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OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
To:	Delegations
Subject:	Council conclusions on EU relations with the Swiss Confederation

Delegations will find attached Council conclusions on EU relations with the Swiss Confederation as adopted by the Council (General Affairs) on 19 February 2019.

Council conclusion on EU relations with the Swiss Confederation

1. In accordance with its conclusions of 28 February 2017 and 11 December 2018, the Council has assessed the overall state of EU relations with the Swiss Confederation. The Council will reassess the state of these relations, as well as those with the other Western European countries that are not members of the EU, by the end of 2020, as appropriate.
2. The EU and Switzerland are close allies and key economic partners. The degree of economic interdependence between the EU and Switzerland is considerable, both in terms of trade in goods and services and direct investment. At the same time, our cooperation goes well beyond mutual economic and trade benefits, covering a broad spectrum of areas ranging from justice and home affairs to research, education and transport, all of which are to the significant benefit of both sides. In the last two years, relations between the EU and Switzerland have further intensified.
3. The Council appreciates the continued cooperation between the EU and Switzerland on international issues, coordinating their positions on issues of mutual interest in multilateral fora, in areas such as fighting climate change and environmental protection, promoting human rights, rule of law, international criminal justice, compliance with international humanitarian law, democracy, and sustainable development or preserving the multilateral trading system. The Council also welcomes close cooperation in the areas of development cooperation, humanitarian aid and civil protection, and welcomes the signature on 28 April 2017 of an Administrative Arrangement between the Commission (ECHO), the Swiss Agency for Development and Cooperation, and the Federal Office for Civil Protection.

4. The Council also welcomes the signing on 23 November 2017 of the agreement between the EU and Switzerland on the linking of their greenhouse gas emissions trading systems and invites the parties to finalise the procedures required for its entry into force as soon as possible. By creating a broader carbon market together, the EU and Switzerland are demonstrating their strong commitment to meeting the objectives undertaken under the Paris Agreement.
5. The Council welcomes the cooperation with Switzerland on CFSP matters and in particular the participation of Switzerland in CSDP missions, *e.g.* in Ukraine, the Sahel and encourages Switzerland to strengthen this support. Furthermore, the Council notes Switzerland's voluntary alignment to EU restrictive measures on a case-by-case basis and encourages Switzerland to pursue a close and consistent application of restrictive measures including preventing their circumvention.
6. The Council recognises with satisfaction the EU-Swiss cooperation in the area of international migration including the management of flows, relocation of refugees and the development of governance at global level. It encourages Switzerland to continue its cooperation along the Eastern, Central and Western Mediterranean Routes and recommends further coordination of efforts.
7. In the context of its association to the Schengen and Dublin acquis, Switzerland continues to apply the acquis in an efficient manner. In particular, the Council welcomes the signature on 8 November 2018 of the arrangement between the European Union and Switzerland on the participation of Switzerland in the European agency for the operational management of large-scale IT systems in the area of freedom, security and justice, eu-LISA. The Council also welcomes the finalisation of the negotiations on the EURODAC and the Prüm Decisions on enhanced police cooperation in order to combat terrorism and international crime, as well as the adoption of the agreement on supplementary rules in relation to the instrument for financial support for external borders and visa, as part of the Internal Security Fund in 2014-2020. The Council acknowledges Switzerland's constructive and positive cooperation, notably in the context of the implementing of the European Agenda on Migration.

8. Our mutually beneficial relationship implies shared responsibility for its long-term success and sustainability. The Council reaffirms that, by participating in parts of the EU's internal market and policies, Switzerland is not only engaging in bilateral relations but is also becoming a participant in a common economic area, which requires accepting common rules and enforcement. Since 2008, through successive sets of conclusions, the Council has emphasised that the present system of bilateral agreements has reached its limits, due to its complexity, its incompleteness and the resulting lack of homogeneous conditions for citizens and businesses in the areas of the internal market in which Switzerland participates.
9. In May 2014, the EU and Switzerland have entered into negotiations on a common institutional framework for existing and future agreements, with a view to consolidating the bilateral approach and to developing the EU-Swiss comprehensive partnership to its full potential. After more than four years, negotiations have come to a close at the end of 2018. Negotiators have found fair and balanced solutions in areas such as the rules for dynamic take-over of EU *acquis* by Switzerland, the mechanism for independent dispute settlement and the provisions to ensure increased legal certainty, as well as a level playing field for our citizens and economic operators. The Council strongly regrets that the Swiss Federal Council did not endorse this outcome in December 2018 and calls on the Federal Council to stand behind the negotiated text of the Institutional Framework Agreement and submit it for adoption to the Federal Assembly as soon as the consultation of stakeholders is completed in spring 2019. The Council emphasises that the conclusion of the Institutional Framework Agreement on the basis of the present text is a precondition for the EU for the conclusion of future agreements on Swiss participation in the EU's internal market and also an essential element for deciding upon further progress towards mutually beneficial market access. This will allow for a consolidation of the bilateral approach, in such a way as to ensure its sustainability and further development.

10. The Council reaffirms that the free movement of persons is a fundamental pillar of EU policy and that the internal market and its four freedoms are indivisible. In this context, the Council commends Switzerland for its committed efforts to implement the result of the popular initiative 'Against Mass Migration' of 9 February 2014 in a manner compatible with the rights of EU citizens under the Free Movement of Persons Agreement (FMPA). The Council welcomes Switzerland's confirmation that, following the adoption of the implementing ordinance of 8 December 2017, EU and EEA jobseekers will be able to register with regional employment centres. The Council regrets however the decision taken by Switzerland on 7 December 2018 to extend the transitional measures for Croatian workers and the self-employed beyond the initial period of two years, and accordingly invites Switzerland to consider shortening the period of application of these transitional measures.
11. The Council, through successive sets of conclusions in 2012, 2014 and 2017, called on Switzerland to engage in negotiations on the renewal of the financial contribution to the reduction of social and economic disparities within the EU that should be proportionate to the significant benefits Switzerland draws from its participation in the internal market. In this regard, the Council takes note of the adoption by the Swiss Federal Council on 28 September 2018 of the proposal for Switzerland's second financial contribution to the EU. This second contribution, to be renewed on the same basis as the one agreed in the Memorandum of Understanding of 2006, is an integral part of the overall relationship between the EU and Switzerland and is also intended to further strengthen political, economic and cultural ties between Switzerland and EU Member States. The Council expects a swift and unconditional adoption of the proposal by the Swiss Federal Assembly. The Council also stresses the importance of maintaining coordinated cooperation in this area in line with the EU multi-annual programming cycle.

12. The EU and Switzerland continue to enjoy a strong and stable trading relationship, to the benefit of both sides. However, the free trade agreement of 1972, which is at the basis of our close economic relationship, has not been adjusted to developments in international trade rules since. The Council therefore calls for embarking on a path of modernising the agreements governing the trade relations between Switzerland and the European Union, in particular the free trade agreement. Enhanced access to the Swiss market for operators from the EU, notably in the agri-food and services sectors, should be urgently addressed.
13. The Council reiterates its concern regarding the inconsistent implementation of certain agreements and the application by Switzerland of subsequent legislative measures and practices that are incompatible with those agreements, in particular with the FMPA. In this context, the Council urges Switzerland to take over the relevant EU *acquis*, notably in the area of posted workers and to abrogate or adapt flanking measures that Switzerland applies to EU economic operators providing services in its territory, in line with EU principles of proportionality and non-discrimination.
14. The Council welcomes the entry into force of the agreement between the EU and Switzerland on the automatic exchange of financial account information on 1 January 2017 and the first automatic exchanges between Switzerland and EU Member States which took place in September 2018.
15. The Council welcomes the open dialogue with Switzerland and will continue monitoring the progress made to carry out the relevant reforms envisaged so far to address the issues identified by the EU Code of Conduct Group on Business Taxation. The Council, in particular, welcomes the adoption by the Swiss Federal Assembly on 28 September 2018 of legislation replacing certain preferential tax regimes and practices that constitute harmful tax competition with a new set of internationally accepted measures, in line with the 2014 Joint Statement between EU Member States and Switzerland on company tax issues. The Council calls for a swift enactment of the reform.