the forming of the opinion and the will of the People.

## **Chapter 2: Initiative and Referendum**

### **Art. 138 Popular Initiative for Total Revision of the Federal Constitution**

<sup>1</sup> 100 000 citizens entitled to vote may propose a total revision of the Federal Constitution.

<sup>2</sup> This proposal shall be submitted to the vote of the People for its approval.

### **Art. 139 Popular Initiative for Partial Revision of the Federal Constitution**

<sup>1</sup> 100 000 citizens entitled to vote may propose a partial revision of the Federal Constitution.

<sup>2</sup> The popular initiative for a partial revision of the Federal Constitution may be in the form of a general suggestion or a formulated draft.

<sup>3</sup> If an initiative does not respect the principle of unity of form, the principle of unity of subject matter, or mandatory rules of international law, the Federal Parliament shall declare the initiative invalid, in whole or in part.

<sup>4</sup> If the Federal Parliament approves an initiative in the form of a general suggestion, it shall prepare a partial revision in the sense of the initiative, and submit it to the vote of the people and the Cantons. If it rejects the initiative, it shall submit it to the vote of the People; the People shall decide whether the initiative should be followed. If the People approves the initiative, the Federal Parliament shall formulate a corresponding draft.

5 An initiative in the form of a formulated draft shall be submitted to the vote of the People and the Cantons. The Federal Parliament shall recommend its approval or its rejection. If it recommends its rejection, it may submit its own counter-draft.

6 The People and the Cantons shall vote simultaneously on the initiative and the counter-draft. The voters may approve both drafts. They may indicate which draft they prefer, should both be approved; should one of the drafts obtain the majority of the People's votes and the other the majority of the votes of the Cantons, neither of them shall come into force.

#### **Art. 140 Mandatory Referendum**

<sup>1</sup> The following shall be submitted to the vote of the People and the Cantons:

- a. Revisions of the Federal Constitution;
- b. The entry into organizations for collective security or into supranational communities;
- c. Federal Statutes declared urgent which have no constitutional basis and whose validity exceeds one year; such Federal Statutes must be submitted to the vote within one year after their adoption by the Federal Parliament.

<sup>2</sup> The following shall be submitted to the vote of the People:

- a. Popular initiatives for total revision of the Federal Constitution;
- b. Popular initiatives for partial revision of the Federal Constitution in the form of a general suggestion which were rejected by the Federal Parliament;
- c. The question whether a total revision of the Constitution should be carried out if both Chambers disagree.

## Art. 141 Optional Referendum

<sup>1</sup> The following are submitted to the vote of the People at the request of 50'000 citizens entitled to vote, or of eight Cantons:

- a. Federal Statutes;
- b. Federal Statutes declared urgent with a validity exceeding one year;
- c. Federal decrees to the extent the Constitution or the statute foresee 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. involve a multilateral unification of law.

<sup>2</sup> The Federal Parliament may submit further international treaties to optional referendum.

## Art. 142 Required Majorities

<sup>1</sup> Proposals submitted to the vote of the People shall be accepted if the majority of those voting approves them.

<sup>2</sup> Proposals submitted to the vote of the People and the Cantons shall be accepted if the majority of those voting and the majority of the Cantons approve them.

<sup>3</sup> The result of a popular vote in a Canton determines the vote of that Canton.

<sup>4</sup> The Cantons of Obwald, Nidwald, Basle-City, Basle-Land, Appenzell Outer Rhodes and Appenzell Inner Rhodes have each one half of a cantonal vote.

## **Title 5: Federal Authorities**

### **Chapter 1: General Provisions**

#### **Art. 143 Eligibility**

Every Swiss citizen entitled to vote is eligible for membership in the House of Representatives, the Federal Government, and the Federal Supreme Court.

#### **Art. 144 Incompatibilities**

<sup>1</sup> Members of the House of Representatives, of the Senate, of the Federal Government, and Judges of the Federal Supreme Court may not at the same time be members of another of these bodies.

<sup>2</sup> The members of the Federal Government and the full-time judges of the Federal Supreme Court may not carry out another function of the Confederation or a Canton, nor may they exercise another gainful activity.

<sup>3</sup> The statute may provide for other incompatibilities.

#### **Art. 145 Term of Office**

The members of the House of Representatives, the Federal Government, and the Chancellor of the Confederation shall be elected for four years. The judges of the Federal Supreme Court shall be elected for six years.

#### **Art. 146 Answerability of the State**

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

## Art. 147 Hearings and Consultations

The Cantons, the political parties, and the interested circles shall be heard in the course of the preparation of important legislation and other projects of substantial impact, and on important international treaties.

## Chapter 2: Federal Parliament

### Section 1: Organisation

#### Art. 148 Status

<sup>1</sup> Subject to the rights of the People and the Cantons, the Federal Parliament is the highest authority of the Confederation.

<sup>2</sup> It has two Chambers, the House of Representatives and the Senate; which have equal powers.

#### **Art. 149 Composition and Election of the House of Representatives**

<sup>1</sup> The House of Representatives shall be composed of 200 representatives of the People.

<sup>2</sup> The representatives shall be elected directly by the People according to the system of proportional representation. The House of Representatives shall be renewed in full every four years.

<sup>3</sup> Each Canton shall form an electoral district.

<sup>4</sup> The seats shall be distributed among the Cantons in proportion to their population. Each Canton shall have at least one seat.

#### **Art. 150 Composition and Election of the Senate**

<sup>1</sup> The Senate shall consist of 46 delegates of the Cantons.

<sup>2</sup> The Cantons of Obwald, Nidwald, Basle-City, Basle-Land, Appenzell Outer Rhodes and Appenzell Inner Rhodes shall elect one Senator each, the other Cantons shall elect two Senators.

3 The Cantons shall regulate the election of their Senators.

#### **Art. 151 Session Periods**

<sup>1</sup> The Chambers shall meet regularly for sessions. The Statute shall regulate the calling of sessions.

<sup>2</sup> One fourth of the members of a Chamber or the Federal Government may request that the Chambers be called to an extraordinary session period.

#### **Art. 152 Presidency**

Each Chamber shall elect from its midst for a term of one year, a President, the first Vice-President, and the second Vice-President. These mandates shall not be renewable for the following year.

#### **Art. 153 Parliamentary Commissions**

<sup>1</sup> Each Chamber shall appoint commissions from its midst.

<sup>2</sup> The statute may foresee joint commissions.

3 The statute may delegate certain powers that are not of a legislative nature to commissions.

<sup>4</sup> To fulfill their tasks, the commissions shall have the right to obtain information, to consult documents, and to conduct inquiries. The statute shall define the limits of these rights.

#### **Art. 154 Parliamentary Groups**

The members of the Federal Parliament may form parliamentary groups.



## **Art. 155 Parliamentary Services**

The Federal Parliament shall benefit from parliamentary services. It may call upon the services of the Federal Administration. The statute shall regulate the modalities.

### **Section 2: Procedure**

## **Art. 156 Separate Deliberation**

<sup>1</sup> The House of Representatives and the Senate shall deliberate separately.

<sup>2</sup> Decisions of the Federal Parliament shall require the approval of both Chambers.

## **Art. 157 Joint Deliberation**

<sup>1</sup> The House of Representatives and the Senate shall deliberate in common as the Federal Parliament in Joint Session under the chairmanship of the President of the House of Representatives in order to:

- a. hold elections;
- b. rule on jurisdictional disputes between the highest federal authorities;
- c. to rule on petitions for pardon.

<sup>2</sup> The Federal Parliament in Joint Session shall assemble for special occasions, and to hear declarations of the Federal Government.

## **Art. 158 Meetings to be Public**

The meetings of the Chambers shall be public. The Statute may provide for exceptions.

## **Art. 159 Quorum and Majority**

<sup>1</sup> The Chambers may deliberate validly if the majority of its members are present.

<sup>2</sup> The decisions are taken in both Chambers and in the Federal Parliament in Joint Session by the majority of those voting.

<sup>3</sup> However, the majority of the members of each Chamber shall be required for the following:

- a. The declaration of urgency of Federal Statutes;
- b. Provisions granting subsidies, authorizing credit lines, and establishing spending ceilings which cause new one-time expenditures exceeding 20 Million Swiss Francs, or new recurrent expenditures exceeding 2 Million Swiss Francs.

<sup>4</sup> The Federal Parliament may adjust these amounts to inflation by an ordinance.

#### **Art. 160 Right to Initiatives and Motions**

<sup>1</sup> Every member of the Federal Parliament, every parliamentary group, every parliamentary commission, and every Canton, have the right to submit initiatives to the Federal Parliament.

<sup>2</sup> The members of the Federal Parliament and of the Federal Government may present motions concerning a proposal under deliberation.

#### **Art. 161 Prohibition of Instructed Mandates**

<sup>1</sup> The members of the Federal Parliament shall vote without instructions.

<sup>2</sup> They shall reveal their links with interest groups.

#### **Art. 162 Immunity**

<sup>1</sup> The members of the Federal Parliament and the Federal Government, and the Federal Chancellor may not be held responsible for their statements in the Chambers and before parliamentary organs.

<sup>2</sup> The statute may provide for further forms of immunity, and extend them to other persons.

### **Section 3: Powers**

#### **Art. 163 Form of Laws and Decrees by the Federal Parliament**

<sup>1</sup> The Federal Parliament shall enact rules of law in the form of a Federal Statute or ordinance.

<sup>2</sup> The other acts shall use the form of a federal decree. A federal decree not subjected to referendum shall be called a simple federal decree.

#### **Art. 164 Legislation**

<sup>1</sup> All important provisions establishing rules of law must be enacted in the form of Federal Statutes. These include the fundamental provisions on

- a. the exercise of political rights;
- b. the restrictions of constitutional rights;
- c. the rights and obligations of persons;
- d. the circle of tax payers, and the object and the calculation of taxes;
- e. the tasks and services of the Confederation;
- f. the obligations of the Cantons when implementing and executing federal law;
- g. the organization and the procedure of federal authorities.

<sup>2</sup> A Federal Statute may delegate the power to legislate unless this is excluded by the Federal Constitution.

#### **Art. 165 Urgent Legislation**

<sup>1</sup> A Federal Statute whose coming into force tolerates no delay, may be declared urgent by the majority of each Chamber and put into force immediately. It must be limited in time.

<sup>2</sup> If a referendum is demanded against an urgent Federal Statute, it shall lapse one year after its adoption by the Federal Parliament, unless it is approved by the People within that period.

<sup>3</sup> An urgent Federal Statute that has no constitutional basis shall lapse one year after its adoption by the Federal Parliament, unless it was adopted within that period by the People and the Cantons. It must be limited in time.

<sup>4</sup> An urgent Federal Statute that was not adopted in a votation may not be renewed.

### **Art. 166 Foreign Relations and International Treaties**

<sup>1</sup> The Federal Parliament shall participate in shaping foreign policy, and shall supervise foreign relations.

<sup>2</sup> It shall approve international treaties, with the exception of those which by statute or international treaty are within the powers of the Federal Government.

### **Art. 167 Finances**

The Federal Parliament shall decide on federal spending, shall adopt the budget, and shall *approve* the federal accounts.

### **Art. 168 Elections**

<sup>1</sup> The Federal Parliament shall elect the members of the Federal Government, the Federal Chancellor, the judges of the Federal Supreme Court, and the General.

<sup>2</sup> The Statute may empower the Federal Parliament to carry out further elections or to confirm appointments.

### **Art. 169 High Supervision**

<sup>1</sup> The Federal Parliament shall exercise the high supervision over the Federal Government, the Federal Administration, the Federal Courts and the other organs entrusted with tasks of the Confederation.

<sup>2</sup> Official secrecy shall not be opposable to those special delegations of supervisory commissions that are appointed as provided by Statute.

### **Art. 170 Evaluation of Efficacy**

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

### **Art. 171 Mandates to the Federal Government**

The Federal Parliament may confer mandates to the Federal Government. The statute shall regulate the modalities, and, in particular, the instruments which the Federal Parliament may use to influence matters within the powers of the Federal Government.

### **Art. 172 Relations between the Confederation and the Cantons**

<sup>1</sup> The Federal Parliament shall maintain the relations between the Confederation and the Cantons.

<sup>2</sup> It shall guarantee the cantonal constitutions.

<sup>3</sup> It shall decide whether to approve intercantonal treaties and treaties between Cantons and foreign countries, should the Federal Government or a Canton raise an objection.

### **Art. 173 Further Tasks and Powers**

<sup>1</sup> The Federal Parliament shall further have the following tasks and powers:

- a. It shall take measures to safeguard the external security, the independence, and the neutrality of Switzerland;

- b. It shall take measures to secure the inner security;
- c. If extraordinary circumstances so require, it may issue ordinances or simple federal decrees to fulfill the tasks according to letters a and b;
- d. It shall order 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 popular initiatives that meet the formal requirements;
- g. It shall cooperate in important planning of state activities;
- h. It shall decide on individual acts, if a Federal Statute so provides expressly;
- i. It shall decide conflicts or jurisdiction between the highest federal authorities;
- k. It shall decide on petitions for pardon and declare amnesties.

<sup>2</sup> The Federal Parliament shall moreover deal with all subjects that are within the powers of the Confederation, and are not attributed to another federal authority.

<sup>3</sup> The Statute may assign other tasks and powers to the Federal Parliament.

## **Chapter 3: Federal Government and Federal Administration**

### **Section 1: Organisation and Procedure**

#### **Art. 174 Federal Government**

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

#### **Art. 175 Composition and Election**

<sup>1</sup> The Federal Government shall consist of seven members.

<sup>2</sup> The members of the Federal Government shall be elected by the Federal Parliament after each full renewal of the House of Representatives.

<sup>3</sup> Not more than one member from the same Canton shall be elected.

#### **Art. 176 Presidency**

<sup>1</sup> The President of the Confederation shall chair the Federal Government.

<sup>2</sup> The Federal Parliament shall elect, for a term of one year, one of the members of the Federal Government as President of the Confederation, and another as Vice-President of the Federal Government.

<sup>3</sup> These mandates may not be renewed for the following year. The President of the Confederation shall not be eligible to be Vice-President for the following year.

#### **Art. 177 Principle of Collective Authority and Division into Departments**

<sup>1</sup> The Federal Government shall take its decisions as a collective body.

<sup>2</sup> For the preparation and implementation of the decisions, the matters of the Federal Government shall be distributed amongst its members according to Departments.

<sup>3</sup> Matters shall be entrusted to Departments or administrative units subordinated to them to be settled directly; in such cases, the right of recourse to a remedy shall be guaranteed.

#### **Art. 178 Federal Administration**

<sup>1</sup> The Federal Government shall direct the Federal Administration. It shall ensure its efficient organization and the effective fulfillment of its tasks.

<sup>2</sup> The Federal Administration shall be divided into Departments; each Department is directed by one member of the Federal Government.

3 The statute may attribute administrative tasks to organizations and persons of public or private law outside the Federal Administration.

### **Art. 179 Federal Chancery**

The Federal Chancery is the general staff of the Federal Government. It shall be directed by a Federal Chancellor.

## **Section 2: Powers**

### **Art. 180 Government Policy**

<sup>1</sup> The Federal Government shall determine the goals and the means of its government policy. It shall plan and coordinate the activities of the state.

<sup>2</sup> It shall inform the public timely and fully of its activity, unless preponderant public or private interests prevent this.

### **Art. 181 Initiative**

<sup>1</sup> The Federal Government shall submit to the Federal Parliament drafts of its legislation.

### **Art. 182 Legislation and Implementation**

<sup>1</sup> The Federal Government shall legislate in the form of ordinances, insofar as the Constitution or the statute empower it to do so.

<sup>2</sup> It shall ensure the implementation of statutes, of decrees of the Federal Parliament, and of judgments of the federal judiciary.



### **Art. 183 Finances**

<sup>1</sup> The Federal Government shall prepare the financing plan, draft the budget and establish the federal accounts.

<sup>2</sup> It shall ensure correct financial management.

### **Art. 184 Foreign Relations**

<sup>1</sup> The Federal Government shall conduct foreign relations safeguarding the Federal Parliament's participation rights; it shall represent Switzerland abroad.

<sup>2</sup> It shall sign treaties and ratify them. It shall submit them to the Federal Parliament for approval.

<sup>3</sup> When the safeguard of the interests of the country so require, the Federal Government may issue ordinances and orders. Ordinances must be limited in time.

### **Art. 185 External and Inner Security**

<sup>1</sup> The Federal Government shall take measures to secure the external security, the independence, and the neutrality of Switzerland.

<sup>2</sup> It shall take measures to safeguard the inner security.

<sup>3</sup> It may base itself directly on the present article to issue ordinances and orders to obviate existing or imminent great disturbances of the public order, the external or the inner security. Such ordinances shall be limited in time.

<sup>4</sup> In urgent cases, it may mobilize troops. If it mobilizes more than 4000 members of the armed forces for active duty, or if the mobilization for active duty is expected to last more than three weeks, the Federal Parliament must be convened without delay.

**Art. 186 Relations between the Confederation and the Cantons**

<sup>1</sup> The Federal Government shall entertain the relations between the Confederation and the Cantons, and shall collaborate with the Cantons.

2 It shall approve cantonal legislation where the implementation of federal law so requires.

3 It may raise objections against treaties amongst the Cantons, or between Cantons and foreign countries.

<sup>4</sup> It shall ensure the implementation of federal law, cantonal constitutions, and intercantonal treaties, and shall take the necessary measures.

**Art. 187 Further Tasks and Powers**

<sup>1</sup> The Federal Government shall further have the following tasks and powers:

- a. It shall supervise the Federal Administration and the other organizations or persons entrusted with tasks of the Confederation;
- b. It shall regularly inform the Federal Parliament of its activity and on the state of the country;
- c. It shall carry out the appointments that are not in the powers of other authorities;
- d. It shall decide on remedies where the statute so provides.

<sup>2</sup> The statute may attribute further tasks and powers to the Federal Government.

## Chapter 4: Federal Supreme Court

### Art. 188 Role

- <sup>1</sup> The Federal Supreme Court is the highest federal judicial authority.
- <sup>2</sup> The statute shall regulate its organization and its procedure.
- <sup>3</sup> The Federal Supreme Court shall provide for its own administration.
- <sup>4</sup> When judges of the Federal Supreme Court are elected, the Federal Parliament shall ensure that the official languages will be represented.

### Art. 189 Constitutional Jurisdiction

- <sup>1</sup> The Federal Supreme Court shall have jurisdiction over:
  - a. Complaints about violations of constitutional rights;
  - b. Complaints about violations of the autonomy of Municipalities, and of other guarantees granted by the Cantons to public corporate bodies;
  - c. Complaints about violations of international or intercantonal treaties;
  - d. Public law disputes between the Confederation and Cantons, or amongst Cantons.
- <sup>2</sup> For the decision of certain disputes, the statute may attribute jurisdiction to other federal authorities.

### Art. 190 Civil, Criminal, and Administrative Jurisdiction

- <sup>1</sup> The statute shall determine the jurisdiction of the Federal Supreme Court in civil, criminal, and administrative matters, and in other fields of law.

<sup>2</sup> With the approval of the Federal Parliament, the Cantons may subject disputes of cantonal administrative law to the jurisdiction of the Federal Supreme Court.

### **Art. 191 Applicable Law**

The Federal Supreme Court and the other authorities applying law shall follow the Federal Statutes and international law.

## **Title 6: Revision of the Federal Constitution and Temporal Provisions**

### **Chapter 1: Revision**

#### **Art. 192 Principle**

<sup>1</sup> The Federal Constitution may be subjected to a total or a partial revision at any time.

<sup>2</sup> Where the Federal Constitution and implementing legislation do not provide otherwise, the revision shall follow the legislative process.

#### **Art. 193 Total Revision**

<sup>1</sup> A total revision of the Federal Constitution may be proposed by the People or by one of the Chambers, or may be decreed by the Federal Parliament.

<sup>2</sup> If the initiative emanates from the People or if the Chambers disagree, the People shall decide whether a total revision shall be undertaken.

<sup>3</sup> Should the People accept a total revision, both Chambers shall be newly elected.

<sup>4</sup> The mandatory provisions of international law may not be violated.

## Art. 194 Partial Revision

<sup>1</sup> A partial revision of the Federal Constitution may be requested by the People, or be decreed by the Federal Parliament.

<sup>2</sup> A partial revision must respect the principle of the unity of subject matter; it may not violate the mandatory provisions of international law.

<sup>3</sup> A popular initiative for partial revision must, moreover, respect the principle of the unity of form.

## Art. 195 Entry into Force

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

## Chapter 2: Transitory Provisions

### Art. 196

#### 1. Transitory Provision to Art. 84 (Transalpine Traffic)

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

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## 2. Transitory Provision to Art. 85 (Flat Heavy Traffic Charge)

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

2 The charge shall be:

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

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

<sup>4</sup> The Federal Government may, moreover, by means of an ordinance, bring the tariff categories that apply above 12 tons listed in paragraph 2 into line with possible amendments of the weight categories defined in the road traffic statute.

↳ For vehicles which are not on the road in Switzerland during the whole year, the Federal Government shall establish suitably gradual rates, taking into account the costs of collecting the charge.

6 The Federal Government shall regulate the implementation. It may establish the rates foreseen in subsection 2 for special categories of vehicles, 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 favorably than Swiss vehicles. The Federal Government may foresee fines in case of infractions. The Cantons shall collect the charges on vehicles registered in Switzerland.

<sup>7</sup> The charge may be wholly or partly abolished by statute.

8 The present article shall apply until the coming into force of the Federal Statute of December 19, 1997 on the heavy traffic duty related to motor power or consumption.

### **3. Transitory Provision to Art. 87 (Railroad and other Traffic)**

<sup>1</sup> The Major Railroad Projects are the New Alpine Crossing, Rail 2000, the link of Eastern and Western Switzerland to the European high-speed railroad network, and the improvement by active and passive measures of protection against noise along railroad lines.

<sup>2</sup> In order to finance the Major Railroad Projects, the Federal Government may

- a. use the full yield of the flat heavy traffic charge set out in Art. 196, subsection 2 until the charge on heavy goods traffic related to motor power or consumption according to Art. 85 comes into force, and may, for this purpose, at most double the rates;
- b. use no more than two thirds of the yield of the heavy goods traffic charge related to motor power or consumption set out in Art. 85;
- c. use funds yielded by the tax on mineral fuels set out in Art. 86, subsection 3, letter b to cover 25 percent of the total costs for the basic lines of the New Alpine Crossing;

- d. raise funds on the capital markets, but no more than 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 surtax) set out in Art. 196, subsection 14 and Art. 130;
- f. provide for additional financing from private sources or international organizations.

3 The financing of the Major Railroad Projects according to paragraph 1 shall be assured by a fund legally dependent on the Confederation, but keeping 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 the same year. The Confederation may grant advances to the fund. The Federal Parliament shall issue the regulations for the fund by means of an ordinance.

<sup>4</sup> The four Major Railroad Projects according to paragraph 1 shall be adopted by means of Federal Statutes. For each major project as a whole, its necessity and status of planning must be established. For the New Alpine Crossing project, the various construction phases shall be defined in the Federal Statute. The Federal Parliament shall allocate the necessary funds by way of authorizing credit lines. The Federal Government shall approve the construction milestones, and determine the time-table.

<sup>5</sup> This provision shall apply until the construction of the Major Railroad Projects mentioned in paragraph 1 is completed, and their financing has ended (through repayment of advances).

#### **4. Transitory Provision to Art. 90 (Nuclear Energy)**

Until September 23, 2000, no general, building, start-up, or operating permit shall be granted for new installations for the production of nuclear energy.



**5. Transitory Provision to Art. 95 (Private Economic Activity)**

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

**6. Transitory Provision to Art. 102 (Approvisionnement of the Country)**

<sup>1</sup> The Confederation shall ensure the approvisionnement of the country with millable cereals and baking flour.

<sup>2</sup> This transitory provision shall remain in effect until December 31, 2003 at the latest.

**7. Transitory Provision to Art. 103 (Structural Policy)**

For no more than ten years from the entry into force of the Constitution, the Cantons may, to secure the existence of important parts of a particular sector of the hotel and restaurant industry, continue to apply existing regulations that make the opening of new businesses in that sector conditional upon establishing a need.

**8. Transitory Provision to Art. 106 (Gambling)**

<sup>1</sup> Article 106 shall enter into force with the entry into force of a new Federal Statute on gambling and casinos.

<sup>2</sup> Until that date, the following provisions shall apply:

- a. It shall be prohibited to open and to operate casinos.
- b. The Cantonal Governments may, under certain limitations mandated by public interest, authorize entertainment gambling as was customary in Kursaals until the Spring of 1925, if the competent authority is of the opinion that this 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 Government shall issue an ordinance on the limitations mandated by public interest. The stake shall be no more than CHF 5.—.
- d. Each cantonal gambling license must be approved by the Federal Government.
- e. One fourth of the raw receipts of the gambling operations must be credited to the Confederation which shall use this part, without regard to its own prestations, for the benefit of victims of natural disasters, and for institutions of public assistance.
- f. The Confederation may also take the necessary measures concerning lotteries.

**9. Transitory Provision to Art. 110 Subsection 3 (National Day)**

<sup>1</sup> Until the entry into force of the new federal legislation, the Federal Government shall regulate the modalities.

<sup>2</sup> Swiss National Day shall not be included in the number of holidays established in Art. 18, par. 2 of the Labor Statute.

**10. Transitory Provision to Art. 112 (Old age, Survivors', and Disability Insurance)**

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

**11. Transitory Provision to Art. 113 (Employment Pension Plans)**

Insured persons who belong to the generation at the time of the introduction of mandatory employee pension plans, and therefore did not contribute for the full time, shall receive the minimum statutory benefits, according to their income, within 10 to 20 years after the entry into force of the statute.



**12. • Transitory Provision to Art. 126 (Financial Order)**

<sup>1</sup> The deficit in the financial accounts of the Confederation shall be reduced through savings until the accounts are substantially balanced.

2 The deficit may not exceed 5000 Million Swiss Francs in the 1999 accounts and 2500 Million in the 2000 accounts. In the 2001 accounts, it shall be reduced to at most 2 percent of the receipts.

3 If the economic situation so requires, the majority of the members of both Chambers may extend by way of a decree the deadlines according to paragraph 2 at most by two years altogether.

<sup>4</sup> The Federal Parliament and the Federal Government shall take into account the objectives of paragraph 2 when establishing the budget and the long-term financing plan, and when deliberating on all matters having financial consequences.

5 When implementing the budget, the Federal Government shall use all saving opportunities. To this end, it may freeze credits and credit lines already authorised. Statutory rights and subsidies promised in individual cases with force of law shall be reserved.

6 If the objectives according to paragraph 2 are missed, the Federal Government shall determine which amount must be additionally saved. To this end,

- a. it shall decide on additional savings within its powers;
- b. it shall propose to the Federal Parliament amendments of statutes leading to additional savings.

<sup>7</sup> The Federal Government shall establish the total sum of the additional savings in such a way that the objectives shall be achieved with a delay of no more than two years. The savings shall be made both on subsidies to third parties and in the field of the Confederation itself.

8 The two Chambers shall decide on the motions of the Federal Government in the same session, and shall put their decree into force following the procedure of Art. 165 of the Constitution; they shall be bound to the amount of savings established by the Federal Government according to paragraph 6.

9 Should the deficit in a later yearly account again exceed 2 percent of the receipts, it shall be reduced in the following yearly accounts to this objective. If the economy so requires, the Federal Parliament may, by way of an ordinance, extend the period by no more than two years. In all other respects, the procedure follows paragraphs 4 to 8.

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

**13. Transitory Provision to Art. 128 (Term of Tax Levy)**

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

**14. Transitory Provision to Art. 130 (Value Added Tax)**

<sup>1</sup> Until a statute on value added tax shall enter into force, the implementing provisions shall be established by the Federal Government. For the implementing provisions, the following principles shall 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 shall be exempt from the tax, and there shall be no right to deduct previous tax:

1. Postal service within the framework of its monopoly with the exception of the transportation of persons;
2. Health services;
3. Social welfare and social security services;
4. Services related to education, teaching, and care of children and young persons;
5. Cultural services;
6. Insurance transactions;
7. Money market and capital market transactions, with the exception of asset management and recovery of debt;
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 payment of a contribution fixed in the articles of incorporation;
11. Supply of official Swiss postage stamps used as such.

To safeguard fair competition or to simplify the collection of the tax, voluntary taxation of the transactions listed above may be permitted with a right to deduct the tax in advance.

- c. The following shall be freed from tax with a right to deduct previous 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 previous tax, does not regularly 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 ensure fair competition or to simplify the collection of the tax, the businesses and persons listed above may be permitted to pay tax on a voluntary basis, with the right to deduct previous tax.

e. The tax rate shall be:

1. 2.0 percent on the transactions and importation of the following goods which the Federal Government may define in greater detail:
  - piped water,
  - foodstuffs and beverages, with the exception of alcoholic beverages,
  - livestock, poultry, fish,
  - cereals,
  - seeds, tuber vegetables, and plant bulbs, growing plants, cuttings, grafts, and cut flowers and branches, also when arranged as bouquets, reefs, and in similar ways,
  - fodder, silage acids, straw, fertilizers, and pesticides,
  - Pharmaceuticals,
  - newspapers, magazines, books and other printed materials to the extent defined by the Federal Government;

2. 2.0 percent on radio and television activities with the exception of those of commercial character;
  3. 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 taxable:
1. Taxpayers who generate taxable turnover;
  2. Persons who receive services originating abroad, provided that their total cost exceeds 10000 francs per year;
  3. Persons who import goods, and are liable to pay customs duty or to make a customs declaration.
- h. The taxpayer shall pay the tax on the taxable turnover; if the taxpayer uses the goods supplied and the services received to generate taxable turnover within Switzerland or abroad, in the tax accounts the following may be deducted from the tax owed as previously paid 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 acquisition of services from abroad;
  3. 2.0 percent of the price of natural products purchased from businesses not subject to the tax in accordance with letter d, point 3.

The right to deduct previous tax does not extend to non-commercial expenditures,

- i. As a general rule, the tax and the deduction for previous tax shall be accounted for every quarter.



k. Special provisions may be established for turnover taxation in the case of gold coins and refined gold, and of goods that are already subject to special fiscal charges.

l. Simplifications may be made if they neither alter tax revenues nor affect competition significantly, nor create excessive tax accounting difficulties for other tax payers.

m. Tax evasion and tax endangerment shall be punishable in analogy with the other federal criminal provisions in the field of tax law.

n. The special provisions on the criminal liability of businesses foreseen in article 7 of the Federal Statute on administrative criminal law 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 yield of this tax shall be used to reduce the health insurance premiums to the benefit of persons in lower income strata. The Federal Parliament shall decide how this part of the value added tax that is dedicated for a specific purpose shall be used after the expiry of this period.

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

<sup>4</sup> The value added tax may be levied until the end of 2006.

#### **15. Transitory Provision to Art. 131 (Beer Tax)**

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

#### **16. Transitory Provision to Art. 132 (Cantonal Share of Withholding Tax)**

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

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## II

<sup>1</sup> The Federal Constitution of May 29, 1874 shall be abrogated.

<sup>2</sup> The following provisions of the Federal Constitution that must be converted into statutory law, shall remain applicable until the corresponding statutory provisions come into force:

(a) Art. 32<sup>former</sup> subsection 6

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

(b) Art. 36<sup>in, III</sup> subsection 1, first sentence, 2, sentences 2 to 5, and 4, second sentence

<sup>1</sup> For the use of the first and second-class national highways, the 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.

<sup>2</sup> 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 favorably than Swiss vehicles. The Federal Government 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.

<sup>4</sup> The statute may also extend the charge to other categories of motor vehicles, which are not subject to the charge on heavy goods traffic.

(c) Art. 121<sup>bis</sup>, subsection 1, 2, and subsection 3, first and second sentence

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

1. whether he or she prefers the popular initiative to the existing law;
2. whether he or she prefers the counter-draft to the existing law;
3. which of the two texts should prevail, if the People and the Cantons prefer both texts to the existing law.

2 The absolute majority shall be determined separately for each question. Unanswered questions shall not count for this determination.

**3** Should both the popular initiative and the counter-draft be accepted, the vote on the third question shall be decisive. The text which, under this question, obtains most votes of the People and of the Cantons shall come into force.

## **m**

The Federal Parliament shall adapt amendments of the Federal Constitution of May 29, 1874 to the new Constitution with respect to form. A decree to this effect shall not be subject to referendum.

## **IV**

<sup>1</sup> This decree shall be submitted to the votation of the People and the Cantons.

<sup>2</sup> The Federal Parliament shall determine the date of entry into force.

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