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From: General Secretariat of the Council
To: Coreper/Council

Subject: Draft Council conclusions on EU relations with EFTA countries

1. On the initiative of the Presidency, the Working Party on European Free Trade Association (EFTA) held during the second half of 2008 a thematic debate on each of the EFTA Member States (Norway, Switzerland, Iceland and Liechtenstein). In the light of these debates, the Presidency drew up a set of draft Council conclusions on EU relations with EFTA countries.
2. These draft Council conclusions were examined by the Working Party on European Free Trade Association (EFTA) on 26 November and 2 December 2008. On 2 December 2008 the Working Party on European Free Trade Association (EFTA) endorsed the draft conclusions as set out in the Annex.
3. Against this background, the Permanent Representatives Committee is asked to invite the Council to adopt the conclusions set out in the Annex as an "A" item on the agenda of a forthcoming meeting.

Draft Council conclusions on EU relations with EFTA countries

1. The Council has assessed the state of relations between the EU and the four EFTA countries. Generally, these relations are very good and close. Iceland, Liechtenstein, Norway and Switzerland share common history, culture, languages and values with the EU and are our closest neighbours and partners, although their levels of integration into the internal market vary. The Council looks forward to continuing the positive relationship with the EFTA countries and to deepening it in the future. The Council will reassess the state of relations between the EU and the EFTA countries every two years.
2. Iceland, Liechtenstein and Norway are integrated in the internal market through the EEA Agreement. This Agreement, which came into force in 1994, includes the four freedoms and the accompanying policies as well as a financial contribution to the cohesion policy. The Agreement functions properly so long as all Contracting Parties incorporate the full body of the *acquis communautaire* relating to the internal market into their national law. The good functioning of the internal market is essential to the cohesion of the EEA. The Council welcomes that the EEA countries have demonstrated an excellent record of proper and regular incorporation of the *acquis* into their own legislation.
3. Since Switzerland is not a member of the European Economic Area, it has chosen to take a sector-based approach to its agreements in view of a possible long-term rapprochement with the EU.
4. The EFTA States also take part, through specific agreements, in many Community programmes and agencies while Iceland, Liechtenstein and Norway regularly align themselves on Common Foreign and Security Policy (CFSP) statements. Switzerland and Norway regularly take part in the EU's activities under the CFSP.

5. The Council appreciates the EEA EFTA countries financial contribution to the economic and social cohesion in the EEA. The EU aims for a constructive dialogue on future mechanisms of contributions. The various agreements in force will expire on 30 April 2009 and are therefore currently being renegotiated. The Council hopes that a mutually acceptable solution will be found as soon as possible with the aim of reducing economic and social inequalities in the EEA.

ICELAND

6. The EEA Agreement and the Agreements associating Iceland with the Schengen and the Dublin *acquis* remain the foundation of relations between the EU and Iceland. Iceland cooperates with the EU on the evaluation and regular improvement of bilateral exchanges in the field of agricultural products. Reykjavik has agreed to the resumption of bilateral negotiations, with a view to gradually liberalising bilateral exchanges of agri-food products.
7. Iceland shares many interests with the EU, particularly with regard to the environment and energy, including its participation in the Emissions Trading Scheme (ETS). Moreover, it is at the forefront of geothermal energy. This could be a possible area of cooperation with the EU.
8. Iceland, like the other Nordic countries, pays close attention to the EU's policy in the Arctic and its relations with Russia. Iceland has participated in the Northern Dimension since 2006, a common policy between the EU, Russia, Norway and Iceland. This policy has particular importance for Iceland, especially in relation to the issue of ocean management.
9. The Council welcomes Iceland's commitment to ensure the fair, equitable and non-discriminatory treatment of depositors and creditors in line with applicable law. On this basis and in the spirit of solidarity with the citizens of Iceland, the EU will continue to play a constructive role in supporting Iceland restore its financial system and its economy.

PRINCIPALITY OF LIECHTENSTEIN

10. Relations between the EU and the Principality of Liechtenstein fall under the legal framework of the EEA, with the exception of issues relating to agricultural and veterinary issues that are covered by an agreement between the Community and Switzerland to which the Principality has been a party since 2007.
11. Given its limited human resources, the swiftness of Liechtenstein's adoption of Community law and its regular updating of the *acquis* as it evolves and in the majority of areas is to be commended. The Council welcomes the intention of Liechtenstein to become part of the Schengen area.
12. In financial matters, the Council emphasises that the current financial crisis highlights the need to remove existing barriers to the exchange of information between EU supervisory authorities and their Liechtenstein counterparts, to ensure that the procedures do not take an excessive amount of time, and to improve the way Liechtenstein complies with its commitments under the EEA on the subject.
13. Bearing in mind insufficiencies raised in particular at the beginning of the year 2008 and in light of parallel negotiations currently held between the United States and the Principality in the following sectors, the Council urges Liechtenstein to deepen its cooperation with the EU in matters of administrative and judicial cooperation in taxation and fight against fraud and to conclude with it an ambitious agreement.
14. Since the Principality's entry into the EEA, the EFTA Surveillance Authority has taken several decisions relating to state aid granted by Liechtenstein. The Council recommends that Liechtenstein assesses all the measures applied to industry and trade with respect to the definition of state aid provided for in the EEA agreement, particularly in finance. The Council notes Liechtenstein's willingness to progressively change financial arrangements with regard to its businesses and to gradually abandon state aid. The Council will closely follow the implementation of current reform in this area.

KINGDOM OF NORWAY

15. The EEA Agreement and the Agreements associating Norway with the Schengen and Dublin *acquis* remain the foundations for the relations between the EU and Norway. Norway has a good record of proper and regular incorporation of the *acquis communautaire*.

16. The Council welcomes the good cooperation between Norway and the EU on environmental matters. Norway has joined the European Emissions Trading Scheme (ETS) for the period 2008-2012. The Council calls on Norway to take on board the legislation on ceilings for atmospheric pollutants, which has been pending on the EEA side since 2001, as well as non-discriminatory treatment of companies in the distribution of national emission quotas.

The Council approves the close cooperation on climate change which has developed between the EU and Norway, and Norway's willingness to mainstream environmental issues in international development policy. The EU and Norway are committed to continuing this collaboration with a view to reaching an ambitious climate change agreement at the international summit in Copenhagen in December 2009.

17. For the EU, Norway is a key partner on energy matters and an essential and reliable supplier of gas and oil. It is applying Community law in matters relating to energy.

18. In addition, Norway's policy in the Far North forms a major strand of its current foreign policy. The EU would like to strengthen its cooperation with Norway on Arctic policy, in order to seek a response to the major issues involved, particularly energy, environment, scientific research and transport issues.

19. The sixth ministerial meeting of the Northern Dimension (EU, Norway, Iceland and Russia), held in Saint Petersburg on 28 October 2008, was, amongst other things, an opportunity to take stock of regional cooperation in this area, to emphasize the progress made in implementing sector partnerships on the environment, public health and social welfare and to launch a new partnership on transport and logistics. The EU and its partners in the Northern Dimension thus reiterated their commitment to an effective policy, with a new format and innovatory financing arrangements.

20. In the past the Norwegian people have expressed their solidarity with the EU by making a major contribution to economic and social cohesion in the Union. Norway, whose GDP alone accounts for more than 90% of the total for the three EEA-EFTA States, is a key contributor to the EEA's social and economic cohesion policy. The Council is confident that strong solidarity will also be displayed in the future.
21. As regards agriculture, the EU wishes to intensify its trade with Norway and regrets the lack of progress on liberalising trade in agricultural products (Art. 19 of the EEA Agreement) as well as in processed agricultural products (Protocol 3 of the EEA Agreement). Considering the prolonged negotiations on Article 19 products, the Council calls once again on Norway to engage in a constructive approach in negotiations regarding Article 19 products as well as with regard to the joint revision of Protocol 3.
22. The Council recalls the importance of the measures defined jointly with Norway with a view to the sustainable management of shared fisheries resources and the importance of exchanges of fishing possibilities between the two parties.
23. The EU and Norway cooperate closely in CFSP, in particular in the Palestinian Territories (participation in the EUPOL COPPS mission) and in Afghanistan (participation in EUPOL Afghanistan). The Council welcomes this partnership, which is facilitated by regular political dialogue at different levels.

SWISS CONFEDERATION

24. Switzerland is one of the EU's major trading partners and has concluded a large number of agreements with it. The basic agreement is the 1972 agreement on free trade and competition rules. Other important agreements are included in the two series of sector-based agreements of 1999 and 2004. These agreements are the basis for a wide-ranging and productive cooperation.

25. Switzerland is an important partner for the EU in the CFSP field, making significant and frequent contributions to ESDP operations and missions. It is currently taking part in the civilian EULEX Kosovo missions, the EU police mission in Bosnia and operation Althea in Bosnia as a third-country contributor. The Council welcomes this important cooperation.
26. The Council welcomes the imminent full application of the Schengen *acquis* by Switzerland and the forthcoming provisional application of the anti-fraud agreement.
27. The Council also welcomes the contribution of the Agreement on Free movement of persons, which has enhanced mobility between the EU and Switzerland. However, the Council notes that Switzerland has not fully incorporated the *acquis* in this field, a factor which jeopardizes the proper functioning of this agreement to the detriment of EU citizens and companies, in particular as regards provisions on posted workers and the rules on prenotification for transborder provision of services.
28. The Council recalls that the agreement on free trade and competition rules of 1972 has proved to be over the years a useful tool to foster economic integration between the two parties. For this reason, it is very concerned by certain cantonal tax regimes applied by Switzerland to its companies, which are considered by the EU to constitute state aid incompatible with the agreement. The Council calls on Switzerland to abolish these tax incentives and also to carefully intervene to avoid taking internal measures, such as certain aspects of the New Swiss Regional Policy, which would be incompatible with the Agreement and may have the effect of distorting competition between EU border regions and Switzerland.
29. Given that the EEA judicial framework does not apply, the Council is concerned with an inconsistent application of agreements concluded between the EU and Switzerland, and calls on Switzerland to fully implement those agreements.

30. In assessing the balance of interests in concluding additional agreements, the Council will have in mind the need to ensure parallel progress in all areas of cooperation, including those areas already mentioned as causing difficulties for EU companies and citizens.
31. The Council looks forward to deepening its partnership with Switzerland in several sectors but recalls however that taking part in the internal market requires a homogenous and simultaneous application and interpretation of the constantly evolving *acquis*. This indispensable prerequisite for a functioning internal market has - as is the case in the EEA - to be reflected in all the agreements currently being negotiated with Switzerland (customs security, liberalisation of the electricity market, free trade in agricultural products, public health and consumer protection).
32. The Council welcomes the announcement of discussions in the Swiss Parliament in favour of a framework agreement. Such an agreement should also include the incorporation of the *acquis* for all the agreements, and a mechanism for regular updating and homogenous interpretation of them.
33. In financial matters the Council emphasizes that the current financial crisis highlights the need to remove existing barriers to the exchange of information between EU supervisory authorities and their Swiss counterparts.
34. In the past, the Swiss people have expressed their solidarity with the EU through a contribution to the Union in favour of the new Member States. The EU believes that such support contributes to enriching overall relations between the parties and reinforces mutual solidarity. The Council is therefore confident that Switzerland will show strong solidarity also in future.
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