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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: 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

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

EU/BR/DIPL/en 1

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 passports¹ (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 for 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,

¹ OJ EU L 66, 12.3.2011, p. 2.

BEARING IN MIND that Regulation (EU) No 610/2013 of the European Parliament and of the Council¹ has introduced horizontal changes in the visa and borders *acquis* of the European Union 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 to 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 amending Agreement do not apply to the United Kingdom and Ireland,

HAVE AGREED AS FOLLOWS:

¹ Regulation (EU) No 610/2013 of the European Parliament and of the Council of 26 June 2013 amending Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), the Convention implementing the Schengen Agreement, Council Regulations (EC) No 1683/95 and (EC) No 539/2001 and Regulations (EC) No 767/2008 and (EC) No 810/2009 of the European Parliament and of the Council (OJ EU L 182, 29.6.2013, p. 1).

ARTICLE 1

The Agreement is amended as follows:

(1) in Article 1, the words "three months during a six months period" are replaced by the words "90 days in any 180-day period";

(2) Article 4 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

"1. 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.

2. 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*.";

- (b) in paragraph 3, the words "three months" are replaced by the words "90 days";
- (3) in Article 8(4), the last sentence is 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 amending 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 sixth month following the date on which the last Party notifies the other that the procedures referred to above have been completed.

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 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.
