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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 1.

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EUROPEAN
COMMISSION

Brussels, 13.6.2025
COM(2025) 309 final

ANNEX 1

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 ITS MEMBER STATES,
OF THE ONE PART,
AND THE SWISS CONFEDERATION, OF THE OTHER,
ON THE FREE MOVEMENT OF PERSONS

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

and

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

HAVING REGARD 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, done at Brussels on 21 June 1999, (hereinafter referred to as the "Agreement"), which entered into force on 1 June 2002;

HAVING REGARD to the Protocol to the Agreement of 21 June 1999 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 regarding the participation, as Contracting Parties, of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic pursuant to their accession to the European Union, done at Brussels on 26 October 2004, which entered into force on 1 April 2006;

HAVING REGARD to the Protocol to the Agreement of 21 June 1999 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 regarding the participation as Contracting Parties of the Republic of Bulgaria and Romania pursuant to their accession to the European Union, done at Brussels on 27 May 2008, which entered into force on 1 June 2009;

HAVING REGARD to the 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, regarding the participation of the Republic of Croatia as a Contracting Party, following its accession to the European Union, done at Brussels of 4 March 2016, which entered into force on 1 January 2017;

WHEREAS agreements concluded by the Union are binding upon the institutions of the Union and on its Member States; this Protocol therefore applies to the Contracting Parties as set out in the Agreement;

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Amendments to the Agreement

The Agreement is amended as follows:

(1) in the preamble, the following recitals are inserted after the second recital:

"RECOGNISING that the freedom of movement is an important aspect of the internal market and that securing the right of nationals of the Contracting Parties, as well as their family members, to enter and reside in the respective territories, free of unjustified restrictions and with full respect for the right of equal treatment, serves to strengthen the functioning of the parts of the internal market in which Switzerland participates;

CONSCIOUS of ensuring uniformity in the parts of the internal market in which Switzerland participates, it being understood that the Agreement is to be interpreted in accordance with the uniform interpretation principle set out in Article 7 of the Institutional Protocol to this Agreement. The competence of the Swiss Federal Court and all other Swiss courts as well as of the Member States of the European Union's courts and the Court of Justice of the European Union to interpret this Agreement in individual cases is preserved;

RECALLING that the freedom of movement and the right to equal treatment extends to nationals of one Contracting Party who exercise or seek to exercise their free-movement rights without having moved or without having yet moved to reside in the territory of another Contracting Party. Equally, certain rights linked to the past exercise of free movement, including the right to equal treatment, may continue to apply after the national of a Contracting Party has ceased residing in the territory of another Contracting Party;

FURTHER RECALLING that the free movement of persons encompasses workers, self-employed persons and persons who are economically inactive, provided that such persons comply with the requirements for lawful residence set out in this Agreement, including, where applicable, the possession of sufficient resources and comprehensive sickness insurance, so as not to become an unreasonable burden on the social assistance systems of the Contracting Parties;

UNDERLINING the objective of consolidating and developing the Union and Switzerland's comprehensive partnership to its full potential,";

(2) Article 4 is replaced by the following:

"ARTICLE 4

Right of residence and access to an economic activity

The right of residence and access to an economic activity shall be guaranteed in accordance with Annex I.";

(3) the following articles are inserted:

"ARTICLE 4a

Right of establishment

1. A national of a Contracting Party shall have the right of establishment in the territory of another Contracting Party in order to pursue a self-employed activity.

2. Within the framework of the provisions of this Agreement, restrictions on the freedom of establishment of nationals of a Contracting Party in the territory of another Contracting Party shall be prohibited. Such prohibition shall also apply to restrictions on the setting-up of agencies and branches by nationals of any Contracting Party established in the territory of any Contracting Party.

ARTICLE 4b

Equal treatment of self-employed persons

1. As regards access to a self-employed activity and the pursuit thereof, a self-employed person shall be afforded no less favourable treatment in the host country than that accorded to its own nationals.

2. The provisions of Articles 7 to 10 of Regulation (EU) No 492/2011[1] shall apply *mutatis mutandis* to the self-employed persons referred to in this Agreement.";

(4) in Article 5, paragraph 4 is replaced by the following:

"4. The rights referred to in this Article shall be guaranteed in accordance with Annexes I, II and III.";

(5) the following articles are inserted:

"ARTICLE 5a

Provision of services

With regard to the provision of services, the following shall be prohibited under Article 5 of this Agreement:

(a) any restriction on the cross-frontier provision of services in the territory of a Contracting Party not exceeding 90 days of actual work per calendar year;

[1] Regulation (EU) No 492/2011 (OJ L 141, 27.05.2011 p. 1), as applicable according to Annex I.

(b) any restriction on the right of entry and residence in the cases covered by Article 5(2) of this Agreement concerning employees, who do not have the nationality of one of the Contracting Parties, of persons providing services, who are integrated into one Contracting Party's regular labour market and posted for the provision of a service in the territory of another Contracting Party without prejudice to Article 7i.

ARTICLE 5b

Companies providing services

The provisions of Article 5a shall apply to companies formed in accordance with the law of the Contracting Parties and having their registered office, central administration or principal place of business in the territory of a Contracting Party.

ARTICLE 5c

Equal treatment of persons providing services

A person providing services who has the right or has been authorised to provide a service may, for the purposes of its provision, temporarily pursue his activity in the state in which the service is provided on the same terms as those imposed by that state on its own nationals, in accordance with the provisions of this Agreement and Annexes I, II and III.

ARTICLE 5d

Rules regarding the residence of persons providing services

1. Persons providing services who are nationals of the Member States of the Union or Switzerland and are established in the territory of a Contracting Party other than that of the person receiving services and employees, irrespective of their nationality, of persons providing services, who are integrated into one Contracting Party's regular labour market and posted for the provision of a service in the territory of another Contracting Party who have the right, or have been authorised, to provide a service for a period exceeding 90 days of actual work per calendar year shall receive, to substantiate that right, a residence permit for a period equal to that of the provision of services exceeding 90 days of actual work per calendar year.

2. For the purposes of issuing such permits, the Contracting Parties may not require of the persons referred to in paragraph 1 more than:

(a) a valid identity card or passport, without prejudice to Article 7i;

(b) evidence that they are providing, or wish to provide, a service.

ARTICLE 5e

Duration of provision of services

1. The total duration of provision of services under point (a) of Article 5a, whether continuous or consisting of successive periods of provision, may not exceed 90 days of actual work per calendar year.

2. The provisions of paragraph 1 shall be without prejudice to the discharge by the person providing a service of his legal obligations under the guarantee given to the person receiving the service or to causes of force majeure.

ARTICLE 5f

Rules applicable to the provision of services

1. The provisions of Articles 5a and 5c shall not apply to activities involving, even on an occasional basis, the exercise of public authority in the Contracting Party concerned.

2. The provisions of Articles 5a and 5c and measures adopted by virtue thereof shall not preclude the applicability of laws, regulations and administrative provisions providing for the application of working and employment conditions to employed persons posted for the purposes of providing a service, in accordance with the relevant Union legal acts on the posting of workers referred to in Annex I.

3. The provisions of point (a) of Article 5a, and Article 5c shall be without prejudice to the applicability of the laws, regulations and administrative provisions prevailing in all Contracting Parties at the time of this Agreement's entry into force on 1 June 2002 in respect of:

(i) the activities of temporary and interim employment agencies. In particular, Switzerland's dynamic alignment to Regulation (EU) 2016/589[1] shall not result in Switzerland no longer being able to apply its national laws, regulations and administrative provisions to these activities;

[1] Regulation (EU) 2016/589 (OJ L 107, 22.4.2016, p. 1), as applicable according to Annex I.

(ii) financial services where provision is subject to prior authorisation in the territory of a Contracting Party and the provider to prudential supervision by that Contracting Party's authorities.

ARTICLE 5g

Prior notification period and controls

1. Switzerland shall be able to apply a prior notification period of a maximum of four working days in specific sectors before the beginning of the provision of service for service providers that are self-employed and provide services in its territory as well as before the posting for service providers that post workers on its territory in order to carry out on-site controls.

2. Switzerland shall define autonomously the control quantity and control density, as well as the sectors and areas to be controlled, including sectors and areas not covered by the prior notification period of a maximum of four working days, on the basis of an objective risk analysis, in a proportionate and non-discriminatory manner, taking into account that the Agreement limits the freedom to provide services to 90 days of actual work per calendar year.

3. The determination of the sectors shall be reviewed and updated periodically.

ARTICLE 5h

Financial guarantees and sanctions

In the case of service providers that have failed to meet their financial obligations towards enforcement authorities and bodies referred to in the Joint Declaration on effective control systems including Switzerland's dual enforcement system with regard to a previous provision of services, Switzerland shall be able to require the deposit of a proportionate financial guarantee before they may provide services again in sectors determined on the basis of an autonomous and objective risk analysis.

In case of non-payment of the financial guarantee, Switzerland shall be able to impose proportionate sanctions up to the prohibition to provide services until the payment of the guarantee.

ARTICLE 5i

Proof of self-employment

In order to combat the phenomenon of bogus self-employment through efficient and risk-based controls, Switzerland shall be able to require self-employed service providers to provide documents allowing for effective controls within the framework of ex-post controls (at most: confirmation of registration, if applicable; proof of registration with the social security authorities as a self-employed person in the country of residence; proof of the contractual relationship).

ARTICLE 5j

Non-regression

1. In order to maintain the level of protection of posted workers as agreed between Switzerland and the Union in this Agreement at the time of the entry into force of the Amending Protocol, amendments to Directives 96/71/EC[1] and 2014/67/EU[2] or new legal acts of the Union in the area of posting of workers shall, notwithstanding Article 5 of the Institutional Protocol to this Agreement, not be integrated into this Agreement to the extent that their effect would be to meaningfully weaken or reduce the level of protection of posted workers with regard to the terms and conditions of employment, notably remuneration and allowances.

2. For the purposes of paragraph 1, any change to the level of protection of posted workers shall be assessed in its globality, taking into account all relevant provisions of this Agreement.

ARTICLE 5k

Persons receiving services

Nationals of a Member State of the Union or of Switzerland entering the territory of a Contracting Party solely to receive services may be required to register in accordance with the acts referred to in Annex I.";

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1 Directive 96/71/EC (OJ L 18, 21.1.1997, p. 1), as applicable according to Annex I at the time of the entry into force of the Amending Protocol.

2 Directive 2014/67/EU (OJ L 159, 28.5.2014, p. 11), as applicable according to Annex I at the time of the entry into force of the Amending Protocol.

(6) the following articles are inserted:

"ARTICLE 7a

Frontier worker

A frontier worker is a national of a Contracting Party who pursues an activity as an employed or self-employed person in a Contracting Party and who resides in the other Contracting Party to which he returns, as a rule, daily or at least once a week.

The competent authorities of the Contracting Party where the frontier worker pursues the activity for periods of work longer than three months per calendar year may register the frontier worker for declaratory purposes.

The competent authorities shall issue a declaratory registration certificate to the frontier worker free of charge or for a charge not exceeding that imposed on nationals for the issuing of similar documents.

Registration pursuant to this Article shall be without prejudice to the rights and obligations of the frontier workers concerned provided for in the acts referred to in the Annexes to this Agreement. For periods of work shorter than or up to three months the Contracting Parties may apply the notification procedure according to the Joint Declaration on the notification of the taking up of employment.

ARTICLE 7b

Students

A student who does not have a right of residence in the territory of the other Contracting Party on the basis of any other provision of this Agreement may be required to register in accordance with the acts referred to in Annex I. This Agreement does not regulate access to vocational training or maintenance assistance given to the students covered by this Article.

(a) notwithstanding the foregoing sentence, Article 2 shall apply, regardless of the student's place of residence, to tuition fees and all other fees or charges related to studies, as well as all public support mechanisms related thereto, applicable to students at;

(i) universities, university institutes, universities of applied sciences, universities of applied sciences institutes and affiliated higher education institutions to any of these in Switzerland, financed in majority by public funds, and

(ii) any corresponding institution in the Union;

(b) subject to the preservation of the quality and of the specificities of its respective existing education systems, including its admission systems and organisation of competences, each Contracting Party shall not reduce the overall level of students in its institutions mentioned under point (a) who are nationals of the other Contracting Parties and who did not have a right of residence in its territory before taking up their studies, as of the date of the entry into force of this provision. For the purpose of clarity, the foregoing sentence shall not imply an obligation for the Contracting Parties to modify their respective admission systems nor to increase the aforementioned level of students or to reserve a minimal level of places for students from the other Contracting Parties;

(c) the Contracting Parties shall not discriminate amongst nationals of the other Contracting Parties in application of points (a) and (b).

ARTICLE 7c

Exercise of public authority

1. A national of a Contracting Party pursuing an activity as an employed person may be refused the right to take up employment in the public service which involves the exercise of public power and is intended to protect the general interests of the State or other public bodies.

2. A self-employed person may be denied the right to pursue an activity involving, even on an occasional basis, the exercise of public authority.

ARTICLE 7d

Public policy

The rights granted under the provisions of this Agreement may be restricted only by means of measures which are justified on grounds of public policy, public security or public health.

ARTICLE 7e

Permanent residence

Switzerland and the Member States may decide to grant the right of permanent residence pursuant to Article 16 of Directive 2004/38/EC[1] as, respectively, only to Union citizens and Swiss nationals having resided legally for a total of five years in the host State as workers or self-employed persons, including those that retain that status in accordance with that Directive, as well as the family members of such persons. Provided that they are part of a single period of legal residence in the host State, the periods to be taken into account shall not be required to be continuous but may be interrupted by periods of legal residence as economically inactive persons.

For the purpose of calculating the periods necessary for the acquisition of the right of permanent residence in accordance with the first subparagraph, Switzerland and the Member States may decide not to take into account periods of six months or more during which the person is fully reliant on social assistance.

Subject to the Joint Declaration on refusing social assistance and terminating residence prior to the acquisition of permanent residence and in accordance with Article 10(6) of the Institutional Protocol to this Agreement, the rules on residence in Article 7 of Directive 2004/38/EC[2] shall remain applicable to persons who do not qualify for the right of permanent residence.

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1 Directive 2004/38/EC (OJ L 158, 30.4.2004, p. 77), as applicable according to Annex I.

2 Directive as applicable according to Annex I.

ARTICLE 7f

Purchase of immovable property

1. Nationals of a Contracting Party who have a right of residence and their principal residence in the host state shall enjoy the same rights as a national as regards the purchase of immovable property. They may set up their principal residence in the host state at any time in accordance with the relevant national rules irrespective of the duration of their employment. Leaving the host state shall not entail any obligation to dispose of such property.

2. Nationals of a Contracting Party who have a right of residence but do not have their principal residence in the host state shall enjoy the same rights as a national as regards the purchase of immovable property needed for their economic activity. Leaving the host state shall not entail any obligation to dispose of such property. They may also be authorised to purchase a second residence or holiday accommodation. For this category of nationals, this Agreement shall not affect the rules applying to pure capital investment or business of unbuilt land and apartments.

3. Frontier workers, nationals of a Contracting Party, shall enjoy the same rights as a national as regards the purchase of immovable property for their economic activity and as a secondary residence. Leaving the host state shall not entail any obligation to dispose of such property. They may also be authorised to purchase holiday accommodation. For this category of nationals, this Agreement shall not affect the rules applying in the host state to pure capital investment or business of unbuilt land and apartments.

ARTICLE 7g

Identity cards

Switzerland may continue to issue identity cards that do not include a storage medium containing the holder's fingerprints. Such identity cards shall be visually distinguishable from identity cards complying with the requirements of the acts referred to in Annex I concerning such documents. Any such identity cards issued from one year after the entry into force of the Amending Protocol cannot be used by Swiss nationals to exercise free movement.

ARTICLE 7h

Expulsion

As far as restrictions on the right of entry and the right of residence on grounds of public policy or public security of each other's nationals are concerned, the obligations of Switzerland and of the Member States under the Agreement prior to the entry into force of the Amending Protocol shall be maintained.

Therefore, the following developments introduced by Chapter VI of Directive 2004/38/EC[1] going beyond these obligations, namely enhanced protection against expulsion provided for in Article 28(2) and (3), as well as the case-law of the Court of Justice linked to these provisions, shall not apply. In addition, as regards expulsions referred to in Article 33(2) of the Directive, Switzerland and the Member States may, instead of applying the procedures laid down in that provision, ensure that expulsions are carried out in line with the requirements under the Agreement prior to the entry into force of the Amending Protocol.

[1] Directive as applicable according to Annex I.

ARTICLE 7i

Entry of third-country nationals

The Contracting Parties may not require entry visa or equivalent requirements from posted workers who do not have the nationality of a Contracting Party and who enjoy a right of entry without such requirements according to the legal acts of the Union integrated into Annex I or any other instrument in force between the Contracting Parties. For those posted workers who require entry visa or equivalent requirements, the Contracting Party concerned shall grant these persons every facility for obtaining any necessary visas.";

(7) Article 10 is replaced by the following:

"ARTICLE 10

Changes in European Union membership

Any extension of the Agreement to new Member States shall be subject to agreement between the Parties, in accordance with their internal procedures, by means of a protocol. Unless otherwise agreed, such protocol shall include transitional measures, taking into account the specific economic and social situation in the Union, in particular in the new Member States, and Switzerland, having regard to the longstanding practice of past extensions of this Agreement.";

(8) Article 14 is replaced by the following:

"ARTICLE 14

Joint Committee

1. A Joint Committee is hereby established.

The Joint Committee shall be composed of representatives of the Contracting Parties.

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

3. The Joint Committee 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 Contracting Parties, in particular with a view to finding a solution to any difficulty of interpretation or application of the Agreement or of a legal act of the Union to which reference is made in the Agreement in accordance with Article 10 of the Institutional Protocol to this Agreement;

(c) make recommendations to the Contracting 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 shall act by consensus.

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

5. The Joint Committee 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 Contracting Party. The co-chairs may agree that a meeting of the Joint Committee be held by videoconference or teleconference.

6. The Joint Committee shall adopt its rules of procedure and update them as necessary.

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

(9) the following article is inserted:

"ARTICLE 14a

Safeguard clause

1. In the event of serious economic or social difficulties caused by the application of this Agreement, the Joint Committee shall meet, at the request of either Contracting Party, to examine appropriate measures to remedy the situation. The Joint Committee may decide what measures to take within 60 days of the date of the request. This period may be extended by the Joint Committee.

2. If the Joint Committee does not adopt a decision within the deadline laid down in paragraph 1 with regard to appropriate measures or extending that deadline, the Contracting Party having made the request may bring the case before an arbitral tribunal in case of serious economic difficulties. The arbitral tribunal shall hand down its final decision within six months of its establishment.

3. If the arbitral tribunal decides that the alleged difficulties have been proven and are caused by the application of this Agreement, the Contracting Party that made the request may adopt appropriate measures in order to remedy those difficulties. If the measures adopted by a Contracting Party in accordance with this paragraph create an imbalance between the respective rights and obligations under this Agreement, the other Contracting Party may take appropriate rebalancing measures to remedy that imbalance within the scope of this Agreement.

4. In exceptional circumstances of urgency where a Contracting Party is at risk of very serious economic harm caused by the application of this Agreement, that Contracting Party may bring the case before an arbitral tribunal in accordance with the Appendix if the Joint Committee fails to adopt a decision within 30 days of the request. The arbitral tribunal shall hand down its final decision within six months of its establishment.

5. In circumstances referred to in paragraph 4, if the arbitral tribunal decides that, *prima facie*, the alleged difficulties are fulfilled, the Contracting Parties may adopt interim measures and, as the case may be, interim rebalancing measures. Article III.10 of the Appendix shall apply, with exception of paragraph 4(c), *mutatis mutandis*.

6. The measures and rebalancing measures referred to in paragraphs 2 to 5 shall be adopted within the scope of this Agreement. Their scope and duration shall not exceed what is strictly necessary to remedy the difficulties or the imbalance they address. Preference shall be given to measures and rebalancing measures that least disrupt the working of this Agreement.

7. The measures and rebalancing measures shall be the subject of consultations in the Joint Committee every three months from the date of their adoption with a view to their abolition before the date of expiry envisaged or to the limitation of their scope to the strictly necessary. Each Contracting Party may at any time request the Joint Committee to review such measures and rebalancing measures.";

(10) Article 18 is replaced by the following:

"ARTICLE 18

Revision

If a Contracting Party wishes to have this Agreement revised, it shall submit a proposal to that effect to the Joint Committee.

Amendments to this Agreement shall enter into force after the Contracting Parties's respective internal procedures have been completed.";

(11) Article 21 is replaced by the following:

"ARTICLE 21

Relationship with agreements on taxation

1. The provisions of bilateral agreements between Switzerland and the Member States of the Union on double taxation shall be unaffected by the provisions of this Agreement. In particular, the provisions of this Agreement shall not affect the double taxation agreements' definition of 'frontier workers'.

2. No provision of this Agreement may be interpreted in such a way as to prevent the Contracting Parties from distinguishing, when applying the relevant provisions of their tax legislation, between taxpayers whose situations are not comparable, especially as regards their place of residence. However, this shall not constitute a means of discrimination or restriction on the rights of persons as defined under this Agreement.

3. No provision of this Agreement shall prevent the Contracting Parties from adopting or applying measures to ensure the imposition, payment and effective recovery of taxes or to forestall tax avoidance or evasion under their national tax legislation or any other international or bilateral agreement or arrangement relating wholly or mainly to taxation that either Switzerland, the Union or any Member State are party to.";

(12) the following articles are inserted:

"ARTICLE 23a

Validity of residence permits and other special permits

Residence permits and other special permits issued by the Contracting Parties prior to the entry into force of the Amending Protocol shall maintain their validity and shall be replaced, upon their expiry, by documents provided for in this Agreement, where the conditions for the issuance of those documents are met.

ARTICLE 23b

Transitional arrangements

1. With regard to matters falling within the scope of Directive 2004/38/EC[1] the transitional arrangements laid down in this paragraph shall apply:

(a) There shall be a transition period, which shall start on the date of entry into force of the Amending Protocol and end 24 months after its entry into force.

(b) Articles 5k, 7a,7d,7e,7h, 7i and, for the purposes of this Agreement, Directive 2004/38/EC[2] shall apply from the first day following that of the end of the transition period.

(c) The effects of the following provisions of the Agreement in the version prior to the entry into force of the Amending Protocol shall be maintained during the transition period:

– Articles 1 to 7 and Article 16, and

– Articles 1 to 9, 12 to 15, 17, 19, 20, 23 and Article 24, except the last sentence of Article 24(4), of Annex I.

[1] Directive as applicable according to Annex I.
[2] Directive as applicable according to Annex I.

Those provisions shall not produce any effect with regard to matters falling within the scope of other acts referred to in Annex I, in particular Regulation (EU) No 492/2011[1] and Regulation (EU) 2016/589[2] referred to in Section 2 of Annex I.

2. With regard to matters falling within the scope of Directive 96/71/EC[3] and Directive 2014/67/EU[4], the transitional arrangements laid down in this paragraph shall apply:

(a) There shall be a transition period which shall start on the date of entry into force of the Amending Protocol and end 36 months after its entry into force.

(b) Article 5f(2), Articles 5g, 5h, 5i and, for the purposes of this Agreement, Directive 96/71/EC[5] and Directive 2014/67/EU[6] shall be applicable from the first day following that of the end of the transition period.

(c) The effects of the following provisions of the Agreement in the version prior to the entry into force of the Amending Protocol shall be maintained during the transition period:

– Article 5(4), and Article 16, and

– Article 22(2), of Annex I.

Those provisions shall not produce any effect with regard to matters falling within the scope of other acts referred to in Section 2 of Annex I.";

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1 Regulation as applicable according to Annex I.
2 Regulation as applicable according to Annex I.
3 Directive as applicable according to Annex I.
4 Directive as applicable according to Annex I.
5 Directive as applicable according to Annex I.
6 Directive as applicable according to Annex I.

(13) Article 24 is replaced by the following:

"ARTICLE 24

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 (hereinafter referred to as 'TFEU') apply and under the conditions laid down in those Treaties, and, of the other part, to the territory of Switzerland.";

(14) Annex I to the Agreement is replaced by the text set out in Annex I attached to this Protocol;

(15) Annex II to the Agreement is replaced by the text set out in Annex II attached to this Protocol;

(16) Annex III to the Agreement is replaced by the text set out in Annex III attached to this Protocol;

(17) the Protocol on secondary residences in Denmark shall be replaced by the text in the Protocol on secondary residences in Denmark attached to this Protocol;

(18) Annex I of the 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 regarding the participation, as Contracting Parties, of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic pursuant to their accession to the European Union, done at Brussels on 26 Octobre 2004, is deleted;

(19) the text of the Protocol on the acquisition of immovable property in Malta attached to this Protocol, is added as an attachment to the Agreement;

(20) the text of the Protocol on Long Term Residence Permits, attached to this Protocol, is added as an attachment to the Agreement;

(21) the Joint Declarations and the Unilateral Declaration, attached to this Protocol, are added to the Declarations attached to the Final Act to the Agreement.

ARTICLE 2

Entry into force

1. This Protocol shall be ratified or approved by the Union and Switzerland in accordance with their own procedures. The Union and Switzerland 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) Institutional Protocol to the Agreement between the European Community and the Swiss Confederation on air transport;

(c) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on air transport;

(d) State Aid Protocol to the Agreement between the European Community and the Swiss Confederation on air transport;

(e) Institutional Protocol to the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road;

(f) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road;

(g) 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;

(h) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products;

(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")

ANNEX I

AMENDMENTS TO ANNEX I TO THE AGREEMENT

Annex I to the Agreement is replaced by the following:

"**ANNEX I**

FREE MOVEMENT OF PERSONS, RIGHT OF ESTABLISHMENT
AND PROVISION OF SERVICES

SECTION 1

For the purposes of the application of Articles 2 to 9 of this Agreement, the legal acts of the Union listed in Section 2 of this Annex, shall apply subject to the principle of dynamic alignment referred to in Article 5 of the Institutional Protocol to this Agreement, as well as subject to the exceptions listed in paragraph 7 of that Article.

Unless otherwise provided for in technical adaptations, rights and obligations provided for in the legal acts of the Union integrated into this Annex for Member States of the Union shall be understood to be provided for for Switzerland. This shall be applied in full respect of the Institutional Protocol to this Agreement.

Without prejudice to Article 16 of the Institutional Protocol, and unless otherwise provided for in technical adaptations, provisions of the acts listed in Section 2 that require the Member States to provide information to other Member States or to the Commission shall apply to Switzerland. When this information relates to surveillance or application, Switzerland shall communicate this information via the Joint Committee.

SECTION 2

ACTS REFERRED TO:

1. 31977 L 0486: Council Directive 77/486/EEC of 25 July 1977 on the education of the children of migrant workers (OJ L 199, 6.8.1977, p. 32).

2. 31996 L 0071: Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1), as amended by:

   – 32018 L 0957: Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (OJ L 173, 9.7.2018, p. 16).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

(a) in Article 1(-1a) the words 'the exercise of fundamental rights as recognised in the Member States and at Union level' are replaced by 'the exercise of fundamental rights as recognised in the Member States and at Union level as well as in Switzerland';

(b) in Article 1(3):

(i) point (c) shall not apply to Switzerland;

(ii) the second and third subparagraphs shall not apply to Switzerland;

(c) in Article 3:

(i) paragraph 1b shall not apply to Switzerland;

(ii) in paragraph 10, the words 'the Treaties' are replaced by the words 'the Agreement';

(d) in Article 4(2):

(i) in the first subparagraph, last sentence, the words 'the Commission shall be informed and shall take appropriate measures' are replaced by the words 'the Joint Committee shall be informed with a view to finding a solution.';

(ii) the second subparagraph is replaced by the following:

'The European Union and Switzerland shall cooperate closely within the Joint Committee to examine any difficulties which might arise between the Contracting Parties in the application of Article 3(10)';

(e) for the purposes of this Agreement, the Directive shall be applicable from the first day following that of the end of the transition period set out in Article 23b(2) of the Agreement.

3. 32004 L 0038: Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77, as corrected by OJ L 229, 29.6.2004, p. 35, OJ L 30, 3.2.2005, p. 27 and OJ L 197, 28.7.2005, p. 34).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

(a) this Agreement applies to nationals of the Contracting Parties. However, members of their family within the meaning of the Directive possessing third country nationality shall derive certain rights in accordance with Directive;

(b) the terms 'Union citizen' and 'Union citizens' are replaced by the terms 'national of a Member State or Switzerland' and 'nationals of Member States and Switzerland', respectively;

(c) Article 16 shall read as follows:

'1. Nationals of Member States and Switzerland who have resided legally on the basis Article 7(1), point (a), or (3) for a total of five years in the territory of another Contracting Party shall have the right of permanent residence there. This right shall not be subject to the conditions provided for in Chapter III.

2. Provided that they are part of a single period of legal residence in the host State, the periods to be taken into account for the purpose of calculating the acquisition of permanent residence pursuant to paragraph 1 shall not be required to be continuous but may be interrupted by periods of legal residence not on the basis Article 7(1), point (a), or (3).

3. For the purposes of calculating the periods necessary for the acquisition of the right of permanent residence in accordance with paragraph 1, Switzerland and the Member States may decide not to take into account periods of six months or more during which the person is fully reliant on social assistance.

4. The right of permanent residence shall also be acquired by family members who have legally resided with a national of a Member State or of Switzerland in the host State for a continuous period of five years.

5. Continuity of residence shall not be affected by temporary absences not exceeding a total of six months a year, or by absences of a longer duration for compulsory military service, or by one absence of a maximum of twelve consecutive months for important reasons such as pregnancy and childbirth, serious illness, study or vocational training, or a posting in another country.

6. Once acquired, the right of permanent residence shall be lost only through absence from the host State for a period exceeding two consecutive years.

7. By derogation from paragraph 1, Member States and Switzerland may decide that the right of permanent residence is acquired by nationals of Member States and Switzerland who have resided legally for a continuous period of five years in the territory of another Contracting Party.';

(d) in Article 24:

(i) in paragraph 1, the words 'Treaty and secondary law' shall read 'Agreement';

(ii) paragraph 2 is replaced by the following:

'By way of derogation from paragraph 1, the host State shall not be obliged to confer entitlement to social assistance during the first three months of residence or, where appropriate, the longer period provided for in Article 14(4), point (b), nor shall it be obliged to grant maintenance aid for studies, including vocational training, consisting in student grants or student loans to persons other than workers, self-employed persons, persons who retain such status and members of their families.';

(e) in Article 28, paragraphs 2 and 3 shall not apply;

(f) in Article 33, the following paragraph is added:

'Switzerland and the Member States may, instead of applying the procedures laid down in paragraph 2, ensure that the enforcement of expulsion orders is carried out in line with the requirements set out in Article 3 of Directive 64/221/EEC*

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* Council Directive 64/221/EEC of 25 February 1964 on the co-ordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health (OJ 56, 4.4.1964, p. 850), as applicable at the time of the entry into force of the Agreement on 1 June 2002';

(g) for the purposes of this Agreement, the Directive shall apply from the first day following that of the end of the transition period set out in Article 23b(1) of this Agreement.

4. 32006 R 0635: Commission Regulation (EC) No 635/2006 of 25 April 2006 repealing Regulation (EEC) No 1251/70 on the right of workers to remain in the territory of a Member State after having been employed in that State (OJ L 112, 26.4.2006, p. 9).

5. 32011 R 0492: Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (OJ L 141, 27.5.2011, p. 1), as amended by:

– 32016 R 0589: Regulation (EU) 2016/589 of the European Parliament and of the Council of 13 April 2016 (OJ L 107, 22.4.2016, p. 1),

– 32019 R 1149: Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 (OJ L 186, 11.7.2019, p. 21).

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

(a) Article 9(1) shall read: 'Without prejudice to Article 7f of the Agreement, a worker who is a national of a Contracting Party and who is employed in the territory of another Contracting Party shall enjoy all the rights and benefits accorded to national workers in matters of housing, including ownership of the housing he needs.';

(b) in Article 36:

(i) paragraph 1 shall not apply;

(ii) in paragraph 2, the reference to 'measures taken in accordance with Article 48 of the Treaty on the Functioning of the European Union' shall be read as a reference to the legal acts of the European Union in the field of social security integrated into this Agreement.

6. 32012 R 1024: Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC (OJ L 316, 14.11.2012, p. 1), as amended by:

   – 32013 L 0055: Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 (OJ L 354, 28.12.2013, p. 132),

   – 32014 L 0060: Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014 (OJ L 159, 28.5.2014, p. 1), as corrected by OJ L 147, 12.6.2015, p. 24,

   – 32014 L 0067: Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 (OJ L 159, 28.5.2014, p. 11),

   – 32016 R 1191: Regulation (EU) 2016/1191 of the European Parliament and of the Council of 6 July 2016 (OJ L 200, 26.7.2016, p. 1),

   – 32016 R 1628: Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016 (OJ L 252, 16.9.2016, p. 53), as corrected by OJ L 231, 6.9.2019, p. 29,

   – 32018 R 1724: Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 (OJ L 295, 21.11.2018, p. 1),

   – 32020 L 1057: Directive (EU) 2020/1057 of the European Parliament and of the Council of 15 July 2020 (OJ L 249, 31.7.2020, p. 49),

– 32020 R 1055: Regulation (EU) 2020/1055 of the European Parliament and of the Council of 15 July 2020 (OJ L 249, 31.7.2020, p. 17).

Switzerland shall use the Internal Market Information System (IMI) as a third country for exchanges of information, including personal data, with IMI actors within the Union to implement administrative cooperation procedures where applicable for the purposes of this Agreement.

For the purposes of this Agreement, the Commission continues to consider Switzerland to provide adequate protection of personal data as referred to in Article 23(1)(c) of Regulation (EU) No 1024/2012 as long as Decision 2000/518/EC[1] remains in force. For the purposes of this Annex and as defined in Article 4 of Directive 96/71/EC and Articles 6, 7, Article 10(3), and Articles 14 to 18 of Directive 2014/67/EU, Switzerland shall use IMI in accordance with the principles and modalities of exchanges set out in those Articles.

For the purposes of this Agreement, the Swiss *Commissions Paritaires* shall be considered to be competent authorities within the meaning of Article 5, second paragraph, point (f), of Regulation (EU) No 1024/2012 and Article 2, point (a), of Directive 2014/67/EU. They shall use IMI for carrying out cooperation as referred to in Article 4 of Directive 96/71/EC and Articles 6, 7 and Article 10(3) of Directive 2014/67/EU when, as entrusted by Switzerland, they execute the Swiss collective labor agreements and the Swiss law on posted workers, in accordance with Directive 96/71/EC and Directive 2014/67/EU.

[1] Commission Decision 2000/518/EC of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data provided in Switzerland (OJ L 215, 25.8.2000, p. 1), including any subsequent amendments.

The provisions of Regulation (EU) No 1024/2012 shall, for the purposes of the Agreement, be read with the following adaptations:

(a) in Article 5, first sentence, the reference to Directive 95/46/EC shall be understood, as far as Switzerland is concerned, as a reference to the relevant national legislation;

(b) Article 8(1), point (e), shall not apply in respect of Switzerland;

(c) in Article 9(5), as regards Switzerland, the words 'Union law' shall be replaced by 'Union law as integrated into this Agreement';

(d) in Article 10(1), as regards Switzerland, the words 'in accordance with national or Union legislation' are replaced by the words 'in accordance with Swiss legislation';

(e) in Article 16(1) and (2), references to Directive 95/46/EC shall be understood, as far as Switzerland is concerned, as references to the relevant national legislation;

(f) in Article 17(4), the reference to Directive 95/46/EC shall be understood, as far as Switzerland is concerned, as a reference to the relevant national legislation;

(g) in Article 18(1), the reference to Directive 95/46/EC shall be understood, as far as Switzerland is concerned, as a reference to the relevant national legislation;

(h) in Article 20, the reference to Directive 95/46/EC shall be understood, as far as Switzerland is concerned, as a reference to the relevant national legislation;

(i) in Article 21:

(i) in paragraph 1, the reference to Directive 95/46/EC shall be understood, as far as Switzerland is concerned, as a reference to the relevant national legislation;

(ii) paragraph 3 shall not apply;

(j) Article 25 shall not apply;

(k) Article 26(1) shall be read in line with Article 13 of the Institutional Protocol to this Agreement;

(l) Switzerland shall be included in the IMI on the first day of the thirty-seventh month following the entry into force of the Amending Protocol.

7. 32014 L 0054: Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers (OJ L 128, 30.4.2014, p. 8).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

(a) the words 'Union workers' are replaced by the word 'workers';

(b) in Articles 1 and 3, the words 'Article 45 TFEU' are replaced by the words 'the Agreement';

(c) in Article 4, the words 'Union rules on free movement of workers' are replaced by the words 'the rules on free movement of workers pursuant to the Agreement' and the word 'SOLVIT' shall not apply;

(d) in Article 6, the words 'Union law' are replaced by the words 'the Agreement';

(e) in Article 7, the words 'Article 21 TFEU and Directive 2004/38/EC' are replaced by the word 'the Agreement';

(f) for the purposes of this Agreement, the Directive shall be applicable from the first day of the twenty-fifth month following the entry into force of the Amending Protocol.

8. 32014 L 0067: Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (the 'IMI Regulation') (OJ L 159, 28.5.2014, p. 11).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

(a) in Article 1:

(i) in paragraph 1, second subparagraph, the words 'while facilitating the exercise of the freedom to provide services for service providers and promoting fair competition between service providers, and thus supporting the functioning of the internal market' shall read 'while facilitating, to the extent provided for in the Agreement, the exercise of the freedom to provide services and promoting, to the extent provided for in the Agreement, fair competition between service providers, and thus supporting the functioning of the fields related to the internal market in which Switzerland participates';

(ii) in paragraph 2, the words 'the exercise of fundamental rights as recognised in Member States and at Union level' are replaced by the words 'the exercise of fundamental rights as recognised in Member States and at Union level as well as in Switzerland';

(b) in Article 4(3), point (c), as regards Switzerland, the words 'according to Regulation (EC) No 593/2008 (Rome I) and/or the Rome Convention' are replaced by the words 'according to the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, done at Lugano on 30 October 2007';

(c) in Article 6:

(i) in paragraph 5, second subparagraph, the words 'the Commission being informed, where relevant by means of IMI, shall take the appropriate measures' are replaced by 'the Joint Committee shall be informed with a view to finding a solution.';

(ii) in paragraph 10, the words 'relevant national and Union law' are replaced by the words 'relevant national law and the Agreement'.

(d) in Article 7(6), the words 'Union law' are replaced by the words 'the Agreement'.

(e) in Article 9:

(i) in paragraph 1:

– in the first subparagraph, the words 'Union law' are replaced by the words 'the Agreement';

– in the second subparagraph, point (a), the words 'at the latest at the commencement of the service provision' shall read, for Switzerland, 'at the latest at the commencement of the service provision a maximum of four working days in specific sectors before the posting for service providers that post workers on its territory in order to carry out on-site controls (Switzerland shall define autonomously the sectors and areas covered by the prior notification period on the basis of an objective risk analysis, in a proportionate and non-discriminatory manner, taking into account, that the Agreement limits the freedom to provide services to 90 days of actual work per calendar year)':

(ii) in paragraph 3, the words 'the Union legislation' are replaced by the words 'the Agreement';

(iii) in paragraph 5, the second and third subparagraphs shall not apply to Switzerland;

(f) in Article 10(2), the following sentence is added:

'Switzerland shall define autonomously the control quantity and control density, as well as the sectors and areas to be controlled, on the basis of an objective risk analysis, in a proportionate and non-discriminatory manner, taking into account that the Agreement limits the freedom to provide services to 90 days of actual work per calendar year';

(g) in Article 12:

(i) in paragraph 4, the words 'Union law' are replaced by the words 'the Agreement';

(ii) in paragraph 6, the words 'with Union and national law and/or practice' are replaced by the words 'with the Agreement and national law and/or practice';

(iii) paragraph 8 shall not apply to Switzerland;

(h) in Article 20, the following sentences are added:

'In the case of service providers that have failed to meet their financial obligations towards enforcement authorities and bodies with regard to a previous provision of services, Switzerland shall be able to require the deposit of a proportionate financial guarantee before they may provide services again in sectors determined on the basis of an autonomous and objective risk analysis. In case of non-payment of the financial guarantee, Switzerland shall be able to impose proportionate sanctions up to the prohibition to provide services until the payment of the guarantee.';

(i) for the purposes of this Agreement, the Directive shall be applicable from the first day following that of the end of the transition period set out in Article 23b(2) of the Agreement.

9. 32016 R 0589: Regulation (EU) 2016/589 of the European Parliament and of the Council of 13 April 2016 on a European network of employment services (EURES), workers' access to mobility services and the further integration of labour markets and amending Regulations (EU) No 492/2011 and (EU) No 1296/2013 (OJ L 107, 22.4.2016, p. 1), as amended by:

– 32019 R 1149: Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 (OJ L 186, 11.7.2019, p. 21).

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

(a) for the purposes of the Agreement, the Commission continues to consider Switzerland to provide adequate protection of personal data as referred to under Article 34 of Regulation (EU) 2016/589 as long as the Decision 2000/518/EC[1] remains in force;

(b) the words 'Article 45 TFEU' are replaced by the words 'Article 4 of the Agreement';

(c) the words 'citizens of the Union' are replaced by the words 'nationals of Member States and Switzerland';

(d) in Article 6:

(i) references to Article 3 of the Treaty on European Union and to Article 145 of the Treaty on the Functioning of the European Union shall not apply;

(ii) in point (d), the words 'in the Union' are replaced by 'in the Union and Switzerland' and the words 'in compliance with Union and national law and practice' are replaced by 'in compliance with the Agreement and national law and practice';

(e) in Article 9(4), point (c), the words 'existing Union rules and instruments' are replaced by the words 'existing rules and instruments applicable pursuant to the Agreement';

[1] Commission Decision 2000/518/EC of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data provided in Switzerland, including any subsequent amendments.

(f) in Article 34, the reference to Directive 95/46/EC shall be understood, as far as Switzerland is concerned, as a reference to the relevant national legislation.

10. 32017 D 1255: Commission Implementing Decision (EU) 2017/1255 of 11 July 2017 on a template for the description of national systems and procedures to admit organisations to become EURES Members and Partners (OJ L 179, 12.7.2017, p. 18).

11. 32017 D 1256: Commission Implementing Decision (EU) 2017/1256 of 11 July 2017 on templates and procedures for the exchange of information on the EURES network national work programmes at Union level (OJ L 179, 12.7.2017, p. 24).

12. 32017 D 1257: Commission Implementing Decision (EU) 2017/1257 of 11 July 2017 on the technical standards and formats required for a uniform system to enable matching of job vacancies with job applications and CVs on the EURES portal (OJ L 179, 12.7.2017, p. 32).

13. 32018 D 0170: Commission Implementing Decision (EU) 2018/170 of 2 February 2018 on uniform detailed specifications for data collection and analysis to monitor and evaluate the functioning of the EURES network (OJ L 31, 3.2.2018, p. 104).

14. 32018 D 1020: Commission Implementing Decision (EU) 2018/1020 of 18 July 2018 on the adoption and updating of the list of skills, competences and occupations of the European classification for the purpose of automated matching through the EURES common IT platform (OJ L 183, 19.7.2018, p. 17).

15. 32018 D 1021: Commission Implementing Decision (EU) 2018/1021 of 18 July 2018 on the adoption of technical standards and formats necessary for the operation of the automated matching through the common IT platform using the European classification and the interoperability between national systems and the European classification (OJ L 183, 19.7.2018, p. 20).

16. 32018 R 1724: Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1), as amended by:

– 32022 R 0868: Regulation (EU) 2022/868 of the European Parliament and of the Council of 30 May 2022 (OJ L 152, 3.6.2022, p. 1),

– 32024 R 1252: Regulation (EU) 2024/1252 of the European Parliament and of the Council of 11 April 2024 (OJ L, 2024/1252, 3.5.2024),

– 32024 R 1735: Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 (OJ L, 2024/1735, 28.6.2024).

Some of the areas referred to in Annex I to Regulation (EU) 2018/1724 and some of the procedures referred to in Annex II to that Regulation fall outside the scope of this Agreement. The integration of that Regulation in this Agreement is without prejudice to the scope of the Agreement.

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

(a) in Article 1(1):

(i) in point (a), the words 'derived from Union law in the field of the internal market, within the meaning of Article 26(2) TFEU' are replaced by the words 'derived from the Agreement';

(ii) in point (b), the references to Directives 2006/123/EC, 2014/24/EU and 2014/25/EU shall not apply;

(b) in Article 13(2), point (c), the reference to Regulation (EU) No 910/2014 shall be understood, as far as Switzerland is concerned, as a reference to the relevant national legislation;

(c) in Article 14:

(i) in paragraph 1, the references to Directives 2006/123/EC, 2014/24/EU and 2014/25/EU shall not apply;

(ii) in paragraph 5, the reference to Regulation (EU) 2016/679 shall be understood, as far as Switzerland is concerned, as a reference to the relevant national legislation;

(d) in Article 30(1), point (b), the reference to Regulation (EU) No 910/2014 shall be understood, as far as Switzerland is concerned, as a reference to the relevant national legislation.

17. 32019 R 1157: Regulation (EU) 2019/1157 of the European Parliament and of the Council of 20 June 2019 on strengthening the security of identity cards of Union citizens and of residence documents issued to Union citizens and their family members exercising their right of free movement (OJ L 188, 12.7.2019, p. 67).

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

(a) the terms 'Union citizen' and 'Union citizens' are replaced by the terms 'national of a Member State or Switzerland' and 'nationals of Member States and Switzerland', respectively;

(b) in Article 3:

(i) in paragraph 4, as regards Switzerland, the words 'printed in negative in a blue rectangle and encircled by 12 yellow stars' shall not apply;

(ii) in paragraph 5, as regards Switzerland, the following subparagraph is added:

'By derogation from the first subparagraph, where identity cards are issued without a highly secure storage medium containing the two fingerprints of the holder, such identity cards shall not be accepted for the purposes of entry and residence in other Contracting Parties and shall be visually distinguishable from identity cards complying with the requirements of the first subparagraph.';

(c) in Article 5:

(i) in paragraph 1, as regards Switzerland, the words 'by 3 August 2031' shall read 'eleven years after the date of entry into force of the 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 ("the Amending Protocol")';

(ii) in paragraph 2, as regards Switzerland, the words 'by 3 August 2026' shall read 'six years after the date of entry into force of the Amending Protocol';

(d) in Article 6, point (h), as regards Switzerland, the words 'printed in negative in a blue rectangle and encircled by twelve yellow stars' shall not apply;

(e) in Article 7(2), as regards the Member States, the words 'Family Member EU' shall be replaced by the words 'Family Member CH';

(f) in Article 8:

(i) in paragraph 1, as regards Switzerland, the words 'by 3 August 2026' shall read 'six years after the date of entry into force of the Amending Protocol';

(ii) in paragraph 2, as regards Switzerland, the words 'by 3 August 2023' shall read 'three years after the date of entry into force of the Amending Protocol';

(g) in Article 10(2), as regards Switzerland, the words “the Charter” shall not apply;

(h) in Article 11:

(i) as regards Switzerland, references to Regulation (EU) 2016/679 shall be understood as a reference to the relevant national legislation.

(ii) in paragraph 4, as regards Switzerland, the word 'Union' shall read 'the Agreement';

(i) in Article 16, as regards Switzerland, the words '2 August 2021' shall read 'one year after the date of entry into force of the Amending Protocol';

18. 32020 R 1121: Commission Implementing Regulation (EU) 2020/1121 of 29 July 2020 on the collection and sharing of user statistics and feedback on the services of the single digital gateway in accordance with Regulation (EU) 2018/1724 of the European Parliament and of the Council (OJ L 245, 30.7.2020, p. 3).".

ANNEX II

CO-ORDINATION OF SOCIAL SECURITY SCHEMES

Amendments to Annex II to the Agreement

Annex II to the Agreement is replaced by the following:

"**ANNEX II**

CO-ORDINATION OF SOCIAL SECURITY SCHEMES

I. INTRODUCTION

For the purposes of the application of Articles 2 to 9 of the Agreement, the legal acts of the Union listed in Section II of this Annex shall apply subject to the principle of dynamic alignment referred to in Article 5 of the Institutional Protocol to this Agreement, as well as subject to the exceptions listed in paragraph 7 of that Article.

Unless otherwise provided for in technical adaptations, rights and obligations provided for in the legal acts of the Union integrated into this Annex for Member States of the Union shall be understood to be provided for for Switzerland. This shall be applied in full respect of the Institutional Protocol to this Agreement.

Without prejudice to Article 16 of the Institutional Protocol to this Agreement, and unless otherwise provided for in technical adaptations, provisions of the acts listed in Section II that require the Member States to provide information to other Member States or to the Commission shall apply to Switzerland. When this information relates to surveillance or application, Switzerland shall communicate this information via the Joint Committee.

II. SECTORAL ADAPTATIONS

1. With regard to the acts listed in this Annex, the following exceptions shall apply as regards Switzerland:

   (a) cantonal legislation concerning the advances of maintenance payments shall be excluded from the coordination rules on social security;

   (b) supplementary benefits and similar benefits provided for under cantonal legislation shall not be exported;

   (c) non-contributory mixed benefits in the event of unemployment, as provided for by cantonal legislation, shall not be exported;

   (d) persons to whom the Agreement applies and residing outside Switzerland and the Union may join the voluntary insurance scheme not later than one year from the date on which they ceased to be covered by old-age, survivors' and invalidity insurance and after a continuous period of insurance of at least five years;

(e) persons working outside Switzerland and the Union for an employer in Switzerland and who cease to be insured under Swiss old-age, survivors' and invalidity insurance after a continuous period of insurance of at least five years may continue the insurance, with the consent of the employer, if they submit an application within six months of the date on which they ceased to be insured;

(f) the helplessness allowance granted under the Federal Law on invalidity insurance of 19 June 1959 and under the Federal Law on old-age and survivors' insurance of 20 December 1946 shall not be exported.

2. The modalities for the participation of Switzerland in the Administrative Commission for the Coordination of Social Security Systems and in the Technical Commission for Data Processing and in the Audit Board, both attached to the Administrative Commission, shall be the following:

Switzerland may send a representative, present in an advisory capacity (observer), to the meetings of the Administrative Commission for the Coordination of Social Security systems, attached to the European Commission, and to the meetings of the Technical Commission for data processing and of the Audit Board.

3. Special provisions concerning the transitory arrangements relating to unemployment insurance for nationals of certain Member States holding a Swiss residence permit valid for less than one year, concerning the Swiss allowances for helpless persons and concerning the transitional period for the application of Regulation (EC) No 883/2004 to the extended pension scheme under the occupational benefit plans are set out in Protocol I, which forms an integral part of this Annex.

4. The arrangements relating to the protection of rights acquired by private individuals under this Agreement as a consequence of the United Kingdom's withdrawal from the Union are set out in Protocol II, which forms an integral part of this Annex.

A. GENERAL SOCIAL SECURITY COORDINATION

A.1 ACTS REFERRED TO

1. 32004 R 0883: Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1), as corrected by OJ L 200, 7.6.2004, p. 1 and OJ L 204, 4.8.2007, p. 30, as amended by:

   – 32009 R 0988: Regulation (EC) No 988/2009 of the European Parliament and of the Council of 16 September 2009 (OJ L 284, 30.10.2009, p. 43),

   – 32010 R 1244: Commission Regulation (EU) No 1244/2010 of 9 December 2010 (OJ L 338, 22.12.2010, p. 35),

   – 32012 R 0465: Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012 (OJ L 149, 8.6.2012, p. 4),

   – 32012 R 1224: Commission Regulation (EU) No 1224/2012 of 18 December 2012 (OJ L 349, 19.12.2012, p. 45),

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

– 32013 R 1372: Commission Regulation (EU) No 1372/2013 of 19 December 2013 (OJ L 346, 20.12.2013, p. 27), as amended by:

– 32014 R 1368: Commission Regulation (EU) No 1368/2014 of 17 December 2014 (OJ L 366, 20.12.2014, p. 15), as corrected by OJ L 288, 22.10.2016, p. 58,

– 32017 R 0492: Commission Regulation (EU) 2017/492 of 21 March 2017 (OJ L 76, 22.3.2017, p. 13),

– 32019 R 1149: Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 (OJ L 186, 11.7.2019, p. 21).

For the purposes of this Agreement, Regulation (EC) No 883/2004 shall be adapted as follows:

(a) the following text is added to Annex I, Section I:

'Switzerland

Cantonal legislation concerning the advances of maintenance payments based on Articles 131a paragraph 1 and 293 paragraph 2 of the Federal Civil Act of 10 December 1907.';

(b) the following text is added to Annex I, Section II:

'Switzerland

Birth grants and adoption grants pursuant to the relevant cantonal legislation based on Article 3 paragraph 2 of the Federal Law on Family Allowances of 24 March 2006.';

(c) the following text is added to Annex II:

'Germany-Switzerland

(a) Convention on social security of 25 February 1964, as amended by Complementary Conventions No 1 of 9 September 1975 and No 2 of 2 March 1989:

(i) point 9b, paragraph 1, Nos 1-4 of the Final Protocol (legislation applicable and entitlement to sickness benefits in kind for residents of the German exclave of Büsingen);

(ii) point 9e, paragraph 1(b), first, second and fourth sentences, of the Final Protocol (access to voluntary sickness insurance in Germany by relocation in Germany).

(b) Convention on unemployment insurance of 20 October 1982, as amended by the Additional Protocol of 22 December 1992:

Article 8(5), Germany (district of Büsingen) shall contribute a sum equivalent to the cantonal contribution under Swiss law towards the cost of actual places on employment-promotion measures for workers subject to this provision.

Spain-Switzerland

Point 17 of the Final Protocol to the Convention on social security of 13 October 1969, as amended by the Complementary Convention of 11 June 1982; persons insured under the Spanish scheme by virtue of this provision are exempted from the requirement to join the Swiss sickness insurance scheme.

Italy-Switzerland

Article 9(1) of the Convention on social security of 14 December 1962, as amended by Complementary Convention No 1 of 18 December 1963, the Complementary Agreement of 4 July 1969, the Additional Protocol of 25 February 1974 and Complementary Agreement No 2 of 2 April 1980.';

(d) the following text is added to Annex IV:

'Switzerland';

(e) the following text is added to Annex VIII, part 1:

'Switzerland

All claims for old-age, survivors' and invalidity pensions under the basic scheme (Federal Law on old-age and survivors' insurance of 20 December 1946 and Federal Law on invalidity insurance of 19 June 1959) and old-age pensions from the minimum and the extended pension scheme under the statutory occupational benefit plans (Federal Law on occupational benefit plans for old-age, survivors' and invalidity insurance of 25 June 1982).';

(f) the following text is added to Annex VIII, part 2:

'Switzerland

Old-age, survivors' and invalidity pensions from the minimum and the extended pension scheme under the statutory occupational benefit plans (Federal Law on occupational benefit plans for old-age, survivors' and invalidity insurance of 25 June 1982).';

(g) the following text is added to Annex IX, part II:

'Switzerland

Survivors' and invalidity pensions from the minimum and the extended pension scheme under the statutory occupational benefit plans (Federal Law on occupational benefit plans for old-age, survivors' and invalidity insurance of 25 June 1982).';

(h) the following text is added to Annex X:

'Switzerland

1. Supplementary benefits (Federal Law on Supplementary Benefits of 6 October 2006) and similar benefits provided for under cantonal legislation.

2. Pensions in the case of hardship under invalidity insurance (Article 28 subparagraph 1a of the Federal Law on Invalidity Insurance of 19 June 1959, as amended on 7 October 1994).

3. Non-contributory mixed benefits in the event of unemployment, as provided for under cantonal legislation.

4. Non-contributory extraordinary invalidity pensions for disabled persons (Article 39 of the Federal Law on Invalidity Insurance of 19 June 1959) who have not been subject, before their incapacity for work, to the Swiss legislation on the basis of an activity as an employed or self-employed person.';

(i) the following text is added to Annex XI:

'Switzerland

1. Article 2 of the Federal Law on Old-Age and Survivors' Insurance of 20 December 1946 and Article 1b of the Federal Law on Invalidity Insurance of 19 June 1959, which govern voluntary insurance in those insurance branches for Swiss nationals resident in States not subject to this Agreement, shall be applicable to persons resident outside Switzerland who are nationals of the other States to which this Agreement applies, and to refugees and stateless persons resident in the territory of those States, where those persons join the voluntary insurance scheme not later than one year from the date on which they ceased to be covered by old-age, survivors' and invalidity insurance after a continuous period of insurance of at least five years.

2. Where a person ceases to be insured under Swiss old-age, survivors' and invalidity insurance after a continuous period of insurance of at least five years, he shall continue to be entitled to be insured with the agreement of the employer if he works in a State to which this Agreement does not apply for an employer in Switzerland and if he submits an application to this effect within six months of the date on which he ceases to be insured.

3. Compulsory insurance under Swiss sickness insurance and possible exemptions

(a) The Swiss legal provisions governing compulsory sickness insurance shall apply to the following persons not resident in Switzerland:

(i) persons subject to Swiss legal provisions under Title II of the Regulation;

(ii) persons for whom Switzerland shall bear the costs of benefits according to Articles 24, 25, 26 of the Regulation;

(iii) persons receiving Swiss unemployment insurance benefits;

(iv) family members of persons referred to in points (i) and (iii) or of an employed or self-employed person resident in Switzerland who is insured under the Swiss sickness insurance scheme, unless those family members are resident in one of the following States: Denmark, Spain, Hungary, Portugal or Sweden;

(v) family members of persons referred to in point (ii) or of a pensioner resident in Switzerland who is insured under the Swiss sickness insurance scheme, unless those family members are resident in one of the following States: Denmark, Portugal or Sweden.

As family members are considered those persons who are defined as family members according to the legislation of the State of residence.

(b) Persons referred to in point (a) may, on request, be exempted from compulsory insurance if, and as long as, they are resident in one of the following States and can prove that they are eligible for cover in the event of sickness: Germany, France, Italy, Austria, and, with regard to persons referred to in point (a)(iv) and (v), Finland, and, with regard to persons referred to in point (a)(ii), Portugal.

The request referred to in point (b) shall:

(a) be submitted within three months of the date on which the obligation to take out insurance in Switzerland comes into effect; where, in justified cases, the request is submitted after this deadline, the exemption shall take effect as from the commencement of the insurance obligation;

(b) apply to all family members residing in the same State.

4. Where a person subject to Swiss legal provisions under Title II of the Regulation is, in application of point 3(b), subject for the purposes of sickness insurance to the legal provisions of another State covered by this Agreement, the costs of those benefits in kind for non-occupational accidents shall be shared equally between the Swiss insurer against occupational and non-occupational accidents and industrial diseases and the competent sickness insurance institution if an entitlement exists to benefits in kind from both bodies. The Swiss insurer against occupational and non-occupational accidents and industrial diseases shall meet all costs in the event of occupational accidents, accidents on the way to work or industrial diseases, even where there is an entitlement to benefits from a sickness insurance body in the country of residence.

5. Persons who are working, but not residing in Switzerland and who have statutory insurance cover in their State of residence in accordance with point 3(b), as well as their family members, shall benefit from the provisions of Article 19 of the Regulation during a stay in Switzerland.

6. For the purpose of applying Articles 18, 19, 20 and 27 of the Regulation in Switzerland, the competent insurer shall bear all invoiced costs.

7. Periods of daily allowance insurance completed under the insurance scheme of another State to which this Agreement applies shall be taken into account for reducing or lifting a possible reserve in daily allowance insurance in the event of maternity or sickness where the person becomes insured with a Swiss insurer within three months of ceasing to be covered by insurance in another country.

8. Where a person who was gainfully employed or self-employed in Switzerland and covering his vital needs has had to cease his activity owing to an accident or illness and is no longer subject to Swiss legislation on invalidity insurance, that person shall be considered to be covered by that insurance for the purposes of eligibility for rehabilitation measures until the payment of an invalidity pension and throughout the period during which the person benefits from those measures, provided that he has not taken up a new activity outside Switzerland.'.

For the purposes of this Agreement, Regulation (EC) No 883/2004 shall be read with the following adaptation:

In Article 77(2) and 78, the reference to Community provisions on the protection of natural persons with regard to the processing and free movement of personal data shall be understood, as far as Switzerland is concerned, as a reference to the relevant national legislation.

2. 32019 R 0500: Regulation (EU) 2019/500 of the European Parliament and of the Council of 25 March 2019 establishing contingency measures in the field of social security coordination following the withdrawal of the United Kingdom from the Union (OJ L 85I, 27.3.2019, p. 35).

3. 32009 R 0987: Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ L 284, 30.10.2009, p. 1), as amended by:

– 32010 R 1244: Commission Regulation (EU) No 1244/2010 of 9 December 2010 (OJ L 338, 22.12.2010, p. 35),

– 32012 R 0465: Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012 (OJ L 149, 8.6.2012, p. 4),

– 32012 R 1224: Commission Regulation (EU) No 1224/2012 of 18 December 2012 (OJ L 349, 19.12.2012, p. 45),

– 32013 R 1372: Commission Regulation (EU) No 1372/2013 of 19 December 2013 (OJ L 346, 20.12.2013, p. 27),

– 32014 R 1368: Commission Regulation (EU) No 1368/2014 of 17 December 2014 (OJ L 366, 20.12.2014, p. 15), as corrected by OJ L 288, 22.10.2016.p. 58,

– 32017 R 0492: Commission Regulation (EU) 2017/492 of 21 March 2017 (OJ L 76, 22.3.2017, p. 13).

For the purposes of this Agreement, Regulation (EC) No 987/2009 shall be adapted as follows:

The following text is added to Annex 1:

'Agreement between Switzerland and Portugal of 25 May 2016 on the offsetting of claims

Agreement between Switzerland and Greece of 15 November 2017 on the offsetting of claims concerning benefits in kind according to Regulations (ECC) No 1408/71 and (ECC) No 574/72 and Regulations (EC) No 883/2004 and (EC) No 987/2009

Agreement between Switzerland and Italy of 27 February 2023 on the offsetting of claims.

For the purposes of this Agreement, Regulation (EC) No 987/2009 shall be read with the following adaptation:

In Article 3(3), the reference to Community provisions on the protection of natural persons with regard to the processing and free movement of personal data shall be understood, as far as Switzerland is concerned, as a reference to the relevant national legislation.

4. 31971 R 1408: Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to the members of their families moving within the Community (OJ L 149, 5.7.1971, p. 2), as last amended by Regulation (EC) No 592/2008 of the European Parliament and of the Council (OJ L 177, 4.7.2008, p. 1), as applicable between Switzerland and the Member States before the entry into force of Decision 1/2012 of 31 March 2012 of the Joint Committee[1], and when referred to in Regulation (EC) No 883/2004 or (EC) No 987/2009 or when cases are concerned which occurred in the past.

5. 31972 R 0574: Council Regulation (EEC) No 574/72 of 21 March 1972 laying down the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to the members of their families moving within the Community (OJ L 74, 27.3.1972, p. 1), as last amended by Commission Regulation (EC) No 120/2009 (OJ L 39, 10.2.2009, p. 2), as applicable between Switzerland and the Member States before the entry into force of Decision 1/2012 of 31 March 2012[2] of the Joint Committee, and when referred to in Regulation (EC) No 883/2004 or (EC) No 987/2009 or when cases are concerned which occurred in the past.

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[1] Decision No 1/2012 of the Joint Committee established under 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 of 31 March 2012 replacing Annex II to that Agreement on the coordination of social security schemes (OJ L 103, 13.4.2012, p. 51).

[2] Decision No 1/2012 of the Joint Committee established under 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 of 31 March 2012 replacing Annex II to that Agreement on the coordination of social security schemes (OJ L 103, 13.4.2012, p. 51).

A.2 ACTS OF WHICH THE CONTRACTING PARTIES SHALL TAKE DUE ACCOUNT

1. 32010 D 0424(01): Decision of the Administrative Commission for the Coordination of Social Security Systems No A1 of 12 June 2009 concerning the establishment of a dialogue and conciliation procedure concerning the validity of documents, the determination of the applicable legislation and the provision of benefits under Regulation (EC) No 883/2004 of the European Parliament and of the Council (OJ C 106, 24.4.2010, p. 1).

2. 32010 D 0424(02): Decision of the Administrative Commission for the Coordination of Social Security Systems No A2 of 12 June 2009 concerning the interpretation of Article 12 of Regulation (EC) No 883/2004 of the European Parliament and of the Council on the legislation applicable to posted workers and self-employed workers temporarily working outside the competent State (OJ C 106, 24.4.2010, p. 5).

3. 32010 D 0608(01): Decision of the Administrative Commission for the Coordination of Social Security Systems No A3 of 17 December 2009 concerning the aggregation of uninterrupted posting periods completed under the Council Regulation (EEC) No 1408/71 and Regulation (EC) No 883/2004 of the European Parliament and of the Council (OJ C 149, 8.6.2010, p. 3).

4. 32014 D 0520(03): Decision No E4 of 13 March 2014 concerning the transitional period as defined in Article 95 of Regulation (EC) No 987/2009 of the European Parliament and of the Council (OJ C 152, 20.5.2014, p. 21).

5. 32017 D 0719(01): Decision No E5 of 16 March 2017 concerning the practical arrangements for the transitional period for the data exchange via electronic means referred to in Article 4 of Regulation (EC) No 987/2009 of the European Parliament and of the Council (OJ C 233, 19.7.2017, p. 3).

6. 32018 D 1004 (02): Decision No E6 of 19 October 2017 concerning the determination of when an electronic message is considered legally delivered in the Electronic Exchange of Social Security Information (EESSI) system (OJ C 355, 4.10.2018, p. 5).

7. 32020 D 0306 (01): Decision No E7 of 27 June 2019 concerning practical arrangements for cooperation and data exchange until the Electronic Exchange of Social Security Information (EESSI) is fully implemented in Member States (OJ C 73, 6.3.2020, p. 5).

8. 32024 D 06842: Administrative Commission for the Coordination of Social Security Systems Decision No E8 of 14 March 2024 Concerning the establishment of a change management procedure applying to details of the bodies defined in Article 1 of Regulation (EC) No 883/2004 which are listed in the electronic directory which is an inherent part of EESSI (OJ C, C/2024/6842, 12.11.2024)

9. 32010 D 0424(04): Decision of the Administrative Commission for the Coordination of Social Security Systems No F1 of 12 June 2009 concerning the interpretation of Article 68 of Regulation (EC) No 883/2004 of the European Parliament and of the Council relating to priority rules in the event of overlapping of family benefits (OJ C 106, 24.4.2010, p. 11).

10. 32016 D 0211(05): Decision No F2 of 23 June 2015 on the exchange of data between institutions for the purpose of granting family benefits (OJ C 52, 11.2.2016, p. 11).

11. 32019 D 0626(01): Decision No F3 of 19 December 2018 concerning the interpretation of Article 68 of Regulation (EC) No 883/2004 relating to the method for the calculation of the differential supplement (OJ C 215, 26.6.2019, p. 2).

12. 32010 D 0424(05): Decision of the Administrative Commission for the Coordination of Social Security Systems No H1 of 12 June 2009 concerning the framework for the transition from Council Regulations (EEC) No 1408/71 and (EEC) No 574/72 to Regulations (EC) No 883/2004 and (EC) No 987/2009 of the European Parliament and of the Council and the application of Decisions and Recommendations of the Administrative Commission for the coordination of social security systems (OJ C 106, 24.4.2010, p. 13).

13. 32010 D 0608(02): Decision of the Administrative Commission for the Coordination of Social Security Systems No H 5 of 18 March 2010 concerning cooperation on combating fraud and error within the framework of Council Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 of the European Parliament and of the Council on the coordination of social security systems (OJ C 149, 8.6.2010, p. 5).

14. 32011 D 0212(01): Decision No H6 of 16 December 2010 concerning the application of certain principles regarding the aggregation of periods under Article 6 of Regulation (EC) No 883/2004 on the coordination of social security systems (OJ C 45, 12.2.2011, p. 5).

15. 32021 D 0506 (01): Decision No H11 of 9 December 2020 regarding the postponement of deadlines mentioned in Articles 67 and 70 of Regulation (EC) No 987/2009 as well as in Decision No S9 due to the COVID-19 Pandemic (OJ C 170, 6.5.2021, p. 4).

16. 32022 D 0228 (01): Decision No H12 of 19 October 2021 concerning the date to be taken into consideration for determining the rates of conversion referred to in Article 90 of Regulation (EC) No 987/2009 of the European Parliament and of the Council (OJ C 93, 28.2.2022, p. 6).

17. 32022 D 0810(01): Decision No H13 of 30 March 2022 concerning the composition and working methods of the Audit Board of the Administrative Commission for the Coordination of Social Security Systems (Text of relevance to the EEA and to the EC/Switzerland Agreement) 2022/C 305/03 (OJ C 305, 10.8.2022, p. 4).

18. 32024 D 00594: Decision No H14 of 21 June 2023 concerning the publication of the Guidance note on COVID-19 pandemic, the note on the interpretation of the application of Title II of Regulation (EC) No 883/2004 and Articles 67 and 70 of Regulation (EC) No 987/2009 during the COVID-19 pandemic, the Guidance note on telework applicable for the period between 1 July 2022 and 30 June 2023 and the Guidance note on telework applicable from 1 July 2023 (OJ C/2024/594, 11.01.2024).

19. 32024 D 06845: Decision No H15 of 27 June 2024 concerning the methods of operation and the composition of the Technical Commission for Data Processing of the Administrative Commission for the Coordination of Social Security Systems (OJ C, C/2024/6845, 14.11.2024).

20. 32010 D 0424(07): Decision of the Administrative Commission for the Coordination of Social Security Systems No P1 of 12 June 2009 on the interpretation of Articles 50(4), 58 and 87(5) of Regulation (EC) No 883/2004 of the European Parliament and of the Council for the award of invalidity, old-Age and survivors' benefits (OJ C 106, 24.4.2010, p. 21).

21. 32013 D 0927(01): Decision No R1 of 20 June 2013 concerning the interpretation of Article 85 of Regulation (EC) No 987/2009 (OJ C 279, 27.9.2013, p. 11).

22. 32010 D 0424(08): Decision of the Administrative Commission for the Coordination of Social Security Systems No S1 of 12 June 2009 concerning the European Health Insurance Card (OJ C 106, 24.4.2010, p. 23).

23. 32010 D 0424(09): Decision of the Administrative Commission for the Coordination of Social Security Systems No S2 of 12 June 2009 concerning the technical specifications of the European Health Insurance Card (OJ C 106, 24.4.2010, p. 26).

24. 32010 D 0424(10): Decision of the Administrative Commission for the Coordination of Social Security Systems No S3 of 12 June 2009 defining the benefits covered by Articles 19(1) and 27(1) of Regulation (EC) No 883/2004 of the European Parliament and of the Council and Article 25(A) (3) of Regulation (EC) No 987/2009 of the European Parliament and of the Council (OJ C 106, 24.4.2010, p. 40).

25. 32010 D 0424(15): Decision of the Administrative Commission for the Coordination of Social Security Systems No S5 of 2 October 2009 on interpretation of the concept of 'benefits in kind' as defined in Article 1(va) of Regulation (EC) No 883/2004 of the European Parliament and of the Council in the event of sickness or maternity pursuant to Articles 17, 19, 20, 22, 24 (1), 25, 26, 27 (1, 3, 4 and 5), 28, 34 and 36 (1 and 2) of Regulation (EC) No 883/2004 and on calculation of the amounts to be refunded under Articles 62, 63 and 64 of Regulation (EC) No 987/2009 of the European Parliament and of the Council (OJ C 106, 24/04/2010, p. 54).

26. 32010 D 0427(02): Decision of the Administrative Commission for the Coordination of Social Security Systems No S6 of 22 December 2009 concerning the registration in the Member State of residence under Article 24 of Regulation (EC) No 987/2009 and the compilation of the inventories provided for in Article 64(4) of Regulation (EC) No 987/2009 (OJ C 107, 27/04/2010, p. 6).

27. 32011 D 0906(01): Decision No S8 of 15 June 2011 concerning the granting of prostheses, major appliances and other substantial benefits in kind provided for in Article 33 of Regulation (EC) No 883/2004 on the coordination of social security systems (OJ C 262, 6.9.2011, p. 6).

28. 32014 D 0520(02): Decision No S10 of 19 December 2013 concerning the transition from Regulations (EEC) Nos 1408/71 and 574/72 to Regulations (EC) Nos 883/2004 and 987/2009 and the application of reimbursement procedures (OJ C 152, 20.5.2014, p. 16).

29. 32021 D 0618(01): Decision No S11 of 9 December 2020 concerning refund procedures for the implementation of Articles 35 and 41 of Regulation (EC) No 883/2004 (OJ C 236, 18.6.2021, p. 4).

30. 32025 D 01598: Decision No S12 of 16 October 2024 concerning the reimbursement of healthcare in connection to patients' transfer to another Member State in case of mass casualties following disasters (OJ C, C/2025/1598, 13.3.2025).

31. 32010 D 0424(11): Decision of the Administrative Commission for the Coordination of Social Security Systems No U1 of 12 June 2009 concerning Article 54(3) of Regulation (EC) No 987/2009 of the European Parliament and of the Council relating to increases in unemployment benefit for dependent members of the family (OJ C 106, 24.4.2010, p. 26).

32. 32010 D 0424(12): Decision of the Administrative Commission for the Coordination of Social Security Systems No U2 of 12 June 2009 concerning the scope of Article 65(2) of Regulation (EC) No 883/2004 of the European Parliament and of the Council on the right to unemployment benefits of wholly unemployed persons other than frontier workers who were resident in the territory of a Member State other than the competent Member State during their last period of employment or self-employment (OJ C 106, 24.4.2010, p. 43).

33. 32010 D 0424(13): Decision of the Administrative Commission for the Coordination of Social Security Systems No U3 of 12 June 2009 concerning the scope of the concept of 'partial unemployment' applicable to the unemployed persons referred to in Article 65(1) of Regulation (EC) No 883/2004 of the European Parliament and of the Council (OJ C 106, 24.4.2010, p. 45).

34. 32012 D 0225(01): Decision No U4 of 13 December 2011 concerning the reimbursement procedures under Article 65(6) and (7) of Regulation (EC) No 883/2004 and Article 70 of Regulation (EC) No 987/2009 (OJ C 57, 25.2.2012, p. 4).

A.3 ACTS OF WHICH THE CONTRACTING PARTIES SHALL TAKE NOTE

1. 32018 H 0529(01): Recommendation No A1 of 18 October 2017 concerning the issuance of the attestation referred to in Article 19(2) of Regulation (EC) No 987/2009 of the European Parliament and of the Council (OJ C 183, 29.5.2018, p. 5).

2. 32013 H 0927(01): Recommendation No H1 of 19 June 2013 concerning the Gottardo judgment, according to which the advantages enjoyed by a State's own nationals under a bilateral convention on social security with a non-member country must also be granted to workers who are nationals of other Member States (OJ C 279, 27.09.2013, p. 13).

3. 32019 H 0429(01): Recommendation No H2 of 10 October 2018 concerning the inclusion of authentication features to Portable Documents issued by the institution of a Member State and showing the position of a person for the purpose of the application of Regulations (EC) No 883/2004 and (EC) No 987/2009 of the European Parliament and of the Council (OJ C 147, 29.4.2019, p. 6).

4. 32012H0810(01) Recommendation of the Administrative Commission for the Coordination of Social Security Systems No S1 of 15 March 2012 concerning financial aspects of cross-border living organ donations (OJ C 240, 10.8.2012, p. 3).

5. 32014 H 0218(01): Recommendation S2 of 22 October 2013 concerning the entitlement to benefits in kind for insured persons and members of their family during a stay in a third country under a bilateral convention between the competent Member State and the third country (OJ C 46, 18.02.2014, p. 8).

6. 32010 H 0424(02): Recommendation of the Administrative Commission for the Coordination of Social Security Systems No U1 of 12 June 2009 concerning the legislation applicable to unemployed persons engaging in part-time professional or trade activity in a Member State other than the State of residence (OJ C 106, 24.4.2010, p. 49).

7. 32010 H 0424(03): Recommendation of the Administrative Commission for the Coordination of Social Security Systems No U2 of 12 June 2009 concerning the application of Article 64(1)(a) of Regulation (EC) No 883/2004 of the European Parliament and of the Council to unemployed persons accompanying their spouses or partners pursuing a professional or trade activity in a Member State other than the competent State (OJ C 106, 24.4.2010, p. 51).

B. SAFEGUARDING OF SUPPLEMENTARY PENSION RIGHTS

ACTS REFERRED TO

1. 31998 L 0049: Council Directive 98/49/EC of 29 June 1998 on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community (OJ L 209, 25.7.1998, p. 46).

2. 32014 L 0050: Directive 2014/50/EU of the European Parliament and of the Council of 16 April 2014 on minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights (OJ L 128, 30.4.2014, p. 1).

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

Article 6(5): the reference to Article 11 of Directive 2003/41/EC shall not apply to Switzerland.

Switzerland shall take the measures referred to in Article 8 of the Directive 2014/50/EU by the first day of the forty-ninth month following the entry into force of the Amending Protocol.

PROTOCOL I

to Annex II to the Agreement

I. Unemployment insurance

The following arrangements shall apply to workers who are nationals of the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Poland, the Republic of Slovenia and the Slovak Republic until 30 April 2011 and to workers who are nationals of the Republic of Bulgaria and Romania until 31 May 2016. It shall apply to workers who are nationals of the Republic of Croatia until the end of the seventh year after the entry into force of the Protocol regarding the participation of the Republic of Croatia.

1. The following rules shall apply with respect to unemployment insurance for workers holding a residence permit with a period of validity of less than one year.

1.1. Only workers who have paid contributions in Switzerland for the minimum period required under the Federal Unemployment Insurance and Insolvency Allowances Act (*loi fédérale sur l'assurance-chômage obligatoire et l'indemnité en cas d'insolvabilité* – LACI)[1] and who also satisfy the other conditions of eligibility for unemployment benefit shall be entitled to such benefit provided by the unemployment insurance under the conditions laid down by law.

[1] Currently 12 months.

1.2. A portion of the contributions levied for workers whose period of contribution is too short to give entitlement to unemployment benefit in Switzerland under 1.1 shall be refunded to their States of origin in accordance with the provisions of 1.3. in order to contribute towards the cost of benefits provided to these workers in the event of full unemployment; these workers shall then have no entitlement to benefit in the event of their being fully unemployed in Switzerland. They shall, however, be entitled to allowances for bad weather and in the event of the employer becoming insolvent. Benefits in the event of full unemployment shall be paid by the State of origin, provided that the workers concerned make themselves available for work. Periods of insurance completed in Switzerland shall be taken into account in the same way as if they had been completed in the State of origin.

1.3. The portion of the contributions levied for workers referred to in 1.2 shall be refunded on an annual basis in accordance with the following provisions:

(a) The total contributions of these workers shall be calculated, by country, on the basis of the annual number of workers employed and the average annual contributions paid for each worker (employer's and employee's contributions).

(b) Of the amount calculated in this way, a portion thereof corresponding to the relative share represented by unemployment benefit as a percentage of all the allowances referred to in 1.2 shall be refunded to the workers' States of origin, and a portion shall be retained by Switzerland as a reserve for subsequent benefits[1].

[1] Refunded contributions for workers who will exercise their right to unemployment benefit in Switzerland after having paid contributions for at least 12 months – over several periods of residence – within the space of two years.

(c) Switzerland shall, on an annual basis, provide a statement showing the contributions refunded. If the States of origin so request, it shall indicate the bases for the calculation and the sums refunded. The States of origin shall each year notify Switzerland of the number of recipients of unemployment benefit as referred to in 1.2.

2. If a Member State concerned by this arrangement encounters difficulties with the ending of the arrangements for refunding of contributions, or Switzerland encounters difficulties with the aggregation arrangements, the matter may be referred to the Joint Committee by any of the Contracting Parties.

II. Allowances for helpless persons

Allowances for helpless persons granted under the Swiss Federal Law on invalidity insurance of 19 June 1959 and under the Federal Law on old-age and survivors' insurance of 20 December 1946 as amended on 8 October 1999 shall be provided exclusively if the person concerned resides in Switzerland.

III. Application of Regulation (EC) No 883/2004 to the extended vested benefits

Switzerland shall apply Regulation (EC) No 883/2004 to the extended scheme under the Federal Law on free movement among occupational benefit plans concerning old-age, survivors' and invalidity pensions of 17 December 1993 by the first day of the forty-ninth month following the entry into force of the Amending Protocol.

PROTOCOL II

to Annex II to the Agreement

CONSIDERING that Article 33 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (the 'Withdrawal Agreement') states that Title III of Part Two of the Withdrawal Agreement shall apply to nationals of Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation provided that those countries have concluded and apply corresponding agreements with the United Kingdom of Great Britain and Northern Ireland which apply to Union citizens, as well as with the Union which apply to United Kingdom nationals,

CONSIDERING that Article 26b of the Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on citizens' rights following the withdrawal of the United Kingdom from the European Union and the Free Movement of Persons Agreement states that the provisions of Part III of that agreement shall apply to Union citizens, provided that the Union has concluded and applies corresponding agreements with the United Kingdom of Great Britain and Northern Ireland which apply to Swiss nationals, as well as with Switzerland which applies to United Kingdom nationals,

RECOGNISING that it is necessary to provide reciprocal protection of social security rights for United Kingdom nationals, as well as their family members and survivors who, by the end of the transition period, are or have been in a cross-border situation involving one or more of the Contracting Parties to the Free Movement of Persons Agreement and the United Kingdom of Great Britain and Northern Ireland at the same time,

ARTICLE 1

Definitions and references

1. For the purposes of this Protocol the following definitions shall apply:

(a) 'Withdrawal Agreement' means the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community[1];

(b) 'Citizens' Rights Agreement' means the Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on citizens' rights following the withdrawal of the United Kingdom from the European Union and the Free Movement of Persons Agreement;

(c) 'States covered' means the Member States of the Union and Switzerland;

(d) 'transition period' means the transition period referred to in Article 126 of the Withdrawal Agreement;

(e) the definitions in Article 1 of Regulation (EC) No 883/2004 of the European Parliament and of the Council[2] and Article 1 of Regulation (EC) No 987/2009 of the European Parliament and of the Council[3].

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1 OJ L 29, 31.1.2020, p. 7.

2 Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1 as corrected in OJ L 200, 7.6.2004, p. 1).

3 Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ L 284, 30.10.2009, p. 1).

2. For the purposes of this Protocol, all references to Member States and competent authorities of Member States in provisions of Union law made applicable by this Protocol shall be understood as including the United Kingdom and its competent authorities.

ARTICLE 2

Persons covered

1. This Protocol shall apply to the following persons:

(a) United Kingdom nationals who are subject to the legislation of one of the States covered at the end of the transition period, as well as their family members and survivors;

(b) United Kingdom nationals who reside in one of the States covered, and are subject to the legislation of the United Kingdom at the end of the transition period, as well as their family members and survivors;

(c) persons who do not fall within point (a) or (b) but are United Kingdom nationals who pursue an activity as an employed or self-employed person in one or more of the States covered at the end of the transition period, and who, based on Title II of Regulation (EC) No 883/2004, are subject to the legislation of the United Kingdom, as well as their family members and survivors;

(d) stateless persons and refugees, residing in one of the States covered or in the United Kingdom, who are in one of the situations described in points (a) to (c), as well as their family members and survivors.

2. The persons referred to in paragraph 1 shall be covered for as long as they continue without interruption to be in one of the situations set out in that paragraph involving both one of the States covered and the United Kingdom at the same time.

3. This Protocol shall also apply to United Kingdom nationals who do not, or who no longer, fall within one of the situations set out in paragraph 1 of this Article but who fall within Article 10 of the Withdrawal Agreement or within Article 10 of the Citizens' Rights Agreement, as well as their family members and survivors.

4. The persons referred to in paragraph 3 shall be covered for as long as they continue to have a right to reside in one of the States covered under Article 13 of the Withdrawal Agreement or Article 12 of the Citizens' Rights Agreement, or a right to work in their State of work under Article 24 or 25 of the Withdrawal Agreement or Article 20 of the Citizens' Rights Agreement.

5. Where this Article refers to family members and survivors, those persons shall be covered by this Protocol only to the extent that they derive rights and obligations in that capacity under Regulation (EC) No 883/2004.

ARTICLE 3

Social security coordination rules

1. The rules and objectives set out in Article 8 of the Agreement and in this Annex, Regulations (EC) No 883/2004 and (EC) No 987/2009 shall apply to the persons covered by this Protocol.

2. The States covered shall take due account of the Decisions and Recommendations of the Administrative Commission for the Coordination of Social Security Systems attached to the European Commission set up under Regulation (EC) No 883/2004 (the 'Administrative Commission') listed in Section A of this Annex.

ARTICLE 4

Special situations covered

1. The following rules shall apply in the following situations to the extent set out in this Article, insofar as they relate to persons not, or no longer, covered by Article 2:

(a) United Kingdom nationals, as well as stateless persons and refugees residing in the United Kingdom who have been subject to the legislation of one of the States covered before the end of the transition period, as well as their family members and survivors, shall be covered by this Protocol for the purposes of reliance on, and aggregation of, periods of insurance, employment, self-employment or residence, including rights and obligations deriving from such periods in accordance with Regulation (EC) No 883/2004; for the purposes of the aggregation of periods, periods completed both before and after the end of the transition period shall be taken into account in accordance with Regulation (EC) No 883/2004;

(b) the rules set out in Articles 20 and 27 of Regulation (EC) No 883/2004 shall continue to apply to United Kingdom nationals, as well as stateless persons and refugees residing in the United Kingdom who, before the end of the transition period, had requested authorisation to receive a course of planned health care treatment pursuant to Regulation (EC) No 883/2004, until the end of the treatment. The corresponding reimbursement procedures shall also apply even after the treatment ends. Such persons and the accompanying persons shall enjoy the right to enter and exit the State of treatment in accordance with Article 14 of the Withdrawal Agreement mutatis mutandis and with Article 13 of the Citizens' Rights Agreement *mutatis mutandis*;

(c) the rules set out in Articles 19 and 27 of Regulation (EC) No 883/2004 shall continue to apply to United Kingdom nationals, as well as stateless persons and refugees residing in the United Kingdom who are covered by Regulation (EC) No 883/2004 and who are on a stay at the end of the transition period in one of the States covered or the United Kingdom, until the end of their stay. The corresponding reimbursement procedures shall also apply even after the stay or treatment ends;

(d) the rules set out in Articles 67, 68 and 69 of Regulation (EC) No 883/2004 shall continue to apply, for as long as the conditions are fulfilled, to awards of family benefits to which there is entitlement at the end of the transition period for United Kingdom nationals, as well as stateless persons and refugees residing in the United Kingdom who are subject to the legislation of the United Kingdom and have family members residing in one of the States covered at the end of the transition period;

(e) in the situations set out in point (d) of this paragraph, for any persons who have rights as family members at the end of the transition period under Regulation (EC) No 883/2004, such as derived rights for sickness benefits in kind, that Regulation and the corresponding provisions of Regulation (EC) No 987/2009 shall continue to apply for as long as the conditions provided therein are fulfilled.

2. The provisions of Chapter 1 of Title III of Regulation (EC) No 883/2004 as regards sickness benefits shall apply to persons receiving benefits under point (a) of paragraph 1 of this Article.

This paragraph shall apply *mutatis mutandis* as regards family benefits based on Articles 67, 68 and 69 of Regulation (EC) No 883/2004.

ARTICLE 5

Reimbursement, recovery and offsetting

The provisions of Regulations (EC) No 883/2004 and (EC) No 987/2009 on reimbursement, recovery and offsetting shall continue to apply in relation to events, insofar as they relate to persons not covered by Article 2, that:

(a) occurred before the end of the transition period; or

(b) occur after the end of the transition period and relate to persons who were covered by Article 2 or 4 when the event occurred.

ARTICLE 6

Development of law and adaptations

1. Notwithstanding paragraph 3, references in this Protocol to Regulations (EC) No 883/2004 and (EC) No 987/2009 or provisions thereof, shall be understood as references to the acts or provisions as integrated into the Agreement, as applicable on the last day of the transition period.

2. Where Regulations (EC) No 883/2004 and (EC) No 987/2009 are amended or replaced after the end of the transition period, references to those Regulations in this Protocol shall be understood as referring to those Regulations as amended or replaced, in accordance with the acts listed in Part II of Annex I to the Withdrawal Agreement, as regards the Union, and Part II of Annex I to the Citizens' Rights Agreement, as regards Switzerland.

3. Regulations (EC) No 883/2004 and (EC) No 987/2009 shall, for the purposes of this Protocol, be understood as comprising the adaptations listed in Part III of Annex I to the Withdrawal Agreement, as regards the Union, and Part III of Annex I of the Citizens' Rights Agreement, as regards Switzerland.

4. For the purposes of this Protocol, the amendments and adaptations referred to in paragraphs 2 and 3 shall take effect on the day following the day on which the corresponding amendments and adaptations of Annex I to the Withdrawal Agreement or of Annex I to the Citizens' Rights Agreement take effect, whichever is the latest.".

ANNEX III

MUTUAL RECOGNITION OF PROFESSIONAL QUALIFICATIONS

Amendments to Annex III to the Agreement

Annex III to the Agreement is replaced by the following:

"**ANNEX III**

MUTUAL RECOGNITION OF PROFESSIONAL QUALIFICATIONS

(Diplomas, certificates and other evidence of formal qualifications)

SECTION 1

INTRODUCTION

For the purposes of the application of Articles 2 to 9 of the Agreement, the legal acts of the Union listed in Section 2 of this Annex, shall apply subject to the principle of dynamic alignment referred to in Article 5 of the Institutional Protocol to this Agreement, as well as subject to the exceptions listed in paragraph 7 of that Article.

Unless otherwise provided for in technical adaptations, rights and obligations provided for in the legal acts of the Union integrated into this Annex for Member States of the Union shall be understood to be provided for for Switzerland. This shall be applied in full respect of the Institutional Protocol to this Agreement.

Without prejudice to Article 16 of the Institutional Protocol to this Agreement, and unless otherwise provided for in technical adaptations, provisions in the acts listed in Section 2 that require the Member States to provide information to other Member States or to the Commission shall apply to Switzerland. When this information relates to surveillance or application, Switzerland shall communicate this information via the Joint Committee.

SECTION 2

ACTS REFERRED TO

1. 32005 L 0036: Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22),

   as amended by:

   – Council Directive 2006/100/EC of 20 November 2006 adapting certain Directives in the field of freedom of movement of persons, by reason of the accession of Bulgaria and Romania (OJ L 363, 20.12.2006, p. 141),

– Commission Regulation (EU) No 213/2011 of 3 March 2011 amending Annexes II and V to Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications (OJ L 59, 4.3.2011, p. 4),

– Communication from the Commission – Notification of the professional associations or organisations fulfilling the conditions of Article 3(2) listed under Annex I to Directive 2005/36/EC (OJ C 111, 15.5.2009, p. 1),

– Communication from the Commission – Notification of the professional associations or organisations fulfilling the conditions of Article 3(2) listed under Annex I to Directive 2005/36/EC (OJ C 182, 23.6.2011, p. 1),

– Act concerning the conditions of accession of the Republic of Croatia and the adjustments to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community (OJ L 112, 24.4.2012, p. 10),

– Council Directive 2013/25/EU of 13 May 2013 adapting certain directives in the field of right of establishment and freedom to provide services, by reason of the accession of the Republic of Croatia (OJ L 158, 10.6.2013, p. 368),

– Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (OJ L 354, 28.12.2013, p. 132),

– Commission Delegated Decision (EU) 2016/790 of 13 January 2016 amending Annex V to Directive 2005/36/EC of the European Parliament and of the Council as regards the evidence of formal qualifications and the titles of training courses (OJ L 134, 24.5.2016, p. 135),

– Commission Delegated Decision (EU) 2017/2113 of 11 September 2017 amending Annex V to Directive 2005/36/EC of the European Parliament and of the Council as regards evidence of formal qualifications and the titles of training courses (OJ L 317, 1.12.2017, p. 119),

– Commission Delegated Decision (EU) 2019/608 of 16 January 2019 amending Annex V to Directive 2005/36/EC of the European Parliament and of the Council as regards the evidence of formal qualifications and titles of training courses (OJ L 104, 15.4.2019, p. 1),

– Commission Delegated Decision (EU) 2020/548 of 23 January 2020 amending Annex V to Directive 2005/36/EC of the European Parliament and of the Council as regards the evidence of formal qualifications and titles of training courses (OJ L 131, 24.4.2020, p. 1),

– Commission Delegated Decision (EU) 2021/2183 of 25 August 2021 amending Annex V to Directive 2005/36/EC of the European Parliament and of the Council as regards the evidence of formal qualifications and titles of training courses (OJ L 444, 10.12.2021, p. 16),

– Commission Delegated Decision (EU) 2023/2383 of 23 May 2023 amending and correcting Directive 2005/36/EC of the European Parliament and of the Council as regards the evidence of formal qualifications and titles of training courses (OJ L 2383, 9.10.2023, p. 1),

– Commission Delegated Directive (EU) 2024/782 of 4 March 2024 amending Directive 2005/36/EC of the European Parliament and of the Council as regards the minimum training requirements for the professions of nurse responsible for general care, dental practitioner and pharmacist (OJ L, 2024/782, 31.5.2024),

– Commission Delegated Decision (EU) 2024/1395 of 31 May 2024 amending Directive 2005/36/EC of the European Parliament and of the Council as regards the evidence of formal qualifications and titles of training courses (OJ L, 2024/1395, 31.5.2024).

corrected by:

– Corrigendum to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 93, 4.4.2008, p. 28),

– Corrigendum to Council Directive 2006/100/EC of 20 November 2006 adapting certain Directives in the field of freedom of movement of persons, by reason of the accession of Bulgaria and Romania (OJ L 177, 8.7.2015, p. 60).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

(a) the following text is added to point 5.1.1 of Annex V to the Directive:

'Country	Evidence of formal qualifications	Body awarding the qualifications	Certificate accompanying the qualifications	Reference date
Switzerland	Eidgenössisches Arztdiplom Diplôme fédéral de médecin Diploma federale di medico	Eidgenössisches Departement des Innern Département fédéral de l'intérieur Dipartimento federale dell'interno		1 June 2002'

(b) the following text is added to point 5.1.2 of Annex V to the Directive:

'Country	Evidence of formal qualifications	Body awarding the qualifications	Reference date
Switzerland	Diplom als Facharzt Diplôme de médecin spécialiste Diploma di medico specialista	Eidgenössisches Departement des Innern und Verbindung der Schweizer Ärztinnen und Ärzte (FMH) / Schweizerische Institut für ärztliche Weiter- und Fortbildung (SIWF) Département fédéral de l'intérieur et Fédération des médecins suisses (FMH) / Institut suisse pour la formation médicale postgraduée et continue (ISFM) Dipartimento federale dell'interno e Federazione dei medici svizzeri (FMH) / Istituto svizzero per la formazione medica (ISFM)	1 June 2002'

(c) the following text is added to point 5.1.3 of Annex V to the Directive:

'Country	Title
Anaesthetics Minimum period of training: 3 years	
Switzerland	Anästhesiologie Anesthésiologie Anestesiologia

Country	Title
General surgery Minimum period of training: 5 years	
Switzerland	Chirurgie Chirurgie Chirurgia

Country	Title
Neurological surgery Minimum period of training: 5 years	
Switzerland	Neurochirurgie Neurochirurgie Neurochirurgia

Country	Title
Obstetrics and gynaecology Minimum period of training: 4 years	
Switzerland	Gynäkologie und Geburtshilfe Gynécologie et obstétrique Ginecologia e ostetricia

Country	Title
General (internal) medicine Minimum period of training: 5 years	
Switzerland	Allgemeine Innere Medizin Médecine interne générale Medicina interna generale

Country	Title
Ophthalmology Minimum period of training: 3 years	
Switzerland	Ophthalmologie Ophtalmologie Oftalmologia

Country	Title
Otorhinolaryngology Minimum period of training: 3 years	
Switzerland	Oto-Rhino-Laryngologie Oto-rhino-laryngologie Otorinolaringoiatria

Country	Title
Paediatrics Minimum period of training: 4 years	
Switzerland	Kinder- und Jugendmedizin Pédiatrie Pediatria

Country	Title
Respiratory medicine Minimum period of training: 4 years	
Switzerland	Pneumologie Pneumologie Pneumologia

Country	Title
Urology Minimum period of training: 5 years	
Switzerland	Urologie Urologie Urologia

Country	Title
Orthopaedics Minimum period of training: 5 years	
Switzerland	Orthopädische Chirurgie und Traumatologie des Bewegungsapparates Chirurgie orthopédique et traumatologie de l'appareil locomoteur Chirurgia ortopedica e traumatologia dell'apparato locomotore

Country	Title
Pathological anatomy Minimum period of training: 4 years	
Switzerland	Pathologie Pathologie Patologia

Country	Title
Neurology Minimum period of training: 4 years	
Switzerland	Neurologie Neurologie Neurologia

Country	Title
Psychiatry Minimum period of training: 4 years	
Switzerland	Psychiatrie und Psychotherapie Psychiatrie et psychothérapie Psichiatria e psicoterapia

Country	Title
Diagnostic radiology Minimum period of training: 4 years	
Switzerland	Radiologie Radiologie Radiologia

Country	Title
Radiotherapy Minimum period of training: 4 years	
Switzerland	Radio-Onkologie/Strahlentherapie Radio-oncologie/radiothérapie Radio-oncologia/radioterapia

Country	Title
Plastic surgery Minimum period of training: 5 years	
Switzerland	Plastische, Rekonstruktive und Ästhetische Chirurgie Chirurgie plastique, reconstructive et esthétique Chirurgia plastica, ricostruttiva ed estetica

Country	Title
Thoracic surgery Minimum period of training: 5 years	
Switzerland	Thoraxchirurgie[1] Chirurgie thoracique Chirurgia toracica

Country	Title
Cardiac surgery Minimum period of training: 5 years	
Switzerland	Herz- und thorakale Gefässchirurgie; Chirurgie cardiaque et vasculaire thoracique Chirurgia del cuore e dei vasi toracici

[1] The training programme of 1 January 2015 was accredited on 31 August 2018. Holders of corresponding specialisation issued before the accreditation date receive a new evidence of formal qualifications as a specialiseds doctor without any further requirements with a current date of issue.

Country	Title
Vascular surgery Minimum period of training: 5 years	
Switzerland	Gefässchirurgie[1] Chirurgie vasculaire Chirurgia vascolare

Country	Title
Paediatric surgery Minimum period of training: 5 years	
Switzerland	Kinderchirurgie Chirurgie pédiatrique Chirurgia pediatrica

Country	Title
Cardiology Minimum period of training: 4 years	
Switzerland	Kardiologie Cardiologie Cardiologia

Country	Title
Gastroenterology Minimum period of training: 4 years	
Switzerland	Gastroenterologie Gastroentérologie Gastroenterologia

[1] The training programme of 1 January 2015 was accredited on 31 August 2018. Holders of corresponding specialisation issued before the accreditation date receive a new evidence of formal qualifications as a specialiseds doctor without any further requirements with a current date of issue.

Country	Title
Rheumatology Minimum period of training: 4 years	
Switzerland	Rheumatologie Rhumatologie Reumatologia

Country	Title
General haematology Minimum period of training: 3 years	
Switzerland	Hämatologie Hématologie Ematologia

Country	Title
Endocrinology Minimum period of training: 3 years	
Switzerland	Endokrinologie/Diabetologie Endocrinologie/diabétologie Endocrinologia/diabetologia

Country	Title
Physiotherapy Minimum period of training: 3 years	
Switzerland	Physikalische Medizin und Rehabilitation Médecine physique et réadaptation Medicina fisica e riabilitazione

Country	Title
Dermato-venereology Minimum period of training: 3 years	
Switzerland	Dermatologie und Venerologie Dermatologie et vénéréologie Dermatologia e venerologia

Country	Title
Tropical medicine Minimum period of training: 4 years	
Switzerland	Tropen- und Reisemedizin Médecine tropicale et médecine des voyages Medicina tropicale e medicina di viaggio

Country	Title
Child psychiatry Minimum period of training: 4 years	
Switzerland	Kinder- und Jugendpsychiatrie und -psychotherapie Psychiatrie et psychothérapie d'enfants et d'adolescents Psichiatria e psicoterapia infantile e dell'adolescenza

Country	Title
Renal diseases Minimum period of training: 4 years	
Switzerland	Nephrologie Néphrologie Nefrologia

Country	Title
Communicable diseases Minimum period of training: 4 years	
Switzerland	Infektiologie Infectiologie Malattie infettive

Country	Title
Community medicine Minimum period of training: 4 years	
Switzerland	Prävention und Gesundheitswesen Prévention et santé publique Prevenzione e salute pubblica

Country	Title
Pharmacology Minimum period of training: 4 years	
Switzerland	Klinische Pharmakologie und Toxikologie Pharmacologie et toxicologie cliniques Farmacologia e tossicologia clinica

Country	Title
Occupational medicine Minimum period of training: 4 years	
Switzerland	Arbeitsmedizin Médecine du travail Medicina del lavoro

Country	Title
Allergology Minimum period of training: 3 years	
Switzerland	Allergologie und klinische Immunologie Allergologie et immunologie clinique Allergologia e immunologia clinica

Country	Title
Nuclear medicine Minimum period of training: 4 years	
Switzerland	Nuklearmedizin Médecine nucléaire Medicina nucleare

Country	Title of diploma
Dental, oral and maxillo-facial surgery (basic medical and dental training) Minimum period of training: 4 years	
Switzerland	Mund-, Kiefer- und Gesichtschirurgie Chirurgie orale et maxillo-faciale Chirurgia oro-maxillo-facciale

Country	Title
Medical oncology Minimum period of training: 5 years	
Switzerland	Medizinische Onkologie Oncologie médicale Oncologia medica

Country	Title
Medical genetics Minimum period of training: 4 years	
Switzerland	Medizinische Genetik Génétique médicale Genetica medica'

(d) the following text is added to point 5.1.4 of Annex V to the Directive:

'Country	Evidence of formal qualifications	Professional title	Reference date
Switzerland	Diplom als praktischer Arzt/praktische Ärztin Diplôme de médecin praticien Diploma di medico generico	Praktischer Arzt/Praktische Ärztin Médecin praticien Medico generico	1 June 2002'

(e) the following text is added to point 5.2.2 of Annex V to the Directive:

'Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Professional title	Reference date
Switzerland	1. Diplomierte Pflegefachfrau, diplomierter Pflegefachmann Infirmière diplômée et infirmier diplômé Infermiera diplomata e infermiere diplomato	Schulen, die staatlich anerkannte Bildungsgänge durchführen Écoles qui proposent des filières de formation reconnues par l'État Scuole che propongono dei cicli di formazione riconosciuti dallo Stato	Pflegefachfrau, Pflegefachmann Infirmière, infirmier Infermiera, infermiere	1 June 2002

'Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Professional title	Reference date
	2. Bachelor of Science in nursing	Schulen, die staatlich anerkannte Bildungsgänge durchführen Écoles qui proposent des filières de formation reconnues par l'État Scuole che propongono dei cicli di formazione riconosciuti dallo Stato	Pflegefachfrau, Pflegefachmann Infirmière, infirmier Infermiera, infermiere	30 September 2011
	3. Diplomierte Pflegefachfrau HF, diplomierter Pflegefachmann HF Infirmière diplômée ES, infirmier diplômé ES Infermiera diplomata SSS, infermiere diplomato SSS	Höhere Fachschulen, die staatlich anerkannte Bildungsgänge durchführen Écoles supérieures qui proposent des filières de formation reconnues par l'État Scuole specializzate superiori che propongono dei cicli di formazione riconosciuti dallo Stato	Pflegefachfrau, Pflegefachmann Infirmière, infirmier Infermiera, infermiere	1 June 2002'

(f) the following text is added to point 5.3.2 of Annex V to the Directive:

'Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Professional title	Reference date
Switzerland	Eidgenössisches Zahnarztdiplom Diplôme fédéral de médecin-dentiste Diploma federale di medico-dentista	Eidgenössisches Departement des Innern Département fédéral de l'intérieur Dipartimento federale dell'interno		Zahnarzt Médecin-dentiste Medico-dentista	1 June 2002'

(g) the following text is added to point 5.3.3 of Annex V to the Directive:

'Orthodontics			
Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Reference date
Switzerland	Diplom für Kieferorthopädie Diplôme fédéral d'orthodontiste Diploma di ortodontista	Eidgenössisches Departement des Innern und Schweizerische Zahnärzte-Gesellschaft (SSO) / Büro für zahnmedizinische Weiterbildung (BZW) Département fédéral de l'intérieur et Société suisse d'odonto-stomatologie (SSO) / Bureau pour la formation postgrade en médecine dentaire (BZW) Dipartimento federale dell'interno e Società Svizzera di Odontologia e Stomatologia (SSO) / Ufficio per la formazione post-laurea in odontoiatria (BZW)	1 June 2002

Oral surgery			
Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Reference date
Switzerland	Diplom für Oralchirurgie Diplôme fédéral de chirurgie orale Diploma di chirurgia orale	Eidgenössisches Departement des Innern und Schweizerische Zahnärzte-Gesellschaft (SSO) / Büro für zahnmedizinische Weiterbildung (BZW) Département fédéral de l'intérieur et Société suisse d'odonto-stomatologie (SSO) / Bureau pour la formation postgrade en médecine dentaire (BZW) Dipartimento federale dell'interno e Società Svizzera di Odontologia e Stomatologia (SSO) / Ufficio per la formazione post-laurea in odontoiatria (BZW)	30 April 2004'

(h) the following text is added to point 5.4.2 of Annex V to the Directive:

'Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference date
Switzerland	Eidgenössisches Tierarztdiplom Diplôme fédéral de vétérinaire Diploma federale di veterinario	Eidgenössisches Departement des Innern Département fédéral de l'intérieur Dipartimento federale dell'interno		1 June 2002'

(i) the following text is added to point 5.5.2 of Annex V to the Directive:

'Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Professional title	Reference date
Switzerland	1. Diplomierte Hebamme Sage-femme diplômée Levatrice diplomata	Schulen, die staatlich anerkannte Bildungsgänge durchführen Écoles qui proposent des filières de formation reconnues par l'État Scuole che propongono dei cicli di formazione riconosciuti dallo Stato	Hebamme Sage-femme Levatrice	1 June 2002
	2. [Bachelor of Science [Name of the UAS] in Midwifery] "Bachelor of Science HES-SO de Sage-femme" (Bachelor of Science HES-SO in Midwifery) "Bachelor of Science BFH Hebamme" (Bachelor of Science BFH in Midwifery) "Bachelor of Science ZFH Hebamme" (Bachelor of Science ZHAW in Midwifery)	Schulen, die staatlich anerkannte Bildungsgänge durchführen Écoles qui proposent des filières de formation reconnues par l'État Scuole che propongono dei cicli di formazione riconosciuti dallo Stato	Hebamme Sage-femme Levatrice	1 June 2002'

(j) the following text is added to point 5.6.2 of Annex V to the Directive:

'Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference date
Switzerland	Eidgenössisches Apothekerdiplom Diplôme fédéral de pharmacien Diploma federale di farmacista	Eidgenössisches Departement des Innern Département fédéral de l'intérieur Dipartimento federale dell'interno		1 June 2002'

(k) the following text is added to point 5.7.1 of Annex V to the Directive:

'Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
Switzerland	Master of Science in Architecture – Diploma di architetto (Arch. Dipl. USI)	Accademia di Architettura dell'Università della Svizzera Italiana		2002-2003
	Master of Arts BFH/HES-SO en architecture, Master of Arts BFH/HES-SO in Architecture	Haute école spécialisée de Suisse occidentale (HES-SO) together with Berner Fachhochschule (BFH)		2007-2008
	Master of Arts BFH/HES-SO in Architektur, Master of Arts BFH/HES-SO in Architecture	Haute école spécialisée de Suisse occidentale (HES-SO) together with Berner Fachhochschule (BFH)		2007-2008
	Master of Arts FHNW in Architektur	Fachhochschule Nordwestschweiz FHNW		2007-2008

'Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
	Master of Arts FHZ in Architektur	Fachhochschule Zentralschweiz (FHZ)		2007-2008
	Master of Arts ZFH in Architektur	Zürcher Fachhochschule (ZFH), Zürcher Hochschule für Angewandte Wissenschaften (ZHAW), Departement Architektur, Gestaltung und Bauingenieurwesen		2007-2008
	Master of Science MSc in Architecture, Architecte (arch. Dipl). EPF)	École Polytechnique Fédérale de Lausanne		2007-2008
	Master of Science ETH in Architektur, MSc ETH Arch	Eidgenössische Technische Hochschule Zurich		2007-2008'

(l) the following text is added to Annex VI to the Directive:

'Country	Evidence of formal qualifications	Reference academic year
Switzerland	1. Diploma di Architetto	1996-1997
	2. Master of Arts/Science in Architecture – Diploma di Architetto	2000-2001
	3. Dipl. Arch. ETH, arch. dipl. EPF, arch. dipl. PF	2004-2005
	4. Architecte diplômé EAUG	2004-2005
	5. Architekt REG A Architecte REG A Architetto REG A	2004-2005'

2. 31977 L 0249: Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services (OJ L 78, 26.3.1977, p. 17),

as amended by:

– 1 1979 H: Act concerning the Conditions of Accession and Adjustments to the Treaties – Accession of the Hellenic Republic (OJ L 291, 19.11.1979, p. 91),

– 1 1985 I: Act concerning the Conditions of Accession and Adjustments to the Treaties – Accession of the Kingdom of Spain and the Portuguese Republic (OJ L 302, 15.11.1985, p. 23),

– Decision of the Council of the European Union 95/1/EC, Euratom, ECSC, of 1 January 1995 adjusting the instruments concerning the accession of new Member States to the European Union (OJ L 1, 1.1.1995, p. 1),

– 1 2003 T: Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded adopted on 16 April 2003 (OJ L 236, 23.9.2003, p. 33),

– 32006 L 0100: Council Directive 2006/100/EC of 20 November 2006 adapting certain Directives in the field of freedom of movement of persons, by reason of the accession of Bulgaria and Romania (OJ L 363, 20.12.2006, p. 141),

– 32013 L 0025: Council Directive 2013/25/EU of 13 May 2013adapting certain directives in the field of right of establishment and freedom to provide services, by reason of the accession of the Republic of Croatia (OJ L 158, 10.6.2013, p. 368).

For the purposes of this Agreement, Directive 77/249/EEC shall be adapted as follows:

The following text is added to Article 1(2):

'Switzerland:

Advokat, Rechtsanwalt, Anwalt, Fürsprecher, Fürsprech

Avocat

Avvocato'.

3. 31998 L 0005: Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained (OJ L 77, 14.3.1998, p. 36), as amended by:

– 1 2003 T: Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded adopted on 16 April 2003 (OJ L 236, 23.9.2003, p. 33),

– 32006 L 0100: Council Directive 2006/100/EC of 20 November 2006 adapting certain Directives in the field of freedom of movement of persons, by reason of the accession of Bulgaria and Romania (OJ L 363, 20.12.2006, p. 141),

– 32013 L 0025: Council Directive 2013/25/EU of 13 May 2013 adapting certain directives in the field of right of establishment and freedom to provide services, by reason of the accession of the Republic of Croatia (OJ L 158, 10.6.2013, p. 368).

For the purposes of this Agreement, Directive 98/5/EC is adapted as follows:

The following text is added to point (a) of Article 1(2):

'Switzerland:

Advokat, Rechtsanwalt, Anwalt, Fürsprecher, Fürsprech

Avocat

Avvocato'.

4. 31974 L 0556: Council Directive 74/556/EEC of 4 June 1974 laying down detailed provisions concerning transitional measures relating to activities, trade in and distribution of toxic products and activities entailing the professional use of such products including activities of intermediaries (OJ L 307, 18.11.1974, p. 1).

5. 319s74 L 0557: Council Directive 74/557/EEC of 4 June 1974 on the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons and of intermediaries engaging in the trade and distribution of toxic products (OJ L 307, 18.11.1974, p. 5), as amended by:

– Decision of the Council of the European Union 95/1/EC, Euratom, ECSC, of 1 January 1995 adjusting the instruments concerning the accession of new Member States to the European Union (OJ L 1, 1.1.1995, p. 1),

– 1 2003 T: Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded adopted on 16 April 2003 (OJ L 236, 23.9.2003, p. 33),

– 32006 L 0101: Council Directive 2006/0101/EC of 20 November 2006 adapting Directives 73/239/EEC, 74/557/EEC and 2002/83/EC in the field of freedom to provide services, by reason of the accession of Bulgaria and Romania (OJ L 363, 20.12.2006, p. 238),

– 32013 L 0025: Council Directive 2013/25/EU of 13 May 2013 adapting certain directives in the field of right of establishment and freedom to provide services, by reason of the accession of the Republic of Croatia (OJ L 158, 10.6.2013, p. 368).

For the purposes of this Agreement, Directive 74/557/EEC is adapted as follows:

In Switzerland:

All the products and toxic substances set out in the Federal Law on Protection against Dangerous Substances and Preparations (classified compilation of federal law (CC 813.1), and in particular those on the ordinances relating thereto (CC 813) and on the poisonous substances for the environment (CC 814.812.31, 814.812.32 and 814.812.33).

6. 31986 L 0653: Council Directive 86/653/EEC of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents (OJ L 382, 31.12.1986, p. 17).

7. 32015 R 0983: Commission Implementing Regulation (EU) 2015/983 of 24 June 2015 on the procedure for issuance of the European Professional Card and the application of the alert mechanism pursuant to Directive 2005/36/EC of the European Parliament and of the Council (OJ L 159, 25.6.2015, p. 27).

8. 32018 L 0958: Directive (EU) 2018/958 of the European Parliament and of the Council of 28 June 2018 on a proportionality test before adoption of new regulation of professions (OJ L 173, 9.7.2018, p. 25)

9. 32019 R 0907: Commission Delegated Regulation (EU) 2019/907 of 14 March 2019 establishing a Common Training Test for ski instructors under Article 49b of Directive 2005/36/EC of the European Parliament and of the Council on the recognition of the professional qualifications (OJ L 145, 4.6.2019, p. 7).

10. 32023 D 0423: Commission Implementing Decision (EU) 2023/423 of 24 February 2023 on a pilot project to implement the administrative cooperation provisions relating to regulated professions set out in Directives 2005/36/EC and (EU) 2018/958 of the European Parliament and of the Council by means of the Internal Market Information System and to integrate the database of regulated professions into that system (OJ L 61, 27.2.2023, p. 62).

11. 32012 R 1024: Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC (OJ L 316, 14.11.2012, p. 1), as amended by:

– 32013 L 0055: Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 (OJ L 354, 28.12.2013, p. 132),

– 32014 L 0060: Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014 (OJ L 159, 28.5.2014, p. 1), as corrected by OJ L 147, 12.6.2015, p. 24,

– 32014 L 0067: Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 (OJ L 159, 28.5.2014, p. 11),

– 32016 R 1191: Regulation (EU) 2016/1191 of the European Parliament and of the Council of 6 July 2016 (OJ L 200, 26.7.2016, p. 1),

– 32016 R 1628: Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016 (OJ L 252, 16.9.2016, p. 53), as corrected by OJ L 231, 6.9.2019, p. 29,

– 32018 R 1724: Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 (OJ L 295, 21.11.2018, p. 1),

– 32020 L 1057: Directive (EU) 2020/1057 of the European Parliament and of the Council of 15 July 2020 (OJ L 249, 31.7.2020, p. 49),

– 32020 R 1055: Regulation (EU) 2020/1055 of the European Parliament and of the Council of 15 July 2020 (OJ L 249, 31.7.2020, p. 17).

Switzerland shall use the Internal Market Information System (IMI) as a third country for exchanges of information, including personal data, with IMI actors within the Union to implement administrative cooperation procedures where applicable for the purposes of this Agreement.

For the purposes of this Agreement, the Commission continues to consider Switzerland to provide adequate protection of personal data as referred to in Article 23(1)(c) of Regulation (EU) No 1024/2012 as long as Decision 2000/518/EC[1] remains in force.

Switzerland shall use the IMI system to implement administrative cooperation procedures as defined in Articles 4a to 4e, Article 8, Article 21a, Article 50, Article 56 and Article 56a of Directive 2005/36/EC, as amended by Directive 2013/55/EU, in accordance with the principles and modalities of exchanges set out in those articles.

[1] Commission Decision of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data provided in Switzerland, including any subsequent amendments.

The provisions of Regulation (EU) No 1024/2012 shall, for the purposes of this Agreement, be read with the following adaptations:

(a) in Article 5, first sentence, the reference to Directive 95/46/EC shall be understood, as far as Switzerland is concerned, as a reference to the relevant national legislation;

(b) Article 8(1), point (e), shall not apply in respect of Switzerland;

(c) in Article 9(5), as regards Switzerland, the words 'Union law' are replaced by the words 'Union law as integrated into this Agreement';

(d) in Article 10(1), as regards Switzerland, the words 'in accordance with national or Union legislation' are replaced by the words 'in accordance with Swiss legislation';

(e) in Article 16(1) and (2), references to Directive 95/46/EC shall be understood as far as Switzerland is concerned, as references to the relevant national legislation;

(f) in Article 17(4), the reference to Directive 95/46/EC shall be understood, as far as Switzerland is concerned, as a reference to the relevant national legislation;

(g) in Article 18(1), the reference to Directive 95/46/EC shall be understood, as far as Switzerland is concerned, as a reference to the relevant national legislation;

(h) in Article 20, the reference to Directive 95/46/EC shall be understood, as far as Switzerland is concerned, as a reference to the relevant national legislation;

(i) in Article 21:

(i) in paragraph 1, the reference to Directive 95/46/EC shall be understood, as far as Switzerland is concerned, as a reference to the relevant national legislation;

(ii) paragraph 3 shall not apply;

(j) Article 25 shall not apply;

(k) Article 26(1) shall be read in line with Article 13 of the Institutional Protocol to this Agreement.".

PROTOCOL

ON SECONDARY RESIDENCES IN DENMARK

The Contracting Parties agree that Protocol No 32 on the acquisition of property in Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union also applies to this Agreement concerning Swiss nationals' acquisition of second homes in Denmark.

PROTOCOL

ON THE ACQUISITION OF IMMOVABLE PROPERTY IN MALTA

Purchase of property in the Maltese islands is regulated by the Immovable Property (Acquisition by Non-Residents) Act (Chapter 246 of the Laws of Malta).

That Act provides that:

(a) A Swiss national may purchase immovable property in Malta:

(1) If the property is going to be used as a primary residence or if the applicant has lived in Malta as a resident for a period of over 5 years or if the property is going to be used for business purposes there are no restrictions.

(2) If the property is going to be used for secondary residence purposes and applicant did not live in Malta for a period of 5 years, an Acquisition of Immovable Property (AIP) permit is required and is subject to conditions as stipulated in the Immovable Property (Acquisitions by Non-residents) Act, including a minimum price of EUR 174 274 for apartments and EUR 300 619 for houses (minimum prices are adjusted yearly according to the property index as outlined in the Immovable Property Price Index Notice [Subsidiary Legislation 246.08 of the Laws of Malta]). Such purchases do not require the person to have a right of residence in Malta.

(b) Swiss nationals may also set up their primary residence in Malta at any time in accordance with the relevant national legislation. Leaving Malta shall not entail any obligation to dispose of any property acquired as a primary residence.

(c) Swiss nationals who purchase properties in special designated areas established by the Act (usually areas forming part of urban regeneration projects) do not require a permit for such purchases, neither are they limited in the number, use or value of such properties that they may purchase.

PROTOCOL

ON LONG-TERM RESIDENCE PERMITS

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

and

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

have agreed as follows:

1. The granting of long-term residence permits is a question of the law of the Union in accordance with the Treaties and of the law of Switzerland, respectively, and does not fall under the scope of the Agreement on the Free Movement of Persons (hereinafter referred to as the "Agreement"). Thus, the Institutional Protocol to the Agreement shall not apply to this Protocol.

2. Where Switzerland and the Member States of the Union grant each other's nationals long-term residence permits under the respective laws referred to in paragraph 1, those rules shall be applied in a non-discriminatory manner, notably regarding the minimum duration of prior residence of five years required.

3. The applicable rules of the Union and Switzerland shall remain comparable in terms of other conditions and requirements, it being understood that the conditions and requirements lie within the competence of the Union in accordance with the Treaties and of Switzerland, respectively.

4. The forementioned shall be without prejudice to

   (a) the rules on permanent residence provided for in Directive 2004/38/EC[1] as well as

   (b) provisions for third-country nationals contained in bilateral agreements already concluded between a Member State of the Union and Switzerland that are more favourable than the applicable rules of the Union and Switzerland.

5. Notwithstanding paragraph 1, Article 10(1), (2) and (5) of the Institutional Protocol to the Agreement shall apply *mutatis mutandis* to disputes arising from paragraphs 2 and 3 of this Protocol. In those cases, Article 11 of the Institutional Protocol to the Agreement shall also apply *mutatis mutandis*, except that proportionate compensatory measures may only be adopted within the framework of the Agreement.

The Appendix to the Institutional Protocol to the Agreement on the Arbitral Tribunal shall apply *mutatis mutandis*, except for Articles I.4 paragraph 4, III.4 paragraph 3 second sentence, III.5 paragraph 2 third sentence, III.9 and III.10 paragraph 5.

[1] Directive 2004/38/EC (OJ L 158, 30.4.2004, p 77), as applicable according to Annex I to the Agreement.

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

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

and

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

HAVING REGARD 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, done at Brussels on 21 June 1999, (hereinafter referred to as the "Agreement"), which entered into force on 1 June 2002;

HAVING REGARD to the Protocol to the Agreement of 21 June 1999 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 regarding the participation, as Contracting Parties, of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic pursuant to their accession to the European Union, done at Brussels on 26 October 2004, which entered into force on 1 April 2006;

HAVING REGARD to the Protocol to the Agreement of 21 June 1999 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 regarding the participation as Contracting Parties of the Republic of Bulgaria and Romania pursuant to their accession to the European Union, done at Brussels on 27 May 2008, which entered into force on 1 June 2009;

HAVING REGARD to the 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, regarding the participation of the Republic of Croatia as a Contracting Party, following its accession to the European Union, done at Brussels of 4 March 2016, which entered into force on 1 January 2017;

WHEREAS agreements concluded by the Union are binding upon the institutions of the Union and on its Member States; this Protocol therefore applies to the Contracting Parties as set out in the Agreement;

WHEREAS 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 Contracting 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 the Agreement in individual cases is preserved;

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

HAVE AGREED AS FOLLOWS:

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 1

Objectives

1. The objective of this Protocol is to guarantee for the Contracting Parties, and for economic operators and individuals, greater legal certainty, equal treatment and a level playing field in the field related to the internal market falling under the scope of the Agreement.

2. To this end, this Protocol provides new institutional solutions facilitating a continuous and balanced strengthening of economic relations between the Contracting Parties. Taking account of the principles of international law, this Protocol lays down, in particular, institutional solutions for the Agreement 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 the Agreement, notably:

(a) the procedure for aligning the Agreement with legal acts of the Union relevant to the Agreement;

(b) the uniform interpretation and application of the Agreement and of the legal acts of the Union to which reference is made in the Agreement;

(c) the surveillance and application of the Agreement; and

(d) the settlement of disputes in the context of the Agreement.

ARTICLE 2

Relation to the Agreement

1. This Protocol, its Annex and its Appendix shall form an integral part of the Agreement.

2. The provisions of the Agreement repealed by this Protocol are listed below:

(a) Article 16;

(b) Article 17;

(c) Article 19.

3. References to the "European Community" or to the "Community" in the Agreement shall be construed as references to the Union.

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. The Agreement constitutes a bilateral agreement in a field related to the internal market in which Switzerland participates.

CHAPTER 2

ALIGNMENT OF THE AGREEMENT WITH LEGAL ACTS OF THE UNION

ARTICLE 4

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 Treaty on the Functioning of the European Union (hereinafter referred to as "TFEU") in the field covered by the Agreement, the European Commission (hereinafter referred to as 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 Contracting Party, a preliminary exchange of views shall take place within the Joint Committee.

The Contracting Parties shall consult each other again, at the request of either of them, within the Joint Committee 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 the Agreement, 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 the Agreement, 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 the Agreement. A list of those committees and, where appropriate, of other committees with similar characteristics, shall be drawn up and updated by the Joint Committee.

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 5(7).

ARTICLE 5

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 the Agreement, Switzerland and the Union shall ensure that legal acts of the Union adopted in the field covered by the Agreement are integrated into the Agreement as quickly as possible after their adoption.

2. Legal acts of the Union integrated into the Agreement in accordance with paragraph 4 shall be, by their integration into the Agreement, part of the legal order of Switzerland subject, as the case may be, to the adaptations decided upon by the Joint Committee.

3. When it adopts a legal act in the field covered by the Agreement, the Union shall inform Switzerland thereof as quickly as possible through the Joint Committee. At the request of either of the Contracting Parties, the Joint Committee shall conduct an exchange of views on the subject.

4. The Joint Committee shall act in accordance with paragraph 1 by adopting a decision as quickly as possible to amend Annexes I to III to the Agreement, including the necessary adaptations.

5. Without prejudice to paragraphs 1 and 2, if necessary in order to ensure coherence of the Agreement with its Annex as amended pursuant to paragraph 4, the Joint Committee may propose, for approval by the Contracting Parties according to their internal procedures, the revision of the Agreement.

6. References in the Agreement 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 the Annex to the Agreement as from the entry into force of the Joint Committee's decision on the corresponding amendment of the Annex to the Agreement 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 below:

– Article 5g [Prior notification period and controls];

– Article 5h [Financial guarantees and sanctions];

– Article 5i [Proof of self-employment];

– Article 5j [Non-regression];

– Article 7b [Students];

– Article 7e [Permanent residence];

– Article 7f [Purchase of immovable property];

– Article 7g [Identity cards];

– Article 7h [Expulsion].

– Annex II Co-ordination of Social Security Schemes, Part II. Sectoral Adaptations, Point 1. a-f.

8. Subject to Article 6, decisions of the Joint Committee 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 Contracting Parties shall cooperate in good faith throughout the procedure set out in this Article in order to facilitate decision-making.

10. The Union and Switzerland shall be mindful of the principle of "equal pay for equal work at the same place" and Switzerland's dual enforcement system.

ARTICLE 6

Fulfilment of constitutional obligations by Switzerland

1. During the exchange of views referred to in Article 5(3), Switzerland shall inform the Union whether a decision as referred to in Article 5(4) requires the fulfilment of constitutional obligations by Switzerland in order to become binding.

2. Where the decision referred to in Article 5(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 Contracting Parties shall provisionally apply the decision referred to in Article 5(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 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.

CHAPTER 3

INTERPRETATION AND APPLICATION OF THE AGREEMENT

ARTICLE 7

Uniform interpretation principle

1. For the purpose of achieving the objectives set out in Article 1 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 the Agreement and, to the extent that their application involves concepts of Union law, the provisions of the Agreement 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 the Agreement.

ARTICLE 8

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 the Agreement. They may exchange information on the activities of surveillance of the application of the Agreement. They may exchange views and discuss issues of mutual interest.

2. Each Contracting Party shall take appropriate measures to ensure the effective and harmonious application of the Agreement on its territory.

3. The surveillance of the application of the Agreement shall be carried out jointly by the Contracting Parties within the Joint Committee.

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 with a view to finding an acceptable solution.

4. The Commission and the competent Swiss authorities respectively shall monitor the application of the Agreement by the other Contracting Party. The procedure provided for in Article 10 applies.

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

ARTICLE 9

Exclusivity principle

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

ARTICLE 10

Procedure in the event of difficulty of interpretation or application

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

2. If the Joint Committee 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 Contracting Parties may request that an arbitral tribunal settle the dispute in accordance with the rules laid down in the Appendix.

3. Where the dispute raises a question concerning the interpretation or application of a provision referred to in Article 7(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 5(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 Contracting Party shall take all measures necessary to comply in good faith with the arbitral tribunal's decision.

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

6. The safeguards set out in Joint Declaration on refusing social assistance and terminating residence prior to the acquisition of permanent residence and Joint Declaration on the notification of the taking up of employment, annexed to the Agreement, shall be taken into consideration in good faith in the context of resolving the disputes submitted to the Joint Committee.

The first subparagraph shall apply for as long as, and to the extent that, the safeguards remain compatible with the relevant legal acts of the Union as integrated into the Agreement. The safeguards shall not affect the application of Article 5(1) of this Protocol.

ARTICLE 11

Compensatory measures

1. If the Contracting Party that has been found by the arbitral tribunal not to have complied with the Agreement does not inform the other Contracting Party, within a reasonable time period set in accordance with Article IV.2(6) of the Appendix, of the measures it has taken to comply with the arbitral tribunal's decision, or if the other Contracting Party considers that the measures communicated do not comply with the arbitral tribunal's decision, this other Contracting Party may adopt proportionate compensatory measures within the framework of the Agreement or of any other bilateral agreement in the fields related to the internal market in which Switzerland participates (hereinafter referred to as "compensatory measures") in order to remedy a potential imbalance. It shall notify the Contracting 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 has not taken a decision to suspend, amend or annul those compensatory measures, either Contracting Party may submit to arbitration the question of the proportionality of those compensatory measures, in accordance with the Appendix.

3. The arbitral tribunal shall decide within the time limits laid down in Article III.8(4) of the Appendix.

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 12

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 the Agreement or of a provision of a legal act of the Union referred to therein for a preliminary ruling.

CHAPTER 4

OTHER PROVISIONS

ARTICLE 13

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 the Annex to which it has access, in accordance with this Article and the Annex.

The Joint Committee may adopt a decision to amend the Annex.

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 the Annex.

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 Contracting 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 the Annex.

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 5 of the Annex.

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

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

ARTICLE 14

References to territories

Whenever the legal acts of the Union integrated into the Agreement 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 the Agreement be understood to be references to the territories referred to in Article 24 of the Agreement.

ARTICLE 15

References to nationals of Member States of the Union

Whenever the legal acts of the Union integrated into the Agreement contain references to nationals of Member States of the Union, the references shall, for the purposes of the Agreement, be understood to be references to nationals of the Member States of the Union and of Switzerland.

ARTICLE 16

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

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

The time limits and dates for Switzerland for bringing into force and implementing the decisions integrating legal acts of the Union into the Agreement follow from Article 5(8) and Article 6(5), as well as from provisions on transitional arrangements.

ARTICLE 17

Addressees of the legal acts of the Union

Provisions of the legal acts of the Union integrated into the Agreement indicating that they are addressed to the Member States of the Union are not relevant for the purposes of the Agreement.

CHAPTER 5

FINAL PROVISIONS

ARTICLE 18

Implementation

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

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

ARTICLE 19

Entry into force

1. This Protocol shall be ratified or approved by the Union and Switzerland in accordance with their own procedures. The Union and Switzerland 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) 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;

(b) Institutional Protocol to the Agreement between the European Community and the Swiss Confederation on air transport;

(c) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on air transport;

(d) State Aid Protocol to the Agreement between the European Community and the Swiss Confederation on air transport;

(e) Institutional Protocol to the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road;

(f) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road;

(g) 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;

(h) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products;

(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.

ARTICLE 20

Amendment and termination

1. This Protocol may be amended at any time by mutual agreement of the Union and Switzerland.

2. Where the Agreement is terminated in accordance with Article 25(3) of the Agreement, this Protocol shall cease to be in force on the date referred to in Article 25(4) of the Agreement.

3. Where the Agreement ceases to be in force, the rights and obligations that individuals and economic operators have already acquired by virtue of the Agreement before the date of the cessation of the Agreement shall be preserved. The Union and Switzerland 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")

ANNEX

ANNEX ON THE APPLICATION OF ARTICLE 13 OF THE PROTOCOL

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:

none.

(b) information systems:

European network of Employment Services (EURES) as established by Regulation (EU) 2016/589 of the European Parliament and of the Council of 13 April 2016 on a European network of employment services (EURES), workers' access to mobility services and the further integration of labour markets, and amending Regulations (EU) No 492/2011 and (EU) No 1296/2013 (OJ L 107, 22.4.2016, p. 1), as applicable according to Annex I to the Agreement;

Electronic Exchange of Social Security Information (EESSI) as established by Regulation (EC) No 883/2004 (OJ L 166, 30.4.2004, p. 1), as corrected by OJ L 200, 7.6.2004, p. 1 and OJ L 204, 4.8.2007, p. 30) and Regulation (EC) No 987/2009 (OJ L 284, 30.10.2009, p. 1), as applicable according to Annex II to the Agreement;

Internal Market Information system (IMI) as established by Regulation (EU) 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC (OJ L 316, 14.11.2012, p. 1), as applicable to according to Annex I and III to the Agreement.

(c) other activities:

none.

ARTICLE 2

Terms of payment

1. Payments due pursuant to Article 13 of the 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 13(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 Agreement 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 this 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

Existing arrangements

Article 13 of the Protocol and this Annex shall not apply to specific arrangements between Switzerland and the Union which include financial contributions by Switzerland. The agencies, information systems and other activities covered by such arrangements are the following:

– Mutual Information System on Social Protection (MISSOC), according to the respective contractual arrangements of Switzerland and of the Commission with the MISSOC secretariat.

ARTICLE 5

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 13 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:

(a) the number of calendar days from the date of entry into force of the Protocol until 31 December of the year in question; and

(b) the total number of calendar days of the year in question.

APPENDIX ON THE ARBITRAL TRIBUNAL

CHAPTER I

PRELIMINARY PROVISIONS

ARTICLE I.1

Scope

If one of the Contracting Parties (hereinafter referred to as "parties") submits a dispute for arbitration in accordance with Articles 10(2) or 11(2) of the Protocol or brings a case to arbitration in accordance with Article 14a(2) or (4) of the Agreement, 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 (Article 10(2) or Article 11(2) of the Protocol) and:

(i) in the cases referred to in Article 10(2) of the Protocol, the question causing the dispute as officially entered, for resolution, on the agenda of the Joint Committee in accordance with Article 10(1) of the Protocol; and

(ii) in the cases referred to in Article 11(2) of the Protocol, the decision of the arbitral tribunal, any implementation measures mentioned in Article 10(5) of the Protocol and the disputed compensatory measures;

(iii) in the cases referred to in Article 14a (2) and (4) of the Agreement, the alleged difficulties in accordance with Article 14a(2) of the Agreement;

(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 10(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 10(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 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. In the cases referred to in Article 10(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 10(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 10(2) or 11(2) of the Protocol or of Article 14a(2) or (4) of the Agreement.

2. In the cases referred to in Article 10(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 in accordance with Article 10(1) of the Protocol.

3. In the cases referred to in Article 11(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.

4. In the cases referred to in Article 14a(2) and (4) of the Agreement, the arbitral tribunal shall have a mandate to examine whether the alleged difficulties have been proven and are caused by the application of the Agreement.

5. 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.

6. 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 11(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 11(1) of the Protocol.

5. In the cases referred to in Article 14a(2) and (4) of the Agreement, the arbitral tribunal shall hand down its final decision within 6 months of the date of its establishment.

ARTICLE III.9

Referrals to the Court of Justice of the European Union

1. In application of Article 7 and Article 10(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 Agreement at issue; and

(c) the concept of Union law to be interpreted in accordance with Article 7(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 11(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 11(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 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 10(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 10(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 Agreement, 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 7 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 11(1) 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 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.

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 may adopt, by decision, amendments to this Appendix.
