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'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

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Subject: Statement by Ireland on the Council Decision on the position to be taken on behalf of the European Union vis-à-vis the United Kingdom of Great Britain and Northern Ireland regarding the determination under Article 540(2) of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, of the date from which personal data under Article 537 of that Agreement may be supplied by Member States to the United Kingdom

STATEMENT BY IRELAND

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Council Decision on the position to be taken on behalf of the European Union vis-à-vis the United Kingdom of Great Britain and Northern Ireland regarding the determination under Article 540(2) of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, of the date from which personal data under Article 537 of that Agreement may be supplied by Member States to the United Kingdom

Concerning the EU position on supplying vehicle registration data to the UK, Articles 16(2) and 87(2)(a) TFEU are the substantive legal bases for the draft Council Decision on the position to be taken on behalf of the European Union vis-à-vis the United Kingdom of Great Britain and Northern Ireland regarding the determination under Article 540(2) of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, of the date from which personal data under Article 537 of that Agreement may be supplied by Member States to the United Kingdom. Given that Article 87 TFEU is within Title V of Part Three of the Treaty on the Functioning of the European Union, Ireland's clear view is that Protocol No. 21 to the TEU and the TFEU applies, pursuant to which Ireland has an entitlement to opt-in to the proposed measure within three months of its presentation to the Council.

In the spirit of compromise, and to facilitate agreement in sufficient time to enable the subsequent decision to be made by the Council come into operation at the earliest possible time, Ireland has accepted the proposed text. However, it is important to note that this text is as at the absolute outer limit of what Ireland could accept.

Ireland will continue to engage with the Legal Services of the Commission and Council on the need for strict observance of the provisions of Protocol 21 in relation to any future legislation whose legal base requires the application of the protocol.