



Council of the
European Union

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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Council Decision authorising the opening of negotiations with the Swiss Confederation on institutional provisions in agreements between the European Union and the Swiss Confederation related to the internal market, on an agreement on the Swiss Confederation's participation in Union programmes and on an agreement that forms the basis for the Swiss Confederation's permanent contribution to the Union's cohesion

Declaration of Denmark regarding measures related to the posting of workers in the negotiations between the EU and Switzerland

Denmark supports the decision authorizing the opening of negotiations between the EU and Switzerland. The directives for the negotiations between EU and Switzerland give Switzerland the possibility to adopt or maintain measures related to the posting of workers irrespective of future Union law, including the evolution of case-law.

However, Denmark underlines that these specific measures related to the posting of workers, which are labelled as “exceptions” in the Common Understanding between the Commission and Switzerland, might be in accordance with current EU law, and should therefore not be considered exceptions.

Whether these measures are to be considered in accordance with current EU law, will depend on the legitimate aim in the specific national context, the proportionality of the measure, and ultimately an assessment by the European Court of Justice. Denmark notes in this regard that the European Court of Justice in case C-33/17, Čepelnik, did not rule out the possibility to introduce a requirement of deposit of a financial guarantee.
