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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	15 December 2015
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2015) 645 final ANNEX 1
Subject:	ANNEX to the Proposal for a Council Decision on the signing, on behalf of the European Union, and provisional application of the Agreement between the European Union and the People's Republic of China on the short-stay visa waiver for holders of diplomatic passports

Delegations will find attached document COM(2015) 645 final ANNEX 1.

Encl.: COM(2015) 645 final ANNEX 1



Brussels, 15.12.2015
COM(2015) 645 final

ANNEX 1

ANNEX

to the

Proposal for a Council Decision

on the signing, on behalf of the European Union, and provisional application of the Agreement between the European Union and the People's Republic of China on the short-stay visa waiver for holders of diplomatic passports

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AGREEMENT

BETWEEN THE EUROPEAN UNION AND THE PEOPLE'S REPUBLIC OF CHINA
ON THE SHORT-STAY VISA WAIVER FOR HOLDERS OF DIPLOMATIC PASSPORTS

THE EUROPEAN UNION, hereinafter referred to as "the Union" or "the EU", and

THE PEOPLE'S REPUBLIC OF CHINA, hereinafter referred to as "China",

hereinafter referred to jointly as the "Contracting Parties",

WITH A VIEW to further developing friendly relations between the Contracting Parties and continuing to strengthen close ties between the Contracting Parties;

DESIRING to facilitate travel by ensuring visa-free entry and short stay for holders of diplomatic passports and EU *laissez-passer* and to safeguard the principles of equality and reciprocity,

TAKING INTO ACCOUNT the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice and the Protocol on the Schengen *acquis* integrated into the framework of the European Union, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, and confirming that the provisions of this Agreement do not apply to the United Kingdom and Ireland,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Purpose

This Agreement provides for visa-free travel for the citizens of the Union and for the citizens of China, holders of a valid diplomatic passport or EU *laissez-passer*, when travelling to the territory of the other Contracting Party for a maximum period of 90 days in any 180-day period.

ARTICLE 2

Definitions

For the purpose of this Agreement:

- (a) "Member State" shall mean any Member State of the Union, with the exception of the United Kingdom and Ireland;
- (b) "a citizen of the Union" shall mean a national of a Member State as defined in point (a);
- (c) "a citizen of China" shall mean any person who holds the Chinese nationality;
- (d) "Schengen area" shall mean the area without internal borders comprising the territories of the Member States as defined in point (a) applying the Schengen *acquis* in full;

- (e) "EU *laissez-passer*" shall mean the document issued by the Union to certain servants of the institutions of the Union in accordance with Council Regulation (EU) No 1417/2013¹.

ARTICLE 3

Scope of application

1. Citizens of the Union holding a valid diplomatic passport issued by a Member State or an EU *laissez-passer* may enter and stay without a visa in the territory of China for the period of stay as defined in Article 4(1).

¹ Council Regulation (EU) No 1417/2013 of 17 December 2013 laying down the form of the *laissez-passer* issued by the European Union, OJ L 353, 28.12.2013, p. 26.

Citizens of China holding a valid diplomatic passport issued by China may enter and stay without a visa in the territory of the Member States for the period of stay as defined in Article 4(2).

2. The visa waiver provided for by this Agreement shall apply without prejudice to the laws of the Contracting Parties relating to the conditions of entry and short stay. The Member States and China reserve the right to refuse entry into and short stay in their territories if one or more of these conditions is not met.

3. The citizens of the Union benefiting from this Agreement shall comply with the laws and regulations in force in the territory of China during their stay.

The citizens of China benefiting from this Agreement shall comply with the laws and regulations in force in the territory of each Member State during their stay.

4. The visa waiver applies regardless of the mode of transport used to cross the borders of the Contracting Parties.

5. Without prejudice to Article 8, issues not covered by this Agreement shall be governed by Union law, the national law of the Member States and by the national law of China.

ARTICLE 4

Duration of stay

1. Citizens of the Union holding a valid diplomatic passport issued by a Member State or an EU *laissez-passer* may stay in the territory of China for a maximum period of 90 days in any 180-day period.

2. Citizens of China holding a valid diplomatic passport issued by China may stay in the territory of the Member States fully applying the Schengen *acquis* for a maximum period of 90 days in any 180-day period. That period shall be calculated independently of any stay in a Member State which does not yet apply the Schengen *acquis* in full.

Citizens of China holding a valid diplomatic passport issued by China may stay for a maximum period of 90 days in any 180-day period in the territory of each of the Member States that do not yet apply the Schengen *acquis* in full, independently of the period of stay calculated for the territory of the Member States fully applying the Schengen *acquis*.

3. This Agreement does not affect the possibility for China and the Member States to extend the period of stay beyond 90 days in accordance with their respective national laws and Union law.

ARTICLE 5

Visits by high officials

Officials at or above vice ministerial level of the central government and officers of or above the rank of major general of the armed forces of China shall inform the competent authorities of the Member States through diplomatic channels before their travel to the latter's territory for official purposes.

Officials at or above vice ministerial level of the central government of the Member States and officers of or above the rank of major general of the armed forces of the Member States shall inform the competent authorities of China through diplomatic channels before their travel to the latter's territory for official purposes.

ARTICLE 6

Territorial application

1. As regards the French Republic, this Agreement shall apply only to the European territory of the French Republic.

2. As regards the Kingdom of the Netherlands, this Agreement shall apply only to the European territory of the Kingdom of the Netherlands.

ARTICLE 7

Joint Committee for the management of the Agreement

1. The Contracting Parties shall set up a Joint Committee of experts (hereinafter referred to as the "Committee"), composed of representatives of the Union and representatives of China. The Union shall be represented by the European Commission.

2. The Committee shall have, *inter alia*, the following tasks:
 - (a) monitoring the implementation of this Agreement;

- (b) suggesting amendments or additions to this Agreement;
- (c) settling disputes arising from the interpretation or application of this Agreement.

3. The Committee shall be convened whenever necessary, at the request of one of the Contracting Parties.

4. The Committee shall establish its rules of procedure.

ARTICLE 8

Relationship of this Agreement to existing bilateral visa waiver agreements between the Member States and China

This Agreement shall take precedence over any bilateral agreements or arrangements concluded between individual Member States and China, in so far as their provisions cover issues falling within the scope of this Agreement.

ARTICLE 9

Exchange of specimens

1. If they have not done so already, China, the Member States and the Union shall exchange, through diplomatic channels, specimens of their valid diplomatic passports and the EU *laissez-passer* no later than 90 days after the date of signature of this Agreement.

2. In case of introduction of new diplomatic passports or EU *laissez-passer* or modification of the existing ones, China, the Member States and the Union shall convey to each other, through diplomatic channels, specimens of these new or modified passports or EU *laissez-passer*, accompanied by detailed information on their specifications and applicability, not later than 90 days prior to its application.

ARTICLE 10

Final provisions

1. This Agreement shall enter into force on the first day of the second month following the date of the later of the two notifications by which the Contracting Parties notify each other that the respective internal procedures necessary for that purpose have been completed.

This Agreement shall be applied on a provisional basis as from the third day following the date of signature hereof.

2. This Agreement is concluded for an indefinite period, unless terminated in accordance with paragraph 5.

3. This Agreement may be amended by written agreement of the Contracting Parties. Amendments shall enter into force after the Contracting Parties have notified each other of the completion of their internal procedures necessary for this purpose.

4. Each Contracting Party may suspend in whole or in part this Agreement, in particular, for reasons of public policy, the protection of national security or the protection of public health, illegal immigration or upon the reintroduction of the visa requirement by either Contracting Party. The decision on suspension shall be notified to the other Contracting Party not later than two months before its planned entry into force. A Contracting Party that has suspended the application of this Agreement shall immediately inform the other Contracting Party should the reasons for that suspension cease to exist and shall lift that suspension.

5. Each Contracting Party may terminate this Agreement by giving written notice to the other Party. This Agreement shall cease to be in force 90 days thereafter.

6. China may suspend or terminate this Agreement only in respect of all the Member States.

7. The Union may suspend or terminate this Agreement only in respect of all of its Member States.

Done in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Chinese languages, each text being equally authentic. In case of divergence between authentic language versions, the English language version shall prevail.

JOINT DECLARATION WITH REGARD TO ICELAND, NORWAY, SWITZERLAND
AND LIECHTENSTEIN

The Contracting Parties take note of the close relationship between the European Union and Norway, Iceland, Switzerland and Liechtenstein, particularly by virtue of the Agreements of 18 May 1999 and 26 October 2004 concerning the association of those countries with the implementation, application and development of the Schengen *acquis*.

In such circumstances it is desirable that the authorities of Norway, Iceland, Switzerland, and Liechtenstein, on the one hand, and China, on the other hand, conclude, without delay, bilateral agreements on the short-stay visa waiver for holders of diplomatic passports in terms similar to those of this Agreement.

JOINT DECLARATION ON THE INTERPRETATION OF THE PERIOD OF 90 DAYS IN ANY 180-DAY PERIOD AS SET OUT IN ARTICLE 4 OF THIS AGREEMENT

The Contracting Parties understand that the maximum period of 90 days in any 180-day period as provided for by Article 4 of this Agreement means either a continuous visit or several consecutive visits, the total duration of which does not exceed 90 days in any 180-day period.

The notion of "any" implies the application of a moving 180-day reference period, looking backwards at each day of the stay into the last 180-day period, in order to verify if the 90 days in any 180-day period requirement continues to be fulfilled. *Inter alia*, it means that an absence for an uninterrupted period of 90 days allows for a new stay for up to 90 days.

JOINT DECLARATION ON OTHER FIELDS OF COOPERATION IN THE FRAMEWORK OF THE EU-CHINA MOBILITY AND MIGRATION DIALOGUE

The Contracting Parties recall that this Agreement is one of the outcomes of the negotiation roadmap agreed upon in the minutes of the second round of the EU-China Mobility and Migration Dialogue and endorsed by political leaders in the joint statement of the 17th EU-China Summit. This roadmap includes, in the first stage, negotiation and signing of a reciprocal visa waiver agreement for holders of diplomatic passports, the opening of visa application centres in mutually agreed Chinese cities without consular presence, and launching practical cooperation in combating illegal migration, and, in the second stage, negotiation of agreements on visa facilitation and cooperation in combating illegal migration.

The Contracting Parties reiterate their firm intention to respect the commitments taken in the roadmap and their common understanding that those commitments are interdependent and form part of an indivisible package.
