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'A' ITEM NOTE

From:	General Secretariat of the Council
To:	Council
No. prev. doc.:	8294/16; 8295/16
Subject:	Draft Council Implementing Decision setting out a Recommendation for temporary internal border control in exceptional circumstances putting the overall functioning of the Schengen area at risk

1. Following the Schengen evaluation of Greece in 2015, the Council adopted a Council Implementing Decision setting out a Recommendation on addressing the serious deficiencies identified in the 2015 evaluation on the application of the Schengen acquis in the field of management of the external borders by Greece on 12 February 2016 (5985/16).
2. In accordance with Article 29 (2) of the Schengen Borders Code ¹, the Commission submitted, on 4 May 2016, a proposal for a Council Implementing Decision setting out a Recommendation for temporary internal border control in exceptional circumstances putting the overall functioning of the Schengen area at risk.
3. JHA Counsellors and SCIFA, both including the Mixed Committee partners Norway, Iceland, Switzerland and Liechtenstein, discussed the proposal on 4 May respectively 10 May 2016.

¹ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March on a Union Code on the Rules Governing the Movement of Persons Across Borders ("SBC").

4. The Permanent Representatives Committee on 11 May 2016 examined the text set out in document 8295/16, and approved the amended text set out in document 8746/16 for the purpose of its adoption by the Council as an A-point on 12 May 2016.

5. On that basis, the Council is invited to adopt the draft Council Implementing Decision set out in document 8746/16.

It is noted that Greece and Slovenia have expressed their intention to vote against, and have submitted the attached statements, announced at the Permanent Representatives Committee on 11 May 2016, for inclusion in the minutes of the Council.

It is also noted that Bulgaria has expressed its intention to abstain.

Statement by Greece

Greece regrets that the adoption of the Commission's proposal for Council Implementing Decision setting out a recommendation for temporary internal border control in exceptional circumstances putting the overall functioning of the Schengen area at risk, is based on the assumption that measures taken by Greece in the last three months have not been adequate to mitigate the "serious threat" identified at the external borders i.e. at the land and sea borders with Turkey and that the conditions for applying Article 29 of the Schengen Borders Code are met.

Greece, as stated in its Final Report of 29 April 2016, in close cooperation with the European Commission, European Agencies and Member States has managed to deliver within less than three months forty three (43) completed actions and to provide a realistic timeframe for the other seven (7) continued actions in order to remedy the deficiencies identified.

Greece, recalling its statement of 10.02.2016 reiterates its position, that the findings of the unannounced evaluation visit carried out from 10-13.11.2015 do not constitute "serious deficiencies" and show no evidence that "Greece is seriously neglecting its obligations".

In the light of the above, Greece cannot agree to the proposal for a Council Implementing Decision.

Statement by the Republic of Slovenia

The Republic of Slovenia does not support the Commission's proposal for the extension of the border control on the internal land border between Slovenia and Austria.

European Commission justifies the permission to maintain proportionate temporary border controls with the need to adequately address the serious threat to public policy and internal security related to the secondary movements of irregular migrants.

Since there are currently no objective reasons that any such threat arises from Slovenia, the Republic of Slovenia considers this measure as contrary to the principle of proportionality.
