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'I' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

Subject: UK entering into negotiations with the EFTA States (Iceland, Liechtenstein, Norway and Switzerland)
- Non-objection
- Decision to use the written procedure

1. On 11 July 2018, the United Kingdom provided to the Union "*an outline of the agreements [they] are currently discussing with the EFTA countries*" of Iceland, Liechtenstein, Norway and Switzerland, in light of the fact that "*there are some separation issues that [they] need to discuss and agree with these countries, most notably on citizens' rights*". It is explained that "*the Prime Minister has made clear that [they] intend to reach agreements with these countries on citizens' rights that are similar to the agreement we have reached with the EU*" and that "*the UK wishes to provide certainty to citizens as quickly as possible by concluding these discussions with the EFTA countries*" whilst remaining an EU member State, "*ideally in a very short timeframe as we have indicated*".

2. As to the substance of these discussions, it is indicated that "[a]t *this stage, the only element of the agreement that we foresee coming into effect during the implementation period is an equivalent to article 17a of the EU Withdrawal Agreement*". It is also recognized that if the UK were to seek to bring into force or apply international agreements that fell within an area of exclusive competence during the implementation period, "*this would have to be authorised by the EU, as is agreed under article 124(4) of the draft Withdrawal Agreement*". Moreover, as regards other separation issues that may need to be resolved with the EFTA states, the UK informs that it "*intends to resolve these issues through a parallel approach to the one being taken with the EU, adjusted to reflect their different legal context*". Finally, it is underlined that "*[t]hese discussions are without prejudice to the provisional agreement reached at the March European Council that will see the UK treated as an EU Member State for the purposes of international agreements during the implementation period.*"
3. On 17 July 2018, the above information was presented to the EFTA Working Party, which came back to the issue in its meeting of 24 July 2018. No objections were raised by the Member States.
4. Until its withdrawal from the Union, the United Kingdom remains a Member State enjoying all the rights and is bound by all the obligations stemming from the Treaties, including compliance with the principle of sincere cooperation. However, as recognized by the European Council in its guidelines of 29 April 2017, there is a need, in the international context, to take into account the specificities of the United Kingdom as a withdrawing Member State, provided it respects its obligations and remains loyal to the Union's interests while still a Member State.
5. Against this background and in the absence of Council meeting before September, it is suggested that the Council proceed by written procedure.

6. The Permanent Representative Committee is therefore invited to agree that the Council use the written procedure to
- endorse the non-objection by the Union to the United Kingdom negotiating before the withdrawal date with the EFTA States agreements on citizens rights and above mentioned separation issues;
 - agree that the United Kingdom informs the Union about the outcome of these negotiations to allow the Union to take a position with regard to the Union authorisation, in respect of areas of exclusive Union competence, for any signature and conclusion intended before 30 March 2019, as well as for the entry into force or application of the negotiated agreements or parts thereof during the transition period provided for in the draft Withdrawal Agreement.
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