

The transit charge and the Land Transport Agreement

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The second pillar of the modern Gotthard regime is the charge on road freight. Art. 85 of the Federal Constitution authorizes a performance- or consumption-related fee on heavy vehicles, and the Federal Act on a Distance-Related Heavy Vehicle Fee (HVFA, SR 641.81) imposes it according to the maximum permitted total weight of the vehicle and the kilometres driven in Switzerland, and allows it to be graded further by emissions or consumption.¹ The fee is both a source of finance for the railway fund and an instrument of modal shift, because it raises the cost of road transit towards the cost of rail. It implements the constitutional mandate of Art. 84, under which transalpine goods traffic is to be carried by rail and the capacity of transit roads in the Alpine region may not be increased.²

The fee required the consent of the European Union, whose lorries carry most of the transit traffic. The Agreement of 21 June 1999 between the Swiss Confederation and the European Community on the Carriage of Goods and Passengers by Rail and Road (Land Transport Agreement, SR 0.740.72), one of the seven agreements of the first bilateral package, accepted the Swiss fee in exchange for raising the Swiss weight limit for lorries to 40 tonnes. The fee for a lorry journey through Switzerland from frontier to frontier was capped at an average of CHF 325, and Switzerland kept its night and Sunday driving ban.³ The agreement shows again the pattern of 1869 and 1909: Swiss transit policy is negotiated with the neighbouring states and their markets, and the tariffs of the Alpine route are a subject of international law. The new package of agreements with the European Union, concluded in substance at the end of 2024, initialled in May 2025 and signed on 2 March 2026, includes an amending protocol to the Land Transport Agreement (see Chapter K.I).⁴

1 Project finance, PPP and their limits in Switzerland

The Gotthard financing of 1871 was a classic project finance: a special-purpose company, a concession, public grants as first-loss capital, a syndicate of banks and a fixed-price construction contract. Modern Swiss transport infrastructure is financed almost entirely through public budgets and funds. Several features of Swiss law explain the difference. The Confederation can borrow more cheaply than any private project company, so that private finance raises the cost of capital without adding money that the state could not obtain itself. The federal debt brake (Art. 126 of the Federal Constitution) limits borrowing through the general budget, but the special funds, with their earmarked revenues, have given the railways a stable source of finance outside the annual budget process.⁵ Art. 82 para. 3 of the Federal Constitution provides that public roads may be used free of charge and allows exceptions only with the approval of the Federal Assembly, which excludes toll-financed road concessions except for isolated structures such as bridges and tunnels.⁶

Public-private partnerships exist in Switzerland, but mainly for buildings. An analysis by the business federation *economiesuisse* in 2013 cited stadiums in Neuchâtel and Lucerne and the Neumatt project of the Canton of Bern, in which private partners financed, built and operated administrative buildings and a prison for 25 years. It found no constitutional or legal obstacle to PPP and examined a toll-financed PPP for a crossing of the Lake of Geneva, for which fifteen Swiss financial institutions had shown interest.⁷ No major Swiss railway or road project has been realized in this form. The risks that ruined Louis Favre and brought down Alfred Escher, cost overruns in tunnelling and the dependence of revenue on traffic and on the policy of neighbouring states, are precisely the risks that private investors price highly and that the Swiss state has preferred to carry itself.

The NRLA shows that public financing does not remove the risk of cost overruns. It moves the risk from investors to taxpayers and road users. The federal decree approved in 1992 was based on an estimate of about CHF 10.1 billion for the whole programme, including the connections to eastern and western Switzerland.⁸ The Federal Office of Transport now gives the cost of the Gotthard base tunnel alone as CHF 12.2 billion, of the Lötschberg as CHF 5.3 billion and of the Ceneri as CHF 3.6 billion, together with almost CHF 1 billion for the 4-metre corridor.⁹ The figures are not directly comparable, because the current figures of the Federal Office of Transport are stated at effective or current prices and include interest and value added tax, and because the scope of the project changed after 1992.

The order of magnitude of the increase nevertheless recalls the revision of 1876, when Hellwag found that a line estimated at CHF 187 million would cost close to CHF 289 million. In both cases the long construction period, geological uncertainty and the political need to win approval with a low initial figure combined to produce estimates that the final accounts exceeded.

The difference lies in the consequences. In 1876 the overrun threatened the solvency of a private company, ended the career of its president and required the renegotiation of an international treaty. In the twenty-first century the overruns of the NRLA were absorbed by the fund and by advances from the federal treasury, which the railway fund is still repaying, without a crisis of confidence. For the capital markets, the Confederation's balance sheet replaced the guarantees of the syndicate of 1871. For lawyers and bankers who advise on projects abroad, where governments are less creditworthy and private capital is indispensable, the history of the Gotthard is a reminder that the allocation of overrun risk is the central question of every infrastructure financing.

For Swiss institutional investors, infrastructure has nevertheless become an asset class. Pension funds may invest in infrastructure under the rules on investments of the occupational pension ordinance, and Swiss and foreign infrastructure funds, managed partly from Zurich, Geneva and Lugano, invest in energy networks, telecommunications and transport assets abroad.¹⁰ The capital that in 1871 came from Berlin to Switzerland to build the Gotthard now flows from Switzerland into infrastructure in Europe and elsewhere.

2 Notes

1. Federal Constitution, Art. 85 para. 1, <https://www.droit-bilingue.ch/en-de/1/10/101-85-100.html>: "a capacity or mileage-related charge on heavy vehicle traffic"; Federal Act of 19 December 1997 on a Distance-Related Heavy Vehicle Fee (Schwerverkehrsabgabegesetz, SVAG), SR 641.81, Art. 6, <https://www.droit-bilingue.ch/de-fr/6/64/641.81-6-9.html>: "Die Abgabe bemisst sich nach dem höchstzulässigen Gesamtgewicht des Fahrzeuges und den gefahrenen Kilometern." ↩
2. Federal Constitution, Art. 84 (as above). ↩
3. Federal Office of Transport, "Land Transport Agreement", <https://www.bav.admin.ch/en/land-transport-agreement>; Agreement of 21 June 1999 between the Swiss Confederation and the European Community on the Carriage of Goods and Passengers by Rail and Road,

SR 0.740.72, Art. 40 para. 4, <https://www.droit-bilingue.ch/de-fr/0.7/0.74/0.740.72-40-43.html>: the weighted average of the fees "beträgt ... höchstens 325 SFR für ein Fahrzeug, dessen tatsächliches Gesamtgewicht in beladenem Zustand nicht über 40 Tonnen liegt und das eine alpenquerende Strecke von 300 km zurücklegt". ↩

4. Swiss Federal Department of Foreign Affairs, "Consultation on the Switzerland–EU package", <https://www.europa.eda.admin.ch/en/consultation-swiss-eu-package>, listing the "Amending Protocol to the Agreement between the Swiss Confederation and the European Community on the carriage of goods and passengers by rail and road" and stating that "the remaining agreements were signed by the Swiss President and the President of the European Commission on 2 March 2026"; Federal Office of Transport, "Land Transport Agreement" (as above). See Chapter K.I. ↩
5. Federal Constitution, Art. 126, <https://www.droit-bilingue.ch/en-de/1/10/101-126-157.html>: "The Confederation shall maintain its income and expenditure in balance over time." The analysis is the author's. ↩
6. Federal Constitution, Art. 82 para. 3, English text at [droit-bilingue.ch](https://droit-bilingue.ch/fr-en/1/10/101-82-97.html), <https://droit-bilingue.ch/fr-en/1/10/101-82-97.html>: "Public roads may be used free of charge. The Federal Assembly may authorise exceptions." ↩
7. *economiesuisse*, PPP als Alternative zur Finanzierung der Seeüberquerung Genf? (dossierpolitik, 11 September 2013), https://www.economiesuisse.ch/sites/default/files/publications/dp12_PPP_20131109.pdf. ↩
8. *Swissvotes*, vote no. 382 (as above). ↩
9. FOT, *Neue Wege durch Europa* (as above): Gotthard "12,2 Milliarden Franken (... Preisstand effektiv, inkl. Zinsen und Mehrwertsteuer)", Lötschberg "5,3 Milliarden Franken (... heutige Preise, inkl. Zinsen und Mehrwertsteuer)", Ceneri "3,6 Milliarden Franken (... heutige Preise, inkl. Zinsen und Mehrwertsteuer)", 4-metre corridor "knapp 1 Milliarde Franken". ↩

10. Ordinance of 18 April 1984 on Occupational Retirement, Survivors' and Disability Pension Plans (BVV 2), SR 831.441.1, Art. 53 para. 1 lit. dbis ("Anlagen in Infrastrukturen"), inserted by the amendment of 26 August 2020, in force since 1 October 2020 (AS 2020 3755), <https://www.droit-bilingue.ch/de-fr/8/83/831.441.1-53-104.html>. ↩

For general information only. This article does not constitute legal or tax advice, does not replace advice on an individual case and creates no lawyer-client relationship. It reflects the legal position as of September 2026.

Online version: helveticaregister.com/lugano-the-transit-charge-and-the-land-transport-agreement