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Subject: Council conclusions on EU relations with EFTA countries

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Delegations will find attached Council conclusions on EU relations with EFTA countries as adopted by the Council on 20 December 2012.

## **Council conclusions on EU relations with EFTA countries**

1. In accordance with its conclusions of December 2010, the Council has assessed the development of EU relations with the four Member States of the European Free Trade Association (EFTA), namely the Kingdom of Norway, Iceland, the Principality of Liechtenstein and the Swiss Confederation, in the past two years. During that period, EU relations with the EFTA countries remained stable and close (details on developments are set out below in country-specific paragraphs). The Council is looking forward to further strengthening and deepening relations with the four countries in question in the future. It will reassess the state of relations between the EU and the EFTA countries in two years.

### **PRINCIPALITY OF LIECHTENSTEIN**

2. The Council recognizes that over the past 17 years, Liechtenstein - though a country of small territorial size - has become a successful EEA member through political determination and significant administrative efforts, and might be a useful reference for further intensifying the relations between the EU and other European countries of small territorial size.
3. The Council strongly welcomes the solidarity shown by the people of Liechtenstein through their contribution to reduce social and economic disparities in the EEA for the period 2009-2014.
4. The Council notes with satisfaction that in the period 2010 to 2012, relations between the EU and Liechtenstein were further extended and strengthened in a number of areas. In particular, the Council welcomes the entry of Liechtenstein into the Schengen area and its association to the Dublin *acquis* in December 2011.

5. The Council welcomes in general efforts made by Liechtenstein in order to adapt its tax legislation and practices to EEA rules and international standards, in particular the comprehensive tax reform, which entered into force on 1 January 2011.
6. Regarding cooperation and information exchange in tax matters and the fight against fraud and tax evasion, the Council takes note of the efforts of the Principality to live up to its commitment to implement OECD standards on transparency and on tax information exchange and to fight against fraud, and notes that it has concluded a number of bilateral agreements including provisions on tax information exchange. The Council expects Liechtenstein to continue the implementation of its commitment to combat tax fraud and tax evasion in its relationship with the EU and all its Member States.
7. Concerning the taxation of savings, the Council welcomes the openness of Liechtenstein to enter into negotiations on the revision of the savings taxation agreement to reflect the evolution of the corresponding EU *acquis*, once the Council has adopted a decision authorising the opening of negotiations, including negotiating directives. Regarding the latter, the European Council stated in its conclusions of 28/29 June 2012 that rapid agreement must be reached by the Council on the negotiating directives for saving taxation agreements with third countries. This was reaffirmed in the conclusions of the Council on tax evasion and fraud, adopted on 13 November 2012.
8. Concerning state aid, the Council welcomes improvements made by Liechtenstein regarding its compliance with EEA rules on state aid and encourages Liechtenstein to pursue this path.
9. With regard to the ongoing dialogue on tax measures which constitute harmful tax competition, the Council encourages Liechtenstein to continue the dialogue with EU with the aim of applying the principles and all the criteria of the EU Code of Conduct on Business Taxation and addressing the concerns raised in that dialogue.

## KINGDOM OF NORWAY

10. The Council notes with satisfaction that over the past two years, relations with Norway have continued to be marked by a high level of cooperation and stability. In the difficult period of the sovereign debt crisis in the Eurozone, Norway has demonstrated its solidarity, inter alia with a contribution of 6 billion SDRs (over 7 billion EUR) to the IMF. The close relationship between the EU and Norway has further evolved both through the EEA Agreement and bilaterally, in particular in the areas of Justice and Home Affairs, Common Foreign and Security Policy and Agriculture.
11. Concerning Justice and Home Affairs, including Schengen, the Council notes that relations have further strengthened in a number of sectors. In the aftermath of the tragic attacks in Oslo and Utøya in July 2011, cooperation on counter-terrorism, anti-radicalisation and police cooperation in the framework of Europol has also been stepped up. The Council acknowledges the benefits of increased cooperation. With regard to judicial cooperation in civil matters, the Council is ready to examine proposals for further extending the cooperation.
12. The Council welcomes Norway's cooperation in the area of Common Foreign and Security Policy, which has further intensified since 2010. The Council highly appreciates the participation of Norway in numerous Common Security and Defence Policy (CSDP) operations and missions, in the Nordic Battle Group, as well as in the activities of the European Defence Agency. The Council also welcomes the frequent alignment of Norway to EU statements, the regular political dialogues held at all levels, as well as the cooperation in the framework of the Ad-hoc Liaison Committee on Palestine (AHLIC), chaired by Norway. The Council is committed to further deepening this partnership, in particular through the continuous participation of Norway in CSDP operations.

13. Norway is the fifth largest trade partner of the EU, while the EU remains the main trade partner of Norway for both imports and exports. Overall, trade relations are strong and intense. In this context and in the spirit of the EEA, the Council expects Norway to closely coordinate with the EU its positions for matters that fall under the EEA Agreement, including matters related to trade. The Council therefore regrets that Norway has decided to proceed with the WTO dispute settlement proceeding against the EU measures on trade in seal products.
  
14. Regarding agriculture, relations have developed since 2010 through the conclusion of an agreement on further liberalisation of trade in agricultural products under Article 19 of the EEA Agreement. The Council welcomes this step and looks forward to the upcoming review in 2013/14 of the conditions of trade in these products between Norway and the EU with a view to open negotiations within the framework of Article 19. The Council hopes that such negotiations will lead speedily to the conclusion of a new agreement, containing further concrete steps towards progressive liberalisation of trade in these products. At the same time, the Council deeply regrets the decision of Norway to increase customs duties by switching from currently applied specific duties to ad valorem duties for some agricultural products. The Council strongly encourages Norway to reverse its decision and underlines the need to ensure that the benefits, which Norway and the EU grant each other, will not be jeopardised by other restrictive import measures. The Council also expresses the need for further liberalization of trade in processed agricultural products (Protocol 3) in accordance with the spirit of the EEA Agreement.
  
15. The Council welcomes the continuously close and stable relations with Norway in the energy sector as well as on climate change and environmental issues. It looks forward to maintaining this excellent cooperation and to further deepening it, in particular with regard to the security of supply, the promotion of competitive, safe and sustainable low carbon economy, energy efficiency and renewable energies, as well as on carbon capture and storage (CCS).

16. The Council is well aware of the high priority attached by Norway to the Arctic and shares its interest in developments regarding this region. The EU is ready to step up its cooperation on Arctic matters in a number of sectors of common interest, inter alia through its bilateral dialogues with Norway and through regional cooperation. Regarding the latter, the Council welcomes cooperation in the framework of the Council of the Baltic Sea States. The Council also commends the Norwegian chairmanship of the Barents Euro-Arctic Council, whose 20th anniversary will be celebrated next year. It also welcomes the continued support of Norway with regard to the Commission's application on behalf of the EU for an observer status in the Arctic Council. Furthermore, the Council acknowledges the important role of Norway in the Northern Dimension. The EU continues to be committed to regional cooperation in the framework of the Northern Dimension partnerships in the field of the environment, transport and logistics, public health and social well-being and culture.
17. The Council also welcomes the good cooperation with Norway on Fisheries in the past two years, including successful consultations on joint fish stocks and on the exchange of fishing opportunities in their respective exclusive fishing zones, as well as the joint setting of management measures for certain fish stocks within sustainability limits.
18. The Council welcomes the signing of the Memoranda of Understanding with the beneficiary countries for the second period of the financial perspective 2009-2014. The Council welcomes, in particular, the commitment of Norway to share the founding principle of solidarity and to continue its very significant contribution to the reduction of social and economic disparities in the EU.

## ICELAND

19. The Council welcomes the continued progress made in the negotiations on the EU accession process of Iceland since 2010, takes note of the findings presented by the Commission on 10 October 2012 to the Council and the European Parliament in the Progress Report on Iceland and refers to its conclusions on enlargement of 11 December 2012. The Council encourages Iceland to continue to make progress in the alignment with and the implementation of the EU *acquis*.
20. The Council strongly welcomes the solidarity shown by Iceland in continuing its contribution to the reduction of social and economic disparities in the EEA for the period 2009-2014.
21. The Council notes with satisfaction that besides the evolution of the relationship in the framework of the accession process, relations have also further developed in the past two years in the traditional framework of cooperation under the EEA Agreement, as well as in the Schengen area. The Council appreciates the ever closer cooperation with Iceland in a wide range of policy areas, including the Common Foreign and Security Policy. It looks forward to further deepening cooperation, in particular in key areas of common interest such as the global promotion of human rights, renewable energy, climate change, fisheries, the Northern Dimension and Arctic policy.
22. The Council acknowledges the high priority given by Iceland to Arctic Policy and confirms the EU's strategic interest in developments regarding this region. It appreciates the support of Iceland with regard to the Commission's application on behalf of the EU for an observer status in the Arctic Council. The Council stands ready to further intensify the cooperation on Arctic issues.
23. The Council welcomes the opening of negotiations with Iceland on further liberalisation of trade in basic and processed agricultural products under Art. 19 and Protocol 3 of the EEA Agreement as well as on the protection of geographical indications, and hopes for rapid progress in the negotiations.

24. Regarding fisheries, the Council regrets that discussions of the involved parties (EU, Iceland, Norway and Faeroe Islands) on the joint management on mackerel stocks, held in several successive rounds of consultations during 2011 and 2012, were not successful. The Council is committed to the Coastal States' consultations, and reiterates its call for a constructive approach of all parties in trying to reach a long-term multi-party agreement. The European Parliament and the Council have adopted a Regulation on trade measures for the purpose of the conservation of fish stocks in joint management and the prevention of unsustainable fishing practices, which entered into force in November. The Council will follow with interest the implementation of the Regulation, should it become appropriate or necessary to implement it.
25. The Council welcomes the recent positive development of the Icelandic economy following a long and severe recession, as well as Iceland's continued commitment to move towards economic stabilization and to address all issues deriving from the 2008 banking collapse. However, the Council notes that certain economic issues, including capital controls, still need to be addressed. Furthermore, it recalls the need for Iceland to address existing obligations under the EEA Agreement as well as remaining weaknesses in the area of financial services.

### **EUROPEAN ECONOMIC AREA**

26. In the past two years, the EU, Norway and Liechtenstein have undertaken or launched reviews of the Agreement on the European Economic Area ("EEA Agreement"). The EU welcomes the Report of the Norwegian Review Committee and the ensuing White Paper of the Norwegian Government on the EEA Agreement and Norway's other agreements with the EU. Moreover, the Council welcomes the EEA Review commissioned by Liechtenstein, and will consider its content with interest.



27. The Council encouraged in its conclusions of 2010 a parallel review of the EEA Agreement on the EU side. Accordingly, the EEAS and the Commission have carried out an assessment of the EEA Agreement, which will be closely examined by the Council in the coming months. The Council expects that an extensive exchange with EEA partners on the results of the respective reviews is held at the next EEA Council meeting in May 2013. The Council hopes that these reviews will confirm the relevance of the EEA Agreement, which has proven to be effective and in the interest of all.
28. The Council notes that overall, the EEA Agreement has continued to function in a satisfactory manner. The Council welcomes the substantial efforts made by the three EEA EFTA countries (Iceland, Liechtenstein and Norway) in the course of the past year to reduce the number of outstanding legal acts still to be incorporated into the EEA Agreement. The Council draws the attention to the importance of addressing, as a matter of priority, the remaining large number of legal acts, for which the compliance date in the EU has passed, but which have not entered into force in the EEA EFTA countries as their incorporation into the EEA Agreement has been delayed. In this regard, the Council underlines that the principles of homogeneity and legal certainty guarantee the efficiency, sustainability and ultimately the credibility of the single market and must therefore continue to guide the action of all parties in relation to the functioning of the EEA Agreement.

### **SWISS CONFEDERATION**

29. The Council underlines the importance of close relations between the EU and Switzerland. Both are faced with the same global challenges, to which Europe needs to respond in a responsible and coordinated manner. Over the past decades, Switzerland has come ever closer to the EU, becoming *inter alia* its fourth biggest trading partners and a reliable partner in the Schengen area.

30. The Council notes that in the last years, negotiations as regards Switzerland's further participation in parts of the Internal Market have been marked by a stalemate, partly due to unresolved institutional issues. While the Council welcomes the continuation of intensive and close cooperation with Switzerland in many areas, it is of the view that the conclusion of any negotiation regarding the participation of Switzerland in the Internal market is, in particular, dependent on solving the institutional issues outlined in the Council conclusions of 2008 and 2010.
31. Recalling its conclusions of 2010, the Council reaffirms that the approach taken by Switzerland to participate in EU policies and programmes through sectoral agreements in more and more areas in the absence of any horizontal institutional framework, has reached its limits and needs to be reconsidered. Any further development of the complex system of agreements would put at stake the homogeneity of the Internal Market and increase legal insecurity as well as make it more difficult to manage such an extensive and heterogeneous system of agreements. In the light of the high level of integration of Switzerland with the EU, any further extension of this system would in addition bear the risk of undermining the EU's relations with the EEA EFTA partners.
32. The Council welcomes the efforts made by Switzerland to formalize proposals on these institutional issues, as submitted in June 2012. In particular, the Council notes with satisfaction that Switzerland recognizes that the principle of homogeneity, a principle requiring in particular a dynamic adaptation to the evolving EU *acquis*, should be at the core of the EU-Switzerland relationship.

33. However, the Council considers that further steps are necessary in order to ensure the homogeneous interpretation and application of the Internal Market rules. In particular, the Council deems it necessary to establish a suitable framework applicable to all existing and future agreements. This framework should, inter alia, provide for a legally binding mechanism as regards the adaptation of the agreements to the evolving EU *acquis*. Furthermore, it should include international mechanisms for surveillance and judicial control. In this context, the Council notes that by participating in parts of the EU internal market and policies, Switzerland is not only engaging in a bilateral relation but becomes a participant in a multilateral project. All in all, this institutional framework should present a level of legal certainty and independence equivalent to the mechanisms created under the EEA Agreement.
34. The Council underlines that it attaches great importance to the continuation of a dialogue with Switzerland on possible solutions to the institutional issues as set out in previous paragraphs. The Council invites the Commission to report on the progress in the exploratory discussions and, in the light of such progress, to consider the possibility of presenting a recommendation for the opening of negotiations with Switzerland.

35. The Council welcomes the mobility of citizens between the EU and Switzerland, based on the Agreement on the Free Movement of Persons and enhanced by other Agreements, such as those on the participation of Switzerland in the Life Long Learning and Youth in Action Programmes and on Switzerland's association to the Research Framework Programme of the EU. However, the Council notes with regret that Switzerland has taken a number of measures, which are not compatible with the provisions and the spirit of the Agreement on the Free Movement of Persons and undermine its implementation. In particular, the Council deeply regrets that Switzerland has unilaterally re-introduced quotas for certain categories of residence permits for citizens of 8 EU Member States. The Council considers this step to be discriminatory and clearly in breach of the Agreement, and strongly urges Switzerland to reverse its decision and to respect the agreed provisions. Furthermore, the Council regrets that Switzerland has not yet abolished certain unilaterally introduced flanking measures to the Agreement (such as the obligation to provide prior notification with an 8-day waiting period), which restrict the provision of services under the Agreement and are particularly burdensome for SMEs wishing to provide services in Switzerland. The Council reiterates its call on Switzerland to abrogate these measures as soon as possible and to refrain from adopting any new measure incompatible with the Agreement.
36. The Council welcomes the ongoing discussions in Switzerland regarding the abolition of certain Swiss cantonal company tax regimes, which create an unacceptable distortion of competition between the EU and Switzerland and present characteristics of state aid. The Council remains deeply concerned regarding these regimes and calls on Switzerland to rapidly conclude internal discussions with the aim of abolishing these tax incentives in the near future, and to avoid taking new internal measures, which might again distort competition. In addition, the Council welcomes the ongoing technical discussions between the European Commission and the Swiss authorities regarding the New Regional Policy of Switzerland and calls for an alignment of Switzerland with EU State aid rules applicable to regional policy.

37. Regarding the ongoing dialogue with Switzerland on the application of the principles and all the criteria of the EU Code of Conduct on business taxation, the Council welcomes first progress made in relation to some Swiss regimes. However, the Council considers it important for all Code of Conduct Group's concerns to be taken into account, and encourages the Commission and Switzerland to continue discussions with the aim of rapid and substantive further concrete progress before the end of the next semester, while the EU and its Member States reserve their position with regard to the possibility to follow alternative approaches, including the unilateral assessment of the relevant Swiss tax measures.
38. Concerning the taxation of savings, the Council welcomes the readiness of Switzerland to consider an extension of the scope of the savings taxation agreement, once the Council has adopted a decision authorising the opening of negotiations. Regarding the latter, the European Council stated in its conclusions of 28/29 June 2012 that rapid agreement must be reached by the Council on the negotiating directives for saving taxation agreements with third countries. This was reaffirmed in the conclusions of the Council on tax evasion and fraud, adopted on 13 November 2012.
39. The Council welcomes the cooperation with Switzerland in the area of Common Foreign and Security Policy (CFSP), in particular the recent conclusion of a cooperation arrangement with the European Defence Agency, Switzerland's participation in the EU's CSDP operations and missions and its alignment to EU sanction regimes. The Council regrets however, that Switzerland has not fully aligned itself with EU's sanctions regimes against Iran, and invites Switzerland to take the necessary measures to prevent circumvention of EU sanctions. The Council recalls its decision regarding the opening of negotiations on an agreement between the EU and Switzerland establishing a framework for the participation of Switzerland in EU crisis management operations and invites Switzerland to further strengthen its cooperation with the EU in the area of CFSP, including CSDP.

40. When receiving access to the enlarged internal market of the EU following the accession of 12 new Member States to the EU in 2004 and 2007, Switzerland agreed on a financial contribution in this enlarged economic area through a financial mechanism for a five years period, which expired in June 2012. First reviews on the EU and the Swiss side show the success of this mechanism. The Council therefore reaffirms its expectation that this expression of solidarity, which underpins the relations between the EU and Switzerland, will be extended, in parallel to the continued access to the enlarged internal market, beyond the five years period of the initial Memorandum of Understanding of 2006, and invites the Commission to initiate exploratory discussions with Switzerland to that end.

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