

## LEGAL STUDY: HANDOUT FOR POTENTIAL CONSULTANTS TO BE CONSIDERED

### 1 Background ALBATRAS

Background information on the Declaration of Zurich concerning the improvement of road safety in particular in the tunnels of the Alpine zone is publicly accessible under [www.zuerich-process.org](http://www.zuerich-process.org)

Within the ALBATRAS study, three appropriate instruments of traffic management systems for transalpine road freight transport have been analysed, harmonised and aligned on a comparable scientific, technical and operational level. The considered instruments are:

- ACE: Alpine Crossing Exchange
- AETS: Alpine Emission Trading System
- Toll+: Differentiated toll systems

A detailed scheme has been elaborated on how the respective instruments could be implemented in practice, considering organisational, operational, administrative, technical and economical aspects.

Within the study different operable thresholds for the three policy measures (caps for the number of trucks regarding ACE, caps for the amount of emissions regarding AETS and toll levels regarding Toll+) have been defined (a more restrictive and a more tolerant one for each instrument). Thereby an implementation of the traffic management instruments on the transalpine corridors of Alpine Region B+ (between Ventimiglia and Tauern-axis) is assumed, whereas the effects shall be analysed for the whole Alpine Region C (between Ventimiglia and Wechsel). Building on that, the impacts on transport flows on Alpine routes have been modelled and analyzed in a traffic study for 21 different scenarios, which are compared to 3 BAU scenarios (2020, 2030 with high economic growth and 2030 with low economic growth). The traffic study has been carried out using a multimodal traffic model, which simulates route and mode choice in transalpine freight transport depending on different policy measures.

The results of the calculations for each scenario provide the following output:

- Effects on transport volumes in tons/a per transalpine corridor and transport mode (road, unaccompanied combined transport, wagon load, rolling motorway)
- Change in tons/a compared to the respective BAU scenario for road and rail
- Effects on road transport prices (per trip and country for the ACE scenarios respectively per trip, km and country for AETS, Toll+ and MIX scenarios)
- Costs and revenues for the public sector

The present study, subject to tender, shall follow up on those results and analyze the legal consistency of the three instruments with European, international and national law of the countries concerned.

### 2 Content of the legal study

#### ***Work package 1: Legal consistency of ACE, AETS and Toll+ with European Union law***

Based on the results of the study "ALBATRAS", the tenderer has to analyze the legal consistency for each of the three instruments ACE, AETS and TOLL+ with existing European law such as with respect to the "four freedoms" (e.g. free movement of persons, services, good and capital) of the European Common Market, the principles of non-discrimination and proportionality (e. g. concerning possible exemptions in this system, like short/local distance traffic), the judgments of the European Court of Justice and the existing directives and

regulations (e.g. Road Charging Directive, Tunnel Safety Directive, project and strategic impact assessment, noise, air and so on). Furthermore it has to be analyzed how these instruments can be implemented in accordance with existing legislation in the area of enforcement. In case of inconsistency or disrespect of existing legislation, solutions for modifying existing legislation should be proposed.

***Work package 2: Legal consistency with Agreement between the European Community and the Swiss Confederation on the Carriage of Goods and Passengers by Rail and Road, other EU-Agreements and international multilateral treaties and agreements on trade and transport***

The tenderer has to analyze the legal consistency of each of the three instruments with the bilateral agreement between the EU and Switzerland on the carriage of goods and passengers by rail and road and other EU-Agreements (e.g. transit agreements, EEA-agreement) as well as international multilateral and bilateral treaties and agreements on trade and transport (e.g. Alpine Convention, WTO, ECE-UNO, ASA, etc) in force in the Zurich process member states.

***Work package 3: Legal consistency of ACE, AETS and Toll+ with national law of Austria, Italy, Germany, Slovenia, France and Switzerland***

The tenderer has to analyze the legal consistency of each of the three instruments with national law of the six Zurich Process member states such as with respect to the constitutional legislation, the national transport legislation, the international treaties, conventions and agreements or the rulings of the national High Courts of Justice. Furthermore it has to be analyzed how these instruments can be implemented in accordance with existing legislation in the area of enforcement. In case of inconsistency or disrespect of existing legislation, solutions for modifying existing legislation should be proposed.

### **3 Procedure**

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- The invitation to tender procedure is conducted by Switzerland according to Swiss law
- Estimated timeframe for launching the invitation to tender: after 14 February 2011
- Maximum estimated budget: € 155 000
- Estimated duration for conducting the study: May to December 2011