



**Brussels, 6 October 2017
(OR. en)**

**12437/1/17
REV 1**

**FRONT 397
COWEB 115**

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. Cion doc.:	10760/17 FRONT 299 COWEB 80 + ADD1
Subject:	Adoption of a Council Decision authorising the opening of negotiations on an agreement between the European Union and Montenegro on actions carried out by the European Border and Coast Guard Agency in the territory of Montenegro

1. On 23 June 2017, the Commission submitted to the Council a recommendation for a Council Decision authorising the opening of negotiations on an Agreement between the European Union and Montenegro on actions carried out by the European Border and Coast Guard Agency on the territory of Montenegro, together with negotiating directives, as set out in document 10760/17 + ADD 1 FRONT 299 COWEB 80 RESTREINT UE/EU RESTRICTED.
2. The JHA Counsellors at their meetings on 17 July and 15 September 2017 examined the above recommendation and the negotiating directives.

3. On the basis of the outcome of these meetings and of the ensuing written contributions by delegations, it was concluded that there is a basic consensus on the revised version of the negotiating directives, as set out in document 12346/2/17 REV 2 FRONT 389 COWEB 110 RESTREINT UE/EU RESTRICTED as well as on the attached statement.
4. The text of the draft Council Decision, which has undergone the necessary scrutiny by the lawyer-linguists, is set out in documents 12066/17 FRONT 379 COWEB 104 + COR 1 REV 1 (LA).
5. This Decision constitutes a development of the provisions of the Schengen acquis in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis¹; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.
6. This Decision constitutes a development of the provisions of the Schengen acquis in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis²; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
7. In accordance with Articles 1 and 2 of the Protocol (No 22) on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.

¹ OJ L 131, 1.6.2000, p. 43.

² OJ L 64, 7.3.2002, p. 20.

8. On this basis, the Permanent Representatives Committee is invited to suggest that the Council
- adopt the Council Decision authorising the opening of negotiations on an Agreement between the European Union and Montenegro on actions carried out by the European Border and Coast Guard Agency in the territory of Montenegro as set out in documents 12066/17 + COR 1 REV 1 FRONT 379 COWEB 104 (LA) which refers to the negotiating directives as set out in document 12346/2/17 REV 2 FRONT 389 COWEB 110 RESTREINT UE/EU RESTRICTED, as an 'A' item at a forthcoming meeting
 - include the attached statement in the minutes of the Council at the adoption.
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COUNCIL and COMMISSION DECLARATION

Insofar as rapid border interventions can be considered as a specific type of joint operations, the Commission and the Council understand the reference to the voluntary participation of Member States in joint operations on the territory of third countries as set out in Article 54(3) of Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard, as applying also to rapid border interventions on the territory of third countries. Therefore, the participation of Member States in any actions on the territory of Albania and/or Bosnia and Herzegovina and/or Montenegro, pursuant to the Status Agreements as eventually concluded, will be on a voluntary basis.
