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Proposal for a

COUNCIL DECISION

on a Union position on Decision No 1/2011 of the Joint Management Committee for Sanitary and Phytosanitary matters set up by the Agreement establishing an Association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part regarding the amendment of Appendix V.A. to Annex IV to the Association Agreement

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

The Agreement establishing an Association between the European Community and its Member States and the Republic of Chile was signed on 18 November 2002. All Agreement provisions entered into force on 1 March 2005, after being ratified by the Member States.

Annex IV to the Agreement lays down the Sanitary and Phytosanitary (SPS) measures applicable to trade in animals and animal products, plants, plant products and other goods and animal welfare (hereinafter called the "SPS Agreement").

Article 89 (3) of the Agreement, establishes that the Association Committee when dealing with SPS measures, shall be composed of representatives of the European Union and Chile with responsibility for SPS matters. This Committee is called the "Joint Management Committee for SPS matters and it is empowered to modify, by means of a decision, Appendices I to XII to the SPS Agreement as established in its Article 16 (2) c.

The European Union must adopt the position it is to take in the Joint Management Committee regarding the adoption of the amendment needed to update Appendix V.A. to the SPS Agreement. Under Article 4(1) of Decision 2002/979/EC, the Union's position is to be adopted by the Council on a proposal from the Commission.

This proposed amendment concerns Appendix V.A. to the SPS Agreement, on priority sectors or sub-sectors for which equivalence may be recognised, and introduces the sector "fish products" and its sub-sector "bivalve molluscs" in the list of priorities.

The Republic of Chile would like to apply a processing treatment to bivalve molluscs harvested in production areas classified as B or C, according to the provisions of Regulation (EC) No 853/2004, which is not foreseen in EU law.

In order to evaluate if the proposed processing treatment could meet the same level of consumer protection as accomplished by the treatment provided in EU law, it is necessary to assess the equivalence of both treatments.

Following Article 7 (3) of the SPS Agreement, the determination of equivalence may only be initiated when priorities have been established in Appendix V.A.

In the light of progress made under the consultations procedures, the Parties have negotiated a proposal intended to modify Appendix V.A. to the Agreement.

Proposal for a

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on a Union position on Decision No 1/2011 of the Joint Management Committee for Sanitary and Phytosanitary matters set up by the Agreement establishing an Association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part regarding the amendment of Appendix V.A. to Annex IV to the Association Agreement

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 168(4)(b) in conjunction with Article 218 (9) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) By Council Decision 2002/979/EC on the signature and provisional application of certain provisions of an Agreement establishing an Association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part¹, the Union has concluded the Agreement establishing an Association between the European Community and its Member States, of the one part, and the Republic of Chile, hereinafter called the "Agreement".
- (2) Annex IV to the Agreement lays down the Sanitary and Phytosanitary (SPS) measures applicable to trade in animals and animal products, plants, plant products and other goods and animal welfare (hereinafter called the "EU-Chile SPS Agreement").
- (3) Article 6(4) of the Agreement establishes that the Association Committee shall have the power to take decisions in the cases provided for in the Agreement or where such power has been delegated to it by the Association Council.
- (4) Article 89(3) of the Agreement by way of derogation from Article 193 thereto, establishes that the Association Committee, when dealing with SPS measures, is called the "Joint Management Committee for SPS matters", hereinafter called "the Joint Management Committee". Pursuant to point (c) of Article 16(2) of the EU-Chile SPS Agreement, this Committee is empowered to modify, by means of a decision, Appendices I to XII to the EU-Chile SPS Agreement.

¹ OJ L 352, 30.12.2002, p. 1.

- (5) Appendix V.A. to the EU-Chile SPS Agreement should contain priority sectors or sub-sectors in order of priority for which equivalence may be recognised.
- (6) The Republic of Chile would like to apply a processing treatment to bivalve molluscs which is not foreseen in the Union legislation.
- (7) In order to evaluate if the proposed processing treatment could meet the same level of consumer protection as accomplished by the treatment provided by the Union legislation, it is necessary to assess the equivalence of both treatments.
- (8) Subparagraph 2 of Article 7(4) of the EU-Chile SPS Agreement requires that Appendix V.A. to the EU-Chile SPS Agreement is amended to identify priority sectors or sub-sectors before consultations to assess equivalence can be initiated. The sector "fish products" and its sub-sector "bivalve molluscs" should be introduced in the list of priorities in that Appendix.
- (9) To that effect the Union has to adopt the position it is to take in the Joint Management Committee regarding the necessary amendments.
- (10) Article 4 (1) of Decision 2002/979/EC provides that the position to be taken by the Union within the Association Committee shall be adopted by the Council, on a proposal from the Commission, in accordance with the corresponding provisions of the Treaty,

HAS DECIDED AS FOLLOWS:

Article 1

The position to be adopted by the Union in the Joint Management Committee for Sanitary and Phytosanitary matters of the Agreement regarding the amendment to Appendix V.A. to the EU-Chile SPS Agreement shall be to agree to the draft Decision No 1/2011 annexed to this Decision.

Article 2

Decision No 1/2011 of the Joint Management Committee on amendment to Appendix V.A. to the EU-Chile SPS Agreement shall be published in the *Official Journal of the European Union* as soon as it has been adopted.

Done at Brussels,

*For the Council
The President*

ANNEX

Proposal for

**DECISION No 1/2011 OF THE JOINT MANAGEMENT COMMITTEE FOR
SANITARY AND PHYTOSANITARY MATTERS SET UP UNDER THE
AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE REPUBLIC
OF CHILE ON SANITARY AND PHYTOSANITARY MEASURES APPLICABLE TO
TRADE IN ANIMALS AND ANIMAL PRODUCTS, PLANTS AND PLANT
PRODUCTS AND OTHER GOODS AND ANIMAL WELFARE**

of 2011

amending Appendix V.A. to Annex IV to the Agreement

THE COMMITTEE,

Having regard to the Agreement between the European Community and its Member States and the Republic of Chile on Sanitary and Phytosanitary (SPS) measures applicable to trade in animals and animal products, plants, plant products and other goods and animal welfare, and in particular Article 7(4), second paragraph thereto,

Whereas:

- (1) Article 7 (1) of the EU-Chile SPS Agreement provides that equivalence may be recognised in relation to an individual measure and/or groups of measures and/or systems applicable to a sector or sub-sector.
- (2) Article 7 (4) of the EU-Chile SPS Agreement establishes that the sectors or sub-sectors for which the process for recognition of equivalence may be initiated are to be set out in order of priority in Appendix V.A.
- (3) The Republic of Chile expressed interest to include bivalve molluscs as sub-sector of fishery products in Appendix V.A. as priority sector to initiate assessment of equivalence of the measures applied to them.
- (4) The Parties agreed at the fifth meeting of the Joint Management Committee to initiate the procedure to modify Appendix V.A. to the EU-Chile SPS Agreement.
- (5) Article 10 of Decision No 1/2003² of the EU-Chile Association Council, concerning the adoption of the rules of procedure of the Association Council, the Association Committee and the Special Committees, establishes the procedure to adopt decisions and recommendations.

² OJ L 95, 11.4.2003, p. 46.

HAS ADOPTED THIS DECISION:

Article 1

Appendix V.A. to the EU-Chile SPS Agreement is hereby replaced by the Appendix in the Annex to this Decision.

Article 2

This Decision, drawn up in duplicate, shall be signed by the Joint Chairmen or other persons empowered to act in the name of the Parties. It shall be adopted by means of an exchange of written notes between the two Secretaries acting in agreement with the Parties certifying the completion of the necessary legal internal procedures.

Article 3

This Decision shall enter into force on the date of issue of the last written note exchanged.

Signed at Santiago, [date]

Signed at Brussels, [date]

For the Joint Management Committee

Head of Delegation
of the Republic of Chile

Head of Delegation
of the European Union

ANNEX

Appendix V

**PRIORITY SECTORS OR SUB-SECTORS FOR WHICH EQUIVALENCE MAY BE
RECOGNISED AND CONDITIONS AND PROVISIONS FOR PROVISIONAL
APPROVAL OF ESTABLISHMENTS**

A. Priority sectors or sub-sectors for which equivalence may be recognised

(1) Sector: Fishery products

Sub-sector: Bivalve molluscs