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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	5 December 2016
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2016) 771 final
Subject:	Proposal for a COUNCIL DECISION on the conclusion of the Agreement between the European Union and the Republic of Chile on trade in organic products

Delegations will find attached document COM(2016) 771 final.

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Brussels, 5.12.2016
COM(2016) 771 final

2016/0383 (NLE)

Proposal for a

COUNCIL DECISION

**on the conclusion of the Agreement between the European Union and the Republic of
Chile on trade in organic products**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

In its conclusions on organic farming of the 3237th Agriculture and Fisheries Council meeting, the Council of the European Union encouraged the Commission to improve the current mechanisms to facilitate international trade in organic products and require reciprocity and transparency in any trade agreement.

On 16 June 2014 the Council authorised the Commission to negotiate agreements between the EU and third countries on trade in organic products.

On the basis of the Council's negotiating directives, the Commission has negotiated with Chile an agreement reciprocally recognising the equivalence of the respective organic production rules and control systems as regards certain products.

The agreement with Chile on trade in organics products aims at fostering trade in organic products between the EU and Chile, achieving a high level of respect of the principle of organic production rules as well as the reciprocal protection of the organic logos.

The equivalence agreement will allow for products produced and controlled according to EU rules to be directly placed on the Chilean market and conversely. It will also provide for a system of co-operation, exchange of information and dispute settlement in organic trade.

Chile will recognise as equivalent all Union's organic products included in the scope of Regulation (EC) No 834/2007, namely: unprocessed plant products, live animals or unprocessed animal products (including honey), aquaculture products and seaweeds, processed agricultural products for use as food (including wine), processed agricultural products for use as feed, vegetative propagating material and seeds for cultivation.

On the other hand, the Union will recognise as equivalent the following products from Chile: unprocessed plant products, honey, processed agricultural products for use as food (including wine), vegetative propagating material and seeds for cultivation.

Chilean production rules for animal products other than apiculture as well as feed were not found equivalent and could possibly only be recognised as equivalent at a later stage, once Chile develops its legislation for these products. Although Chile has no rules for organic aquaculture, it has accepted to recognise Union's organic aquaculture products and seaweeds.

While for the Union no conditions on imported ingredients are foreseen, processed agricultural products for use as food that have been processed in Chile must use Chilean organically grown ingredients or ingredients imported to Chile either from the Union or from a third country recognised as equivalent (in accordance with Article 33 (2) of Regulation (EC) No 834/2007) by the Union- but not from third countries for which the Union has only recognised control authorities or bodies (in accordance with Article 33 (3) Regulation (EC) No 834/2007).

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

The Commission has negotiated this agreement according to Council Decision of 16 June 2014 that authorised the Commission to negotiate agreements between the Union and third countries on trade in organic products and adopted the relevant negotiating directives.

Trade policy is within Union's exclusive competence. Consequently, this Agreement is negotiated and concluded in accordance with Articles 207 and 218 of the TFEU.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

Not applicable

4. BUDGETARY IMPLICATIONS

No budgetary implications

5. OTHER ELEMENTS

Not applicable

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4) in conjunction with Article 218(6)(a)(v) and Article 218(7) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) In accordance with Council Decision [XXX] of [...], the Agreement between the European Union and the Republic of Chile on trade in organic products ('the Agreement') was signed on [...], subject to its conclusion at a later date.
- (2) In the Agreement, the Union and the Republic of Chile recognise the equivalence of their rules on organic production and control systems as regards organic products.
- (3) The Agreement aims at fostering trade in organic products, contributing to the development and expansion of the organic sector in the Union and in the Republic of Chile, achieving a high level of respect of the principles of organic production rules, of guarantee of the control systems and of integrity of organic products. The protection of the respective organic logos should also be improved. The Agreement also aims at enhancing regulatory cooperation between the Parties on issues related to organic production.
- (4) The Joint Committee on Organic Products ('the Joint Committee'), established by Article 8 of the Agreement, will deal with certain aspects of its implementation. In particular, the Joint Committee has the power to amend the list of products set out in Annex I or II to the Agreement. The Commission should be authorised to represent the Union in the Joint Committee.
- (5) In order to facilitate the approval of amendments to the list of products set out in Annex I or II, the Commission should be empowered to approve them, subject to prior information of the representatives of the Member States. The Commission should inform the representatives of the Member States of the amendments to Annex I or II to which it intends to give its approval in the Joint Committee and should provide the

representatives of the Member States with all relevant information that has led the Commission to the opinion that equivalence can be accepted.

- (6) Furthermore, to allow for a timely reaction in case conditions for equivalence are not met anymore, the Commission should be empowered to unilaterally suspend the recognition of equivalence, subject to prior information of the representatives of the Member States.
- (7) In case representatives of Member States representing a blocking minority would object to the position presented by the Commission, the Commission should not be allowed to approve amendments to the list of products set out in Annex I or II, nor to suspend the recognition of equivalence. In this case, the Commission should present a proposal for a Council decision, on the basis of Article 218 (9) of the Treaty.
- (8) The Agreement should be approved on behalf of the Union,

HAS ADOPTED THIS DECISION:

Article 1

1. The Agreement between the European Union and the Republic of Chile on trade in organic products ('the Agreement') is hereby approved on behalf of the Union.
2. The text of the Agreement is attached to this Decision.

Article 2

The President of the Council shall designate the person empowered to proceed, on behalf of the Union, to the notification provided for in the first paragraph of Article 15 of the Agreement, in order to express the consent of the European Union to be bound by the Agreement.

Article 3

The Commission shall represent the Union in the Joint Committee on Organic Products established by Article 8 of the Agreement.

Article 4

Amendments to Annex I or II to the Agreement made in accordance with Article 8(3)(b) of the Agreement shall be approved by the Commission on behalf of the Union.

Before the Commission approves amendments to Annex I or II to the Agreement, it shall inform the representatives of the Member States on the anticipated position of the Union by providing an information document setting out the results of the equivalence assessment carried out with regard to the new or up-dated list of products set out in Annex I or II, including:

- (a) the list of products concerned, together with an indication of the expected quantities for export to the Union;

- (b) the production rules applied to the products concerned in the Republic of Chile with an indication on how any substantial difference with the relevant Union provisions has been resolved;
- (c) if relevant, the new or up-dated control system applied to the products concerned with an indication on how any substantial difference with the relevant Union provisions has been resolved;
- (d) any other information deemed relevant by the Commission.

In case a number of Member States equivalent to a blocking minority as provided for in the second subparagraph of point (a) of Article 238(3) of the Treaty objects, the Commission shall make a proposal in accordance with Article 218(9) of the Treaty.

Article 5

The decision of the Union to unilaterally suspend, in accordance with Article 3(4) and (5) of the Agreement, the recognition of equivalence of the laws and regulations listed in Annex IV, including their up-dated and consolidated versions as referred to in Annex V, shall be taken by the Commission.

Before the Commission takes such a decision, it shall inform the representatives of the Member States in accordance with the procedure laid down in Article 4.

Article 6

This Decision shall enter into force on[...].

Done at Brussels,

*For the Council
The President*