Council of the European Union

Brussels, 17 September 2018
(OR. en)

12102/18

Interinstitutional File: 2018/0269(NLE)

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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	COUNCIL DECISION on the signing, on behalf of the European Union, and provisional application of the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and Malaysia, of the other part - Adoption

1. On 25 November 2004, the Council authorised the Commission to open negotiations with Malaysia on a Framework Agreement on Partnership and Cooperation[1]. In the Negotiating Directives it was stipulated whether the agreement should be concluded inter alia by the Community and its Member States or by the Community and the European Union would be determined at the end of the negotiations and on the basis of the text resulting from these negotiations.

[1] Council Negotiating Directives for Individual Framework Agreements on Partnership and Cooperation with the Kingdom of Thailand, the Republic of Indonesia, the Republic of Singapore, the Republic of The Philippines, Malaysia, and Negara Brunei Darussalam (doc. 14844/04 EU RESTRICTED).

2. Negotiations were concluded on 12 December 2015 and the Agreement was initialled in Putrajaya on 6 April 2016. The Agreement did not provide for provisional application.

3. On 4 August 2016, the Commission submitted to the Council a Joint Proposal for a Council Decision on the signing, on behalf of the European Union, of the Framework Agreement on Partnership and Cooperation between the European Union and the Government of Malaysia and, at annex, the final result of the negotiations in the form of a draft Framework Agreement on Partnership and Cooperation between the European Union and the Government of Malaysia (doc. 11644/16 + ADD1). At the same time, the Commission also submitted to the Council a Joint Proposal for Council Decision on the conclusion, on behalf of the European Union, of the Framework Agreement on Partnership and Cooperation between the European Union and the Government of Malaysia (doc. 11645/16).

4. At its meeting on 21 September 2016, the Asia Oceania Working Group examined the proposals and called for changing the legal nature of the Partnership and Cooperation Agreement so as to become a mixed one, as possibly envisaged when the opening of the negotiations had been authorised. Delegations also invited the Commission and the EEAS to examine options for the provisional application of the Agreement.

5. At its meeting on 1 March 2017, the Asia Oceania Working Group was informed on the ongoing discussions with Malaysian authorities on the legal nature and provisional application of the Partnership and Cooperation Agreement. The Asia Oceania Working Group called for the signing as soon as possible of the Partnership and Cooperation Agreement.

6. On 22 March 2017 the Permanent Representatives Committee endorsed the position of the Asia Oceania Working Group on the legal nature of the Agreement and its provisional application and invited the Commission and the High Representative to continue the necessary discussions with Malaysia with a view, subsequently, to revising the proposals accordingly.

7. On 3 July 2018, the Commission submitted to the Council a Joint Proposal for a Council Decision on the signing, on behalf of the European Union, and provisional application of the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Government of Malaysia, of the other part, and at annex, the final result of the negotiations in the form of a Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Government of Malaysia, of the other part (docs. 10755/18 + ADD1).

8. On 27 July 2018 the Asia-Oceania Working Party reached agreement in principle on the texts.

9. The Permanent Representatives Committee is accordingly invited to recommend that the Council at one of its upcoming meetings:

   – adopts as an 'A' item the Council Decision on the signing, on behalf of the European Union, and provisional application of the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Government of Malaysia, of the other part, as set out after finalisation by the Legal/Linguistic experts in document 10798/18 and thereby authorise the signature of the Framework Agreement on Partnership and Cooperation as set out in document 10799/18.