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EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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<sup>(1)</sup> Text with EEA relevance

## II

*(Non-legislative acts)*

## INTERNATIONAL AGREEMENTS

**Information on the date of signature of the Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community on the one hand, and the Government of Denmark and the Home Rule Government of Greenland, on the other hand**

On 27 November 2015 the European Union and Denmark and Greenland signed the Protocol setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement.

The Protocol accordingly applies provisionally from 1 January 2016 pursuant to Article 14 thereof.

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# REGULATIONS

## COMMISSION REGULATION (EU) 2015/2285

of 8 December 2015

**amending Annex II to Regulation (EC) No 854/2004 of the European Parliament and of the Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption as regards certain requirements for live bivalve molluscs, echinoderms, tunicates and marine gastropods and Annex I to Regulation (EC) No 2073/2005 on microbiological criteria for foodstuffs**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs <sup>(1)</sup>, and in particular Article 4(4) thereof,

Having regard to Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption <sup>(2)</sup>, and in particular the introductory phrase and point 13 of Article 18 thereof,

Whereas:

- (1) Regulation (EC) No 854/2004 lays down specific rules for the organisation of official controls on products of animal origin intended for human consumption. It provides that Member States are to ensure that the production and placing on the market of live bivalve molluscs, live echinoderms, live tunicates and live marine gastropods undergo official controls as described in Annex II thereto.
- (2) Paragraph 2 of Chapter II Part A of Annex II to Regulation (EC) No 854/2004 provides that the competent authority must classify production areas from which it authorises the harvesting of live bivalve molluscs as being of one of three categories according to the level of faecal contamination.
- (3) In order to classify production areas the competent authority should define a review period for sampling data from each production and relaying area in order to determine compliance with the standards specified in that Regulation.
- (4) Paragraph 3 of Chapter II Part A of Annex II to Regulation (EC) No 854/2004 states that the competent authority may classify as Class A, areas from which live bivalve molluscs may be collected for direct human consumption. Live bivalve molluscs taken from those areas are required to meet the health standards laid down in Annex III, Section VII, Chapter V of Regulation (EC) No 853/2004 of the European Parliament and of the Council <sup>(3)</sup>.
- (5) Commission Regulation (EC) No 2073/2005 <sup>(4)</sup> lays down the microbiological criteria for certain micro-organisms and the implementing rules to be complied with by food business operators in respect of the general and specific hygiene requirements referred to in Article 4 of Regulation (EC) No 852/2004. More particularly, it lays down a food safety criterion for *Escherichia coli* on live bivalve molluscs and live echinoderms, tunicates and gastropods.

<sup>(1)</sup> OJ L 139, 30.4.2004, p. 1.

<sup>(2)</sup> OJ L 139, 30.4.2004, p. 206.

<sup>(3)</sup> Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p. 55).

<sup>(4)</sup> Commission Regulation (EC) No 2073/2005 of 15 November 2005 on microbiological criteria for foodstuffs (OJ L 338, 22.12.2005, p. 1).

- (6) The Codex Alimentarius criterion for *E. coli* for products placed on the market differs from the criterion contained in European Union legislation. The Codex Alimentarius criterion is a three-class plan ( $n = 5$ ,  $c = 1$ ,  $m = 230$  and  $M = 700$  *E. coli* MPN/100 g of flesh and intravalvular liquid), while the European Union criterion is a two-class plan ( $n = 1$ ,  $c = 0$ ,  $M = 230$  *E. coli* MPN/100 g of flesh and intravalvular liquid). This divergence has implications for international trade. The Codex Alimentarius criterion, based on international standards, should also be reflected in the rules on the classification of Class A production areas laid down in Annex II to Regulation (EC) No 854/2004.
- (7) The Codex Alimentarius three-class plan approach is more likely to detect non-compliant batches particularly as contamination levels approach the regulatory limit. The Codex Alimentarius approach for end-product testing is considered scientifically more precise and it offers on average broadly equivalent health protection.
- (8) Regulation (EC) No 2073/2005 and Regulation (EC) No 854/2004 should be aligned to the Codex Alimentarius as regards this criterion and should therefore be amended accordingly.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

#### Article 1

Regulation (EC) No 854/2004 is amended as follows:

(1) in Chapter II of Annex II before Part A:

- (a) the sentences: 'The reference method for analysis of *E. coli* is the detection and Most Probable Number (MPN) technique specified in EN/ISO 16649-3. Alternative methods may be used if they are validated against this reference method in accordance with the criteria in EN/ISO 16140' are added;
- (b) the sentences of paragraphs (4) and (5) Part A 'the reference method for this analysis is the five-tube, three-dilutions Most Probable Number (MPN) test specified in ISO 16649-3. Alternative methods may be used if they are validated against this reference method in accordance with the criteria in EN/ISO 16140' are deleted;

(2) paragraph 2 of Part A of Chapter II is replaced by the following:

- '2. The competent authority must classify production areas from which it authorises the harvesting of live bivalve molluscs as being of one of three categories according to the level of faecal contamination. It may, where appropriate, do so in cooperation with the food business operator. In order to classify production areas, the competent authority must define a review period for sampling data from each production and relaying area in order to determine compliance with the standards referred to in this paragraph and in paragraphs 3, 4 and 5.'

(3) paragraph 3 of Part A of Chapter II is replaced by the following:

- '3. The competent authority may classify as being of Class A areas from which live bivalve molluscs may be collected for direct human consumption. Live bivalve molluscs placed on the market from these areas must meet the health standards laid down in Annex III, Section VII, Chapter V, of Regulation (EC) No 853/2004.

Samples of live bivalve molluscs from these areas must not exceed, in 80 % of samples collected during the review period, 230 *E. coli* per 100 g of flesh and intravalvular liquid. The remaining 20 % of samples must not exceed 700 *E. coli* per 100 g of flesh and intravalvular liquid.

When evaluating the results for the defined review period for maintenance of a Class A area, the competent authority can, based on a risk assessment on the basis of an investigation, decide to disregard an anomalous result exceeding the level of 700 *E. coli* per 100 g of flesh and intravalvular liquid.'

## Article 2

In Annex I to Regulation (EC) No 2073/2005, Chapter 1 is amended as follows:

(1) in the table on food safety criteria, row 1.25 is replaced by the following:

|                                                                                  |                                |                   |   |                                                 |                                                 |                |                                                        |
|----------------------------------------------------------------------------------|--------------------------------|-------------------|---|-------------------------------------------------|-------------------------------------------------|----------------|--------------------------------------------------------|
| 1.25 Live bivalve molluscs and live echinoderms, tunicates and marine gastropods | <i>E. coli</i> <sup>(15)</sup> | 5 <sup>(16)</sup> | 1 | 230 MPN/100 g of flesh and intravalvular liquid | 700 MPN/100 g of flesh and intravalvular liquid | EN/ISO 16649-3 | Products placed on the market during their shelf-life' |
|----------------------------------------------------------------------------------|--------------------------------|-------------------|---|-------------------------------------------------|-------------------------------------------------|----------------|--------------------------------------------------------|

(2) footnote 16 is replaced by the following:

'<sup>(16)</sup> each sample unit comprises a minimum number of individual animals according to EN/ISO 6887-3.'

(3) (a) in the notes on the interpretation of the test results, the entry 'the limits given refer to each sample unit tested, excluding live bivalve molluscs and live echinoderms, tunicates and gastropods in relation to testing *E. coli*, where the limit refers to a pooled sample.'

is replaced by the following:

'The limits given refer to each sample unit tested.'

(b) in the notes on the interpretation of the test results, the entry concerning *L. monocytogenes* in other ready-to-eat foods and *E. coli* in live bivalve molluscs' is replaced by the following:

'*L. monocytogenes* in other ready-to-eat foods:

- satisfactory, if all the values observed are  $\leq$  the limit,
- unsatisfactory, if any of the values are  $>$  the limit.

*E. coli* in live bivalve molluscs and live echinoderms, tunicates and marine gastropods:

- satisfactory, if all the five values observed are  $\leq$  230 MPN/100 g of flesh and intravalvular liquid or if one of the five values observed is  $>$  230 MPN/100 g of flesh and intravalvular liquid but  $\leq$  700 MPN/100 g of flesh and intravalvular liquid,
- unsatisfactory, if any of the five values observed are  $>$  700 MPN/100 g of flesh and intravalvular liquid or if at least two of the five values observed are  $>$  230 MPN/100 g of flesh and intravalvular liquid.'

## Article 3

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2017.

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

Done at Brussels, 8 December 2015.

For the Commission  
The President  
Jean-Claude JUNCKER

**COMMISSION IMPLEMENTING REGULATION (EU) 2015/2286  
of 8 December 2015**

**Approving non-minor amendments to the specification for a name entered in the register of  
traditional specialities guaranteed [Belokranjska pogača (TSG)]**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs <sup>(1)</sup>, and in particular Article 52(2) thereof,

Whereas:

- (1) Pursuant to the first subparagraph of Article 53(1) of Regulation (EU) No 1151/2012, the Commission has examined Slovenia's application for the approval of amendments to the specification for the traditional speciality guaranteed 'Belokranjska pogača,' registered under Commission Regulation (EU) No 182/2010 <sup>(2)</sup>.
- (2) Since the amendments in question are not minor within the meaning of Article 53(2) of Regulation (EU) No 1151/2012, the Commission published the amendment application in the *Official Journal of the European Union* as required by Article 50(2)(b) of that Regulation <sup>(3)</sup>.
- (3) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the amendments to the specification should be approved,

HAS ADOPTED THIS REGULATION:

*Article 1*

The amendments to the specification published in the *Official Journal of the European Union* regarding the name 'Belokranjska pogača' (TSG) are hereby approved.

*Article 2*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 8 December 2015.

*For the Commission*

*The President*

Jean-Claude JUNCKER

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<sup>(1)</sup> OJ L 343, 14.12.2012, p. 1.

<sup>(2)</sup> Commission Regulation (EU) No 182/2010 of 3 March 2010 entering a name in the register of traditional specialities guaranteed [Belokranjska pogača (TSG)] (OJ L 53, 4.3.2010, p. 1).

<sup>(3)</sup> OJ C 224, 9.7.2015, p. 8.

**COMMISSION IMPLEMENTING REGULATION (EU) 2015/2287****of 8 December 2015****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 <sup>(1)</sup>,

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors <sup>(2)</sup>, and in particular Article 136(1) thereof,

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.
- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex to this Regulation.

*Article 2*

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

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

Done at Brussels, 8 December 2015.

*For the Commission,  
On behalf of the President,*

Jerzy PLEWA  
*Director-General for Agriculture and Rural Development*

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<sup>(1)</sup> OJ L 347, 20.12.2013, p. 671.

<sup>(2)</sup> OJ L 157, 15.6.2011, p. 1.

## ANNEX

## Standard import values for determining the entry price of certain fruit and vegetables

| (EUR/100 kg)                                      |                                   |                       |
|---------------------------------------------------|-----------------------------------|-----------------------|
| CN code                                           | Third country code <sup>(1)</sup> | Standard import value |
| 0702 00 00                                        | MA                                | 88,7                  |
|                                                   | TR                                | 83,5                  |
|                                                   | ZZ                                | 86,1                  |
| 0707 00 05                                        | MA                                | 95,7                  |
|                                                   | TR                                | 155,6                 |
|                                                   | ZZ                                | 125,7                 |
| 0709 93 10                                        | MA                                | 63,6                  |
|                                                   | TR                                | 138,8                 |
|                                                   | ZZ                                | 101,2                 |
| 0805 10 20                                        | MA                                | 83,9                  |
|                                                   | TR                                | 62,7                  |
|                                                   | UY                                | 52,1                  |
|                                                   | ZA                                | 55,2                  |
|                                                   | ZZ                                | 63,5                  |
| 0805 20 10                                        | MA                                | 70,7                  |
|                                                   | ZZ                                | 70,7                  |
| 0805 20 30, 0805 20 50,<br>0805 20 70, 0805 20 90 | TR                                | 88,3                  |
|                                                   | ZA                                | 96,8                  |
|                                                   | ZZ                                | 92,6                  |
| 0805 50 10                                        | TR                                | 93,1                  |
|                                                   | ZZ                                | 93,1                  |
| 0808 10 80                                        | AU                                | 155,4                 |
|                                                   | CL                                | 87,5                  |
|                                                   | NZ                                | 213,1                 |
|                                                   | US                                | 118,8                 |
|                                                   | ZA                                | 137,7                 |
|                                                   | ZZ                                | 142,5                 |
| 0808 30 90                                        | CN                                | 80,5                  |
|                                                   | TR                                | 135,4                 |
|                                                   | ZZ                                | 108,0                 |

<sup>(1)</sup> Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7). Code 'ZZ' stands for 'of other origin'.

# DECISIONS

## COUNCIL DECISION (EU) 2015/2288

of 30 November 2015

**on the financial contributions to be paid by Member States to finance the European Development Fund, including the ceiling for 2017, the amount for 2016, the first instalment for 2016 and an indicative and non-binding forecast for the expected annual amounts for the years 2018 and 2019**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and to the Treaty on the Functioning of the European Union,

Having regard to the Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies <sup>(1)</sup> ('the Internal Agreement'), and in particular Article 7 thereof,

Having regard to the Council Regulation (EU) 2015/323 of 2 March 2015 on the financial regulation applicable to the 11th European Development Fund <sup>(2)</sup> ('the 11th EDF Financial Regulation'), and in particular Article 21(2) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) In accordance with the procedure laid down in Articles 21 to 24 of the 11th EDF Financial Regulation, the Commission is to present a proposal specifying the ceiling of the annual amount of the Member States' contributions for 2017, the amount of the contribution for 2016, the amount of the first instalment of the contribution for 2016, and an indicative and non-binding forecast for contributions for 2018 and 2019.
- (2) In accordance with Article 52 of the 11th EDF Financial Regulation, the European Investment Bank (EIB) has sent the Commission its updated estimates of commitments and payments under the instruments it manages.
- (3) Article 22(1) of the 11th EDF Financial Regulation provides for calls for contributions to first use up the amounts provided by previous EDFs. Therefore, a call for funds under the 10th EDF should be made.
- (4) On 10 November 2014, the Council adopted a decision setting the ceiling for the annual amount of the Member States' EDF contributions for 2016 at EUR 3 350 000 000 for the Commission, and at EUR 250 000 000 for the EIB.
- (5) In accordance with the second subparagraph of Article 1 of Council Decision 2013/759/EU <sup>(3)</sup>, the shares of the Member States' contributions set out in Article 1(2)(a) of the Internal Agreements of the 8th, 9th and 10th EDFs are to be reduced accordingly after the entry into force of the 11th EDF Internal Agreement. The reductions will have an impact on the Member States' contributions for 2015, 2016 and 2017 according to the option for adjustment chosen by each Member State,

HAS ADOPTED THIS DECISION:

### *Article 1*

The ceiling for the annual amount of the Member States' EDF contributions for 2017 is hereby set at EUR 3 850 000 000 for the Commission, and at EUR 150 000 000 for the EIB.

<sup>(1)</sup> OJ L 210, 6.8.2013, p. 1.

<sup>(2)</sup> OJ L 58, 3.3.2015, p. 17.

<sup>(3)</sup> Council Decision 2013/759/EU of 12 December 2013 regarding transitional EDF management measures from 1 January 2014 until the entry into force of the 11th European Development Fund (OJ L 335, 14.12.2013, p. 48).

*Article 2*

The annual amount of the Member States' EDF contributions for 2016 is hereby set at EUR 3 600 000 000. It shall be divided into EUR 3 450 000 000 for the Commission, and EUR 150 000 000 for the EIB.

*Article 3*

The individual EDF contributions to be paid by Member States to the Commission and the EIB as the first instalment for 2016 are set out in the Annex to this Decision.

Payments of those contributions may be combined with adjustments under the implementation of the deduction of the funds committed under Decision 2013/759/EU, following an adjustment plan communicated by each Member State to the Commission upon the adoption of the third instalment for 2015.

*Article 4*

The indicative forecast for the expected annual amount of contributions for 2018 is hereby set at EUR 4 150 000 000 for the Commission, and at EUR 250 000 000 for the EIB, and that for 2019 at EUR 4 150 000 000 for the Commission, and at EUR 300 000 000 for the EIB.

*Article 5*

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 30 November 2015.

*For the Council*  
*The President*  
É. SCHNEIDER

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## ANNEX

| MEMBER STATES  | Key<br>10th EDF % | 1st instalment 2016     |                                |                  |
|----------------|-------------------|-------------------------|--------------------------------|------------------|
|                |                   | paid to EIB<br>10th EDF | paid to Commission<br>10th EDF | Total            |
| AUSTRIA        | 2,41              | 0,00                    | 42 175 000,00                  | 42 175 000,00    |
| BELGIUM        | 3,53              | 0,00                    | 61 775 000,00                  | 61 775 000,00    |
| BULGARIA       | 0,14              | 0,00                    | 2 450 000,00                   | 2 450 000,00     |
| CYPRUS         | 0,09              | 0,00                    | 1 575 000,00                   | 1 575 000,00     |
| CZECH REPUBLIC | 0,51              | 0,00                    | 8 925 000,00                   | 8 925 000,00     |
| DENMARK        | 2,00              | 0,00                    | 35 000 000,00                  | 35 000 000,00    |
| ESTONIA        | 0,05              | 0,00                    | 875 000,00                     | 875 000,00       |
| FINLAND        | 1,47              | 0,00                    | 25 725 000,00                  | 25 725 000,00    |
| FRANCE         | 19,55             | 0,00                    | 342 125 000,00                 | 342 125 000,00   |
| GERMANY        | 20,50             | 0,00                    | 358 750 000,00                 | 358 750 000,00   |
| GREECE         | 1,47              | 0,00                    | 25 725 000,00                  | 25 725 000,00    |
| HUNGARY        | 0,55              | 0,00                    | 9 625 000,00                   | 9 625 000,00     |
| IRELAND        | 0,91              | 0,00                    | 15 925 000,00                  | 15 925 000,00    |
| ITALY          | 12,86             | 0,00                    | 225 050 000,00                 | 225 050 000,00   |
| LATVIA         | 0,07              | 0,00                    | 1 225 000,00                   | 1 225 000,00     |
| LITHUANIA      | 0,12              | 0,00                    | 2 100 000,00                   | 2 100 000,00     |
| LUXEMBOURG     | 0,27              | 0,00                    | 4 725 000,00                   | 4 725 000,00     |
| MALTA          | 0,03              | 0,00                    | 525 000,00                     | 525 000,00       |
| NETHERLANDS    | 4,85              | 0,00                    | 84 875 000,00                  | 84 875 000,00    |
| POLAND         | 1,30              | 0,00                    | 22 750 000,00                  | 22 750 000,00    |
| PORTUGAL       | 1,15              | 0,00                    | 20 125 000,00                  | 20 125 000,00    |
| ROMANIA        | 0,37              | 0,00                    | 6 475 000,00                   | 6 475 000,00     |
| SLOVAKIA       | 0,21              | 0,00                    | 3 675 000,00                   | 3 675 000,00     |
| SLOVENIA       | 0,18              | 0,00                    | 3 150 000,00                   | 3 150 000,00     |
| SPAIN          | 7,85              | 0,00                    | 137 375 000,00                 | 137 375 000,00   |
| SWEDEN         | 2,74              | 0,00                    | 47 950 000,00                  | 47 950 000,00    |
| UNITED KINGDOM | 14,82             | 0,00                    | 259 350 000,00                 | 259 350 000,00   |
| TOTAL EU-27    | 100,00            | 0,00                    | 1 750 000 000,00               | 1 750 000 000,00 |

**COUNCIL DECISION (EU) 2015/2289****of 3 December 2015**

**establishing the position to be taken on behalf of the European Union within the Joint Committee set up under the Agreement between the European Union and the Republic of Cape Verde on facilitating the issue of short-stay visas to citizens of the Republic of Cape Verde and of the European Union, with regard to the adoption of common guidelines for the implementation of the Agreement**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular point (a) of Article 77(2) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement between the European Union and the Republic of Cape Verde on facilitating the issue of short-stay visas to citizens of the Republic of Cape Verde and of the European Union <sup>(1)</sup> ('the Agreement') entered into force on 1 December 2014.
- (2) Article 10 of the Agreement provides that a Joint Committee is to be established by the Parties. It further provides that that Joint Committee is, in particular, to monitor the implementation of the Agreement.
- (3) Regulation (EC) No 810/2009 of the European Parliament and of the Council <sup>(2)</sup> establishes the procedures and conditions for issuing visas for transit through or intended stays on the territory of the Member States not exceeding 90 days in any 180-day period.
- (4) Common guidelines are needed in order to ensure a fully harmonised implementation of the Agreement by the consulates of the Republic of Cape Verde and of the Member States, and to clarify the relationship between the provisions of the Agreement and the provisions of the legislation of the Parties to the Agreement that continue to apply to visa issues not covered by the Agreement.
- (5) It is therefore appropriate to establish the position to be taken on behalf of the Union within the Joint Committee, with regard to the adoption of common guidelines for the implementation of the Agreement.
- (6) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (7) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Decision and are not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

*Article 1*

The position to be taken on behalf of the Union within the Joint Committee set up under the Agreement between the European Union and the Republic of Cape Verde on facilitating the issue of short-stay visas to citizens of the Republic of Cape Verde and of the European Union, with regard to the adoption of common guidelines for the implementation of the Agreement, shall be based on the draft decision of the Joint Committee attached to this Decision.

<sup>(1)</sup> OJ L 282, 24.10.2013, p. 3.

<sup>(2)</sup> Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).

*Article 2*

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 3 December 2015.

*For the Council*

*The President*

F. BRAZ

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DRAFT

**DECISION No 1/2015 OF THE JOINT COMMITTEE SET UP UNDER THE AGREEMENT BETWEEN  
THE EUROPEAN UNION AND THE REPUBLIC OF CAPE VERDE ON FACILITATING THE ISSUE  
OF SHORT-STAY VISAS TO CITIZENS OF THE REPUBLIC OF CAPE VERDE AND OF THE  
EUROPEAN UNION**

**of ...**

**with regard to the adoption of common guidelines for the implementation of the Agreement**

THE JOINT COMMITTEE,

Having regard to the Agreement between the European Union and the Republic of Cape Verde on facilitating the issue of short-stay visas to citizens of the Republic of Cape Verde and of the European Union <sup>(1)</sup> ('the Agreement'), and in particular Article 10 thereof,

Whereas the Agreement entered into force on 1 December 2014,

HAS ADOPTED THIS DECISION:

*Article 1*

Common guidelines for the implementation of the Agreement between the European Union and the Republic of Cape Verde on facilitating the issue of short-stay visas to citizens of the Republic of Cape Verde and of the European Union are adopted as set out in the Annex to this Decision.

*Article 2*

This Decision shall enter into force on the date of its adoption.

Done at ...,

*For the European Union*

*For the Republic of Cape Verde*

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<sup>(1)</sup> OJ L 282, 24.10.2013, p. 3.

## ANNEX

**COMMON GUIDELINES FOR THE IMPLEMENTATION OF THE AGREEMENT BETWEEN THE EUROPEAN UNION AND THE REPUBLIC OF CAPE VERDE ON FACILITATING THE ISSUE OF SHORT-STAY VISAS TO CITIZENS OF THE REPUBLIC OF CAPE VERDE AND OF THE EUROPEAN UNION**

The purpose of the Agreement between the European Union and the Republic of Cape Verde on facilitating the issuing of short-stay visas to citizens of the Republic of Cape Verde and of the European Union ('the Agreement'), which entered into force on 1 December 2014, is to facilitate, on the basis of reciprocity, the procedures for issuing visas for an intended stay of no more than 90 days per period of 180 days to the citizens of Republic of Cape Verde ('Cape Verde') and of the European Union ('the Union').

The Agreement establishes reciprocal, legally binding rights and obligations for the purpose of simplifying the procedures for the issuing of visas to the citizens of Cape Verde and of the Union.

These Guidelines, adopted by the Joint Committee established by the Agreement ('Joint Committee'), aim at ensuring a correct and harmonised implementation of the Agreement by the diplomatic missions and consular posts of Cape Verde and of the Member States. These Guidelines are not part of the Agreement and are therefore not legally binding. However, it is highly recommended that diplomatic and consular staff consistently follow them when implementing the provisions of the Agreement.

These Guidelines are conceived as a document which should be updated, if necessary, in light of the experiences gained in the implementation of the Agreement.

**I. GENERAL ISSUES****1.1. Purpose and scope of application**

Article 1 of the Agreement reads:

'The purpose of this Agreement is to facilitate, on the basis of reciprocity, the issue of visas to citizens of Cape Verde and of the Union for an intended stay of no more than 90 days per period of 180 days.'

The Agreement applies to all citizens of Cape Verde and of the Union who apply for a short-stay visa, regardless of the country in which they reside.

The Agreement does not apply to stateless persons holding a residence permit issued by Cape Verde or by the Member States. The rules of the Union *visa acquis* apply to that category of persons.

**1.2. Scope of the Agreement**

Article 2 of the Agreement reads:

'1. The measures to facilitate the issue of visas set out in this Agreement shall apply to citizens of Cape Verde and of the Union only in so far as they are not exempt from visa requirements under the laws and regulations of the Union or its Member States or of Cape Verde, or under the present Agreement or other international agreements.

2. The national law of Cape Verde and of the Member States or the law of the Union shall apply to matters not covered by the provisions of this Agreement, such as refusal to issue a visa, recognition of travel documents, proof of sufficient means of subsistence, refusal of entry and expulsion measures.'

Without prejudice to Article 8 of the Agreement, the Agreement does not affect the existing Union and national rules on visa obligations and visa exemptions. For instance, Article 4 of Council Regulation (EC) No 539/2001 <sup>(1)</sup> allows Member States to exempt from the visa requirement, among other categories of persons, civilian air and sea crews.

<sup>(1)</sup> Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 81, 21.3.2001, p. 1).

Regulation (EC) No 810/2009 of the European Parliament and of the Council <sup>(1)</sup> ('the Visa Code') applies to all issues not covered by the Agreement, such as the determination of the Schengen State responsible for processing a visa application, the motivation of refusal to issue a visa and the right to appeal against a negative decision. Furthermore, Schengen rules and national law continue to apply to issues which are not covered by the Agreement, such as the recognition of travel documents, proof of documentary evidence regarding the purpose of the journey and sufficient means of subsistence, the processing times for visa applications, the refusal of entry into the territory of the Member States and expulsion measures.

Even if the conditions foreseen in the Agreement are met, the issuing of the visa can still be refused if the conditions laid down in Article 5 of Regulation (EC) No 562/2006 of the European Parliament and of the Council <sup>(2)</sup> ('the Schengen Borders Code') are not fulfilled, i.e. the person is not in possession of a valid travel document, an alert in the Schengen Information System has been issued, the person is considered a threat for public policy, internal security, etc.

Other flexibilities in the issuing of visas allowed for by the Visa Code continue to apply. For instance, multiple-entry visas for a long period of validity — up to five years — can be issued to categories of persons other than those mentioned in Article 4 of the Agreement, if the conditions foreseen in the Visa Code (Article 24) are met. In the same way, the provisions contained in the Visa Code allowing waiver or reduction of the visa fee will continue to apply (Article 16(5) and (6) of the Visa Code). The national law of Cape Verde continues to apply to all matters related to the issuing of visas to Union citizens by Cape Verde and not covered by the Agreement, such as those mentioned in three preceding paragraphs.

### 1.3. Types of visas falling within the scope of the Agreement

Point (d) of Article 3 of the Agreement defines 'visa' as 'an authorisation issued or a decision taken by a Member State or by Cape Verde which is required with a view to entering, for transit purposes or for an intended stay of no more than 90 days in total, the territory of that Member State or of several Member States or the territory of Cape Verde;'

The facilitations provided by the Agreement apply both to uniform visas valid for the entire territory of the Member States, and to visas with limited territorial validity. They also apply to short-stay and transit visas issued by Cape Verde to Union citizens.

### 1.4. Calculation of the length of stay authorised by a visa

In accordance with Article 5(1) of the Schengen Borders Code, the notion of 'short stay' means '90 days in any 180-day period, which entails considering the 180-day period preceding each day of stay'.

The day of entry will be calculated as the first day of stay in the territory of the Member States and the day of exit will be calculated as the last day of stay in the territory of the Member States. The notion of 'any' implies the application of a 'moving' 180-day reference period, on each day of the stay looking back to the last 180-day period, in order to verify if the 90/180-day requirement continues to be fulfilled. That means that an absence in the territory of the Member States for an uninterrupted period of 90 days allows for a new stay of up to 90 days.

A short-stay calculator, which can be used for calculating the period of allowed stay under the new rules, can be found online at the following address: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/border-crossing/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/border-crossing/index_en.htm).

An example of a calculation of stay on the basis of the new definition is as follows:

A person holding a multiple-entry visa for one year (18.4.2014–18.4.2015) enters for the first time on 19.4.2014 and stays for three days. The same person then enters again on 18.6.2014 and stays for 86 days. In such case the situation on specific dates could be as follows:

— on 11.9.2014: over the last 180 days (16.3.2014–11.9.2014) the person had stayed for three days (19.4.2014–21.4.2014) plus 86 days (18.6.2014–11.9.2014) = 89 days = no overstay. The person may still stay for up to one day;

<sup>(1)</sup> Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).

<sup>(2)</sup> Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105, 13.4.2006, p. 1).

- as of 16.10.2014: the person might enter for a stay of three additional days (on 16.10.2014 the stay on 19.4.2014 becomes irrelevant (outside the 180-day period); on 17.10.2014 the stay on 20.4.2014 becomes irrelevant (outside the 180-day period, etc.));
- as of 15.12.2014: the person might enter for 86 additional days (on 15.12.2014 the stay on 18.6.2014 becomes irrelevant (outside the 180-day period); on 16.12.2014 the stay on 19.6.2014 becomes irrelevant, etc.).

**1.5. Situation regarding the Member States that do not yet fully apply the Schengen *acquis*, Member States that do not participate in the EU common visa policy and associated countries**

Member States that joined the Union in 2004 (Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia), 2007 (Bulgaria and Romania) and 2013 (Croatia) are bound by the Agreement as from its entry into force.

Bulgaria, Croatia, Cyprus and Romania do not yet fully implement the Schengen *acquis*. They will continue issuing national visas with a validity limited to their own national territory. Once those Member States fully implement the Schengen *acquis*, they will continue to apply the Agreement.

National law continues to apply to all issues not covered by the Agreement until the date of full implementation of the Schengen *acquis* by those Member States. As from that date, Schengen rules and/or national law apply to issues not covered by the Agreement.

Bulgaria, Croatia, Cyprus and Romania are authorised to recognise residence permits, D visas and short-stay visas issued by Schengen Member States and associated countries for short stays on their territory.

In accordance with Article 21 of the Convention implementing the Schengen Agreement <sup>(1)</sup>, all Schengen States must recognise the long-stay visas and residence permits issued by each other as valid for short stays on each other's territories. Schengen Member States accept residence permits, D visas and short-stay visas of Schengen associated countries for entry and short stay and vice versa.

The Agreement does not apply to the United Kingdom, Ireland and Denmark, but comprises joint declarations about the desirability of concluding bilateral agreements on visa facilitation between Cape Verde and those Member States.

Although associated with Schengen, Iceland, Norway, Switzerland and Liechtenstein are not bound by the Agreement. However, the Agreement contains a joint declaration about the desirability of concluding bilateral agreements on visa facilitation between Cape Verde and those Schengen countries without delay.

**1.6. The Agreement and other bilateral agreements**

Article 11 of the Agreement reads:

‘From its entry into force, this Agreement shall take precedence over the provisions of any bilateral or multilateral agreements or arrangements concluded between Member States and Cape Verde, in so far as the provisions of those agreements or arrangements relate to matters that are dealt with by this Agreement.’

As from the date of entry into force of the Agreement, provisions of the bilateral agreements in force between Member States and Cape Verde on issues covered by the Agreement cease to apply. In accordance with Union law, Member States have to take the necessary measures to eliminate the incompatibilities between their bilateral agreements and the Agreement.

Should a Member State have concluded a bilateral agreement or arrangement with Cape Verde on issues not covered by the Agreement, that exemption would continue to apply after the entry into force of the Agreement.

<sup>(1)</sup> OJ L 239, 22.9.2000, p. 19.

## II. SPECIFIC PROVISIONS

### 2.1. Rules that apply to all visa applicants

It is recalled that the facilitations mentioned below regarding departure in the event of lost or stolen documents and the extension of a visa in exceptional circumstances apply to all visa holders of Cape Verde and Member States.

#### 2.1.1. *Extension of a visa in exceptional circumstances*

Article 7 of the Agreement reads:

‘Citizens of Cape Verde and of the Union who are unable to leave the territory of the Member States or of Cape Verde respectively by the date indicated in their visas for reasons of *force majeure* shall have their visas extended free of charge in accordance with the legislation applied by the host State for the period necessary for their return to their State of residence.’.

As regards the possibility of extending the validity of the visa in cases of *force majeure* (for instance, a stay in hospital due to an accident) where the holder of the visa does not have the possibility to leave the territory of the Member State by the date indicated on the visa sticker, Article 33(1) of the Visa Code will apply as long as it is compatible with the Agreement (for example, the extended visa will remain a uniform visa, entitling entry to the territory of all the Schengen Member States for which that visa was valid at the time of its issue). In accordance with the Agreement, the extension of the visa in cases of *force majeure* is carried out free of charge.

### 2.2. Rules that apply to certain categories of visa applicants

#### 2.2.1. *Issuing of multiple-entry visas*

In cases where the visa applicant needs to travel frequently or regularly to the territory of Cape Verde or to the territory of the Member States, short-stay visas may be issued for several visits, provided that the total length of these visits does not exceed 90 days in any 180-day period.

Article 4(1) of the Agreement reads:

‘1. Diplomatic missions and consular posts of the Member States and of Cape Verde shall issue multiple-entry visas valid for five years to the following categories of citizen:

- (a) members of national and regional governments and parliaments, constitutional courts, supreme courts or courts of auditors, if they are not exempt from visa requirements under this Agreement, in the exercise of their duties;
- (b) permanent members of official delegations who, following an official invitation addressed to Cape Verde, the Member States or the Union, take part in meetings, consultations, negotiations or exchange programmes, or in events in the territory of the Member States or Cape Verde organised on the initiative of intergovernmental organisations;
- (c) business people and company representatives who regularly travel to the Member States or to Cape Verde;
- (d) spouses, children (including adopted children) who are under the age of 21 or are dependent, and parents visiting either:
  - citizens of Cape Verde legally resident in the territory of a Member State or citizens of the Union legally resident in Cape Verde, or
  - citizens of the Union resident in the Member State of their nationality, or citizens of Cape Verde resident in Cape Verde.

However, if the need or intention to travel frequently or regularly is clearly limited to a shorter stay, the validity of the multiple-entry visa shall be limited to this stay, in particular where

- the term of office, in the case of those covered by point (a) above,

- the term of office of a permanent member of an official delegation, in the case of those covered by point (b) above,
- the duration of the positions as business people and company representatives, in the case of those covered by point (c) above, or
- the duration of the residence permits issued to Cape Verde citizens residing in the territory of a Member State and Union citizens residing in Cape Verde, in the case of those covered by point (d) above,

is less than five years.’.

Taking into account the professional status of those categories of persons, or their family relationship with a citizen of Cape Verde or of the Union who is legally residing in the territory of Cape Verde or of the Member State, as well as regarding the relatives of citizens of the Union resident in the Member State of their nationality, or the relatives of citizens of Cape Verde resident in Cape Verde, it is justified to grant them a multiple-entry visa with a validity of five years, or limited to the term of office or to their legal residence if those are of less than five years.

As regards persons falling under Article 4(1)(a), confirmation should be given regarding their professional status and the duration of their mandate.

This provision will not apply to persons falling under Article 4(1)(a) if they are exempted from the visa requirement by the Agreement, i.e. if they are holders of a diplomatic or service passport.

Persons falling under Article 4(1)(b) must present proof regarding their permanent status as a member of the delegation and the need to participate regularly in meetings, consultations, negotiations or exchange programmes.

Persons falling under Article 4(1)(c) must present proof regarding their professional status and the duration of their activities.

Persons falling under Article 4(1)(d) must present proof regarding the legal residence of the inviting person.

In cases where the need or the intention to travel frequently or regularly is clearly limited to a shorter period, the validity of a multiple-entry visa will be limited to that period.

Article 4(2) of the Agreement reads:

‘2. Diplomatic missions and consular posts of the Member States and Cape Verde shall issue multiple-entry visas valid for one year to the following categories of citizens, provided that during the previous year they have obtained at least one visa and that they have made use of it in accordance with the laws on entry and residence in the territory of the State in question:

- (a) representatives of civil society organisations travelling regularly to Member States or to Cape Verde for the purposes of educational training or to take part in seminars and conferences, including as part of exchange programmes;
- (b) practitioners of a liberal profession taking part in international exhibitions, conferences, symposia, seminars or other similar events who regularly travel to the Member States or to Cape Verde;
- (c) persons taking part in scientific, cultural and artistic activities, including university and other exchange programmes, who regularly travel to the Member States or to Cape Verde;
- (d) participants in international sports events and persons accompanying them in a professional capacity;
- (e) journalists and accredited persons accompanying them in a professional capacity;
- (f) school pupils, students, post-graduate students and accompanying teachers who undertake trips for the purposes of study or educational training, including exchange programmes and other school-related activities;
- (g) representatives of religious organisations recognised in Cape Verde or in the Member States who regularly travel to the Member States or to Cape Verde respectively;

- (h) persons visiting regularly for medical reasons;
- (i) participants in official exchange programmes organised by twinned towns or municipal authorities;
- (j) members of official delegations who, following an official invitation addressed to Cape Verde, the Member States or the Union, regularly take part in meetings, consultations, negotiations or exchange programmes, and in events in the territory of the Member States or of Cape Verde organised on the initiative of intergovernmental organisations.

However, if the need or intention to travel frequently or regularly is clearly limited to a shorter stay, the validity of the multiple-entry visa shall be limited to the length of this stay.’

In principle, multiple-entry visas valid for one year will be issued to the abovementioned categories of visa applicants if during the previous year (12 months) the visa applicant has obtained at least one visa and has made use of it in accordance with the laws on entry and stay of the State(s) visited (for instance, the person has not overstayed) and if there are reasons for requesting a multiple-entry visa.

In cases where it is not justified to issue a visa valid for one year (for instance, if the duration of the exchange programme is of less than one year or the person does not need to travel for a full year), the validity of the visa will be of less than one year, provided that the other requirements for issuing the visa are met.

Article 4(3) and (4) of the Agreement reads:

‘3. Diplomatic missions and consular posts of the Member States and of Cape Verde shall issue multiple-entry visas that are valid for at least two years and at most five years to citizens in the categories referred to in paragraph 2 of this Article, provided that during the two years prior to the application they have made use of a one-year multiple-entry visa in accordance with the laws on entry and residence in the territory of the host State.

However, if the need or intention to travel frequently or regularly is clearly limited to a shorter stay, the validity of the multiple-entry visa shall be limited to the length of that stay.

4. The total period of residence of the persons referred to in paragraphs 1 to 3 of this Article shall not exceed 90 days per period of 180 days in the territory of the Member States or of Cape Verde.’

Multiple-entry visas with a validity of two to five years will be issued to the categories of visa applicants mentioned under Article 4(2), provided that during the previous two years (24 months) they have made use of the multiple-entry visas valid for at least one year in accordance with the laws on entry and stay of the State(s) visited and that the reasons for requesting a multiple-entry visa are still valid. It has to be noted that a multiple-entry visa with a validity of two to five years will only be issued if the visa applicant has been issued, during the previous two years, two visas valid for at least one year, and if that person has used those visas in accordance with the laws of entry and stay of the State(s) visited. Diplomatic missions and consular posts are to decide, on the basis of the assessment of each visa application, the period of validity of those visas (from two to five years).

There is no obligation to issue a multiple-entry visa if the applicant has not made use of a previously issued visa.

#### 2.2.2. *Visa processing fee*

Article 5(1) of the Agreement reads:

‘1. Without prejudice to the provisions of paragraph 2, the Member States or Cape Verde shall not collect visa fees from the following categories of people:

- (a) members of official delegations who, following an official invitation addressed to Cape Verde, the Member States or the Union, take part in meetings, consultations, negotiations or official exchange programmes, or in events in the territory of a Member State or of Cape Verde organised by intergovernmental organisations;
- (b) children under 12 years of age (\*);

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(\*) NB: In order to benefit from the fee waiver for this category of persons, visa applicants have to present evidence proving their age.

- (c) school pupils, students, postgraduate students and accompanying teachers travelling for study or educational purposes;
- (d) researchers travelling for the purposes of scientific research;
- (e) participants no older than 25 years of age taking part in seminars, conferences or sports, cultural or educational events organised by non-profit organisations.’

The fee is fully waived for the abovementioned categories of persons.

Article 16(6) and the first subparagraph of Article 16(7) of the Visa Code reads:

‘6. In individual cases, the amount of the visa fee to be charged may be waived or reduced when to do so serves to promote cultural or sporting interests as well as interests in the field of foreign policy, development policy and other areas of vital public interest or for humanitarian reasons.

7. The visa fee shall be charged in euro, in the national currency of the third country or in the currency usually used in the third country where the application is lodged, and shall not be refundable except in the cases referred to in Articles 18(2) and 19(3).’ (i.e. cases of an inadmissible application or cases where the consulate is not competent).

Visa applicants from Cape Verde, in accordance with Article 16(8) of the Visa Code, and the citizens of the Union, in accordance with *Décret-Loi 27/2007* of Cape Verde ‘shall be given a receipt for the visa fee paid’.

Article 5(2) of the Agreement reads:

‘2. Where the Member States or Cape Verde cooperate with an external service provider, service charges may be collected. The service charge shall be proportionate to the costs incurred by the external service provider in the performance of the tasks, and shall not exceed EUR 30. Cape Verde and the Member State or States concerned shall maintain the possibility for all applicants to lodge their applications directly at its/their consulates.’.

The categories of persons exempted from the visa fee are subject to a service fee in cases where a Member State cooperates with an external service provider.

Currently no Member State has outsourcing arrangements with external service providers in Cape Verde.

#### 2.2.3. *Holders of diplomatic and service passports*

Article 8 of the Agreement reads:

‘1. Citizens of Cape Verde or of the Member States who are holders of valid diplomatic or service passports can enter, leave and transit through the territories of the Member States or of Cape Verde without visas.

2. The citizens referred to in paragraph 1 of this Article may stay in the territories of the Member States or of Cape Verde for a period not exceeding 90 days per period of 180 days.’.

The procedures regarding posting of diplomats in the Member States are not covered by the Agreement. The usual accreditation procedure applies.

In a Joint Declaration annexed to the Agreement the Parties agreed that any of them may invoke a partial suspension of the Agreement, in particular Article 8 thereof, if its implementation leads to abuse by the other Party or to a threat to public security. The partial suspension of the Agreement must be conducted in accordance with the procedure set out in Article 12(5) thereof.

If the implementation of Article 8 is suspended, the two Parties will initiate consultations in the framework of the Joint Committee with a view to solving the problems that led to the suspension.

As a priority, both Parties agreed to undertake to ensure a high level of security for diplomatic and service passports, in particular by integrating biometric identifiers. For the Union, this will be ensured in accordance with the requirements set out in Council Regulation (EC) No 2252/2004 <sup>(1)</sup>.

### III. COOPERATION ON DOCUMENT SECURITY

In a Joint Declaration annexed to the Agreement the Parties agreed that the Joint Committee should evaluate the impact of the level of security of the respective travel documents on the functioning of the Agreement. To that end, the Parties committed to regularly informing each other about the measures taken to avoid the proliferation of travel documents, to develop the technical aspects of travel-document security and in relation to the personalisation process for the issue of travel documents.

### IV. STATISTICS

In order to allow the Joint Committee to monitor effectively the implementation of the Agreement, diplomatic missions and consular posts of Cape Verde and of the Member States must submit statistics to the Commission every six months regarding, in particular and where possible, and specifying by month:

- the number of multiple-entry visas issued;
- the length of validity of multiple-entry visas issued;
- the number of visas issued without fees to the different categories of persons covered by the Agreement.

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<sup>(1)</sup> Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States (OJ L 385, 29.12.2004, p. 1).

**COMMISSION DELEGATED DECISION (EU) 2015/2290****of 12 June 2015****on the provisional equivalence of the solvency regimes in force in Australia, Bermuda, Brazil, Canada, Mexico and the United States and applicable to insurance and reinsurance undertakings with head offices in those countries**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) <sup>(1)</sup>, and in particular Article 227(5) thereof,

Whereas:

- (1) Directive 2009/138/EC establishes a risk-based prudential regime for insurance and reinsurance undertakings in the Union. Full application of Directive 2009/138/EC to insurers and reinsurers in the Union will commence on 1 January 2016. Even though Directive 2009/138/EC will be fully applied as of 1 January 2016, the Commission may already adopt the present Delegated Decision by virtue of Article 311 of Directive 2009/138/EC.
- (2) Article 227 of Directive 2009/138/EC relates to equivalence for third-country insurers that are part of groups headquartered in the Union. A positive equivalence determination under Article 227 of Directive 2009/138/EC, by a delegated act of the Commission, allows such groups, when deduction and aggregation is used as the consolidation method for their group reporting, to take into account the calculation of capital requirements and available capital (own funds) under the rules of the non-Union jurisdiction rather than calculating them on the basis of Directive 2009/138/EC, for the purposes of calculating the group solvency requirement and eligible own funds.
- (3) Paragraph 5 of Article 227 of Directive 2009/138/EC provides for a determination of fixed-duration provisional equivalence for third countries whose insurance solvency regimes meet certain criteria. A determination of provisional equivalence is valid for a period of 10 years with possibility of renewal.
- (4) The European Insurance and Occupational Pensions Authority has provided advice according to Article 33(2) of Regulation (EU) No 1094/2010 of the European Parliament and of the Council <sup>(2)</sup> to the Commission contributing to the assessment of third countries under Article 227(5) of Directive 2009/138/EC <sup>(3)</sup>. Regarding the United States, the insurance dialogue which started in 2012 with the aim of achieving improved mutual understanding of the respective insurance regulatory and supervisory regimes has been a principal framework for mutual exchange of information, leading to the conclusion reached in this Decision.
- (5) In Australia, the Life and General Insurance Capital Standards (LAGIC) (General Insurance Prudential Standard (GPS) 110: Capital Adequacy, Life Insurance Prudential Standards (LPS) 110: Capital Adequacy) require insurers to calculate capital charges for insurance risk, insurance concentration risk, asset risk, asset concentration risk,

<sup>(1)</sup> OJ L 335, 17.12.2009, p. 1.

<sup>(2)</sup> Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

<sup>(3)</sup> EIOPA equivalence analysis of Brazil, 10 March 2015.  
EIOPA equivalence assessment of Bermuda, 9 March 2015.  
EIOPA equivalence analysis of Canada, 28 January 2015.  
EIOPA equivalence analysis of Australia, 16 July 2013.  
EIOPA equivalence analysis of Mexico, 16 July 2013.

operational risk and aggregation benefit. A total balance sheet approach is used. There is a minimum capital requirement (the Prudential Capital Requirement (PCR)); insurers are also required to establish an ICAAP (Internal Capital Adequacy Assessment Process) setting out the actions that will occur to rectify a decline in capital through set points above its PCR. Non-life insurers are allowed to use internal models subject to their approval by Australian Prudential Regulation Authority (APRA). GPS 220 and LPS 220 (Risk management) require a risk management framework, which must include as a minimum a risk management strategy describing risk management policies, procedures, management responsibilities and internal controls. Insurers must report to the APRA their solvency, financial position, financial performance, capital adequacy, investments, assets and asset concentrations, premiums and claims data, policy liabilities and off-balance sheet exposures. Under the Corporations Act 2001, companies are required to prepare and lodge annual financial reports with the Australian Securities and Investments Commission. For life insurers, non-life insurers and insurance groups there are additional disclosures obligations regarding capital management and capital adequacy. APRA is able to share information with other financial supervisors; it is a signatory to the Multilateral Memorandum of Understanding on Cooperation and Information Exchange of the International Association of Insurance Supervisors (the IAIS MMoU), and has concluded MoUs with foreign supervisors (including a number of Union supervisors). APRA is independently responsible for prudential regulation and supervision of insurers; only APRA can authorise an entity to carry on insurance business in Australia. APRA has the power to issue prudential standards which have the force of law. No present or former APRA staff member is allowed to disclose confidential information obtained in the course of duties or capacity, under sanction of the law. Disclosure of information to a court is strictly limited.

- (6) In Bermuda, the Insurance Act lays down two capital requirements for insurers other than captive insurance companies <sup>(1)</sup>: the Minimum Solvency Margin (MSM) and the Enhanced Capital Requirement (ECR), applicable to both commercial life and non-life insurers. The ECR is determined from the relevant Basic Solvency Capital Requirement (BSCR) according to a standard formula or the insurer's approved internal capital model provided that the ECR is at least equal to the insurer's MSM. The BSCR covers the following risks: credit risk, spread risk, market risk, premium risk, reserve risk, interest risk, catastrophe risk and operational risk. A Target Capital Level of 120 % of the ECR is used as an early warning solvency threshold. Qualifying capital rules differ for different categories of insurers. The Insurance Act also includes provisions on undertakings' reporting obligations regarding their solvency positions. The Bermudan Monetary Authority (BMA) is the independent regulator and supervisor. Most Bermudian insurers are obliged to prepare additional financial statements in accordance with International Financial Reporting Standards; otherwise insurers may use any generally accepted accounting principles recognised by the BMA. Insurers must publish their financial statements, which contain quantitative and qualitative information. The BMA may enter into agreements and exchange information with foreign supervisory authorities; it is a signatory to the IAIS MMoU. The BMA is bound by confidentiality law, requiring that any information regarding the business or affairs of supervised financial institutions, or regarding persons dealing with them, that is obtained by BMA staff, shall be treated as confidential.
- (7) In Brazil, the Insurance Decree-Law No 73/1966 determines that insurers, to guarantee all their obligations, establish technical provisions, special funds and provisions in accordance with the criteria established by the National Council of Private Insurance (CNSP). Under Resolution CNSP 316, the Minimum Capital Required (CMR) is the higher of the Base Capital and the Risk Capital. The Base Capital is a fixed amount linked to the type of entity and the regions in which it has been authorised to operate, as well as the Risk Capital, which is the sum of capital requirements for underwriting, credit, operational and market risks. For most insurers, the Risk Capital is higher than the Base Capital, thus constituting the CMR. Resolution CNSP 316/2014 establishes the rules for the use of an internal model as an alternative to a standard formula to calculate the CMR. There are minimum corporate governance requirements applicable. Insurers must have internal controls over their activities, information systems and compliance with legal requirements. The Superintendência de Seguros

<sup>(1)</sup> The Insurance Act establishes different categories of insurers which are subject to different sets of rules. Captive insurers are one specific category of insurers, which has not been included in EIOPA's assessment and is not covered by the present act.

Privados (SUSEP) is responsible for the supervision of the Brazilian insurance industry. SUSEP operates under the Ministry of Finance as the executive body of the regulations set by the CNSP. Its managing council has independent authority to establish SUSEP's general policies for regulation and compliance with CNSP's resolutions within its area of competence. Insurers are required to submit data on capital, assets, liabilities, revenue and expenditure to SUSEP on a monthly basis, as well as details of operations, the balance sheet, a profit and loss account on a quarterly basis; insurers must publish their financial statements, which contain quantitative and qualitative information. SUSEP may enter into agreements and exchange information with foreign supervisory authorities; it is a signatory to the IAIS MMoU. Information may only be used for supervisory purposes within the scope of SUSEP's supervisory functions. Further, information obtained from another authority is only used for the purposes of that request. SUSEP's staff and former staff are bound to confidentiality by law.

- (8) In Canada, the Insurance Companies Act requires insurers to maintain adequate capital. The guidelines published by the Office of the Superintendent of Financial Institutions (OSFI) set out the detailed standards. The applicable capital requirements for insurers are the Minimum Continuing Capital and Surplus Requirement (MCCSR Guideline) for life insurers and the Minimum Capital Test (MCT Guideline) for non-life insurers. Both the MCCSR and the MCT address risks related to both assets and liabilities on and off the balance sheet. Non-life insurers are required to hold capital in excess of 100 % of the MCT, while life insurers are required to hold capital in excess of 120 % of the MCCSR. Below those levels, insurers are not allowed to operate. In addition to those requirements, there is a Supervisory Target Capital Level of 150 % of the MCT for non-life insurers, and of the MCCSR for life insurers, respectively. Capital requirements are calculated according to a standard formula; use of internal models is only permitted in very limited cases. Insurers are also required to establish an internal target capital ratio based on an Own Risk and Solvency Assessment (ORSA), including non-prescribed stress tests that take into account the insurer's specificities. The Office of the Superintendent of Financial Institutions (OSFI), the Canadian insurance supervisor, is an independent, self-financing federal agency. Every regulated insurer is required to submit audited annual accounts and supplementary information to OSFI, along with an Auditors' Report, an Appointed Actuary's Report, a Dynamic Capital Adequacy Testing report summarising the results of various stress-tests, and quarterly filings about capital position. Insurers are also required to prepare and make available on demand, an annual ORSA setting an Internal Capital Target. OSFI may enter into agreements and exchange information with foreign supervisory authorities; it acceded to the IAIS MMoU in July 2012. OSFI is bound by confidentiality law, requiring that any information regarding the business or affairs of supervised financial institutions, or regarding persons dealing with them, that is obtained by OSFI staff, shall be treated as confidential.
- (9) In Mexico, the act laying down a revised insurance prudential framework, the Ley de Instituciones de Seguros y de Fianzas (LISF), entered into force on 4 April 2015. Under the LISF, the Solvency Capital Requirement (SCR) applies, covering underwriting risks and financial and counterparty risks. Stress testing takes place at least once a year (dynamic solvency test). The Mexican regime allows the use of either a standard formula or an internal model for the calculation of the SCR. The Comisión Nacional de Seguros y Fianzas (CNSF) is responsible for the supervision of life and non-life insurers in Mexico; it has independent power to licence or withdraw the license of insurance undertakings, and carries out stress tests at least once per year. Insurers must report data on their organisation, operations, accounting, investment and capital to the CNSF on at least a quarterly basis; they must also disclose their objectives, policies and practices in risk retention, transfer or mitigation; and they must publish quantitative and qualitative information on their operations, technical and financial situation and risks. The CNSF may cooperate and exchange information with foreign supervisors if there is an information exchange agreement; a number of such agreements are in place, and the CNSF applied to join the IAIS MMoU in 2010. Where an information exchange agreement exists between CNSF and a foreign supervisor, the CNSF must ask the foreign supervisor for its prior consent before disclosing information which it provided. No person who is or was a CNSF staff member is allowed to disclose confidential information; professional secrecy requirements are laid down in the national law and any breach of professional secrecy leads to sanctions.

- (10) In the United States, regulation and supervision of insurance and reinsurance is essentially state-based. Insurers must comply with the relevant laws for each state in which they write policies, and insurance supervision is in the hands of independent state supervisors under insurance commissioners. State capital adequacy requirements are based on the National Association of Insurance Commissioners (NAIC) Risk-Based Capital (RBC) Model Law, which has been adopted by all states. The RBC standard formula covers the most material risks for each of the primary insurance types (life, property and casualty, and health), allowing the use of internal models for specific products and risk modules. RBC is calculated by applying factors to various assets, premium, claim, expense and reserve items. There are four levels of quantitative capital requirements with different supervisory interventions in each case: Company Action Level, Regulatory Action Level, Authorised Control Level, and Mandatory Control Level. The United States regime has an ORSA for insurers comparable to that under Solvency II. Regarding reporting and transparency, there are standardised reporting requirements, covering mainly: business and performance, risk profile, valuation methods and assumptions used, capital requirements and management. Financial statements, including the actuarial opinion and the auditor's statement, are publicly disclosed. State insurance commissioners may share confidential information with foreign supervisors, provided that the recipient agrees to maintain the confidentiality of the information. They may also enter into agreements governing the sharing and use of confidential information. A number of Memoranda of Understanding on exchange of information have been signed between Union supervisors and insurance departments of states; a number of state insurance departments are signatories of the IAIS MMOU, and several more have recently applied. Confidentiality requirements, incorporated into state legislation on the basis of NAIC model laws, provide that information obtained by state supervisors is confidential and that they shall maintain the confidentiality of information received from foreign supervisors. Staff of state supervisory authorities is covered by obligations of professional secrecy under state-level legislation.
- (11) Following these assessments, third countries' solvency regimes covered in this Decision should be considered to meet the criteria for provisional equivalence laid down in Article 227(5) of Directive 2009/138/EC, with the exclusion of rules on captives in Bermuda, which are subject to a different regulatory regime.
- (12) The initial period of the provisional equivalence determined by this Decision should be 10 years. The Commission may nevertheless undertake a specific review relating to an individual third country or territory at any time outside the general review, where relevant developments make it necessary for the Commission to reassess the equivalence determined by this Decision. The Commission should therefore continue to monitor, with the technical assistance of EIOPA, the evolution of the regimes in force in the third countries covered by this Decision and the fulfilment of the conditions on the basis of which this Decision has been adopted.
- (13) Directive 2009/138/EC applies from 1 January 2016. This Decision should therefore also grant provisional equivalence as of that date,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The solvency regimes in force in Australia, Bermuda (with the exception of rules on captives), Brazil, Canada, Mexico and the United States and applicable to insurance and reinsurance undertakings with head offices in those countries shall be considered as provisionally equivalent to the regime laid down in Chapter VI of Title I of Directive 2009/138/EC.

#### *Article 2*

Provisional equivalence shall be granted for a period of 10 years from 1 January 2016.

*Article 3*

This Decision shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

Done at Brussels, 12 June 2015.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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**COMMISSION IMPLEMENTING DECISION (EU) 2015/2291****of 7 December 2015****amending Implementing Decision 2013/722/EU as regards the maximum amount of the Union financial contribution for the programme for the eradication of rabies in Latvia in the year 2014***(notified under document C(2015) 8607)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Decision 2009/470/EC of 25 May 2009 on expenditure in the veterinary field <sup>(1)</sup>, and in particular Article 27(5) thereof,

Having regard to Regulation (EU) No 652/2014 of the European Parliament and of the Council of 15 May 2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005 of the European Parliament and of the Council, Directive 2009/128/EC of the European Parliament and of the Council and Regulation (EC) No 1107/2009 of the European Parliament and of the Council and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC <sup>(2)</sup>, and in particular Articles 13(3) and (5) and 45(1) thereof,

Whereas:

- (1) Article 11(3) of Commission Implementing Decision 2013/722/EU <sup>(3)</sup> approves the multiannual programme for the eradication of rabies submitted by Latvia for the period from 1 January 2014 to 31 December 2016.
- (2) According to point (c)(vi) of Article 11(6) of Implementing Decision 2013/722/EU, the maximum amount of the Union financial contribution for the programme for the eradication of rabies submitted by Latvia in the year 2014 was initially set at EUR 1 225 000. According to point (c)(ii) of Article 11(7) of that Decision, the maximum amount of the contribution for the part of the programme to be implemented in the buffer zone of Belarus was set at EUR 475 000.
- (3) Following an assessment by the Commission of intermediate technical and financial reports submitted by the Member States in accordance with Article 27(7) of Decision 2009/470/EC on the expenditure incurred for the financing of the eradication programmes in the year 2014, Commission Implementing Decision 2014/925/EU <sup>(4)</sup> amended the maximum amounts for those programmes.
- (4) Article 5(17) of Implementing Decision 2014/925/EU amended point (c)(vi) of Article 11(6) of Implementing Decision 2013/722/EU and set the maximum amount of the Union financial contribution for the programme for the eradication of rabies submitted by Latvia in the year 2014 at EUR 400 000. Article 5(18) of Implementing Decision 2014/925/EU amended point (c)(ii) of Article 11(7) of Implementing Decision 2013/722/EU and set the maximum amount of the Union financial contribution for the part of that programme to be implemented in the buffer zone of Belarus also at EUR 400 000.

<sup>(1)</sup> OJ L 155, 18.6.2009, p. 30.

<sup>(2)</sup> OJ L 189, 27.6.2014, p. 1.

<sup>(3)</sup> Commission Implementing Decision 2013/722/EU of 29 November 2013 approving annual and multiannual programmes and the financial contribution from the Union for the eradication, control and monitoring of certain animal diseases and zoonoses presented by the Member States for 2014 and the following years (OJ L 328, 7.12.2013, p. 101).

<sup>(4)</sup> Commission Implementing Decision 2014/925/EU of 16 December 2014 approving certain amended programmes for the eradication, control and monitoring of animal diseases and zoonoses for the year 2014 and amending Implementing Decision 2013/722/EU as regards the Union financial contribution for certain programmes approved by that Decision (OJ L 363, 18.12.2014, p. 173).

- (5) There has been an error in the newly set maximum amount of the Union financial contribution for the programme for the eradication of rabies submitted by Latvia in the year 2014. In particular, in accordance with point (c)(vi) of Article 11(6) and point (c)(ii) of Article 11(7) of Implementing Decision 2013/722/EU as amended, if the part of the programme to be implemented in the buffer zone of Belarus were properly carried out and the EUR 400 000 utilised, no further Union financial contribution would be available for the part of the programme to be implemented in Latvia. This is not consistent with the global strategy to eradicate rabies from the European Union as it is based on the elimination of the disease from Member States and on the creation of buffer zones alongside the external borders of the Union to prevent reintroductions.
- (6) Implementing Decision 2013/722/EU should therefore be amended accordingly, taking due account of the intermediate technical and financial report submitted by Latvia as regards the implementation of the programme for the eradication of rabies in the year 2014.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

*Article 1*

In Article 11(6) of Implementing Decision 2013/722/EU, point (c)(vi) is replaced by the following:

‘(vi) EUR 800 000 for Latvia’.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 7 December 2015.

*For the Commission*  
Vytenis ANDRIUKAITIS  
*Member of the Commission*

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**DECISION No 2/2015 OF THE JOINT COMMITTEE ON AGRICULTURE****of 19 November 2015****on the amendment of Appendices 1 and 2 to Annex 9 to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products [2015/2292]**

THE JOINT COMMITTEE ON AGRICULTURE,

Having regard to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products, and in particular Article 11 thereof,

Whereas:

- (1) The Agreement between the European Community and the Swiss Confederation on trade in agricultural products (hereinafter referred to as the 'Agreement') entered into force on 1 June 2002.
- (2) The purpose of Annex 9 to the Agreement is to facilitate and foster the bilateral trade flow of organic products originating in the European Union and Switzerland.
- (3) Under Article 8 of Annex 9 to the Agreement, the Working Group on Organic Products examines all matters relating to Annex 9 and its implementation and makes recommendations to the Joint Committee on Agriculture. The working group met to examine the scope of the Annex in particular. The scope of Annex 9 should be extended to include wine and yeast given the equivalence of the Swiss and EU provisions in this area. Furthermore, the content of Appendix 2 should be deleted, as Switzerland has amended its legislation with regard to the labelling of organically produced animal feed and has adopted provisions that are in line with EU law. The working group recommended to the Committee that the Appendices to Annex 9 be amended accordingly.
- (4) Appendices 1 and 2 to Annex 9 should therefore be amended,

HAS DECIDED AS FOLLOWS:

*Article 1*

Appendices 1 and 2 to Annex 9 to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products shall be replaced by the text contained in the Annex to this Decision.

*Article 2*

This Decision shall enter into force on 31 December 2015.

Done at Bern, on 19 November 2015.

*For the Joint Committee on Agriculture*

*The Head of the European Union  
Delegation*

Susana MARAZUELA-AZPIROZ

*The President and Head of the Swiss  
Delegation*

Adrian AEBI

*The Committee Secretary*

Thomas MAIER

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## ANNEX

**‘APPENDIX 1****List of acts referred to in Article 3 relating to organically produced agricultural products and foodstuffs**

## Regulations applicable in the European Union

Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1), as last amended by Council Regulation (EU) No 517/2013 of 13 May 2013 (OJ L 158, 10.6.2013, p. 1).

Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control (OJ L 250, 18.9.2008, p. 1), as last amended by Commission Implementing Regulation (EU) No 1358/2014 of 18 December 2014 (OJ L 365, 19.12.2014, p. 97).

Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries (OJ L 334, 12.12.2008, p. 25), as last amended by Commission Implementing Regulation (EU) 2015/131 of 23 January 2015 (OJ L 23, 29.1.2015, p. 1).

## Provisions applicable in the Swiss Confederation

Ordinance of 22 September 1997 on organic farming and the labelling of organically produced plant products and foodstuffs (Ordinance on organic farming), as last amended on 29 October 2014 (RO 2014 3969).

Ordinance of the Federal Department of Economic Affairs, Education and Research (EAER) of 22 September 1997 on organic farming, as last amended on 29 October 2014 (RO 2014 3979).

## Exclusion from the equivalence arrangements

Swiss products based on ingredients produced under the arrangements for conversion to organic farming.

Swiss goat products, where the animals are covered by the derogation provided for in Article 39d of the Ordinance on organic farming and the labelling of organically produced products and foodstuffs (\*).

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**APPENDIX 2****Implementation rules**

None'

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(\*) (RS 910.18)







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