



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 8 February 2008

Interinstitutional Files:

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"I/A" ITEM NOTE

from : Working Party on EFTA

to : Coreper (Part 2) / Council

No. prop. : – 16401/06 FL 49 CH 56 JAI 679 SCHENGEN 106 FRONTEXT 10
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Subject : – Proposal for a Council Decision on the signature, on behalf of the European Union, and on the provisional application of certain provisions of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis

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- Proposal for a Council Decision on the signature, on behalf of the European Community, and on the provisional application of certain provisions of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis
 - Proposal for a Council Decision on the signature and provisional application of certain provisions of a Protocol between the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland (Dublin)
 - Proposal for a Council Decision on the signature of a Protocol between the European Community, Switzerland and the Principality of Liechtenstein to the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland (special position of Denmark)
 - Draft Decision of the EU/Switzerland Mixed Committee established by the Agreement concluded between the European Union, the European Community and the Swiss Confederation concerning the latter's association in the implementation, application and development of the Schengen Acquis amending Decision N° 1/2004 of 26 October 2004 adopting its Rules of Procedure
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1. The Commission submitted for approval the proposals for Council Decisions on the signature, along with the texts of the respective Protocols on Schengen and Dublin on 4 December 2006, and on the special position of Denmark on 5 December 2006.
2. The Council Secretariat presented the Draft Decision of the EU/Switzerland Mixed Committee for confirmation on 11 January 2008.
3. Given their direct connection, the approval of all the texts in question has to be directly linked.

4. By 31 December 2007, all Delegations within the Working Party on European Free Trade Association (EFTA), approved the proposals for the Council Decisions on the signature as well as the texts of the Protocols on Schengen, Dublin and the special position of Denmark. At the meeting of the same Working Party on 15 January 2008, all Delegations also confirmed that there were no objections to the Draft Decision of the EU/Switzerland Mixed Committee.
5. Consequently, and subject to confirmation by Coreper, it is suggested that the Council, as an "A" item:
- approve the Draft Council Decision on the signature¹, on behalf of the European Union, and on the provisional application of certain provisions of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis, as set out in Doc. 16461/06 FL 54 CH 61 JAI 683 SCHENGEN 109 FRONTTEXT 13 COPEN 131 CRIMORG 199 VISA 327 EURODAC 13 ASIM 90 ASILE 98 MIGR 177, after its finalisation by the Legal/Linguistic experts. The text of the Protocol will be set out in Doc. 16462/06 FL 55 CH 62 JAI 684 SCHENGEN 110 FRONTTEXT 14 COPEN 132 CRIMORG 200 VISA 328 EURODAC 14 ASIM 91 ASILE 99 MIGR 178, after its finalisation by the Legal/Linguistic experts;

¹ It should be noted that the signature of all the Protocols in question (i.e. on the accession of the Principality of Liechtenstein to Schengen and to Dublin, as well as on the special position of Denmark) is expected to take place on 28 February 2008, in the margins of the JHA Council by the Presidency, the Commission, the Principality of Liechtenstein, and the Swiss Confederation.

- approve the Draft Council Decision on the signature, on behalf of the European Community, and on the provisional application of certain provisions of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis as set out in Doc. 16459/06 FL 53 CH 60 JAI 682 SCHENGEN 108 FRONTTEXT 12 COPEN 130 CRIMORG 198 VISA 326 EURODAC 12 ASIM 89 ASILE 97 MIGR 176, after its finalisation by the Legal/Linguistic experts. The text of the Protocol will be set out in Doc. 16462/06 FL 55 CH 62 JAI 684 SCHENGEN 110 FRONTTEXT 14 COPEN 132 CRIMORG 200 VISA 328 EURODAC 14 ASIM 91 ASILE 99 MIGR 178, after its finalisation by the Legal/Linguistic experts;

- approve the Draft Council Decision on the signature and provisional application of certain provisions of a Protocol between the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland (Dublin), as will be set out in Doc. 16470/06 FL 59 CH 66 JAI 690 ASILE 103 EURODAC 18 ASIM 97 MIGR 184 SCHENGEN 116, after its finalisation by the Legal/Linguistic experts;

- approve the Draft Council Decision on the signature of a Protocol between the European Community, Switzerland and the Principality of Liechtenstein to the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland (special position of Denmark), as will be set out in Doc. 16468/06 FL 57 CH 64 JAI 687 ASILE 101 EURODAC 16 ASIM 94 MIGR 181 SCHENGEN 113, after its finalisation by the Legal/Linguistic experts;

- confirm that it has no objection to the Draft Decision of the EU/Switzerland Mixed Committee established by the Agreement concluded between the European Union, the European Community and the Swiss Confederation concerning the latter's association in the implementation, application and development of the Schengen Acquis amending Decision N° 1/2004 of 26 October 2004 adopting its Rules of Procedure,² as will be set out in Doc. 5756/08 FL 7 CH 6 SCHENGEN 3 COMIX 71, after its finalisation by the Legal/Linguistic experts;

- decide to request the opinion of the European Parliament in view of the conclusion of the Protocols on the association of the Principality of Liechtenstein to the Schengen acquis (for the Community part) and to Dublin, as well as on the one on the special position of Denmark;

² The adoption of this Decision by the EU/Switzerland Mixed Committee should take place after the signature of the Protocol on the accession of the Principality of Liechtenstein to the Schengen acquis.

- decide to publish the Council Decisions on the signature, on behalf of the European Union and of the European Community, and on the provisional application of certain provisions of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis in the Official Journal of the European Union;³
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³ Following the Swiss precedent (see Council Decision of 25 October 2004 on the signing, on behalf of the European Union, and on the provisional application of certain provisions of the Agreement between the European Union, the European Community and the Swiss Confederation concerning the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* [2004/849/EC] [OJ L 368 of 15 December 2004, p. 26], and Council Decision of 25 October 2004 on the signing, on behalf of the European Community, and on the provisional application of certain provisions of the Agreement between the European Union, the European Community and the Swiss Confederation, concerning the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* [2004/860/EC] [OJ L 370 of 17 December 2004, p. 78]).