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2026/0133 (NLE)

Proposal for a

COUNCIL DECISION

On the position to be taken on behalf of the European Union within the Joint Veterinary Committee set up by the Agreement between the European Community and the Swiss Confederation on trade in agricultural products relating to Decision No 1/2026 concerning amendments to Appendices 1, 2, 3, 5, 6 and 10 of Annex 11 to the Agreement

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision on the position to be taken on behalf of the European Union within the Joint Veterinary Committee set up by the Agreement between the European Community and the Swiss Confederation on trade in agricultural products, in relation to the amendments to Annex 11 to the Agreement on animal health and zootechnical measures applicable to trade in live animals and animal products.

2. CONTEXT OF THE PROPOSAL

2.1. Agreement between the European Community and the Swiss Confederation on trade in agricultural products

The Agreement between the European Community and the Swiss Confederation on trade in agricultural products (the 'Agreement') aims to strengthen free-trade relations between the Parties by improving the access of each to the market in agricultural products of the other. The Agreement entered into force on 1 June 2002.

2.2. Joint Veterinary Committee

The Joint Veterinary Committee is responsible for examining all questions arising in connection with Annex 11 to the Agreement. Article 19(3) of Annex 11 to the Agreement authorises the Joint Veterinary Committee to amend the appendices thereto, in particular with a view to adapting and updating them.

2.3. The envisaged act of the Joint Veterinary Committee

At its next meeting, the Joint Veterinary Committee must adopt a decision to amend Appendices 1, 2, 3, 5, 6 and 10 of Annex 11 in order to take into account the regulatory developments of the two parties and to maintain the same conditions for the movement of animals and animal products as those between EU Member States.

The envisaged act will become binding on the parties in accordance with Article 19(3) of Annex 11 to the Agreement.

3. POSITION TO BE TAKEN ON BEHALF OF THE UNION

The proposed decision of the Joint Veterinary Committee aims to further facilitate trade in animal products between the Union and Switzerland by bringing the Annex into line with the changes in legislation and in the respective control systems for animal health of the Union and Switzerland, and by recognising their equivalence.

The proposed adjustments aim to update the regulatory references of the Union and of Switzerland to cover all animal diseases. In particular, they aim to improve the management of cross-border diseases by allowing for rapid changes in animal disease status.

In addition, the functioning of the information management system for official controls has evolved. In order to facilitate administrative cooperation between the Union and Switzerland and to guarantee the smooth exchange of information on official controls, Switzerland should be fully integrated into all the components of the Union's new system.

Lastly, in order to combat antimicrobial resistance, the Union has put in place restrictions on the use of antimicrobial medicinal products in farmed animals and new requirements for imports of animals and products of animal origin originating in third countries, by requiring

the use of updated official certificates with a statement of conformity signed by the competent authorities. Failing the adoption of a decision by the Joint Veterinary Committee prior to the entry into force of the new provisions on antimicrobials, Switzerland should provide these certificates from 3 September 2026, and the Union should consider Switzerland as a third country required to provide such certificates.

In order to avoid this situation, Switzerland updated its national legislation on [date May 2026] to ensure that it reflects the Union's new provisions on antimicrobials prior to their entry into force on 3 September 2026. Switzerland will apply these amendments as of 1 September 2026. Trade in animals and products of animal origin between Switzerland and the Union may therefore continue to be conducted without an accompanying official certificate to demonstrate compliance with the above-mentioned restrictions. In the draft decision of the Joint Veterinary Committee, the parties undertake to review the arrangements described above before their expiry date of 1 July 2028.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing *'the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.'*

The notion of *'acts having legal effects'* includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are *'capable of decisively influencing the content of the legislation adopted by the EU legislature'*¹.

4.1.2. Application to the present case

The Joint Veterinary Committee is a body set up by an agreement, namely the Agreement between the European Community and the Swiss Confederation on trade in agricultural products.

The act which the Joint Veterinary Committee is called upon to adopt constitutes an act having legal effects. The envisaged act will be binding on the Union, in accordance with Article 19(3) of Annex 11 to the Agreement.

The envisaged act does not supplement or amend the institutional framework of the Agreement.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a Decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is adopted on behalf of the Union. If the act envisaged pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely

¹ Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

4.2.2. Application to the present case

The objective and content of the envisaged act relate primarily to the facilitation of trade in animals and animal products.

Therefore, the substantive legal basis of the proposed Decision is Article 207(4) TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be Article 207(4) in conjunction with Article 218(9) TFEU.

5. PUBLICATION OF THE ENVISAGED ACT

As the act of the Joint Veterinary Committee will amend Annex 11 to the Agreement, it should be published in the *Official Journal of the European Union* after its adoption.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(4) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement between the European Community and the Swiss Confederation on trade in agricultural products (hereinafter the ‘Agreement’) was concluded by the Union pursuant to Decision 2002/309/EC, Euratom of the Council and of the Commission¹ and entered into force on 1 June 2002.
- (2) Under Article 19(1) of Annex 11 to the Agreement, the Joint Veterinary Committee set up by the Agreement (hereinafter ‘the Joint Veterinary Committee’) is responsible for considering any matter arising in connection with that Annex and its implementation, and for carrying out the tasks provided for therein. Article 19(3) of that Annex authorises the Joint Veterinary Committee to amend the appendices to Annex 11, in particular with a view to adapting and updating them.
- (3) At its next meeting, the Joint Veterinary Committee must adopt a decision amending Appendices 1, 2, 3, 5, 6 and 10 of Annex 11 to the Agreement.
- (4) It is appropriate to establish the position to be taken on the Union’s behalf within the Joint Veterinary Committee, since this decision amending Annex 11 to the Agreement is binding on the Union.
- (5) Regulation (EU) 2016/429 of the European Parliament and of the Council² amends and repeals several texts of relevance to Annex 11 to the Agreement. The measures concerning the animal health rules provided for in Swiss legislation have been assessed and recognised as equivalent to Union legislation. The assessment of this equivalence was carried out taking into account all legal acts based on Union legislation concerning animal health rules. All references to measures concerning the animal health rules in Appendices 1, 2, 3, 5, 6 and 10 of Annex 11 to the Agreement should therefore be amended.

¹ Decision 2002/309/EC, Euratom of the Council and of the Commission as regards the Agreement on Scientific and Technological Cooperation, of 4 April 2002 on the conclusion of seven Agreements with the Swiss Confederation (OJ L 114, 30.4.2002, pp 1–5, ELI: <http://data.europa.eu/eli/dec/2002/309/oj>).

² Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health (‘animal health law’) (OJ L 84, 31.3.2006, pp 1-208, ELI: <http://data.europa.eu/eli/reg/2016/429/oj>).

- (6) Given the recognised equivalence of measures concerning animal health rules, the recognition of disease-free status for certain diseases should be simplified in order to accelerate it and thus allow for the improved management of cross-border diseases.
- (7) In view of the successive developments concerning specified risk material and the use of animal protein in the feed of non-ruminant farmed animals, other than fur animals, the provisions for the prevention, control and eradication of certain transmissible spongiform encephalopathies referred to in Appendices 1 and 6 to the Agreement should be updated and simplified.
- (8) Regulation (EU) 2017/625 of the European Parliament and of the Council³ amends and repeals several texts of importance for Annex 11 to the Agreement, in particular for the application of Regulation (EU) 2016/429. Furthermore, since 1 January 2009, Switzerland has incorporated into its national legislation the Union requirements for the official controls to be carried out in order to ensure compliance with the legislation on animals and products of animal origin, as well as with all the provisions adopted for their implementation in the field of the control of imports from third countries into the European Union. All references to official controls concerning the animal health rules and controls on imports from third countries, set out in Appendices 1, 2, 3, 5, 6 and 10 of Annex 11 to the Agreement, should therefore be amended.
- (9) Commission Implementing Regulation (EU) 2019/1715⁴ has laid down rules for the functioning of the information management system for official controls and its system components. It has brought together, streamlined and replaced a number of previous acts laying down separate provisions on the various IT platforms which became components of the computerised information management system for official controls (IMSOC). In order to facilitate administrative cooperation between the parties and to guarantee smooth exchanges of information on official controls between the European Commission, the competent authorities of the Member States and the Swiss competent authorities, Switzerland should be fully integrated into the IMSOC system. Switzerland should designate a contact point for that purpose; All references to the information management system for official controls in Appendices 1, 5, 6 and 10 of Annex 11 to the Agreement should therefore be amended.
- (10) The prudent use of antimicrobials is a cornerstone in addressing antimicrobial resistance (AMR). Switzerland and the EU are committed to combating AMR through action plans based on the ‘One Health’ approach.

Switzerland will apply the same provisions as those set out in Article 107 (with the exception of paragraph 6), in conjunction with Article 37(5) of Regulation (EU)

³ Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) (Official Controls Regulation) (OJ L 95, 7.4.2017, pp 1-142, ELI: <http://data.europa.eu/eli/reg/2017/625/2025-01-05>).

⁴ Commission Implementing Regulation (EU) 2019/1715 of 30 September 2019 laying down rules for the functioning of the information management system for official controls and its system components (the IMSOC Regulation) (OJ L 261, 14.10.2019, pp 37–96, ELI http://data.europa.eu/eli/reg_impl/2019/1715/oj).

2019/6 of the European Parliament and of the Council⁵, as regards the rules on the use of antimicrobial medicinal products in productive animals, the prohibition of use in productive animals of designated antimicrobials or of groups of antimicrobials reserved for the treatment of certain infections in humans, and for controls of imports of animals and products of animal origin originating in third countries. Trade in animals and products of animal origin between Switzerland and the European Union may therefore be conducted without an accompanying official certificate to demonstrate compliance with the restrictions applicable to the use of antimicrobial medicinal products until 1 July 2028. These provisions should be added in Appendices 2, 3, 5, 6 and 10 of Annex 11 to the Agreement.

As Switzerland has planned a more substantial update to its legislation on medicinal products in the coming months, the parties undertake to review these arrangements before their expiry date of 1 July 2028.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on behalf of the European Union at the next meeting of the Joint Veterinary Committee set up by Article 19(1) of Annex 11 to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products regarding the amendments to Appendices 1, 2, 3, 5, 6 and 10 of Annex 11 to the Agreement is based on the draft Decision of the Joint Veterinary Committee annexed to this Decision.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

*For the Council
The President*

⁵ Regulation (EU) 2019/6 of the European Parliament and of the Council of 11 December 2018 on veterinary medicinal products and repealing Directive 2001/82/EC (OJ L 4, 7.1.2019, p. 43, ELI: <http://data.europa.eu/eli/reg/2019/6/oj>)