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Subject:	Council conclusions on EU relations with the Swiss Confederation

Delegations will find attached Council conclusions on EU relations with the Swiss Confederation, as adopted by the Council (Environment Council) on 28 February 2017.

Council conclusions on EU relations with the Swiss Confederation

1. In accordance with its conclusions of 16 December 2014, the Council has assessed the overall state of EU relations with the Swiss Confederation. The Council will reassess the state of these relations, as well as those with the other Western European countries that are not members of the EU, by the end of 2018, as appropriate.
2. The EU and Switzerland are key economic partners and our societies are highly interwoven. In this regard, good and reliable mutual relations are to the benefit of both sides. The Council takes note of the letter of 27 July 2016, by which Switzerland informs the EU that its application for EU membership should be considered withdrawn. In this regard, the Council welcomes the confirmation by the Swiss Federal Council of its firm commitment to preserve and further strengthen its cooperation with the EU and encourages the development of that cooperation, including on key foreign policy issues.
3. The Council considers that the free movement of persons is a fundamental pillar of EU policy and that the internal market and its four freedoms are indivisible. The Council paid close attention to the legislative process in Switzerland which took place following the result of the popular initiative 'Against Mass Immigration' of 9 February 2014. The resultant text adopted on 16 December 2016 by the Swiss Federal Assembly can be implemented in a manner compatible with the rights of EU citizens under the Free Movement of Persons Agreement (FMPA) if the necessary implementing ordinance clarifies outstanding open issues, such as the right to information as regards vacancies, and the procedure for the adoption of further measures, in particular with a view to guaranteeing respect for frontier workers' rights. The Council is encouraged by Switzerland's readiness to discuss any such matters that could arise within the context of the EU-Swiss Joint Committee as set up by the said Agreement.

4. The Council welcomes the extension of the FMPA to Romania, Bulgaria and Croatia, providing their citizens with unrestricted free movement rights in Switzerland. With regard to Croatia, the Council acknowledges that Switzerland fulfilled its commitments on 16 December 2016 and deposited the instrument of ratification. However, the Council notes that the delayed ratification of Protocol III by Switzerland postponed the start of the transitional periods applied to Croatian nationals. This should be addressed in the new implementing legislation on the free movement of persons and reviewed regularly. The Council welcomes the resulting full association of Switzerland to the Horizon 2020 programme and the prospects of continuing negotiations on its participation in the Erasmus programme.
5. The Council takes note of the reconfirmation by Switzerland of its attachment to the sectoral approach. However, the Council recalls that a precondition for further developing the sectoral approach remains the establishment of a common institutional framework for existing and future agreements through which Switzerland participates in the EU's Single Market, in order to ensure homogeneity and legal certainty for citizens and businesses. The Council stresses the common understanding between the EU and Switzerland about the need to finalise the negotiations on the institutional framework agreement as soon as possible. Its conclusion will allow the EU-Swiss comprehensive partnership to develop to its full potential.
6. Switzerland is the EU's third largest economic partner and the EU is Switzerland's main trading partner. While today the bilateral trade relationship generally works smoothly to the benefit of both partners, there are a number of restrictions on access to the Swiss market for operators from the EU, notably in the agri-food and services sectors. These restrictions need to be addressed in order to remedy asymmetries in bilateral economic relations. The Council is concerned by an inconsistent application of certain agreements and the introduction by Switzerland of subsequent legislative measures and practices, at federal or cantonal level, that are incompatible with those agreements, in particular the FMPA. The Council calls upon Switzerland to abrogate such flanking measures and to refrain from adopting new measures incompatible with the Agreement.

7. The Council takes note of the adoption of a new legal basis for the financial contribution of Switzerland on 30 September 2016. This financial contribution is intended to reduce economic and social disparities in the EU and should be proportionate to the substantial benefits Switzerland draws from its participation in the Single Market. The Council encourages Switzerland to engage in the necessary discussions with the EU with a view to agreeing on the renewal of the financial contribution as soon as possible.
8. The Council welcomes the ratification and timely entry into force from the agreed date of 1 January 2017 of the Amending Protocol signed on 27 May 2015, to the Agreement between the European Community and Switzerland, providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments.
9. The Council takes note of the negative outcome on 12 February 2017, of the vote on the Swiss legislation aiming to replace with a new set of measures certain preferential tax regimes and practices that constitute harmful tax competition. The Council stresses the need for fair tax competition and strongly encourages Switzerland to adhere to its international commitments and look for alternative solutions to effectively and swiftly remove the five tax regimes concerned, in line with the 2014 Joint Statement between EU Member States and Switzerland on company tax issues. The Council will continue to follow the matter closely.
10. The Council welcomes the significant progress made by Switzerland in the construction of the new rail link through the Alps (NRLA), in accordance with Article 34 of the Agreement between the European Community and the Swiss Confederation on the Carriage of Goods and Passengers by Rail and Road. The opening of the Gotthard Base Tunnel (the longest railway tunnel in the world) on 1 June 2016 is a major milestone that will further contribute to the development of efficient and environmentally sustainable transport in Europe.

11. Switzerland is a close partner in the area of justice and home affairs, especially in relation to applying the Schengen acquis. In the context of the unprecedented migratory flows to Europe, the Council acknowledges Switzerland's contribution, as well as its constructive and positive cooperation, notably in the context of the implementing of the European Agenda on Migration.

12. The Council appreciates the continued cooperation between the EU and Switzerland in the area of CFSP, in particular the positive participation of Switzerland in CSDP missions and its close cooperation in the areas of humanitarian aid and civil protection, and looks forward to enhancing the existing cooperation. The Council welcomes the recent conclusion of two agreements on the participation of Switzerland in the EU Advisory Mission for Civilian Security Sector Reform Ukraine and in the EU CSDP mission in Mali (EUCAP Sahel Mali). Furthermore, the Council notes Switzerland's voluntary alignment to restrictive measures of the EU on a case-by-case basis. The Council encourages Switzerland to remain close and consistent in the application of the restrictive measures including preventing their circumvention. The Council invites Switzerland to maintain and further improve its alignment with the EU's restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, and in view of Russia's actions destabilising the situation in Ukraine.
