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**COVER NOTE**

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| From:            | Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director                                                                                                    |
| date of receipt: | 13 June 2025                                                                                                                                                                           |
| To:              | Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union                                                                                                            |
| No. Cion doc.:   | COM(2025) 309 annex                                                                                                                                                                    |
| Subject:         | ANNEX to the Proposal for a Council Decision on the conclusion of a broad package of agreements to consolidate, deepen and expand the bilateral relations with the Swiss Confederation |

Delegations will find attached document COM(2025) 309 - Annex 5.

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Encl.: COM(2025) 309 annex



EUROPEAN  
COMMISSION

Brussels, 13.6.2025  
COM(2025) 309 final

ANNEX 5

**ANNEX**

*to the*

**Proposal for a Council Decision**

**on the conclusion of a broad package of agreements to consolidate, deepen and expand  
the bilateral relations with the Swiss Confederation**

AMENDING PROTOCOL  
TO THE AGREEMENT  
BETWEEN THE EUROPEAN COMMUNITY  
AND THE SWISS CONFEDERATION  
ON TRADE IN AGRICULTURAL PRODUCTS

THE EUROPEAN UNION, hereinafter referred to as the "Union",

and

THE SWISS CONFEDERATION, hereinafter referred to as "Switzerland",

hereinafter referred to as "the Parties";

RECALLING the objective of the Agreement between the European Community and the Swiss Confederation on trade in agricultural products, done at Luxembourg, on 21 June 1999 (hereinafter referred to as "the Agreement"), to strengthen the free-trade relations between the Parties by improving the access of each to the market in agricultural products of the other;

RECALLING the Parties sovereignty over their agricultural policies;

ACKNOWLEDGING the need to amend the Agreement following the establishment of a Common Food Safety Area by the Protocol to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products establishing a Common Food Safety Area, done at [...], on [...], (hereinafter referred to as the "Protocol establishing a Common Food Safety Area"), which covers certain fields which have hitherto been governed by the Agreement;

ACKNOWLEDGING the need to adapt the Agreement's institutional provisions, to enhance the Agreement's effectiveness and efficiency and to ensure consistency with the Common Food Safety Area;

AFFIRMING that the Agreement should be based on equality, reciprocity and the general balance of advantages, rights and obligations of the Parties in the areas covered by the Agreement;

RECALLING the intrinsic link between the Agreement and the six other Agreements between the European Community and Switzerland, done at Luxembourg, on 21 June 1999;

AFFIRMING the intrinsic link between the Agreement and the Common Food Safety Area established by the Protocol establishing a Common Food Safety Area, with which it forms a coherent whole;

HAVE AGREED AS FOLLOWS:

## ARTICLE 1

### Amendments to the Agreement and its Annexes

The Agreement is amended as follows:

- (1) Any references to the "European Community" or to "the Community" in the Agreement shall be construed as references to the European Union;
- (2) Article 5 is replaced by the following:

#### "ARTICLE 5

##### Removal of technical barriers to trade in agricultural products

With the aim of fostering trade in agricultural products, the Parties shall remove or reduce technical barriers, in accordance with the following Annexes to the Agreement:

- Annex 7 on trade in wine-sector products,
- Annex 8 on the mutual recognition and protection of names of spirit drinks and aromatised wine-based drinks,
- Annex 9 on organically produced agricultural products and foodstuffs,
- Annex 10 on recognition of checks on conformity checks for fresh fruit and vegetables subject to marketing standards,

- Annex 12 on the protection of designations of origin and geographical indications for agricultural products and foodstuffs.";

(3) Article 6 is replaced by the following:

"ARTICLE 6

Joint Committee on Agriculture

1. A Joint Committee on Agriculture is hereby established.

The Joint Committee on Agriculture shall be composed of representatives of the Parties.

2. The Joint Committee on Agriculture shall be co-chaired by a representative of the Union and a representative of Switzerland.

3. The Joint Committee on Agriculture shall:

- (a) ensure the proper functioning and the effective administration and application of this Agreement;
- (b) provide a forum for mutual consultation and a continuous exchange of information between the Parties, in particular with a view to finding a solution to any difficulty of interpretation or application of the Agreement in accordance with Article 7a;

- (c) make recommendations to the Parties in matters pertaining to this Agreement;
- (d) adopt decisions where provided for in this Agreement; and
- (e) exercise any other competence granted to it in this Agreement.

4. The Joint Committee on Agriculture shall act by consensus.

Decisions shall be binding on the Parties, which shall take all necessary measures to implement them.

5. The Joint Committee on Agriculture shall meet at least once a year, in Brussels and Bern alternately, unless the co-chairs decide otherwise. It shall also meet at the request of either Party. The co-chairs may agree that a meeting of the Joint Committee on Agriculture be held by videoconference or teleconference.

The Joint Committee on Agriculture may decide to take decisions by written procedure.

6. The Joint Committee on Agriculture shall adopt its rules of procedure at its first meeting.

7. The Joint Committee on Agriculture may decide to set up any working party or group of experts that can assist it in carrying out its duties.";



- (4) Article 7 is replaced by the following:

"ARTICLE 7

Exclusivity principle

The Parties undertake not to submit a dispute regarding the interpretation or application of this Agreement to any method of settlement other than those provided for in this Agreement.";

- (5) the following Articles are inserted:

"ARTICLE 7a

Procedure in the event of difficulty of interpretation or application

1. In the event of difficulty of interpretation or application of this Agreement, the Parties shall consult each other within the Joint Committee on Agriculture in order to find a mutually acceptable solution. To this end, all useful elements of information shall be provided to the Joint Committee on Agriculture to enable it to make a detailed examination of the situation. The Joint Committee on Agriculture shall examine all possibilities that allow the proper functioning of the Agreement to be maintained.

2. If the Joint Committee on Agriculture is not able to find a solution to the difficulty referred to in paragraph 1 within three months of the date on which the difficulty was submitted to it, either of the Parties may request that an arbitral tribunal settle the dispute in accordance with the rules laid down in the Protocol to the Agreement on the arbitral tribunal.

3. Each Party shall take all necessary measures to comply in good faith with the arbitral tribunal's decision.

The Party that has been found by the arbitral tribunal not to have complied with this Agreement shall inform the other Party through the Joint Committee on Agriculture of the measures it has taken to comply with the arbitral tribunal's decision.

4. The procedure referred to in paragraph 2 of this Article shall not affect the concessions as granted and established in Annexes 1 to 3 to this Agreement and their administration.

## ARTICLE 7b

### Compensatory measures

1. If the Party that has been found by the arbitral tribunal not to have complied with this Agreement does not inform the other Party, within a reasonable time period set in accordance with Article IV.2 (6) of the Protocol to this Agreement on the arbitral tribunal, of the measures it has taken to comply with the arbitral tribunal's decision, or if the other Party considers that the measures communicated do not comply with the arbitral tribunal's decision, this other Party may adopt proportionate compensatory measures within the framework of this Agreement, or of the Protocol establishing a Common Food Safety Area (hereinafter referred to as "compensatory measures") in order to remedy a potential imbalance. It shall notify the Party that has been found by the arbitral tribunal not to have complied with the Agreement of the compensatory measures, which shall be specified in the notification. Those compensatory measures shall take effect three months from the date of this notification.

2. If, within one month from the date of the notification of the intended compensatory measures the Joint Committee on Agriculture has not taken a decision to suspend, amend or annul those compensatory measures, either Party may submit to arbitration the question of the proportionality of those compensatory measures, in accordance with the Protocol to this Agreement on the arbitral tribunal.

3. The arbitral tribunal shall decide within the time limits laid down in Article III.8(3) of the Protocol on the arbitral tribunal to this Agreement.

4. Compensatory measures shall not have retroactive effect. In particular, the rights and obligations already acquired by individuals and economic operators before the compensatory measures take effect shall be preserved.";

(6) in Article 9, the title is replaced by the following:

"Professional secrecy";

(7) the following Article is inserted:

"ARTICLE 9a

Classified information and sensitive non-classified information

1. Nothing in this Agreement shall be construed as requiring a Party to make available classified information.

2. Classified information or material provided by, or exchanged between, the Parties under this Agreement shall be handled and protected in compliance with the Agreement between the Swiss Confederation and the European Union on the security procedures for the exchange of classified information, done at Brussels, on 28 April 2008 and any security arrangement implementing it.

3. The Joint Committee on Agriculture shall adopt, by means of a decision, handling instructions to ensure the protection of sensitive non-classified information exchanged between the Parties.";

(8) in Article 11, Article 12(2) and Article 13(2), the words "the Committee" are replaced by the words "the Joint Committee on Agriculture";

(9) Article 15 is replaced by the following:

"ARTICLE 15

Annexes, Appendices and Protocol

The Annexes to this Agreement, including the Appendices thereto, and the Protocol on the arbitral tribunal to this Agreement, shall form an integral part thereof.";

(10) Article 16 is replaced by the following:

"ARTICLE 16

Territorial scope

This Agreement shall apply, of the one part, to the territory in which the Treaty on European Union and the Treaty on the Functioning of the European Union apply and under the conditions laid down in those Treaties, and, of the other part, to the territory of Switzerland.";

(11) in Article 17, the following paragraphs are added:

- "5. Where this Agreement is terminated in accordance with paragraph 3, the Protocol establishing a Common Food Safety Area shall cease to apply on the date referred to in paragraph 4.
- 6. Where the Agreement ceases to apply, the rights and obligations that individuals and economic operators have already acquired by their virtue shall be preserved. The Parties shall settle by mutual agreement what action is to be taken in respect of rights in the process of being acquired.";

(12) Annexes 4, 5, 6 and 11 are repealed on the date of entry into force of the Protocol establishing a Common Food Safety Area;

(13) the text set out in the Annex to this Protocol is added as a Protocol to the Agreement.

## ARTICLE 2

### Transitional application of Annexes 4, 5, 6 and 11 to the Agreement

The effects of Annexes 4, 5, 6 and 11 shall be maintained during the transition period established by Article 32 of the Protocol establishing a Common Food Safety Area which, according to that provision, shall start on the date of entry into force of that Protocol and end no later than 24 months after its entry into force.

For the purposes of the Agreement, the date of the end of that transition period shall be determined by a decision of the Joint Committee on Agriculture set up under Article 6 of the Agreement upon notification by the Joint Committee on Food Safety established by Article 11 of the Protocol establishing a Common Food Safety Area.

## ARTICLE 3

### Entry into force

1. This Protocol shall be ratified or approved by the Parties in accordance with their own procedures. The Parties shall notify each other of the completion of the internal procedures necessary to the entry into force of this Protocol.

2. This Protocol shall enter into force on the first day of the second month following the last notification regarding the following instruments:

- (a) Institutional Protocol to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons;
- (b) Amending Protocol to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons;
- (c) Institutional Protocol to the Agreement between the European Community and the Swiss Confederation on air transport;
- (d) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on air transport;
- (e) State Aid Protocol to the Agreement between the European Community and the Swiss Confederation on air transport;
- (f) Institutional Protocol to the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road;

- (g) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road;
- (h) State Aid Protocol to the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road;
- (i) Institutional Protocol to the Agreement between the European Community and the Swiss Confederation on mutual recognition in relation to conformity assessment;
- (j) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on mutual recognition in relation to conformity assessment;
- (k) Agreement between the European Union and the Swiss Confederation on Switzerland's regular financial contribution towards reducing economic and social disparities in the European Union;
- (l) Agreement between the European Union and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, on the participation of the Swiss Confederation in Union programmes;
- (m) Agreement between the European Union and the Swiss Confederation on the terms and conditions for the participation of the Swiss Confederation in the European Union Agency for the Space Programme.



Done at [...], on [...], in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each of these texts being equally authentic.

IN WITNESS WHEREOF, the undersigned, duly authorised thereto, have signed this Protocol.

(Signature Block, to the effect of, in all 24 EU languages: "For the European Union" and "For the Swiss Confederation")

PROTOCOL  
TO THE AGREEMENT  
BETWEEN THE EUROPEAN COMMUNITY  
AND THE SWISS CONFEDERATION  
ON TRADE IN AGRICULTURAL PRODUCTS  
ON THE ARBITRAL TRIBUNAL

CHAPTER I

PRELIMINARY PROVISIONS

ARTICLE I.1

Scope

If one of the Parties (hereinafter referred to as "parties") submits a dispute for arbitration in accordance with Articles 7a(2) or 7b(2) of the Agreement, the rules set out in this Protocol shall apply.

## ARTICLE I.2

### Registry and secretarial services

The International Bureau of the Permanent Court of Arbitration at the Hague (hereinafter referred to as "International Bureau") shall fulfil the functions of registry and provide the necessary secretarial services.

## ARTICLE I.3

### Notices and calculation of time limits

1. Notices, including communications or proposals, may be sent by any means of communication that certifies their transmission, or enables them to be certified.
2. Such notices may be sent electronically only if an address has been designated or authorised by a party specifically for this purpose.
3. Such notices served on the parties shall be sent, for Switzerland, to Switzerland's Europe Division of the Federal Department of Foreign Affairs and, for the Union, to the Commission's Legal Service.

4. Any time limit laid down in this Protocol shall run from the day after an event occurs or an action takes place. If the last day for delivery of a document falls on a non-working day of the institutions of the Union or of the government of Switzerland, the time period for the delivery of the document shall end on the first following working day. Non-working days that fall within the time period shall be counted.

## ARTICLE I.4

### Notice of arbitration

1. The party taking the initiative to use arbitration (hereinafter referred to as "applicant") shall send to the other party (hereinafter referred to as "defendant") and to the International Bureau a notice of arbitration.
2. Arbitration proceedings shall be deemed to commence on the day after that on which the notice of arbitration is received by the defendant.
3. The notice of arbitration shall include the following information:
  - (a) the demand that the dispute be referred to arbitration;
  - (b) the names and contact details of the parties;
  - (c) the name and address of the applicant's agent(s);

- (d) the legal basis of the proceedings (Articles 7a(2) or 7b(2) of the Agreement) and:
  - (i) in the cases referred to in Article 7a(2) of the Agreement, the question causing the dispute as officially entered, for resolution, on the agenda of the Joint Committee on Agriculture in accordance with Article 7a(1) of the Agreement; and
  - (ii) in the cases referred to in Article 7b(2) of the Agreement, the decision of the arbitral tribunal, any implementation measures mentioned in Article 7a(3) of the Agreement and the disputed compensatory measures;
- (e) the designation of any rule causing the dispute or related to it;
- (f) a brief description of the dispute; and
- (g) the designation of an arbitrator or, if five arbitrators are to be appointed, the designation of two arbitrators.

4. Any claims on the sufficiency of the notice of arbitration shall not prevent the constitution of the arbitral tribunal. The dispute shall be decided definitively by the arbitral tribunal.

## ARTICLE I.5

### Response to the notice of arbitration

1. Within 60 days of receiving the notice of arbitration, the defendant shall send a response to the notice of arbitration to the applicant and the International Bureau, which shall include the following information:
  - (a) the names and contact details of the parties;
  - (b) the name and address of the defendant's agent(s);
  - (c) a response to the information given in the notice of arbitration in accordance with points (d) to (f) of Article I.4(3); and
  - (d) the designation of an arbitrator or, if five arbitrators are to be appointed, the designation of two arbitrators.
2. The lack, or an incomplete or late, response from the defendant to the notice of arbitration shall not prevent the constitution of an arbitral tribunal. The dispute shall be decided definitively by the arbitral tribunal.
3. If the defendant requests that the arbitral tribunal consist of five arbitrators in its response to the notice of arbitration, the applicant shall designate an additional arbitrator within 30 days of receipt of the response to the notice of arbitration.

## ARTICLE I.6

### Representation and assistance

1. The parties shall be represented before the arbitral tribunal by one or more agents. The agents may be assisted by advisers or lawyers.
2. Any change to the agents or their addresses shall be notified to the other party, the International Bureau and the arbitral tribunal. The arbitral tribunal may, at any time, on its own initiative or at the request of a party, request evidence of the powers conferred on the agents of the parties.

## CHAPTER II

### COMPOSITION OF THE ARBITRAL TRIBUNAL

## ARTICLE II.1

### Number of arbitrators

The arbitral tribunal shall be composed of three arbitrators. If the applicant in its notice of arbitration or the defendant in its response to the notice of arbitration so request, the arbitral tribunal shall be composed of five arbitrators.

## ARTICLE II.2

### Appointment of arbitrators

1. If three arbitrators are to be appointed, each of the parties shall designate one of them. The two arbitrators appointed by the parties shall select the third arbitrator, who shall be the chair of the arbitral tribunal.
2. If five arbitrators are to be appointed, each of the parties shall designate two of them. The four arbitrators appointed by the parties shall select the fifth arbitrator, who shall be the chair of the arbitral tribunal.
3. If, within 30 days of the designation of the last arbitrator appointed by the parties, the arbitrators have not reached agreement on the selection of the chair of the arbitral tribunal, the chair shall be appointed by the Secretary-General of the Permanent Court of Arbitration.
4. To assist in the selection of arbitrators to compose the arbitral tribunal, an indicative list of persons possessing the qualifications referred to in paragraph 6, which shall be common to all bilateral agreements in the fields related to the internal market in which Switzerland participates as well as the Agreement between the European Union and the Swiss Confederation on health, done at [...] on [...] (hereinafter referred to as "Agreement on health"), the Agreement between the European Community and the Swiss Confederation on trade in agricultural products, done at Luxembourg on 21 June 1999 (hereinafter referred to as "Agreement on trade in agricultural products"), and the Agreement between the European Union and the Swiss Confederation on Switzerland's regular financial contribution towards reducing economic and social disparities in the European Union, done at [...] on [...] (hereinafter referred to as "Agreement on Switzerland's regular financial contribution") shall be established and updated when necessary. The Joint Committee on Agriculture shall adopt and update that list by a decision for the purposes of the Agreement.



5. Where a party fails to designate an arbitrator, the Secretary-General of the Permanent Court of Arbitration shall appoint that arbitrator from the list referred to in paragraph 4. In the absence of such a list, the arbitrator shall be appointed by lot by the Secretary-General of the Permanent Court of Arbitration from the individuals who have been formally proposed by one party or both parties for the purposes of paragraph 4.

6. The persons constituting the arbitral tribunal shall be highly qualified persons, with or without ties to the parties, whose independence and lack of conflicts of interest is guaranteed, along with a wide range of experience. In particular, they shall have demonstrated expertise in law and the matters covered by this Agreement; they shall not take instructions from either party; and they shall serve in their individual capacities and not take instructions from any organisation or government with regard to matters related to the dispute. The chair of the arbitral tribunal shall also have experience in dispute settlement procedures.

## ARTICLE II.3

### Arbitrators' declarations

1. When a person is being considered for appointment as an arbitrator, that person shall report all circumstances likely to give rise to legitimate doubts as to his or her impartiality or independence. From the appointment and throughout the entire arbitration proceedings, an arbitrator shall report such circumstances to the parties and to the other arbitrators without delay, if the arbitrator has not already done so.

2. Any arbitrator may be dismissed if circumstances exist that could give rise to legitimate doubts about his or her impartiality or independence.

3. A party may only request the dismissal of an arbitrator that it has appointed for a reason that becomes known to it after that appointment.

4. If an arbitrator fails to act or if it is impossible *de jure* or *de facto* for an arbitrator to fulfil his or her role, the procedure for the dismissal of arbitrators laid down in Article II.4 shall apply.

## ARTICLE II.4

### Dismissal of arbitrators

1. Any party wishing to dismiss an arbitrator shall make a request for dismissal within 30 days of the date on which it is notified of the appointment of that arbitrator or within 30 days of the date on which it becomes aware of the circumstances referred to in Article II.3.

2. The request for dismissal shall be sent to the other party, to the dismissed arbitrator, to the other arbitrators and to the International Bureau. It shall set out the reasons for the request for dismissal.

3. When a request for dismissal has been made, the other party may accept the request for dismissal. The arbitrator in question may also step aside. The acceptance or stepping aside does not imply acknowledgement of the reasons for the request for dismissal.

4. If, within 15 days of the date of the notification of the request for dismissal, the other party does not accept the request for dismissal or the arbitrator in question does not step aside, the party requesting the dismissal may ask the Secretary-General of the Permanent Court of Arbitration to take a decision on the dismissal.

5. Unless the parties agree otherwise, the decision referred to in paragraph 4 shall indicate the reasons for that decision.

## ARTICLE II.5

### Replacement of an arbitrator

1. Subject to paragraph 2 of this Article, if it is necessary to replace an arbitrator during the arbitration proceedings, a replacement shall be appointed or selected in accordance with the procedure laid down in Article II.2 applicable to the appointment or selection of the arbitrator to be replaced. That procedure shall apply even if one party had not exercised its right to appoint or to participate in the appointment of the arbitrator to be replaced.

2. In the event of replacement of an arbitrator, the procedure shall resume at the stage where the replaced arbitrator ceased to perform his or her functions, unless the arbitral tribunal decides otherwise.

## ARTICLE II.6

### Exclusion of liability

Except in cases of intentional wrongdoing or gross negligence, the parties renounce, to the maximum extent permitted by the applicable law, any action against the arbitrators for any act or omission related to the arbitration.

## CHAPTER III

### ARBITRATION PROCEEDINGS

#### ARTICLE III.1

##### General provisions

1. The date of establishment of the arbitral tribunal shall be the date on which the last arbitrator has accepted his or her appointment.
2. The arbitral tribunal shall ensure that the parties are treated equally and that, at an appropriate stage of the proceedings, each of them has sufficient possibility to assert their rights and present their case. The arbitral tribunal shall conduct the proceedings in such a way as to avoid delays and unnecessary expenditure and to ensure the dispute between the parties is settled.
3. A hearing shall be organised, unless the arbitral tribunal decides otherwise, having heard the parties.
4. When a party sends a communication to the arbitral tribunal, it shall do so through the International Bureau and shall send a copy to the other party at the same time. The International Bureau shall send a copy of that communication to each of the arbitrators.

## ARTICLE III.2

### Place of arbitration

The place of arbitration is The Hague. The arbitral tribunal may, if exceptional circumstances so require, meet at any other place that it considers appropriate for its deliberations.

## ARTICLE III.3

### Language

1. The languages of the proceedings shall be French and English.
2. The arbitral tribunal may order all documents enclosed with the statement of claim or the statement of defence and all further documents produced during the proceedings, submitted in their original language, to be accompanied by a translation in one of the languages of the proceedings.

## ARTICLE III.4

### Statement of claim

1. The applicant shall send its statement of claim in writing to the defendant and to the arbitral tribunal through the International Bureau, within the time limit set by the arbitral tribunal. The applicant may decide to deem its notice of arbitration referred to in Article I.4 a statement of claim, provided that it also meets the conditions in paragraphs 2 and 3 of this Article.

2. The statement of claim shall include the following information:
  - (a) the information set out in points (b) to (f) of Article I.4(3);
  - (b) a statement of facts submitted in support of the claim; and
  - (c) the legal arguments put forward in support of the claim.
3. The statement of claim shall, as far as possible, be accompanied by any documents and other evidence mentioned by the applicant or should refer to them.

## ARTICLE III.5

### Statement of defence

1. The defendant shall send the statement of defence in writing to the applicant and to the arbitral tribunal through the International Bureau, within the time limit set by the arbitral tribunal. The defendant may decide to deem the response to the notice of arbitration referred to in Article I.5 a statement of defence, provided that the response to the notice of arbitration also meets the conditions in paragraph 2 of this Article.
2. The statement of defence shall respond to the points in the statement of claim indicated in accordance with points (a) to (c) of Article III.4(2) of this Protocol. It shall, as far as possible, be accompanied by any documents and other evidence mentioned by the defendant or should refer to them.

3. In the statement of defence, or at a later stage in the arbitration proceedings if the arbitral tribunal decides that a delay is justified by circumstances, the defendant may make a counterclaim provided that the arbitral tribunal has jurisdiction in respect of it.
4. Article III.4(2) and (3) shall apply to a counterclaim.

## ARTICLE III.6

### Arbitral jurisdiction

1. The arbitral tribunal shall rule on whether it has jurisdiction on the basis of Articles 7a(2) or 7b(2) of the Agreement.
2. In the cases referred to in Article 7a(2) of the Agreement, the arbitral tribunal shall have a mandate to examine the question causing the dispute as officially entered, for resolution, on the agenda of the Joint Committee on Agriculture in accordance with Article 7a(1) of the Agreement.
3. In the cases referred to in Article 7b(2) of the Agreement, the arbitral tribunal that heard the main case shall have a mandate to examine the proportionality of the disputed compensatory measures, including where those measures have in whole or in part been taken in the Protocol establishing a Common Food Safety Area.

4. A preliminary objection of lack of jurisdiction of the arbitral tribunal shall be made at the latest in the statement of defence or, in the case of a counterclaim, in the reply. The fact that a party has appointed an arbitrator or has taken part in their appointment shall not deprive it of the right to make such a preliminary objection. The preliminary objection that the dispute would exceed the arbitral tribunal's powers shall be made as soon as the question alleged to exceed its powers is raised during the arbitration proceedings. In any event, the arbitral tribunal may allow a preliminary objection made after the time limit laid down has elapsed if it believes that the delay was for a valid reason.

5. The arbitral tribunal may rule on the preliminary objection referred to in paragraph 4 either by treating it as a preliminary question or in the decision on the substance of the case.

### ARTICLE III.7

#### Other written submissions

The arbitral tribunal shall, after having consulted the parties, decide what other written submissions, in addition to the statement of claim and statement of defence, the parties shall or may submit and shall set the time limit for their submission.



## ARTICLE III.8

### Time limits

1. The time limits set by the arbitral tribunal for the communication of the written documents, including the statement of claim and the statement of defence, shall not exceed 90 days, unless the parties agree otherwise.
2. The arbitral tribunal shall take its final decision within 12 months of the date of its establishment. In exceptional circumstances of particular difficulty, the arbitral tribunal may extend that period by up to three additional months.
3. The time limits laid down in paragraphs 1 and 2 shall be halved:
  - (a) upon request by the applicant or the defendant, if, within 30 days of that request, the arbitral tribunal rules, after hearing the other party, that the case is urgent; or
  - (b) if the parties so agree.
4. In the cases referred to in Article 7b(2) of the Agreement, the arbitral tribunal shall take its final decision within six months of the date on which the compensatory measures have been notified in accordance with Article 7b(1) of the Agreement.

## ARTICLE III.9

### Interim measures

1. In the cases referred to in Article 7b(2) of the Agreement, either party may, at any stage of the arbitration procedure, apply for interim measures consisting of the suspension of the compensatory measures.
2. An application pursuant to paragraph 1 shall state the subject-matter of the proceedings, the circumstances giving rise to urgency and the pleas of fact and law establishing *a prima facie* case for the interim measures applied for. It shall contain all the evidence and offers of evidence available to justify the grant of the interim measures.
3. The party requesting the interim measures shall send its application in writing to the other party and to the arbitral tribunal through the International Bureau. The arbitral tribunal shall set a short time limit within which that other party may submit written or oral observations.
4. The arbitral tribunal shall, within one month of the submission of the application referred to in paragraph 1, adopt a decision on the suspension of the contested compensatory measures if the following conditions are met:
  - (a) the arbitral tribunal is *prima facie* satisfied of the merit of the case submitted by the party requesting the interim measures in its application;
  - (b) the arbitral tribunal considers that, pending its final decision, the party requesting the interim measures would suffer serious and irreparable harm absent the suspension of the compensatory measures; and

(c) the harm caused to the party requesting the interim measures by the immediate application of the contested compensatory measures outweighs the interest in the immediate and effective application of those measures.

5. A decision taken by the arbitral tribunal in accordance with paragraph 4 shall have only an interim effect and shall be without prejudice to the decision of the arbitral tribunal on the substance of the case.

6. Unless the decision taken by the arbitral tribunal in accordance with paragraph 4 of this Article sets an earlier date for the end of the suspension, the suspension shall lapse when the final decision pursuant to Article 7b(2) of the Agreement is taken.

7. For the avoidance of doubt, for the purposes of this Article, it is understood that, in considering the respective interests of the party requesting the interim measures and the other party, the arbitral tribunal shall take into account those of the individuals and economic operators of the parties, but that consideration shall not amount to granting any standing to such individuals or economic operators before the arbitral tribunal.

## ARTICLE III.10

### Evidence

1. Each party shall provide evidence of the facts forming the grounds of its claim or its defence.

2. On request of a party, or on its own initiative, the arbitral tribunal may seek from the parties relevant information it considers necessary and appropriate. The arbitral tribunal shall set a time limit for the parties to respond to its request.
3. On request of a party, or on its own initiative, the arbitral tribunal may seek from any source any information it considers appropriate. The arbitral tribunal may also seek the opinion of experts as it considers appropriate and subject to any terms and conditions agreed by the parties, where applicable.
4. Any information obtained by the arbitral tribunal under this Article shall be made available to the parties, and the parties may submit comments on that information to the arbitral tribunal.
5. After seeking the views of the other party, the arbitral tribunal shall adopt appropriate measures to address any questions raised by a party with regard to the protection of personal data, professional secrecy and the legitimate interests of confidentiality.
6. The arbitral tribunal shall be the judge of the admissibility, relevance and strength of the evidence submitted.

## ARTICLE III.11

### Hearings

1. When a hearing must take place, the arbitral tribunal, having consulted the parties, shall notify the parties sufficiently far in advance of the date, time and place of the hearing.

2. The hearing shall be public, unless the arbitral tribunal, of its own motion or on application by the parties, decides otherwise for serious reasons.
3. Minutes of each hearing shall be drawn up and signed by the chair of the arbitral tribunal. Only those minutes shall be authentic.
4. The arbitral tribunal may decide to hold the hearing virtually in accordance with the practice of the International Bureau. The parties shall be informed of this practice in a timely manner. In such cases, paragraph 1, *mutatis mutandis*, and paragraph 3 shall apply.

## ARTICLE III.12

### Default

1. If, within the time limit set by this Protocol or by the arbitral tribunal, without showing sufficient cause, the applicant has not submitted its statement of claim, the arbitral tribunal shall order the closure of the arbitration proceedings, unless there are outstanding questions on which a ruling may be necessary and if the arbitral tribunal considers it appropriate to do so.

If, within the time limit set by this Protocol or by the arbitral tribunal, without showing sufficient cause, the defendant has not submitted its response to the notice of arbitration or its statement of defence, the arbitral tribunal shall order the continuation of the proceedings, without considering that default of itself to constitute acceptance of the applicant's allegations.

The second subparagraph also applies where the applicant fails to submit a reply to a counterclaim.

2. If a party, duly convened in accordance with this Article III.11(1), does not appear at a hearing and does not demonstrate sufficient cause for its failure to do so, the arbitral tribunal may continue the arbitration.

3. If a party, duly invited by the arbitral tribunal to produce further evidence, fails to do so within the time limits set without showing sufficient cause for its failure to do so, the arbitral tribunal may rule on the basis of the evidence it has available.

### ARTICLE III.13

#### Closure of the procedure

1. Where it is demonstrated that the parties have reasonably had the possibility of presenting their arguments, the arbitral tribunal may declare the closure of the proceedings.

2. The arbitral tribunal may, if it considers it necessary because of exceptional circumstances, decide on its own initiative or at the request of a party to reopen the proceedings at any time before it has taken its decision.

## CHAPTER IV

### DECISION

#### ARTICLE IV.1

##### Decisions

The arbitral tribunal shall strive to take its decisions by consensus. If, however, it proves impossible to take a decision by consensus, the arbitral tribunal's decision shall be taken by a majority of the arbitrators.

#### ARTICLE IV.2

##### Form and effect of the decision of the arbitral tribunal

1. The arbitral tribunal may take separate decisions on different questions at different times.
2. All decisions shall be issued in writing and shall state the reasons on which they are based. They shall be final and binding on the parties.
3. The decision of the arbitral tribunal shall be signed by the arbitrators, shall contain the date on which it was taken and state the place of arbitration. A copy of the decision signed by the arbitrators shall be communicated to the parties by the International Bureau.

4. The International Bureau shall make the decision of the arbitral tribunal public. When making the decision of the arbitral tribunal public, the International Bureau shall respect the relevant rules on the protection of personal data, professional secrecy and the legitimate interests of confidentiality.

The rules referred to in the second subparagraph shall be identical for all bilateral agreements in the fields of the internal market in which Switzerland participates, as well as for the Agreement on health, the Agreement on trade in agricultural products and the Agreement on Switzerland's regular financial contribution. The Joint Committee on Agriculture shall adopt and update those rules by a decision for the purposes of the Agreement.

5. The parties shall comply with all decisions of the arbitral tribunal without delay.

6. In the cases referred to in Article 7a(2) of the Agreement, having obtained the opinion of the parties, the arbitral tribunal shall set a reasonable time limit in the decision on the substance of the case to comply with its decision in accordance with Article 7a(3) of the Agreement taking account of the parties' internal procedures.

#### ARTICLE IV.3

##### Applicable law, rules of interpretation, mediator

1. The applicable law consists of the Agreement, as well as any other rule of international law relevant to the application thereof.



2. Prior decisions taken by a dispute settlement body with regard to the proportionality of compensatory measures under the Protocol establishing a Common Food Safety Area referred to in Article 7b(1) of the Agreement shall be binding upon the arbitral tribunal.
3. The arbitral tribunal shall not be permitted to decide as mediator or *ex aequo et bono*.

#### ARTICLE IV.4

##### Mutually agreed solution or other reasons for closure of the proceedings

1. The parties may, at any time, mutually agree a solution to their dispute. They shall jointly communicate any such solution to the arbitral tribunal. If the solution requires approval pursuant to the relevant domestic procedures of either party, the notification shall refer to that requirement, and the arbitration procedure shall be suspended. If such approval is not required, or upon notification of the completion of any such domestic procedures, the arbitration procedure shall be closed.
2. If, in the course of proceedings, the applicant informs the arbitral tribunal in writing that it does not wish to further pursue the proceedings, and if, at the date on which that communication is received by the arbitral tribunal, the defendant has not yet taken any step in the proceedings, the arbitral tribunal shall issue an order officially recording the closure of the proceedings. The arbitral tribunal shall decide on the costs, which shall be borne by the applicant if this appears justified by the conduct of that party.

3. If, before the decision of the arbitral tribunal is taken, the arbitral tribunal concludes that the continuation of the proceedings has become pointless or impossible for any reason other than those referred to in paragraphs 1 and 2, the arbitral tribunal shall inform the parties of its intention to issue an order closing the proceedings.

The first subparagraph does not apply where there are outstanding questions on which it may be necessary to rule and if the arbitral tribunal judges it appropriate to do so.

4. The arbitral tribunal shall communicate to the parties a copy of the order closing the arbitration proceedings or of the decision taken by agreement between the parties, signed by the arbitrators. Article IV.2(2) to (5) shall apply to arbitration decisions taken by agreement between the parties.

## ARTICLE IV.5

### Correction of the decision of the arbitral tribunal

1. Within 30 days of receiving the decision of the arbitral tribunal, a party may, by giving notice to the other party and to the arbitral tribunal through the International Bureau, ask the arbitral tribunal to correct in the text of the decision of the arbitral tribunal any errors in computation, any clerical or typographical errors, or any errors or omissions of a similar nature. If it considers the request to be justified, the arbitral tribunal shall make the correction within 45 days of receiving the request. The request shall not have a suspensive effect on the time limit provided for in Article IV.2(6).

2. The arbitral tribunal may, within 30 days of communicating its decision, make the corrections referred to in paragraph 1 on its own initiative.
3. The corrections referred to in paragraph 1 of this Article shall be done in writing and form an integral part of the decision. Article IV.2(2) to (5) shall apply.

#### ARTICLE IV.6

##### Arbitrators' fees

1. The fees referred to in Article IV.7 shall be reasonable, taking account of the complexity of the case, the time spent on it by the arbitrators and all other relevant circumstances.
2. A list of daily compensation and maximum and minimum hours, which shall be common to all bilateral agreements in the fields related to the internal market in which Switzerland participates as well as the Agreement on health, the Agreement on trade in agricultural products and the Agreement on Switzerland's regular financial contribution, shall be established and updated when necessary. The Joint Committee on Agriculture shall adopt and update that list by a decision for the purposes of the Agreement.

#### ARTICLE IV.7

##### Costs

1. Each party shall bear its own costs and half of the costs of the arbitral tribunal.

2. The arbitral tribunal shall set its costs in its decision on the substance of the case. Those costs shall include only:

(a) the arbitrators' fees, to be stated separately for each arbitrator and to be set by the arbitral tribunal itself in accordance with Article IV.6;

(b) the travel and other expenses incurred by the arbitrators; and

(c) the fees and expenses of the International Bureau.

3. The costs referred to in paragraph 2 shall be reasonable, taking account of the amount in dispute, the complexity of the dispute, the time that the arbitrators and any experts appointed by the arbitral tribunal have spent on it and any other relevant circumstances.

#### ARTICLE IV.8

##### Deposit of costs

1. At the start of the arbitration, the International Bureau may ask the parties to deposit an equal amount as an advance for the costs referred to in Article IV.7(2).

2. During the arbitration proceedings, the International Bureau may request from the parties deposits supplementary to those referred to in paragraph 1.

3. All amounts deposited by the parties in application of this Article shall be paid to the International Bureau and paid out by it to cover the costs actually incurred, including in particular the fees paid to the arbitrators and to the International Bureau.

## CHAPTER V

### FINAL PROVISIONS

#### ARTICLE V.1

##### *Amendments*

The Joint Committee on Agriculture may adopt, by decision, amendments to this Protocol.

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PROTOCOL  
TO THE AGREEMENT  
BETWEEN THE EUROPEAN COMMUNITY  
AND THE SWISS CONFEDERATION  
ON TRADE IN AGRICULTURAL PRODUCTS  
ESTABLISHING A COMMON FOOD SAFETY AREA

THE EUROPEAN UNION, hereinafter referred to as the "Union",

and

THE SWISS CONFEDERATION, hereinafter referred to as "Switzerland",

hereinafter referred to as "the Parties";

DETERMINED to enhance food and feed safety along the entire food chain in the territories of the Member States of the Union and of Switzerland by establishing a Common Food Safety Area which complements the Agreement between the European Community and the Swiss Confederation on trade in agricultural products, done at Luxembourg on 21 June 1999;

SEEKING to prevent and control transmissible animal diseases which can have a significant impact on public health and food safety;

SEEKING to prevent and control plant pests and diseases;

SEEKING to combat antimicrobial resistance;

CONFIRMING their willingness to enhance animal protection and promote animal welfare;

SEEKING to guarantee fair practices in all stages of production, processing and distribution of food and feed and to step up the fight against fraudulent or deceptive practices in the agri-food chain;

DESIRING to deepen their efforts to coordinate their positions and to support each other in their work within international organisations;

RECALLING that the Union and Switzerland are bound by numerous bilateral agreements covering various fields, providing for specific rights and obligations similar, in certain respects, to those provided for within the Union;

RECALLING that the purpose of those bilateral agreements is to increase Europe's competitiveness and to create closer economic ties between the Parties, based on equality, reciprocity and the general balance of their advantages, rights and obligations;

RESOLVED to strengthen and deepen Switzerland's participation in the internal market of the Union, on the basis of the same rules as those that apply to the internal market, while preserving their independence and that of their institutions and, as regards Switzerland, respect for the principles stemming from direct democracy, federalism and the sectoral nature of its participation in the internal market;

REAFFIRMING that the competence of the Swiss Federal Supreme Court and all other Swiss courts as well as that of the Member States' courts and of the Court of Justice of the European Union to interpret this Protocol in individual cases is preserved;

CONSCIOUS of ensuring uniformity in the fields of the internal market in which Switzerland participates, both current and future;

HAVE AGREED AS FOLLOWS:



## PART I

### GENERAL PROVISIONS

#### ARTICLE 1

##### Purpose

The purpose of this Protocol is to extend the scope of the Agreement between the European Community and the Swiss Confederation on trade in agricultural products, done at Luxembourg on 21 June 1999 (hereinafter referred to as the "Agreement on trade in agricultural products"), to the entire food chain by establishing a Common Food Safety Area between the Parties and to guarantee for the Parties, and for economic operators and individuals, greater legal certainty, equal treatment and a level playing field in the field of the internal market falling under the scope of the Common Food Safety Area.

#### ARTICLE 2

##### Scope

The scope of the Common Food Safety Area shall cover all stages of production, processing and distribution of food, feed and animal by-products; animal health and welfare; plant health and plant protection products; plant reproductive materials; antimicrobial resistance; animal breeding; contaminants and residues; materials and articles intended to come into contact with food; labelling; as well as the related official controls.

## ARTICLE 3

### Bilateral agreements in the fields related to the internal market in which Switzerland participates

1. Existing and future bilateral agreements between the Union and Switzerland in the fields related to the internal market in which Switzerland participates shall be considered as a coherent whole which ensures a balance of rights and obligations between the Union and Switzerland.
2. This Protocol constitutes a bilateral agreement in a field related to the internal market in which Switzerland participates.

## ARTICLE 4

### Definition

For the purposes of this Protocol, "legal acts adopted on the basis of any of the legal acts listed in Annex I" means the legal acts designated as delegated or implementing acts in accordance with the Treaty on the Functioning of the European Union (hereinafter referred to as "TFEU") as well as other non-legislative legal acts adopted on the basis of any of the legal acts listed in Annex I.

## PART II

### COMMON FOOD SAFETY AREA

#### ARTICLE 5

##### Establishment and objectives of the Common Food Safety Area

1. The Parties hereby establish a Common Food Safety Area.
2. The objectives of the Common Food Safety Area are the following:
  - (a) enhancing food and feed safety along the entire food chain;
  - (b) ensuring a high level of human, animal and plant health along the food chain and in all areas of activity for which a key objective is the fight against the possible spread of animal diseases, including those transmissible to humans, or of pests injurious to plants or plant products, and to ensure the protection of the environment from risks that might arise from plant protection products;
  - (c) implementing in an integrated way harmonised standards applicable to the entire food chain;
  - (d) increasing efforts to combat antimicrobial resistance;
  - (e) enhancing animal protection and promoting high standards of animal welfare; and

- (f) deepening the Parties' joint efforts to coordinate their positions and to support each other in their work within international organisations.

## ARTICLE 6

### Functioning of the Common Food Safety Area

The Parties shall ensure the effective functioning of the Common Food Safety Area. For that purpose, the Union shall not consider Switzerland as a third country with regard to the legal acts of the Union which are integrated into this Protocol in accordance with Article 13 or which have to be temporarily applied in accordance with Article 15, provided that Switzerland fulfils its obligation to apply all of those legal acts in accordance with this Protocol.

## ARTICLE 7

### Exceptions

1. The obligation to integrate legal acts set out in Article 13 as well as the obligation to temporarily apply legal acts adopted on the basis of any of the legal acts listed in Annex I set out in Article 15 shall not apply to the following areas:
  - (a) the deliberate release into the environment of genetically modified organisms and the placing on the market of products containing or consisting of genetically modified organisms and of food and feed produced from genetically modified organisms.

In this area, Switzerland may continue to apply provisions of Swiss law subject to the following conditions:

- Switzerland allows the placing on the market of food and feed authorised in the Union containing adventitious or technically unavoidable traces of material containing, consisting of or produced from genetically modified organisms not exceeding the threshold laid down in Union law, above which that food or feed must be labelled as containing genetically modified organisms or as produced from genetically modified organisms;
  - Switzerland allows the placing on the market and use of feed produced from genetically modified organisms, which has been authorised in the Union.
- (b) animal welfare, including concerning the minimum standards for the protection of animals bred or kept for farming purposes, the protection of live vertebrate animals during transport and related operations as well as certain mandatory labelling requirements.

In this area, Switzerland may continue to apply provisions of Swiss law:

- (i) concerning the protection of animals kept for farming purposes;
- (ii) concerning the transport of animals within its territory, including the transit of bovines, ovines, caprines, porcines, horses or poultry for slaughter, and establishing that such transit is only allowed by rail or air;

- (iii) concerning the mandatory labelling of animal products produced by painful procedures without anaesthesia or produced by forced feeding, and establishing that:
- products imported into Switzerland obtained from animals that have undergone painful procedures without prior anaesthesia must be specifically labelled when made available to consumers. Techniques such as dehorning, castration, tail docking, beak trimming or cutting off frog legs are covered by the term "painful procedures" if carried out without prior anaesthesia. The mandatory labelling requirement shall not apply if a ban of such practices is regulated by law in the country of origin or if the production is certified as free from those practices;
  - products resulting from a production process which includes forced feeding must be specifically labelled when made available to consumers in Switzerland;
- (iv) concerning the labelling requirements regarding the rearing of domestic rabbits and laying hens for egg production, establishing that hen's eggs and rabbit meat from cage rearing imported into Switzerland must be specifically labelled when made available to consumers in Switzerland. That mandatory labelling requirement shall not apply if a ban of such practices is legally regulated in the country of origin or if the production is certified as free from those practices;
- (v) establishing and applying an import ban for furs and fur products produced in a cruel manner;

- (c) import of bovine meat from cattle potentially treated with hormonal growth-promoters.

In this area, Switzerland may continue to apply provisions of Swiss law subject to the following conditions:

- such meat is imported for domestic consumption only and placing such meat on the market in the Union remains prohibited;
- the use of such meat is confined to direct selling by retail establishments to consumers under appropriate labelling conditions;
- such meat is introduced into Switzerland exclusively through Swiss border inspection posts;
- an appropriate traceability and channeling system that prevents any possibility of such meat being subsequently introduced into the territory of the Member States of the Union is provided;
- Switzerland shall report every year to the European Commission (hereinafter "Commission") on the origin and destination of the imports, and provide it with an account of the checks carried out to ensure compliance with the conditions listed in the foregoing indents.

2. Upon request by one of the Parties, important developments in the legal order of the Parties related to the areas referred to in paragraph 1 shall be discussed within the Joint Committee on Food Safety.

## ARTICLE 8

### Support in international organisations

The Parties agree to endeavour to coordinate their positions and support each other in international organisations in the field covered by the Common Food Safety Area.

## ARTICLE 9

### Financial contribution

1. Switzerland shall contribute to the financing of the activities of the Union agencies, information systems and other activities listed in Article 1 of Annex II to which it has access, in accordance with this Article and Annex II.

The Joint Committee on Food Safety may adopt a decision to amend Annex II.

2. The Union may suspend the participation of Switzerland in the activities referred to in paragraph 1 of this Article at any time if Switzerland fails to meet the payment deadline in accordance with the terms of payment set out in Article 2 of Annex II.



Where Switzerland fails to meet a payment deadline, the Union shall send Switzerland a formal letter of reminder. Where no full payment is made within 30 days of the date of reception of that formal letter of reminder, the Union may suspend the participation of Switzerland in the relevant activity.

3. The financial contribution shall take the form of the sum of:

(a) an operational contribution; and

(b) a participation fee.

4. The financial contribution shall take the form of an annual financial contribution and shall be due at the dates specified in the calls for funds issued by the Commission.

5. The operational contribution shall be based on a contribution key defined as the ratio of the gross domestic product (hereinafter referred to as "GDP") of Switzerland at market prices to the GDP of the Union at market prices.

For that purpose, the figures for GDP at market prices of the Parties shall be the latest such figures available as of 1 January of the year in which the annual payment is made as provided by the Statistical Office of the European Union (EUROSTAT), with due regard to the Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics, done at Luxembourg on 26 October 2004. If that agreement ceases to apply, the GDP of Switzerland shall be the one established on the basis of data provided by the Organisation for Economic Co-operation and Development.

6. The operational contribution for each Union agency shall be calculated by applying the contribution key to its annual voted budget inscribed on the relevant Union budget subsidy line(s) of the year in question, taking into account for each agency any adjusted operational contribution as defined in Article 1 of Annex II.

The operational contribution for the information systems and other activities shall be calculated by applying the contribution key to the relevant budget of the year in question as set out in documents implementing the budget, such as work programmes or contracts.

All reference amounts shall be based on commitment appropriations.

7. The annual participation fee shall be 4 % of the annual operational contribution as calculated in accordance with paragraphs 5 and 6.

8. The Commission shall provide Switzerland with adequate information in relation to the calculation of its financial contribution. That information shall be provided having due regard to the Union's confidentiality and data protection rules.

9. All financial contributions by Switzerland or payments from the Union, and the calculation of amounts due or to be received shall be made in euro.

10. Where the entry into force of this Protocol does not coincide with the beginning of a calendar year, Switzerland's operational contribution for the year in question shall be subject to adjustment, according to the methodology and terms of payment defined in Article 4 of Annex II.

11. Detailed provisions for the application of this Article are set out in Annex II.

12. Three years following the entry into force of this Protocol, and every three years subsequently, the Joint Committee on Food Safety shall review the conditions of Switzerland's participation as defined in Article 1 of Annex II and, where appropriate, adapt them.

## PART III

### INSTITUTIONAL PROVISIONS

#### CHAPTER 1

#### GENERAL PROVISIONS

#### ARTICLE 10

##### Objectives

In order to achieve the purpose of this Protocol, this Part provides institutional solutions facilitating a continuous and balanced strengthening of economic relations between the Parties in the areas covered by the Common Food Safety Area. Taking account of the principles of international law, this Part lays down, in particular, institutional solutions for the Common Food Safety Area, which are common to the bilateral agreements concluded or to be concluded in the fields related to the internal market in which Switzerland participates, without changing the scope or the objectives of this Protocol, notably:

- (a) the procedure for aligning this Protocol with legal acts of the Union relevant to this Protocol;

- (b) the uniform interpretation and application of this Protocol and of the legal acts of the Union to which reference is made in this Protocol;
- (c) the surveillance and application of this Protocol; and
- (d) the settlement of disputes in the context of this Protocol.

## ARTICLE 11

### Joint Committee on Food Safety

1. A Joint Committee on Food Safety is hereby established.

The Joint Committee on Food Safety shall be composed of representatives of the Parties.

2. The Joint Committee on Food Safety shall be co-chaired by a representative of the Union and a representative of Switzerland.
3. The Joint Committee on Food Safety shall:
  - (a) ensure the proper functioning and the effective administration and application of this Protocol;

- (b) provide a forum for mutual consultation and a continuous exchange of information between the Parties, in particular with a view to finding a solution to any difficulty of interpretation or application of this Protocol or of a legal act of the Union to which reference is made in this Protocol in accordance with Article 20;
- (c) make recommendations to the Parties in matters pertaining to this Protocol;
- (d) adopt decisions where provided for in this Protocol; and
- (e) exercise any other competence granted to it in this Protocol.

4. In the event of an amendment to Articles 1 to 6, 10 to 15, or 17 or 18 of the Protocol (No 7) on the Privileges and Immunities of the European Union (hereinafter referred to as "Protocol (No 7)"), annexed to the TFEU, the Joint Committee on Food Safety shall amend Appendix 2 accordingly.

5. The Joint Committee on Food Safety shall act by consensus.

Decisions shall be binding on the Parties, which shall take all necessary measures to implement them.

6. The Joint Committee on Food Safety shall meet at least once a year, in Brussels and Bern alternately, unless the co-chairs decide otherwise. It shall also meet at the request of either Party. The co-chairs may agree that a meeting of the Joint Committee on Food Safety be held by videoconference or teleconference.

The Joint Committee on Food Safety may decide to take decisions by written procedure.

7. The Joint Committee on Food Safety shall adopt its rules of procedure at its first meeting.

8. The Joint Committee on Food Safety may decide to set up any working party or group of experts that can assist it in carrying out its duties.

## CHAPTER 2

### ALIGNMENT OF THE PROTOCOL WITH LEGAL ACTS OF THE UNION

#### ARTICLE 12

##### Participation in the drafting of legal acts of the Union ("decision shaping")

1. When drafting a proposal for a legal act of the Union in accordance with the TFEU in the field covered by this Protocol, the Commission shall inform Switzerland thereof and shall informally consult Switzerland's experts in the same way that it asks for the views of experts from the Member States of the Union for the drafting of its proposals.

At the request of either Party, a preliminary exchange of views shall take place within the Joint Committee on Food Safety.

The Parties shall consult each other again, at the request of either of them, within the Joint Committee on Food Safety at important moments of the phase preceding the adoption of the legal act by the Union, in a continuous process of information and consultation.

2. When preparing, in accordance with the TFEU, delegated acts concerning basic acts of Union law in the field covered by this Protocol, the Commission shall ensure that Switzerland has the widest possible participation in the preparation of the drafts and shall consult Switzerland's experts on the same basis as it consults the experts of the Member States of the Union.

3. When preparing, in accordance with the TFEU, implementing acts concerning basic acts of Union law in the field covered by this Protocol, the Commission shall ensure that Switzerland has the widest possible participation in the preparation of the drafts to be submitted later on to the committees assisting the Commission in the exercise of its implementing powers and shall consult Switzerland's experts on the same basis as it consults the experts from the Member States of the Union.

4. Switzerland's experts shall be involved in the work of committees not covered by paragraphs 2 and 3 where this is required for the proper functioning of this Protocol. A list of those committees and, where appropriate, of other committees with similar characteristics, shall be drawn up and updated by the Joint Committee on Food Safety.

5. This Article shall not apply with regard to legal acts of the Union or provisions thereof falling within the scope of an exception referred to in Article 13(7).

## ARTICLE 13

### Integration of legal acts of the Union

1. In order to guarantee legal certainty and the homogeneity of the law in the field related to the internal market in which Switzerland participates by virtue of this Protocol, Switzerland and the Union shall ensure that legal acts of the Union adopted in the field covered by this Protocol are integrated into this Protocol as quickly as possible after their adoption.
2. Legal acts of the Union integrated into this Protocol in accordance with paragraph 4 shall be, by their integration into this Protocol, part of the legal order of Switzerland subject, as the case may be, to the adaptations decided upon by the Joint Committee on Food Safety.
3. When it adopts a legal act in the field covered by this Protocol, the Union shall inform Switzerland thereof as quickly as possible through the Joint Committee on Food Safety. At the request of either of the Parties, the Joint Committee on Food Safety shall conduct an exchange of views on the subject.
4. The Joint Committee on Food Safety shall act in accordance with paragraph 1 by adopting a decision as quickly as possible to amend Section 2 of Annex I, including the necessary adaptations.
5. Without prejudice to paragraphs 1 and 2, if necessary in order to ensure coherence of this Protocol with Annex I as amended pursuant to paragraph 4, the Joint Committee on Food Safety may propose, for approval by the Parties according to their internal procedures, the revision of this Protocol.



6. References in this Protocol to legal acts of the Union that are no longer in force shall be construed as references to the repealing legal act of the Union as integrated into Annex I to this Protocol as from the entry into force of the Joint Committee on Food Safety's decision on the corresponding amendment of Annex I to this Protocol pursuant to paragraph 4, unless otherwise provided in that decision.
7. The obligation set out in paragraph 1 shall not apply to legal acts of the Union or provisions thereof falling within the scope of an exception listed in Article 7.
8. Subject to Article 14, decisions of the Joint Committee on Food Safety pursuant to paragraph 4 shall enter into force immediately, but under no circumstances before the date on which the corresponding legal act of the Union becomes applicable in the Union.
9. The Parties shall cooperate in good faith throughout the procedure set out in this Article in order to facilitate decision-making.

## ARTICLE 14

### Fulfilment of constitutional obligations by Switzerland

1. During the exchange of views referred to in Article 13(3), Switzerland shall inform the Union whether a decision as referred to in Article 13(4) requires the fulfilment of constitutional obligations by Switzerland in order to become binding.

2. Where the decision referred to in Article 13(4) requires Switzerland to fulfil constitutional obligations in order to become binding, Switzerland shall have a time limit of two years maximum from the date of the information provided for in paragraph 1, except where a referendum procedure is launched, in which case this period shall be extended by one year.

3. Pending the information by Switzerland that it has fulfilled its constitutional obligations, the Parties shall provisionally apply the decision referred to in Article 13(4), unless Switzerland informs the Union that the provisional application of the decision is not possible and provides the reasons for this.

Under no circumstances can the provisional application occur before the date on which the corresponding legal act of the Union becomes applicable in the Union.

4. Switzerland shall notify the Union without delay through the Joint Committee on Food Safety once it has fulfilled the constitutional obligations referred to in paragraph 1.

5. The decision shall enter into force on the day on which the notification provided for in paragraph 4 is delivered, but under no circumstances before the date on which the corresponding legal act of the Union becomes applicable in the Union.

## ARTICLE 15

### Temporary application of legal acts adopted on the basis of any of the legal acts listed in Annex I

1. If a legal act adopted on the basis of any of the legal acts listed in Annex I is applicable in the Union before the respective decision of the Joint Committee on Food Safety has been adopted pursuant to Article 13(4), Switzerland shall temporarily apply that act as from the date of its application in the Union in order to guarantee its simultaneous application.

Any temporary application pursuant to the first subparagraph of this paragraph shall end with the entry into force of the decision of the Joint Committee on Food Safety in accordance with Article 13(8) or its provisional application in accordance with Article 14(3), unless the Joint Committee on Food Safety decides on a later point in time.

2. Where, in exceptional circumstances and for objectively justified reasons, Switzerland is unable to temporarily apply a legal act in whole or in part pursuant to paragraph 1, it shall immediately notify the Joint Committee on Food Safety, providing the reasons for its inability to do so. The Parties shall consult each other at the earliest occasion within the Joint Committee on Food Safety.

3. If and to the extent that Switzerland does not temporarily or provisionally apply a legal act in accordance with paragraph 1, the Union may take the measures necessary to ensure the integrity of its Food Safety Area. The Union shall immediately notify those measures to the Joint Committee on Food Safety and provide the reasons for doing so.

## ARTICLE 16

Publication of legal acts adopted on the basis of any of the legal acts listed in Annex I

The Parties shall promptly and in an easily accessible manner publish and keep up to date a list of the non-legislative legal acts adopted on the basis of any of the legal acts listed in Annex I which are integrated into this Protocol in accordance with Article 13 or which have to be temporarily applied in accordance with Article 15.

## CHAPTER 3

### INTERPRETATION AND APPLICATION OF THE PROTOCOL

## ARTICLE 17

### Uniform interpretation principle

1. For the purpose of achieving the objectives set out in this Protocol and in accordance with the principles of public international law, the bilateral agreements in the fields related to the internal market in which Switzerland participates and the legal acts of the Union to which reference is made in such agreements shall be uniformly interpreted and applied in the fields related to the internal market in which Switzerland participates.

2. The legal acts of the Union to which reference is made in this Protocol and, to the extent that their application involves concepts of Union law, the provisions of this Protocol shall be interpreted and applied in accordance with the case law of the Court of Justice of the European Union, prior or subsequent to the signature of this Protocol.

## ARTICLE 18

### Effective and harmonious application principle

1. The Commission and the competent Swiss authorities shall cooperate and assist each other in ensuring the surveillance of the application of this Protocol. They may exchange information on the activities of surveillance of the application of this Protocol. They may exchange views and discuss issues of mutual interest.
2. Each Party shall take appropriate measures to ensure the effective and harmonious application of this Protocol on its territory.
3. The surveillance of the application of this Protocol shall be carried out jointly by the Parties within the Joint Committee on Food Safety.

If the Commission or the competent Swiss authorities become aware of a case of incorrect application, the matter may be referred to the Joint Committee on Food Safety with a view to finding an acceptable solution.

4. The Commission and the competent Swiss authorities respectively shall monitor the application of this Protocol by the other Party. The procedure provided for in Article 20 applies.

To the extent that certain surveillance competences of the institutions of the Union as regards one Party are necessary to ensure the effective and harmonious application of this Protocol, such as investigation and decision powers, this Protocol must foresee them specifically.

## ARTICLE 19

### Exclusivity principle

The Parties undertake not to submit a dispute regarding the interpretation or application of this Protocol and of the legal acts of the Union to which reference is made in this Protocol or, where applicable, regarding the conformity with this Protocol of a decision adopted by the Commission on the basis of this Protocol to any method of settlement other than those provided for in this Protocol.

## ARTICLE 20

### Procedure in the event of difficulty of interpretation or application

1. In the event of difficulty of interpretation or application of this Protocol or of a legal act of the Union to which reference is made in this Protocol, the Parties shall consult each other within the Joint Committee on Food Safety in order to find a mutually acceptable solution. To this end, all useful elements of information shall be provided to the Joint Committee on Food Safety to enable it to make a detailed examination of the situation. The Joint Committee on Food Safety shall examine all possibilities that allow the proper functioning of this Protocol to be maintained.
2. If the Joint Committee on Food Safety is not able to find a solution to the difficulty referred to in paragraph 1 within three months of the date on which the difficulty was submitted to it, either of the Parties may request that an arbitral tribunal settle the dispute in accordance with the rules laid down in Appendix 1.
3. Where the dispute raises a question concerning the interpretation or application of a provision referred to in Article 17(2), and if the interpretation of that provision is relevant to the settlement of the dispute and necessary to enable it to decide, the arbitral tribunal shall refer that question to the Court of Justice of the European Union.

Where the dispute raises a question concerning the interpretation or application of a provision that falls within the scope of an exception from the dynamic alignment obligation referred to in Article 13(7) and where the dispute does not involve the interpretation or application of concepts of Union law, the arbitral tribunal shall settle the dispute without referral to the Court of Justice of the European Union.

4. Where the arbitral tribunal refers a question to the Court of Justice of the European Union pursuant to paragraph 3:

- (a) the ruling of the Court of Justice of the European Union shall be binding on the arbitral tribunal; and
- (b) Switzerland shall enjoy the same rights as the Member States and the institutions of the Union and shall be subject to the same procedures before the Court of Justice of the European Union, *mutatis mutandis*.

5. Each Party shall take all measures necessary to comply in good faith with the arbitral tribunal's decision.

The Party that has been found by the arbitral tribunal not to have complied with this Protocol shall inform the other Party through the Joint Committee on Food Safety of the measures it has taken to comply with the arbitral tribunal's decision.



## ARTICLE 21

### Compensatory measures

1. If the Party that has been found by the arbitral tribunal not to have complied with this Protocol does not inform the other Party, within a reasonable time period set in accordance with Article IV.2(6) of Appendix 1, of the measures it has taken to comply with the arbitral tribunal's decision, or if the other Party considers that the measures communicated do not comply with the arbitral tribunal's decision, this other Party may adopt proportionate compensatory measures within the framework of this Protocol, of any other bilateral agreement in the fields related to the internal market in which Switzerland participates, or of the Agreement on trade in agricultural products (hereinafter referred to as "compensatory measures") in order to remedy a potential imbalance. It shall notify the Party that has been found by the arbitral tribunal not to have complied with this Protocol of the compensatory measures, which shall be specified in the notification. Those compensatory measures shall take effect three months from the date of this notification.
2. If, within one month from the date of the notification of the intended compensatory measures, the Joint Committee on Food Safety has not taken a decision to suspend, amend or annul those compensatory measures, either Party may submit to arbitration the question of the proportionality of those compensatory measures, in accordance with the Appendix 1.
3. The arbitral tribunal shall decide within the time limits laid down in Article III.8(4) of Appendix 1.

4. Compensatory measures shall not have retroactive effect. In particular, the rights and obligations already acquired by individuals and economic operators before the compensatory measures take effect shall be preserved.

## ARTICLE 22

### Cooperation between jurisdictions

1. To promote the homogeneous interpretation, the Swiss Federal Supreme Court and the Court of Justice of the European Union shall agree on a dialogue and the modalities thereof.
2. Switzerland shall have the right to lodge statements of case or written observations with the Court of Justice of the European Union where a court of a Member State of the Union refers to the Court of Justice of the European Union a question concerning the interpretation of this Protocol or of a provision of a legal act of the Union referred to therein for a preliminary ruling.

## PART IV

### OTHER PROVISIONS

#### ARTICLE 23

##### References to territories

Whenever the legal acts of the Union integrated into this Protocol in accordance with Article 13 or which have to be temporarily applied in accordance with Article 15 contain references to the territory of the "European Union", of the "Union", of the "common market" or of the "internal market", the references shall for the purposes of this Protocol be understood to be references to the territories referred to in Article 16 of the Agreement on trade in agricultural products.

#### ARTICLE 24

##### References to nationals of Member States of the Union

Whenever the legal acts of the Union integrated into this Protocol in accordance with Article 13 or which have to be temporarily applied in accordance with Article 15 contain references to nationals of Member States of the Union, the references shall, for the purposes of this Protocol, be understood to be references to nationals of the Member States of the Union and of Switzerland.

## ARTICLE 25

### Entry into force and implementation of the legal acts of the Union

Provisions of the legal acts of the Union integrated into this Protocol on their entry into force or implementation are not relevant for the purposes of this Protocol.

The time limits and dates for Switzerland for bringing into force and implementing the decisions integrating legal acts of the Union into this Protocol follow from Article 13(8) and Article 14(5), as well as from provisions on transitional arrangements.

## ARTICLE 26

### Addressees of the legal acts of the Union

Provisions of the legal acts of the Union integrated into this Protocol in accordance with Article 13 or which have to be temporarily applied in accordance with Article 15 indicating that they are addressed to the Member States of the Union are not relevant for the purposes of this Protocol.

## PART V

### FINAL PROVISIONS

#### ARTICLE 27

##### Professional secrecy

Representatives, experts and other agents of the Parties shall be required, even after their duties have ceased, not to disclose information, obtained in the framework of this Protocol, which is covered by the obligation of professional secrecy.

#### ARTICLE 28

##### Classified information and sensitive non-classified information

1. Nothing in this Protocol shall be construed as requiring a Party to make available classified information.
2. Classified information or material provided by, or exchanged between, the Parties under this Protocol shall be handled and protected in compliance with the Agreement between the Swiss Confederation and the European Union on the security procedures for the exchange of classified information, done at Brussels on 28 April 2008 and any security arrangement implementing it.

3. The Joint Committee on Food Safety shall adopt, by means of a decision, handling instructions to ensure the protection of sensitive non-classified information exchanged between the Parties.

## ARTICLE 29

### Implementation

1. The Parties shall take all appropriate measures, whether general or particular, to ensure the fulfilment of the obligations arising from this Protocol and shall refrain from taking any measure which could jeopardise the achievement of its objectives.

2. The Parties shall take all necessary measures to guarantee the intended result of the legal acts of the Union to which reference is made in this Protocol and shall refrain from taking any measure that could jeopardise the achievement of their aims.

## ARTICLE 30

### Annexes and Appendices

The Annexes and Appendices to this Protocol shall form an integral part thereof.

## ARTICLE 31

### Territorial scope

This Protocol shall apply to the territories referred to in Article 16 of the Agreement on trade in agricultural products.

## ARTICLE 32

### Transitional arrangements

1. There shall be a transition period, which shall start on the date of entry into force of this Protocol and end no later than 24 months from its entry into force. The transition period shall not apply to Article 11.
2. The provisions of this Protocol other than Article 11 shall be applicable from the first day following that of the end of the transition period, except for Annex I, Section 2, heading C, points 14 and 15, in respect of which the provisions of this Protocol shall apply from its entry into force.
3. During the transition period, the Agreement on trade in agricultural products continues to apply in respect of Annexes 4, 5, 6 and 11 to that Agreement.

4. Switzerland may notify the Joint Committee on Food Safety of its wish to end the transition period within less than 24 months after the entry into force of this Protocol. In such a case, the Joint Committee on Food Safety shall set the date of termination of the transition period and inform the Joint Committee on Agriculture established by Article 6 of the Agreement on trade in agricultural products accordingly.

5. By the end of the transition period, the Joint Committee on Food Safety shall update the date of integration referred to in the first paragraph of Section 2 of Annex I in the entries of each of the relevant legal acts.

## ARTICLE 33

### Entry into force

1. This Protocol shall be ratified or approved by the Parties in accordance with their own procedures. The Parties shall notify each other of the completion of the internal procedures necessary to the entry into force of this Protocol.

2. This Protocol shall enter into force on the first day of the second month following the last notification regarding the following instruments:

- (a) Institutional Protocol to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons;



- (b) Amending Protocol to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons;
- (c) Institutional Protocol to the Agreement between the European Community and the Swiss Confederation on air transport;
- (d) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on air transport;
- (e) State Aid Protocol to the Agreement between the European Community and the Swiss Confederation on air transport;
- (f) Institutional Protocol to the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road;
- (g) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road;
- (h) State Aid Protocol to the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road;
- (i) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products;

- (j) Institutional Protocol to the Agreement between the European Community and the Swiss Confederation on mutual recognition in relation to conformity assessment;
- (k) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on mutual recognition in relation to conformity assessment;
- (l) Agreement between the European Union and the Swiss Confederation on Switzerland's regular financial contribution towards reducing economic and social disparities in the European Union;
- (m) Agreement between the European Union and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, on the participation of the Swiss Confederation in Union programmes;
- (n) Agreement between the European Union and the Swiss Confederation on the terms and conditions for the participation of the Swiss Confederation in the European Union Agency for the Space Programme.

## ARTICLE 34

### Amendment and termination

1. This Protocol may be amended at any time by mutual agreement of the Parties.
2. Either Party may terminate this Protocol by notifying the other Party.

3. This Protocol shall cease to apply six months after receipt of the notification referred to in paragraph 2.

4. Where this Protocol is terminated in accordance with paragraph 2 of this Article, the Agreement on trade in agricultural products shall cease to apply on the date referred to in paragraph 3 of this Article. In such event, Article 17(4) of the Agreement on trade in agricultural products shall apply.

5. Where the Agreement on trade in agricultural products is terminated in accordance with Article 17(3) of that Agreement, this Protocol shall cease to apply on the date referred to in Article 17(4) of that Agreement.

6. Where this Protocol ceases to apply, the rights and obligations that individuals and economic operators have already acquired by virtue of this Protocol before the date of the cessation of this Protocol shall be preserved. The Parties shall settle by mutual agreement what action is to be taken in respect of rights in the process of being acquired.

Done at [...], on [...], in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each of these texts being equally authentic.

IN WITNESS WHEREOF, the undersigned, duly authorised thereto, have signed this Protocol.

(Signature Block, to the effect of, in all 24 EU languages: "For the European Union" and "For the Swiss Confederation")

## LEGAL ACTS IN THE COMMON FOOD SAFETY AREA

### SECTION 1

#### GENERAL PROVISIONS

The legal acts which are integrated into this Protocol in accordance with Article 13 or which have to be temporarily applied in accordance with Article 15 shall apply subject to the exceptions listed in Article 7, and shall be read as follows:

Unless otherwise provided for in technical adaptations:

- rights and obligations provided for, in these acts, for Member States of the Union shall be understood to be provided for for Switzerland;
- any other reference to the Member States in these acts shall be read as including a reference to Switzerland;
- references to natural or legal persons residing or established in the Member States of the Union in these acts shall be read as including references to natural or legal persons residing or established in Switzerland.

This shall be applied in full respect of the institutional provisions.

To accommodate for the special nature of the Common Food Safety Area and for the purposes of Article 18(4), last sentence, the Commission shall have regarding Switzerland the competences granted to it in those acts, unless otherwise provided for in technical adaptations. Whenever the Commission exercises such competences, it should cooperate with the competent Swiss authorities in line with the practice relating to the applicable legislation.

## SECTION 2

### LIST OF LEGAL ACTS

The legal acts listed in this Section shall be read as including the legal acts adopted on their basis, and integrated into this Protocol by decisions of the Joint Committee on Food Safety in accordance with Article 13(4) until the date of integration referred to in the entry of each respective legal act listed in this Section.

The relevant date is defined by the respective decision of the Joint Committee on Food Safety.

The provisions of the legal acts listed in this Section shall, for the purposes of this Protocol, be read with the following adaptations:

Whenever any of the legal acts below refer to obligations of Member States under Regulation (EU) 2016/679 or Directive 2002/58/EC, such references shall be understood, regarding Switzerland, as a reference to relevant national legislation.

## A. Official controls and import

1. 32017 R 0625: Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) (OJ L 95, 7.4.2017, p. 1),

as amended by the following legal act(s):

- 1.1. 32021 R 1756: Regulation (EU) 2021/1756 of the European Parliament and of the Council of 6 October 2021 (OJ L 357, 8.10.2021, p. 27),
- 1.2. 32024 R 3115: Regulation (EU) 2024/3115 of the European Parliament and of the Council of 27 November 2024 (OJ L, 2024/3115, 16.12.2024, p. 1),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

The provisions of the Regulation shall, for the purposes of this Protocol, be read with the following adaptations:

- (a) references to customs procedures shall be understood as references to relevant Swiss legislation;
- (b) in Annex I the following shall be added: "31. The territory of Switzerland".

#### B. Plant reproductive material

- 2. 31966 L 0401: Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed (OJ 125, 11.7.1966, p. 2298),

as amended by the following legal act(s):

- 2.1. 31969 L 0063: Council Directive 69/63/EEC of 18 February 1969 (OJ L 48, 26.2.1969, p. 8),
- 2.2. 31971 L 0162: Council Directive 71/162/EEC of 30 March 1971 (OJ L 87, 17.4.1971, p. 24),
- 2.3. 31972 L 0274: Council Directive 72/274/EEC of 20 July 1972 (OJ L 171, 29.7.1972, p. 37),
- 2.4. 31972 L 0418: Council Directive 72/418/EEC of 6 December 1972 (OJ L 287, 26.12.1972, p. 22),

- 2.5. 31973 L 0438: Council Directive 73/438/EEC of 11 December 1973  
(OJ L 356, 27.12.1973, p. 79),
- 2.6. 31975 L 0444: Council Directive 75/444/EEC of 26 June 1975  
(OJ L 196, 26.7.1975, p. 6),
- 2.7. 31978 L 0055: Council Directive 78/55/EEC of 19 December 1977  
(OJ L 16, 20.1.1978, p. 23),
- 2.8. 31978 L 0692: Council Directive 78/692/EEC of 25 July 1978  
(OJ L 236, 26.8.1978, p. 13),
- 2.9. 31978 L 1020: Council Directive 78/1020/EEC of 5 December 1978  
(OJ L 350, 14.12.1978, p. 27),
- 2.10. 31979 L 0692: Council Directive 79/692/EEC of 24 July 1979  
(OJ L 205, 13.8.1979, p. 1),
- 2.11. 31986 L 0155: Council Directive 86/155/EEC of 22 April 1986  
(OJ L 118, 7.5.1986, p. 23),
- 2.12. 31988 L 0332: Council Directive 88/332/EEC of 13 June 1988  
(OJ L 151, 17.6.1988, p. 82),
- 2.13. 31988 L 0380: Council Directive 88/380/EEC of 13 June 1988  
(OJ L 187, 16.7.1988, p. 31),



2.14. 31996 L 0072: Council Directive 96/72/EC of 18 November 1996  
(OJ L 304, 27.11.1996, p. 10),

2.15. 31998 L 0095: Council Directive 98/95/EC of 14 December 1998  
(OJ L 25, 1.2.1999, p. 1),

2.16. 31998 L 0096: Council Directive 98/96/EC of 14 December 1998  
(OJ L 25, 1.2.1999, p. 27),

2.17. 32001 L 0064: Council Directive 2001/64/EC of 31 August 2001  
(OJ L 234, 1.9.2001, p. 60),

2.18. 32003 L 0061: Council Directive 2003/61/EC of 18 June 2003  
(OJ L 165, 3.7.2003, p. 23),

2.19. 32004 L 0117: Council Directive 2004/117/EC of 22 December 2004  
(OJ L 14, 18.1.2005, p. 18),

and including the legal acts adopted on the basis of this Directive which have been integrated  
by 31 December 2024.

3. 31966 L 0402: Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal  
seed (OJ 125, 11.7.1966, p. 2309),

as amended by the following legal act(s):

- 3.1. 31969 L 0060: Council Directive 69/60/EEC of 18 February 1969  
(OJ L 48, 26.2.1969, p. 1),
- 3.2. 31971 L 0162: Council Directive 71/162/EEC of 30 March 1971  
(OJ L 87, 17.4.1971, p. 24),
- 3.3. 31972 L 0274: Council Directive 72/274/EEC of 20 July 1972  
(OJ L 171, 29.7.1972, p. 37),
- 3.4. 31972 L 0418: Council Directive 72/418/EEC of 6 December 1972  
(OJ L 287, 26.12.1972, p. 22),
- 3.5. 31973 L 0438: Council Directive 73/438/EEC of 11 December 1973  
(OJ L 356, 27.12.1973, p. 79),
- 3.6. 31975 L 0444: Council Directive 75/444/EEC of 26 June 1975  
(OJ L 196, 26.7.1975, p. 6),
- 3.7. 31978 L 0055: Council Directive 78/55/EEC of 19 December 1977  
(OJ L 16, 20.1.1978, p. 23),
- 3.8. 31978 L 0692: Council Directive 78/692/EEC of 25 July 1978  
(OJ L 236, 26.8.1978, p. 13),

- 3.9. 31978 L 1020: Council Directive 78/1020/EEC of 5 December 1978  
(OJ L 350, 14.12.1978, p. 27),
- 3.10. 31979 L 0692: Council Directive 79/692/EEC of 24 July 1979  
(OJ L 205, 13.8.1979, p. 1),
- 3.11. 31986 L 0155: Council Directive 86/155/EEC of 22 April 1986  
(OJ L 118, 7.5.1986, p. 23),
- 3.12. 31988 L 0332: Council Directive 88/332/EEC of 13 June 1988  
(OJ L 151, 17.6.1988, p. 82),
- 3.13. 31988 L 0380: Council Directive 88/380/EEC of 13 June 1988  
(OJ L 187, 16.7.1988, p. 31),
- 3.14. 31996 L 0072: Council Directive 96/72/EC of 18 November 1996  
(OJ L 304, 27.11.1996, p. 10),
- 3.15. 31998 L 0095: Council Directive 98/95/EC of 14 December 1998  
(OJ L 25, 1.2.1999, p. 1),
- 3.16. 31998 L 0096: Council Directive 98/96/EC of 14 December 1998  
(OJ L 25, 1.2.1999, p. 27),
- 3.17. 32001 L 0064: Council Directive 2001/64/EC of 31 August 2001  
(OJ L 234, 1.9.2001, p. 60),

3.18. 32003 L 0061: Council Directive 2003/61/EC of 18 June 2003  
(OJ L 165, 3.7.2003, p. 23),

3.19. 32004 L 0117: Council Directive 2004/117/EC of 22 December 2004  
(OJ L 14, 18.1.2005, p. 18),

and including the legal acts adopted on the basis of this Directive which have been integrated  
by 31 December 2024.

4. 31968 L 0193: Council Directive 68/193/EEC of 9 April 1968 on the marketing of material  
for the vegetative propagation of the vine (OJ L 93, 17.4.1968, p. 15),

as amended by the following legal act(s):

4.1. 31971 L 0140: Council Directive 71/140/EEC of 22 March 1971  
(OJ L 71, 25.3.1971, p. 16),

4.2. 31974 L 0648: Council Directive 74/648/EEC of 9 December 1974  
(OJ L 352, 28.12.1974, p. 43),

4.3. 31978 L 0055: Council Directive 78/55/EEC of 19 December 1977  
(OJ L 16, 20.1.1978, p. 23),

4.4. 31978 L 0692: Council Directive 78/692/EEC of 25 July 1978  
(OJ L 236, 26.8.1978, p. 13),

4.5. 31986 L 0155: Council Directive 86/155/EEC of 22 April 1986  
(OJ L 118, 7.5.1986, p. 23),

4.6. 31988 L 0332: Council Directive 88/332/EEC of 13 June 1988  
(OJ L 151, 17.6.1988, p. 82),

4.7. 32002 L 0011: Council Directive 2002/11/EC of 14 February 2002  
(OJ L 53, 23.2.2002, p. 20),

4.8. 32003 L 0061: Council Directive 2003/61/EC of 18 June 2003  
(OJ L 165, 3.7.2003, p. 23),

4.9. 32003 R 1829: Regulation (EC) No 1829/2003 of the European Parliament and of the  
Council of 22 September 2003 (OJ L 268, 18.10.2003, p. 1),

and including the legal acts adopted on the basis of this Directive which have been integrated  
by 31 December 2024.

5. 31998 L 0056: Council Directive 98/56/EC of 20 July 1998 (OJ L 226, 13.8.1998, p. 16),

as amended by the following legal act(s):

5.1. 32003 R 0806: Council Regulation (EC) No 806/2003 of 14 April 2003  
(OJ L 122, 16.5.2003, p. 1),

5.2. 32003 L 0061: Council Directive 2003/61/EC of 18 June 2003  
(OJ L 165, 3.7.2003, p. 23),

and including the legal acts adopted on the basis of this Directive which have been integrated by 31 December 2024.

6. 31999 L 0105: Council Directive 1999/105/EC of 22 December 1999 on the marketing of forest reproductive material (OJ L 11, 15.1.2000, p. 17), including the legal acts adopted on the basis of this Directive which have been integrated by 31 December 2024.

7. 32002 L 0053: Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species (OJ L 193, 20.7.2002, p. 1),

as amended by the following legal act(s):

7.1. 32003 R 1829: Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 (OJ L 268, 18.10.2003, p. 1),

and including the legal acts adopted on the basis of this Directive which have been integrated by 31 December 2024.

8. 32002 L 0054: Council Directive 2002/54/EC of 13 June 2002 on the marketing of beet seed (OJ L 193, 20.7.2002, p. 12),

as amended by the following legal act(s):

8.1. 32003 L 0061: Council Directive 2003/61/EC of 18 June 2003  
(OJ L 165, 3.7.2003, p. 23),

8.2. 32004 L 0117: Council Directive 2004/117/EC of 22 December 2004  
(OJ L 14, 18.1.2005, p. 18),

and including the legal acts adopted on the basis of this Directive which have been integrated  
by 31 December 2024.

9. 32002 L 0055: Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable  
seed (OJ L 193, 20.7.2002, p. 33),

as amended by the following legal act(s):

9.1. 32003 L 0061: Council Directive 2003/61/EC of 18 June 2003 (OJ L 165, 3.7.2003, p. 23),

9.2. 32003 R 1829: Regulation (EC) No 1829/2003 of the European Parliament and of the Council  
of 22 September 2003 (OJ L 268, 18.10.2003, p. 1),

9.3. 32004 L 0117: Council Directive 2004/117/EC of 22 December 2004  
(OJ L 14, 18.1.2005, p. 18),

and including the legal acts adopted on the basis of this Directive which have been integrated  
by 31 December 2024.

10. 32002 L 0056: Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes (OJ L 193, 20.7.2002, p. 60),

as amended by the following legal act(s):

- 10.1. 32003 L 0061: Council Directive 2003/61/EC of 18 June 2003  
(OJ L 165, 3.7.2003, p. 23),

and including the legal acts adopted on the basis of this Directive which have been integrated by 31 December 2024.

11. 32002 L 0057: Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants (OJ L 193, 20.7.2002, p. 74),

as amended by the following legal act(s):

- 11.1. 32002 L 0068: Council Directive 2002/68/EC of 19 July 2002  
(OJ L 195, 24.7.2002, p. 32),

- 11.2. 32003 L 0061: Council Directive 2003/61/EC of 18 June 2003  
(OJ L 165, 3.7.2003, p. 23),

- 11.3. 32004 L 0117: Council Directive 2004/117/EC of 22 December 2004  
(OJ L 14, 18.1.2005, p. 18),

and including the legal acts adopted on the basis of this Directive which have been integrated by 31 December 2024.



12. 32008 L 0072: Council Directive 2008/72/EC of 15 July 2008 on the marketing of vegetable propagating and planting material, other than seed (OJ L 205, 1.8.2008, p. 28), including the legal acts adopted on the basis of this Directive which have been integrated by 31 December 2024.
13. 32008 L 0090: Council Directive 2008/90/EC of 29 September 2008 on the marketing of fruit plant propagating material and fruit plants intended for fruit production (OJ L 267, 8.10.2008, p. 8), including the legal acts adopted on the basis of this Directive which have been integrated by 31 December 2024.

#### C. Plant protection products

14. 32009 R 1107: Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1),

as amended by the following legal act(s):

- 14.1. 32013 R 0518: Council Regulation (EU) No 518/2013 of 13 May 2013 (OJ L 158, 10.6.2013, p. 72),
- 14.2. 32017 R 0625: Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 (OJ L 95, 7.4.2017, p. 1),
- 14.3. 32019 R 1009: Regulation (EU) 2019/1009 of the European Parliament and of the Council of 5 June 2019 (OJ L 170, 25.6.2019, p. 1),

14.4. 32019 R 1381: Regulation (EU) 2019/1381 of the European Parliament and of the Council of 20 June 2019 (OJ L 231, 6.9.2019, p. 1),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

The provisions of the Regulation shall, for the purposes of this Protocol, be read with the following adaptation:

In Annex I, Switzerland shall belong to Zone B – Centre.

15. 32009 L 0128: Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (OJ L 309, 24.11.2009, p. 71),

as amended by the following legal act(s):

- 15.1. 32019 R 1243: Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 (OJ L 198, 25.7.2019, p. 241),

and including the legal acts adopted on the basis of this Directive which have been integrated by 31 December 2024.

## D. Plant health

16. 32016 R 2031: Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC (OJ L 317, 23.11.2016, p. 4),

as amended by the following legal act(s):

- 16.1. 32017 R 0625: Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 (OJ L 95, 7.4.2017, p. 1),

- 16.2. 32024 R 3115: Regulation (EU) 2024/3115 of the European Parliament and of the Council of 27 November 2024 (OJ L, 2024/3115, 16.12.2024),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

The provisions of the Regulation shall, for the purposes of this Protocol, be read with the following adaptations:

- (a) in Article 45(1), the image of the Swiss flag or coat of arms can be used in the information material in addition or instead of the flag of the Union;

- (b) in Annex VII, the image of the Swiss coat of arms can be used on the plant passport instead of the flag of the Union;
- (c) In Annex VIII, the image of the Swiss coat of arms can be used on the phytosanitary certificates, the phytosanitary certificate for re-export and the pre-export certificate instead of the flag of the Union. The certificates will be issued in the name of Switzerland, and, where necessary, the term "EU" will be replaced by the term "CH";
- (d) the references to Council Regulation (EEC) No 2658/87 shall be understood, regarding Switzerland, as references to relevant national legislation.

#### E. Feed

17. 32002 L 0032: Directive 2002/32/EC of the European Parliament and of the Council of 7 May 2002 on undesirable substances in animal feed (OJ L 140, 30.5.2002, p. 10),

as amended by the following legal act(s):

- 17.1. 32009 R 0219: Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 (OJ L 87, 31.3.2009, p. 109),

- 17.2. 32019 R 1243: Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 (OJ L 198, 25.7.2019, p. 241),

and including the legal acts adopted on the basis of this Directive which have been integrated by 31 December 2024.

18. 32003 R 1831: Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition (OJ L 268, 18.10.2003, p. 29),

as amended by the following legal act(s):

18.1. 32009 R 0596: Regulation (EC) No 596/2009 of the European Parliament and of the Council of 18 June 2009 (OJ L 188, 18.7.2009, p. 14),

18.2. 32009 R 0767: Regulation (EC) No 767/2009 of the European Parliament and of the Council of 13 July 2009 (OJ L 229, 1.9.2009, p. 1),

18.3. 32019 R 1243: Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 (OJ L 198, 25.7.2019, p. 241),

18.4. 32019 R 1381: Regulation (EU) 2019/1381 of the European Parliament and of the Council of 20 June 2019 (OJ L 231, 6.9.2019, p. 1),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

19. 32005 R 0183: Regulation (EC) No 1831/2005 of the European Parliament and of the Council of 12 January 2005 laying down requirements for feed hygiene (OJ L 35, 8.2.2005, p. 1),

as amended by the following legal act(s):

19.1. 32009 R 0219: Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 (OJ L 87, 31.3.2009, p. 109),

19.2. 32019 R 0004: Regulation (EU) 2019/4 of the European Parliament and of the Council of 11 December 2018 (OJ L 4, 7.1.2019, p. 1),

19.3. 32019 R 1243: Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 (OJ L 198, 25.7.2019, p. 241),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

20. 32009 R 0767: Regulation (EC) No 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC (OJ L 229, 1.9.2009, p. 1), including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

The provisions of the Regulation shall, for the purposes of this Protocol, be read with the following adaptation:

Switzerland may continue to apply provisions of Swiss law providing for restrictions concerning the use of feed materials derived from varieties of *Cannabis* sp. for food-producing animals, in addition to those provided for in Annex III to Regulation (EC) No 767/2009.

#### F. Animal breeding – Zootechnics

21. 31990 L 0428: Council Directive 90/428/EEC of 26 June 1990 on trade in equidae intended for competitions and laying down the conditions for participation therein (OJ L 224, 18.8.1990, p. 60),

as amended by the following legal act(s):

- 21.1. 32008 L 0073: Council Directive 2008/73/EC of 15 July 2008 (OJ L 219, 14.8.2008, p. 40),

and including the legal acts adopted on the basis of this Directive which have been integrated by 31 December 2024.

22. 32016 R 1012: Regulation (EU) 2016/1012 of the European Parliament and of the Council of 8 June 2016 on zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of purebred breeding animals, hybrid breeding pigs and the germinal products thereof and amending Regulation (EU) No 652/2014, Council Directives 89/608/EEC and 90/425/EEC and repealing certain acts in the area of animal breeding ("Animal Breeding Regulation") (OJ L 171, 29.6.2016, p. 66), including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

## G. Animal health, zoonosis control

23. 32016 R 0429: Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ("Animal Health Law") (OJ L 84, 31.3.2016, p. 1),

as amended by the following legal act(s):

- 23.1. 32017 R 0625: Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 (OJ L 95, 7.4.2017, p. 1),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

The provisions of the Regulation shall, for the purposes of this Protocol, be read with the following adaptation:

In Article 49(1) Switzerland undertakes to bear the costs for the transport and replacement of the antigen, vaccine and diagnostic reagent delivered to Switzerland under this provision.

24. 32013 R 0576: Regulation (EU) No 576/2013 of the European Parliament and of the Council of 12 June 2013 on the non-commercial movement of pet animals and repealing Regulation (EC) No 998/2003 (OJ L 178, 28.6.2013, p. 1), including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.



25. 32001 R 0999: Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ L 147, 31.5.2001, p. 1),

as amended by the following legal act(s):

- 25.1. 32003 R 1128: Regulation (EC) No 1128/2003 of the European Parliament and of the Council of 16 June 2003 (OJ L 160, 28.6.2003, p. 1),

- 25.2. 32005 R 0932: Regulation (EC) No 932/2005 of the European Parliament and of the Council of 8 June 2005 (OJ L 163, 23.6.2005, p. 1),

- 25.3. 32006 R 1923: Regulation (EC) No 1923/2006 of the European Parliament and of the Council of 18 December 2006 (OJ L 404, 30.12.2006, p. 1),

- 25.4. 32009 R 0220: Regulation (EC) No 220/2009 of the European Parliament and of the Council of 11 March 2009 (OJ L 87, 31.3.2009, p. 155),

- 25.5. 32013 R 0517: Council Regulation (EU) No 517/2013 of 13 May 2013 (OJ L 158, 10.6.2013, p. 1),

- 25.6. 32017 R 0625: Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 (OJ L 95, 7.4.2017, p. 1),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

26. 32003 R 2160: Regulation (EC) No 2160/2003 of the European Parliament and of the Council of 17 November 2003 on the control of salmonella and other specified food-borne zoonotic agents (OJ L 325, 12.12.2003, p. 1),

as amended by the following legal act(s):

- 26.1. 32009 R 0596: Regulation (EC) No 596/2009 of the European Parliament and of the Council of 18 June 2009 (OJ L 188, 18.7.2009, p. 14),

- 26.2. 32013 R 0517: Council Regulation (EU) No 517/2013 of 13 May 2013 (OJ L 158, 10.6.2013, p. 1),

- 26.3. 32016 R 0429: Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 (OJ L 84, 31.3.2016, p. 1),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

27. 32003 L 0099: Directive 2003/99/EC of the European Parliament and of the Council of 17 November 2003 on the monitoring of zoonoses and zoonotic agents, amending Council Decision 90/424/EEC and repealing Council Directive 92/117/EEC (OJ L 325, 12.12.2003, p. 31),

as amended by the following legal act(s):

- 27.1. 32006 L 0104: Council Directive 2006/104/EC of 20 November 2006 (OJ L 363, 20.12.2006, p.352),

27.2. 32009 R 0219: Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 (OJ L 87, 31.3.2009, p. 109),

27.3. 32013 L 0020: Council Directive 2013/20/EU of 13 May 2013 (OJ L 158, 10.6.2013, p. 234),

and including the legal acts adopted on the basis of this Directive which have been integrated by 31 December 2024.

#### H. Food – general

28. 32002 R 0178: Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1),

as amended by the following legal act(s):

28.1. 32003 R 1642: Regulation (EC) No 1642/2003 of the European Parliament and of the Council of 22 July 2003 (OJ L 245, 29.9.2003, p. 4),

28.2. 32009 R 0596: Regulation (EC) No 596/2009 of the European Parliament and of the Council of 18 June 2009 (OJ L 188, 18.7.2009, p. 14),

28.3. 32017 R 0745: Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 (OJ L 117, 5.5.2017, p. 1),

28.4. 32019 R 1243: Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 (OJ L 198, 25.7.2019, p. 241),

28.5. 32019 R 1381: Regulation (EU) 2019/1381 of the European Parliament and of the Council of 20 June 2019 (OJ L 231, 6.9.2019, p. 1),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

The provisions of the Regulation shall, for the purposes of this Protocol, be read with the following adaptations:

- (a) Switzerland shall participate in the work of the European Food Safety Authority (hereinafter referred to as the "Authority");
- (b) Switzerland shall contribute financially to the activities referred to in point (a) in accordance with Article 9 of this Protocol and Annex II to this Protocol;
- (c) Switzerland shall participate fully in the Authority's Management Board and the Authority's Advisory Forum and shall have the same rights and obligations within it as Member States of the Union, except for the right to vote;
- (d) Swiss experts, when selected and appointed, shall participate fully in Scientific Committees and Scientific Panels and shall have the same rights and obligations within them as all other experts participating therein in accordance with the applicable legislative framework;

- (e) Switzerland shall be able to designate competent organisations operating in fields within the Authority's mission which may assist the Authority;
- (f) by way of derogation from Article 12(2), point (a), of the Conditions of Employment of Other Servants of the European Union<sup>1</sup>, the Authority may, if it so decides, engage under contract Swiss nationals that enjoy their full rights as citizens. The Authority may accept the secondment of experts by Switzerland;
- (g) Switzerland shall grant to the Authority and its staff, within the framework of their official functions for the Authority, the privileges and immunities provided for in Appendix 2 which are based on Articles 1 to 6, 10 to 15, and 17 and 18 of Protocol (No 7). References to the corresponding articles of that Protocol are indicated between brackets for information;
- (h) Switzerland shall participate fully in the networks operated by the Authority and shall have the same rights and obligations within them as Member States of the Union.

## I. Food – hygiene

29. 31989 L 0108: Council Directive 89/108/EEC of 21 December 1988 on the approximation of the laws of the Member States relating to quick-frozen foodstuffs for human consumption (OJ L 40, 11.2.1989, p. 34),

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<sup>1</sup> Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ 45, 14.6.1962, p. 1385), including any subsequent amendments.

as amended by the following legal act(s):

29.1. 32003 R 1882: Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003 (OJ L 284, 31.10.2003, p. 1),

29.2. 32006 L 0107: Council Directive 2006/107/EC of 20 November 2006 (OJ L 363, 20.12.2006, p. 411),

29.3. 32008 R 1137: Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 (OJ L 311, 21.11.2008, p. 1),

29.4. 32013 L 0020: Council Directive 2013/20/EU of 13 May 2013 (OJ L 158, 10.6.2013, p. 234),

and including the legal acts adopted on the basis of this Directive which have been integrated by integrated by 31 December 2024.

30. 32004 R 0852: Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (OJ L 139, 30.4.2004, p. 1),

as amended by the following legal act(s):

30.1. 32009 R 0219: Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 (OJ L 87, 31.3.2009, p. 109),

and including the legal acts adopted on the basis of this Regulation which have been integrated by integrated by 31 December 2024.

31. 32004 R 0853: Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p. 55),

as amended by the following legal act(s):

- 31.1. 32009 R 0219: Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 (OJ L 87, 31.3.2009, p. 109),

- 31.2. 32013 R 0517: Council Regulation (EU) No 517/2013 of 13 May 2013 (OJ L 158, 10.6.2013, p. 1),

- 31.3. 32019 R 1243: Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 (OJ L 198, 25.7.2019, p. 241),

- 31.4. 32021 R 1756: Regulation (EU) 2021/1756 of the European Parliament and of the Council of 6 October 2021 (OJ L 357, 8.10.2021, p. 27),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

#### J. Food – ingredients, traces and marketing standards

32. 32002 L 0046: Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements (OJ L 183, 12.7.2002, p. 51),

as amended by the following legal act(s):

32.1. 32008 R 1137: Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 (OJ L 311, 21.11.2008, p. 1),

and including the legal acts adopted on the basis of this Directive which have been integrated by 31 December 2024.

33. 32003 R 2065: Regulation (EC) No 2065/2003 of the European Parliament and of the Council of 10 November 2003 on smoke flavourings used or intended for use in or on foods (OJ L 309, 26.11.2003, p. 1),

as amended by the following legal act(s):

33.1. 32009 R 0596: Regulation (EC) No 596/2009 of the European Parliament and of the Council of 18 June 2009 (OJ L 188, 18.7.2009, p. 14),

33.2. 32019 R 1243: Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 (OJ L 198, 25.7.2019, p. 241),

33.3. 32019 R 1381: Regulation (EU) 2019/1381 of the European Parliament and of the Council of 20 June 2019 (OJ L 231, 6.9.2019, p. 1),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.



34. 32006 R 1925: Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods (OJ L 404, 30.12.2006, p. 26),

as amended by the following legal act(s):

- 34.1. 32008 R 0108: Regulation (EC) No 108/2008 of the European Parliament and of the Council of 15 January 2008 (OJ L 39, 13.2.2008, p. 11),

- 34.2. 32011 R 1169: Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 (OJ L 304, 22.11.2011, p. 18),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

35. 32008 R 1331: Regulation (EC) No 1331/2008 of the European Parliament and of the Council of 16 December 2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings (OJ L 354, 31.12.2008, p. 1),

as amended by the following legal act(s):

- 35.1. 32019 R 1381: Regulation (EU) 2019/1381 of the European Parliament and of the Council of 20 June 2019 (OJ L 231, 6.9.2019, p. 1),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

36. 32008 R 1332: Regulation (EC) No 1332/2008 of the European Parliament and of the Council of 16 December 2008 on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) No 1493/1999, Directive 2000/13/EC, Council Directive 2001/112/EC and Regulation (EC) No 258/97 (OJ L 354, 31.12.2008, p. 7), including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.
37. 32008 R 1333: Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives (OJ L 354, 31.12.2008, p. 16), including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.
38. 32008 R 1334: Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods and amending Council Regulation (EEC) No 1601/91, Regulations (EC) No 2232/96 and (EC) No 110/2008 and Directive 2000/13/EC (OJ L 354, 31.12.2008, p. 34),

as amended by the following legal act(s):

- 38.1. 32011 R 1169: Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 (OJ L 304, 22.11.2011, p. 18),
- 38.2. 32014 R 0251: Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 (OJ L 84, 20.3.2014, p. 14),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

39. 32013 R 0609: Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009 (OJ L 181, 29.6.2013, p. 35), including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.
40. 32015 L 2203: Directive (EU) 2015/2203 of the European Parliament and of the Council of 25 November 2015 on the approximation of the laws of the Member States relating to caseins and caseinates intended for human consumption and repealing Council Directive 83/417/EEC (OJ L 314, 1.12.2015, p. 1), including the legal acts adopted on the basis of this Directive which have been integrated by 31 December 2024.
41. 32015 R 2283: Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods, amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council and repealing Regulation (EC) No 258/97 of the European Parliament and of the Council and Commission Regulation (EC) No 1852/2001 (OJ L 327, 11.12.2015, p. 1),

as amended by the following legal act(s):

- 41.1. 32019 R 1381: Regulation (EU) 2019/1381 of the European Parliament and of the Council of 20 June 2019 (OJ L 231, 6.9.2019, p. 1),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

K. Food – residues of pesticides and veterinary medicinal products and contaminants

42. 31993 R 0315: Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food (OJ L 37, 13.2.1993, p. 1),

as amended by the following legal act(s):

- 42.1. 32003 R 1882: Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003 (OJ L 284, 31.10.2003, p. 1),

- 42.2. 32009 R 0596: Regulation (EC) No 596/2009 of the European Parliament and of the Council of 18 June 2009 (OJ L 188, 18.7.2009, p. 14),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

43. 32005 R 0396: Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC (OJ L 70, 16.3.2005, p. 1),

as amended by the following legal act(s):

- 43.1. 32008 R 0299: Regulation (EC) No 299/2008 of the European Parliament and of the Council of 11 March 2008 (OJ L 97, 9.4.2008, p. 67),

43.2. 32017 R 0625: Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 (OJ L 95, 7.4.2017, p. 1),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

44. 32009 R 0470: Regulation (EC) No 470/2009 of the European Parliament and of the Council of 6 May 2009 laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin repealing Council Regulation (EEC) No 2377/90 and amending Directive 2001/82/EC of the European Parliament and of the Council and Regulation (EC) No 726/2004 of the European Parliament and of the Council (OJ L 152, 16.6.2009, p. 11), including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

The provisions of the Regulation shall, for the purposes of this Protocol, be read with the following adaptations:

- (a) Articles 3, 9, 10, 11, 13, 15, 17, 25, 27 shall, for the purposes of this Protocol, not apply to Switzerland.
- (b) Switzerland shall not participate in the standing committee on veterinary medicinal products or in the expert groups on veterinary medicinal products.

Switzerland shall not participate in, and Switzerland's experts shall not be consulted on, the preparation of proposals and drafts relating to the establishment of maximum residue limits of pharmacologically active substances in foodstuffs of animal origin, if those are established in the context of procedures related to veterinary medicinal products.

## L. Food contact material

45. 32004 R 1935: Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC (OJ L 338, 13.11.2004, p. 4),

as amended by the following legal act(s):

45.1. 32009 R 0596: Regulation (EC) No 596/2009 of the European Parliament and of the Council of 18 June 2009 (OJ L 188, 18.7.2009, p. 14),

45.2. 32019 R 1381: Regulation (EU) 2019/1381 of the European Parliament and of the Council of 20 June 2019 (OJ L 231, 6.9.2019, p. 1),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

46. 31984 L 0500: Council Directive 84/500/EEC of 15 October 1984 on the approximation of the laws of the Member States relating to ceramic articles intended to come into contact with foodstuffs (OJ L 277, 20.10.1984, p. 12), including the legal acts adopted on the basis of this Directive which have been integrated by 31 December 2024.

M. Food-labelling, presentation and advertising of foods and nutrition or health claims

47. 32000 R 1760: Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 (OJ L 204, 11.8.2000, p. 1),

as amended by the following legal act(s):

- 47.1. 32013 R 0517: Council Regulation (EU) No 517/2013 of 13 May 2013 (OJ L 158, 10.6.2013, p. 1),

- 47.2. 32014 R 0653: Regulation (EU) No 653/2014 of the European Parliament and of the Council of 15 May 2014 (OJ L 189, 27.6.2014, p. 33),

- 47.3. 32016 R 0429: Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 ("Animal Health Law") (OJ L 84, 31.3.2016, p. 1),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

48. 32006 R 1924: Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods (OJ L 404, 30.12.2006, p. 9),

as amended by the following legal act(s):

48.1. 32008 R 0107: Regulation (EC) No 107/2008 of the European Parliament and of the Council of 15 January 2008 (OJ L 39, 13.2.2008, p. 8),

48.2. 32008 R 0109: Regulation (EC) No 109/2008 of the European Parliament and of the Council of 15 January 2008 amending Regulation (EC) No 1924/2006 on nutrition and health claims made on foods (OJ L 39, 13.2.2008, p. 14),

48.3. 32011 R 1169: Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 (OJ L 304, 22.11.2011, p. 18),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

49. 32011 R 1169: Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18),

as amended by the following legal act(s):

49.1. 32015 R 2283: Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 (OJ L 327, 11.12.2015, p. 1),



and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

The provisions of the Regulation shall, for the purposes of this Protocol, be read with the following adaptations:

- (a) Switzerland may continue to apply provisions of Swiss law requiring mandatory labelling of the country of origin or place of provenance and providing that, for products originating from the Union:
  - the indication "EU" as country of production is accepted; and
  - the name or business name and the address of the food business operator fulfils the requirement for the mandatory indication of the country of production;
- (b) Switzerland may continue to apply provisions of its law requiring mandatory labelling of unintended traces of allergens in food.

50. 32011 L 0091: Directive 2011/91/EU of the European Parliament and of the Council of 13 December 2011 on indications or marks identifying the lot to which a foodstuff belongs (OJ L 334, 16.12.2011, p. 1).

N. Food – other

51. 31999 L 0002: Directive 1999/2/EC of the European Parliament and of the Council of 22 February 1999 on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation (OJ L 66, 13.3.1999, p. 16),

as amended by the following legal act(s):

51.1. 32003 R 1882: Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003 (OJ L 284, 31.10.2003, p. 1),

51.2. 32008 R 1137: Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 (OJ L 311, 21.11.2008, p. 1),

and including the legal acts adopted on the basis of this Directive which have been integrated by 31 December 2024.

52. 31999 L 0003: Directive 1999/3/EC of the European Parliament and of the Council of 22 February 1999 on the establishment of a Community list of foods and food ingredients treated with ionising radiation (OJ L 66, 13.3.1999, p. 24).

53. 32009 L 0032: Directive 2009/32/EC of the European Parliament and of the Council of 23 April 2009 on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients (OJ L 141, 6.6.2009, p. 31), including the legal acts adopted on the basis of this Directive which have been integrated by 31 December 2024.

54. 32009 L 0054: Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters (OJ L 164, 26.6.2009, p. 45), including the legal acts adopted on the basis of this Directive which have been integrated by 31 December 2024.

55. 32016 R 0052: Council Regulation (Euratom) 2016/52 of 15 January 2016 laying down maximum permitted levels of radioactive contamination of food and feed following a nuclear accident or any other case of radiological emergency, and repealing Regulation (Euratom) No 3954/87 and Commission Regulations (Euratom) No 944/89 and (Euratom) No 770/90 (OJ L 13, 20.1.2016, p. 2), including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

#### O. Genetically modified organisms

The threshold referred to in Article 7(1), point (a), first indent, of this Protocol is laid down in Articles 12(2) and 24(2) of Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed (OJ L 268, 18.10.2003, p. 1).

Feed produced from genetically modified organisms mentioned in Article 7(1), point (a), second indent, of this Protocol is authorised under Article 19 of Regulation (EC) No 1829/2003.

#### P. Animal welfare

56. 32005 R 0001: Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97 (OJ L 3, 5.1.2005, p. 1),

as amended by the following legal act(s):

- 56.1. 32017 R 0625: Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 (OJ L 95, 7.4.2017, p. 1),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

The provisions of the Regulation shall, for the purposes of this Protocol, be read with the following adaptation:

in Article 1(3), the following sentence shall be added:

"Switzerland may continue to apply provisions of its law concerning the transport of animals within Switzerland, including the transit of bovines, ovines, caprines, porcines, horses or poultry for slaughter, and establishing that such transit is only allowed by rail or air in Switzerland."

57. 32009 R 1099: Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing (OJ L 303, 18.11.2009, p. 1),

as amended by the following legal act(s):

- 57.1. 32017 R 0625: Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 (OJ L 95, 7.4.2017, p. 1),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

## Q. Animal by-products

58. 32009 R 1069: Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation) (OJ L 300, 14.11.2009, p. 1),

as amended by the following legal act(s):

- 58.1. 32010 L 0063: Directive 2010/63/EU of the European Parliament and of the Council of 22 September 2010 (OJ L 276, 20.10.2010, p. 33),

- 58.2. 32013 R 1385: Council Regulation (EU) No 1385/2013 of 17 December 2013 (OJ L 354, 28.12.2013, p. 86),

- 58.3. 32017 R 0625: Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 (OJ L 95, 7.4.2017, p. 1),

- 58.4. 32019 R 1009: Regulation (EU) 2019/1009 of the European Parliament and of the Council of 5 June 2019 (OJ L 170, 25.6.2019, p. 1),

and including the legal acts adopted on the basis of this Regulation which have been integrated by 31 December 2024.

## R. Sanitary and phytosanitary – Other

59. 31996 L 0022: Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of  $\beta$ -agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC (OJ L 125, 23.5.1996, p. 3),

as amended by the following legal act(s):

59.1. 32003 L 0074: Directive 2003/74/EC of the European Parliament and of the Council of 22 September 2003 (OJ L 262, 14.10.2003, p. 17),

59.2. 32008 L 0097: Directive 2008/97/EC of the European Parliament and of the Council of 19 November 2008 (OJ L 318, 28.11.2008, p.9).

The provisions of the Directive shall, for the purposes of this Protocol, be read with the following adaptation:

Article 11(2), point (b) shall not apply to or in Switzerland.

## S. Antimicrobial resistance

60. 32019 R 0006: Article 107 (with the exception of paragraph 6) and Article 118 of Regulation (EU) 2019/6 of the European Parliament and of the Council of 11 December 2018 on veterinary medicinal products and repealing Directive 2001/82/EC (OJ L 4, 7.1.2019, p. 43), in conjunction with Article 37(5) thereof, including the legal acts adopted on the basis of those provisions which have been integrated by 31 December 2024.

Article 107(5) shall, for the purposes of this Protocol, be read with the following adaptations:

- (a) medicinal products containing the antimicrobials or groups of antimicrobials reserved for treatment of certain infections in humans in accordance with Commission Implementing Regulation (EU) 2022/1255 (OJ L 191, 20.7.2022, p. 58) shall not be used in animals;
- (b) the legal acts adopted on the basis of Article 107(6) of Regulation (EU) 2019/6 shall not be understood as being included in the reference to Article 107 of Regulation (EU) 2019/6;
- (c) Switzerland and Switzerland's experts shall not participate in the standing committee on veterinary medicinal products nor in the expert groups on veterinary medicinal products. Switzerland shall not participate in, and Switzerland's experts shall not be consulted on, the preparation of proposals and drafts relating to the manufacture, placing on the market and use of veterinary medicinal products.

61. 32019 R 0004: paragraph 3 of Article 17 of Regulation (EU) 2019/4 of the European Parliament and of the Council of 11 December 2018 on the manufacture, placing on the market and use of medicated feed, amending Regulation (EC) No 1831/2003 of the European Parliament and of the Council and repealing Council Directive 90/167/EEC (OJ L 4, 7.1.2019, p. 1).

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APPLICATION OF ARTICLE 9 OF THE PROTOCOL  
ESTABLISHING A COMMON FOOD SAFETY AREA

ARTICLE 1

List of the activities of the Union agencies, information systems and other activities to which Switzerland is to contribute financially

Switzerland shall contribute financially to the following:

(a) agencies:

- European Food Safety Authority (EFSA) established by Regulation (EC) No 178/2002<sup>1</sup>.

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<sup>1</sup> Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).



(b) information systems:

- EUROPHYT Portal (EUROPHYTPORTAL) established by Commission Directive 94/3/EC of 21 January 1994<sup>1</sup>;
- Rapid Alert System for Food and Feed (RASFF) established by Regulation (EC) No 178/2002<sup>2</sup>;
- European Commission's online platform for sanitary and phytosanitary certification (TRACES) established by Regulation (EU) 2017/625<sup>3</sup>;
- EU Animal Diseases Information System (ADIS) established by Regulation (EU) 2020/2002<sup>4</sup>.

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<sup>1</sup> Commission Directive 94/3/EC of 21 January 1994 establishing a procedure for the notification of interception of a consignment or a harmful organism from third countries and presenting an imminent phytosanitary danger (OJ L 32, 5.2.1994, p. 37).

<sup>2</sup> Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

<sup>3</sup> Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products (OJ L 95, 7.4.2017, p. 1).

<sup>4</sup> Commission Implementing Regulation (EU) 2020/2002 of 7 December 2020 laying down rules for the application of Regulation (EU) 2016/429 of the European Parliament and of the Council with regard to Union notification and Union reporting of listed diseases, to formats and procedures for submission and reporting of Union surveillance programmes and of eradication programmes and for application for recognition of disease-free status, and to the computerised information system (OJ L 412, 8.12.2020, p. 1).

(c) other activities:

none.

## ARTICLE 2

### Terms of payment

1. Payments due in pursuant to Article 9 of the Protocol to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products establishing a Common Food Safety Area (hereinafter referred to as "Protocol"), shall be made in accordance with this Article.
2. When issuing the call for funds of the financial year, the Commission shall communicate the following information to Switzerland:
  - (a) the amount of the operational contribution; and
  - (b) the amount of the participation fee.

3. The Commission shall communicate to Switzerland, as soon as possible and at the latest on 16 April of each financial year, the following information in relation to Switzerland's participation:

- (a) the amounts in commitment appropriations of the annual Union voted budget inscribed on the relevant Union budget subsidy line(s) of the year in question for each Union agency, taking into account for each agency any adjusted operational contribution as defined in Article 1, and the amounts in commitment appropriations in relation to the Union voted budget of the year in question for the relevant budget of the information systems and other activities, covering the participation of Switzerland in accordance with Article 1;
  - (b) the amount of the participation fee referred to in Article 9(7) of the Protocol; and
  - (c) as regards agencies, in year N+1, the amounts in budgetary commitments made on commitment appropriations authorised in year N on the relevant Union budget subsidy line(s) in relation to the annual Union budget inscribed on the relevant Union budget subsidy line(s) of year N.
4. On the basis of its draft budget, the Commission shall provide an estimate of information under points (a) and (b) of paragraph 3 as soon as possible, and at the latest, by 1 September of the financial year.

5. The Commission shall issue to Switzerland, at the latest on 16 April and, if applicable to the relevant agency, information system or other activity, at the earliest on 22 October and at the latest on 31 October of each financial year, a call for funds that corresponds to the contribution of Switzerland under the Protocol for each of the agencies, information systems and other activities in which Switzerland participates.

6. The call(s) for funds referred to in paragraph 5 shall be structured in instalments as follows:
- (a) the first instalment of each year, in relation to the call for funds to be issued by 16 April, shall correspond to an amount up to the equivalent of the estimate of the annual financial contribution of the agency, information system or other activity in question referred to in paragraph 4;

Switzerland shall pay the amount indicated in the call for funds at the latest 60 days after the call for funds is issued.

- (b) where applicable, the second instalment of the year, in relation to the call for funds to be issued at the earliest on 22 October and at the latest on 31 October, shall correspond to the difference between the amount referred to in paragraph 4 and the amount referred to in paragraph 5, where the amount referred to in paragraph 5 is higher.

Switzerland shall pay the amount indicated in this call for funds at the latest by 21 December.

For each call for funds, Switzerland may make separate payments for each agency, information system or other activity.

7. For the first year of implementation of the Protocol, the Commission shall issue a single call for funds, within 90 days of the entry into force of the Protocol.

Switzerland shall pay the amount indicated in the call for funds at the latest 60 days after the call for funds is issued.

8. Any delay in the payment of the financial contribution shall give rise to the payment of default interest by Switzerland on the outstanding amount as from the due date until the day on which that outstanding amount is paid in full.

The interest rate for amounts receivable not paid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union*, in force on the first day of the month in which the due date falls, or 0 %, whichever is higher, plus 3,5 percentage points.

### ARTICLE 3

Adjustment of Switzerland's financial contribution to Union agencies in the light of implementation

The adjustment of Switzerland's financial contribution to Union agencies shall be made in year N+1, when the initial operational contribution shall be adjusted upwards or downwards by the difference between the initial operational contribution and an adjusted contribution calculated by applying the contribution key of year N to the amount of budgetary commitments made on commitment appropriations authorised in year N under the relevant Union subsidy budget line(s). Where applicable, the difference shall take into account, for each agency, the percentage-based adjusted operational contribution as defined in Article 1.

## ARTICLE 4

### Transitional arrangements

In the event that the date of entry into force of the Protocol is not 1 January, this Article shall apply by way of derogation from Article 2.

For the first year of implementation of the Protocol, in relation to the operational contribution due for the year in question applicable to the relevant agency, information system or other activity, as established in accordance with Article 9 of the Protocol and Articles 1 to 3 of this Annex, the operational contribution shall be reduced on a *pro rata temporis* basis by multiplying the amount of the annual operational contribution due to the ratio of the following:

- the number of calendar days from the date of entry into force until the 31 December of the year in question; and
- the total number of calendar days of the year in question.

ARBITRAL TRIBUNAL

CHAPTER I

PRELIMINARY PROVISIONS

ARTICLE I.1

Scope

If one of the Parties (hereinafter referred to as "parties") submits a dispute for arbitration in accordance with Articles 20(2) or 21(2) of the Protocol to the Agreement between the European Community and the Swiss Confederation establishing a Common Food Safety Area (hereinafter referred to as "Protocol"), the rules set out in this Appendix shall apply.

## ARTICLE I.2

### Registry and secretarial services

The International Bureau of the Permanent Court of Arbitration at the Hague (hereinafter referred to as "International Bureau") shall fulfil the functions of registry and provide the necessary secretarial services.

## ARTICLE I.3

### Notices and calculation of time limits

1. Notices, including communications or proposals, may be sent by any means of communication that certifies their transmission, or enables them to be certified.
2. Such notices may be sent electronically only if an address has been designated or authorised by a party specifically for this purpose.
3. Such notices served on the parties shall be sent, for Switzerland, to Switzerland's Europe Division of the Federal Department of Foreign Affairs and, for the Union, to the Commission's Legal Service.



4. Any time limit laid down in this Appendix shall run from the day after an event occurs or an action takes place. If the last day for delivery of a document falls on a non-working day of the institutions of the Union or of the government of Switzerland, the time period for the delivery of the document shall end on the first following working day. Non-working days that fall within the time period shall be counted.

## ARTICLE I.4

### Notice of arbitration

1. The party taking the initiative to use arbitration (hereinafter referred to as "applicant") shall send to the other party (hereinafter referred to as "defendant") and to the International Bureau a notice of arbitration.
2. Arbitration proceedings shall be deemed to commence on the day after that on which the notice of arbitration is received by the defendant.
3. The notice of arbitration shall include the following information:
  - (a) the demand that the dispute be referred to arbitration;
  - (b) the names and contact details of the parties;
  - (c) the name and address of the applicant's agent(s);

- (d) the legal basis of the proceedings (Articles 20(2) or 21(2) of the Protocol) and:
  - (i) in the cases referred to in Article 20(2) of the Protocol, the question causing the dispute as officially entered, for resolution, on the agenda of the Joint Committee on Food Safety in accordance with Article 21(1) of the Protocol; and
  - (ii) in the cases referred to in Article 21(2) of the Protocol, the decision of the arbitral tribunal, any implementation measures mentioned in Article 20(5) of the Protocol and the disputed compensatory measures;
- (e) the designation of any rule causing the dispute or related to it;
- (f) a brief description of the dispute; and
- (g) the designation of an arbitrator or, if five arbitrators are to be appointed, the designation of two arbitrators.

4. In the cases referred to in Article 20(3) of the Protocol, the notice of arbitration may also contain information concerning the need for a referral to the Court of Justice of the European Union.

5. Any claims on the sufficiency of the notice of arbitration shall not prevent the constitution of the arbitral tribunal. The dispute shall be decided definitively by the arbitral tribunal.

## ARTICLE I.5

### Response to the notice of arbitration

1. Within 60 days of receiving the notice of arbitration, the defendant shall send a response to the notice of arbitration to the applicant and the International Bureau, which shall include the following information:

- (a) the names and contact details of the parties;
- (b) the name and address of the defendant's agent(s);
- (c) a response to the information given in the notice of arbitration in accordance with points (d) to (f) of Article I.4(3); and
- (d) the designation of an arbitrator or, if five arbitrators are to be appointed, the designation of two arbitrators.

2. In the cases referred to in Article 20(3) of the Protocol, the response to the notice of arbitration may also contain a response to the information given in the notice of arbitration in accordance with Article I.4(4) of this Appendix and information concerning the need for a referral to the Court of Justice of the European Union.

3. The lack of, or an incomplete or late, response from the defendant to the notice of arbitration shall not prevent the constitution of an arbitral tribunal. The dispute shall be decided definitively by the arbitral tribunal.

4. If the defendant requests that the arbitral tribunal consist of five arbitrators in its response to the notice of arbitration, the applicant shall designate an additional arbitrator within 30 days of receipt of the response to the notice of arbitration.

## ARTICLE I.6

### Representation and assistance

1. The parties shall be represented before the arbitral tribunal by one or more agents. The agents may be assisted by advisers or lawyers.

2. Any change to the agents or their addresses shall be notified to the other party, the International Bureau and the arbitral tribunal. The arbitral tribunal may, at any time, on its own initiative or at the request of a party, request evidence of the powers conferred on the agents of the parties.

## CHAPTER II

### COMPOSITION OF THE ARBITRAL TRIBUNAL

#### ARTICLE II.1

##### Number of arbitrators

The arbitral tribunal shall be composed of three arbitrators. If the applicant in its notice of arbitration or the defendant in its response to the notice of arbitration so request, the arbitral tribunal shall be composed of five arbitrators.

#### ARTICLE II.2

##### Appointment of arbitrators

1. If three arbitrators are to be appointed, each of the parties shall designate one of them. The two arbitrators appointed by the parties shall select the third arbitrator, who shall be the chair of the arbitral tribunal.
2. If five arbitrators are to be appointed, each of the parties shall designate two of them. The four arbitrators appointed by the parties shall select the fifth arbitrator, who shall be the chair of the arbitral tribunal.

3. If, within 30 days of the designation of the last arbitrator appointed by the parties, the arbitrators have not reached agreement on the selection of the chair of the arbitral tribunal, the chair shall be appointed by the Secretary-General of the Permanent Court of Arbitration.

4. To assist in the selection of arbitrators to compose the arbitral tribunal, an indicative list of persons possessing the qualifications referred to in paragraph 6, which shall be common to all bilateral agreements in the fields related to the internal market in which Switzerland participates as well as the Agreement between the European Union and the Swiss Confederation on health, done at [...] on [...] (hereinafter referred to as "Agreement on health"), the Agreement between the European Community and the Swiss Confederation on trade in agricultural products, done at Luxembourg on 21 June 1999 (hereinafter referred to as "Agreement on trade in agricultural products"), and the Agreement between the European Union and the Swiss Confederation on Switzerland's regular financial contribution towards reducing economic and social disparities in the European Union, done at [...] on [...] (hereinafter referred to as "Agreement on Switzerland's regular financial contribution") shall be established and updated when necessary. The Joint Committee on Food Safety shall adopt and update that list by a decision for the purposes of the Protocol.

5. Where a party fails to designate an arbitrator, the Secretary-General of the Permanent Court of Arbitration shall appoint that arbitrator from the list referred to in paragraph 4. In the absence of such a list, the arbitrator shall be appointed by lot by the Secretary-General of the Permanent Court of Arbitration from the individuals who have been formally proposed by one party or both parties for the purposes of paragraph 4.

6. The persons constituting the arbitral tribunal shall be highly qualified persons, with or without ties to the parties, whose independence and lack of conflicts of interest is guaranteed, along with a wide range of experience. In particular, they shall have demonstrated expertise in law and the matters covered by this Protocol; they shall not take instructions from either party; and they shall serve in their individual capacities and not take instructions from any organisation or government with regard to matters related to the dispute. The chair of the arbitral tribunal shall also have experience in dispute settlement procedures.

## ARTICLE II.3

### Arbitrators' declarations

1. When a person is being considered for appointment as an arbitrator, that person shall report all circumstances likely to give rise to legitimate doubts as to his or her impartiality or independence. From the appointment and throughout the entire arbitration proceedings, an arbitrator shall report such circumstances to the parties and to the other arbitrators without delay, if the arbitrator has not already done so.
2. Any arbitrator may be dismissed if circumstances exist that could give rise to legitimate doubts about his or her impartiality or independence.
3. A party may only request the dismissal of an arbitrator that it has appointed for a reason that becomes known to it after that appointment.

4. If an arbitrator fails to act or if it is impossible *de jure* or *de facto* for an arbitrator to fulfil his or her role, the procedure for the dismissal of arbitrators laid down in Article II.4 shall apply.

## ARTICLE II.4

### Dismissal of arbitrators

1. Any party wishing to dismiss an arbitrator shall make a request for dismissal within 30 days of the date on which it is notified of the appointment of that arbitrator or within 30 days of the date on which it becomes aware of the circumstances referred to in Article II.3.
2. The request for dismissal shall be sent to the other party, to the dismissed arbitrator, to the other arbitrators and to the International Bureau. It shall set out the reasons for the request for dismissal.
3. When a request for dismissal has been made, the other party may accept the request for dismissal. The arbitrator in question may also step aside. The acceptance or stepping aside does not imply acknowledgement of the reasons for the request for dismissal.
4. If, within 15 days of the date of the notification of the request for dismissal, the other party does not accept the request for dismissal or the arbitrator in question does not step aside, the party requesting the dismissal may ask the Secretary-General of the Permanent Court of Arbitration to take a decision on the dismissal.
5. Unless the parties agree otherwise, the decision referred to in paragraph 4 shall indicate the reasons for that decision.



## ARTICLE II.5

### Replacement of an arbitrator

1. Subject to paragraph 2 of this Article, if it is necessary to replace an arbitrator during the arbitration proceedings, a replacement shall be appointed or selected in accordance with the procedure laid down in Article II.2 applicable to the appointment or selection of the arbitrator to be replaced. That procedure shall apply even if one party had not exercised its right to appoint or to participate in the appointment of the arbitrator to be replaced.
2. In the event of replacement of an arbitrator, the procedure shall resume at the stage where the replaced arbitrator ceased to perform his or her functions, unless the arbitral tribunal decides otherwise.

## ARTICLE II.6

### Exclusion of liability

Except in cases of intentional wrongdoing or gross negligence, the parties renounce, to the maximum extent permitted by the applicable law, any action against the arbitrators for any act or omission related to the arbitration.

## CHAPTER III

### ARBITRATION PROCEEDINGS

#### ARTICLE III.1

##### General provisions

1. The date of establishment of the arbitral tribunal shall be the date on which the last arbitrator has accepted his or her appointment.
2. The arbitral tribunal shall ensure that the parties are treated equally and that, at an appropriate stage of the proceedings, each of them has sufficient possibility to assert their rights and present their case. The arbitral tribunal shall conduct the proceedings in such a way as to avoid delays and unnecessary expenditure and to ensure the dispute between the parties is settled.
3. A hearing shall be organised, unless the arbitral tribunal decides otherwise, having heard the parties.
4. When a party sends a communication to the arbitral tribunal, it shall do so through the International Bureau and shall send a copy to the other party at the same time. The International Bureau shall send a copy of that communication to each of the arbitrators.

## ARTICLE III.2

### Place of arbitration

The place of arbitration is The Hague. The arbitral tribunal may, if exceptional circumstances so require, meet at any other place that it considers appropriate for its deliberations.

## ARTICLE III.3

### Language

1. The languages of the proceedings shall be French and English.
2. The arbitral tribunal may order all documents enclosed with the statement of claim or the statement of defence and all further documents produced during the proceedings, submitted in their original language, to be accompanied by a translation in one of the languages of the proceedings.

## ARTICLE III.4

### Statement of claim

1. The applicant shall send its statement of claim in writing to the defendant and to the arbitral tribunal through the International Bureau, within the time limit set by the arbitral tribunal. The applicant may decide to deem its notice of arbitration referred to in Article I.4 a statement of claim, provided that it also meets the conditions in paragraphs 2 and 3 of this Article.

2. The statement of claim shall include the following information:

- (a) the information set out in points (b) to (f) of Article I.4(3);
- (b) a statement of facts submitted in support of the claim; and
- (c) the legal arguments put forward in support of the claim.

3. The statement of claim shall, as far as possible, be accompanied by any documents and other evidence mentioned by the applicant or should refer to them. In the cases referred to in Article 20(3) of the Protocol, the statement of claim shall also, as far as possible, contain information concerning the need for a referral to the Court of Justice of the European Union.

#### ARTICLE III.5

##### Statement of defence

1. The defendant shall send the statement of defence in writing to the applicant and to the arbitral tribunal through the International Bureau, within the time limit set by the arbitral tribunal. The defendant may decide to deem the response to the notice of arbitration referred to in Article I.5 a statement of defence, provided that the response to the notice of arbitration also meets the conditions in paragraph 2 of this Article.

2. The statement of defence shall respond to the points in the statement of claim indicated in accordance with points (a) to (c) of Article III.4(2) of this Appendix. It shall, as far as possible, be accompanied by any documents and other evidence mentioned by the defendant or should refer to them. In the cases referred to in Article 20(3) of the Protocol, the statement of defence shall also, as far as possible, contain information concerning the need for a referral to the Court of Justice of the European Union.
3. In the statement of defence, or at a later stage in the arbitration proceedings if the arbitral tribunal decides that a delay is justified by circumstances, the defendant may make a counterclaim provided that the arbitral tribunal has jurisdiction in respect of it.
4. Article III.4(2) and (3) shall apply to a counterclaim.

## ARTICLE III.6

### Arbitral jurisdiction

1. The arbitral tribunal shall rule on whether it has jurisdiction on the basis of Articles 20(2) or 21(2) of the Protocol.
2. In the cases referred to in Article 20(2) of the Protocol, the arbitral tribunal shall have a mandate to examine the question causing the dispute as officially entered, for resolution, on the agenda of the Joint Committee on Food Safety in accordance with Article 20(1) of the Protocol.

3. In the cases referred to in Article 21(2) of the Protocol, the arbitral tribunal that heard the main case shall have a mandate to examine the proportionality of the disputed compensatory measures, including where those measures have in whole or in part been taken in another bilateral agreement in the fields related to the internal market in which Switzerland participates or in the Agreement on trade in agricultural products.

4. A preliminary objection of lack of jurisdiction of the arbitral tribunal shall be made at the latest in the statement of defence or, in the case of a counterclaim, in the reply. The fact that a party has appointed an arbitrator or has taken part in their appointment shall not deprive it of the right to make such a preliminary objection. The preliminary objection that the dispute would exceed the arbitral tribunal's powers shall be made as soon as the question alleged to exceed its powers is raised during the arbitration proceedings. In any event, the arbitral tribunal may allow a preliminary objection made after the time limit laid down has elapsed if it believes that the delay was for a valid reason.

5. The arbitral tribunal may rule on the preliminary objection referred to in paragraph 4 either by treating it as a preliminary question or in the decision on the substance of the case.

## ARTICLE III.7

### Other written submissions

The arbitral tribunal shall, after having consulted the parties, decide what other written submissions, in addition to the statement of claim and statement of defence, the parties shall or may submit and shall set the time limit for their submission.

## ARTICLE III.8

### Time limits

1. The time limits set by the arbitral tribunal for the communication of the written documents, including the statement of claim and the statement of defence, shall not exceed 90 days, unless the parties agree otherwise.
2. The arbitral tribunal shall take its final decision within 12 months of the date of its establishment. In exceptional circumstances of particular difficulty, the arbitral tribunal may extend that period by up to three additional months.
3. The time limits laid down in paragraphs 1 and 2 shall be halved:
  - (a) upon request by the applicant or the defendant, if, within 30 days of that request, the arbitral tribunal rules, after hearing the other party, that the case is urgent; or
  - (b) if the parties so agree.
4. In the cases referred to in Article 21(2) of the Protocol, the arbitral tribunal shall take its final decision within six months of the date on which the compensatory measures have been notified in accordance with Article 21(1) of the Protocol.

## ARTICLE III.9

### Referrals to the Court of Justice of the European Union

1. In application of Articles 17 and 20(3) of the Protocol, the arbitral tribunal shall make a referral to the Court of Justice of the European Union.
2. The arbitral tribunal may make a referral to the Court of Justice of the European Union at any time in the proceedings, provided that the arbitral tribunal is able to define precisely enough the legal and factual background of the case, and the legal questions it raises.

The proceedings before the arbitral tribunal shall be suspended until the Court of Justice of the European Union has delivered its ruling.

3. Each party may send a reasoned request to the arbitral tribunal to make a referral to the Court of Justice of the European Union. The arbitral tribunal shall reject such a request if it considers the conditions for a referral to the Court of Justice of the European Union referred to in paragraph 1 not to be met. If the arbitral tribunal rejects a party's request for a referral to the Court of Justice of the European Union, it shall give reasons for its decision in the decision on the substance of the case.

4. The arbitral tribunal shall make a referral to the Court of Justice of the European Union by means of a notice. The notice shall contain at least the following information:

- (a) a brief description of the dispute;
- (b) the legal act(s) of the Union and/or the provision(s) of the Protocol at issue; and



- (c) the concept of Union law to be interpreted in accordance with Article 17(2) of the Protocol.

The arbitral tribunal shall give notice of the referral to the Court of Justice of the European Union to the parties.

5. The Court of Justice of the European Union shall apply, by analogy, the internal rules of procedure applicable to the exercise of its jurisdiction to make a preliminary ruling on the interpretation of the Treaties and acts made by the Union's institutions, bodies, offices and agencies.

6. The agents and lawyers authorised to represent the parties before the arbitral tribunal pursuant to Articles I.4, I.5, III.4 and III.5 shall be authorised to represent the parties before the Court of Justice of the European Union.

#### ARTICLE III.10

##### Interim measures

1. In the cases referred to in Article 21(2) of the Protocol, either party may, at any stage of the arbitration procedure, apply for interim measures consisting of the suspension of the compensatory measures.

2. An application pursuant to paragraph 1 shall state the subject matter of the proceedings, the circumstances giving rise to urgency and the pleas of fact and law establishing a *prima facie* case for the interim measures applied for. It shall contain all the evidence and offers of evidence available to justify the grant of the interim measures.

3. The party requesting the interim measures shall send its application in writing to the other party and to the arbitral tribunal through the International Bureau. The arbitral tribunal shall set a short time limit within which that other party may submit written or oral observations.

4. The arbitral tribunal shall, within one month of the submission of the application referred to in paragraph 1, adopt a decision on the suspension of the contested compensatory measures if the following conditions are met:

- (a) the arbitral tribunal is *prima facie* satisfied of the merit of the case submitted by the party requesting the interim measures in its application;
- (b) the arbitral tribunal considers that, pending its final decision, the party requesting the interim measures would suffer serious and irreparable harm absent the suspension of the compensatory measures; and
- (c) the harm caused to the party requesting the interim measures by the immediate application of the contested compensatory measures outweighs the interest in the immediate and effective application of those measures.

5. The suspension of proceedings referred to in the second subparagraph of Article III.9(2) shall not apply in proceedings pursuant to this Article.

6. A decision taken by the arbitral tribunal in accordance with paragraph 4 shall have only an interim effect and shall be without prejudice to the decision of the arbitral tribunal on the substance of the case.

7. Unless the decision taken by the arbitral tribunal in accordance with paragraph 4 of this Article sets an earlier date for the end of the suspension, the suspension shall lapse when the final decision pursuant to Article 21(2) of the Protocol is taken.

8. For the avoidance of doubt, for the purposes of this Article, it is understood that, in considering the respective interests of the party requesting the interim measures and the other party, the arbitral tribunal shall take into account those of the individuals and economic operators of the parties, but that consideration shall not amount to granting any standing to such individuals or economic operators before the arbitral tribunal.

## ARTICLE III.11

### Evidence

1. Each party shall provide evidence of the facts forming the grounds of its claim or its defence.

2. On request of a party, or on its own initiative, the arbitral tribunal may seek from the parties relevant information it considers necessary and appropriate. The arbitral tribunal shall set a time limit for the parties to respond to its request.

3. On request of a party, or on its own initiative, the arbitral tribunal may seek from any source any information it considers appropriate. The arbitral tribunal may also seek the opinion of experts as it considers appropriate and subject to any terms and conditions agreed by the parties, where applicable.

4. Any information obtained by the arbitral tribunal under this Article shall be made available to the parties and the parties may submit comments on that information to the arbitral tribunal.
5. After seeking the views of the other party, the arbitral tribunal shall adopt appropriate measures to address any questions raised by a party with regard to the protection of personal data, professional secrecy and the legitimate interests of confidentiality.
6. The arbitral tribunal shall be the judge of the admissibility, relevance and strength of the evidence submitted.

## ARTICLE III.12

### Hearings

1. When a hearing must take place, the arbitral tribunal, having consulted the parties, shall notify the parties sufficiently far in advance of the date, time and place of the hearing.
2. The hearing shall be public, unless the arbitral tribunal, of its own motion or on application by the parties, decides otherwise for serious reasons.
3. Minutes of each hearing shall be drawn up and signed by the chair of the arbitral tribunal. Only those minutes shall be authentic.

4. The arbitral tribunal may decide to hold the hearing virtually in accordance with the practice of the International Bureau. The parties shall be informed of this practice in a timely manner. In such cases, paragraph 1, *mutatis mutandis*, and paragraph 3 shall apply.

### ARTICLE III.13

#### Default

1. If, within the time limit set by this Appendix or by the arbitral tribunal, without showing sufficient cause, the applicant has not submitted its statement of claim, the arbitral tribunal shall order the closure of the arbitration proceedings, unless there are outstanding questions on which a ruling may be necessary and if the arbitral tribunal considers it appropriate to do so.

If, within the time limit set by this Appendix or by the arbitral tribunal, without showing sufficient cause, the defendant has not submitted its response to the notice of arbitration or its statement of defence, the arbitral tribunal shall order the continuation of the proceedings, without considering that default of itself to constitute acceptance of the applicant's allegations.

The second subparagraph also applies where the applicant fails to submit a reply to a counterclaim.

2. If a party, duly convened in accordance with Article III.12(1), does not appear at a hearing and does not demonstrate sufficient cause for its failure to do so, the arbitral tribunal may continue the arbitration.

3. If a party, duly invited by the arbitral tribunal to produce further evidence, fails to do so within the time limits set without showing sufficient cause for its failure to do so, the arbitral tribunal may rule on the basis of the evidence it has available.

#### ARTICLE III.14

##### Closure of the procedure

1. Where it is demonstrated that the parties have reasonably had the possibility of presenting their arguments, the arbitral tribunal may declare the closure of the proceedings.
2. The arbitral tribunal may, if it considers it necessary because of exceptional circumstances, decide on its own initiative or at the request of a party to reopen the proceedings at any time before it has taken its decision.

## CHAPTER IV

### DECISION

#### ARTICLE IV.1

##### Decisions

The arbitral tribunal shall strive to take its decisions by consensus. If, however, it proves impossible to take a decision by consensus, the arbitral tribunal's decision shall be taken by a majority of the arbitrators.

#### ARTICLE IV.2

##### Form and effect of the decision of the arbitral tribunal

1. The arbitral tribunal may take separate decisions on different questions at different times.
2. All decisions shall be issued in writing and shall state the reasons on which they are based. They shall be final and binding on the parties.
3. The decision of the arbitral tribunal shall be signed by the arbitrators, shall contain the date on which it was taken and state the place of arbitration. A copy of the decision signed by the arbitrators shall be communicated to the parties by the International Bureau.

4. The International Bureau shall make the decision of the arbitral tribunal public.

When making the decision of the arbitral tribunal public, the International Bureau shall respect the relevant rules on the protection of personal data, professional secrecy and the legitimate interests of confidentiality.

The rules referred to in the second subparagraph shall be identical for all bilateral agreements in the fields of the internal market in which Switzerland participates as well as for the Agreement on health, the Agreement on trade in agricultural products and the Agreement on Switzerland's regular financial contribution. The Joint Committee on Food Safety shall adopt and update those rules by a decision for the purposes of the Protocol.

5. The parties shall comply with all decisions of the arbitral tribunal without delay.

6. In the cases referred to in Article 20(2) of the Protocol, having obtained the opinion of the parties, the arbitral tribunal shall set a reasonable time limit in the decision on the substance of the case to comply with its decision in accordance with Article 20(5) of the Protocol taking account of the parties' internal procedures.

#### ARTICLE IV.3

##### Applicable law, rules of interpretation, mediator

1. The applicable law consists of the Protocol, the legal acts of the Union to which reference is made therein, as well as any other rule of international law relevant to the application of those instruments.



2. The arbitral tribunal shall decide in accordance with the rules of interpretation referred to in Article 17 of the Protocol.
3. Prior decisions taken by a dispute settlement body with regard to the proportionality of compensatory measures under another bilateral agreement among those referred to in Article 21(2) of the Protocol shall be binding upon the arbitral tribunal.
4. The arbitral tribunal shall not be permitted to decide as mediator or *ex aequo et bono*.

#### ARTICLE IV.4

##### Mutually agreed solution or other reasons for closure of the proceedings

1. The parties may, at any time, mutually agree a solution to their dispute. They shall jointly communicate any such solution to the arbitral tribunal. If the solution requires approval pursuant to the relevant domestic procedures of either party, the notification shall refer to that requirement, and the arbitration procedure shall be suspended. If such approval is not required, or upon notification of the completion of any such domestic procedures, the arbitration procedure shall be closed.
2. If, in the course of proceedings, the applicant informs the arbitral tribunal in writing that it does not wish to further pursue the proceedings, and if, at the date on which that communication is received by the arbitral tribunal, the defendant has not yet taken any step in the proceedings, the arbitral tribunal shall issue an order officially recording the closure of the proceedings. The arbitral tribunal shall decide on the costs, which shall be borne by the applicant, if this appears justified by the conduct of that party.

3. If, before the decision of the arbitral tribunal is taken, the arbitral tribunal concludes that the continuation of the proceedings has become pointless or impossible for any reason other than those referred to in paragraphs 1 and 2, the arbitral tribunal shall inform the parties of its intention to issue an order closing the proceedings.

The first subparagraph does not apply where there are outstanding questions on which it may be necessary to rule and if the arbitral tribunal judges it appropriate to do so.

4. The arbitral tribunal shall communicate to the parties a copy of the order closing the arbitration proceedings or of the decision taken by agreement between the parties, signed by the arbitrators. Article IV.2(2) to (5) shall apply to arbitration decisions taken by agreement between the parties.

## ARTICLE IV.5

### Correction of the decision of the arbitral tribunal

1. Within 30 days of receiving the decision of the arbitral tribunal, a party may, by giving notice to the other party and to the arbitral tribunal through the International Bureau, ask the arbitral tribunal to correct in the text of the decision of the arbitral tribunal any errors in computation, any clerical or typographical errors, or any errors or omissions of a similar nature. If it considers the request to be justified, the arbitral tribunal shall make the correction within 45 days of receiving the request. The request shall not have a suspensive effect on the time limit provided for in Article IV.2(6).

2. The arbitral tribunal may, within 30 days of communicating its decision, make the corrections referred to in paragraph 1 on its own initiative.

3. The corrections referred to in paragraph 1 of this Article shall be done in writing and form an integral part of the decision. Article IV.2(2) to (5) shall apply.

#### ARTICLE IV.6

##### Arbitrators' fees

1. The fees referred to in Article IV.7 shall be reasonable, taking account of the complexity of the case, the time spent on it by the arbitrators and all other relevant circumstances.

2. A list of daily compensation and maximum and minimum hours, which shall be common to all bilateral agreements in the fields related to the internal market in which Switzerland participates as well as the Agreement on health, the Agreement on trade in agricultural products and the Agreement on Switzerland's regular financial contribution, shall be established and updated when necessary. The Joint Committee on Food Safety shall adopt and update that list by a decision for the purposes of the Protocol.

#### ARTICLE IV.7

##### Costs

1. Each party shall bear its own costs and half of the costs of the arbitral tribunal.

2. The arbitral tribunal shall set its costs in its decision on the substance of the case. Those costs shall include only:

(a) the arbitrators' fees, to be stated separately for each arbitrator and to be set by the arbitral tribunal itself in accordance with Article IV.6;

(b) the travel and other expenses incurred by the arbitrators; and

(c) the fees and expenses of the International Bureau.

3. The costs referred to in paragraph 2 shall be reasonable, taking account of the amount in dispute, the complexity of the dispute, the time that the arbitrators and any experts appointed by the arbitral tribunal have spent on it and any other relevant circumstances.

#### ARTICLE IV.8

##### Deposit of costs

1. At the start of the arbitration, the International Bureau may ask the parties to deposit an equal amount as an advance for the costs referred to in Article IV.7(2).

2. During the arbitration proceedings, the International Bureau may request from the parties deposits supplementary to those referred to in paragraph 1.

3. All amounts deposited by the parties in application of this Article shall be paid to the International Bureau and paid out by it to cover the costs actually incurred, including, in particular, the fees paid to the arbitrators and to the International Bureau.

## CHAPTER V

### FINAL PROVISIONS

#### ARTICLE V.1

##### Amendments

The Joint Committee on Food Safety may adopt, by decision, amendments to this Appendix.

PRIVILEGES AND IMMUNITIES  
OF THE EUROPEAN FOOD SAFETY AUTHORITY

ARTICLE 1

(corresponding to Article 1 of Protocol (No 7))

The premises and buildings of the European Food Safety Authority (hereinafter "Authority") shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Authority shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice of the European Union.

ARTICLE 2

(corresponding to Article 2 of Protocol (No 7))

The archives of the Authority shall be inviolable.

## ARTICLE 3

(corresponding to Articles 3 and 4 of Protocol (No 7))

1. The Authority, its assets, revenues and other property shall be exempt from all direct taxes.
2. Goods and services exported to the Authority for its official use from Switzerland or provided to the Authority in Switzerland shall not be subject to any indirect duties and taxes.
3. Exemption from VAT shall be granted if the actual purchase price of the goods and services mentioned in the invoice or corresponding document totals at least one hundred Swiss francs (inclusive of tax). The Authority shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of articles intended for its official use; articles so imported shall not be disposed of, whether or not in return for payment, in Switzerland, except under conditions approved by the government of Switzerland.
4. The exemption from VAT, excise duty and any other indirect taxes shall be granted by way of remit on presentation to the goods or services supplier of the Swiss forms provided for the purpose.
5. No exemption shall be granted in respect of taxes and dues, which amount merely to charges for public utility services.

## ARTICLE 4

(corresponding to Article 5 of Protocol (No 7))

For its official communications and the transmission of all its documents, the Authority shall enjoy in Switzerland the treatment accorded by that State to diplomatic missions.

Official correspondence and other official communications of the Authority shall not be subject to censorship.

## ARTICLE 5

(corresponding to Article 6 of Protocol (No 7))

The *laissez-passer* of the Union issued to members and servants of the Authority shall be recognised as valid travel documents within the territory of Switzerland. Those *laissez-passer* shall be issued to officials and other servants under conditions laid down in the Staff Regulations of Officials and the Conditions of Employment of other servants of the Union<sup>1</sup>.

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<sup>1</sup>. Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ 45, 14.6.1962, p. 1385), including any subsequent amendments.



## ARTICLE 6

(corresponding to Article 10 of Protocol (No 7))

Representatives of Member States of the Union taking part in the work of the Authority, their advisers and technical experts shall, in the performance of their duties and during their travel to and from the place of meeting in Switzerland, enjoy the customary privileges, immunities and facilities.

## ARTICLE 7

(corresponding to Article 11 of Protocol (No 7))

In the territory of Switzerland and whatever their nationality, officials and other servants of the Authority shall:

- (a) subject to the provisions of the Treaties relating, on the one hand, to the rules on the liability of officials and other servants towards the Union and, on the other hand, to the jurisdiction of the Court of Justice of the European Union in disputes between the Union and its officials and other servants, be immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. They shall continue to enjoy this immunity after they have ceased to hold office;
- (b) together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for the registration of aliens;

- (c) in respect of currency or exchange regulations, be accorded the same facilities as are customarily accorded to officials of international organisations;
- (d) enjoy the right to import free of duty their furniture and effects at the time of first taking up their post in Switzerland, and the right to re-export free of duty their furniture and effects, on termination of their duties in that country, subject in either case to the conditions considered to be necessary by the government of Switzerland;
- (e) have the right to import free of duty a motor car for their personal use, acquired either in the country of their last residence or in the country of which they are nationals on the terms ruling in the home market in that country, and to re-export it free of duty, subject in either case to the conditions considered to be necessary by the government of Switzerland.

## ARTICLE 8

(corresponding to Article 12 of Protocol (No 7))

Officials and other servants of the Authority shall be liable to a tax for the benefit of the Union on salaries, wages and emoluments paid to them by the Authority, in accordance with the conditions and procedure laid down by Union law.

They shall be exempt from Swiss federal, cantonal and communal taxes on salaries, wages and emoluments paid by the Authority.

## ARTICLE 9

(corresponding to Article 13 of Protocol (No 7))

In the application of income tax, wealth tax and death duties and in the application of conventions on the avoidance of double taxation concluded between Switzerland and Member States of the Union, officials and other servants of the Authority who, solely by reason of the performance of their duties in the service of the Authority, establish their residence in the territory of Switzerland for tax purposes at the time of entering the service of the Authority, shall be considered, both in Switzerland and in the country of domicile for tax purposes, as having maintained their domicile in the latter country provided that it is a Member State of the Union. This provision shall also apply to a spouse, to the extent that the latter is not separately engaged in a gainful occupation, and to children dependent on and in the care of the persons referred to in this Article.

Movable property belonging to persons referred to in the first paragraph and situated in Switzerland shall be exempt from death duties in Switzerland; such property shall, for the assessment of such duty, be considered as being in the country of domicile for tax purposes, subject to the rights of third countries and to the possible application of provisions of international conventions on double taxation.

Any domicile acquired solely by reason of the performance of duties in the service of other international organisations shall not be taken into consideration in applying the provisions of this Article.

## ARTICLE 10

(corresponding to Article 14 of Protocol (No 7))

Union law shall lay down the scheme of social security benefits for officials and other servants of the Union.

Officials and other servants of the Authority shall therefore not be obliged to be members of the Swiss social security system provided they are already covered by the scheme of social security benefits for officials and other servants of the Union. Members of the family of staff members of the Authority forming part of their household shall be covered by the scheme of social security benefits for officials and other servants of the Union provided that they are not employed by another employer than the Authority and provided that they do not receive social security benefits from a Member State of the Union or from Switzerland.

## ARTICLE 11

(corresponding to Article 15 of Protocol (No 7))

Union law shall determine the categories of officials and other servants of the Authority to whom the provisions of Articles 7, 8, and 9 shall apply, in whole or in part.

The names, grades and addresses of officials and other servants included in such categories shall be communicated periodically to Switzerland.

## ARTICLE 12

(corresponding to Article 17 of Protocol (No 7))

Privileges, immunities and facilities shall be accorded to officials and other servants of the Authority solely in the interests of the Authority.

The Authority shall be required to waive the immunity accorded to an official or other servants wherever that the Authority considers that the waiver of such immunity is not contrary to the interests of the Authority.

## ARTICLE 13

(corresponding to Article 18 of Protocol (No 7))

The Authority shall, for the purpose of applying this Appendix, cooperate with the responsible authorities of Switzerland or of the Member States of the Union concerned.

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