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⁽¹⁾ Text with EEA relevance.

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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II

(Non-legislative acts)

DECISIONS

COUNCIL IMPLEMENTING DECISION (EU) 2021/1997

of 15 November 2021

amending Implementing Decision (EU) 2018/1994 authorising Croatia to introduce a special measure derogating from point (a) of Article 26(1) and Article 168 of Directive 2006/112/EC on the common system of value added tax

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾, and in particular Article 395(1), first subparagraph, thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Articles 168 and 168a of Directive 2006/112/EC establish taxable persons' right to deduct value added tax (VAT) charged on supplies of goods and services received by them for the purposes of their taxed transactions. Article 26(1), point (a), of that Directive contains a requirement to account for VAT when a business asset is put to use for private purposes of taxable persons or their staff or, more generally, for purposes other than those of their business.
- (2) Council Implementing Decision (EU) 2018/1994 ⁽²⁾ authorised Croatia, until 31 December 2021, to limit to 50 % the right to deduct VAT paid on the purchase and leasing of specified passenger cars with a maximum of eight seats in addition to the driver's seat, including the purchase of all goods and services supplied in relation thereto, when those cars are not wholly used for business purposes. The authorisation also relieved taxable persons from having to treat the non-business use of such passenger cars as a supply of services for consideration.
- (3) By letter registered with the Commission on 31 March 2021, Croatia requested an authorisation to continue to apply the special measure derogating from Article 26(1), point (a), and Article 168 of Directive 2006/112/EC in order to restrict the right of deduction in relation to expenditure related to certain passenger cars not wholly used for business purposes ('the special measure').
- (4) Croatia applies Article 168a(1) of Directive 2006/112/EC in relation to VAT on expenditure related to other economic goods forming part of the business assets under Article 168a(2) of that Directive. Thus, Implementing Decision (EU) 2018/1994 should have included a reference to Article 168a of Directive 2006/112/EC.
- (5) In accordance with Article 395(2), second subparagraph, of Directive 2006/112/EC, the Commission, by letter dated 22 April 2021, informed the other Member States of the request made by Croatia. By letter dated 23 April 2021, the Commission notified Croatia that it had all the information it considered necessary for appraisal of the request.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Council Implementing Decision (EU) 2018/1994 of 11 December 2018 authorising Croatia to introduce a special measure derogating from point (a) of Article 26(1) and Article 168 of Directive 2006/112/EC on the common system of value added tax (OJ L 320, 17.12.2018, p. 35).

- (6) As required by Article 6, third paragraph, of Implementing Decision (EU) 2018/1994, Croatia submitted a report including the review of the percentage laid down for the limitation of the right of deduction. Based on currently available information, Croatia confirmed that the limit of 50 % is still justifiable and remains appropriate.
- (7) Given the positive impact of the special measure on the administrative burden of taxpayers and tax authorities alike by simplifying VAT collection and preventing tax evasion through incorrect record keeping, Croatia should therefore be authorised to continue to apply the special measure. The extension of the special measure should be limited in time, until 31 December 2024, to allow for an evaluation of its effectiveness and of the appropriate percentage.
- (8) In the event that Croatia considers that a further extension of the special measure is necessary, it should submit the request for an extension, accompanied by a report that includes a review of the percentage applied, to the Commission by 31 March 2024.
- (9) The special measure will have a negligible effect on the overall amount of tax revenue collected at the stage of final consumption and will have no adverse impact on the Union's own resources accruing from VAT.
- (10) Implementing Decision (EU) 2018/1994 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision (EU) 2018/1994 is amended as follows:

- (1) the title is replaced by the following:

‘Council Implementing Decision (EU) 2018/1994 of 11 December 2018 authorising Croatia to introduce a special measure derogating from point (a) of Article 26(1) and Articles 168 and 168a of Directive 2006/112/EC on the common system of value-added tax’;

- (2) Article 1 is replaced by the following:

‘Article 1

By way of derogation from Articles 168 and 168a of Directive 2006/112/EC, Croatia is authorised to limit to 50 % the right to deduct the value added tax (VAT) on expenditure related to passenger cars not wholly used for business purposes.’;

- (3) Article 6 is replaced by the following:

‘Article 6

The Decision shall apply from 1 January 2019 until 31 December 2024.

Any request for the extension of the authorisation provided for in this Decision shall be submitted to the Commission by 31 March 2024 and shall be accompanied by a report that includes a review of the percentage set out in Article 1.’.

Article 2

This Decision is addressed to the Republic of Croatia.

Done at Brussels, 15 November 2021.

*For the Council
The President*

J. BORRELL FONTELLES

COUNCIL IMPLEMENTING DECISION (EU) 2021/1998**of 15 November 2021****authorising Estonia to apply a measure derogating from Article 26(1), point (a), and Articles 168 and 168a of Directive 2006/112/EC on the common system of value added tax**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾, and in particular Article 395(1), first subparagraph, thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Articles 168 and 168a of Directive 2006/112/EC establish a right for taxable persons to deduct value added tax (VAT) charged on supplies to them of goods and services that are used for the purposes of their taxed transactions. Pursuant to Article 26(1), point (a), of that Directive, the use of business assets for private use of taxable persons or their staff or, more generally, for purposes other than those of their business is to be treated as a supply of services.
- (2) Council Implementing Decision 2014/797/EU ⁽²⁾ authorised Estonia to restrict to 50 % the right to deduct VAT on the purchase, leasing, intra-Community acquisition and importation of certain passenger cars, and to relieve the taxable person from accounting for VAT on the non-business use of vehicles covered by the restriction until 31 December 2017.
- (3) Council Implementing Decision (EU) 2017/1854 ⁽³⁾ extended the validity of Implementing Decision 2014/797/EU until 31 December 2020.
- (4) By letter registered with the Commission on 12 February 2021, Estonia submitted a request to the Commission to be authorised to apply a special measure derogating from Article 26(1), point (a), and Articles 168 and 168a of Directive 2006/112/EC in order to restrict the right of deduction concerning the purchase, leasing, intra-Community acquisition and importation of certain passenger cars used for non-business purposes ('the special measure').
- (5) In accordance with Article 395(2), second subparagraph, of Directive 2006/112/EC, the Commission, by letter of 19 March 2021, informed the other Member States of the request made by Estonia. By letter of 23 March 2021, the Commission notified Estonia that it had all the information it considered necessary for appraisal of the request.
- (6) The non-business use of passenger cars is often very difficult to identify accurately and even where it is possible, the mechanism for doing so is often burdensome. Under the requested authorisation, the amount of VAT on expenditure eligible for deduction in respect of passenger cars which are not used entirely for business purposes should, with some exceptions, be set at a flat percentage rate. Based on currently available information, the Estonian authorities believe that a rate of 50 % is justifiable. At the same time, in order to avoid double taxation, the requirement of accounting for VAT on the non-business use of passenger cars should be suspended where those cars have been subject to a limitation. This special measure removes the need to keep records of the private use of business cars and, at the same time, prevents tax evasion through incorrect record keeping.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Council Implementing Decision 2014/797/EU of 7 November 2014 authorising the Republic of Estonia to apply a measure derogating from point (a) of Article 26(1) and Articles 168 and 168a of Directive 2006/112/EC on the common system of value added tax (OJ L 330, 15.11.2014, p. 48).

⁽³⁾ Council Implementing Decision (EU) 2017/1854 of 10 October 2017 amending Implementing Decision 2014/797/EU authorising the Republic of Estonia to apply a measure derogating from point (a) of Article 26(1) and Articles 168 and 168a of Directive 2006/112/EC on the common system of value added tax (OJ L 265, 14.10.2017, p. 17).

- (7) The limitation of the right of deduction under the requested authorisation should apply to VAT paid on the purchase, leasing, intra-Community acquisition and importation of specific categories of passenger cars and on expenditure related thereto, including the purchase of fuel.
- (8) The requested authorisation should apply only to passenger cars with a maximum authorised weight not exceeding 3 500 kilograms and having not more than eight seats in addition to the driver's seat, since any non-business use of passenger cars exceeding 3 500 kilograms or having more than eight seats in addition to the driver's seat is negligible due to the nature of those passenger cars or the type of business they are used for. A detailed list of specific passenger cars excluded from that authorisation should also be provided, based on their particular use.
- (9) The authorisation should be limited in time until 31 December 2024, in order to allow for a review of the necessity and effectiveness of the special measure and of the apportionment rate between business and non-business use on which it is based.
- (10) If Estonia considers that an extension of the authorisation beyond 2024 is necessary, it should, by 31 March 2024, submit to the Commission a request for an extension, accompanied by a report which includes a review of the percentage applied.
- (11) The special measure will have a negligible effect on the overall amount of tax revenue collected at the stage of final consumption and will have no adverse impact on the Union's own resources accruing from VAT,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Articles 168 and 168a of Directive 2006/112/EC, Estonia is authorised to limit to 50 % the right to deduct the value added tax on expenditure on passenger cars not wholly used for business purposes where that expenditure covers the purchase, leasing, intra-Community acquisition or importation of passenger cars not wholly used for business purposes, as well as on expenditure related to the maintenance and repair of such cars and to the purchase of fuel for them.

Article 2

By way of derogation from Article 26(1), point (a), of Directive 2006/112/EC, Estonia shall not treat as supplies of services for consideration the use for non-business purposes of a passenger car included in the assets of a taxable person's business, where that car has been subject to a limitation authorised under Article 1 of this Decision.

Article 3

1. This Decision shall apply only to passenger cars with a maximum authorised weight not exceeding 3 500 kilograms and having not more than eight seats in addition to the driver's seat.
2. This Decision shall not apply to the following categories of passenger cars:
 - (a) cars purchased for resale, hire or lease;
 - (b) cars used for the transportation of passengers for a fee, including taxi services;
 - (c) cars used for the provision of driving lessons.

Article 4

This Decision shall expire on 31 December 2024. Any request for the extension of the authorisation provided for in this Decision shall be submitted to the Commission by 31 March 2024, and shall be accompanied by a report which includes a review of the percentage set out in Article 1.

Article 5

This Decision is addressed to the Republic of Estonia.

Done at Brussels, 15 November 2021.

For the Council

The President

J. BORRELL FONTELLES

COMMISSION IMPLEMENTING DECISION (EU) 2021/1999**of 15 November 2021****amending Implementing Decision (EU) 2016/1215 as regards the authorisation holder and its representative in the Union for the placing on the market of products containing, consisting of, or produced from genetically modified soybean FG72***(notified under document C(2021) 8000)***(Only the French and Dutch texts are authentic)****(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 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed ⁽¹⁾, and in particular to Article 9(2) and Article 21(2) thereof,

Whereas:

- (1) BASF Agricultural Solutions Seeds US LLC, based in the United States, is the authorisation holder for the placing on the market of products containing, consisting of, or produced from genetically modified soybean FG72 authorised by Commission Implementing Decision (EU) 2016/1215 ⁽²⁾. BASF Agricultural Solutions Seeds US LLC is represented in the Union by BASF SE, based in Germany. BASF Belgium Coordination Center CommV, based in Belgium, is a branch of BASF SE.
- (2) By letter dated 26 April 2021, BASF Belgium Coordination Center CommV informed the Commission that BASF Agricultural Solutions Seeds US LLC had transferred its right and obligations related to the authorisation for placing on the market of the FG72 soybean event to Syngenta Crop Protection AG, based in Switzerland, represented in the Union by Syngenta Crop Protection NV/SA, based in Belgium, as of 2 June 2020.
- (3) By letter dated 27 April 2021, Syngenta Crop Protection NV/SA informed the Commission that Syngenta Crop Protection AG had consented to this transfer.
- (4) The requested changes are purely administrative in nature and therefore do not entail a new assessment of the products concerned.
- (5) Implementing Decision (EU) 2016/1215 should therefore be amended accordingly.
- (6) 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***Amendments to Implementing Decision (EU) 2016/1215**

Implementing Decision (EU) 2016/1215 is amended as follows:

- (1) Article 6 is replaced by the following:

*'Article 6***Authorisation holder**

The authorisation holder shall be Syngenta Crop Protection AG, Switzerland, represented in the Union by Syngenta Crop Protection NV/SA, Belgium.'

⁽¹⁾ OJ L 268, 18.10.2003, p. 1.

⁽²⁾ Commission Implementing Decision (EU) 2016/1215 of 22 July 2016 authorising the placing on the market of products containing, consisting of, or produced from genetically modified soybean FG72 (MST-FGØ72-2) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (OJ L 199 26.7.2016, p. 16).

(2) Article 8 is replaced by the following:

'Article 8

Addressee

This Decision is addressed to Syngenta Crop Protection AG, Rosentalstrasse 67, CH 4058 Basel, Switzerland, represented in the Union by Syngenta Crop Protection NV/SA, Avenue Louise 489, 1050 Brussels, Belgium.';

(3) in the Annex, point (a) is replaced by the following:

'(a) Applicant and authorisation holder

Name: Syngenta Crop Protection AG

Address: Rosentalstrasse 67, CH 4058 Basel, Switzerland,

represented in the Union by Syngenta Crop Protection NV/SA, Avenue Louise 489, 1050 Brussels, Belgium.'

Article 2

Addressee

This Decision is addressed to Syngenta Crop Protection AG, Rosentalstrasse 67, CH-4058 Basel, Switzerland, represented in the Union by Syngenta Crop Protection NV/SA, Avenue Louise 489, 1050 Brussels, Belgium.

Done at Brussels, 15 November 2021.

For the Commission
Stella KYRIAKIDES
Member of the Commission

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION No 1/2021 OF THE EPA COMMITTEE ESTABLISHED BY THE STEPPING STONE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN CÔTE D'IVOIRE, OF THE ONE PART, AND THE EUROPEAN COMMUNITY AND ITS MEMBER STATES, OF THE OTHER PART

of 20 October 2021

**concerning the adoption of the procedures for the settlement of disputes and the code of conduct for
arbitrators [2021/2000]**

THE EPA COMMITTEE,

Having regard to the stepping stone Economic Partnership Agreement between Côte d'Ivoire, of the one part, and the European Community and its Member States, of the other part, signed in Abidjan on 26 November 2008 and applied on a provisional basis since 3 September 2016, and in particular Article 59(1) and Article 73 thereof,

Whereas:

- (1) Article 59(1) of the stepping stone Economic Partnership Agreement between Côte d'Ivoire, of the one part, and the European Community and its Member States, of the other part (the 'Agreement') provides that the procedures for the settlement of disputes provided for under Chapter 3 (Procedures for and settlement of disputes) of Title V (Prevention and settlement of disputes) of the Agreement are subject to the rules of procedure which will be adopted by the EPA Committee.
- (2) Article 73 of the Agreement provides, in relation to the implementation thereof, that the EPA Committee is to be responsible for the administration of all the fields covered by the Agreement and for the performance of all the tasks mentioned therein,

HAS ADOPTED THIS DECISION:

Article 1

1. The procedures for the settlement of disputes and the code of conduct for arbitrators annexed to them are established as set out in the Annex.
2. Those procedures and that code of conduct are established without prejudice to any special rules provided for in the Agreement or which may be decided by the EPA Committee.

Article 2

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

Done at Brussels, 20 October 2021.

For the Republic of Côte d'Ivoire
Kalilou SYLLA

For the European Union
Cristina MIRANDA GOZALVEZ

*ANNEX***PROCEDURES FOR THE SETTLEMENT OF DISPUTES***Article 1***Definitions**

For the purposes of these procedures for the settlement of disputes (the 'rules of procedure'), the following definitions apply:

Advisor: a natural person retained by a Party to advise or assist that Party in connection with the arbitration proceeding;

Arbitration panel: a specific group set up under Article 50 of the Agreement;

Arbitrator: a member of an arbitration panel set up under Article 50 of the Agreement;

Assistant: a natural person who, under the terms of appointment of an arbitrator, conducts research for or provides assistance to the arbitrator;

Day: a calendar day;

Non-working day: Saturdays, Sundays and any other day designated by a Party as a holiday for the purposes of the application of these rules of procedure;

Representative of a Party: an employee or any natural person appointed by a government department or agency or any other public entity of a Party who represents the Party in a dispute under the Agreement;

Party complained against: the Party that is alleged to be in violation of the provisions referred to in Article 46 of the Agreement;

Complaining Party: the Party requesting the setting-up of an arbitration panel under Article 49 of the Agreement.

*Article 2***Scope of application**

1. The provisions of these rules of procedure supplement and clarify the Agreement, and in particular Article 49 and the subsequent articles thereof on arbitration.
2. These rules of procedure are intended to enable the Parties to resolve disputes that may arise between them through a mutually satisfactory solution reached by means of the arbitration mechanism.
3. All Parties may resort to arbitration in the framework of the implementation of the Agreement in order to resolve any disputes that may arise between them.

*Article 3***Launch of arbitration proceedings and notifications**

1. The arbitration procedure is considered to have been launched on the date on which the request for the establishment of an arbitration panel is received by the Party complained against and by the EPA Committee, in accordance with Article 49(2) of the Agreement.
2. 'Notification', for the purposes of these rules of procedure, means any request, notice, written submission or other document related to the arbitration procedure, on the understanding that:
 - (a) any notification from the arbitration panel shall be sent to both Parties at the same time;

- (b) any notification from one Party which is addressed to the arbitration panel shall be copied to the other Party at the same time; and
 - (c) any notification from one Party which is addressed to the other Party shall be copied to the arbitration panel at the same time, where appropriate.
3. Any notification shall be made by e-mail or, where appropriate, by any other means of telecommunication that provides a record of the sending thereof. Unless proven otherwise, such notification shall be deemed to have been delivered on the date of its sending.
4. All notifications shall be addressed to the Directorate-General for Trade of the European Commission and to the coordinator appointed by Côte d'Ivoire.
5. Minor errors of a clerical nature in notifications related to the arbitration procedure may be corrected by the sending of a new notification clearly indicating the changes that have been made.
6. If the last day for delivery of a notification is a non-working day for Côte d'Ivoire or the European Union, the notification may be delivered on the next working day. No notification or request of any kind shall be deemed to have been received on a non-working day.
7. Depending on the nature of the issues under dispute, copies of all requests and notifications addressed to the EPA Committee in accordance with these rules of procedure shall also be copied to the other relevant institutional bodies.

Article 4

Appointment of arbitrators

- 1. If, pursuant to Article 50 of the Agreement, an arbitrator is selected by drawing lots, the Chairperson of the EPA Committee shall promptly inform the Parties of the date, time and venue of the drawing by lot.
- 2. The lot drawing shall take place in the presence of the representatives of the Parties.
- 3. The Chairperson of the EPA Committee shall, in writing, inform each individual selected of his or her appointment as arbitrator. Each individual shall confirm his or her availability to both Parties within 5 days of the date on which he or she was informed of his or her appointment.
- 4. The arbitrators shall be drawn by lot from among the persons officially proposed by one or both of the Parties if the list of arbitrators referred to in Article 64 of the Agreement has not been drawn up or does not contain enough names at the moment when the request is made under Article 50(2) of the Agreement.

Article 5

Consultation between the Parties and the arbitration panel

- 1. Unless the Parties agree otherwise, they shall meet the arbitration panel within 7 days of its establishment in order to determine such matters that the Parties or the arbitration panel deem appropriate, including:
 - (a) the remuneration and expenses to be paid to the arbitrators, which shall be in accordance with World Trade Organization (WTO) standards;
 - (b) the remuneration for each arbitrator's assistant, the total of which shall not exceed 50 per cent of the total remuneration of that arbitrator;
 - (c) the timetable of the proceeding.
- 2. The arbitrators and the representatives of the Parties may take part in this meeting by telephone or by video conference.
- 3. Unless the Parties agree otherwise within 5 days of the date of the setting-up of the arbitration panel, the terms of reference of the arbitration panel shall be:

'to examine, in the light of the relevant provisions of the Agreement, the matter referred to in the request for the setting-up of the arbitration panel, to rule on the compatibility of the measure in question with Article 46 of the Agreement, and to make a ruling in accordance with Articles 52, 62 and 63 of the Agreement.'

4. The Parties shall notify the agreed terms of reference to the arbitration panel within 3 days of their agreement on the mandate.

Article 6

Written submissions

The complaining Party shall deliver its initial written submission no later than 20 days after the date of the setting-up of the arbitration panel. The Party complained against shall deliver its written counter-submission no later than 20 days after the date of delivery of the initial written submission.

Article 7

Working of the arbitration panels

1. The Chairperson of the arbitration panel shall chair all meetings. An arbitration panel may delegate to its Chairperson the authority to make administrative and procedural decisions in the area concerned.

2. In accordance with Article 9 of these rules of procedure, the arbitrators and the persons requested shall attend the hearing. Unless otherwise provided for in the Agreement or these rules of procedure and without prejudice to Article 9(5) of these rules of procedure, the arbitration panel may conduct its activities by telephone, by fax or by any other means, including electronically.

3. Only arbitrators may take part in the deliberations of the arbitration panel, but the arbitration panel may permit its assistants to be present at its deliberations.

4. The drafting of any ruling shall be the exclusive responsibility of the arbitration panel and shall not be delegated.

5. The observations, conclusions and recommendations of the arbitration panel referred to in Articles 51 and 52 of the Agreement should be made by consensus, where possible; if a consensus cannot be reached, they should be made by a majority of its members. Arbitrators may not issue separate opinions on matters not unanimously agreed.

6. Where a procedural question arises that is not covered by the provisions of Title V of the Agreement (Prevention and settlement of disputes), the arbitration panel, after consulting with the Parties, may adopt an appropriate procedure that is compatible with those provisions and that ensures equal treatment between the Parties.

7. If the arbitration panel considers that there is a need to change any of the time limits for its proceedings other than the time limits set out in Title V of the Agreement (Prevention and settlement of disputes), or to make any other procedural or administrative adjustment, it shall inform the Parties in writing of the reasons for which the change or adjustment has been made and of the time limit or adjustment needed. The arbitration panel may adopt such changes or adjustments after having consulted the Parties.

8. Any time limit established under these Rules of Procedure may be amended by the mutual agreement of the Parties. Upon the request of one Party, the arbitration panel may modify the time limits applicable in the proceedings.

9. At the request of both Parties, the arbitration panel may suspend the proceeding at any time for a period agreed by the Parties and not exceeding 12 consecutive months.

10. In the event of a suspension, the relevant time limits shall be extended by the same amount of time as the proceeding before the arbitration panel was suspended. The arbitration panel shall resume the proceeding at any time at the joint request of both Parties, or at the end of the agreed suspension period at the written request of one of the Parties. The Chairperson of the arbitration panel and, where necessary, the other Party shall be informed of the request. If the proceeding before the arbitration panel has been suspended for over 12 consecutive months, the powers conferred for the setting-up of the arbitration panel shall become invalid and the proceeding before the arbitration panel shall be terminated. The Parties may at any time agree to terminate the proceeding before the arbitration panel. The Parties shall jointly notify the Chairperson of the arbitration panel of this agreement.

11. The termination of the arbitration panel's work shall be without prejudice to the rights of the Parties in any other proceeding on the same matter under Title V of the Agreement (Prevention and settlement of disputes).

Article 8

Replacement

1. If an arbitrator is unable to participate in the proceeding, withdraws, or must be replaced, a replacement shall be selected in accordance with Article 50 of the Agreement.

2. Where a Party considers that an arbitrator does not comply with the requirements of the code of conduct for arbitrators and for this reason should be replaced, that Party shall notify the other Party within 15 days of the date on which it became aware of the circumstances underlying the arbitrator's alleged failure to comply with the code of conduct for arbitrators.

3. The Parties shall consult each other within 15 days of the date of the notification referred to in paragraph 2 of this Article. The Parties shall inform the arbitrator of his or her alleged non-compliance and may request that the arbitrator take the steps necessary to remedy it. They may also, if they so agree, remove the arbitrator and select a new one in accordance with the procedure set out in Article 50(2) of the Agreement and, if relevant, Article 50(3) of the Agreement.

4. If the Parties fail to agree on the need to replace an arbitrator, other than the Chairperson, either Party may request that such matter be referred to the Chairperson of the arbitration panel, whose decision shall be final.

5. If, pursuant to this request, the Chairperson finds that an arbitrator does not comply with the requirements of the code of conduct for arbitrators, a new arbitrator shall be selected in accordance with Article 50(3) of the Agreement.

6. Where a Party considers that the Chairperson of the arbitration panel does not comply with the requirements of the code of conduct for arbitrators, the Parties shall consult and, if they so agree, shall dismiss the Chairperson and select a replacement following the procedure set out in Article 50 of the Agreement.

7. If the Parties fail to agree on the need to replace the Chairperson, either Party may request that this matter be referred to one of the persons on the list of individuals selected to act as Chairperson of the arbitration panel established under Article 64 of the Agreement. The name of this individual shall be drawn at random by the Chairperson of the EPA Committee. The individual thus selected shall decide whether or not the Chairperson complies with the requirements of the code of conduct of arbitrators. His or her decision shall be final.

8. If it is found that the Chairperson does not comply with the requirements of the code of conduct for arbitrators, the new Chairperson shall be selected in accordance with Article 50(3) of the Agreement.

Article 9

Hearings

1. Based upon the timetable determined pursuant to Article 5(1), and after consulting with the Parties and the other arbitrators, the Chairperson of the arbitration panel shall notify the Parties of the date, time and venue of the hearing. The Party responsible for the logistical administration of the proceeding shall make this information available to the public, subject to Article 11.

2. Unless the Parties agree otherwise, the hearing shall be held in Brussels if the complaining Party is Côte d'Ivoire and in Abidjan if the complaining Party is the European Union.
3. The arbitration panel may convene additional hearings if the Parties so agree.
4. All arbitrators shall be present during the entirety of the hearing.
5. The following persons may attend the hearing, irrespective of whether the proceedings are open to the public or not:
 - (a) representatives of the Parties;
 - (b) advisers to the Parties;
 - (c) administrative staff, interpreters, translators and stenographers;
 - (d) arbitrators' assistants;
 - (e) experts, as chosen by the arbitration panel pursuant to Article 60 of the Agreement.
6. No later than 5 days before the date of a hearing, each Party shall deliver to the arbitration panel and to the other Party a list of the names of the natural persons who will make oral arguments or presentations at the hearing on behalf of that Party, and of the other representatives of or advisers to the Parties who will be attending the hearing.
7. The arbitration panel shall conduct the hearing in the following manner, ensuring that the complaining Party and the Party complained against are afforded equal time:

Argument

- (a) argument of the complaining Party;
- (b) argument of the Party complained against.

Rebuttal Argument

- (a) reply of the complaining Party;
- (b) counter-reply of the Party complained against.

8. The arbitration panel may direct questions to either Party at any time during the hearing.
9. The arbitration panel shall arrange for a transcript of the hearing to be prepared and delivered to the Parties within 15 days of the hearing. The Parties may comment on the transcript, which the arbitration panel may consider, within 5 days of transmission of the document.
10. Within 10 days of the date of the hearing, each Party may deliver to the arbitrators and to the other Party a supplementary written submission concerning any matter arising during the hearing.

Article 10**Questions in writing**

1. The arbitration panel may at any time during the proceeding address questions in writing to one or both Parties. Each of the Parties shall receive a copy of any questions put by the arbitration panel.
2. Each Party shall also provide the other Party with a copy of its written response to the questions of the arbitration panel. Each Party shall be given the opportunity to provide written comments on the other Party's response within 5 days of the date of that response.

*Article 11***Transparency and confidentiality**

1. Each Party and the arbitration panel shall endeavour to ensure the confidentiality of any information submitted by the other Party to the arbitration panel and which that Party has classified as confidential. Where a Party's submission to the arbitration panel contains confidential information, that Party shall also provide, within 15 days of delivery of that submission, a non-confidential version of the submission that could be disclosed to the public.
2. Nothing in these rules of procedure shall prevent a Party disclosing statements of its own positions to the public to the extent that, when making reference to information submitted by the other Party, it does not disclose any information classified by the other Party as confidential.
3. The arbitration panel shall meet in closed session when the submission and arguments of a Party contain confidential business information. The Parties shall maintain the confidentiality of the arbitration panel hearings when the hearings are held in closed session.

*Article 12***Ex parte contacts**

1. The arbitration panel shall not meet or communicate with a Party in the absence of the other Party.
2. No arbitrator may discuss any aspect of the subject matter of the proceeding with a Party or the Parties in the absence of the other arbitrators.

*Article 13***Amicus curiae submissions**

1. Non-governmental persons established on the territory of a Party may submit *amicus curiae* briefs to the arbitration panel in accordance with paragraphs 2 to 5.
2. Unless the Parties agree otherwise within 5 days of the date of the setting-up of the arbitration panel, the arbitration panel may receive unsolicited written submissions, provided that they are made within 10 days of the date of the setting-up of the arbitration panel, that they are directly relevant to the issue under consideration by the arbitration panel and that those submissions, including any annexes thereto, are no longer than fifteen typed pages.
3. Each submission shall contain a description of the person making the submission, whether natural or legal, including the nature of that person's activities and the source of that person's financing, and specify the nature of that person's interest in the arbitration proceeding. The submission shall be drafted in the languages chosen by the Parties, in accordance with Article 16(1) and (2).
4. The submissions shall be delivered to the Parties for their comments. The Parties may submit comments to the arbitration panel, within 10 days of the delivery of a submission.
5. The arbitration panel shall list in its ruling all the submissions it has received that conform to these rules of procedure. The arbitration panel shall not be obliged to address in its ruling the arguments made in such submissions.

*Article 14***Urgent cases**

In the urgent cases referred to in Articles 52(2) and 55(2) of the Agreement, the arbitration panel, after consulting the Parties, shall adjust the time limits referred to in these rules of procedure as appropriate and shall notify the Parties of such adjustments.

*Article 15***Costs**

1. Each Party shall bear its costs of participation in the arbitration proceeding.
2. The Party complained against shall be responsible for the logistical administration of the arbitration proceeding, in particular for organising hearings, and shall bear all the costs of the logistical administration of the hearing. However, the Parties shall jointly and equally bear the other administrative costs of the arbitration proceeding as well as the remuneration and expenses of the arbitrators and of their assistants.

*Article 16***Working language for the proceeding, translation and interpretation**

1. During the consultations referred to in Article 50(2) of the Agreement, and no later than the meeting referred to in Article 5(1) of these rules of procedure, the Parties shall endeavour to adopt a common working language which is an official language common to both Parties.
2. If the Parties are unable to agree on a common working language, each Party shall arrange for the translation of its written submissions into the language chosen by the other Party, unless these submissions are written in one of the working languages of the WTO. The Party complained against shall arrange for the interpretation of oral submissions into the languages chosen by the Parties.
3. Reports and rulings of the arbitration panel shall be drafted in the language or languages chosen by the Parties. If the Parties have not agreed on a common working language, the interim and final reports of the arbitration panel shall be issued in one of the working languages of the WTO.
4. Any costs incurred for the translation of a ruling of the arbitration panel into the language or languages chosen by the Parties shall be borne equally by the Parties.
5. A Party may provide comments on the accuracy of any translated version of a document drawn up in accordance with these rules of procedure.
6. Each Party shall bear the costs of the translation of its written submissions. Any costs incurred for translation of a ruling of the arbitration panel shall be borne equally by the Parties.

*Article 17***Calculation of time limits**

All the time limits set out in Title V (Dispute avoidance and settlement) of the Agreement and in these rules of procedure, including the time limits for the arbitration panels to notify their rulings, may be modified by mutual consent of the Parties, and shall be calculated in days from the day following the act or fact to which they refer, unless otherwise specified.

*Article 18***Other procedures**

The time limits set out in these rules of procedure shall be adjusted in line with the special time limits provided for the adoption of a ruling by the arbitration panel in proceedings under Articles 54 to 57 of the Agreement.

*Annex to the procedures for the settlement of disputes***CODE OF CONDUCT FOR ARBITRATORS***Article 1***Definitions**

For the purposes of this code of conduct, the following definitions apply:

- Arbitrator: a member of an arbitration panel set up under Article 50 of the Agreement;
- Assistant: a natural person who, under the terms of appointment of an arbitrator, conducts research for or provides assistance to the arbitrator;
- Candidate: an individual whose name is on the list of arbitrators referred to in Article 64 of the Agreement and who is under consideration for selection as an arbitrator under Article 50 of the Agreement;
- Mediator: a natural person who conducts mediation in accordance with Article 48 of the Agreement;
- Staff: in respect of an arbitrator, the natural persons under the direction and control of the arbitrator, other than assistants.

*Article 2***Basic principles**

1. In order to preserve the integrity and impartiality of the dispute settlement mechanism, each candidate and arbitrator shall:
 - (a) take note of this code of conduct;
 - (b) be independent and impartial;
 - (c) avoid direct or indirect conflicts of interest;
 - (d) avoid impropriety and any act that may lead to the presumption of impropriety or of bias;
 - (e) observe high standards of conduct; and
 - (f) not be influenced by self-interest, outside pressures, political considerations, public protest, loyalty to a Party or fear of criticism.
2. An arbitrator shall not, directly or indirectly, incur any obligation or accept any benefit that would interfere or appear to interfere with the proper performance of his or her duties.
3. An arbitrator shall not use his or her position on the arbitration panel to advance any personal or private interests. An arbitrator shall avoid any action that may lead to the presumption that others are in a position to influence him or her.
4. An arbitrator shall not allow past or existing financial, business, professional, personal, or social relationships or responsibilities to influence his or her conduct or judgement.
5. An arbitrator shall avoid entering into any relationship or acquiring any financial interest that is likely to affect his or her impartiality or that might reasonably lead to the presumption of impropriety or of bias.

*Article 3***Disclosure obligations**

1. Prior to confirmation of his or her selection as an arbitrator under Article 50 of the Agreement, a candidate shall disclose any interest, relationship or matter that is likely to affect his or her independence or impartiality or that might reasonably lead to the presumption of impropriety or of bias in the framework of the proceeding.

2. To that end, a candidate shall strive, to the extent possible, to become aware of any such interests, relationships and matters, including financial interests, professional interests, or employment or family interests.
3. The disclosure obligation under paragraph 1 of this Article, being a continuing duty, means that arbitrators shall disclose any such interests, relationships or matters that may arise during any stage of the proceeding.
4. A candidate or an arbitrator shall communicate to the EPA Committee for consideration by the Parties any matters concerning actual or potential violations of this code of conduct as soon as possible after having become aware of them.

Article 4

Duties of the arbitrators

1. Upon acceptance of his or her appointment, an arbitrator shall be available to take up his or her duties and shall perform those duties thoroughly and effectively throughout the course of the proceeding, and with fairness and diligence.
2. An arbitrator shall consider only those issues raised in the proceeding and necessary for a ruling, and shall not delegate this duty to any other person.
3. An arbitrator shall take all necessary steps to ensure that his or her assistant and staff are aware of, and comply with, Articles 2, 3, 4 and 6 of this code of conduct.

Article 5

Obligations of former arbitrators

All former arbitrators must avoid actions that may lead to the presumption that they were biased in carrying out their duties or derived advantage from the ruling of the arbitration panel.

Article 6

Confidentiality

1. An arbitrator or former arbitrator shall not, at any time, disclose or use any non-public information concerning a proceeding or acquired during a proceeding except for the purposes of that proceeding and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others or to adversely affect the interests of others.
2. An arbitrator shall not disclose an arbitration panel ruling or parts thereof prior to its publication in accordance with this Article 63 of the Agreement.
3. An arbitrator or former arbitrator shall not at any time disclose the deliberations of an arbitration panel, or the position of any of its members.

Article 7

Expenses

Each arbitrator shall keep a record and render a final account to the Parties of the time devoted to the proceeding and of his or her expenses, as well as the time and expenses of his or her assistant.

*Article 8***Mediators**

This code of conduct applies *mutatis mutandis* to mediators.

**DECISION No 2/2021 OF THE EPA COMMITTEE ESTABLISHED BY THE STEPPING STONE
ECONOMIC PARTNERSHIP AGREEMENT BETWEEN CÔTE D'IVOIRE, OF THE ONE PART, AND
THE EUROPEAN COMMUNITY AND ITS MEMBER STATES, OF THE OTHER PART**

of 20 October 2021

concerning the adoption of the list of arbitrators [2021/2001]

THE EPA COMMITTEE,

Having regard to the stepping stone Economic Partnership Agreement between Côte d'Ivoire, of the one part, and the European Community and its Member States, of the other part, signed in Abidjan on 26 November 2008 and applied on a provisional basis since 3 September 2016, and in particular Article 64(1) thereof,

Whereas:

The stepping stone Economic Partnership Agreement between Côte d'Ivoire, of the one part, and the European Community and its Member States, of the other part (the 'Agreement') provides that the EPA Committee is to establish a list of 15 persons who are willing and able to serve as arbitrators in the settlement of disputes that may arise between the Parties,

HAS ADOPTED THIS DECISION:

Article 1

1. The list of 15 persons who are willing and able to serve as arbitrators (the 'list of arbitrators') is established in accordance with Article 64(1) of the Agreement and set out in the Annex to this Decision.
2. The list of arbitrators is established without prejudice to any special rules provided for in the Agreement or which may be decided by the EPA Committee.

Article 2

The list of arbitrators may be amended by a decision of the EPA Committee taken in accordance with Article 67 of the Agreement.

Article 3

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

Done at Brussels, 20 October 2021.

For the Republic of Côte d'Ivoire
Kalilou SYLLA

For the European Union
Cristina MIRANDA GOZALVEZ

ANNEX

List of arbitrators (Article 64(1) of the Agreement)

Arbitrators selected by Côte d'Ivoire:

Mr Abbe YAO – Côte d'Ivoire
Mr Abdouramane OUATTARA – Côte d'Ivoire
Mr Joachim BILA AKA – Côte d'Ivoire
Mr Narcisse AKA – Côte d'Ivoire
Mr Karim FADIKA – Côte d'Ivoire

Arbitrators selected by the European Union:

Mr Claus-Dieter EHLERMANN – Germany
Mr Giorgio SACERDOTI – Italy
Mr Jacques BOURGEOIS – Belgium
Mr Pieter Jan KUIJPER – Netherlands
Ms Hélène RUIZ FABRI – France

Arbitrators jointly selected by the two Parties:

Mr Martial AKAKPO - Togo
Ms Anna KOUYATE – Mali
Mr Thomas COTTIER – Switzerland
Ms Merit E. JANOW – United States
Mr Helge SELAND – Norway

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