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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	11 April 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 177 final
Subject:	ANNEX to the Proposal for a Council Decision on the conclusion of the Agreement between the European Union and Federative Republic of Brazil amending the Agreement between the European Union and the Federative Republic of Brazil on short-stay visa waiver for holders of diplomatic, service or official passports

Delegations will find attached document COM(2018) 177 final.

Encl.: COM(2018) 177 final



EUROPEAN
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Brussels, 11.4.2018
COM(2018) 177 final

ANNEX

ANNEX

to the

Proposal for a Council Decision

on the conclusion of the Agreement between the European Union and Federative Republic of Brazil amending the Agreement between the European Union and the Federative Republic of Brazil on short-stay visa waiver for holders of diplomatic, service or official passports

ANNEX
AGREEMENT

between the European Union and the Federative Republic of Brazil amending the Agreement between the European Union and the Federative Republic of Brazil on short-stay visa waiver for holders of diplomatic, service or official passports

THE EUROPEAN UNION,

of the one part, and

THE FEDERATIVE REPUBLIC OF BRAZIL (hereinafter referred to as 'Brazil'),

of the other part,

hereinafter referred to jointly as 'the Contracting Parties',

HAVING REGARD to the Agreement between the European Union and the Federative Republic of Brazil on short-stay visa waiver for holders of diplomatic, service or official passports (hereinafter referred to as 'the Agreement') which entered into force on 1 April 2011,

TAKING NOTE that the Agreement works for the satisfaction of the citizens of the Contracting Parties who are holders of diplomatic, service or official passports,

TAKING INTO ACCOUNT that the definition of short-stay provided by the Agreement (three months during a six months period following the date of first entry) is not precise enough and in particular the notion of "the date of first entry" can give rise to uncertainties and questions,

BEARING IN MIND that Regulation (EU) No 610/2013 of 26 June 2013 has introduced horizontal changes in the EU's "internal" visa and borders *acquis* and has defined short-stay as "90 days in any 180-day period",

TAKING INTO ACCOUNT that the Entry/Exit System to be established by the European Union requires the use of a uniform and clear cut definition of short-stay which is applicable for all third-country nationals,

DESIRING to ensure the smooth flow of travellers at border crossing points of the Contracting Parties,

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 to 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

The Agreement shall be amended in accordance with the provisions of this Article:

- (1) In Article 1 the words "three months during a six months period" shall be replaced by the words "90 days in any 180-day period".
- (2) Article 4(1) shall be replaced by the following:

"The citizens of the Union holding a valid diplomatic, official or service passport may stay in the territory of Brazil for a maximum period of 90 days in any 180-day period."
- (3) Article 4(2) shall be replaced by the following:

"The citizens of Brazil holding a valid diplomatic, official or service passport 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.

The citizens of Brazil holding a valid diplomatic, official or service passport 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*."
- (4) In Article 4(3) the words "three months" shall be replaced by the words "90 days".
- (5) The last sentence of Article 8(4) shall be replaced by the following:

"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."

Article 2

This Agreement shall be ratified or approved by the Contracting Parties in accordance with their respective procedures and shall enter into force on the first day of the 6th month following the date on which the last Party notifies the other that the procedures referred to above have been completed.

Done at [...], on the [...] day of [...] in the year two thousand and seventeen, 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 and Swedish languages, each of these texts being equally authentic.

For the European Union

For the Federative Republic of Brazil

JOINT DECLARATION CONCERNING ICELAND, NORWAY, SWITZERLAND AND LIECHTENSTEIN

It is desirable that the authorities of Norway, Iceland, Switzerland, Liechtenstein, on the one hand, and Brazil on the other hand, modify, without delay, the existing bilateral agreements on the short-stay visa waiver for holders of diplomatic, service or official passports in accordance with the terms of this Agreement.

JOINT DECLARATION ON THE INTERPRETATION OF 90 DAYS IN ANY 180-DAY PERIOD

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

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. Among others, it means that an absence for an uninterrupted period of 90 days allows for a new stay for up to 90 days.
